



# Report of the Inquiry into the City of Perth

1

An Inquiry under Part 8, Division 2  
*Local Government Act 1995*



## Acknowledgment of Country

The Western Australian Government proudly acknowledges the Traditional Owners and recognises their continuing connection to their lands, families and communities.

We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past, present and emerging.

The first step in living alongside and working with the Aboriginal community is built upon establishing respectful relationships. Crucial to these respectful relationships is acknowledging the history of Aboriginal people and recognising the importance of connection to family, culture and country.

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Published by the Department of Local Government, Sport and Cultural Industries, Western Australia, 30 June 2020.

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# Volume 1

## The Inquiry

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The Inquiry into the City of Perth is the largest, most complex and extensive inquiry so far conducted in Western Australia under the *Local Government Act 1995* or its predecessors.

Mr Anthony (Tony) Power  
Inquiry Panel



# Volume 1

This Volume sets the scene for the rest of the Report. It provides context for the investigations undertaken by the Inquiry Panel (Inquiry) and explains the methods used.

## 1.1 Overview



## 1.2 About this Report

### 1.1.1 About local government

This Chapter explains the role and functions of local government and provides demographic, legal and financial information about local governments in Western Australia. It explains the services local governments provide, how they are structured, and examines issues currently affecting local governments.

### 1.1.2 About the City of Perth

This Chapter provides information about the City of Perth including its history, geography and demographics; its role, functions, finances and workforce; services the City provides to the community; and how the City of Perth Council and Administration operate.

### 1.1.3 About the Inquiry

This Chapter explains how the Inquiry went about its work. It describes the suspension of the City of Perth Council and appointment of the Inquiry Panel; the powers of the Inquiry, phases of the Inquiry's investigation and hearings, and witnesses who gave evidence at public hearings.

### 1.1.4 Procedural fairness

This Chapter explains how the Inquiry provided procedural fairness to people who were potentially the subject of adverse findings in this Report. It covers some specific issues related to affording procedural fairness. The Chapter also explains the Inquiry's Practice Directions, the hearings process, representation of witnesses, and decisions to hold some hearings in private.

### 1.1.5 Good government

The Terms of Reference for the Inquiry required it to consider whether the "*aspects, operations and affairs of the City of Perth*" examined by the Inquiry constituted a failure to provide 'good government'. This Chapter examines the concept of 'good government' and 'good governance', a significant element of good government.

### 1.1.6 Universal application

This Chapter considers the wider applicability of the Report.

### About this Part

This Part contains the Inquiry's acknowledgments, details of the Report structure, legislation, policies and procedures referred to in the Report, and a glossary of terms used.

# 1.1

## Overview





## 1.1.1 About local government

The City of Perth (City) is one of 537 local governments in Australia and 137 in Western Australia.

Local governments are one of the three tiers of government in Australia. These are:

- Australian Government;
- State and Territory Government; and
- Local government.

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Each form of government has its own decision-making body consisting of elected representatives. For the Australian Government and State and Territory Governments these are Parliaments. For local governments, the decision-making bodies are councils.

Each form of government also has an Administration, made up of employees, who implement the decisions of the Parliament or council and provide services to the community.

Australia's Constitution does not refer to local government, and the Australian Government has no jurisdiction over local government. The six States and the Northern Territory each have their own local government legislation. For Western Australia and the Indian Ocean Territories, this is the *Local Government Act 1995* (LG Act) and its associated regulations.

The Australian Capital Territory does not have a system of local government.

### Local government in Western Australia

The system of local government in Western Australia is currently overseen by the Minister for Local Government; Heritage; Culture and the Arts (Minister).

The Minister is assisted by the Department of Local Government, Sport and Cultural Industries (Department) which “*partners with local government to deliver good governance to the community*”.<sup>1</sup>

Section 3.1(1) of the LG Act states that the general function of local government in Western Australia is “*to provide for the good government of persons in its district*”.



The work of Local Government is varied, but it touches almost all areas of our day to day life as citizens – whether we live in cities, towns or country areas.<sup>2</sup>

The Western Australian Local Government Association (WALGA)

Local governments operate in a local geographical area. The 137 local governments in Western Australia vary widely in geographical size.<sup>3</sup>



**1 km<sup>2</sup>**  
Shire of Peppermint Grove



**371,244 km<sup>2</sup>**  
Shire of East Pilbara

The population of Western Australia is approximately 2.6 million people.<sup>4</sup> The majority of these people live in the Perth metropolitan region.

There are 30 local government areas in the greater Perth metropolitan area. Those local governments have a combined population of over 1.9 million people.

This leads to an imbalance in the populations served by many regional local governments compared to Perth metropolitan local governments. Most local governments in the metropolitan area have populations in the tens or hundreds of thousands. Many local governments in regional areas have a population of less than less than 1,000.

Shire of Sandstone

**87**  
People

**57**  
Electors

City of Stirling

**219,975**  
People

**143,852**  
Electors

## Services provided by local government

Local governments are vital to the functioning of local communities. They provide necessary services for residents, businesses and visitors.

The Department, on its website, states:

*“In Western Australia councils employ around 15,000 people and manage more than \$40 billion of community assets.*

*Your local council provides a range of services to you every day, such as roads and footpaths, rubbish collection services, libraries, parks and playgrounds, community services and events, infrastructure and recreation facilities”.*<sup>5</sup>

The services local governments provide to the community are of two types:



### Statutory services

Local governments are required by law to provide.



### Discretionary services

Local governments can choose to provide.

The Department explains it this way:<sup>6</sup>

#### Local government *must* provide:

- town planning and building controls;
- residential waste collection;
- fire control;
- cat and dog management;
- swimming pool inspections; and
- food and public health inspections.

#### Local government *can* provide:

- sport and recreation facilities;
- home and community care;
- local roads and footpaths;
- community safety and amenity;
- cultural activities and community events;
- public libraries;
- seniors and child care services;
- local environmental management and protection;
- tourism initiatives; and
- fostering economic development.

## Changing functions of local government

The role and functions of local government in Western Australia have changed, and are changing, to adapt to conditions in society. Examples of the changes which affect the City include the following.

### Development Assessment Panels

The transfer of responsibility for some planning decisions has gone from local governments to Development Assessment Panels (DAP) administered by the Department of Planning, Lands and Heritage. These DAPs consider development applications which meet certain monetary thresholds.<sup>a</sup> DAP members are appointed by the State Minister for Planning and include two local government members and three specialist members.<sup>7</sup> There is a DAP for planning decisions affecting the City. There are currently five DAPs in Western Australia – four Joint DAPs that serve two or more local governments and one Local DAP that only serves the City.

### Growing expectations and responsibilities

The expectations of communities change with changing social conditions. Local governments are no longer seen as being primarily responsible only for ‘roads and rubbish’. There is an increasing community expectation that the City has a role in relation to social issues such as homelessness, substance abuse, mental health and violence.

This trend was observed by the Productivity Commission in its *“Shifting the Dial: 5 year Productivity Review, Supporting Paper No. 16”*:

*“There is no set ‘list’ as to the type, mix or level of services that all Australians can expect from Local Government. Previous reviews, for example, Performance Benchmarking of Australian Business Regulation: The Role of Local Government as a Regulator (PC 2012), have suggested that Local Governments are often caught in a tug-of-war between local preferences and a growing list of responsibilities and requirements delegated to them by their respective State Government.*

*Participants in this review raised concerns that while the role of Local Governments has expanded, they do not always have the financial capacity or required level of skills to efficiently undertake these roles.”<sup>8</sup>*

<sup>a</sup> \$20 million or more for the City of Perth, *Planning and Development (Development Assessment Panels) Regulations 2011*, s 5(a).

The Commonwealth Grants Commission, in its report on “*Review of the Operation of the Local Government (Financial Assistance) Act 1995*” found that the increasing functions of local governments are due to five factors:<sup>9</sup>

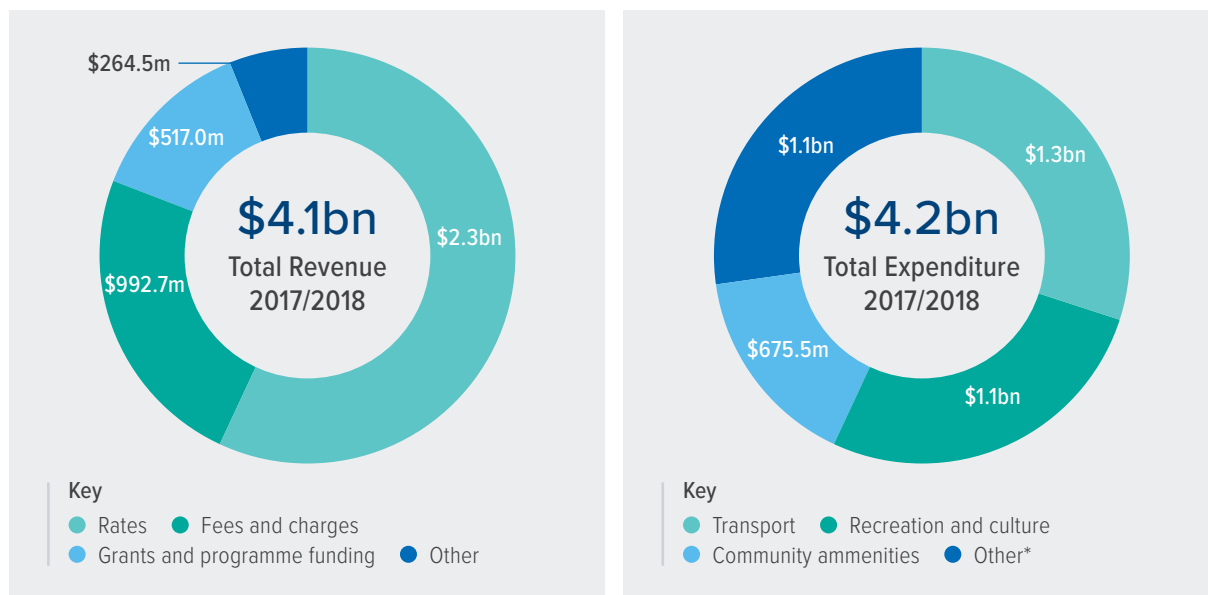
|  |  |
|--|--|
| <b>1. Devolution</b>                       | Where another sphere of government gives local government responsibility for new functions.  |
| <b>2. Raising the bar</b>                  | Where another sphere of government, through legislative or other changes, increases the complexity of or standard at which a local government service must be provided.  |
| <b>3. Cost shifting</b>                    | Where there were two types of behaviour. The first is where local government agrees to provide a service on behalf of another sphere of government but funding is subsequently reduced or stopped, and local government is unable to withdraw because of community demand for the service. The second is where, for whatever reason, another sphere of government ceases to provide a service and local government steps in. |
| <b>4. Increased community expectations</b> | Where the community demands improvements in existing local government services.  |
| <b>5. Policy choice</b>                    | Where individual local governments choose to expand their service provision.   |



## Local government finances

### Revenue and Expenses

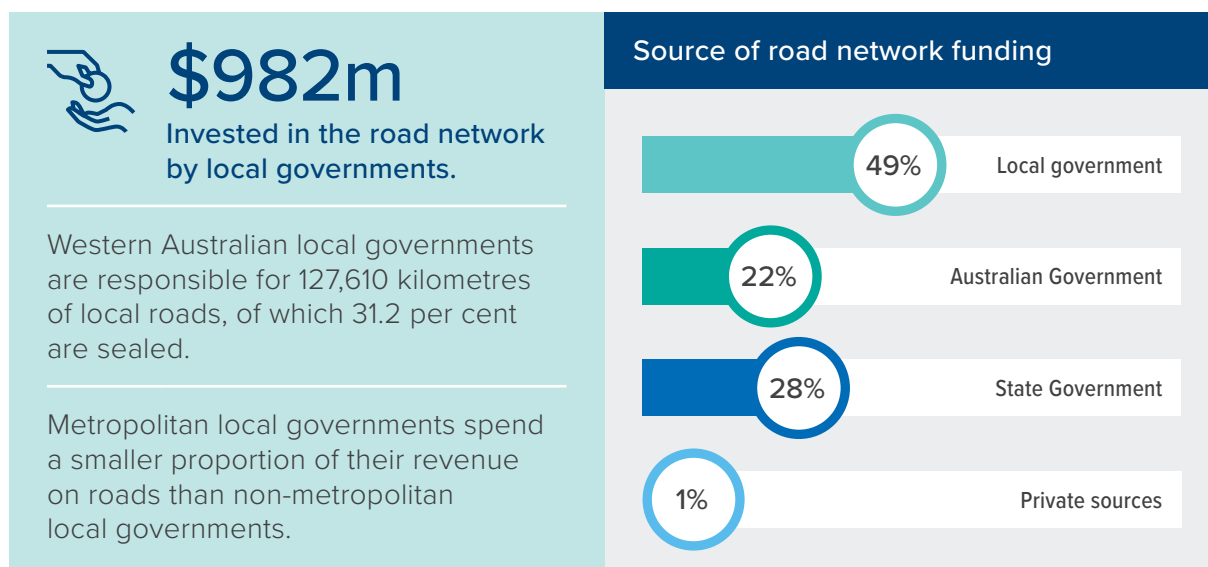
The Department's 'My Council' website provides details of finances and financial health for each local government in Western Australia. In the 2017/2018 financial year, the local government in Western Australian raised revenue of approximately \$4.1 billion and spent nearly \$4.2 billion.<sup>10</sup>



\* Other includes: Governance (\$268m), Law, order and public safety (\$160m), Education and welfare (\$191m), Other property services (\$185m), Economic services (\$182m), General purpose funding (\$77m), Health (\$73m) and Housing (\$30m).

### Roads

One of local government's primary responsibilities is to maintain roads. In its 2017/2018 annual "Report on Local Government Road Assets & Expenditure" Western Australian Local Government Association (WALGA) provided the following information:



## Legal framework

### **Local Government Act 1995 and regulations**

The LG Act and its associated regulations are Western Australian laws which describe the way local governments should operate in Western Australia.

The LG Act describes the roles of councils, council members, council committees and Chief Executive Officers (CEO). It governs the financial management of local governments, enforcement and legal proceedings, and the processes and rules for local government elections.

The LG Act states at section 1.3:

*“(2) This Act is intended to result in –*

- (a) better decision-making by local governments; and*
- (b) greater community participation in the decisions and affairs of local governments; and*
- (c) greater accountability of local governments to their communities; and*
- (d) more efficient and effective local government”.*

The LG Act and regulations also contain restrictions on the way in which council members can behave. This includes requirements for council members to disclose their private interests which may affect their official decisions, including financial interests, proximity interests, and gifts and contributions to travel they have received.

The *Local Government (Rules of Conduct) Regulations 2007*, provide “General principles to guide the behaviour of council members”, and specific rules of conduct. These prohibit a council member from:

- disclosing confidential information;
- improperly using his or her position to gain an advantage for himself or herself or another person;
- misusing local government resources;
- involvement in the administration of the local government; and
- directing or influencing a local government employee.

Breaches of these regulations are dealt with under Part 5, Division 9 of the LG Act. A complaint that a council member has committed a breach of these regulations must be referred to the Local Government Standards Panel (LGSP).

Other legislation which gives powers and responsibilities to local governments in Western Australian include the:

- *Public Health Act 2016*.
- *Planning and Development Act 2005*.
- *Health (Miscellaneous Provisions) Act 1911*.
- *Food Act 2008*.
- *Bush Fires Act 1954*.
- *Cemeteries Act 1986*.
- *Dog Act 1976*.
- *Cat Act 2011*.
- *Heritage Act 2018* (which replaced *Heritage of Western Australia Act 1990*).
- *Environmental Protection Act 1986*.

#### *City of Perth Act 2016*

The *City of Perth Act 2016* brought the City in line with other Australian capital cities and acknowledged its central role in tourism, business and economic development.

Section 8 of that Act sets out the 10 objects of the City. These include to provide for good government, and to represent the community and encourage community participation in decision-making. These objects are to be applied to decision-making within the City.

## The structure of local government

Local governments are created as “*bodies corporate*” under Part 2, Division 2, section 2.5 of the LG Act.

Councils vary in size. In Western Australia, local governments are classified into four “*Bands*”. The larger and more complex local governments are classified “*Band 1*”. Smaller and less complex ones are classified “*Band 4*”. This classification is also reflected in the role of a CEO. “*Band 1*” CEOs are required to perform more strategic work, while a “*Band 4*” CEO is more likely to perform more operational work.

The “*Bands*” are formed from a broad range of factors, including major growth and development, significant social, economic and environmental issues, diversity of services, total expenditure, population and staffing levels.<sup>11</sup>

These bands are used for remuneration and allowance levels for CEOs and council members, as well as other specified expenses. They are set annually by the Western Australian Salaries and Allowances Tribunal.

Local governments consist of a council, composed of elected council members, and an Administration staffed by employees.

Council members and employees are all public officers under the definition in section 1 of the *Criminal Code*. They are also bound by the local government’s code of conduct.<sup>12</sup>

## Council members

For Western Australia, section 2.17 of the LG Act prescribes that a council should consist of a Mayor or President and between five and 14 councillors, one of whom is to hold the office of deputy mayor or deputy president.

A local government which is a 'City' or a 'Town' has a Mayor. A local government which is a 'Shire' has a President.

Section 9 of the *City of Perth Act 2016* states that the City of Perth Council consists of a mayor, who is called the Lord Mayor, and eight councillors.

The roles of the Lord Mayor and councillors are set out in sections 10 and 11 of the *City of Perth Act*. Section 11(2) sets out the role of a councillor. The first four duties are:

- “(a) to represent the interests of electors, ratepayers and residents of the City of Perth;*
- (b) to serve the current and future interests of the community in the City of Perth;*
- (c) to provide leadership and guidance to the community in the City of Perth;*
- (d) to facilitate communication between the community and the City of Perth Council ...”.*

A Council is the decision-making body for a local government. Councils make decisions through formal meeting processes. The members in attendance consider recommendations and vote on motions. The majority of members must vote in support of a motion for it to be adopted as a decision of council.

The authority to act and make decisions belongs to council as a whole. Individual council members do not generally have authority as individuals. They must work cohesively for council to be effective.

The Mayor or President's responsibilities are set out in section 2.8 of the LG Act and include presiding over meetings, providing leadership and guidance and liaising with the CEO.

Council members are entitled to receive payment for attending prescribed meetings and reimbursements of appropriate expenses from the local government. Council determines whether the payment is made on a meeting-by-meeting basis or as an annual allowance. Mayors and presidents are entitled to receive higher payment amounts, including a specific mayor's or president's allowance. These payments are governed by section 5.98 of the LG Act, Part 8 of the *Local Government (Administration) Regulations 1996*, the *Salaries and Allowances Act 1975* and Salaries and Allowances Tribunal.

## Chief Executive Officer

All local governments in Western Australia have a CEO.

The employment, functions and powers of the CEO are set out in the LG Act and other legislation. These include, the CEO is:

- employed by the council (section 5.36 of the LG Act);
- “responsible for the employment, management supervision, direction and dismissal of other employees” (section 5.41), subject to the requirement that for “senior employees” the CEO must make a recommendation to the council which may accept or reject the recommendation (section 5.37(2));
- to “cause council decisions to be implemented” (section 5.41(c));
- to “manage the day to day operations of the local government” (section 5.41(d)); and
- also the complaints officer for reporting complaints about council members to the LGSP (unless this is delegated to another officer) and the principal officer for reporting allegations of misconduct to the Corruption and Crime Commission (CCC) and the Public Sector Commission.

During the period of the Inquiry’s Terms of Reference, being 1 October 2015 to 1 March 2018 (Inquiry period), the City had two CEOs, Mr Gary Stevenson until 20 January 2016, followed by Mr Martin Mileham.

### Conflicting roles of a Chief Executive Officer

One of the issues that the Inquiry has noted, and will become evident in this Report, is that the multiple roles of a CEO can bring the CEO into conflict with council members. The CEO is appointed by the council but may then have to report the conduct of council members to external bodies such as the CCC or the LGSP.

In addition, where council members wish to become actively involved in the activities of the Administration of a local government, then it is the CEO who is, or should be, the gatekeeper, and must control and prevent interference by council members. Yet the same council members may then be responsible for conducting performance reviews of the CEO.

These issues have been noted in research. For example:

*“... the clear and unrestricted authority of the Mayor/Shire President and the Council being directly and solely responsible for all aspects of CEO employment and role has the potential for the role and power of the CEO to be fettered and appears to challenge the neutrality ethic, whereby public servants are to remain non-partisan in their dealings with elected officials”.<sup>13</sup>*

And in relation to appointment of a CEO:

*“In a recent study into gender diversity in senior management in Western Australian metropolitan local governments Hutchinson and Walker (2011) found that interviewees believed that the competence and power tensions between the elected members and Council management often meant that elected members were more likely to appoint someone with whom they felt ‘comfortable’ and could ‘trust’ and would not challenge the status quo”.<sup>14</sup>*

The research also noted that there was frequently a difference in the way that CEOs saw their own role, and the way that this role was viewed by the council leader:

*“On the one hand, the majority of CEOs and a minority of Mayors/Shire Presidents clearly saw the role of the CEO as a significant leader within local government who not only had to have the managerial skills to maintain efficient and probative services on a day to day basis, but also needed to be strategically future focussed and to understand how to maximise partnerships and opportunities to meet the changing needs of the community. A much stronger view amongst Mayors/Shire Presidents was that the CEO was an operational manager that acted at the behest of council as an operational functionary”.<sup>15</sup>*

## Employees

The roles of employees are determined by the CEO. They typically carry out the daily operations of the local government, deliver services and implement decisions of council as directed by the CEO.

Councils in Western Australia often use contractors as well as having their own employees. This can make it difficult to determine how many employees, or full-time equivalent positions, a local government has, and therefore the true expenditure on labour.

Country local governments with smaller populations have a correspondingly smaller number of employees. The number of full-time equivalent employee positions in local governments in Western Australia can vary from eight to 878.<sup>16</sup>

During the Inquiry period, the City had between 720 and 765 employees.

Section 5.40 of the LG Act requires that *“employees are to be selected and promoted in accordance with the principles of merit and equity”*. This section also prohibits the use of nepotism, patronage or discrimination in relation to employees and states that *“employees are to be treated fairly and consistently”*.

## Issues affecting local government in Western Australia

### Amalgamation

Amalgamation of some local governments, particularly in the metropolitan area, has been under consideration since at least 2005 when the then Minister for Local Government and Regional Development announced a review of structural and electoral reform by the Local Government Advisory Board.

In July 2011, the State Government established a Metropolitan Local Government Review Panel which reported in December 2012, recommending that 30 metropolitan local governments should be amalgamated to form 12.

In September 2013, the Minister submitted the Government's proposals to the Local Government Advisory Board. In October 2014, the Board recommended a series of boundary adjustments and five amalgamations which would have resulted in 17 local governments. This included a proposed amalgamation of the City of Perth with the City of Vincent.

The Minister accepted all but two of those recommendations. The amalgamation of the City of Perth and the City of Vincent was one of those rejected.

In February 2015, polls conducted in the community defeated the three remaining proposed amalgamations and the State Government halted the process and revoked boundary adjustments already gazetted.

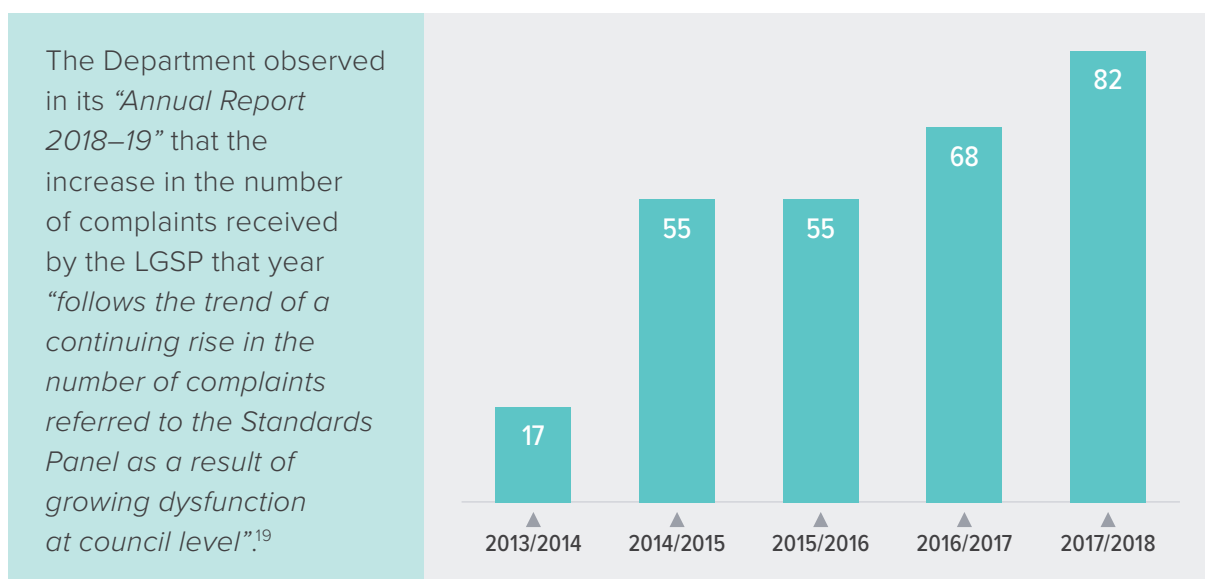
### Complaints and allegations

Under the *Corruption Crime and Misconduct Act 2003*, the CCC has jurisdiction to investigate allegations of serious misconduct by public officers, including council members and employees.

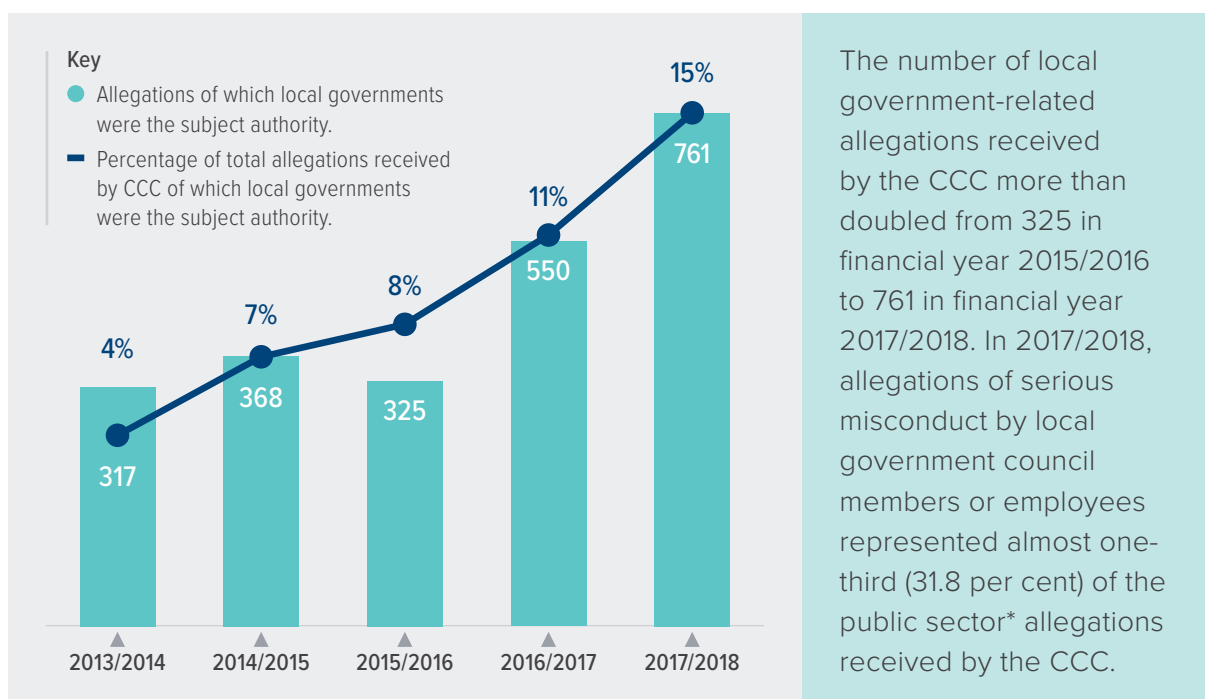
The Public Sector Commissioner has jurisdiction under the same Act to investigate allegations of minor misconduct by public officers, including employees of a local government, but not including council members.

The LGSP deals with complaints of breaches of the *Local Government (Rules of Conduct) Regulations 2007*, by council members. The Panel does not deal with complaints about local government employees.

Over the five years before the suspension of the City of Perth Council on 2 March 2018, there was an increase in numbers of complaints to the LGSP<sup>17</sup> (Figure 1.1) and allegations about local government members or employees to the CCC<sup>18</sup> (Figure 1.2).



**Figure 1.1:** Minor breach complaints received related to local government in Western Australia, Local Government Standards Panel, financial year 2014/2015 to 2017/2018.



**Figure 1.2:** Allegations received related to local government in Western Australia and the Corruption and Crime Commission, financial year 2014/2015 to 2017/2018.

There are many factors which can cause an increase in complaints and allegations of misconduct, including increased awareness of what might constitute misconduct, and better methods for reporting suspected misconduct. However, the increases recorded by the LGSP and the CCC certainly indicate an increased level of concern about the conduct of council members and employees in local governments in Western Australia.

\* Figures stated by the CCC do not include allegations related to WA Police Force.

## Authorised Inquiries and Inquiry Panels

Part 8 of the LG Act is headed “*Scrutiny of the affairs of local governments*”.

Among other things, this Part permits the Minister to suspend a council or members of a council and “*to inquire into and report on any aspect of a local government or its operations or affairs*”.<sup>20</sup>

There are two ways a local government can be inquired into – an Authorised Inquiry and a Panel Inquiry.

The first one is authorised by the Director General of the Department to inquire into the operations and/or affairs of a local government. It is undertaken by departmental staff and/or other suitably qualified people who are authorised to conduct such an inquiry and to exercise powers and responsibilities provided under this Part of the LG Act.

An Inquiry Panel may comprise of one or three members and is to provide a report to the Minister. A number of Inquiry Panels have been appointed in the last 20 years. These, with their date of appointment, include:

- Inquiry into the City of Canning, December 2012.
- Inquiry into the City of Joondalup, May 2004.
- Inquiry into the South Perth City Council, October 2001.
- Inquiry into the City of Cockburn, May 1999.

This Inquiry is an Inquiry Panel into the local government of the City of Perth.

## 1.1.2 About the City of Perth

The City of Perth (City) is the local government for the capital city of Western Australia. It is a statutory entity constituted under the *Local Government Act 1995* (LG Act) and the *City of Perth Act 2016* (CoP Act).

The City exists to provide services and facilities to a broad range of stakeholders, including residents, commercial and retail businesses, workers, and local, national and international visitors.<sup>21</sup>

Section 8(1)(a) of the CoP Act states that one of the objects of the City is “to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors”.

### Perth City area

The City of Perth covers a geographical area of 26.93km<sup>2</sup> (Perth City area).<sup>22</sup> It includes the suburb of Northbridge, and parts of the suburbs of Perth, East Perth, West Perth, Crawley, Subiaco and Nedlands.

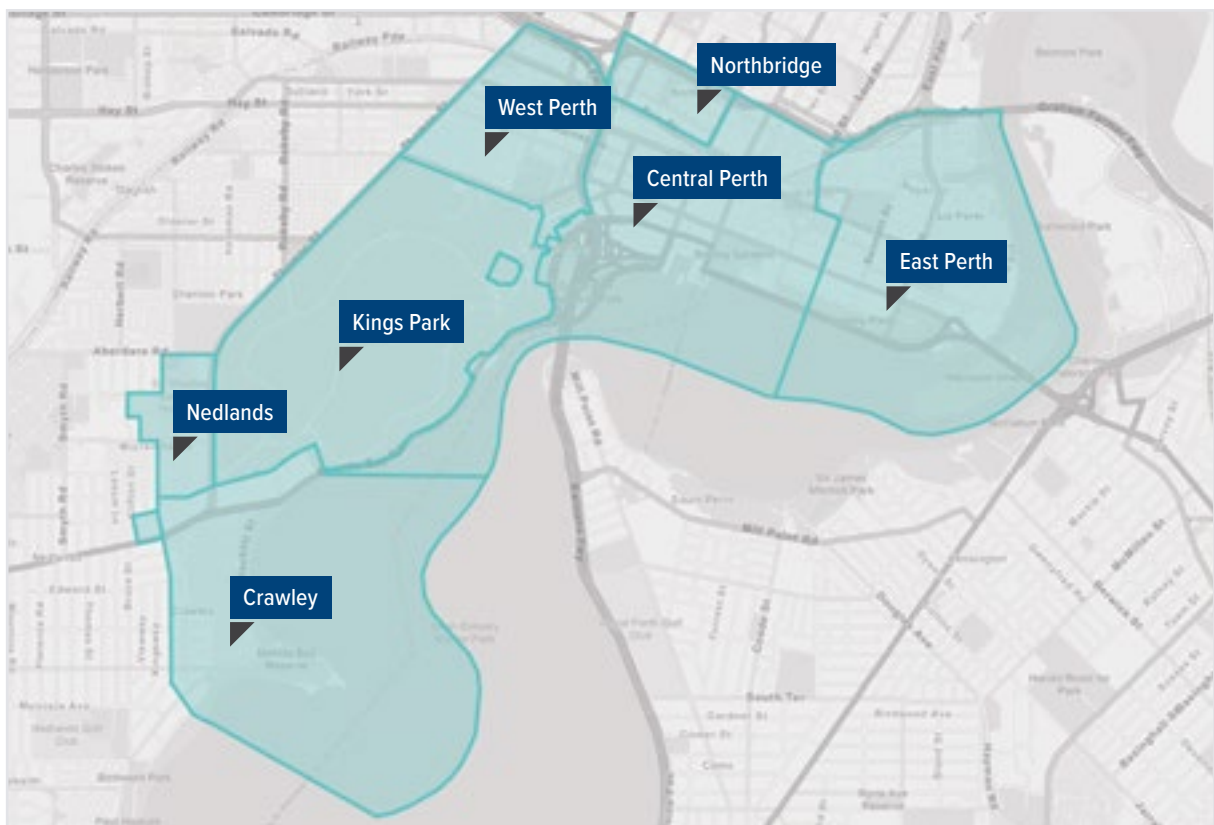


Figure 1.3: City of Perth geographical area and electoral boundaries.

On 1 July 2016, pursuant to section 18 and schedule 1 of the CoP Act, the boundaries of the Perth City area were expanded to incorporate significant sites. The City gained 1,508 ratepayers as a result.<sup>23</sup> From that date, it included:

- The University of Western Australia;
- Kings Park;
- Queen Elizabeth II Medical Centre;
- Perth Children's Hospital<sup>24</sup>; and
- parts of the suburbs of Subiaco and Nedlands.

There are a wide variety of significant sites in the Perth City area, including:

- State buildings such as Parliament House, Government House and the Supreme Court.
- Royal Perth Hospital.
- The Perth Cultural Centre precinct, including the State Library, the Western Australian Museum, the Perth Institute of Contemporary Arts, the Art Gallery of WA and the State Theatre Centre of WA.
- Entertainment and sports venues such as His Majesty's Theatre, Elizabeth Quay, RAC Arena, the Western Australian Cricket Association Ground and the Perth Convention and Exhibition Centre.
- Perth Central Business District, which contains the Western Australian head offices for many businesses and corporations and most State and Federal Government agencies.
- The retail, dining, and entertainment precincts of Northbridge, Perth and East Perth.

Many of the key transit routes for the Perth metropolitan area run through the Perth City area, which incorporates six train stations and two bus ports.



Photo: 2WinG2/Shutterstock.com

## Special features of the City

The City is unusual among local governments in Western Australia in several respects. The bulk of the people it serves do not live in the City and are not electors. They include people who work in the City but live elsewhere, business operators and visitors.



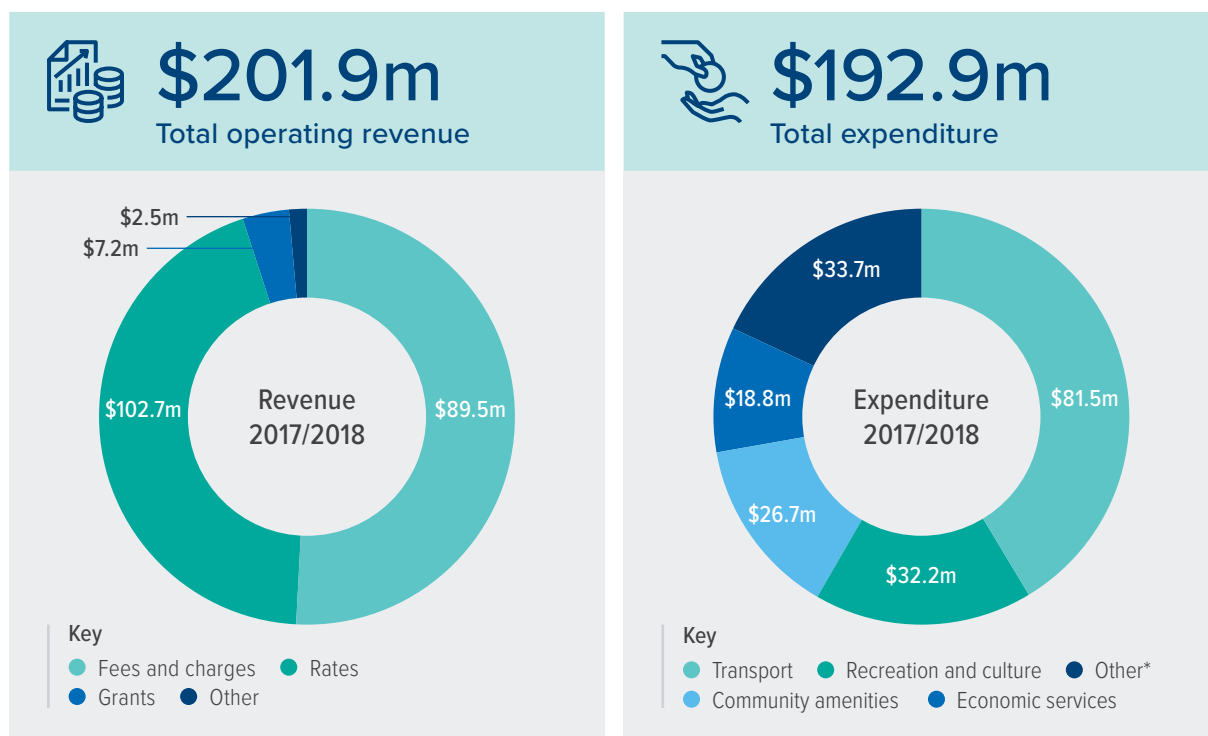
In 2018, over 12,000 businesses were located within the City.<sup>25</sup> These ranged from small family businesses to multi-national corporations. As illustrated by the statistics above, the daytime population is approximately seven and a half times the size of the resident population and 14 times the number of electors.

There are several other respects in which the City is unique among local governments in Western Australia, including:

- It has its own Act of Parliament, the CoP Act, which:
  - recognises the special role and responsibilities the City has as a capital city local government (preamble and section 4);
  - sets out 10 “objects” for the City (section 8);
  - states that the City of Perth Council (Council) will consist of a mayor who will be called the Lord Mayor and eight councillors (section 9); and
  - sets out the role of the Lord Mayor (section 10).
- It has a major source of its revenue from its own business, City of Perth Parking (CPP). As a result, the City raises more revenue from fees and charges than it does from rates.
- It is the only local government in Western Australia which receives enough high-value development applications to have its own Local Development Assessment Panel, administered by the Department of Planning, Lands and Heritage. This Panel assesses all development applications for the Perth City area that are valued over \$20 million. It may also assess applications valued between \$2 million and \$20 million.
- The majority of the services the City provides are discretionary, rather than prescribed by legislation.<sup>26</sup>

## Finances and workforce

In the 2017/2018 financial year, the City had the second highest operating revenue and third highest operating expenditure of any local government in the State. Of the aggregate operating revenue and expenditure reported by local governments in Western Australia that year, the City accounted for approximately five per cent.<sup>27</sup> The City's revenue and expenditure are further examined in **Chapter 2.3.3 – Financial management and planning**.



The City raised more revenue from fees and charges than any other Western Australian local government during the 2017/2018 financial year. It accounted for over 10 per cent of the aggregate fees and charges revenue raised by local governments in the State. This was due to the substantial income generated from parking fees through the CPP.

The City also had the highest employee costs of any local government in the State and the third highest number of Full Time Equivalent (FTE) positions. In comparison, the City of Stirling, a similarly classified “*Band 1*” local government, had the highest number of FTE positions but had the third highest employee costs. The City of Stirling had a total population of 220,249 residents, which was larger than the City's daytime and workforce populations, providing services to more than eight times as many residents and 12 times as many electors than the City did.

### Employees

**735**

Employees

**74.7m**

Employee costs

### Assets and cash reserves

**\$100m**

Cash reserves

**\$1.2bn**

Total assets

## Services provided by the City of Perth

In 2017, Deloitte undertook an independent “*Organisational Capability and Compliance Assessment*” (Deloitte Report) of the City. The Deloitte Report identified 76 different services provided by the City, of which some are statutory services required by legislation and others are discretionary. (Table 1.1)<sup>28</sup>:

**Table 1.1: Services provided by the City of Perth.**


|  <b>17</b><br><b>Statutory services</b>   |  <b>59</b><br><b>Discretionary services</b>   |
|--|--|
| <p>The City is subject to the same legislative requirements as other local governments in Western Australia to provide certain services. These are under the LG Act and other legislation. However, the City must also provide services in accordance with legislation that specifically applies to the City and the Perth City area, such as the <i>Perth Parking Management Act 1999</i>.</p> <p><b>Examples of the City’s statutory services include:</b></p> <ul style="list-style-type: none"> <li>• street cleaning;</li> <li>• pest control;</li> <li>• residential kerbside waste collections;</li> <li>• inspections of public buildings and lodging houses; and</li> <li>• enforcement of planning and building controls.</li> </ul> | <p>The CoP Act prescribes the objects of the City, but not the services it should provide to fulfil them.</p> <p><b>Examples of the City’s discretionary services include:</b></p> <ul style="list-style-type: none"> <li>• community amenities – street seats, memorials and rest centres;</li> <li>• recreational services – parks, donations and Christmas decorations;</li> <li>• transport services – footpaths, street lighting and traffic surveys;</li> <li>• economic services – tourism and promotions;</li> <li>• education and welfare services – childcare centres and aged and disabled welfare administration;</li> <li>• law, order, public and safety services; and</li> <li>• property services.<sup>29</sup></li> </ul> |



Photo: istockphoto.com.au/portfolio/eagiven

Some of the discretionary services provided by the City are in response to community needs. Examples of these are services relating to homelessness, or to the provision of cycle paths. Other discretionary services, such as the City's annual Skyworks event may be beneficial to the wider community, but also have associated costs if the City is allocating its resources away from other functions.

Specific examples of discretionary services provided by the City during the Inquiry period include:

- Sponsorships and partnerships for events such as the Perth Fashion Festival and the CowParade.
- Delivery of major public events such as Skyworks.
- Business support services and grants.
- Social media accounts and campaigns.
- Homeless Connect Perth.
- Twilight Hawkers Markets.
- Northbridge Piazza.
- City of Perth Library.
- Citiplace community centre and Citiplace rest centre.
- Childcare centre.

### Serving as the capital city local government

Local governments are established to serve local communities. As the capital city of Western Australia, the City has the responsibility for providing services for all people in its district, and, to some extent, for the wider population of Western Australia.

The stakeholders of the City expect it to provide discretionary services and facilities which are at least equal to those of other Perth metropolitan local governments and other capital cities. Services and facilities are expected to be designed and maintained to a standard which reflects its status and effectively meet the demands of the citizens of, and visitors to, the State.

The City is required to fulfil its statutory duties with respect to the large volume of social and economic activities which occur in it. For example, the City is responsible for enforcing the *Public Health Act 2016* and *Food Act 2008* across several of the Perth metropolitan area's largest nightlife and dining precincts.

## History of the City of Perth

In 1842, an Act established the Perth Town Trust. This became the Perth City Council in 1858. The first meeting of the Council was held on 10 December 1858.

The title of Mayor was first conferred on 8 September 1880. In 1929, the status of that position was changed to Lord Mayor.

In October 1993, the State Government announced the split of the City of Perth and the creation of three other towns. As part of this process, the State Government passed the *City of Perth Restructuring Act 1993*.

The restructure divided the then City of Perth into four local government areas:

- the City of Perth, as a new Central Business District based capital city local government; and
- the Town of Cambridge, the Town of Victoria Park and the Town (now City) of Vincent, as new local governments for the residential communities.

### 1995 restructure report

The restructure was overseen by a Commission and, in May 1995, two consultants, Mr R F Barfus and Mr R G Bowe, prepared a report on the restructuring process and the work of the Commission.<sup>30</sup>

In their report the consultants said “... we are aware that one of the Government’s major objectives in restructuring the City of Perth was to bring local government closer to the people in acknowledgement of its social and political role”.



As part of their report, the consultants discussed a review (by DMR Group) of the functions of the City of Perth before it was divided. The consultants summarised some of the findings of the review and said “... *DMR’s operational assessment of the City of Perth highlighted a number of significant deficiencies and inefficiencies*”. These included.

*“significant physical and logical demarcation between departments and work areas leading to a disjointed structure ...”;*

*“the use of technology to support business processes and the management of information within the organisation was ineffective”;*

*“little or no forward planning and only minimal focus on performance measurement”;*

*“the system of determining the costs of services was ineffective and misleading”;*

*“processes and service provision were not based around outcomes or end results”; and*

*“serious efficiency shortcomings in administrative practices ... bottlenecks and inefficiencies due to artificial departmental boundaries, poor communication mechanisms and lack of appropriate technological support ... Major internal processes such as procurement, preparation and management of the budget were found to be unwieldy, driven by out of date business rules and lacking in co-ordination”.*

The consultants drew the following conclusions about how things could be improved:

*“Transformation can only occur when there is a dramatic change in attitude across the whole organisation. ... Everyone from managers to labourers must participate in the change of culture”. ...*

*Cultural change must be continuous and supported by:*

- written and oral articulation;*
- training for all new employees entering the workforce;*
- ongoing training for all employees; and*
- relevant training for elected councillors”.*

The Inquiry notes that many of the shortcomings in the functioning of the City identified by Mr Barfus and Mr Bowe in their report in 1995 are similar to some of the shortcomings identified more recently by the Inquiry.

## Legislation and structure of the City of Perth

The CoP Act establishes the City as the capital of Western Australia.<sup>31</sup> It acknowledges and enhances the significant roles and responsibilities the City has in fulfilling this role.

The City's functions are extended by the CoP Act beyond those mandated by the LG Act and other legislation which is common to all local governments. The City is bound by the LG Act and its regulations, except to the extent of any inconsistency with the CoP Act.

Section 8 of the CoP Act sets out the ten objects of the City. Council is required to consider these objects when making decisions, although the Act does not specify how the City is to fulfil them, other than in saying that the role of a council member includes:

*“to have due regard to the objects of the City of Perth in informing the City of Perth Council’s work and in the making of decisions by the Council”.*<sup>32</sup>

The objects include a wide range of functions and services that are not required or generally expected of other local governments. For example:

*“to maintain and strengthen the local, national and international reputation of the Perth metropolitan area as an innovative, sustainable and vibrant global city that attracts and welcomes everyone”.*<sup>33</sup>

### The Council

The CoP Act prescribes that the Council will consist of a Lord Mayor and eight councillors, and that the Lord Mayor must be directly elected by electors, rather than by the councillors.<sup>34</sup> The Council elects one of its members to hold the position of Deputy Lord Mayor.<sup>35</sup>

It prescribes, in sections 10 and 11, the special additional roles and responsibilities that the Lord Mayor and the councillors have.

Section 11(2) sets out the role of all council members. The first four roles are:

- “(a) to represent the interests of electors, ratepayers and residents of the City of Perth;*
- (b) to serve the current and future interests of the community in the City of Perth;*
- (c) to provide leadership and guidance to the community in the City of Perth;*
- (d) to facilitate communication between the community and the City of Perth Council; ...”.*

### Council and committee meetings

Ordinary council meetings are held every month except January. Council meetings are held in the Council Chambers located on level nine of the City's administration building, known as Council House.

During the Inquiry period the Council was supported by committees, each of which operated according to its terms of reference. These were:

- Audit and Risk Committee;
- CEO Performance Review Committee;
- Design Advisory Committee;
- Finance and Administration Committee;
- Marketing, Sponsorship and International Engagement Committee;
- Planning Committee; and
- Works and Urban Development Committee.

Council members were appointed to these committees at a Special Council Meeting held soon after each local government election. During the Inquiry period these meetings were held on:

- 22 October 2015; and
- 24 October 2017.

Each committee had three council members as full members and two council members as deputies, with the following exceptions:

- All council members were appointed to the CEO Performance Review Committee on 24 October 2017.
- The Design Advisory Committee did not include council members.

The primary role of the committees was to consider matters relevant to their functions and make recommendations to the Council. Committees could make decisions on Council's behalf with delegated authority.

### Council elections

Ordinary elections for councillors took place in October every two years. At each biennial election, half the City councillors were elected for terms of four years. Election of the Lord Mayor took place in October every four years. Elections were typically held by postal vote.

Once elected, each councillor made a declaration that they *"will duly, faithfully, honestly and with integrity, fulfil the duties of the office"*.<sup>36</sup>

Eligible voters consist of residents in the City and people who, or companies which, own or occupy property within the City. This includes leaseholders.

Voter eligibility is not as simple as one person one vote. For example, where a company owns or leases property, two people can be nominated by an authorised officer of the company to vote on the company's behalf. Provided they are on the State or Commonwealth electoral roll, those two nominees do not have to be affiliated with or connected to the company. Nor do they have to reside or work in Perth.

Unlike Federal and State Government elections, it is not compulsory to vote in local government elections, and voter turnout is often low.

Details of Council elections during the Inquiry period are given in **Chapter 2.2.1: Local government elections** of this Report.

### **Council member entitlements**

Allowances for the Lord Mayor and councillors are legislated under the LG Act,<sup>37</sup> and are determined by the Salaries and Allowances Tribunal.

The Lord Mayor receives an annual allowance for fulfilling the duties of the position. Councillors and the Lord Mayor, receive attendance fees for Council and committee meetings and an allowance for a variety of expenses related to their official role. This can include attendance at relevant conferences and forums and clothing and dry-cleaning.

During the period examined by this Inquiry, there was also an additional allowance of up to \$12,000.00 that permitted councillors, and their guests, to use the Council dining room without charge. Council policies limited the use of this facility to official functions and to enable council members “... to meet their unique civic responsibilities”.<sup>38</sup>

### **The Administration**

The Administration of the City consisted of between 720 employees at 30 June 2015 and 765 employees at 30 June 2018.<sup>39</sup> It also relied on volunteers and contractors. The organisation was headed by a CEO and, during the period considered by this Inquiry, five directors. Together, the CEO and directors were known as the Executive Leadership Group.

The directorates consisted of a number of smaller business units. Each was led by a manager who reported to their Director.

### **Organisational restructure 2015**

On 30 April 2015, Council endorsed ‘*The New City of Perth Organisational Structure*’. The restructuring process was initiated by Mr Gary Stevenson, CEO at that time. It was continued by Mr Martin Mileham as the Acting CEO, following the termination of Mr Stevenson’s employment on 20 January 2016.

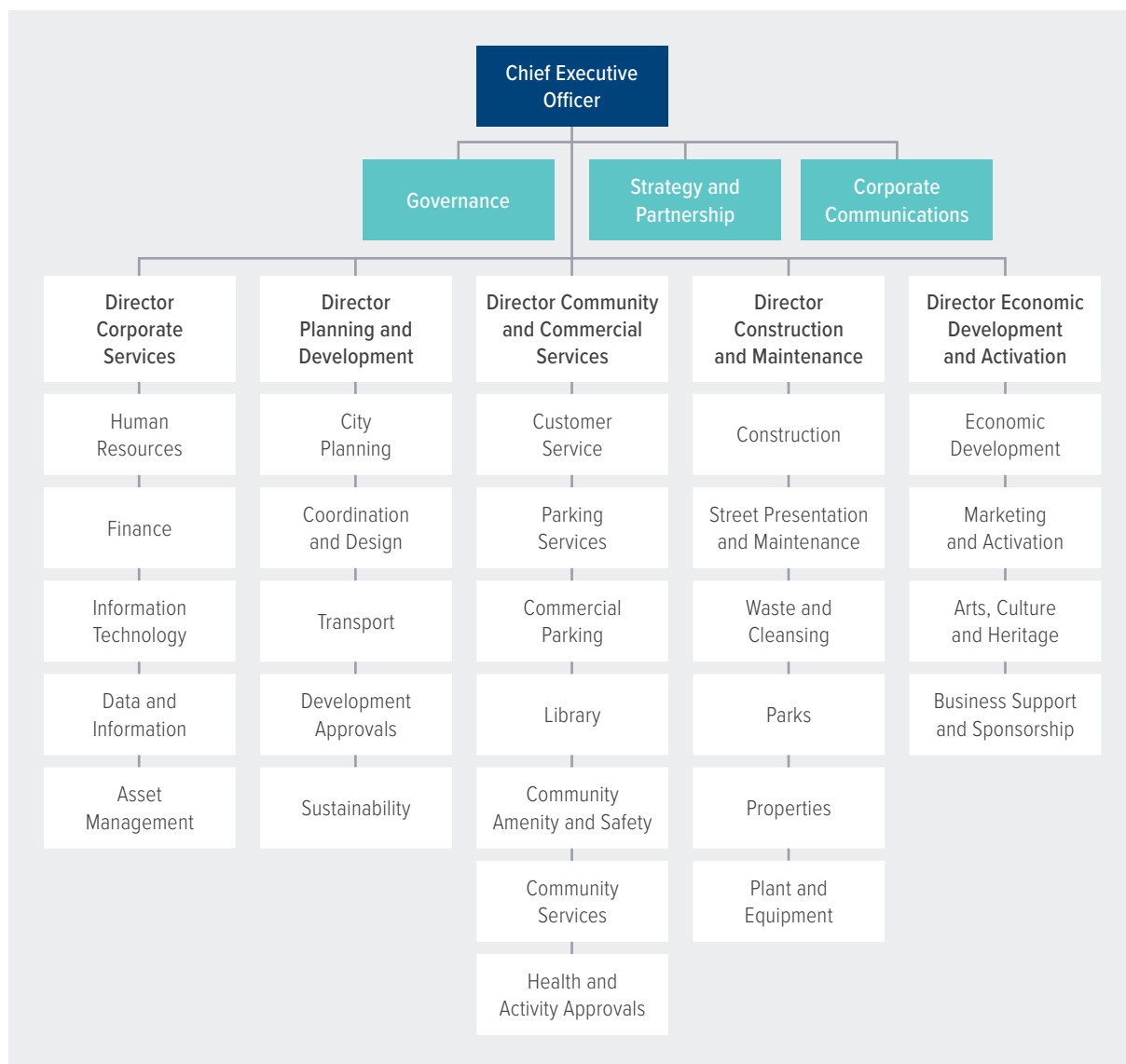
The restructure increased the City’s directorates from four to five with the addition of the Economic Development and Activation Directorate.

The City's business units increased from 20 to 30. During the restructure, managers were in some cases left responsible for determining the structures and roles of their business units. This resulted in duplication of services and confusion as to who was responsible for what.

The City experienced high staff turnover following the restructure.

Between April 2015 and February 2017, there were 152 employee departures, and 158 permanent and fixed-term employees were appointed. In July 2017, the Executive Support Office was replaced by the Office of the Chief Executive.

The structure of the Administration at the end of the Inquiry's period is contained in Figure 1.4.



**Figure 1.4:** City of Perth organisational chart as at 5 June 2018.

## 1.1.3 About the Inquiry

On 2 March 2018, the Minister for Local Government; Heritage; Culture and the Arts, Hon David Templeman MLA (Minister) announced the suspension of the Council of the City of Perth (City).

An Inquiry into the City of Perth was established in response to concerns by the Minister, subsequent to the suspension of the City of Perth Council (Council).

At the announcement of the suspension of the Council, three Commissioners were appointed to manage the affairs of the City, Mr Eric Lumsden AM, Ms Gaye McMath and Mr Andrew Hammond<sup>b</sup> (pictured left to right).



On that occasion the Minister stated that:



The situation at the City of Perth has become untenable and I have formed a view that if I do not intervene I am failing in my responsibilities as Minister and not fulfilling my obligations under the Local Government Act ... I am seeking to restore confidence in the people of Perth of the City's ability to provide good governance for its community.<sup>40</sup>

### Appointment of an Inquiry Panel

On 24 April 2018, pursuant to section 8.16 of the *Local Government Act 1995* (LG Act), the Minister appointed “an Inquiry Panel consisting of one person, Anthony Power, Legal Practitioner, to inquire into and report on the aspects, operations and affairs of the City of Perth”. The appointment of the Inquiry Panel (Inquiry), which had the powers of a State Royal Commission under the *Royal Commissions Act 1968* (RC Act), took effect on 1 May 2018.<sup>c</sup>



The powers of an inquiry, pursuant to the *Royal Commissions Act 1968*, are set out in **Chapter 1.1.4: Procedural fairness**.

<sup>b</sup> In accordance with section 2.38(1) of the *Local Government Act 1995*, the role of a Commissioner is “... to exercise the powers and discharge the duties of the council of the local government and its [Lord Mayor] ...”.

<sup>c</sup> The powers of an inquiry, pursuant to the *Royal Commissions Act 1968*, are set out in Chapter 1.1.4: Procedural Fairness of this Report.

Section 8.17 of the LG Act provides that the Notice of Appointment is to set out the nature of the inquiry to be conducted, the functions of the Inquiry and any limit imposed on the duration of the Inquiry. In other words, the Notice of Appointment, in effect, served as the Inquiry's Terms of Reference, and informed the work of the Inquiry, including procedural fairness obligations and how those obligations were discharged.<sup>d</sup> For the purpose of this Report, the Notice of Appointment will be referred to as the *Terms of Reference*.

In the case of this Inquiry, the Terms of Reference set out the nature of the Inquiry to be conducted (part A), the functions of the Inquiry Panel (part B) and the duration of the Inquiry (part C) (Figure 1.5).<sup>41</sup>

In recognition of the complexity, and extensive number and importance of issues being investigated by the Inquiry, the duration of the Inquiry was extended on two occasions. The Inquiry commenced on 1 May 2018 and was initially due to report to the Minister by 2 May 2019. On 5 December 2018, the Minister announced an extension to the reporting date for the Inquiry to 20 January 2020. On 10 December 2019, the Minister announced an extension until 30 April 2020.<sup>42</sup> On 30 April 2020, the Minister announced a further extension until 30 June 2020 due to delays caused by the COVID-19 pandemic.<sup>43</sup> At that time, the Minister stated:

*"... an extension to the Inquiry ... [has been granted] ... following delays caused by COVID 19. Since its appointment on April 24, 2018 the inquiry has undertaken a significant number of public and private hearings into serious matters of governance and administration ... [the Inquiry] has been extensive with more than 100 witnesses examined and more than 20 different lines of enquiry [investigations] pursued".<sup>44</sup>*

The Terms of Reference at Part A.1 provide that the Inquiry has the responsibility for inquiring into and reporting on those aspects, operations and affairs of the City (that is, of both the Council and the Administration) during the period 1 October 2015 to 1 March 2018 inclusive (Inquiry period).

In doing so, this Report provides the Minister with an opinion as to whether there was a failure to provide "*good government*" for the persons of the City during the Inquiry period and the prospect of it in the future.

However, it should be noted that on 30 January 2020, the Governor ordered that the four "*remaining offices of elected members of the council of the City of Perth*" be declared vacant and that the three Commissioners would hold office until 17 October 2020, the date for a local government election to fill the vacant offices.<sup>e</sup>

<sup>d</sup> The duty to afford procedural fairness was an extremely complex, comprehensive and lengthy undertaking. The Inquiry has been cognisant of its procedural fairness obligations since the commencement of the Inquiry on 1 May 2018 and has taken steps throughout the period of the Inquiry to discharge those obligations.

<sup>e</sup> The four "*remaining offices*" were those held by suspended Councillors Barton, Harley, Hasluck and Limnios.

*Local Government Act 1995*

**Notice of Appointment of an Inquiry Panel (Section 8.16)**

Pursuant to Section 8.16 of the *Local Government Act 1995 (the Act)*, I hereby appoint an Inquiry Panel consisting of one person, Anthony Power, Legal Practitioner, to inquire into and report on the aspects, operations and affairs of the City of Perth in accordance with the terms as to the scope and duration of that inquiry set out hereunder:

**A Nature of the Inquiry to be Conducted**

1. The Inquiry Panel is to inquire into and report on those aspects, operations and affairs of the City of Perth (including of the Council and the Administration) during the period between 1 October 2015 and 1 March 2018 inclusive, which may be necessary, in order to determine:

- (i) whether there has been a failure to provide for the good government of persons in the City of Perth's district;
- (ii) the prospect of such good government being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and
- (iii) any steps which may need to be taken to ensure that such good government does happen in the future.

2. The Inquiry Panel may inquire into and report on a period, or periods, before 1 October 2015, if it considers that to be necessary, or that it may be necessary, for the purpose of properly discharging its function under paragraph 1 above, and placing the matters inquired into within a relevant context in the circumstances.

3. The Inquiry Panel is (and without limiting the generality of paragraph 1 above) to give due consideration to, and inquire into and report on, the following matters:

- i. whether there was improper or undue influence by any member, as defined by section 1.4 of the Act (**member**) of the Council of the City of Perth in administrative tasks, such as recruitment, employee management and grants administration;
- ii. whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations;
- iii. the relationships between the Council, members, the Chief Executive Officer and other employees of the City and the effect of those relationships on the performance of the City's functions and obligations;

Figure 1.5: Notice of Appointment of an Inquiry Panel, 24 April 2018.

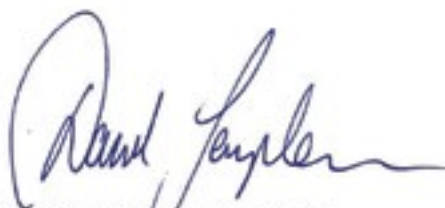
- iv. sponsorship arrangements between organisations and the City and the acceptance of gifts in the form of tickets to events by members from those organisations;
- v. governance practices, including adherence to the financial interest provisions of the *Local Government Act 1995*;
- vi. adequacy and competency of Council decision making.

**B. Functions of the Inquiry Panel**

The functions of the Inquiry Panel are as set out in A. above, and for the avoidance of doubt, include to inquire into, report on, and then make the recommendations in relation to the matters the subject of the Inquiry that it considers appropriate (in accordance with its duty under section 8.22 of the *Local Government Act 1995*).

**C. Duration of Inquiry**

The Inquiry is to commence on 1 May 2018 and shall present its report and recommendations no later than 2 May 2019.



HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS

DATE: 24 APR 2018

## Events leading to the suspension of Council

This Report examines, in detail, events affecting the Council and the Administration of the City during the Inquiry period. Those events led to the City becoming dysfunctional and, ultimately, to the suspension of the Council.

Some of the factors which contributed to that dysfunction were as follows:

- The Council was factionalised. The Lord Mayor, Ms Lisa Scaffidi, led a majority “*Team*” until the Council election in October 2017.
- A lack of harmony and co-operation developed within the Executive Leadership Group (ELG), which included the Chief Executive Officer (CEO) and five directors.<sup>f</sup>
- Some council members used their positions to advance their own personal interests, or those of family and associates.
- Some council members misused their official entitlements.
- Some council members failed to make proper declarations of conflicts of interest, gifts and/or sources of income.
- Some council members became involved in City administrative matters, which were not legitimately their concern, including human resources matters.
- The CEO was unable to prevent council members interfering in administrative matters.
  - Some council members manipulated election processes.
  - Some procurements were not properly handled by City employees.
  - Some complaints and allegations were not properly dealt with by the City.



<sup>f</sup> The five directors were: Director, Community and Commercial Services; Director, Construction and Maintenance; Director, Corporate Services; Director, Economic Development and Activation; and Director, Planning and Development.

# Key events

On 2 March 2018, the Minister for Local Government; Heritage; Culture and the Arts, Hon David Templeman MLA announced the suspension of the Council of the City of Perth. This timeline sets out the key events leading to the suspension of the Council.

## 2015



**30 April**

Council endorsed an organisational restructure programme called *The New City of Perth* initiated by the Chief Executive Officer (CEO), Mr Gary Stevenson.



**26 August**

The CEO, Mr Stevenson referred a *Report on Gifted Travel* to the Crime and Corruption Commission (CCC).



**5 October**

The CCC issued a *Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth*.



**17 October**

Ordinary Local Government election.



**Elected Lord Mayor**

Ms Lisa Scaffidi

### Elected Councillors



Mr Jim Adamos



Ms Janet Davidson



Ms Lily Chen



Dr Jemma Green



**22 October**

Ordinary Council Meeting.



**Elected Deputy Lord Mayor**

Mr James Limnios

## 2016



**14 January**

Mr Stevenson provided Ms Scaffidi with his *Report on Gifted Travel*.



**20 January**

Special Council Meeting.



**CEO employment terminated**

Mr Gary Stevenson



**Appointed Acting CEO**

Mr Martin Mileham



**4 March**

The *City of Perth Act 2016* came into operation.



**11 May**

A report by the Department of Local Government, Sport and Cultural Industries (Department) into receipt of gifts and travel by Ms Scaffidi found that she had committed 44 breaches of the *LG Act* for failing to disclose gifts and contributions to travel, and one breach for failing to lodge an annual return by the required date.



**3 October**

Mr Mileham commenced as CEO of the City on a five-year contract.



**31 October**

The Local Government Standards Panel (LGSP) found that council members Ms Scaffidi, Ms Davidson and Ms Judy McEvoy breached regulations relating to a vote of no confidence against the Deputy Lord Mayor, Mr Limnios, at a Council Meeting on 17 May 2016.



It is now untenable for the council to continue. This is a serious matter and the recent events including those over the last eight days has confirmed to me that a line needs to be drawn in the sand.

Hon David Templeman MLA

## 2017



9 May

State Administrative Tribunal (SAT) found that Ms Scaffidi “committed 45 serious breaches of her reporting obligations under the Local Government Act 1995”.



4–7 September

SAT disqualified Ms Scaffidi from office for 18 months from midnight 7 September 2017. Ms Scaffidi appealed to the Supreme Court. The Court of Appeal stayed the SAT disqualification of Ms Scaffidi until the determination of her appeal. Ms Scaffidi stood aside as Lord Mayor pending the decision.



21 October

Ordinary Local Government election.

### Elected Councillors



Mr Steve Hasluck



Mr Lexi Barton



Mr James Limnios



Mr Reece Harley



24 October

Ordinary Council Meeting.



**Elected Deputy Lord Mayor**  
Dr Jemma Green



9 November and 28 November

Dr Green met with representatives from Herbert Smith Freehills Lawyers (HSF) and provided information containing allegations that Mr Mileham and Ms Scaffidi had offered an inducement to Mr Adrian Fini, a property developer. The HSF investigation was called ‘Project Percy’.



1 December

The Court of Appeal dismissed 26 of the 45 breaches alleged against Ms Scaffidi, and found that 19 breaches were established.

## 2018



8 January

Ms Scaffidi resumed the duties of Lord Mayor.



An Authorised Inquiry was commenced by the Department into gifts and benefits received by council members at the City.



29 January

HSF provided its investigation report on ‘Project Percy’ to the City.



12 February

The CEO, Mr Mileham, supported by the Executive Leadership Group (Group), wrote to the Director General of the Department, expressing concerns about dysfunction in the City, including council members’ involvement in administration of the City.



16 February

Mr Mileham took personal leave, citing health issues caused by the Council.



**Appointed Acting CEO**  
Mr Robert Mianich



22 February

Mr Mianich sent complaints about council members, Dr Green and Mr Harley to the LGSP alleging interference in the administration of the City.



24 February

Mr Mianich was requested by a group of council members to convene a Special Council Meeting on 27 February 2018 for the purpose of changing Council policy so that the Council could appoint an Acting CEO.



26 February

Mr Mianich took personal leave for health reasons and also said “... the environment at work is not safe at present”.



27 February

Three directors activated the City’s Crisis Management Plan.



Special Council Meeting.  
**Appointed Acting CEO**  
Ms Annaliese Battista

## Good government

The Terms of Reference at Part A.1 for this Inquiry require it to determine, among other things:

- “i. whether there has been a failure to **provide for the good government** of persons in the City of Perth’s district;*
- ii the **prospect of such good government** being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and*
- iii any steps which may need to be taken to **ensure that such good government does happen** in the future”. [emphasis added]*

The LG Act, at section 3.1(1) states:

*“The general function of a local government is to provide for the **good government** of persons in its district”.*

Section 8 of the CoP Act states:

- “1. The objects of the City of Perth are as follows –*
- a) to provide for the **good government** of persons in the City of Perth, including residents, ratepayers and visitors”. [emphasis added]*

Clearly, good government is a primary responsibility of the City.

“Good government” requires that government bodies meet their legitimate objectives in a manner that is honest, fair, accountable and transparent.

This means that for decisions taken by the Council, and actions taken by the Administration of the City, the overriding interest must be the public interest and the public good, and not personal benefit or allegiance, fear or favour.

Some processes undertaken by local governments can hold a risk to good government. These include electoral processes; procurement processes, especially those involving tenders and contracts; recruitment of employees; allocations of public money through sponsorships and grants; and planning and development decisions. This Report will include examples of these and other processes where the decisions and actions of the Council and employees of the City did not provide good government for the City.

## Nature of this Inquiry

The nature of this Inquiry, as set out in the Terms of Reference, informed the proper construction of the statutory powers invested in it. In broad terms, those powers are available when their exercise is consistent with the nature of the Inquiry to be conducted.

An Inquiry conducted under sections 8.16 and 8.17 of the LG Act, like a Royal Commission, is quintessentially in the nature of a “*fishing expedition*”.<sup>45</sup> An Inquiry conducts a thorough investigation into the matters in its Terms of Reference and unlike a court, does not determine issues between parties.<sup>46</sup> It is broader than and different to an authorised departmental inquiry under section 8.3 of the LG Act.<sup>47</sup>

In this context, the concept of relevance is much broader than that which is applicable in litigation between parties.<sup>48</sup> This means that an Inquiry of this type is likely to be wide ranging in its investigation. An Inquiry is entitled to exercise its good sense and judgement to determine what avenues of inquiry, within the Terms of Reference, it believes in good faith will be of assistance to it.<sup>49</sup>

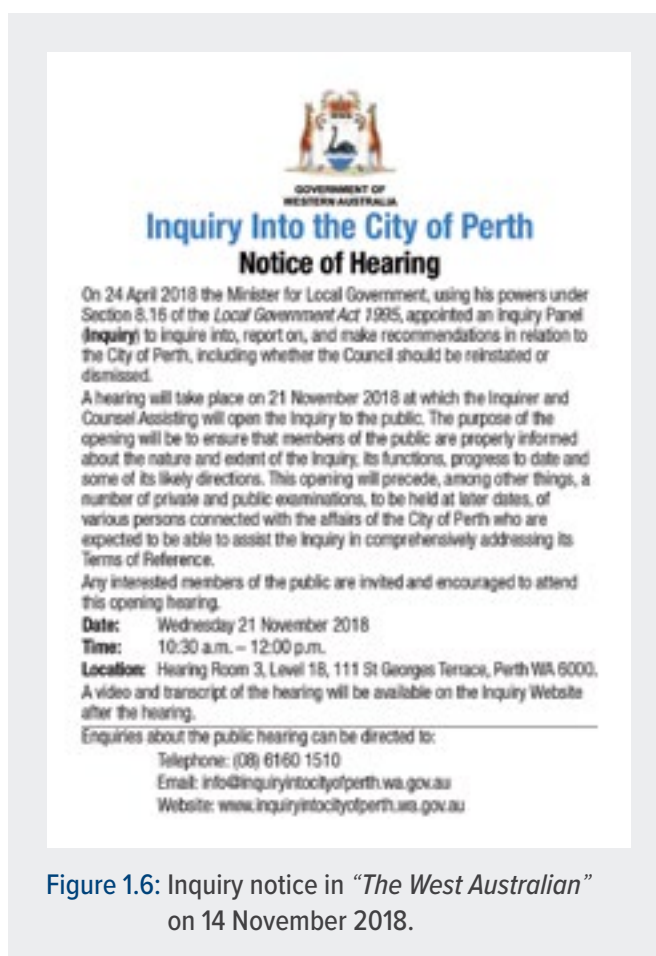
Section 8.20 extends the parallels with Royal Commissions. It provides that for the purposes of an inquiry and report, an Inquiry has the powers of a Royal Commission and that if the Inquiry consists of one person, that person has the powers of the chairman of a Royal Commission, whether under the RC Act or otherwise. The section also provides that the provisions of the RC Act have effect as if enacted in the LG Act, modified as required and in terms applicable to the inquiry and report by the Inquiry.<sup>50</sup>

## Actions taken by the Inquiry

The Inquiry was appointed on 24 April 2018, with the appointment taking effect on 1 May 2018.

On 29 June 2018, the Inquiry issued a media release inviting submissions and advising that all submissions would be considered and treated confidentially.

On 14 November 2018, the Inquiry published a notice (Figure 1.46) in “*The West Australian*” newspaper inviting interested members of the public to attend the opening hearing of the Inquiry on 21 November 2018. The notice stated that “*the Inquirer and Counsel Assisting will open the Inquiry to the public ... to ensure that members of the public are properly informed about the nature and extent of the Inquiry, its functions, progress to date and some of its likely directions*”.



On 21 November 2018, the Inquiry was opened at a public hearing held by the Inquiry Panel, Mr Anthony (Tony) Power, and Counsel Assisting to the Inquiry. At that hearing, the Inquiry further “*invited anyone who believes they have insights or information about the City relevant to its Terms of Reference*” to make submissions. On that day, the Inquiry also issued a media release which was followed by a notice in the newspaper on 24 November 2018 in “*The Weekend West*” newspaper.

Over the period 21 November 2018 to 30 June 2020, the Inquiry sat for 125 hearing days, the majority of which occurred between December 2018 and October 2019. The Inquiry conducted private hearings during the period to 9 March 2020, a total of 86.5 days. Public hearings were conducted on 21 November 2018 (opening), 5 August 2019 to 10 October 2019 (block hearings), and 30 June 2020 (closing). A total of 38.5 days.

The inquiry heard evidence in private where it considered it was necessary and appropriate to do so.

During the period 22 November 2019 to 3 April 2020, the Inquiry conducted a process to ensure that procedural fairness was afforded to everyone entitled to it. Inspections of documents and transcripts by persons who faced potential adverse findings and their legal representatives commenced on 4 December 2019 and continued until 3 April 2020.<sup>51</sup>

## Powers of the Inquiry

The Inquiry exercised the powers under the RC Act. In particular, it had the power to:

- compel public authorities or public officers to produce statements of information (section 8A);
- serve a written notice on a person requiring that person to produce documents, books, writings or things specified in the notice (section 8B); and
- summons a person and require that person to give evidence or produce any documents, writings or things in his or her custody or control (section 9).

Further details of the actions taken under these sections of the RC Act are provided in **Chapter 1.1.4: Procedural fairness** and **Part 4.1: The Inquiry**.

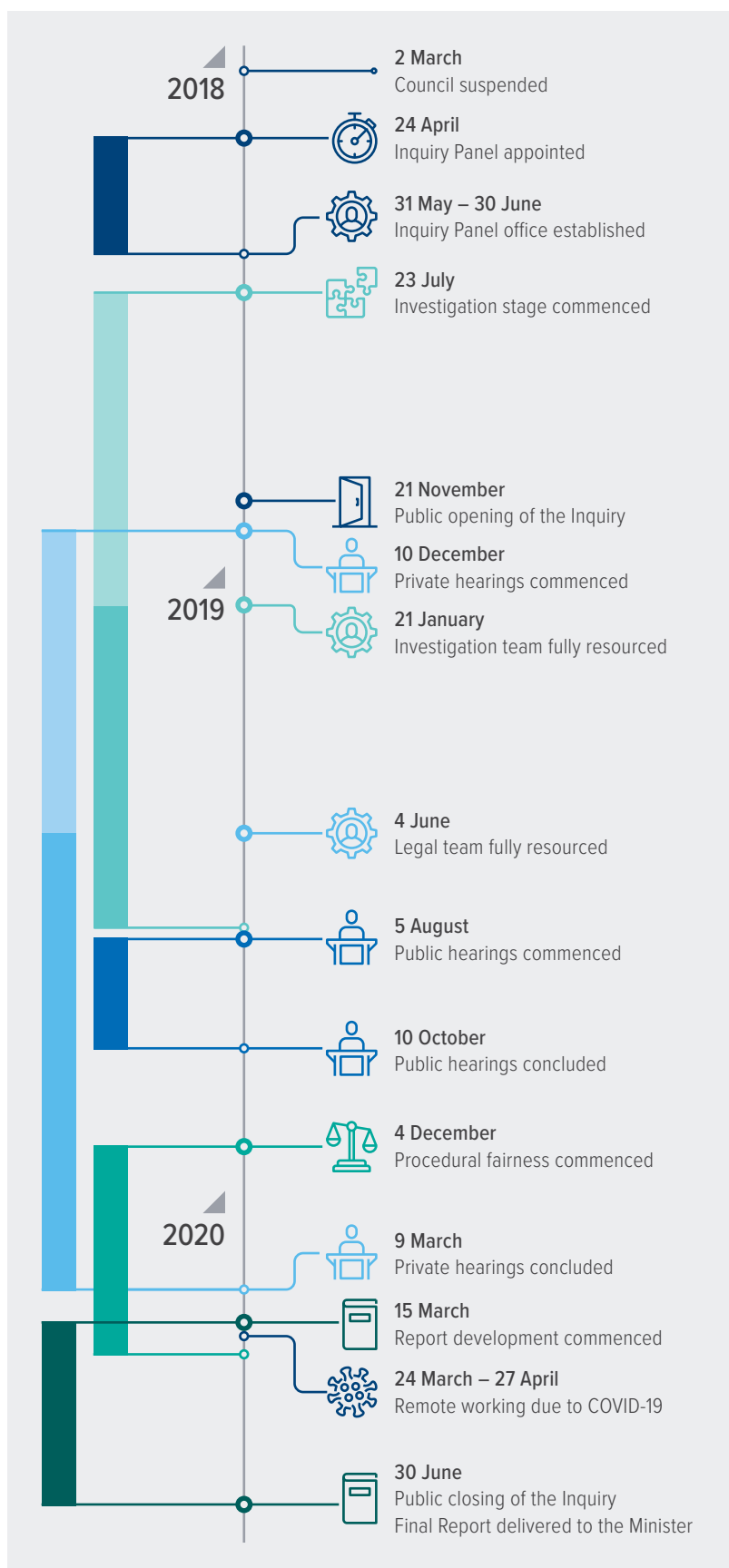
## Inquiry phases

The Inquiry was divided into four phases. Each phase supports and informs the next. A number of phases ran concurrently, for example, the Investigation Phase and the Hearing Phase.



# Inquiry timeline

Between 24 April 2018 and 30 June 2020, the Inquiry investigated, heard and reported on the governance of the City of Perth.



As an inquiry into what many would regard as the flagship local government in this State, it is not surprising that it has been the largest, most complex and most significant Inquiry of its kind.

**Mr Anthony (Tony) Power**  
Inquiry Panel



## Administrative Phase

The first phase included the recruitment of core executive administrative and investigative officers and the establishment of record-keeping procedures.

## Investigation Phase

The investigation by the Inquiry can be divided into two stages:

- **Discovery**  
(including discovery interviews); and
- **Investigation**  
(initial and full investigations).

It became apparent to the Inquiry during the Discovery stage that there were issues relating to all parts of the City which required investigation, not simply the actions of some council members, as appears to have been the case for many previous local government inquiries.

Consequently, the Inquiry collected a large amount of information about a wide range of issues. This in turn meant that during the Investigation stage, it was necessary to prioritise the issues which would be investigated in greater depth in the next stage. In order to do this, at

the end of the Discovery and Investigation stages, reports were produced by investigation officers which analysed the issues which had emerged and the evidence obtained. These were then used by the Inquiry, assisted by legal and investigation officers, to determine which issues should proceed to the next phase, given the time and resources available.

The Terms of Reference make it clear that the Inquiry had a wide range of issues to examine, ranging from individual misconduct to systemic failings. This was a much wider role than given to specific statutory bodies, such as the CCC or Public Sector Commission (PSC).

The Inquiry had to remain flexible, in the sense that if at any stage new evidence emerged relating to issues which were not being investigated, that evidence was considered, taken into account and acted on, where necessary.

### Discovery

The purpose of the Discovery was to enable the Inquiry to identify relevant issues and evidence. During this time submissions from the public were received and assessed. This process ran for three months from June 2018 to August 2018.

49

Preliminary  
investigations



60+

Submissions  
received



121

Notices  
served



4.3m

Records  
collected



37

Discovery  
interviews



30

Investigations  
prepared for  
hearings



## Notices to Produce

One investigative tool employed throughout the Inquiry were notices under section 8B of the RC Act, requiring a person to produce documents or other things to the Inquiry. These notices were used to obtain documents, electronic records and electronic devices, including mobile telephones and computers.

During the Discovery stage, Notices to Produce documents were served on:

- the City;
- the Department;
- the PSC;
- council members;
- the CEO of the City and other members of the ELG; and
- certain former employees of the City who wished to provide information to the Inquiry, but were unable to do so because of confidentiality clauses in their termination agreement.

Documents were also obtained from the CCC by way of voluntary disclosure under section 152 of the *Corruption, Crime and Misconduct Act 2003*.

Council members and members of the ELG were initially given an opportunity to provide documents and other items voluntarily. Only when this avenue was exhausted, were they served with a Notice.

The Inquiry examined the material received, including the following significant holdings provided by the City:

- email accounts;
- financial and non-financial interest disclosure registers;
- gift registers;
- the sponsorship, grants and donations database;
- the sponsorship ticket allocation register;
- the heritage grants register;
- training registers;
- Audit and Risk Committee reports;
- business plans;
- consultants' reports;
- cultural survey reports;
- customer satisfaction survey reports; and
- complaints files.

Deloitte was engaged by the Inquiry to provide forensic technology services for information contained on electronic devices obtained by Notices to Produce.

### Discovery interviews

Council members, members of the ELG and selected managers from the City were offered an opportunity to participate voluntarily in a discovery interview with Inquiry investigators. Although these were audio-recorded, they were deliberately unstructured to allow the participants an opportunity to raise issues of concern in a conversational manner.

The Inquiry undertook 37 discovery interviews. Three council members participated in discovery interviews and two more provided a written summary. All members of the ELG participated in interviews. A number of management level former and current employees participated in discovery interviews. These provided the Inquiry with a considerable amount of useful information.

### Assessment

Based on the information obtained in the Discovery stage, significant issues or topics were identified. Some of these had several individual issues with a common theme. After close assessment and prioritisation, investigation into some issues ceased and other issues were added.

### Investigation

#### Notices to Produce

The Investigation stage commenced in September 2018. At that time, the Inquiry decided to obtain electronic devices, which had been used by council members, members of the ELG and the Manager, Governance, for City business, at any time during the period of the Terms of Reference. The Inquiry issued, in total during both stages, 100 Notices to Produce documents and obtained 95 electronic devices, including smart phones, iPads, tablets, desktop computers and removable storage devices. The Inquiry also issued Notices to Produce a Statement of Information, with the first of more than 21 Statements of Information issued in October 2018 and the last in February 2020. Additional information on the notices served is contained in **Part 4.1: The Inquiry**.

The Inquiry also obtained access to City records, including:

- the City's records information system, known as HPE Content Manager, which contained the City's official record-keeping documents;
- the finance system;
- the customer interfacing system (customer service, registrations, rates, payments, etc);
- the human resources systems (including the system holding recruitment records);
- the City's electronic local computer drives; and
- additional email accounts.

The data from the devices and City email accounts was hosted by Deloitte, which provided access to the Inquiry through its Relativity software. This database stored over 4.3 million items, which were available for investigation purposes.

At this stage, the Inquiry noted that the City's record-keeping processes were poor. It had substantial records holdings outside the official records management database and records were often difficult to find. Although the City co-operated with the Inquiry to the best of its ability, accessing complete records was challenging and time consuming.

### External service providers

The Inquiry engaged external service providers to provide expert advice on aspects of its investigations, particularly relating to the financial management of the City.

The Inquiry engaged professional services company Crowe (formerly Crowe Horwath) to provide expert advice on:

- the appropriateness of the City's governance practices for budgeting and financial reporting, and the oversight by Council and the Administration;
- the maturity, appropriateness and effectiveness of the City's internal audit programme; and
- the City's financial budgeting and expenditure practices, to identify areas of risk.<sup>52</sup>

The Inquiry also engaged consulting firm ACIL Allen Consulting to provide expert advice on the:

- adequacy of the City's strategic planning, financial planning and management business models;
- City's financial position and the underlying drivers of its financial position over time;
- City's parking business (CPP); and
- City's rates model for residential and commercial properties, and the extent to which there was any cross-subsidisation and/or subsidisation arising from the parking business.<sup>53</sup>

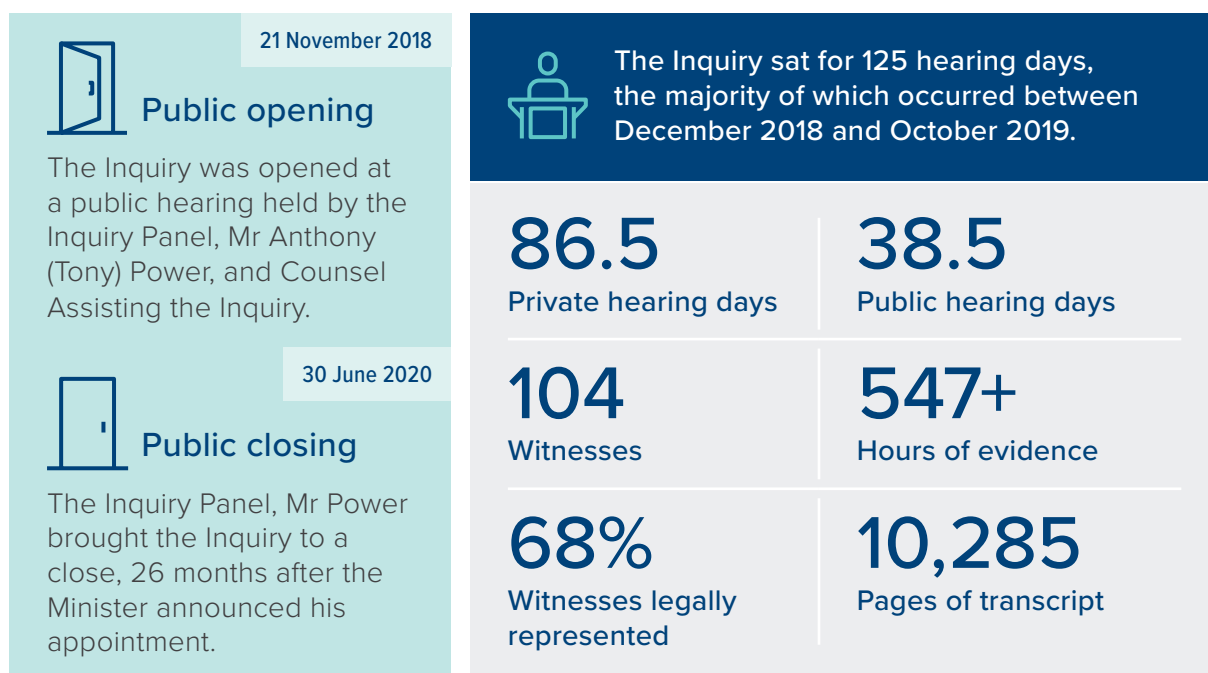
### Assessment

At the end of the initial Investigation stage, a report was prepared by investigation officers. A prioritisation process then determined which issues should proceed to full investigation, including examination in public hearings. Some significant issues had multiple matters. For example, procurement and contracting was defined as one issue, but within it there were several individual procurement exercises by the City which were investigated by the Inquiry.

### Briefs of evidence

Full briefs of evidence for hearings were prepared by investigation officers for 32 individual matters were investigated during this stage. The briefs were frequently in excess of 1,000 pages and included a briefing paper and relevant evidence. In total, more than 39,000 pages containing over 4,500 documents and records were contained in the Inquiry's briefs and considered by the Inquiry during the hearing programme.

These briefs of evidence were used by the Inquiry Panel to determine who would be called as a witness by the Inquiry and whether that evidence would be taken in private and/or public hearings.



## Hearing Phase

### Private hearings

The private hearings were part of a formal investigation process. Witnesses were summonsed and were represented by legal counsel, where the witness chose to be so represented. The hearings were held before the Inquiry Panel and witnesses gave evidence in response to questions asked by Counsels Assisting the Inquiry. Private hearings were closed to the public, but were audio-recorded and transcripts of proceedings were produced. Although those transcripts were not publicly available, this Report does contain quotes from those transcripts and the transcripts were also available to persons who were the subject of potential adverse findings to allow them an opportunity to directly address those potential adverse findings prior to the publication of this Report.

A list of witnesses before the Inquiry is provided in **Part 4.1: The Inquiry**.

### Public hearings

The Inquiry held public hearings on specific matters between 5 August and 10 October 2019. Twenty-three witnesses gave evidence during those public hearings, with 18 of the 23 witnesses giving evidence in both private and public hearings (Table 1.2 and **4.1: The Inquiry**).

**Table 1.2:** Persons who gave evidence before the Inquiry Panel at a public hearing (section 9 of the *Royal Commissions Act 1968*).

| No. | Witness                  | Position  | Organisation          |
|-----|--------------------------|---|-----------------------|
| 1.  | Mr Jim Adamos            | Councillor  | City of Perth         |
| 2.  | Ms Erica Barrenger       | Director, Planning and Development                            | City of Perth         |
| 3.  | Ms Lexi Barton           | Councillor  | City of Perth         |
| 4.  | Ms Lily Chen             | Councillor  | City of Perth         |
| 5.  | Mr Martin Copeman        | Manager Parks   | City of Perth         |
| 6.  | Mr Paul Crosetta         | Director, Construction and Maintenance                        | City of Perth         |
| 7.  | Ms Janet Davidson        | Councillor  | City of Perth         |
| 8.  | Dr Jemma Green           | Deputy Lord Mayor   | City of Perth         |
| 9.  | Mr Andrew Hammond        | Chair Commissioner  | City of Perth         |
| 10. | Mr Reece Harley          | Councillor  | City of Perth         |
| 11. | Mr Steven Hasluck        | Councillor  | City of Perth         |
| 12. | Mr Murray Jorgensen      | Chief Executive Officer                                       | City of Perth         |
| 13. | Mr James Limnios         | Councillor  | City of Perth         |
| 14. | Ms Judith McEvoy         | Councillor  | City of Perth         |
| 15. | Mr Robert Mianich        | Director, Corporate Services                                  | City of Perth         |
| 16. | Mr Martin Mileham        | Chief Executive Officer                                       | City of Perth         |
| 17. | Ms Barbara Moyser        | Senior Employee Relations Adviser                             | City of Perth         |
| 18. | Mr John Nicolaou         | Executive Director  | ACIL Allen Consulting |
| 19. | Mr Mark Ridgwell         | Manager, Governance   | City of Perth         |
| 20. | Ms Lisa Scaffidi         | Lord Mayor  | City of Perth         |
| 21. | Ms Angie (Yit-Choo) Yong | Sister of Mr Keith (Yit-Kee) Yong (City of Perth Councillor). | Not Applicable        |
| 22. | Mr Keith (Yit Kee) Yong  | Councillor  | City of Perth         |
| 23. | Ms Lilly Yong            | Mother of Mr Keith (Yit-Kee) Yong (City of Perth Councillor). | Not Applicable        |

## Report Phase

### Referrals and notifications

The LG Act empowers an Inquiry Panel to refer any matter arising out of an inquiry to a State, the Commonwealth, another State or a Territory authority that has power under a law to investigate or take action in relation to a matter of that nature. During the course of the Inquiry, referrals were made to a number of authorities for matters within the Inquiry's Terms of Reference.

Referrals made by the Inquiry Panel under this section of the LG Act is provided in **Part 3.3: Matters referred to other authorities**.

# 135+

Matters referred



# 17

Commonwealth, State and other authorities



# 23

Persons referred



# 1

Organisation referred



### Report

The comprehensive and extensive nature of this Report is testament to the complexity, and the vast number and importance of issues investigated by the Inquiry during the period 1 May 2018 to 30 June 2020. The issues examined in detail in this Report include:

- culture and governance;
- local government elections;
- decision-making;
- disclosures, personal interest and entitlements;
- grants and sponsorships;
- administrative leadership (including, people management, financial management and planning, and procurement and contracting);
- the final days leading to the suspension of the Council (namely, the enactment of the Crisis Management Plan and Project Percy); and
- restoring good government (namely, the future, conclusions and recommendations).

The Report is organised in four volumes. They deal with some core concepts, the matters examined, the opinions formed about whether good government was provided and recommendations for the future. The Report was delivered to the Minister following the Inquiry's close on 30 June 2020.



# 320+

Recommendations for the future

# 250+

Findings



# 1,900+

Pages across four Volumes



## Inquiry governance

### Inquiry administration

The Inquiry Panel was supported by officers, engaged through the Department of Local Government, Sport and Cultural Industries or with the assistance of the State Solicitor. Where specialist knowledge or skills were not within the Inquiry team or additional temporary resources were required, external service providers were engaged in accordance with State Government procurement practices. A list of the Inquiry's staff is provided at **Part 4.1: The Inquiry**.

### Record-keeping

The Recordkeeping Plan (Plan) for the Inquiry into the City of Perth was approved by the State Records Commission (SRC) on 7 December 2018. The SRC considered that the Plan demonstrated the Inquiry's compliance with the minimum requirements of "SRC Standard 2: Recordkeeping Plans" and "SRC Standard 6: Outsourcing".

The SRC acknowledged *"that once the Inquiry has concluded the records will be transferred to the Department of Local Government, Sport and Cultural Industries (DLGSC) to be managed in accordance with the DLGSC Plan, until all records have either been archived at the State Records Office or legally destroyed in accordance with the 'Sector Disposal Authority for Reviews, Investigations and Special Inquiries, SD 2017004'".*<sup>54</sup>

## 1.1.4 Procedural fairness

The Inquiry Panel (Inquiry) has been cognisant of its procedural fairness obligations since commencement of the Inquiry on 1 May 2018 and has taken steps throughout the period of the Inquiry to discharge those obligations. This Chapter of the Inquiry Report sets out what procedural fairness obligations attended the work of the Inquiry and how those obligations were discharged.

To understand the requirements of procedural fairness as they applied to the Inquiry, and how the Inquiry ensured that it complied with those requirements, it is necessary to understand the nature and powers of an Inquiry under the *Local Government Act 1995* (LG Act).

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### Powers of the Inquiry

By virtue of the *Royal Commissions Act 1968* (RC Act), the powers of an Inquiry include, among other things, the power to:

- compel public authorities or public officers to produce to the Inquiry statements of information;<sup>55</sup>
- require, by notice, a person to produce to the Inquiry documents, books, writings or things specified in the notice;<sup>56</sup>
- summons a person and require them to give evidence or to produce any documents, writings or things in their custody or control;<sup>57</sup> and
- hear evidence in private and authorise who can be present during private hearings.<sup>58</sup>

An Inquiry is also expressly authorised to do all things as are necessary or incidental to the exercise of its function as an Inquiry and to the performance of its terms of appointment.<sup>59</sup> Those powers are significant, and there is limited constraint on their use, provided their exercise is consistent with the nature of the inquiry specified in the Notice of Appointment (Terms of Reference). The coercive nature of the exercise in which the Inquiry is involved affects the application and construction of the requirements of procedural fairness.

A person who fails to comply with a notice or summons of an Inquiry without reasonable excuse will be in contempt of it.<sup>60</sup> Furthermore, a person who, after being served with a summons, fails to answer any question that is relevant to the Inquiry's investigation will be in contempt of it.<sup>61</sup> A person must produce documents or answer a question even if that document or answer might incriminate or tend to incriminate him or her or render him or her liable to a penalty.<sup>62</sup> Giving false testimony to the Inquiry is an offence.<sup>63</sup>

## Inquiry's report and recommendations

An Inquiry must provide a report to the Minister on the matters in its terms of reference.<sup>64</sup> An Inquiry's findings are not binding. It is not the role of the Inquiry to determine the rights and liabilities (including any criminal guilt) of people mentioned in its report. An Inquiry does not have the power to make a finding in its report that a person has or may have committed a criminal offence under the LG Act or other legislation.<sup>65</sup>

However, it is open to an Inquiry to make a finding that a council member has breached the *Local Government (Rules of Conduct) Regulations 2007*. This is because a failure to comply with the Regulations is not a criminal offence, does not attract criminal sanctions and is dealt with by administrative decision-makers, not by courts exercising criminal jurisdiction.<sup>66</sup>

Furthermore, an Inquiry may report on the results of its investigations and the evidence it has heard even if doing so may ultimately implicate a person in criminal conduct.<sup>67</sup>

The report may contain any recommendations that an Inquiry considers appropriate, including a recommendation that a Council be dismissed or that a Council member be dismissed.<sup>68,(g)</sup> While in the present case all Council positions have been declared vacant, the effect of its Report and recommendations on former council members is nonetheless a matter which the Inquiry considers, and has considered throughout, as something which informs and sets the requirements of procedural fairness.

An Inquiry may make broader recommendations to the Minister. If those recommendations are adopted (which is a matter for the Minister), the Minister may order the local government, or any of its council members (if any are holding office) or any of its employees, to give effect to any one or more of the recommendations of the Inquiry in a manner and within a time ordered by the Minister.<sup>69</sup> Again, these matters inform and set the requirements of procedural fairness.

An Inquiry may also recommend other actions be taken which are not within the power of the Minister or the Governor to undertake, including, for example, legislative reform.

While an Inquiry's report does not contain binding decisions, the Inquiry recognises that the contents of its Report can still have very real impacts on the people who feature in the Report in other ways, including on their personal, business and commercial reputation. These reputational interests can attract the safeguards of the rules of procedural fairness,<sup>70</sup> and are matters to which the Inquiry has paid close regard.

As a consequence, an Inquiry is required to provide, and (as described below) this Inquiry has provided, an opportunity for a person to answer or explain matters which might give rise to an adverse finding in its Report.<sup>71</sup>

g A Council or council member can only be dismissed if the Minister subsequently recommends dismissal of the Council or the council member to the Governor and the Governor orders dismissal: *Local Government Act 1995*, s 8.24(3), (4A), 8.25.

## Inquiry duty to afford procedural fairness

As an administrative inquiry, there were a number of matters which the Inquiry observed (and applied) during the process of affording procedural fairness.

First, the Inquiry had to, and did, act within the powers available to it.

Secondly, the Inquiry was required to make decisions based on the evidence before it.<sup>72</sup> Although it was not bound by the rules of evidence, the Inquiry adhered to the *Briginshaw* principles in coming to its findings of fact. The *Briginshaw* principles are:

*“when the law requires the proof of any fact, the tribunal must feel an actual persuasion of its occurrence or existence before it can be found ... it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding ... [as] considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the Tribunal. In such matters ‘reasonable satisfaction’ should not be produced by inexact proofs, indefinite testimony, or indirect inferences.”<sup>73</sup>*

Thirdly, the rules of procedural fairness applied to the exercise of the Inquiry’s powers. Procedural fairness can be understood as *“a flexible obligation to adopt fair procedures which are appropriate and adapted to the circumstances of the particular case”*.<sup>74</sup> It is concerned with avoiding practical injustice.<sup>75</sup> Where a decision-making process involves different steps or stages before a final decision is made, the requirements of procedural fairness are satisfied if the decision-making process, viewed in its entirety, entails procedural fairness.<sup>76</sup>

There are two elements to procedural fairness:

- The rule against bias, which requires the Inquiry not be biased or be seen by an informed observer to be biased.
- The hearing rule, which requires the Inquiry to afford a person an opportunity to be heard before making a decision that affects his or her interests.

The hearing rule means the Inquiry *“cannot lawfully make any finding adverse to the interests of [a person in its final Report] without first giving [that person] the opportunity to make submissions against the making of such a finding”*. A person making submissions is entitled to put every rational argument open on the evidence and where necessary, to refer to and analyse the evidence to support that argument.<sup>77</sup>

However, procedural fairness does not give a person the right to make submissions on the general subject-matter of the Inquiry.<sup>78</sup> Furthermore, procedural fairness does not require that a person whose interests are likely to be affected be given an opportunity to comment on every adverse piece of information, irrespective of its credibility, relevance or significance.<sup>79</sup>

In *Edwardes v Kyle*, the Supreme Court considered the requirements of procedural fairness as they applied to an Inquiry under the *Local Government Act 1960* (WA). Owen J. stated seven general propositions which guided his Honour's decision, the most relevant of which are set out below:

- “4. *The court should recognise the public policy considerations that require the conclusion giving the investigator a relatively free hand. Nonetheless, the court must also recognise the potential for adverse consequences flowing from the report of inquiries of this kind. The court is obliged to intervene where there has been a departure from the minimum requirements of procedural fairness.*  
...
6. *The need to act with fairness will almost inevitably involve the investigator, at some stage before the publication of the report, advising the affected party of what has been put against him and giving that party a real opportunity to be heard. The party must be given sufficient particulars of contentious matters to allow it to respond by way of correcting or contradicting the adverse material.*
7. *The investigator must decide what is required so as to afford to the affected party a real and meaningful opportunity to be heard. The particularity with which the adverse material is to be identified, whether the party is entitled to adduce further evidence and whether he or she can insist on cross-examining witnesses are all decisions to be taken in the context of the particular fact situation. No general rule can be enunciated but the gravity of the possible consequences for the party may well dictate the extent of the duty in a particular case”.*<sup>80</sup>

It must also be noted that the Inquiry was an investigation into the matters in its Terms of Reference, not a trial. Although its processes at some stages (in particular, its private and public hearings) bore a superficial resemblance to court processes, its procedures did not mirror court proceedings. Procedural fairness does not and did not require the Inquiry to adopt the procedures of adversarial litigation.<sup>81</sup>

In *Kioa v West* Brennan J. of the High Court of Australia noted that “*Administrative decisions are not necessarily to be held invalid because the procedures of adversary litigation are not fully observed*”.<sup>82</sup> Likewise, “*It is not in doubt that, where a decision-making process involves different steps or stages before a final decision is made, the requirements of natural justice are satisfied if ‘the decision-making process, viewed in its entirety, entails procedural fairness’*”.<sup>83</sup>

In ensuring that the Inquiry did operate fairly in relation to all persons whose conduct is the subject of adverse findings, a number of procedures were implemented. By following these, the Inquiry operated without bias, made findings on the evidence and allowed persons appearing before the Inquiry, or who were subject to its powers, to fully appreciate any potential findings which might affect that person's interests and the basis of those findings so that they could respond to them.

## Practice Directions, procedures of the Inquiry and how procedural fairness was afforded

### Inquiry Practice Directions

The Inquiry's Practice Directions (Practice Directions) have been available on the Inquiry website since 22 November 2018. These were revised, as required, through the different stages of the Inquiry. The most recent version is dated 1 November 2019 and is provided at **Part 4.1: The Inquiry**.<sup>84</sup>

The Practice Directions provided guidance to those people who attended as witnesses before the Inquiry, were summonsed or issued with a Notice to Produce documents or a Statement of Information, as well as other interested persons.

They provided information for people who sought to view the public hearings of the Inquiry, including the location of the hearing rooms and the sitting days and usual hearing hours of the Inquiry.<sup>85</sup> The Practice Directions also explained that the Inquiry's programme of public hearings would be published on its website and that the transcripts of all public hearings would be made available on the Inquiry's website as soon as practicable, subject to any order of the Inquiry.<sup>86</sup> The Practice Directions also stated:

*"The Inquiry's proceedings will be as orderly as possible. The Inquiry will endeavour to ensure that those persons whose interests may be adversely affected by the evidence before the Inquiry are treated fairly and in accordance with the requirements of procedural fairness, where applicable, while protecting confidentiality where that is deemed appropriate".<sup>87</sup>*

The Inquiry also published template application forms on its website to assist parties to make applications under the Practice Directions and in relation to other procedural issues.

### Whether hearings were held in private

The Practice Directions also provided that the Inquiry could take evidence in private where it considered it was necessary and appropriate to do so.<sup>88</sup> Only the witness, Counsel Assisting the Inquiry, the Solicitor Assisting the Inquiry, the witness's legal representative or representatives and other officers or representatives of the Inquiry were permitted to be present. This was consistent with the Practice Directions and the Inquiry's powers under the RC Act.<sup>89</sup>

The Inquiry also made directions of non-disclosure at the commencement of private hearings, prohibiting the disclosure of any evidence given at the hearing, whether directly or indirectly, to any other person without the express written authorisation of the Inquiry.<sup>90</sup> Those directions remained in effect until the conclusion of the Inquiry.

There were a number of reasons why the Inquiry held hearings in private and made directions of non-disclosure.

First, many of the hearings were investigative in nature. They were undertaken to help gather information, rather than test evidence and potential conclusions.

Secondly, a number of the witnesses who attended before the Inquiry were not employed in roles which came with an expectation of the type of public scrutiny a public hearing can create. Additionally, some witnesses had personal considerations which meant that it was fairer and more effective for their evidence to be heard in private.

Thirdly, while some inquiries into local government are given relatively narrow terms of reference, the scope of this Inquiry's Terms of Reference was broad. This meant that it was not appropriate, nor productive, for the evidence of many witnesses and their personal information to be heard in public where it may not have been relied on to support adverse findings in the Inquiry's final Report.

Fourthly, it was also the case that on some occasions, hearings were conducted in private so as not to alert other persons to a particular line of inquiry prior to the testimony being given or where such a person might potentially take steps to frustrate any investigation. The Inquiry was not required to make known to any person the content or nature of any evidence taken in private during the course of its investigations.<sup>91</sup> As Mason, Wilson and Dawson JJ of the High Court of Australia explained in *National Companies and Securities Commission v News Corporation Ltd*:

*"It is of the very nature of an investigation that the investigator proceeds to gather relevant information from as wide a range of sources as possible without the suspect looking over his shoulder all the time to see how the inquiry is going. For an investigator to disclose his hand prematurely will not only alert the suspect to the progress of the investigation but may well close off other sources of inquiry".*<sup>92</sup>

That is not to say that evidence obtained in private was kept from people who were the subject of it. As the Practice Directions explained, where evidence was given in a private hearing, the Inquiry would not in the ordinary course, rely on that evidence *"to make an adverse finding against a party without that party having an opportunity to address any such evidence"*.<sup>93</sup>

This was done, in many cases, by Counsel Assisting putting the substance of that evidence to that person when that person was giving evidence and, in all cases, by that person having the opportunity to review that private hearing transcript to enable him or her to make submissions on any potential adverse finding.

### Appearing before the Inquiry

The Practice Directions provided that anyone who sought to appear before the Inquiry was required to make an application seeking leave to appear and that the Inquiry would generally grant leave where the applicant:

- was the subject of an inquiry to be undertaken; and/or
- had a direct or substantial interest in the hearing or the subject of inquiry (such as if the person's legal rights, financial interests, personal reputation, status or livelihood may be prejudiced by the evidence heard during the hearing or the findings that may be made based on the evidence heard during the hearing); and/or
- may be the subject of an adverse finding by the Inquiry.<sup>94</sup>

The procedure to be followed by the applicant was also set out.<sup>95</sup> Where leave was granted, the applicant or his or her legal practitioner enjoyed a number of rights such as the ability to participate at the hearing of the Inquiry the subject of his or her application, and subject to and in accordance with the Practice Directions that person could:

- apply to put on evidence;
- apply to examine a witness;
- object to evidence;
- raise legal or procedural matters; or
- make submissions about the findings open to the Inquiry.<sup>96</sup>

### Representation of witnesses

Witnesses who appeared before the Inquiry could apply for leave to be represented.<sup>97</sup> Every witness before the Inquiry who made such an application was granted leave to be represented.

Some witnesses appearing before the Inquiry were represented by firms engaged by multiple witnesses. To preserve the integrity of its private hearings, the Inquiry sought information from practitioners on the measures in place to ensure the evidence given at private hearings remained confidential and was not inadvertently disclosed to another practitioner at the same firm.

Furthermore, some practitioners at those firms represented a number of clients. Where the Inquiry identified that practitioners may be placed in a position of conflict by acting for multiple witnesses, the Solicitor Assisting the Inquiry brought that to the attention of the practitioner as early as practicable to enable alternative arrangements to be made. No witness who wished to be legally represented was denied the opportunity to be so represented, because of any potential for conflict.

There were also a number of other procedures in place involving witnesses and their representation, such as the ability to and manner of applying to produce documents to the Inquiry.<sup>98</sup>

There were two applications to put additional documents before the Inquiry. They were made by Mr Martin Mileham and Ms Lisa Scaffidi, respectively. Both applications were granted by the Inquiry.

Furthermore, there were instances where legal representatives raised with the Inquiry's solicitors that the Inquiry was likely to have specific documents (such as emails) in its holdings that were relevant to its investigations and that the Inquiry should find and consider those documents. On those occasions, the Inquiry's investigators searched the Inquiry's holdings and where such documents existed and could be found, enabled legal representatives to inspect those documents.

Although Counsel Assisting, subject to the control of the Inquiry, determined whether a person would be called to give evidence at a hearing and the order in which evidence would be adduced, parties before the Inquiry were able to apply to have the evidence of another person put before the Inquiry.<sup>99</sup> No applications of this kind were made.

There were also circumstances where a person engaged a new legal representative and that representative made an application to review the client's previous private hearing transcript. The Inquiry, where appropriate, allowed that witness's new representative to attend the Inquiry, review the transcript and make notes for the purpose of advising the client.

### Hearing process

For witnesses who did appear before the Inquiry the Practice Directions offered guidance as to how the examination would proceed. This included that a person or his or her legal representative could apply, at the end of Counsel Assisting's examination, for leave to examine that witness. The directions set out how such an application would be made and determined<sup>100</sup> and how such an examination would proceed.<sup>101</sup> When making an application for leave to examine, legal representatives were required to identify the matters on which they proposed to examine the witness and how that would advance the purposes of the Inquiry.<sup>102</sup> In this way, no witness could properly say that he or she was not given an opportunity to put his or her side of the story on matters relevant to the Inquiry.

The Practice Directions made it clear that procedural fairness did not require, in all cases, that legal representatives be afforded the opportunity to examine a witness and that the Inquiry could limit the matters on which examination may occur.<sup>103</sup>

To leave examination unrestricted would be highly likely to result in large amounts of evidence of little or no assistance to the Inquiry being given and would also take up far more time than an inquiry subject to time constraints could afford. By providing appropriate constraints on the ability of a person to examine a witness, the Inquiry allowed that person to efficiently explore evidence which could assist the Inquiry. In most cases where such an application was made, the Inquiry granted leave to examine.

Special provisions were also set down for unrepresented persons at a hearing.<sup>104</sup> In those cases, the Inquiry was very careful to ensure those persons were treated fairly.

The Practice Directions also provided for a way in which a person could apply to recall a witness for examination where the significance of the witness's evidence could not have been appreciated at the time, or where there were other extraordinary circumstances justifying the recalling of that witness.<sup>105</sup> This was to ensure that a person did not lose the opportunity to examine a witness in circumstances where he or she could not earlier have understood the import of the witness's evidence.

The Inquiry received one application to recall a witness for examination, which was made by Mr Robert Mianich. The Inquiry heard the application, but in the end, it was not pressed by Mr Mianich and it was not necessary for the Inquiry to determine it.

In October 2019, Mr Mileham's representatives raised with the Solicitor Assisting the Inquiry that Mr Mileham intended to make an application to inspect the transcript of Ms Annaliese Battista's private hearings and recall Ms Battista for examination. Mr Mileham's representatives also indicated the areas on which Mr Mileham's legal representatives intended to examine Ms Battista. That application was ultimately not made. Nonetheless and out of an abundance of caution and fairness, Counsel Assisting the Inquiry examined Ms Battista on those matters in a private hearing.

While it was open for a witness, a person given leave to appear, or his or her legal representatives, to object to evidence adduced before the Inquiry, the Practice Directions noted that the Inquiry was not bound by the rules of evidence, and that the concept of relevance in civil and criminal proceedings did not apply to the Inquiry. The Practice Directions noted evidence would be relevant to the Inquiry if there was a real possibility that it may directly or indirectly inform the Inquiry's deliberations on the Terms of Reference.<sup>106</sup> Given the inquisitorial aspects of the Inquiry, and the evolving nature of its investigation, relevance was necessarily construed widely.

The Inquiry also, to the extent possible and where appropriate to do so, informed witnesses and their legal representatives of the topics which were to be addressed at upcoming hearings and provided copies of documents about which Counsel Assisting might ask questions.

These procedures allowed witnesses and their legal representatives to know in advance some of the matters which would be the subject of their evidence. This was not done in every case or with every document. It was sometimes important for a witness being examined to not be aware of all documents before the Inquiry, to ensure the hearing was effective. It should be noted procedural fairness does not require that a witness, before he or she gives evidence, be informed of the questions the Inquiry proposes to ask or for the Inquiry to disclose all information known to it.<sup>107</sup>

These procedures ensured that hearings were run in an organised and time efficient way and that witnesses had an opportunity to engage in a meaningful way, subject to some necessary restrictions.

### Documents required to be produced

The fact that documents or information were confidential was not a basis for refusing to produce documents or provide information to the Inquiry.<sup>108</sup> However, the Practice Directions provided that a person could make an application that the documents produced to the Inquiry not be published and the Practice Directions set out how such an application could be made.<sup>109</sup> The Inquiry received one application to protect the confidentiality of documents produced to it, but as matters transpired it was not necessary to determine the application.

The Practice Directions also provided for applications to be made in relation to claims of legal professional privilege and how they were to be made.<sup>110</sup>

In the course of its investigations, the Inquiry required current and former council members and members of the Executive Leadership Group to produce electronic devices that they used in connection with their office or employment or to communicate with council members or employees. The Inquiry copied forensic images of devices produced to it before returning the devices. Some council members and employees made applications to withhold from the Inquiry documents stored on the devices on the basis that those documents were subject to legal professional privilege. The Inquiry did not access communications over which claims for legal professional privilege were made until it determined such claims and then only where it upheld them.

The Practice Directions also provided for applications to be made to suppress documents or evidence given to the Inquiry where there were exceptional circumstances justifying suppression.<sup>111</sup> No applications for suppression orders were made.

### Extensions of time and procedural matters

Provision was also made for applications to extend time to produce a statement of information or documents to the Inquiry.<sup>112</sup> This helped ensure that the Inquiry's powers to obtain a statement of information or documents did not impose any unreasonable demands on the recipient of such a notice.

The Practice Directions also set out how a person called as a witness or granted leave to appear or given leave to be represented before the Inquiry who wished to raise a procedural or legal matter that was not directly addressed by the Practice Directions could do so.<sup>113</sup>

A number of witnesses who were summonsed to give evidence before the Inquiry made applications to be released from their summons before the Inquiry on the grounds of ill-health. The Inquiry heard those applications and made appropriate arrangements to accommodate those witnesses so they could give evidence.

The Inquiry received three applications to put further evidence before the Inquiry by way of affidavit. These applications were made by Mr Mileham, Mr Steve Hasluck and Ms Battista. Mr Mileham did not press his application. Mr Hasluck and Ms Battista made their respective applications after receiving, and in response to, extracts from draft report sections. The Inquiry granted Mr Hasluck's and Ms Battista's applications.

The Inquiry also allowed Mr Jim Adamos to put on further evidence by affidavit, following his evidence before the Inquiry on 8 August 2019.

## Public hearings

On 29 June 2019, prior to the commencement of public hearings, the Inquiry put on its website a media release giving notice that it would begin public hearings in early August 2019.

As provided for under Practice Direction 4.3, the Inquiry set out on its website a programme of the witnesses appearing at those public hearings, showing the names of the witnesses appearing at the next day's hearing.

The public hearings were separated into a number of blocks, each of which related to a group of topics (Block). At the commencement of each Block, Counsel Assisting provided an opening address which identified, to the extent necessary, practicable and possible, the main topics which the hearings in that Block would cover.

Prior to and during the public hearings the Inquiry also endeavoured, to the extent necessary, practicable and possible, to identify and give notice to persons who could be affected by the evidence that was to be given at the upcoming public hearings. This was done so that they could, among other things, seek leave to appear or have a representative appear on their behalf and be able to exercise the rights of a person appearing before the Inquiry.

On 27 August 2019, Mr James Limnios's representatives raised concerns that they had not been notified that there would be evidence given by Ms Scaffidi in the public hearings that may relate to Mr Limnios. Those concerns were resolved by Mr Limnios's representatives reviewing the transcript of Ms Scaffidi's evidence and relevant parts of documents shown to Ms Scaffidi.

In line with Practice Direction 4.4, public hearing transcripts were published on the Inquiry's website as soon as practicable. Before publication, those transcripts were checked and verified by a member of the Inquiry's staff so that even if a person or their representative were not able to attend the hearing of another person, they could rely on the transcript and would have an accurate record of the evidence heard by the Inquiry. It was also a way of ensuring that errors were not publicly released and erroneously relied upon by the public or media.

## Opportunity to respond to draft adverse findings

The Inquiry implemented a process so that those persons who faced potential adverse findings had sufficient opportunity and materials to make responsive submissions in accordance with Practice Direction 18.2.

As previously mentioned, at the conclusion of the hearings the Inquiry produced draft report sections on each matter investigated by the Inquiry to prepare this Report – based on the evidence before the Inquiry.

As each draft section was completed, the Solicitor Assisting the Inquiry wrote separately to each person against whom the Inquiry proposed to make adverse findings in that section and provided an extract from that draft section. Providing draft potential adverse findings in this way has been described as an *"impeccably fair"* practice and there was no duty requiring the Inquiry to disclose its findings or invite comments on them.<sup>114</sup>

Those extracts referred to all witnesses from whom the Inquiry heard evidence on that matter and the documents and evidence on which the Inquiry intended to rely to make potential adverse findings against that person. This gave the person concerned a fair and reasonable opportunity to make a meaningful response to each potential adverse finding, namely, to make submissions on why the Inquiry should not or could not make such a finding.

The Inquiry very deliberately (and out of an abundance of fairness) took a broad view of what might be said to be an adverse finding against a person. This meant that the Inquiry provided extracts of draft sections to persons where there may have been some express or implied criticism of them, even if no particular express adverse finding was made against them. This was done notwithstanding that it may not have been necessary to give such a person the opportunity to make submissions. For example, where a draft section might contain a criticism of that person or expose evidence or material which might reflect badly on that person.<sup>115</sup>

During this process, Ms Scaffidi's legal representative raised concerns with the Inquiry that Ms Scaffidi had not been given the opportunity to make submissions on the section about the enactment of the Crisis Management Plan, when there may have been potential adverse findings against her. The Inquiry was not satisfied that the draft section made any adverse findings against Ms Scaffidi, but nevertheless (and out of an abundance of fairness) provided an extract from that section to enable her to make submissions.

The extracts provided to persons in this way were redacted to remove those parts of the draft section that did not relate to the proposed adverse findings against that person. The Inquiry also made an order prohibiting the wider disclosure of the contents of the extracts other than for the purposes of preparing submissions. This was done, because the Inquiry was mindful that the draft sections often contained potential adverse findings against other persons. To reduce the potential for any damage to a person's reputation before that person had the opportunity to make submissions on that potential finding, it was considered appropriate that only persons with a sufficient interest in those potential adverse findings would be informed of them.

Persons who received extracts could also apply to inspect documents or private hearing transcripts held by the Inquiry to assist them to make submissions.<sup>h</sup> Those applications were granted to the extent it could properly be said that the requested documents and transcripts may be necessary to enable the person to respond to the potential adverse findings.<sup>116</sup> Applications were accompanied by undertakings that the person permitted to inspect documents would not copy, remove or disclose the contents of those documents.

The Inquiry allowed parties to inspect documents under supervision at its premises, rather than provide them with copies of documents, to ensure the Inquiry maintained an appropriate level of control over documents. In many cases, the documents contained confidential or sensitive information or were provided by other authorities on the basis that they would only be used strictly for the purposes of the Inquiry.

<sup>h</sup> As provided for in the Inquiry into the City of Perth, Practice Directions (as at 1 November 2019), Practice Direction 18.3.

During the COVID-19 pandemic, when the health risks of a physical inspection were unacceptably high, the Inquiry moderated its procedure and provided electronic copies of documents directly to Ms Scaffidi and Mr Mileham’s legal representatives on the basis that each person who inspected the documents would in addition undertake to destroy any copies of the documents after responsive submissions were filed. Similar accommodations were invoked earlier in the Inquiry where the circumstances demanded it.

On some occasions, persons provided with extracts from the draft sections made requests for extensions of time to file submissions or to inspect documents. The Inquiry considered those applications and balanced the merits of the applications against the prejudice to the Inquiry if an extension was granted. A total of 97 responsive submissions were filed (**Part 4.1: The Inquiry**).

## Submissions

Each responsive submission received was carefully considered by the Inquiry. Given the number of submissions the Inquiry received, it is not appropriate nor feasible to detail each and every submission received.

Submissions predominantly went to the substance of the Inquiry’s proposed findings and the evidence before it. In other words, a submission to the effect that the Inquiry should not or was not able to make a proposed finding, because it was not justified by the evidence or for some other reason.

Some submissions also proposed that changes should be made to the Report to provide relevant context to the evidence or to clarify the Inquiry’s proposed findings.

On occasion, the Inquiry considered some of these submissions to have sufficient merit and made appropriate changes to the content and findings of this Report.

There were a number of submissions to the effect that it was not open for the Inquiry to make the proposed adverse findings, because the Inquiry had denied that person procedural fairness in relation to that finding. In those instances, the unfairness complained of related to the processes followed by the Inquiry. Those submissions are summarised below.

There was no submission that the Inquiry had any actual or perceived bias.



### Failure to put matters to witnesses

Some persons made submissions to the effect that it was not open for the Inquiry to make adverse findings where those matters, or the factual findings underpinning them, were not put or not put in sufficient detail to them when they were giving evidence.

Similar submissions were made to and considered (but not accepted) by the Royal Commission into the Building and Construction Industry,<sup>117</sup> the Inquiry into the City of Canning,<sup>118</sup> and the Royal Commission into Trade Union Governance and Corruption.<sup>119</sup> The Inquiry's analysis has been assisted by this previous consideration of the issue.

First, it was not practicable, or in some cases possible, to put each and every matter to a witness that may later form the basis for a potential adverse finding. The Inquiry was an investigation into very broad matters in its Terms of Reference. It was required to carry out wide-ranging investigations across different issues within a limited amount of time. It held a substantial volume of documents and heard evidence from a very large number of witnesses. New facts or matters often came to light as Counsel Assisting was examining a witness, as is often the case in an inquisitorial proceeding. Many witnesses (in particular, current or former council members and senior employees of the City) were necessarily examined on multiple topics at anyone hearing.

Consequently, there was not the time nor any need for Counsel Assisting the Inquiry to exhaustively put every matter to a witness.

Moreover, it was not possible or practicable for Counsel Assisting to be cognisant of all of the evidence and issues at the time of examining a witness.

Secondly, witnesses were given notice of any proposed adverse findings and the opportunity to address or answer those findings through written submissions, by being provided with extracts and any relevant documents or transcripts of evidence.

Witnesses could also apply to put new documents or evidence before the Inquiry to contradict the other evidence before it.

In these circumstances, it was not necessary for Counsel Assisting to put each and every matter to a witness.

For these reasons, the Inquiry does not accept that there was any denial of procedural fairness to make an adverse finding against a person, where those potential adverse findings or the factual findings underpinning them, were said to be not put or not put in sufficient detail to them when they were giving evidence.

In any event, it should be noted that Counsel Assisting the Inquiry in the overwhelming majority of cases did put the substance of adverse evidence to a witness for the witness to comment on.

Furthermore, the Inquiry has not made any findings against persons who did not give evidence before the Inquiry.

#### **No opportunity to examine witnesses who gave evidence in private**

Some submissions were also made on behalf of some witnesses that it was a denial of procedural fairness to make adverse findings based on evidence that it heard from witnesses in private hearings, when that person's legal representatives did not have the opportunity to cross-examine that witness.

The right to cross-examine a witness is not a necessary element of procedural fairness,<sup>120</sup> even where a witness gives evidence that is adverse to the person who wishes to cross-examine the witness.<sup>121</sup> Whether cross-examination is a requirement of procedural fairness will always depend on the circumstances of the individual case.

It is relevant that the Inquiry had a discretion to allow additional examination (as it is more properly described) so far as it considered it proper.<sup>122</sup>

Furthermore, the Inquiry also had the power to determine who would be present during a private hearing and it was not required to make known to any person the content or nature of any evidence taken in private during the course of its investigations.<sup>123</sup>

In *National Companies and Securities Commission v News Corporation Ltd*,<sup>124</sup> the High Court of Australia considered whether a company that was the subject of an investigation by the Commission was entitled, as a matter of procedural fairness, to be present during private hearings of witnesses called during the investigation and to cross-examine those witnesses.

Gibbs CJ. considered that question had to be answered in light of the Commission's legislation which, among other things, gave the Commission the power to determine who may attend and who may intervene in a hearing. His Honour said:

*"If the Commission were to accord to all the persons whose reputation might possibly be affected by the hearing a right to cross-examine the witnesses and call evidence as though they were in a court of law, the hearing might become so protracted as to render it practically futile. In these circumstances, with all respect, I find it quite impossible to say that the rules of natural justice require the Commission to proceed as though it were conducting a trial. It seems to me in no way unfair that, at a hearing of the kind which I have described, the respondents should not be entitled to cross examine such witnesses as the Commission may call".<sup>125</sup>*

In their joint judgement, Mason, Wilson and Dawson JJ. placed significant weight on the need for the Commission to hear evidence in private without any persons that might be suspects present to avoid prejudicing its investigations. Their Honours concluded:

*“In our opinion the Commission will comply with the statutory mandate to observe the rules of natural justice in the present case if it proceeds to allow each witness who is called to give evidence to be legally represented, with freedom for that representative to participate in the examination of the witness, and for the provision of a transcript of his evidence. The conduct of an investigation in such a manner is fair and nothing more is required.”*<sup>126</sup>

The Inquiry considers the reasoning in this decision to be both relevant and applicable.

It is noteworthy that submissions received by the Inquiry on this point did not refer to any authorities. Furthermore, many of the submissions did not articulate why, in the circumstances, the opportunity to examine a particular witness was a requirement of procedural fairness.

Consequently, the Inquiry has not been greatly assisted by the submissions it received on this point. The Inquiry is not satisfied that it cannot rely on evidence taken in private hearings to make adverse findings when persons affected by that evidence did not have the opportunity to examine that witness.

In any event, it was open for any party to make an application to recall a witness for examination. Save and except for Mr Mianich, no applications of this kind were made.

### **Failure to provide private hearing transcript and documents**

In submissions filed on behalf of Ms Judy McEvoy in relation to the sponsorship proposal to rejuvenate the Piccadilly Theatre (**Chapter 2.2.2: Decision-making**), the appointment of Ms Battista and workforce management (**Chapter 2.3.2: People management**), Ms McEvoy asserted that she had been denied procedural fairness, because:

- Prior to the Inquiry’s public hearings, Ms McEvoy’s legal representatives requested the Inquiry provide the transcript of her evidence in private hearings and copies of some of the documents that she was shown at her private hearings.
- The Inquiry, through its solicitors, declined these requests and informed Ms McEvoy’s solicitors that the public hearings would not address matters on which Ms McEvoy had given evidence in private, which included the sponsorship proposal to rejuvenate the Piccadilly Theatre, the appointment of Ms Battista and workforce management.
- On the basis of those assurances, Ms McEvoy’s legal representatives did not press their requests for that transcript and those documents.

Ms McEvoy submitted this issue could not be cured retrospectively but was “*an issue that entirely infects all aspects of the purported findings of the Draft Report in relation to [Ms] McEvoy*”. Ms McEvoy did not repeat this assertion in submissions she made to the Inquiry on other matters.

With respect to Ms McEvoy and her legal representatives, it is difficult to understand these submissions. There was no examination by Counsel Assisting the Inquiry, or any evidence led on the sponsorship proposal to rejuvenate the Piccadilly Theatre, the appointment of Ms Battista and workforce management in the Inquiry’s public hearings. The assurances given by the Inquiry’s solicitors were accurate.

Furthermore, the provision of that transcript and those documents could not have prejudiced the ability of Ms McEvoy’s legal representatives to represent her at the public hearings, because the evidence Ms McEvoy gave and the documents she was shown at her private hearings were not relevant to the evidence led at the public hearings.

In any event, Ms McEvoy and her legal representatives had the opportunity under the Practice Directions to apply to inspect any transcript of private hearings or documents that they required to respond to the adverse findings that the Inquiry proposed to make against Ms McEvoy in relation to the sponsorship proposal to rejuvenate the Piccadilly Theatre, the appointment of Ms Battista and workforce management. Ms McEvoy and her legal representatives did not take up this opportunity.

In these circumstances, the Inquiry was not assisted by the submissions made on behalf of Ms McEvoy in identifying what, if any, practical injustice Ms McEvoy can be said to have suffered and was not satisfied she had been denied procedural fairness.

#### **Process viewed as a whole**

The processes of the Inquiry, viewed in full and set out above, ensured that at every stage of the Inquiry process, the powers of the Inquiry were exercised in a manner which was fair to those persons subject to them.

Whether it was a person required to produce documents, or a person facing potential adverse findings, fairness was respected, and processes were put in place so that the person concerned was not adversely affected by the exercise of the Inquiry’s power.

At all times, the Inquiry was free from bias and a person subject to adverse findings was able to engage with the Inquiry from the discovery stage up until the finalisation of this Report. Persons who were subject to an adverse finding were provided with a meaningful ability to respond to any such finding and have that response considered by the Inquiry before the final Report was provided to the Minister. In these ways all of the requirements of procedural fairness were properly observed by the Inquiry.

## 1.1.5 Good government

The Terms of Reference for the Inquiry refer to “*good government*”.

This Chapter will explain what the Inquiry understands by “*good government*”, and by the term “*governance*”, a significant element of good government.

The reason for explaining these concepts in some detail is so that they can be used as a yardstick, a way of measuring whether the individual “*aspects, operations and affairs of the City of Perth*” which are examined in this Report constitute a failure to provide good government.

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### Inquiry’s Terms of Reference

Part A.1 of the Inquiry’s Terms of Reference states:

- “1. The Inquiry Panel is to inquire into and report on those aspects, operations and affairs of the City of Perth (including of the Council and the Administration) during the period between 1 October 2015 and 1 March 2018 inclusive, which may be necessary, in order to determine:*
- i) whether there has been a failure to provide for the **good government** of persons in the City of Perth’s district;*
  - ii) the prospect of such **good government** being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and*
  - iii) any steps which may need to be taken to ensure that such **good government** does happen in the future”. [Emphasis added]*

### Legislation

The *Local Government Act 1995* (LG Act) states, at section 3.1(1):

*“The general function of a local government is to provide for the good government of persons in its district”.*

The *City of Perth Act 2016* (CoP Act) states, at section 8(1):

*“The objects of the City of Perth are as follows –*

- (a) to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors”.*

The term “*good government*” is not defined in either Act.

## What is government?

The term “*government*” refers to:

- the system or machinery by which a community is governed;
- the act or means of governing; and
- the people who are doing the governing.

The word “*govern*” includes aspects of organising, leading, directing, regulation and control.

In Australia, there are three levels of government, the Federal Government for the nation, State and Territory Governments, and local governments for each local area. The three levels of government have different jurisdictions.

Government includes:

- The people who make the decisions and laws, either members of Parliament for Federal Government and State Government, or council members for local governments. In Australia, these people are elected. This is often known as the “*Executive*” function.
- The people who implement the decisions, generally are employed. This is commonly known as the “*Administrative*” function of government. It reports to the “*Executive*” function.

Local governments are not specifically mentioned in the *Australian Constitution*, although each State and Territory has legislation which provides the rules for the creation and operation of local government.<sup>127</sup> In Western Australia, the principal legislation is the LG Act. It establishes local governments, how they are elected and their powers to make and enforce local laws.

The City of Perth is a local government.

Local government plays an important role in community governance and leadership. It is the “*grass roots*” level of government in Australia. As a forum for local decision-making, it helps deliver locally and regionally based programmes and services. Local governments make decisions about a wide range of matters affecting the daily lives of residents, ratepayers, businesses, and visitors in their geographic area.

Further information is available in **Chapter 1.1.1: About local government** and **Chapter 1.1.2: About the City of Perth**.

## Government of the City of Perth

The Council of the City of Perth (City) (or the Commissioners when the Council is suspended) *“governs the local government’s affairs; and is responsible for the performance of the local government’s functions”*.<sup>128</sup> The Council is responsible for setting policy, planning and making-decisions about matters within the jurisdiction of the City.

In carrying out its functions, the Council must act in accordance with the law, most of which is codified in the LG Act and its regulations.

The Administration of the City is responsible for carrying out the decisions of the Council. The Administration is headed by a Chief Executive Officer (CEO), who is appointed by the Council. The CEO is responsible for employing other staff required to carry out the functions of the City. The City employs more than 700 staff and uses private contractors to deliver initiatives, services and programmes.

The City is unusual among Western Australian local governments in several respects. One is that it has its own Act of Parliament and a Lord Mayor. Another is that it has a higher ratio of businesses, workers and visitors when compared to permanent residents. Another is that it has a major source of income derived from its commercial parking business.

## What is good government?

In his report into the City of Canning, the Inquirer, Dr Christopher Kendall, examined the provisions of the LG Act in order to understand the term *“good government”*. He wrote:

*“Section 1.3, subsection (2) then provides that:*

*This Act is intended to result in:*

- (a) better decision-making by local governments;*
- (b) greater community participation in the decisions and affairs of local governments;*
- (c) greater accountability of local governments to their communities; and*
- (d) more efficient and effective local government”.*

As summarised by Greg McIntyre SC, the Inquirer for the Inquiry into the City of South Perth (2002):

*“... it can be inferred from that subsection that the legislature intended that the good government of a local government might be measured by the quality of (a) its decision-making, (b) community participation in its decisions and affairs, (c) its accountability to its community, and (d) its efficiency and effectiveness.*

*I agree with that conclusion”.*<sup>129</sup>

Section 8(1) of the CoP Act expresses good government in similar terms, namely:

- “(a) to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors;*
- (b) to represent the community and encourage community participation in decision-making;*
- ...*
- (j) in achieving its objects, to use its best endeavours to strike an appropriate balance among the complementary and competing civic, economic, social, cultural and environmental considerations, including considerations relating to visitors and tourists.*

The State’s capital city local government should be the benchmark for local government governance and leadership standards. It should be an exemplar organisation. This was anticipated in the creation of the CoP Act, as the Minister for Local Government at the time, the Hon. Anthony Simpson, MLA, said during the second reading of the Bill into Parliament:

*“This bill, once enacted, will give Perth the special status it deserves as Western Australia’s capital and will highlight the special roles and responsibilities of the City of Perth that flow from this”.<sup>130</sup>*

He also stated:

*“The bill sets out 10 objects of the City of Perth. These objects outline the responsibilities that should guide the City of Perth in its actions and decision-making”.*

His concluding statement reinforces this role:

*“This bill not only gives Perth the recognition it deserves, but also provides an important mechanism for the state and the City of Perth to work together to support the growth and development of this great capital city of Western Australia”.*

In addition, the CoP Act identified “*enhanced roles and responsibilities*” and “*unique roles and responsibilities*”<sup>131</sup> of the Lord Mayor and councillors. These are found in section 11(2) of the CoP Act. Some of these roles are relevant to the Inquiry’s assessment of good governance at the City.

This Inquiry takes the view that all council members and employees of the City, when they are purporting to act in their official capacity, are part of the government. If what they do is in accordance with the law and their delegated authority, advances the objectives of the City, and is beneficial to the community, then it is good government.

When council members or employees do not act in accord with the objectives of the City or to the benefit of the community; if they act from self-interest, with bias, with a conflict of interest, or outside their authority, then their actions are not good government.

### Qualities of a local government displaying the principles of good government

Based on the Inquiry's investigations and examinations, there are qualities and actions which demonstrate when a local government is displaying good government. When good government is not displayed, there are risks for the local government relating to reputation, financial and non-financial loss (including productivity and quality of decision-making) as well as reduced community and government confidence (Table 1.4).

This Report provides examples of where these qualities were not obvious and as a result, good government was not being provided to the people of the City.

**Table 1.4: Qualities of a local government displaying good government.**

| Roles and responsibilities |   |
|----------------------------|---|
| <b>Good government</b>     | <ul style="list-style-type: none"> <li>• Clear, mutual understanding of roles and responsibilities, including an understanding of the separation between the Council and the Administration.</li> <li>• Respectful relationship.</li> <li>• Leaders who inspire and govern to deliver quality outcomes for the community, while accountable for decisions and performance.</li> <li>• Strong and principled leaders, exemplifying the importance of and practising good governance.</li> <li>• Leaders lead by example and are inclusive.</li> <li>• Fair democratic election of persons to represent the community.</li> </ul>                   |
| <b>Poor government</b>     | <ul style="list-style-type: none"> <li>• Interference by council members in the Administration, including recruitment and termination of employment of employees.</li> <li>• Inappropriate behaviours, where power and control drives actions.</li> <li>• Poor and ineffective leaders, where appropriate behaviours are not modelled by those who should.</li> <li>• Acting in a manner that is contrary to the rules of conduct.</li> <li>• Creating division between council members.</li> <li>• Abuse of position.</li> <li>• Inadequate and unfair reviews of a CEOs performance.</li> <li>• Manipulation of elections processes.</li> </ul> |

| Decision-making        |   |
|------------------------|---|
| <b>Good government</b> | <ul style="list-style-type: none"> <li>• Integrity in decision-making including transparency and fairness.</li> <li>• Accountability for decisions and personal actions.</li> <li>• Serving the best interest of the City and the community.</li> <li>• Appropriate allocation and use of ratepayer funds or resources.</li> </ul>  |
| <b>Poor government</b> | <ul style="list-style-type: none"> <li>• Self-interest or bias in decision-making.</li> <li>• Lack of transparency and decisions not being capable of review.</li> <li>• Lack of accountability for decisions.</li> <li>• Misuse of entitlements.</li> <li>• Favouritism in the allocation of funds by sponsorships and grants.</li> <li>• Misconduct or corruption in procurement processes.</li> <li>• Spending of funds outside the legislation or an employee's delegated authority.</li> </ul>   |
| Integrity and ethics   |   |
| <b>Good government</b> | <ul style="list-style-type: none"> <li>• Acting with integrity and high ethical standards.</li> <li>• Abiding by the law and understanding it.</li> <li>• Displaying good judgement and appropriate behaviours aligned to values.</li> <li>• Timely declarations of interests to enable sound decision-making.</li> <li>• Appropriate management conflicts of interest to maintain community confidence.</li> <li>• Risk aware culture that manages misconduct risks and effectively investigates complaints and allegations.</li> </ul>  |
| <b>Poor government</b> | <ul style="list-style-type: none"> <li>• Being dishonest, lacking in integrity, and acting unethically.</li> <li>• Lack of trust and respect.</li> <li>• Failure to comply with legislative requirements.</li> <li>• Culture of self-entitlement.</li> <li>• Failure to comply with City policy.</li> <li>• Failure to declare income and financial interests.</li> <li>• Failure to declare gifts.</li> <li>• Failure to declare conflicts of interest.</li> <li>• Failure to properly investigate complaints and allegations.</li> <li>• Failure to identify potential misconduct or corruption.</li> </ul> |

The Inquiry has identified numerous instances of conduct which does not constitute good government. This Report provides many examples.

### Participants in government

People involved with the City have different roles, and different governance functions and responsibilities. The principal roles are as follows:

#### The community

The LG Act and the CoP Act both contemplate the notion of “*community*”, but it is not defined. Communities can be defined by geographical or administrative boundaries (such as local government areas or post codes) and vary in size. They can also be defined as a set of relationships or connections between people (such as community or interest groups).<sup>132</sup>

In the CoP Act, the meaning of the term of community is significantly broadened. The term “*community*”, for the purpose of this Report, may include ratepayers, residents, owners and occupiers of land or property, businesses, people who work in the City, visitors (local, state and international) and tourists.

#### Lord Mayor

The Lord Mayor is the leader of the councillors and has certain representative, civic and ceremonial duties, which are set out at section 10 of the CoP Act. The Lord Mayor is required to preside at Council meetings and provide leadership and guidance to the Council.

#### Councillors

The role of a councillor is set out in section 11 of the CoP Act. It includes providing leadership and guidance, ensuring that the City discharges its legal responsibilities, and:

- “(e) to participate in the City of Perth Council’s decision-making processes at council and committee meetings;*
- (f) to participate in the determination, oversight and regular review of the following matters, as required by the Local Government Act 1995 or any other written law –*
  - (i) the City of Perth Council’s policies, goals, finances, resource allocation, expenditure and corporate strategies;*
  - (ii) the efficiency and effectiveness of the City of Perth Council’s service delivery, the performance standards for that service delivery and the monitoring of those performance standards”.*

### Chief Executive Officer

The functions of the CEO are set out at section 5.41 of the LG Act:

*“The CEO’s functions are to –*

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and*
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and*
- (c) cause council decisions to be implemented; and*
- (d) manage the day to day operations of the local government; and*
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions; and*
- (f) speak on behalf of the local government if the mayor or president agrees; and*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO”.*

### The Administration

The Administration consists of the employees of the City. They are appointed by the CEO. The role of the Administration is to advise and support the Council, implement the Council’s decisions, and manage the delivery of the City’s services to ratepayers, businesses and visitors.

The role of the Administration is not set out specifically in legislation, although some functions undertaken may be covered by legislation in areas such as environmental health or planning.

### What underpins good government?

Local government has two core aspects to its role: a policy setting function (ie. the setting of law and policies under statute and ensuring compliance with law) and a governing function (ie. a process which ensures the effective and efficient delivery of an organisation’s resources). This is characteristic of all government organisations which are entrusted with public funds to deliver outcomes and objectives on behalf of the public.

The Inquiry has focused on identifying key organisational governance, accountability and cultural factors which may contribute to any failure to provide good government.

The Inquiry identified two core themes:

- **Governance:** The legislation, policies, processes and systems established for the making and implementing of decisions. It is also the way in which the Council, the CEO and City employees, individually and collectively, fulfilled their responsibilities and were accountable for decisions.
- **Culture:** The norms of behaviour for individuals and groups that affected the functioning of the City, relationships, and ultimately, decision-making.

These themes have assisted the Inquiry to understand:

- the adequacy of governance arrangements at the City;
- the prevailing culture of the Council and the Administration (ie. the CEO, the Executive Leadership Group and the staff) including interactions between the groups and within them;
- the interface and impact of culture on the governance practices at the City; and
- the impact of deficiencies in governance and/or culture on the Council and the Administration's ability to make decisions (including community participation in decision-making), be accountable to the community, and have responsibility for the City's efficiency and effectiveness.

## Governance

Governance is the single most significant element of good government. It is essential to a thriving and successful organisation.

Governance makes up the structures, rules and processes which direct and control an organisation. It helps the organisation to set its objectives and future direction, make decisions, grant powers to get things done, drive and monitor performance and hold people accountable. It is the framework by which what needs to be done is spelled out and then determines how things should be done.

Governance is not unique to government. The Organisation for Economic Co-operation and Development (OECD)<sup>133</sup> and Australian Stock Exchange (ASX) Corporate Governance Council<sup>134</sup> both produce guidance for companies on governance. For companies, it encompasses the mechanisms by which companies, and those in control, are held to account.

Local government is unique, in that the Council as the governing body, is made up of elected members of the local community, not employees or directors. They have governing roles like directors of private companies and make their own autonomous decisions. However, there is a key difference. They are responsible for public funds and are part of the government, with all the expectations which arise from being public officers, including being accountable for public money.

Confidence in a local government is underpinned by the actions of elected council members and administrative staff. Decisions should be fair and based on all of the relevant information and considerations. Individuals who make those decisions are expected to be accountable for them. Accountability is a core element underpinning impartial, ethical, efficient and effective government.

Good governance requires that the processes operate fairly and equitably, in accordance with the law and the objectives of the City, and without bias or being affected by any self-interest of council members or employees.

Good governance also requires good leadership, clear and timely decision-making, a strong vision, a sound strategy and an appropriate system of checks and balances.<sup>135</sup> The structures, systems and policies which underpin each of these needs to be in place, respected and followed, to make sure the organisation runs efficiently and effectively.

Definitions of “*governance*” in local government can vary, but there are consistent elements. The Queensland Treasury Corporation articulates:

*“Governance is the development and management of policy for the benefit of the community. It consists of the processes and systems that the council employs to ensure the ‘good rule and government’ of its local area. Good governance provides an environment where political, economic and social development occurs with positive outcomes.”*<sup>136</sup>

Furthermore, the Corporation explains that “*council members are accountable to their community, which expects that the council will apply good governance through its decision-making processes and systems*”.

The Inquiry notes that in most States of Australia there is either a governance guide for all local governments or individual local governments have published their own guides.

Examples of States which have published guides for all local governments are Victoria and Tasmania.<sup>137</sup> Examples of local governments which have published their own guides are the City of Sydney<sup>138</sup> and the City of Joondalup.<sup>139</sup>

All governance guides for local governments, State Government and for other organisations, set out similar components of governance, although there are some variations. As a basis for discussion in this Report, the Inquiry has considered the “*Good Governance Guide*” produced for Victorian local governments, in 2012, by the Municipal Association of Victoria, the Victorian Local Government Association, Local Government Victoria and Local Government Professionals (Victorian Guide).<sup>140</sup>

The Victorian Guide asks, “*What is good governance?*”, and provides this answer:

*“Good governance is about the processes for making and implementing decisions. It’s not about making ‘correct’ decisions, but about the best possible process for making those decisions.*

*Good decision-making processes, and therefore good governance, share several characteristics. All have a positive effect on various aspects of local government including consultation policies and practices, meeting procedures, service quality protocols, councillor and officer conduct, role clarification and good working relationships”.*

The Victorian Guide then sets out the main characteristics of good governance:

#### **Good governance is accountable**

Accountability is a fundamental requirement of good governance. Local government has an obligation to report, explain and be answerable for the consequences of decisions it has made on behalf of the community it represents.

#### **Good governance is transparent**

People should be able to follow and understand the decision-making process. This means that they will be able to clearly see how and why a decision was made – what information, advice and consultation council considered, and which legislative requirements (when relevant) council followed.

#### **Good governance follows the rule of law**

This means that decisions are consistent with relevant legislation or common law and are within the powers of council.

#### **Good governance is responsive**

Local government should always try to serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.

#### **Good governance is equitable and inclusive**

A community's wellbeing results from all of its members feeling their interests have been considered by council in the decision-making process. This means that all groups, particularly the most vulnerable, should have opportunities to participate in the process.

#### **Good governance is effective and efficient**

Local government should implement decisions and follow processes that make the best use of the available people, resources and time to ensure the best possible results for their community.

#### **Good governance is participatory**

Anyone affected by or interested in a decision should have the opportunity to participate in the process for making that decision. This can happen in several ways – community members may be provided with information, asked for their opinion, given the opportunity to make recommendations or, in some cases, be part of the actual decision-making process.<sup>141</sup>

Five benefits of good governance were also identified:

- community confidence;
- improved efficiency;
- better decisions;
- compliance with legislative responsibilities; and
- ethical decision making.<sup>142</sup>

In Western Australia, the approach to governance is often evidenced by defining core elements of a corporate governance framework. Many of the elements have supporting legislative or better practice requirements. These include:

- integrity, ethics and conduct
- roles and responsibilities;
- leadership;
- culture and relationships;
- decision-making;
- strategy, planning, performance and risk;
- compliance with legislation and policy; and
- accountability and transparency.

This Report explores, to some degree, all of these elements at the City.

One important element, that is not contained in detail elsewhere in the Report, is accountability. This refers to the mechanisms which help ensure that a local government which uses public money and makes decisions which affect people's lives can be held responsible for its actions. It generates incentives for responsible individuals to act in the interests of the community through:

- rewarding good performance;
- sanctions for poor performance (including corruption or misconduct);
- opportunity for learning, process and system improvement; and
- support for individuals to develop through improving knowledge and capability.

Accountability can also identify gaps in governance practices, clarify community, stakeholder or government expectation and promote improvements in how a local government works. External audits, reviews and inquiries are some of the mechanisms that provide government organisations, including local governments, with independent views on system and organisational capability and where improvements can be made.

All of the aspects contained in this section form part of good governance for a local government including the City. Further information on the City's governance is provided in **Chapter 2.1.2: Culture and governance** of this Report.

## Culture

Good government for a local government also requires the right culture with appropriate behaviours, sound leadership and good communications. Culture is expressed and evidenced through the *“behaviours, customs and practices”* that are collectively displayed. The custodians of organisational culture are the leaders, the employees, the community and other stakeholders, who all have a role in shaping culture.<sup>143</sup> Put simply, it is *“the shared values and beliefs that guide how members of that organisation approach their work and interact with each other”*.<sup>144</sup>

The culture of an organisation is also often viewed as *“the expression of its values in action”*.<sup>145</sup>

The term *“culture”* in relation to local government includes the relationships between and among council members and employees, and the methods of operating which become acceptable and passed on as the way things are done.

Local governments have a Code of Conduct, which council members and the Administration are required to follow. The Code of Conduct is endorsed by Council and, among other things, articulates the conduct, behaviour, values and ethics of an organisation. Principles governing the behaviour of council members are also set out in regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007*.

It is common in local governments for council members to want to become involved in administration matters and contact the CEO or other employees and ask questions or request actions. This may be because council members have constituents who want them to press their case, or because the council members themselves have businesses or associations or interests they wish to promote. Council members may also try to become involved in recruitment and other staffing matters.

The legislative framework for local government not only requires principled and ethical behaviour from council members and employees in the Administration, it also requires a separation of functions and powers between them.<sup>146</sup> There were and are good reasons for this demarcation of roles and responsibilities.

Council members are elected to office to represent the interests of the local community as a whole.<sup>147</sup> It is not necessary for them to have the experience, or the expertise, to do all of those things which the City, as a local government, must do. The experience and expertise to undertake those functions of the City is held by its employees.

The potential danger in council members becoming involved in the day-to-day operations of the Administration of the City is that, lacking the relevant experience or expertise, they may act on wrong considerations or act inappropriately, resulting in the administration not properly discharging its roles and functions.<sup>148</sup>

It is the CEO's role to prevent a council member from overstepping the mark and, if necessary, report them to the Local Government Standards Panel or the Corruption and Crime Commission. However, the CEO is in a difficult position because it is the Council which appoints and employs the CEO, and also has the power to terminate the CEO's employment.

Council members have the right to ask questions of, and about, the administration of the City, but not to direct what staff members should do, or how they should do it. The CEO is responsible for doing that.

The Inquiry realises that it can be difficult for a CEO, and for other employees responsible for governance, compliance or human resources, to tell a council member to “*back off*”. Although it is easier for an external body, such as this Inquiry, to be critical of employees for not preventing unwarranted intervention by council members, the Inquiry is conscious of the practical difficulties which may arise for the employees in doing this. It is possible that an employee who resists a council member may have his or her employment prejudiced in some way.

Further information on the City’s culture is provided in **Chapter 2.1.2: Culture and governance** of this Report.

## **Inquiry’s Report**

The Terms of Reference for the Inquiry require it to determine whether there has been a failure to provide good government for the City of Perth; the prospect of such good government being provided in the future; and any steps which may be necessary to ensure this in the future.

To do this the Inquiry has conducted extensive investigations. These have included numerous hearings, private and public, with people connected to the City.

The Inquiry’s investigations have obtained evidence of many instances of poor governance. This Report describes a number of these. In doing this, and in reaching its findings and recommendations, the Inquiry has kept in mind the principles of good government and good governance set out in this Chapter.

## 1.1.6 Universal application

The City of Perth (City) is the most prominent local government in Western Australia. As the capital city, it does and should have a higher profile than other local governments.

This Inquiry's broad Terms of Reference<sup>149</sup> encouraged a comprehensive examination of the City's government.

In many respects, the City is no different to many other local governments. In other respects, it is deliberately set apart (that is, *City of Perth Act 2016*).

This Inquiry is not the first local government inquiry of its kind. Far from it. Many others have preceded it.<sup>i</sup> Although their terms of reference were different, it is obvious that many of the failings in government which were identified in those previous inquiries resonate strongly with the findings of this Inquiry. In short, the same types of failings seem to recur with unnecessary regularity.

Inevitably, the failure to find meaningful and lasting solutions invites the question: *what is needed to fix the many ongoing problems with local government?* The nature and scope of this Inquiry and its ability to critically examine many of the root causes of the ongoing problems with local government mean that it presents a unique and overdue opportunity to use what should be, but was not, an exemplar local government to answer this question and hopefully provide meaningful and enduring solutions addressing the root causes of so much local government dysfunction.

The State Government has understandably and quite rightly devoted a significant amount of time and resources to amending the *Local Government Act 1995* and its regulations, and intends to continue to do so, to address some of these longstanding problems. It is hoped that this Report and its recommendations will complement some of those advances.

As this Report demonstrates, many of the problems which existed at the City were rooted in its poor, longstanding and widespread culture and lack of good governance. Poor decision-making and poor behaviour were at the heart of many of these problems. Solutions to problems of this kind require a proper understanding of their root causes and an acceptance of a better way of doing things. In some cases, a very different way of doing things.

The focus needs to be on meaningful and lasting outcomes, not compliance driven and reactive solutions. Unless this paradigm shift takes place, many of the problems which have for too long beset the City, and other local governments, will continue.

Consequently, it is hoped that many of the recommendations in this Report, will be seen as having a broader and local government-wide application. The opportunity should not, in this Inquiry's respectful opinion, be wasted.

<sup>i</sup> In Western Australia, since 1995, there have been five inquiries under Part 8, Division 2, of the *Local Government Act 1995*: Inquiry Into City of Canning (2014); Inquiry Into City of Joondalup (2005); Inquiry Into the City of South Perth (2002); Inquiry Into the City of Perth (2020); and Inquiry Into the City of Cockburn (2000).

# 1.2

## About this Report



## Acknowledgements

Although the Inquiry is an independent investigative body, the co-operation and support of many people and agencies has enabled it to successfully complete its work.

The Inquiry received many submissions from the public following the Inquiry's call for information. These were insightful, and a valuable aid to the Inquiry's investigations. I thank all those who took the time to share with the Inquiry their experiences with the City of Perth (City).

The Inquiry would like to thank the Commissioners of the City, Mr Andrew Hammond, the late Mr Eric Lumsden AM, Ms Gaye McMath, and Mr Len Kosova for the assistance they have provided and their positive attitude to the work of Inquiry. In particular the Inquiry would like to thank the Chair Commissioner, Mr Hammond, for his assistance and for encouraging staff of the City to assist the Inquiry.

The Inquiry is grateful to Mr Murray Jorgensen, Chief Executive Officer (CEO) at the City from November 2018. He provided very useful information to the Inquiry about the situation at the time he became CEO, and the initiatives introduced since that time to overcome shortcomings in governance. He also encouraged staff of the City to assist the Inquiry.

The Inquiry has served many notices under the *Royal Commissions Act 1968* on the City and has made numerous additional requests to the City for information. The City and its officers have by and large co-operated with the Inquiry, and a number of staff at the City, particularly in the Governance Unit and Information Technology Unit, have gone to great lengths to find and provide documents, statements of information, devices and other things that the Inquiry required.

The Inquiry is also grateful to the current and former employees of the City who voluntarily participated in interviews with Inquiry officers and provided detailed information about events, incidents and experiences at the City. These enabled the Inquiry to focus its investigations appropriately. Many of these people wish to remain anonymous, but they know who they are and the Inquiry thanks them for their assistance.

The Inquiry would like to acknowledge the Minister for Local Government, for his understanding in relation to the Inquiry's work and the reasons why it was necessary that the Inquiry's term be extended.

The Inquiry has been well supported in its work by the Department for Local Government, Sport and Cultural Industries. The Inquiry would like to thank the Director General, Mr Duncan Ord, and Mr Michael Connolly, Deputy Director General and his local government team for all their support and assistance. I would also like to acknowledge the support from the Department's corporate services officers, who enabled the Inquiry to establish its office, employ staff and use the equipment and programmes necessary for it to complete its work.

The Inquiry also acknowledges the support and assistance of the State Solicitor in meeting its goals.

The Inquiry has also been assisted by a number of other government authorities and private sector organisations who provided documents, answered questions or provided information. These include the Corruption and Crime Commission and the Public Sector Commission.

The Inquiry would like to acknowledge the accommodation and support services provided by the Western Australian Industrial Relations Commission at 111 St Georges Terrace, Perth and employees of that Commission for facilitating the work of the Inquiry.

In relation to its public and private hearings, the Inquiry would like to thank the recording services and transcribers who faithfully turned more than 500 hours of audio evidence into written transcripts.

The Inquiry also acknowledges the contribution and co-operation of the legal representatives of various witnesses before the Inquiry who assisted the Inquiry in its work, while fiercely protecting the rights and interests of those whom they represented.

The Inquiry has also been supported by a number of professional organisations who provided expert advice and assistance, including Mills Wilson (communications), Deloitte Risk Advisory (forensics), Crowe (audit and financial) and ACIL Allen Consulting (financial).

Finally, I would like to express my deepest personal appreciation to the whole Inquiry team.

The legal team was led by the Counsels Assisting the Inquiry. Each of them demonstrated great skill and commitment in dealing with the demanding work required of them. Counsel was capably supported by the Solicitor Assisting the Inquiry and the other solicitors to the Inquiry. The skilful work in the hearing room could not have been done as well as it was without the skill and hard work done in the background, away from the public glare.

Significant work was undertaken by the investigation team over the course of the Inquiry. Led by those in the Principal Investigator role and supported by investigators and intelligence officers, an extensive investigative process across a broad range of more than 20 matters was conducted to inform the hearing programme. Without this work, which was of an exceptional quality, the work of the Inquiry would simply not have been possible.

The Inquiry would not have not run efficiently without the support of the executive support team led by the Executive Manager. This team has supported the operations of the hearing room, the internal operations of the Inquiry, records management functions and graphic design of the Report. It was all done well and very much appreciated.

Over the course of the past two years, I have had the privilege of working alongside a dedicated team of highly skilled, professional and hard-working officers, who have worked within the resource limitations and deadlines imposed for the delivery of the Inquiry. I thank them for their diligence, commitment and professionalism. Without them, the successful completion of this Report would not have been possible.

## Report Structure

The Inquiry into the City of Perth (Inquiry) was established:

*“... to inquire into and report on those aspects, operations and affairs of the City of Perth (including of the Council and the Administration) during the period between 1 October 2015 and 1 March 2018 inclusive, which may be necessary, in order to determine:*

- i. whether there has been a failure to provide for the good government of persons in the City of Perth’s district;*
- ii. the prospect of such good government being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and*
- iii. any steps which may need to be taken to ensure that such good government does happen in the future”.*

The Inquiry had the powers of a State Royal Commission under the *Royal Commissions Act 1968*. Using these powers, the Inquiry conducted an extensive investigation into these “aspects, operations and affairs of the City” during the Inquiry period.

This Report describes what the Inquiry did, what it found and how similar issues might be prevented from arising in the future. The Report of the Inquiry into the City of Perth consists of four volumes.



# The Inquiry

This Volume sets the scene for the rest of the Report. It provides context for the Inquiry's investigation and explains the methods used.

## 1.1 Overview



### 1.1.1 About local government

This Chapter provides an overview of the local government sector and legislation framework in Western Australia.

### 1.1.2 About the City of Perth

This Chapter provides an overview of the City of Perth, Western Australia's capital city local government.

### 1.1.3 About the Inquiry

This Chapter contains information about the suspension of the Council, the appointment of the Inquiry, the powers of the Inquiry and the phases of the Inquiry's investigation and hearings.

### 1.1.4 Procedural fairness

This Chapter explains how the Inquiry provided procedural fairness to people who were potentially the subject of adverse findings in this Report. Procedural fairness means that those people, and their legal representatives, were given access to relevant evidence and an opportunity to make a submission to the Inquiry.

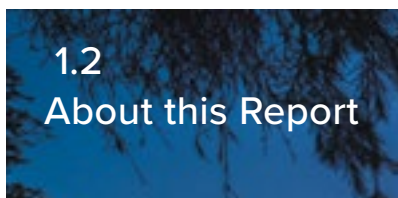
### 1.1.5 Good government

This Chapter provides an explanation of the concepts of 'good government' and 'good governance'.

### 1.1.6 Universal application

This Chapter considers the possible broader applications of the Report and recommendations.

## 1.2 About this Report



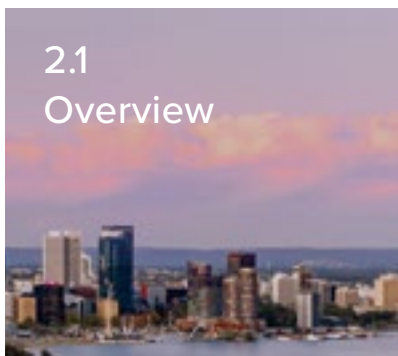
### About this Part

This Part provides the structure of the Report, acknowledgements, relevant legislation, policies and procedures and a glossary of key terms used in the Report.

# Case Studies

This Volume provides information which gives context to the investigation, findings and recommendations of the Inquiry.

## 2.1 Overview



## 2.2 Community Leadership



### 2.1.1 Key events and people

This Chapter identifies the key people, and their roles, at the City during the Inquiry period, as well as the significant events between 2015 and 2018. These people included council members and senior City officers.

### 2.1.2 Culture and governance

This Chapter explains the culture and governance of the City and how this affected the way the City operated.

### 2.2.1 Local government elections

This Chapter examines in depth how some candidates interfered with election processes for the position of councillor and subverted the democratic process.

### 2.2.2 Decision-making

The sections in this Chapter examine decision-making by the Council in relation to three situations in which information obtained by the Inquiry suggests that decisions may have been made for the wrong reasons, including to advance the personal interests of council members.

### 2.2.3 Disclosure, personal interest and entitlements

The sections in this Chapter examine:

- failure by some council members to disclose their financial or other interests;
- misuse by some council members of entitlements which were available to assist them in their official role, including use of the Council dining room and reimbursement for costs associated with restaurants, clothes and dry cleaning; and
- misuse by a council member of her official title, office, business cards, email and the dining room for private business purposes.

### 2.2.4 Grants and sponsorship

The sections in this Chapter examine:

- council members received gifts, including tickets to events, from sponsored organisations and then made decisions about funding for those organisations; and
- council members attempted to ensure the City allocated money to organisations and events with which they had a personal connection.

## 2.3 Administrative Leadership



### 2.3.1 Chief Executive

This Chapter examines the role of the CEO, through events surrounding the termination of the employment of a CEO by the Council, and the appointment of the subsequent CEO.

### 2.3.2 People management

This Chapter considers aspects of human resources and workforce management by the City. The sections in this Chapter examine examples of recruitment, probation and performance and termination of employment, which may not have been properly conducted, or where there may have been inappropriate interference by council members. The City's investigation of complaints and grievances is also examined.

### 2.3.3 Financial management and planning

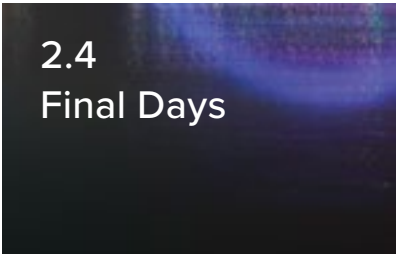
This Chapter identifies weaknesses in systems, capability and processes, and how these are being, and can be, addressed. It also examines:

- the City's integrated planning and reporting framework,
- the City's financial position and its financial management practices; and
- a partnership arrangement between the City and a not-for-profit organisation, involving significant funding.

### 2.3.4 Procurement and contracting

The sections in this Chapter examine five specific procurement exercises conducted by the City in which the consequences of failing to follow appropriate procedures ranged from unauthorised expenditure and undeclared conflicts of interest to manipulation of tender documents to the detriment of a tenderer. This Chapter also provides examples of allegations about serious misconduct by employees which were not appropriately dealt with by the City.

## 2.4 Final Days



### 2.4.1 Events leading to the suspension of the Council

This Chapter describes events within the Council and Administration of the City at the end of 2017, and the beginning of 2018, which led to calls from council members, the CEO and senior officers for intervention. The level of dysfunction and lack of good government within the City caused the Minister for Local Government to suspend the Council on 2 March 2018.

# Restoring Good Government

This Volume concludes with the opinion of the Inquiry Panel regarding whether there has been good government at the City of Perth as well as whether there is any prospect of good government being provided in the future.

## 3.1 Opinion of the Inquiry Panel

### About this Part

This Part contains the Inquiry's conclusions, as required by its Terms of Reference, about whether the Council and Administration of the City provided 'good government' during the Inquiry period.

## 3.2 The Future

### About this Part

This Part looks to the present and the future. The focus is on what has happened since 2 March 2018, when the Council was suspended. It addresses what steps have been taken, and what steps are planned for the future, to restore good government at the City.

## 3.3 Matters Referred to Other Authorities

### About this Part

This Part relates to the power of an Inquiry Panel to refer matters to Commonwealth, State and other authorities.

## 3.4 Recommendations

### About this Part

This Part contains the recommendations of the Inquiry Panel. They have been separated into two categories: local government and the City of Perth. A number of the City of Perth recommendations also have a broader universal, local government-wide application.

# Appendices

This Volume contains supporting information relevant to this Report.

## 4.1 The Inquiry

### About this Part

This Part includes details of the witnesses and their representation, notices served, staff of the inquiry and Practice Directions of the inquiry.

## 4.2 Inquiry Commissioned Reports

### About this Part

This Part includes the two reports commissioned by the Inquiry.

## 4.3 City of Perth Declarations by Council Members

### About this Part

This Part includes the declarations made by council members at the time they took office.

## 4.4 City of Perth Commissioned Reports

### About this Part

This Part includes five independent reports commissioned by the City of Perth into aspects of the functioning and processes of the City.

## Legislation, policies and procedures

### Legislation

The following details describe the legislation referred to in this Report. The principal piece of legislation is the *Local Government Act 1995* and its associated regulations.

|  |                                     |
|--|-------------------------------------|
| <i>Associations Incorporation Act 1987</i>                                       |                                     |
| <i>Associations Incorporation Act 2015</i>                                       |                                     |
| <i>Building Act 2011</i>   | (Building Act)                      |
| <i>City of Perth Act 2016</i>  | (CoP Act)                           |
| <i>Corruption, Crime and Misconduct Act 2003</i>                                 | (CCM Act)                           |
| <i>The Criminal Code</i>   | (Criminal Code)                     |
| <i>Equal Opportunity Act 1984</i>  |                                     |
| <i>Fair Work Act 2009 (Cth)</i>  | (Fair Work Act)                     |
| <i>Heritage Act 2018</i>   |                                     |
| <i>Heritage Act of Western Australia 1990</i>                                    |                                     |
| <i>Income Tax Assessment Act 1936</i>  |                                     |
| <i>Legal Profession Act 2008</i>   | (Legal Profession Act)              |
| <i>Local Government Act 1995</i>   | (LG Act)                            |
| <i>Local Government (Administration) Regulations 1996</i>                        | (Administration Regulations)        |
| <i>Local Government (Audit) Regulations 1996</i>                                 | (Audit Regulations)                 |
| <i>Local Government (Constitution) Regulations 1998</i>                          | (Constitution Regulations)          |
| <i>Local Government (Elections) Regulations 1997</i>                             | (Election Regulations)              |
| <i>Local Government (Financial Management) Regulations 1996</i>                  | (Financial Management Regulations)  |
| <i>Local Government (Functions and General) Regulations 1996</i>                 | (Functions and General Regulations) |
| <i>Local Government (Rules of Conduct) Regulations 2007</i>                      | (Conduct Regulations)               |
| <i>Occupational Safety and Health Act 1984</i>                                   |                                     |
| <i>Parliamentary Commissioner Act 1971</i>                                       |                                     |
| <i>Perth Parking Management Act 1999</i>   |                                     |
| <i>Planning and Development Act 2005</i>   | (PD Act)                            |
| <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>        |                                     |
| <i>Planning and Development (Development Assessment Panels) Regulations 2011</i> | (DAP Regulations)                   |
| <i>Public Works Act 1902</i>   |                                     |
| <i>Royal Commissions Act 1968</i>  | (RC Act)                            |
| <i>Salaries and Allowances Act 1975</i>  |                                     |
| <i>State Records Act 2000</i>  |                                     |

## Legislative changes

During the period of the Inquiry's Terms of Reference, there have been five amendments to the *Local Government Act 1995* (Table 1.5). These included changes to provisions relating to council administration, financial reporting and declaration of gifts received by councillors.

The version of the *Local Government Act 1995* applicable to this Inquiry is Reprint 6, as at 3 August 2012. For a list of all amendments made to the *Local Government Act 1995*, including amendments affecting this Inquiry, refer to the State Law Publisher's website. Under the *Local Government Act 1995* is a heading 'History of This Act'.

**Table 1.5: Amendments to the *Local Government Act 1995* since the announcement of the Inquiry.**

| Name of Amending Legislation  | Date of Assent |
|---|----------------|
| <i>City of Perth Act 2016</i> , Part 4, Division 4.                             | 03/03/2016     |
| <i>Graffiti Vandalism Act 2016</i> , Part 6, Division 2.                        | 11/07/2016     |
| <i>Public Health (Consequential Provisions) Act 2016</i> , Part 3, Division 18. | 25/07/2016     |
| <i>Local Government Amendment Act 2016</i> , Part 2.                            | 21/09/2016     |
| <i>Local Government Amendment (Auditing) Act 2017</i> .                         | 01/09/2017     |
| <i>Strata Titles Amendment Act 2018</i> , Part 3, Division 12.                  | 19/11/2018     |
| <i>Local Government Amendment (Suspension and Dismissal) Act 2018</i> .         | 19/11/2018     |
| <i>Local Government Legislation Amendment Act 2019</i> , Part 2.                | 05/07/2019     |

## City of Perth policies and procedures

The City of Perth (City) has two types of policy, being Council Policy and Organisational Policy. The City's Administration also has corporate procedures established to provide a framework and guidance to the corporate directors in their decision-making.

### Council Policy

The Council Policy is adopted by the City of Perth Council to provide the CEO with direction in respect to particular matters requiring action. Council Policy guides the City's actions and decision-making. There are two types of policies:

- General Council Policy: A policy adopted by Council that is not legislative in nature. This includes Council 'directives' on general matters not specifically originating from legislation.
- Legislative Policy: A policy that is either required by law or created to supplement the City's Local Planning Scheme or a City Local Law.

The City's *Council Policy Manual* contains and consolidates policy decisions made by Council. It provides the Council, Council committees, the CEO and staff with guidelines.

The Council Policy Manual includes “CP10.1 - Code of Conduct” (Code) applicable to all employees of the City of Perth. Breach of the Code may constitute minor misconduct under the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations).

A breach by a council member of the Conduct Regulations may be reported to the City’s Complaints officer, and be the subject of a complaint to the Local Government Standards Panel. If so, it is dealt with under Part 5, Division 9 of the *Local Government Act 1995*.

This Report refers to thirteen Council policies. Each Chapter will reference the version or date of the policy used for that matter.

Table 1.6 provides a summary of Council policies referred to in this Report, including the relevant policy number, its title, its objectives and the date it was last updated.

**Table 1.6:** City of Perth Council policies referenced in this Report.

|        | Title   | Objective <sup>150</sup>   | Amendments <sup>j</sup>   |
|--------|---|--|---|
| CP9.7  | Purchasing  | The City is committed to setting up efficient, effective, economical and sustainable procedures in all purchasing activities.  | Revised<br>30/04/2015<br>15/12/2015<br>15/03/2016                     |
| CP9.8  | Contract Variations—<br>Authority to Incur<br>a Liability     | To determine the circumstances in which a contract for the procurement of goods or services may be varied.   | Revised<br>06/06/2017   |
| CP10.1 | Code of Conduct   | The primary objective of the Code of Conduct is to set out the standards of ethical and professional behaviour expected of the City’s Elected Members, External Members and Employees. | Revised<br>06/6/2017<br><br>Administrative<br>amendment<br>03/09/2018 |
| CP10.5 | Council Member<br>Allowance and<br>Meeting Attendance<br>Fees | To set the Council Member Allowance and Meeting Attendance Fees for the City of Perth in accordance with sections 5.98 and 5.98A of the <i>Local Government Act 1995</i> .             | Latest revision<br>30/04/2015   |
| CP10.6 | Elected Members<br>Reimbursement<br>of Expenses               | To provide for the reimbursement of expenses incurred by an Elected Member while performing his or her duties.   | Revised<br>21/11/2017   |
| CP10.8 | Office<br>Accommodation –<br>Elected Members                  | To determine the nature and extent of office accommodation provided to Elected Members.  | Revised<br>28/04/1998   |

j Amendments made during the Inquiry’s TOR.

|         | Title   | Objective <sup>150</sup>   | Amendments <sup>j</sup> |
|---------|---|--|-------------------------|
| CP10.9  | Common Seal and Document Signing Authority                          | To establish, in accordance with the LG Act 1995-<br><ol style="list-style-type: none"> <li>1. Protocols for affixing and administration of the City of Perth Common Seal; and</li> <li>2. Authority for the Chief Executive Officer and other nominated officers to sign (execute) documents on behalf of the City of Perth.</li> </ol>   | Revised<br>23/03/2015   |
| CP10.12 | Provision of Hospitality  | To determine the nature and extent of catering services for civic functions and official meetings.   | Revised<br>22/02/2011   |
| CP12.4  | Payments under section 5.50 of the <i>Local Government Act 1995</i> | To determine the circumstances in which the City of Perth will pay an employee, who is leaving, an amount (severance payment) in addition to any amount the employee is entitled to under the contract of employment, award, industrial agreement, or order by a Court or Tribunal.  | Revised<br>05/01/2011   |
| CP12.6  | Staff – Local Government Employees – Senior Employees               | Policy objective is to:<br><ol style="list-style-type: none"> <li>1. determine those employees that are considered to be suitably qualified to act in the position of Chief Executive Officer (Section 5.36(2)(b) of the <i>Local Government Act 1995</i>);</li> <li>2. determine how the position of Chief Executive Officer will be filled on an acting basis as required; and</li> <li>3. determine those employees that are designated as senior employees for the purposes of Section 5.37(1) of the <i>Local Government Act 1995</i>.</li> </ol> | Revised<br>19/12/2017   |
| CP18.13 | Provision of Sponsorship and Grants                                 | The objectives of the policy are:<br><ol style="list-style-type: none"> <li>a) Provision of a consistent, equitable, transparent and efficient framework for administration of all sponsorship and grant programs;</li> <li>b) To support a range of projects and initiatives that meet the diverse needs of the City of Perth community; and</li> <li>c) To clearly identify the eligibility and accountability requirements of organisations that applies for and receives funding.</li> </ol>   | Revised<br>19/12/2017   |

|         | Title     | Objective <sup>150</sup>  | Amendments <sup>j</sup> |
|---------|-----------|---|-------------------------|
| CP18.14 | Donations | To provide the framework for determining eligibility for the provision of donations from the City of Perth, which provide philanthropic support to community groups and not for profit organisations.   | Revised<br>19/12/2017   |
| CP18.15 | Grants    | <p>The objectives of the policy are:</p> <ul style="list-style-type: none"> <li>a) provision of a consistent, equitable, transparent and efficient framework for administration of all grant streams;</li> <li>b) to support a range of projects and initiatives that meet the diverse needs of the City of Perth community;</li> <li>c) to optimise the outcomes of the grants programme through improved access, a transparent and supported approach to promoting and allocation; and</li> <li>d) to clearly identify the accountability requirements of organisations or individuals that receive funding.</li> </ul> | Created<br>13/12/2016   |

## Organisational policy

An organisational policy governs the day-to-day operations of the City and does not require Council approval. Organisational policies are internally focussed in nature, with employees being required to consider the relevant policy when making decisions.

The Organisational Policy Manual contains policy statements relevant to corporate administration and operational management of the City of Perth. The Organisational Policy Manual provides the scope and procedures for dealing with specific issues within the organisation.

Table 1.7 shows organisational policies referred to in this Report including the relevant policy number, title, its objectives and the date it was last updated.

**Table 1.7: City of Perth organisational policies referenced in this Report.**

|      | <b>Title</b>   | <b>Objective<sup>151</sup></b>   | <b>Amendments<sup>k</sup></b>                              |
|------|--|--|--|
| OP01 | <b>Decision Making Framework</b>                       | To describe the decision-making framework and integrity principles to be applied when making decisions on the City of Perth's operations.  | 08/07/2013<br><br>Latest revision<br>10/10/2016            |
| OP04 | <b>Equal Employment Opportunity</b>                    | Employees and prospective employees of the City of Perth are entitled to a workplace which is free from discrimination and harassment, where employees are treated fairly and where employment decisions are based on the individual merit of the employee and prospective employees. The City of Perth must also comply with equal opportunity legislation. | Created<br>04/2003<br><br>Revised ELG<br>01/2014           |
| OP06 | <b>Prevention and Management of Workplace Bullying</b> | To prevent incidents of bullying in the workplace.<br>To ensure that any instances of workplace bullying are managed promptly and effectively.   | Created<br>25/03/2013                                      |
| OP10 | <b>Record Keeping</b>                                  | To establish a framework for the creation and management of City records, in accordance with legislative requirements and best practice standards.   | Created<br>18/11/2003<br><br>Latest revision<br>28/11/2016 |

<sup>k</sup> Amendments made during the Inquiry's TOR.

## Corporate procedures

The City's corporate procedures are formalised processes to be used by specific staff for the governance, management and administration of corporate units within the City. Procedures may be business area specific or apply across the City.

Table 1.8 shows the seven corporate procedures referred to in this Report including the relevant procedure number, title, objectives and the date it was last updated.

**Table 1.8:** City of Perth corporate procedures referenced in this Report.

|        | Title  | Objective  | Amendments <sup>I</sup>                              |
|--------|--|--|--|
| PR0660 | Evaluation panels for assessing tenders, expressions of interest and quotations        | To ensure that the assessments of <ul style="list-style-type: none"> <li>Tender, Expression of Interest and Quotation submissions are undertaken fairly and according to a pre-determined weighted selection criteria.</li> <li>Ensure adherence to probity procedures and relevant policies.</li> <li>Ensure that the requirements specified in the Tender, Expression of Interest or Quotation document are evaluated in a way that can be measured and documented.</li> </ul> | Created<br>08/01/2004<br>09/02/2017                  |
| PR0024 | Higher Duties Salaried Officers  | Guidelines to ensure that Higher Duties within the City of Perth are applied in an equitable and effective manner.   | Created<br>September 2002<br><br>Revision<br>09/2012 |
| PR0559 | Construction and Maintenance (CMD) – Preparation of Parks workforce maintenance budget | To ensure complete and timely preparation of the Parks operational budget.   | Created<br>01/12/2005<br><br>Updated<br>13/12/2018   |
| PR0007 | Recruitment and Selection  | <ul style="list-style-type: none"> <li>To ensure the City recruits talented employees.</li> <li>To provide an overview of the City's approach towards recruitment.</li> <li>To ensure the recruitment process complies with relevant legislation and other City of Perth Human Resource procedures and guidelines.</li> </ul>  | 20/05/2013<br><br>05/02/2019<br>(Revoked)            |

<sup>I</sup> Amendments made during the Inquiry's TOR.

|        | Title                                    | Objective   | Amendments <sup>1</sup>                   |
|--------|--|---|---|
| PR0439 | Disciplinary Guidance Notes              | <ul style="list-style-type: none"> <li>To provide supervisors and managers with a model process for managing employees with unsatisfactory work performance, behaviour and/or conduct. This includes misconduct or serious misconduct in the workplace. It provides scope for decision-making and flexibility of action to suit different individual situations.</li> <li>To provide employees with an overview of the process that may be used when addressing unsatisfactory work performance, behaviour and/or conduct. It must be noted that each process may differ depending on the circumstances. However, the principles of procedural fairness and natural justice will underpin any process that is followed.</li> <li>For situations where an employee's work performance, behaviour and/or conduct does not meet a satisfactory standard, the supervisor or manager should in the first instance discuss the issues with the employee. The employee may benefit from the development of a Performance Plan.</li> <li>Matters relating to misconduct may need to be referred to the CEO and consequently the Corruption and Crime Commission (CCC) or the Public Sector Commission (PSC).</li> </ul> | Created 24/02/2003 (Current)              |
| PR0965 | Sole Supplier Justification and Approval | <ul style="list-style-type: none"> <li>To establish a formal process where there may be a valid reason for nominating a supplier as a 'sole supplier'.</li> <li>Maintain accountability in purchasing and comply with Regulation 11(2)(f) of the <i>Local Government (Functions and General) Regulations 1996</i>.</li> </ul>   | Created 17/06/2010<br>Reviewed 17/11/2013 |
| PR0442 | Workplace Grievance Management Procedure | <ul style="list-style-type: none"> <li>To provide employees and supervisors with an effective means of resolving workplace grievances.</li> <li>To provide an avenue for handling complaints in a dignified, consistent, fair and timely manner to prevent grievances from escalating.</li> <li>To promote consultation, co-operation and discussion as the basis for resolution of grievances.</li> <li>To ensure that the City of Perth complies with its legal and moral responsibilities to take all reasonable and practicable steps to resolve complaints; especially discrimination, bullying and harassment issues.</li> </ul>  | Created 06/05/2003<br>Reviewed July 2017  |

## Glossary of terms

| Term                                   | Definition  | Legislation                                       |
|--|---|---|
| <b>Absolute majority</b>               | <p>(a) in relation to a Council, means a majority comprising enough of the members for the time being of the Council for their number to be more than 50 per cent of the number of offices (whether vacant or not) of members of the Council.</p> <p>(b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50 per cent of the number of offices (whether vacant or not) of the body.</p> | <i>Local Government Act 1995</i> (LG Act), s 1.4. |
| <b>Administration</b>                  | A general term used to describe employees of the City, including the CEO.   |   |
| <b>Candidate</b>                       | <p>A person is eligible to nominate as a candidate for a local government election if the person is an elector of the district (residential owner or occupier) and over 18 years of age.</p> <p>A candidate includes any person who, within 3 months before the day of election, offers himself for election as a member of the Council or Assembly.<sup>152</sup></p>  | LG Act, s 2.19, 4.48.                             |
| <b>Central Business District (CBD)</b> | The Central Business District of the City of Perth.   |   |
| <b>Chief Executive Officer (CEO)</b>   | <p>The Chief Executive Officer of a local government or a person acting in the role of CEO from time to time.</p> <p>The CEO is appointed by Council. Council also has the power to review the CEO's performance and terminate his or her employment.</p>   | LG Act, s 1.4, 5.36, 5.41.                        |
| <b>City</b>                            | The local government of the City of Perth, including the Council and employees, as well as the electoral boundary area.   | <i>City of Perth Act 2016</i> (CoP Act) s 6.      |
| <b>Committee</b>                       | A committee of the Council.   | LG Act, s 5.1, 5.8; 5.9.                          |

| Term   | Definition   | Legislation |
|--|--|-------------|
| <b>Committees of the City of Perth Council<sup>153</sup></b>                       |  |             |
| <b>Audit and Risk Committee</b>  | A committee established to provide guidance and assistance in relation to risk management, internal controls, legislative compliance and internal and external audit planning and reporting. It comprised three council members.   |             |
| <b>Chief Executive Officer (CEO) Performance Review Committee</b>                  | A committee established to undertake the annual review of the performance of the CEO, establish annual performance objectives for the CEO and report on the outcome of the review of the CEO's performance. It comprised three council members.  |             |
| <b>Design Advisory Committee</b>   | A committee established to provide independent technical advice and recommendations to the Council in respect of Bonus Plot Ratio and design issues. Membership comprised of two architects, two town planners, one landscape architect, a State Government architect and the Director, Planning and Development at the City of Perth. |             |
| <b>Finance and Administration Committee</b>  | A committee established to make recommendations on matters related to financial and property management, business proposals and fees and charges levied by the City. It comprised three council members.   |             |
| <b>Marketing, Sponsorship and International Engagement Committee<sup>154</sup></b> | A committee established to oversee and make recommendations to Council on marketing, grants, sponsorship, donations, events and festivals, and either approve or decline applications for small amounts of funding or make a recommendation to the Council. It comprised three council members.  |             |
| <b>Planning Committee</b>  | A committee established by the Council to oversee and make recommendations on development planning policies, strategic town planning initiatives, transport and traffic planning, heritage listings, environmental improvements, liquor licensing, land administration and applications for events. It comprised three council members |             |
| <b>Works and Urban Development Committee</b>                                       | A committee established to oversee and make recommendations to Council on matters related to building upgrades, design, lighting, and waste management. It comprised three council members.  |             |

| Term   | Definition   | Legislation  |
|--|--|--|
| <b>Committee member</b>                      | A person/s appointed by a Council (by absolute majority) to a committee. They can be council members, employees, other persons or a combination of both of them.   | LG Act, s 5.9, 5.10.                               |
| <b>Community</b>                             | Ratepayers, residents, property owners, visitors and businesses within the City's district. <sup>155</sup>   |  |
| <b>Corporate nominee</b>                     | An Elector who is eligible to vote in local government elections by virtue of being the nominee of a body corporate that owns or occupies rateable property within the local government's district.  | LG Act, s 4.32 (1G), (1H).                         |
| <b>Corruption and Crime Commission (CCC)</b> | A Western Australia State Government agency established under the <i>Corruption, Crime and Misconduct Act 2003</i> (CCM Act) to assess, investigate and expose serious misconduct in the Western Australian public sector, including local government.   | <i>Corruption, Crime and Misconduct Act 2003</i> . |
| <b>Council</b>                               | The Council of the local government, being the City of Perth.<br><br>It comprises the Lord Mayor and eight council members who are elected by electors eligible to vote in City of Perth elections.  | CoP Act, s 9; LG Act, s 2.6, 2.7.                  |
| <b>Council meeting</b>                       | A formal meeting of Council conducted in accordance with the LG Act and the Standing Orders Local Law 2009. <sup>156</sup>   |  |
| <b>Council member/s</b>                      | An elected mayor or president or a councillor of a local government.<br><br>Used in this Report as a term including the Lord Mayor and councillors of the City of Perth.<br><br>May also be referred to as an " <i>elected member</i> ".   | CoP Act, s 9, 11; LG Act, s 1.4, 2.10              |
| <b>Council Policy (CP)</b>                   | Directions given by the City of Perth Council on a range of governing matters. It directs the actions and behaviours of council members, the CEO, employees and others.<br><br>City of Perth Council Policy Manuals are found on the City of Perth website.<br><br>Council Policy Manuals are referred to in this Report as, for example, CP 12.1. |  |
| <b>Councillor</b>                            | A person who holds the office of Councillor of the City of Perth Council.<br><br>May also be referenced as a " <i>council member</i> " or " <i>elected member</i> ".   | CoP Act, s 9, 11; LG Act, s 1.4, 2.10.             |

| Term  | Definition  | Legislation          |
|---|---|----------------------|
| <b>Counsel Assisting the Inquiry Panel</b>  | An advocate appointed to assist the Inquiry Panel by, among other things, examining witnesses during the inquiry.   |                      |
| <b>Crisis Management Plan (CMP)</b>   | A plan of the City that sets out a process that facilitates organised decision-making in the event of a major incident and/or crisis <i>“to reduce the risk and impact of a disruption that may have an effect on the life, safety or reputation of the City of Perth and its employees using effective communication, teamwork, coordination, assessment and decision making”</i> .  |                      |
| <b>Culture</b>  | The norms of behaviour for individuals and groups that affected the functioning of an organisation, relationships, and ultimately, decision-making. <sup>157</sup>  |                      |
| <b>Department of Local Government, Sport and Cultural Industries (DLGSCI)</b><br><b>Department of Local Government and Communities (DLGC)</b> | The State Government department responsible for local government matters.<br><br>Note: Government changes on 1 July 2017 transferred the local government function from the former Department of Local Government and Communities (DLGC) to the newly created Department of Local Government, Sport and Cultural Industries (DLGSCI).<br><br>This entity may also be referred to as the <i>“Department”</i> in this Report. |                      |
| <b>Deputy Lord Mayor</b>  | The Deputy Lord Mayor is elected by Council from among the councillors, every two years, following a local government election.<br><br>The Deputy Lord Mayor may perform the functions of the Lord Mayor if the: <ul style="list-style-type: none"> <li>• office of the Lord Mayor is vacant.</li> <li>• the Lord Mayor is not available or is unable or unwilling to perform the functions of Lord Mayor.</li> </ul>       | LG Act, s 2.9, 5.34. |
| <b>Designated employee</b>  | Defined to mean: <ul style="list-style-type: none"> <li>• the CEO;</li> <li>• employees with delegated powers and duties under Part 5, Division 4 of the LG Act;</li> <li>• employees who are members of committees comprising elected members and employees; and</li> <li>• other employees nominated by the local government.</li> </ul>  | LG Act, s 5.74.      |

| Term                                    | Definition   | Legislation  |
|---|--|--|
| <b>Director</b>                         | <p>The title of a senior position within the City of Perth Administration who is directly responsible to the CEO.</p> <p>There were five Directors at the City.</p> <ul style="list-style-type: none"> <li>• Director, Community and Commercial Services (DCCS)</li> <li>• Director, Construction and Maintenance (DCM)</li> <li>• Director, Corporate Services (DSC)</li> <li>• Director, Economic Development and Activation (DEDA)</li> <li>• Director, Planning and Development (DPD)</li> </ul> <p>The directors and the CEO formed the Executive Leadership Group.</p> |  |
| <b>Donations</b>                        | <p>Money allocated by the Council to improve the wellbeing of the community. No other benefit is required in return.</p>   |  |
| <b>Election</b>                         | <p>Elections for a local government take place every 2 years. Council members hold office for terms of 4 years.</p>  | LG Act, s 2.28, 4.5.                                 |
| <b>Elector</b>                          | <p>A person who is eligible to be enrolled to vote at elections for a local government.</p> <p>Electors are residents within the district of the local government or owners or occupiers of property in the district (including bodies corporate and their nominees) who do not reside in the district.</p>  | LG Act, s 4.29, 4.30, 4.31.                          |
| <b>Employee</b>                         | <p>A person employed by the City of Perth.</p>   | LG Act, s 5.36.                                      |
| <b>Entitlements</b>                     | <p>Entitlements are amounts paid or benefits available to assist council members in their official role. They include use of the Council dining room and reimbursement for certain costs.</p> <p>Limitations of individual entitlements are established in the <i>Local Government Act 1995</i>, by City of Perth Council Policy Manuals<sup>158</sup> and by the <i>Local Government (Administration) Regulations 1996</i>.<sup>159</sup></p>   | LG Act, Part 5, Division 8.                          |
| <b>Executive Leadership Group (ELG)</b> | <p>The group of senior officers of the City comprising the CEO and the directors (including those acting in these roles from time to time).</p>  |  |
| <b>Gift</b>                             | <p>A conferral of a financial benefit (including a disposition of property) made by one person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral. It includes any contributions to travel.</p> <p>Since 18 October 2019, the definition of a gift includes a travel contribution: <i>Local Government Act 1995</i>, s 5.57(b).</p>  | LG Act, s 5.57, 5.82, 5.87A, 5.87B, 5.87C and 5.89A. |

| Term                   | Definition   | Legislation                                   |
|------------------------|--|---|
| <b>Good government</b> | The <i>Local Government Act 1995</i> contains the elements which make up good government in a local government. It can be measured by:<br><br>“the quality of (a) its decision-making, (b) community participation in its decisions and affairs, (c) its accountability to its community, and (d) its efficiency and effectiveness”. <sup>160</sup>  |   |
| <b>Governance</b>      | The structures, rules and processes which direct and control an organisation. <sup>161</sup>   |   |
| <b>Grants</b>          | Money or in-kind contributions allocated by the Council to a recipient for an eligible purpose as part of an approved programme with an outcome which benefits the public.   |   |
| <b>Heritage List</b>   | There is a State Register of Heritage Places, managed by the Heritage Council of WA, and a City of Perth Heritage List managed by the City.  |   |
| <b>Inquiry Panel</b>   | An Inquiry Panel constituted under section 8.16 of the <i>Local Government Act 1995</i> . The Inquiry Panel has the powers of a Royal Commission under the State’s <i>Royal Commissions Act 1968</i> .<br><br>This entity may also be referred to as the Inquiry in this Report.   | LG Act, Part 8, Division 2.                   |
| <b>Interests</b>       |  |   |
| <b>Interest</b>        | A person has an <i>interest</i> in a matter if they have, or if a person with whom they are “ <i>closely associated</i> ” has, a direct or indirect financial interest or proximity interest in the matter<br><br>Council members and employees of the Council are required to disclose an interest when a relevant matter is to be discussed at a Council or committee meeting.<br><br>With some exceptions, a council member making a disclosure of a financial or proximity interest is not permitted to remain in a meeting and vote. <sup>162</sup> | LG Act, s 5.60, 5.63, 5.65, 5.67, 5.68, 5.69. |

| Term                        | Definition   | Legislation   |
|-----------------------------|--|---|
| Interests (contd)           |  |   |
| Closely associated person   | <p>A person will be <i>closely associated</i> with a council member or employee if the person:</p> <ul style="list-style-type: none"> <li>• is in partnership with the council member or employee;</li> <li>• is an employer of the council member or employee;</li> <li>• is a body corporate and the council member or employee: <ul style="list-style-type: none"> <li>– is a director or secretary of the body corporate; or</li> <li>– holds shares in the body corporate exceeding a certain amount;</li> </ul> </li> <li>• is the spouse, de facto partner or child of the council member or employee;</li> <li>• gave the council member a gift or made a contribution to the council member's travel that the council member was required to disclose.</li> </ul> | LG Act, s 5.62.   |
| Financial interest          | A person has a <i>financial interest</i> in a matter if it is reasonable to expect that the matter will result in a financial gain, loss, benefit or detriment for the person.   | LG Act, s 5.60A.  |
| Indirect financial interest | An " <i>indirect financial interest</i> " includes a financial relationship between that person and another person who requires a local government decision in relation to the matter.   | LG Act, s 5.61.   |
| Proximity interest          | <p>A person has a <i>proximity interest</i> in a matter if the matter concerns:</p> <ul style="list-style-type: none"> <li>• a proposed change to a planning scheme affecting land that adjoins the person's land; or</li> <li>• a proposed change to the zoning or use of land that adjoins the person's land; or</li> <li>• a proposed development of land that adjoins the person's land.</li> </ul>  | LG Act, s 5.60B.  |
| Impartiality interest       | <p><i>Impartiality interest</i> is an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.</p> <p>Council members are required to disclose an impartiality interest when a relevant matter is to be discussed at a Council or committee meeting.</p> <p>A council member making a disclosure of an impartiality interest is permitted to remain in that meeting and vote.</p>  | <i>Local Government (Rules of Conduct) Regulations 2007</i> , reg 11. |

| Term  | Definition   | Legislation   |
|---|--|---|
| <b>Key Performance Indicator (KPI)</b>                    | A type of performance measurement (using either qualitative or quantitative data) on the efficiency or effectiveness of activities in achieving purposes. It defines how performance may be measured.  |   |
| <b>Local government</b>                                   | A local government established under the <i>Local Government Act 1995</i> .  |   |
| <b>Local Government Standards Panel (LGSP)</b>            | A government body established under the <i>Local Government Act 1995</i> to make binding decisions to resolve allegations of minor misconduct. It deals with complaints about council members who it is alleged have committed a breach of one or more of the provisions of the <i>Local Government (Rules of Conduct) Regulations 2007</i> .<br><br>The standards panel also has the jurisdiction to deal with misconduct allegations that relate to conduct at meetings under the provisions of a local government's Standing Orders Local Law. <sup>163</sup> | LG Act, Part 5, Division 9.   |
| <b>Lord Mayor</b>   | The person elected by the City's electors to hold the position as the elected leader at the City of Perth. The City of Perth has Western Australia's only Lord Mayor by virtue of it being the capital of the State.<br><br>The Lord Mayor's special role, as distinct from the eight council members, is recognised by section 9(a) and s 10 of the <i>City of Perth Act 2016</i> .   | CoP Act, s 9, 10; LG Act s 2.8, 2.10.   |
| <b>Meetings of council</b>                                | A council is to hold ordinary meetings and may hold special meetings. Procedures apply to the convening of a meeting.  | LG Act, Part 5, Division 2, Subdivisions 1 and 3; <i>Standing Orders Local Law 2009</i> . |
| <b>Motion</b>   | A method of bringing forward at a meeting such business as is advisable, in the form of a motion, of which notice has been given in writing to the CEO.  | LG Act, s 5.122(1), 5.122(2).   |
| <b>Notice to produce a statement of information (SOI)</b> | A written notice requiring a public authority or public officer to produce a statement of information to the Inquiry Panel.  | <i>Royal Commissions Act 1968</i> (RC Act), s 8A.   |
| <b>Notice to produce documents (NPR)</b>                  | A written notice requiring a person to produce documents, books, writings or things to the Inquiry Panel.  | RC Act, s 8B.   |
| <b>Organisational policy</b>                              | Policy statements relevant to corporate administration and operational management of the City.   |   |

| Term                                      | Definition  | Legislation                 |
|---|---|-----------------------------|
| <b>Personal Communication</b>             | Means:<br>(a) communication of information in the form of data, text; or<br>(b) images by means of guided or unguided electromagnetic energy, or both; or<br>(c) a communication of information in the form of sound by means of guided or unguided electromagnetic energy, or both, where the sound is processed at its destination by an automated voice recognition system <sup>164</sup> and includes information transmitted to another person via SMS, MMS, text, WhatsApp, and any other 3rd party platform. |                             |
| <b>Perth Public Art Foundation (PPAF)</b> | A not-for-profit charitable incorporated association established by the City of Perth's Art Foundation, by the City in 1996. <sup>165</sup><br><br>Its objects and purpose are to commission, through a sustainable business model, public artworks to benefit the people of the City of Perth.<br><br>The Foundation is a not-for-profit charity registered and subject to the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cth).  |                             |
| <b>Practice Directions</b>                | The Inquiry's Practice Directions are a publicly available document which provided guidance to witnesses (and others) appearing before the Inquiry, people summonsed or issued with a Notice to Produce documents or a Statement of Information, and other interested persons.  |                             |
| <b>Presiding member</b>                   | The person 'chairing' formal proceedings of the Council or committee meeting.<br><br>This may also be referenced as the "chair" or "chairperson" in this Report.  | LG Act, s 5.12, 5.13, 5.14. |
| <b>Procedural fairness</b>                | The principles of administrative law that require a person or body exercising statutory powers to adopt a fair decision-making procedure.<br><br>The Inquiry afforded procedural fairness to witnesses and people who were potentially the subject of adverse findings in the Report.   |                             |

| Term  | Definition  | Legislation   |
|---|---|---|
| <b>Procurement</b>                                  | Purchase by the City of goods and services.<br>The procurement process is governed by legislation, policy and procedures.   | LG Act, s 3.57;<br><i>Local Government (Functions and General) Regulations 1996</i> , Part 4. |
| <b>Public officer</b>                               | The term <i>public officer</i> is defined in section 1 of the <i>Criminal Code</i> and includes any employee of a local government or any member of the council or a committee of a local government.   | Criminal Code s 1.  |
| <b>Public Sector Commission (PSC)</b>               | The Public Sector Commission is established under section 16(1) of the <i>Public Sector Management Act 1994</i> . The Commission has jurisdiction to investigate suspected minor misconduct by local government employees. <sup>166</sup>   | LG Act, s 3.12(2), 4.63, 4.70, 5.12.  |
| <b>Relevant Persons</b>                             | A relevant person is defined under section 5.74 of the <i>Local Government Act 1995</i> as a person who is a: <ul style="list-style-type: none"> <li>• mayor or president;</li> <li>• council member; and</li> <li>• employee.</li> </ul>   | LG Act, s 5.74.   |
| <b>Returns – Primary Returns and Annual Returns</b> | Council members, the CEO and certain employees are required to disclose information on their financial interests to the City in: <ul style="list-style-type: none"> <li>• a <i>primary return</i>, when they commence holding office or employment at the City; and</li> <li>• <i>annual returns</i>, by 31 August of each year.</li> </ul> Both returns must be completed in a Forms 2 and 3, as prescribed in the <i>Local Government (Administration) Regulations 1996</i> .   | LG Act, Part 5, Division 6, Subdivision 2.  |
| <b>Senior employees</b>                             | Certain employees may be designated as, or belong to, a class of employees who are deemed ‘senior employees’ under the <i>Local Government Act 1995</i> .<br><br>Council Policy “CP 12.6: Staff - Local Government Employees – Senior Employees” (in force during the Inquiry’s Terms of Reference) designated all directors at the City as senior employees.<br><br>Under the <i>Local Government Act 1995</i> , the CEO is to inform the Council of each proposal to employ or dismiss a senior employee, and the Council may accept or reject the CEO’s recommendation. If Council rejects the CEO’s recommendation, it must inform the CEO of its reasons for doing so. | LG Act, s 5.37, 5.78.   |

| Term   | Definition   | Legislation                                     |
|--|--|---|
| <b>Sponsorship</b>   | Money or in-kind contributions allocated by the Council in return for a reciprocal benefit.  |   |
| <b>State Administrative Tribunal (SAT)</b>                     | An independent Western Australian State Government body which reviews a range of administrative decisions, including planning decisions made by local governments and decisions made by the Local Government Standards Panel under the <i>Local Government Act 1995</i> .  | <i>State Administrative Tribunal Act 2004</i> . |
| <b>Tender</b>  | A process by which written quotations are received for work required by the City and are evaluated according to approved criteria. Acceptance of a tender is generally formalised by a contract.   |   |
| <b>Terms of Reference</b>                                      | The instrument that appointed the Inquiry Panel and set out the nature, functions and duration of the Panel.<br><br>Also known as the “ <i>Notice of Appointment of an Inquiry Panel</i> ”. For this Inquiry, it was signed by the Hon David Templeman, MLA on 24 April 2018. There were subsequent notices to amend the time for reporting. | LG Act, s 8.16, 8.17.                           |
| <b>Western Australian Electoral Commission (WAEC)</b>          | A Western Australian State Government agency responsible for maintaining the State electoral roll, conducting elections, and promoting awareness of the electoral process.   |   |
| <b>Western Australian Local Government Association (WALGA)</b> | An independent, membership-based Western Australian association representing and supporting the interests of local governments in Western Australia.   | LG Act, s 9.58.                                 |
| <b>Witness</b>   | A person summonsed under the RC Act to give evidence under oath or affirmation.  | RC Act, s 9, 10, 11.                            |
| <b>WhatsApp</b>  | A text and voice messaging and communication application.  |   |

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- 161 Volume 2: Case studies, Chapter 1.1.5: Good government; Chapter 2.1.2: Culture and governance.
- 162 *Local Government (Rules of Conduct) Regulations 2007*, reg 7, 11; Policy, City of Perth Council Policy Manual, CP10.1 – Code of Conduct, 23 January 2018.
- 163 *Local Government (Miscellaneous Provisions) Act 1960*; Local Government Local By-law (Standing Orders) No. 4. s 16(1).
- 164 *Electronic Transactions Act 2011*, s 5(1).
- 165 Document, Perth Public Art Foundation, Constitution 2016, part 6.
- 166 Misconduct is defined in the *Corruption, Crime and Misconduct Act 2003*, s 4(d).





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Alternative formats of this Report  
are available on request.



# Report of the Inquiry into the City of Perth

An Inquiry under Part 8, Division 2  
*Local Government Act 1995*

2



## Acknowledgment of Country

The Western Australian Government proudly acknowledges the Traditional Owners and recognises their continuing connection to their lands, families and communities.

We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past, present and emerging.

The first step in living alongside and working with the Aboriginal community is built upon establishing respectful relationships. Crucial to these respectful relationships is acknowledging the history of Aboriginal people and recognising the importance of connection to family, culture and country.

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Published by the Department of Local Government, Sport and Cultural Industries, Western Australia, 30 June 2020.

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# Volume 2

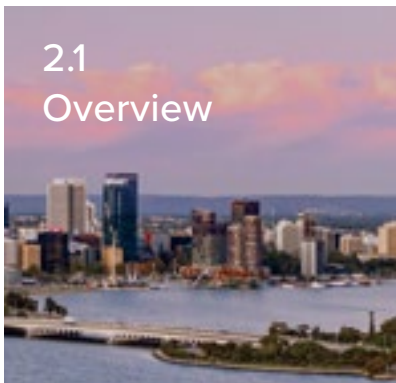
## Case Studies

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# Volume 2

The case studies in this Volume explain what the Inquiry found in its investigation.

## 2.1 Overview



## 2.2 Community Leadership

This Part examines decisions of the City of Perth Council and actions of individual council members.



### 2.1.1 Key events and people

This Chapter identifies the key people, and their roles, at the City of Perth (City) during the Inquiry period, as well as the significant events between 2015 and 2018. These people included council members and senior City officers.

### 2.1.2 Culture and governance

This Chapter explains the culture and governance of the City and how this affected the way the City operated. 'Governance' refers to the systems and processes of an organisation, while the 'Culture' is how things are actually done.

### 2.2.1 Local government elections

Elections are the foundation of democracy. This Chapter examines in depth how some candidates interfered with election processes for the position of councillor, and subverted the democratic process.

### 2.2.2 Decision-making

The City of Perth Council (Council) made many important decisions which affected the lives of people who lived in, worked in or visited the City. Among the most important of these were planning decisions. The sections in this Chapter examine decision-making by the Council in relation to three situations in which information obtained by the Inquiry suggests that decisions may have been made for the wrong reasons, including to advance the personal interests of council members.

### 2.2.3 Disclosure, personal interest and entitlements

The sections in this Chapter examine:

- failure by some council members to disclose their financial or other interests;
- misuse by some council members of entitlements which were available to assist them in their official role, including use of the Council dining room and reimbursement for costs associated with restaurants, clothes and dry cleaning; and
- misuse by a council member of her official title, office, business cards, email and the dining room for private business purposes.

### 2.2.4 Grants and sponsorship

The Council allocated millions of dollars each year to community associations and events through sponsorships, grants and donations. Naturally, there were risks.

Two risks examined in this Chapter are whether:

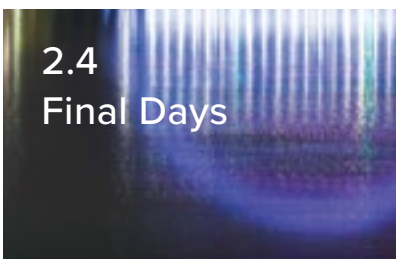
- council members received gifts, including tickets to events, from sponsored organisations and then made decisions about funding for those organisations; and
- council members attempted to ensure the City allocated money to organisations and events with which they had a personal connection.

## 2.3 Administrative Leadership

This Part examines matters affecting the Administration of the City. The Administration consisted of the CEO, senior officers and employees.



## 2.4 Final Days



### 2.3.1 Chief Executive

The Chief Executive Officer (CEO) is the leader of the Administration.

The Council is responsible for appointing the CEO, for performance management of the CEO and, if necessary, for terminating the employment of the CEO. The CEO is responsible for implementing decisions of the Council and employing all other staff.

At the same time, the CEO is also responsible for keeping council members 'in line' and, if necessary, for reporting them to the Corruption and Crime Commission or the Local Government Standards Panel.

This Chapter examines the role of the CEO, through events surrounding the termination of the employment of a CEO by the Council, and the appointment of the subsequent CEO.

### 2.3.2 People management

This Chapter considers aspects of human resources and workforce management by the City. The sections in this Chapter examine examples of recruitment, probation and performance and termination of employment, which may not have been properly conducted, or where there may have been inappropriate interference by council members. The City's investigation of complaints and grievances is also examined.

### 2.3.3 Financial management and planning

A local government plans and manages significant programmes and finances on behalf of its community. They must sustainably and holistically plan for the future. Financial management and planning systems and processes are among the most important elements of governance for the City.

This Chapter identifies weaknesses in systems, capability and processes, and how these are being, and can be, addressed. It also examines:

- the City's integrated planning and reporting framework,
- the City's financial position and its financial management practices; and
- a partnership arrangement between the City and a not-for-profit organisation, involving significant funding.

### 2.3.4 Procurement and contracting

The sections in this Chapter examine five specific procurement exercises conducted by the City in which the consequences of failing to follow appropriate procedures ranged from unauthorised expenditure and undeclared conflicts of interest to manipulation of tender documents to the detriment of a tenderer.

This Chapter also provides examples of allegations about serious misconduct by employees which were not appropriately dealt with by the City.

### 2.4.1 Events leading to the suspension of the Council

This Chapter describes events within the Council and Administration of the City at the end of 2017, and the beginning of 2018, which led to calls from council members, the CEO and senior officers for intervention. The level of dysfunction and lack of good government within the City caused the Minister for Local Government to suspend the Council on 2 March 2018.



The investigative processes used by the Inquiry are described in Chapter 1.1.3: About the Inquiry.

# 2.1

## Overview





## 2.1.1 Key events and people

The City of Perth (City) is the State's capital city local government. The City and its Council hold a special status, afforded by its own legislation.

---

The City, its leaders, both the Council and the Administration, and its people should embody an exemplar local government.

The City should lead and demonstrate to the community all the aspects of 'good government'.

However, this was not the case. In March 2018, the Minister for Local Government suspended the Council of the City of Perth, because the City had ceased to function properly.

The City had a history, in the three years prior, of significant dysfunction, cultural issues and failings in governance. On several occasions, individuals put self-interest before their statutory role and service to the community.

Issues were not just limited to the Council. The Administration failed too. It was siloed, there was poor morale, inefficiencies and claims of bullying.

The position of Chief Executive Officer (CEO) became a focal point. Council members and senior staff were factionalised and were working against each other. In their own words, there was *"defensiveness"*, *"stonewalling"*; *"dishonesty/anxiety/no leadership"*, *"Butt covering"*, *"Attacking"*, *"Self-centred"*, *"No accountability"*, and *"Game playing"*.

Following the 2017 local government election, there was a new majority on Council.

On 27 February 2018, it all came to a head, with a Special Council Meeting called by the new majority to amend a Council Policy and appoint a different Acting CEO. Earlier in the day, a group of senior staff, tried to take control of the City by activating the City's Crisis Management Plan at Priority 1 – even though there was no crisis.

To understand how the City fell apart like this, it is worth understanding the events which led to it, and who was involved, the City's prevailing culture and the governance arrangements that should have prevented the failings that have been identified in this Report.

# Key events

On 2 March 2018, the Minister for Local Government; Heritage; Culture and the Arts, Hon David Templeman MLA announced the suspension of the Council of the City of Perth. This timeline sets out the key events leading to the suspension of the Council.

## 2015



**30 April**

Council endorsed an organisational restructure programme called *The New City of Perth* initiated by the Chief Executive Officer (CEO), Mr Gary Stevenson.



**26 August**

The CEO, Mr Stevenson referred a *Report on Gifted Travel* to the Crime and Corruption Commission (CCC).



**5 October**

The CCC issued a *Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth*.



**17 October**

Ordinary Local Government election.



**Elected Lord Mayor**

Ms Lisa Scaffidi

**Elected Councillors**



Mr Jim  
Adamos



Ms Janet  
Davidson



Ms Lily  
Chen



Dr Jemma  
Green



**22 October**

Ordinary Council Meeting.



**Elected Deputy Lord Mayor**

Mr James Limnios

## 2016



**14 January**

Mr Stevenson provided Ms Scaffidi with his *Report on Gifted Travel*.



**20 January**

Special Council Meeting.



**CEO employment terminated**

Mr Gary Stevenson



**Appointed Acting CEO**

Mr Martin Mileham



**4 March**

The *City of Perth Act 2016* came into operation.



**11 May**

A report by the Department of Local Government, Sport and Cultural Industries (Department) into receipt of gifts and travel by Ms Scaffidi found that she had committed 44 breaches of the *Local Government Act 1995* for failing to disclose gifts and contributions to travel, and one breach for failing to lodge an annual return by the required date.



**3 October**

Mr Mileham commenced as CEO of the City on a five-year contract.



**31 October**

The Local Government Standards Panel (LGSP) found that council members Ms Scaffidi, Ms Davidson and Ms Judy McEvoy breached regulations relating to a vote of no confidence against the Deputy Lord Mayor, Mr Limnios, at a Council Meeting on 17 May 2016.



The situation at the City of Perth has become untenable and I have formed a view that if I do not intervene I am failing in my responsibilities as Minister ...

Hon David Templeman MLA

## 2017



9 May

State Administrative Tribunal (SAT) found that Ms Scaffidi “committed 45 serious breaches of her reporting obligations under the Local Government Act 1995”.



4–7 September

SAT disqualified Ms Scaffidi from office for 18 months from midnight 7 September 2017. Ms Scaffidi appealed to the Supreme Court. The Court of Appeal stayed the SAT disqualification of Ms Scaffidi until the determination of her appeal. Ms Scaffidi stood aside as Lord Mayor pending the decision.



21 October

Ordinary Local Government election.

### Elected Councillors



Mr Steve Hasluck



Ms Lexi Barton



Mr James Limnios



Mr Reece Harley



24 October

Ordinary Council Meeting.



**Elected Deputy Lord Mayor**  
Dr Jemma Green



9 November and 28 November

Dr Green met with representatives from Herbert Smith Freehills Lawyers (HSF) and provided information containing allegations that Mr Mileham and Ms Scaffidi had offered an inducement to Mr Adrian Fini, a property developer. The HSF investigation was called ‘Project Percy’.



1 December

The Court of Appeal dismissed 26 of the 45 breaches alleged against Ms Scaffidi, and found that 19 breaches were established.

## 2018



8 January

Ms Scaffidi resumed the duties of Lord Mayor.



An Authorised Inquiry was commenced by the Department into gifts and benefits received by council members at the City.



29 January

HSF provided its investigation report on ‘Project Percy’ to the City.



12 February

The CEO, Mr Mileham, supported by the Executive Leadership Group (Group), wrote to the Director General of the Department, expressing concerns about dysfunction in the City, including council members’ involvement in administration of the City.



16 February

Mr Mileham took personal leave, citing health issues caused by the Council.



**Appointed Acting CEO**  
Mr Robert Mianich



22 February

Mr Mianich sent complaints about council members, Dr Green and Mr Harley to the LGSP alleging interference in the administration of the City.



24 February

Mr Mianich was requested by a group of council members to convene a Special Council Meeting on 27 February 2018 for the purpose of changing Council policy so that the Council could appoint an Acting CEO.



26 February

Mr Mianich took personal leave for health reasons and also said “... the environment at work is not safe at present”.



27 February

Three directors activated the City’s Crisis Management Plan.



Special Council Meeting.  
**Appointed Acting CEO**  
Ms Annaliese Battista

## Key people

This identifies the key people, and their roles, at the City of Perth (City) during the period of the Inquiry's Terms of Reference, 1 October 2015 to 1 March 2018 (Inquiry period). These people included council members (Lord Mayor and councillors) and senior City officers (including the Executive Leadership Group (ELG)).

People identified in this Section appeared as witnesses before the Inquiry.

The City of Perth Council (Council) had a number of committees.

These Council committees were operating during the Inquiry period:

- Marketing, Sponsorship and International Engagement Committee (MSIE Committee);
- Works and Urban Development Committee;
- Finance and Administration Committee;
- Planning Committee;
- Audit and Risk Committee; and
- Chief Executive Officer (CEO) Performance Review Committee.

Council members were appointed to these committees at a Special Council Meeting held soon after each local government election. During the Inquiry period, these meetings were held on:

- 22 October 2015; and
- 24 October 2017.

Each committee had a membership of three council members and two deputies, with the exception of the CEO Performance Review Committee on 24 October 2017 when all council members were appointed to it. The committee memberships listed in this Section do not include the deputies.

At these meetings, the Deputy Lord Mayor was elected and appointments of council members to other external bodies occurred. These are not listed here, but where membership of an external body is relevant to issues examined by the Inquiry, they are identified in the relevant chapter of this Report.

### Council member (Lord Mayor), City of Perth



#### Ms Lisa-Michelle (Lisa) Scaffidi

Lord Mayor – 20 October 2007 to 19 October 2019

Councillor – 8 July 2000 to 19 October 2007

Ms Scaffidi was elected as a councillor of the City on 8 July 2000 and served two terms before being elected Lord Mayor on 20 October 2007.

Ms Scaffidi was re-elected as Lord Mayor in 2011 and 2015. Her third term as Lord Mayor commenced on 17 October 2015 and expired on 19 October 2019. Ms Scaffidi was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018.

On 31 October 2016, the Local Government Standards Panel (LGSP) found that Ms Scaffidi breached regulation 7(1)(b) of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations) at an Ordinary Council Meeting on 17 May 2016, by allowing “*Councillor Janet Davidson to move a motion of no confidence in the Deputy Lord Mayor, Councillor James Limnios, as a matter of urgent business to be considered by Council without notice to the Deputy Lord Mayor or other councillors, thereby making improper use of her office as a council member to cause detriment to the Deputy Lord Mayor*”. On 20 March 2017, the LGSP censured Ms Scaffidi for this breach.

On 4 September 2017, the State Administrative Tribunal (SAT) made an order that Ms Scaffidi be disqualified from holding office as a member of Council for 18 months, commencing at midnight on 7 September 2017. SAT determined that Ms Scaffidi committed 45 serious breaches of sections 5.76 and 5.78 of the *Local Government Act 1995* (LG Act) – “*who failed to comply with her statutory obligations to lodge an annual return and to disclose relevant gifts and contributions to travel, thereby committing multiple serious breaches of her reporting obligations*”.

That order was stayed by the Western Australian Court of Appeal on 7 September 2017. Ms Scaffidi stood aside as Lord Mayor on 7 September 2017 pending a Court of Appeal decision. In early December 2017, the Court of Appeal set aside the SAT order. It dismissed 26 of the 45 breaches alleged against Ms Scaffidi, and found that 19 breaches were established. It then remitted the matter to SAT for re-consideration.<sup>a</sup> Ms Scaffidi returned to her duties as Lord Mayor on 8 January 2018.

Ms Scaffidi was appointed to the following Council committees:

#### 22 October 2015

- Works and Urban Development Committee;
- Audit and Risk Committee; and
- CEO Performance Review Committee.

#### 24 October 2017

- CEO Performance Review Committee.

<sup>a</sup> On 24 July 2018, the State Administrative Tribunal ordered that Ms Scaffidi be suspended from office for a “total effective” period of seven months – commencing within three days of the date of the order.

### Council members (councillors), City of Perth



#### Mr Jimmy (Jim) Adamos

Councillor – 15 October 2011 to 19 October 2019

Mr Adamos was elected as a councillor of the City on 15 October 2011 and re-elected on 17 October 2015, until 19 October 2019. Mr Adamos was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018.

Mr Adamos was appointed to the following Council committees:

#### 22 October 2015

- Planning Committee.

#### 24 October 2017

- Planning Committee; and
- CEO Performance Review Committee.



#### Ms Alexis (Lexi) Louise Foster Barton

Councillor – 21 October 2017 to 30 January 2020

Ms Barton was elected as a councillor of the City on 21 October 2017, until 16 October 2021. Ms Barton was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018. On 30 January 2020, His Excellency the Governor revoked the 2018 “*Suspension and Appointment Order*” and issued a “*Declaration of Vacancies ... Order*”, which declared the “*remaining [four] offices of elected members of the council of the City of Perth*” vacant, including the office of councillor held by Ms Barton.

Ms Barton was appointed to the following Council committees:

#### 24 October 2017

- MSIE Committee; and
- CEO Performance Review Committee.

## Council members (councillors), City of Perth



### Mr Robert (Rob) John Butler

Councillor – 3 May 2003 to 17 October 2015

Deputy Lord Mayor – 22 October 2013 to 17 October 2015

Mr Butler was elected as a councillor of the City on 3 May 2003, and was appointed Deputy Lord Mayor by the Council on 22 October 2013, an office which he held until 17 October 2015. He was not re-elected at the October 2015 local government elections.

Mr Butler was a member of the following Council committees:

#### Until 17 October 2015

- Finance and Administration Committee;
- Planning Committee; and
- Audit and Risk Committee.



### Ms Lily Chen

Councillor – 15 October 2011 to 19 October 2019

Ms Chen was elected as a councillor of the City on 15 October 2011 and was re-elected on 17 October 2015. Ms Chen was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018. Ms Chen's term of office expired on 19 October 2019.

Ms Chen was appointed to the following Council committees:

#### 22 October 2015

- MSIE Committee; and
- Finance and Administration Committee.

#### 24 October 2017

- MSIE Committee;
- Works and Urban Development Committee; and
- CEO Performance Review Committee.

## Council members (councillors), City of Perth



### Ms Janet Elizabeth Davidson OAM

Councillor – 14 February 1998 to 27 May 2019

Deputy Lord Mayor – 2009 and 2011 to 2013

Ms Davidson was elected as a councillor of the City on 14 February 1998 and re-elected on 1 May 1999 and at subsequent elections. She was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018. Ms Davidson's term of office was due to expire on 19 October 2019, but she resigned on 27 May 2019.

On 31 October 2016, the LGSP found that Ms Davidson breached regulation 7(1)(b) of the Conduct Regulations at an Ordinary Council Meeting on 17 May 2016, by making *“improper use of her office as a council member to cause detriment to the Deputy Lord Mayor, Councillor James Limnios, by: (i) seeking the Lord Mayor's approval to move a motion of no confidence in the Deputy Lord Mayor as a matter of urgent business to be considered by Council without notice to the Deputy Lord Mayor or other councillors; and (ii) moving the motion of no confidence as a matter of urgent business to be considered by Council without notice to the Deputy Lord Mayor or other councillors”*. On 20 March 2017, the LGSP censured Ms Davidson for this breach.

Ms Davidson served as Deputy Lord Mayor in 2009 and during the period 2011 to 2013.

Ms Davidson was appointed to the following Council committees:

#### 22 October 2015

- Finance and Administration Committee;
- Audit and Risk Committee; and
- CEO Performance Review Committee.

#### 24 October 2017

- Finance and Administration Committee;
- Planning Committee;
- Audit and Risk Committee; and
- CEO Performance Review Committee.

## Council members (councillors), City of Perth



### Dr Jemma Marie Green

Councillor – 17 October 2015 to 19 October 2019

Deputy Lord Mayor – 24 October 2017 to 19 October 2019

Dr Green was elected as a councillor of the City on 17 October 2015 and appointed Deputy Lord Mayor by the Council on 24 October 2017. At that time, owing to the absence of the Lord Mayor, Dr Green was empowered to perform the functions of the Lord Mayor pursuant to section 5.34 of the LG Act, until the return of Ms Scaffidi to duties as Lord Mayor on 8 January 2018. Dr Green was suspended when the Minister suspended the Council on 2 March 2018. Dr Green's term of office as councillor expired on 19 October 2019.

Dr Green was appointed to the following Council committees:

#### 22 October 2015

- Audit and Risk Committee.

#### 24 October 2017

- Finance and Administration Committee;
- Audit and Risk Committee; and
- CEO Performance Review Committee.



### Mr Reece James Harley

Councillor – 19 October 2013 to 30 January 2020

Mr Harley was elected as a councillor of the City on 19 October 2013. He was re-elected on 21 October 2017, until 16 October 2021. Mr Harley was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018. On 30 January 2020, His Excellency the Governor revoked the 2018 *"Suspension and Appointment Order"* and issued a *"Declaration of Vacancies ... Order"*, which declared the *"remaining [four] offices of elected members of the council of the City of Perth"* vacant, including the office of councillor held by Mr Harley.

Mr Harley was appointed to the following Council committees:

#### 22 October 2015

- Finance and Administration Committee.

#### 24 October 2017

- Works and Urban Development Committee;
- Finance and Administration Committee;
- Audit and Risk Committee; and
- CEO Performance Review Committee

## Council members (councillors), City of Perth



### Mr Steven (Steve) Jeffrey Hasluck

Councillor – 21 October 2017 to 30 January 2020

Mr Hasluck was elected as a councillor of the City on 21 October 2017, until 16 October 2021. Mr Hasluck was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018. On 30 January 2020, His Excellency the Governor revoked the 2018 *“Suspension and Appointment Order”* and issued a *“Declaration of Vacancies ... Order”*, which declared the *“remaining [four] offices of elected members of the council of the City of Perth”* vacant, including the office of councillor held by Mr Hasluck.

Mr Hasluck was appointed to the following Council committees:

#### 24 October 2017

- MSIE Committee;
- Planning Committee; and
- CEO Performance Review Committee.



### Mr Dimitrios Athanasios (James) Limnios

Councillor – 17 October 2009 to 30 January 2020

Deputy Lord Mayor – 22 October 2015 to 21 October 2017

Mr Limnios was elected as a councillor of the City on 17 October 2009 and re-elected on 19 October 2013 and 21 October 2017, until 16 October 2021. He was appointed Deputy Lord Mayor by the Council on 22 October 2015, until 21 October 2017. Mr Limnios was suspended from this position when the Minister for Local Government suspended the Council on 2 March 2018. On 30 January 2020, His Excellency the Governor revoked the 2018 *“Suspension and Appointment Order”* and issued a *“Declaration of Vacancies ... Order”*, which declared the *“remaining [four] offices of elected members of the council of the City of Perth”* vacant, including the office of councillor held by Mr Limnios.

Mr Limnios was appointed to the following Council committees:

#### 22 October 2015

- MSIE Committee;
- Works and Urban Development Committee; and
- CEO Performance Review Committee.

#### 24 October 2017

- Works and Urban Development Committee; and
- CEO Performance Review Committee.

## Council members (councillors), City of Perth



### Ms Judith (Judy) Sabina McEvoy

Councillor – 3 May 1997 to 21 October 2017

Ms McEvoy was elected as a councillor of the City on 3 May 1997 and continued as councillor until 21 October 2017. She was not re-elected at the October 2017 local government elections.

On 31 October 2016, the LGSP found that Ms McEvoy breached regulation 7(1)(b) of the *Conduct Regulations* at an Ordinary Council Meeting on 17 May 2016 by seconding “*Councillor Janet Davidson’s motion of no confidence in the Deputy Lord Mayor, Councillor James Limnios, the motion having been moved as a matter of urgent business to be considered by Council without notice to the Deputy Lord Mayor or other councillors. In seconding the motion Councillor McEvoy made improper use of her office as a council member to cause detriment to the Deputy Lord Mayor*”. On 20 March 2017, the LGSP censured Ms McEvoy for this breach.

Ms McEvoy was appointed to the following Council committees:

#### 22 October 2015

- Works and Urban Development Committee; and
- Planning Committee.



### Mr Yit-Kee (Keith) Yong

Councillor – 19 October 2013 to 21 October 2017

Mr Yong was elected as a councillor of the City on 19 October 2013 and continued as councillor until 21 October 2017. He was not re-elected at the October 2017 local government elections.

Mr Yong was appointed to the following Council committees:

#### 22 October 2015

- MSIE Committee; and
- Planning Committee.

### Chief Executive Officers, City of Perth



#### **Mr Gary John Stevenson**

29 October 2012 to 20 January 2016

Prior to commencing as CEO of the City on 29 October 2012, Mr Stevenson held numerous senior local government positions in Queensland.

The Council terminated the employment of Mr Stevenson as CEO, effective 20 January 2016.



#### **Mr Martin Nicholas Mileham**

20 January 2016 to 29 October 2018 — substantive from 3 October 2016

Mr Mileham commenced employment at the City on 3 September 2012 as Director, Planning and Development. On the termination of the employment of Mr Gary Stevenson as CEO on 20 January 2016, Mr Mileham was appointed Acting CEO, a position he was substantively appointed to from 3 October 2016.

The City of Perth Commissioners, who were appointed on 2 March 2018, terminated the employment of Mr Mileham as CEO on 29 October 2018.



#### **Mr Murray Alan Jorgensen**

19 November 2018, *in situ* at 30 June 2020

Mr Jorgensen was appointed Acting CEO of the City on 19 November 2018. He became substantive CEO from 27 November 2018. His contract was extended until 1 August 2020.

### Executive Leadership Group, City of Perth



#### **Ms Erica Margaret Barrenger**

Director, Planning and Development

2 May 2016 to 21 December 2018

Ms Barrenger commenced employment at the City on 2 November 2015 as Manager, Co-ordination and Design. On 2 May 2016, Ms Barrenger was appointed Acting Director, Planning and Development – substantive from 5 July 2017 (by contract, due to expire on 5 July 2022). Ms Barrenger was Acting CEO of the City from 12 October 2018 until 19 November 2018.

Ms Barrenger resigned from her position as Director, effective 21 December 2018.

## Executive Leadership Group, City of Perth

**Ms Annaliese Maria Battista**

Director, Economic Development and Activation  
16 May 2016 to 22 June 2018

Ms Battista commenced employment at the City on 20 October 2015 as Manager, Communications and Engagement (and on 23 February 2016, became Manager, Marketing and Communications). On 16 May 2016, Ms Battista was appointed to the position of Acting Director, Economic Development and Activation – substantive from 5 July 2017 (by contract, due to expire on 5 July 2022). On 27 February 2018, Ms Battista was appointed Acting CEO of the City, until 5 March 2018.

Ms Battista resigned from her position as Director, effective 22 June 2018.

**Mr Michael James Carter**

Director, Economic Development and Activation  
21 September 2015 to 26 February 2016

Mr Carter was the inaugural Director, Economic Development and Activation. He was appointed on 21 September 2015, for a period of five years, until 25 September 2020.

Mr Carter's employment by the City ended effective 26 February 2016.

**Mr Luciano Paola (Paul) Crosetta**

Director, Construction and Maintenance  
11 August 2015 to 5 July 2019

Mr Crosetta commenced employment at the City on 11 August 2015 as Director, Construction and Maintenance (by contract, due to expire on 11 August 2020).

Mr Crosetta resigned from his position as Director, effective 5 July 2019.

**Mr Robert David Mianich**

Director, Corporate Services  
7 November 2005 to 1 July 2019

Mr Mianich commenced employment at the City on 7 November 2005 as Director, Corporate Services. Mr Mianich was appointed Acting CEO of the City during the periods 16 to 26 February 2018, 31 August 2018 to 27 September 2018 and 1 October 2018 to 11 October 2018.

Mr Mianich resigned from his position as Director, effective 1 July 2019.

### Executive Leadership Group, City of Perth



**Ms Rebecca Therese Moore**

Director, Community and Commercial Services  
7 September 2015 to 5 July 2019

Ms Moore commenced employment at the City on 7 September 2015 as Director, Community and Commercial Services (by contract, due to expire on 31 August 2020). Ms Moore was appointed Acting CEO of the City during the period 8 August 2017 to 22 August 2017.

Ms Moore resigned from her position as Director, effective 5 July 2019.

### City officer, City of Perth



**Mr Mark Hunter Ridgwell**

Manager, Governance  
22 October 2013 to 3 April 2020

Mr Ridgwell commenced employment at the City on 22 October 2013, as Manager, Governance. Mr Ridgwell was Acting Director Corporate Services during the period 27 February 2018 to 9 March 2018.

Mr Ridgwell resigned from his position as Manager, Governance, effective 3 April 2020.

### Chair Commissioner, City of Perth



**Mr Andrew Charles Hammond**

Commissioner of the City of Perth – 2 March 2018 to 8 August 2019  
Chair Commissioner – 9 August 2019, *in situ* at 30 June 2020

On 2 March 2018, Her Excellency the Governor ordered the suspension of the Council, and the appointment of three Commissioners, Mr Eric Lumsden AM, Ms Gaye McMath and Mr Hammond. In accordance with section 2.38(1) of the LG Act, the role of a Commissioner “... *is to exercise the powers and discharge the duties of the council of the local government and its mayor or president*”.

On 9 August 2019, Mr Hammond was appointed as Chair Commissioner until 17 October 2020, being the date of the local government election to fill the vacant offices of Council.

## 2.1.2 Culture and governance

The dysfunction and failures at the City of Perth (City) were caused by a combination of factors relating to the organisation and to the people.

As explained in Chapter 1.1.5: **Good government**, the Inquiry has identified two core themes:

- **Culture:** The norms of behaviour for individuals and groups that affected the functioning of the City, relationships, and ultimately, decision-making.
- **Governance:** The legislation, policies, processes and systems established for making and implementing decisions. It also refers to the way in which the City of Perth Council (Council), the Chief Executive Officer (CEO) and City employees, individually and collectively, fulfilled their responsibilities and were accountable for their decisions.

Essentially, governance guides *the way things should be done*, while culture is *the way things are done around here*.

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### Overview

The Inquiry has examined:

- the adequacy of governance arrangements;
- the prevailing culture of the Council and the Administration (that is, the CEO, the Executive Leadership Group (ELG) and other employees) including interactions between the groups and within them;
- the effect of culture on governance practices; and
- the impact of deficiencies in governance and/or culture on the ability of the Council and Administration to make decisions, to encourage community participation in decision-making, to be accountable to the community, and to be responsible for the City's efficiency and effectiveness.

### Culture

The Inquiry has identified instances where, because of the prevailing culture of the organisation, or of a group within the organisation, good governance practices were not followed, or were deliberately ignored. This reduced the City's ability to deliver good government.

The Culture Section examines the culture of the City, including that of the Council, the ELG and other employees of the Administration. Relationships between and within these groups is also considered. Other chapters within this Volume provide instances of behaviour which was driven by cultural norms instead of sound governance practices.

## Governance

Culture was not the only cause of dysfunction. There were also numerous instances of governance failures across the Council and Administration, including:

- lack of understanding of, and compliance with, legislative and procedural obligations;
- policy and procedures that were not current, or were inconsistent or lacking;
- weaknesses in the City's control framework for managing and mitigating risk, including fraud and misconduct detection;
- a need for better internal auditing, which forms part of the 'lines of defence model';<sup>1</sup>
- inability to identify, declare and manage interests and conflicts;
- poor complaint handling and investigation processes;
- lack of capacity to deliver quality and timely performance information to enable sound decision-making; and
- poor or non-existent record-keeping.

The Governance Section provides an overview of the governance framework that existed at the City during the Inquiry period. It identifies aspects of the City's governance structures and highlights areas that the Inquiry considers significant, including:

- Planning, monitoring and reporting, including the 'lines of defence' model.
- Accountability features, including:
  - conflicts of interest;
  - records management;
  - complaint and allegation handling; and
  - misconduct management.

## Key aspects of the City of Perth's culture and governance

### Structure

The role of the Council is to be the governing body of the City.<sup>2</sup> It governs the City's affairs and is responsible for the performance of the City's functions, including by overseeing the allocation of its finances and resources and determining its policies.<sup>3</sup> It consists of nine elected council members, the Lord Mayor and eight councillors.

The Administration of the City consists of the employees who support the Council, implement the decisions of the Council and provide services to the ratepayers of the City, to the businesses which operate in the City and to visitors to the City. The CEO is the person charged with ensuring that the decisions of the Council are properly implemented by the Administration and managing the day-to-day operations of the City.<sup>4</sup>

## Leadership

Leadership behaviour is best demonstrated from the top of an organisation downwards. It influences an organisation's culture and governance. An organisation's employees rely on their leaders to lead by example.<sup>5</sup> They should motivate and develop people.

Those in leadership roles play a critical part in establishing direction and shaping strategic thinking, setting culture, implementing governance, communicating effectively, supporting productive and collaborative working relationships, driving change and exemplifying personal integrity. All of these things promote the outcomes and results sought by the organisation and benefit those it serves, namely, the constituents of the City.<sup>6</sup>

An effective leader looks beyond the immediate-term and beyond his or her own organisational unit to build long-term capability and strategy for the organisation.<sup>7</sup>

The City has two significant leadership positions. The Lord Mayor, as the leader of the Council, and the CEO, as the leader of the Administration. During the Inquiry period, Ms Lisa Scaffidi was the Lord Mayor and Mr Gary Stevenson and Mr Martin Mileham were the CEOs. Mr Stevenson was the CEO for the first four months of the Inquiry period.

The Lord Mayor occupies a special role, which carries additional responsibilities. The Lord Mayor, among other things, is to provide leadership and guidance to the Council, preside over all Council meetings, speak on behalf of the City and liaise with the CEO on the City's affairs and the performance of its functions.<sup>8</sup> This requires the Lord Mayor to model good behaviour and ethics. The Lord Mayor should facilitate inclusive decision-making by Council and encourage all points of view to be expressed and respected, to enable conflict and differing views within Council to be managed constructively.<sup>9</sup>

It was Ms Scaffidi's role as Lord Mayor to lead and guide the Council. It required her to lead the whole of the Council in performing its duties. It was not her role to lead only some council members and exclude others. The Lord Mayor's role required Ms Scaffidi to lead and guide the whole team, not divide it.

It was the CEO's role to efficiently and effectively implement the decisions of the Council. The CEO and the Lord Mayor were the direct conduit between the Council and the Administration. Both positions required responsible, strong and principled leaders, exemplifying the importance of, and practising, good governance. Each needed to lead by example.

During the Inquiry's Terms of Reference, the City had an ELG which consisted of the CEO and a number of directors. Each of the directors was responsible for a different directorate in the City. Each directorate carried out different aspects of the City's functions and operations: Planning and Development; Construction and Maintenance; Community and Commercial Services, Corporate Services and Economic Development and Activation.

## Culture

An organisation's culture is *"the shared values and beliefs that guide how members of that organisation approach their work and interact with each other"*. It is manifested through the *"behaviours, customs and practices"* that are collectively displayed. The custodians of organisational culture are the leaders, employees, the community and other stakeholders, who all have a role in shaping culture.<sup>10</sup>

A *"functional culture"* is one with strong alignment between individual values and the values the organisation requires to succeed. When organisational cultures are dysfunctional, people become disengaged, and serious underperformance becomes a risk. Ultimately, *"an organisation with a dysfunctional culture is at a higher risk of failing in its role by neglecting the expectations of its stakeholders and those that rely on the service it provides"*. This can also have serious consequences in relation to maintaining public trust and integrity and implementing change.<sup>11</sup>

### Conduct required of council members and employees

During the Inquiry period the City of Perth (City) had a *"Code of Conduct"*, which council members and the Administration were required to follow. The Code of Conduct was endorsed by City of Perth Council (Council) and was Council Policy CP10.1.<sup>12</sup> It articulated the values and ethics of the City.

These values were:

|                                 |  |
|---------------------------------|--|
| <b>1. Trust and Respect</b>     | <ul style="list-style-type: none"> <li>• Be Honest</li> <li>• Keep your promises</li> <li>• Respect others</li> <li>• Be fair</li> <li>• Support each other</li> <li>• Appreciate each other's contributions</li> <li>• Recognise that we are all different</li> <li>• Share information and communicate openly</li> </ul> |
| <b>2. Strive for excellence</b> | <ul style="list-style-type: none"> <li>• Do your best</li> <li>• Be enthusiastic</li> <li>• Be outcome-focussed</li> <li>• Take ownership (be accountable and responsible)</li> <li>• Take pride</li> </ul>  |
| <b>3. Be Creative</b>           | <ul style="list-style-type: none"> <li>• Look for new ways</li> <li>• Think laterally</li> <li>• Seek opportunities</li> <li>• Be flexible and adaptive</li> <li>• Be receptive to ideas and feedback</li> </ul>   |

A set of ethical principles were also prescribed:<sup>13</sup>

|                            |  |
|----------------------------|--|
| <b>Justice</b>             | <p>A responsibility to:</p> <ul style="list-style-type: none"> <li>• be fair and equitable in our treatment of others, not treating people as a means to an end;</li> <li>• use and share power for the common good of both individuals and society; and</li> <li>• avoid discrimination, abuse or exploitation of others.</li> </ul>  |
| <b>Respect for persons</b> | <p>A responsibility to:</p> <ul style="list-style-type: none"> <li>• respect the rights of individuals and groups allowing them their opinion and their right to be different;</li> <li>• enable and empower others to achieve their potential by promoting their physical, mental and social wellbeing; and</li> <li>• encourage honest working relationships by being truthful and sincere when dealing with others.</li> </ul>  |
| <b>Responsible Care</b>    | <p>A responsibility to:</p> <ul style="list-style-type: none"> <li>• contribute to the wellbeing of individuals and society by exercising due diligence and a duty of care to others;</li> <li>• treat others as they would like to be treated, doing good and not doing harm;</li> <li>• uphold the rights of those who are unable to do so, advocating for others where required; and</li> <li>• protect and responsibly manage the resources of the City of Perth.</li> </ul> |

In addition, principles governing the behaviour of council members were set out in regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations).

The legislative framework for local government not only required principled and ethical behaviour from council members and employees, it also required a separation of their functions and powers.<sup>14</sup> The Conduct Regulations contain sections entitled “*Prohibition against involvement in administration*” and “*Relations with local government employees*”, which prohibit council members from undertaking “*a task that contributes to the administration of the local government*”, or attempting to direct or influence a local government employee.<sup>15</sup>

There are good reasons for this demarcation of roles and responsibilities. Council members are elected to office to represent the interests of the local community as a whole.<sup>16</sup> It is not necessary for them to have the experience, or the expertise, to do all of those things which the City, as a local government, must do. The experience and expertise to undertake the functions, and provide the services, of the City is held by its employees.

The potential danger in council members becoming involved in the day-to-day operations of the City is that, lacking the relevant experience or expertise, they may act on wrong considerations or act inappropriately, resulting in the Administration not properly discharging its roles and functions.<sup>17</sup>

### Dysfunction at the City of Perth

By March 2018, when the Council was suspended, the City was characterised by low morale and a lack of trust, respect and integrity.<sup>18</sup> It was the subject of a number of claims of bullying, intimidation and harassment.

Earlier, on 4 September 2017, Catalyse Pty Ltd, which had been engaged by the City, produced the “*CULTYR Employee Scorecard 2017*”, which had 588 employee respondents. It found:

*“Employees feel that the culture of the City has deteriorated, with trust, staff morale and positive engagement decreasing across the organisation”.*<sup>19</sup>

The findings of this survey are indicative of a dysfunctional culture.

### Investigation by the Inquiry

The Inquiry is to consider, inquire into and report on the relationships between the Council, its members, the Chief Executive Officer (CEO) and other employees of the City and the effect of those relationships on the performance of the City’s functions and obligations.<sup>20</sup>

The period specified in the Terms of Reference is from 1 October 2015 to 1 March 2018, but the Inquiry is permitted to consider and examine periods before 1 October 2015, if it considers that to be necessary for the purpose of properly discharging its function and placing the matters inquired into within a relevant context in the circumstances.

In considering the culture of the City during the Inquiry period, the Inquiry examined the following:

- Relationships and communication between council members, between employees, and between council members and employees. This included the:
  - impact of relationships between council members on Council decision-making; and
  - interference, or improper or undue influence, by council members in matters relating to the City’s administration, including human resource matters.
- Leadership of the City by the Lord Mayor, Ms Lisa Scaffidi, and the CEO.
- Relationships between the CEO and the Executive Leadership Group (ELG) and between ELG members.
- The ability or capability of the City’s Administration to provide good government.

## Evidence obtained by the Inquiry

The Inquiry heard evidence about the culture at the City from witnesses from a cross-section of the City.

Employees outside the ELG were asked about both positive and negative experiences of working at the City. On a positive note, many of them spoke fondly of their relationships with the people with whom they worked,<sup>21</sup> their pride or enjoyment from their work,<sup>22</sup> the environment within their team or directorate,<sup>23</sup> the ability to develop or learn,<sup>24</sup> and the support from the City in relation to time off for family reasons.<sup>25</sup>

When giving examples of the negative aspects of their work, many witnesses described, among other things, a fractured and siloed workplace where communications and working relationships across business units were difficult. Many became visibly distressed when speaking about their negative experiences.

Although it was clearly difficult for many of the witnesses to speak openly about the things which troubled them about the culture of, and working at, the City, their evidence was generally frank and candid.

Evidence about the dysfunctional culture at the City is broadly consistent with the findings of the:

- “*City of Perth Organisational Capability and Compliance Assessment Report*” (OCCA Report) conducted by Deloitte and provided to the Council on 6 June 2017;
- “*CULTYR Employee Scorecard 2017*” conducted by Catalyse and provided to the City on 4 September 2017;
- “*Confidential City of Perth Performance, Analysis and Review – Human Resources Report*” by the Tower Human Capital Group, dated December 2018; and
- “*Report to the City of Perth – Stakeholder Engagement and Corporate Communications*” by OneDegree, dated December 2018.

The evidence obtained by the Inquiry establishes that there was an entrenched culture of self-entitlement among some council members.<sup>26</sup> This culture, which allowed self-interest to prosper over service to the City and its stakeholders, occurred against the background of a widespread, long-standing and systemic lack of good governance.<sup>27</sup>

Processes for decision-making were not consistently defined<sup>28</sup> and there was a lack of consistent adherence to proper processes, which sometimes saw policies and procedures being ignored. This could be taken advantage of by those who did not want to, and/or failed to, observe the rules and principles of appropriate conduct.<sup>29</sup>

The Council was factionalised.<sup>30</sup> Ms Scaffidi led her faction, often in conflict with the remainder of Council, rather than leading the Council as a whole.<sup>31</sup> Ms Scaffidi was a popularly elected Lord Mayor. She was not elected as Lord Mayor by other council members, she was elected by voters in the community.<sup>32</sup>

In October 2015, after the local government elections, Ms Scaffidi, created a WhatsApp “Team” group, comprised of those council members who were aligned with her.<sup>33</sup> This WhatsApp group was used for sharing views about Council business and other council members. The team consisted of Ms Scaffidi, and council members Ms Judy McEvoy, Ms Janet Davidson, Ms Lily Chen, Mr James Limnios, Mr Keith Yong and Mr Jim Adamos.<sup>34</sup>

The WhatsApp messaging in the team communications too often included childish and spiteful observations about other council members.<sup>35</sup> This type of communication was indicative of the breakdown in relationships between the members of Council, and of significant dysfunction in Council under Ms Scaffidi’s leadership. Mr Limnios subsequently fell out of favour with Ms Scaffidi and her team and stopped communicating in that group from around the middle of 2016.<sup>36</sup>

### Mr Martin Mileham’s time as Chief Executive Officer

On 20 January 2016, the Council terminated Mr Gary Stevenson’s employment as CEO and Mr Mileham was appointed as Acting CEO.

Under Mr Stevenson’s leadership, a major restructure of the City had begun.<sup>37</sup> Following the termination of Mr Stevenson, the completion of the restructure fell to Mr Mileham and, among other things, he became responsible for overseeing the integration of three new directors, a new directorate and a number of new managers into the City’s structure. The restructure engendered feelings of uncertainty and insecurity among employees at the City.<sup>38</sup>

Mr Mileham faced a number of other challenges on his appointment as the Acting CEO. The sudden termination of Mr Stevenson’s employment by the Council meant that there was no real opportunity for a proper handover on the organisational restructure. Mr Stevenson recognised the importance of such a handover and had previously suggested to Council that if it were contemplating terminating his employment he would:

*“... work constructively with Council to ensure that such transition can be implemented in a respectful and efficient manner that minimises impact on the organisation and maintains its reputation”.<sup>39</sup>*

About a month later, on 19 February 2016, Ms Michelle Howells, Manager Human Resources, prepared speaking notes for Mr Mileham to use in a meeting later that day. Those notes were based on discussions which had taken place between Ms Howells and Mr Mileham.<sup>40</sup> They gave a blunt assessment of the state and capabilities of the City at that time. They included the following points:

- “1. Organisation riddled with cancer. Most unit [sic] have system, process or performance issues, or all three. Huge impacts on productivity and ability to deliver services efficiently.*
- 2. Unstable and ineffective organisation. Huge amount of change and level of uncertainty. Moral [sic] low, lack of capable staff and skills within organisation. Services currently being delivered but at high costs to the organisation.*
- 3. 3 new Directors, 11 new Managers, with 9 more being recruited for. Huge amount of disruption. Directors and Managers trying to asses [sic] roles, responsibilities and parameters causing unease”.<sup>41</sup>*

While Mr Mileham believed some of the language used in the note was “extreme”, he said this was a “fair assessment from Michelle’s point of view” of the position of the City as at 19 February 2016.<sup>42</sup>

Ms Howells explained in her evidence to the Inquiry in this way:

*“... we had a very strained organisation. We had a very unproductive organisation ... the organisation hadn’t any change in over 20 years. There were [sic] hadn’t been new structures, so the systems in place, processes in place were there and had not been reviewed in over 20 years, so they were very archaic. There was a lot of performance issues with individuals who had just been left and allowed to perform in that manner. So we had a lot of productivity issues, we had more people than we needed to perform the roles of the organisation due to performance issues. So that kind of just created such an issue throughout the organisation”.*<sup>43</sup>

By this time, there was also significant turnover of employees and a lack of local government experience among ELG members:

- Mr Mileham had no experience in local government before his employment as the City’s Director Planning and Development in September 2012.<sup>44</sup>
- Mr Michael Carter, who was employed as the City’s first Director Economic Development and Activation from 21 September 2015 to 26 February 2016, had no previous experience in local government.<sup>45</sup>
- Mr Paul Crosetta had only been employed by the City as Director Construction and Maintenance since 21 September 2015. He had no previous experience at any level of government, including local government, in Australia.<sup>46</sup>
- Ms Erica Barrenger, who acted as Director Planning and Development from 2 May 2016, had only been employed by the City as a Manager since November 2015 and had no previous local government experience.<sup>47</sup>
- Ms Rebecca Moore had only been employed by the City as Director Commercial and Community Services since 7 September 2015.<sup>48</sup>
- Ms Annaliese Battista, who acted as the Director Economic Development and Activation from 16 May 2016, had over five years previous experience in local government, although she had only been employed by the City as a Manager since 20 October 2015.<sup>49</sup>

Furthermore, Mr Mileham had no relevant experience as a CEO, although he did have experience in senior positions in the private sector.<sup>50</sup>

This lack of experience among the ELG members would have made it more difficult, at least initially, for the ELG to provide the required executive leadership to the City.

The Administration was siloed and inefficient in its delivery of services.<sup>51</sup> Effectively, it was operating as a number of separate businesses rather than one.

The OCCA Report found that the new structure implemented by the City from July 2015 had led to increased siloes between business units and directorates. It noted:

*“The lack of organisation-wide clarity and shared understanding of roles and responsibilities is causing indecisiveness, wasted effort and unconstructive tension between teams. Siloes are deepening due to ineffective team collaboration, which left unchecked may impact staff morale and retention of talent.”<sup>52</sup>*

The 2017 CULTYR Employee Scorecard for the City found:

*“Inter-departmental communication is a concern. At present, departments do not appear to communicate or collaborate positively leading to a ‘siloed’ environment where teams are distanced from each other, they do not work together and they are unclear about each others’ roles and functions”.*

and

*“Silos continue to be seen as a challenge to effective and collaborative work practices. Respondents want a more cooperative and inclusive work environment that aims to produce the best possible outcomes for all stakeholders.”<sup>53</sup>*

Challenges associated with decision-making, which crossed organisational boundaries, were identified in the OCCA Report as:

*“Delays, inefficiencies in resolving decisions, including a high degree of escalation to the ELG for resolution;*

*Lack of awareness of meeting forums, their intent and authority to make decisions;*

*Challenges with scheduling and availability of interested parties given the high number of internal stakeholders;*

*Relevant stakeholders not being consulted early enough in a process; and*

*Increasing instances of managers only including a subset of relevant stakeholders in the decision-making process.”<sup>54</sup>*

Furthermore, as Catalyse reported:

*“There is a perception that certain management roles are not being carried out professionally or with the necessary expertise to manage their teams. In addition, respondents feel that more needs to be done to address work-place bullying at management level and to encourage a less hierarchical management system.”<sup>55</sup>*

Mr Mileham's style in leading the ELG and decision-making was different to Mr Stevenson's.<sup>56</sup>

Under Mr Mileham's leadership, the ELG did not function effectively as an executive team.<sup>57</sup>

This was also noted in the work completed by external consultants engaged by the City:

- Among the findings in the OCCA Report was a finding that the ELG was *"insufficiently aligned to support successful transformation"* of the City through the restructure.

The report observed:

*"There are natural tensions between the goals of the City's various services, and consequently, debate within the ELG is to be expected and welcomed. However, in the absence of an organisational strategy that articulates clearly prioritised strategic objectives, conflict arising from competing priorities is difficult to resolve and is visible to staff".*

- The OCCA Report also found *"The ELG's capacity to shape and lead the change [the restructure of the City] is constrained by a high proportion of time devoted to operational matters"*. The report also observed *"It will remain hard for ELG to commit sufficient energy to strategy and change unless it can manage down the volume of operational commitments"*.<sup>58</sup>
- In its survey of City employees, Catalyse found that only 25 per cent of respondents to the survey agreed that the *"ELG provides inspirational leadership"*, with 41 per cent disagreeing or strongly disagreeing with that statement. Comments from employees in the surveys and subsequent workshops referred to the lack of leadership by and the lack of cohesion among the ELG.<sup>59</sup>

There were tensions between Mr Robert Mianich and Ms Moore, between Ms Barranger and Mr Crosetta and from late 2017 between Ms Battista and Ms Moore and between Ms Battista and Mr Mileham.<sup>60</sup> Some of the directors, at times, displayed an aggressive style of management and/or communication.<sup>61</sup> This, and the absence of defined decision-making processes,<sup>62</sup> were likely to have accentuated the competition and divisions between the directorates and increased the lack of co-operation between them.

These dysfunctions in the ELG required firm, clear and consistent decision-making from the CEO. By many accounts, Mr Mileham was often incapable of making firm, clear and consistent decisions.<sup>63</sup> Many senior employees in the City believed that he would not give firm or clear instructions, or if he did, he would subsequently forget them or change his mind.<sup>64</sup> Senior employees gave evidence that Mr Mileham did not hold directors accountable to deadlines.<sup>65</sup> He was, in some respects, unsuited to the role.<sup>66</sup> This was not the kind of leadership required by the ELG at this time.

There was also an increase in the number of requests for information made by council members directly to the employees in the Administration, which added further to the workloads of already strained City employees.<sup>67</sup>

### Shift in the balance of power on Council

On 4 September 2017, Ms Scaffidi was disqualified by the State Administrative Tribunal from holding office as a member of Council for 18 months. Although this order was stayed by the Court of Appeal, Ms Scaffidi undertook to the Court that she would not exercise or discharge any of the powers or duties conferred on her as Lord Mayor until the determination of her appeal. The Court ultimately set aside her disqualification on 1 December 2017 and remitted the matter to the State Administrative Tribunal for reconsideration of penalties.<sup>68</sup> Ms Scaffidi returned to the position of Lord Mayor on 8 January 2018.

In the October 2017 elections, Ms Lexi Barton and Mr Steve Hasluck were elected as council members. Ms McEvoy and Mr Yong were not re-elected. Ms Barton and Mr Hasluck tended to vote with Mr Limnios, Dr Green and Mr Harley. From this point onwards, Ms Scaffidi and those council members aligned with her no longer had the balance of power in Council. Factions were reformed and by January 2018 there was a new majority in Council dictating Council decision-making.<sup>69</sup>

By October 2017, there can be little doubt that there was significant dysfunction in the Council as well as in the Administration.

Mr Mileham had already recognised before this time that there were some matters which needed addressing and had taken some steps to do this.

### Strategies to identify and address poor behaviours in the Administration

In October 2016, Mr Doug Aberle of Marple Bridge Pty Ltd, at Mr Mileham's instigation, began providing coaching to the ELG to establish *"an effective leadership team and a clear direction and plan to guide the City's administration to ensure delivery against the City's objectives"*.<sup>70</sup> Mr Aberle conducted workshops for the ELG in October 2016, November 2016, January 2017 and February 2017 and strategic planning sessions for the ELG in April 2017 and May 2017.<sup>71</sup>

On 14 July 2017, Mr Mileham, Mr Mark Ridgwell (Manager, Governance) and key human resource staff met with WorkSafe<sup>72</sup> inspectors at Mr Mileham's request. According to Mr Ridgwell, the meeting occurred because it had recently been announced that WorkSafe had investigated whether a council member at another local government had engaged in bullying.<sup>73</sup> In the meeting, Mr Mileham sought advice from WorkSafe on how the City could meet its obligations to provide a safe workplace for its employees, in particular, what strategies could be used to reduce or manage inappropriate conduct from council members.<sup>74</sup>

WorkSafe recommended that employees *"Pair up for in person meetings"* and centralise communications with council members, measures which had already been implemented by the City. WorkSafe also recommended that the City conduct a risk assessment on psychological or *"psychosocial hazards"* in the workplace.<sup>75</sup> That was not done, although there was an increased focus in the City on mental well-being.<sup>76</sup>

By 4 September 2017, the CULTYR Employee Scorecard for the City showed that only 44 per cent of employees agreed that the organisation was free from discrimination, sexual harassment and bullying, and only 38 per cent agreed that people were treated fairly and equally across the organisation. The CULTYR Employee Scorecard noted that *“respondents feel that more needs to be done to address work-place bullying at management level and to encourage a less hierarchical management system”*. Widespread concern about elected members not behaving in line with the *“Code of Conduct”* was also reported.<sup>77</sup> It also found:

*“Employees want to feel that they are appreciated and respected. The ability and want of respondents to take pride in their work is being impacted by the perception of a poor organisational culture that has allowed bullying, harassment and micro-management free reign”*.<sup>78</sup>

In workshops which followed the creation of the CULTYR Employee Scorecard, employees raised bullying and inappropriate behaviour by Council and ELG members as issues that needed to be addressed.<sup>79</sup>

There were also some issues identified between employees in senior management at the City and those they were responsible for supervising. This kind of bullying behaviour was described by at least one witness as a style of management which *“... had created results at the cost of the people, at the cost of the staff because she had flattened them, like a bull in a china shop”*.<sup>80</sup> As Catalyse reported:

*“Employees perceive that there is a lack of effective communication between the leadership and general staff. Respondents want open channels and clear, concise and relevant messages that provide useful knowledge and information. Respondents also want greater opportunities for open dialogue with their superiors, allowing staff to be honest without fear of retribution”*.<sup>81</sup>

Bullying behaviour has been described as unreasonable and repeated behaviour by an individual or group of individuals towards an employee or group of employees, which results in a risk to their health and safety.<sup>82</sup> This includes both mental and physical health and safety.<sup>83</sup>

Depending on the nature and context of the behaviour in question, bullying can include many things. It can include aggressive and intimidating conduct, belittling or humiliating comments, victimisation and unreasonable work demands.

Some of the communications considered by the Inquiry which were said to be evidence of bullying by council members towards employees do not seem, when considered individually, to constitute bullying behaviour. However, what is experienced as bullying can often depend on the context, on aspects such as whether it is an isolated example or part of a course of conduct, on whether a request is reasonable, on the difference in levels and roles, and on the timing and manner in which a communication is made. It is not always easy for a person looking at a communication from the outside to see the bullying aspects, but for the person on the receiving end, it is often obvious.

The fact that a significant number of employees identified bullying-type behaviour, or lack of fair treatment, as a problem, whether by council members or senior managers, indicates that there was a significant deterioration in the culture and in good governance at the upper levels of the City, in both the Council and the Administration.

### Strategies to identify relationship issues between council members, the Chief Executive Officer and the Executive Leadership Group

In October 2017, the City engaged Bartlett Workplace Training to develop a “*One Team’ values and positive cultural/behavioural framework for Executive and Council*”. This included workshops with Council and the ELG together, and for the ELG.

Mr Glen Bartlett, the principal of Bartlett Workplace Training, who facilitated those workshops, observed that the culture between the ELG and Council was “*really dysfunctional*” and there was “*not a lot of trust between the two groups*”. He also observed that council members complained that the ELG did not properly respect or communicate with them. Members of the ELG complained that council members were interfering in operational matters within the City, while some council members expressed the view that Council was different to a board and that they had the “*right to delve into areas and make public comments on certain things*”.<sup>84</sup> Mr Bartlett recalled telling Council and the ELG at a “*critical time*” during the workshop:

*“You need to learn to work as one team. We need to set some non-negotiable behaviours and values of the group and you need to get off the front page of The West ... I said to them, ‘if I was the Minister and you actually don’t adopt this and buy in, I would be sacking the Council’ ... it was desperate times to actually do something and to really try to work with Councillors, the Exec Group and to find a way forward”.*<sup>85</sup>

In the workshop, council members and ELG members described the current cultural state of the City in the following terms:


 Culture of defensiveness

 Self-centred

 No current values


 Council/admin impenetrable


 Attacking

 Butt covering

 Elements of stonewalling

 No accountability

 Culture – dishonesty/anxiety/  
no leadership

 Game playing<sup>86</sup>

In his workshop with the ELG, Mr Bartlett recalled:

*“... very early on throwing the agenda out the window, basically, because it became clear that there were a whole lot of issues that they weren’t even really talking to each other about and they had never given each other feedback ... The level of issues between them and the fundamentals missing surprised me”.*

Mr Bartlett was also surprised that these workshops were the first time in the history of the City that the Council and ELG had participated in a workshop to commit to the way they were going to behave.<sup>87</sup>

### **Other initiatives by Chief Executive Officer, Mr Martin Mileham**

In a memorandum to council members on 11 December 2017, Mr Mileham set out a range of initiatives in order to enhance *“communications processes”*.<sup>88</sup>

This memorandum included *“a summary of the roles of Council, Councillors, Lord Mayor and Chief Executive Officer as detailed in the Local Government Act 1995 and City of Perth Act 2016”*. It is telling that Mr Mileham believed that he needed to remind the council members of their roles.

Mr Mileham also introduced the *“Council Hub”* to centralise communications from council members and to disseminate information completely and transparently, *“the reason being that [he] wished to decrease the complexity that was created by nine Councillors potentially contacting 700 staff which could give rise to some completely unmanageable communication matrices”*.<sup>89</sup>

Mr Mileham also introduced a *“CEO Inbox”* which was intended to limit direct communications between council members and employees.<sup>90</sup> Communications from council members were to be received by the CEO for dissemination to employees for a response by the CEO.

However, the long-standing practice of council members communicating directly with employees in the Administration resulted in the CEO Inbox becoming a cause of frustration among some council members.<sup>91</sup> It was described as taking too long to get a response on matters which required a timely response, and/or the response provided was not adequate for the purpose.<sup>92</sup> Council members considered a discussion was a much more satisfactory way of obtaining an outcome.

A significant part of this dissatisfaction by council members with the measures taken by Mr Mileham seems to have stemmed from a misunderstanding or disregard of what council members were supposed to do and what they were entitled to ask of employees.

Mr Mileham's memorandum of 11 December 2017 reiterated the:

- role of the 'CEO Inbox';
- protocol for after-hours urgent matters;
- purpose of elected member briefings; and
- creation of elected member forums.

Mr Mileham also described in this memorandum:

- a proposed CEO and director "*Buddy Program*", between Council committee chairs and directors;
- invited council members to meet with him regularly;
- set out when contact outside the above parameters to the CEO or directors would be permissible; and
- referred council members to relevant City policies.<sup>93</sup>

Regrettably, none of these initiatives appear to have achieved their purpose.<sup>94</sup>

By early 2018, relationships between council members and most members of the ELG had deteriorated to such a degree that the proper and effective good government of the City was near impossible.<sup>95</sup>

### **Suspension of the Council**

During the Inquiry period, the City was subject to a number of unsettling events. These included:

- the organisational restructure and associated redundancies;
- changes in management and management style;<sup>96</sup>
- factionalism within the Council;
- a Corruption and Crime Commission report critical of Ms Scaffidi's failure to disclose contributions to travel and accommodation, and her hearings before the State Administrative Tribunal and the Court of Appeal; and
- sustained negative media coverage.

These issues created organisational instability.<sup>97</sup> It led to concerns among many of the City's employees about job security and what the future held for them.<sup>98</sup>

By the beginning of 2018, matters had reached a flashpoint. In February 2018, Mr Mileham took personal leave citing an unsafe workplace and, on 27 February 2018, members of the ELG declared a crisis and invoked the City's Crisis Management Plan.<sup>99</sup> The Council was suspended by the Minister for Local Government on 2 March 2018.

## Findings

### Finding 2.1.2 – 1

The Inquiry makes the following findings.

- i. Between 1 October 2015 and 1 March 2018, the City was characterised by low morale and a lack of trust, respect and integrity. It was dysfunctional in a number of important respects. There were difficulties in the working relationships between council members,<sup>b</sup> between council members and the Administration and within the Administration itself, particularly the ELG.<sup>c</sup> It suffered from a poor culture.
- ii. The role of the Lord Mayor is a leadership role. Ms Scaffidi, as the Lord Mayor, failed in her duty to lead and guide the whole of Council. Instead, she created and encouraged divisions and factions. She led her own faction to the exclusion of other council members. Ms Scaffidi also often interfered in matters which should have been left to the Administration.<sup>100</sup> She did not exemplify how council members should behave. This was not how the role of a Lord Mayor should have been conducted, and it was poor leadership.
- iii. The role of the CEO is also a leadership role. Mr Mileham was appointed the CEO on 20 January 2016. His appointment came at a difficult time for the City and its Administration. The City was in the process of a re-structure. Its directorates were siloed and not co-operating with one another. As a result, the City as a whole was not efficient. It was a time of considerable upheaval and dysfunction. It required someone with sufficient experience as a local government CEO. This was not something Mr Mileham brought to the role. In addition, it was a time which required clear, consistent and firm decision-making from the CEO. Mr Mileham often did not demonstrate these qualities. He was not an effective CEO, at a time when one was required. Under his leadership, the ELG did not function effectively as an executive team and suffered from a combined lack of local government experience.
- iv. During the Inquiry period, the City was dysfunctional. The dysfunction was entrenched. The culture was poor. Drastic action was required, but nothing effective was done. It required good effective leadership from the Lord Mayor and the CEO. Neither delivered what was required.

b From the October 2105 election between Ms Scaffidi, Mr Limnios, Ms Davidson, Ms McEvoy, Ms Chen, Mr Adamos, Mr Yong on the one hand, and Dr Green and Mr Harley on the other. From mid-2016 Mr Limnios was no longer part of the majority, and joined with Dr Green and Mr Harley. From the October 2017 election, Dr Green, Mr Limnios, Mr Harley, Ms Barton and Mr Hasluck formed a new majority.

c Between Mr Mianich and Ms Moore, Ms Barrenger and Mr Crosetta, Ms Battista and Ms Moore and Ms Battista and Mr Mileham.

## Governance

Governance is a key element of a thriving and successful organisation. It is made up of the structures, rules and processes which direct and control an organisation. It helps the organisation to set its objectives, make decisions, grant powers to get things done, drive and monitor performance and hold people accountable. It is the framework by which what needs to be done is spelled out, and then determines how things should be done.

Good governance in local government requires good leadership, clear and timely decision-making, a strong vision, a sound strategy and an appropriate system of checks and balances. It also requires that the structures, systems and policies underpinning each of these things is firmly in place, respected and followed, to make sure the organisation is run efficiently and effectively. There should be clear accountabilities and effective risk management and performance monitoring.

Good governance for a local government also requires the right culture with appropriate behaviours, sound leadership and good communication. There should be capable, principled and committed council members and administrative employees.

Governance is about processes and can be difficult to measure. However, there are ways in which governance can be monitored and reported on, to ensure it contributes to good government. A written and agreed governance framework, and policies which align with it, is an important step in being able to measure compliance against governance principles.

Strong governance models are of little value if organisations do not encourage their officers to take responsibility for issues within their control and to actively deal with matters as they arise.

As the City of Perth (City) operates within the local government sector, it has legislative obligations imposed by various Acts of Parliament, most significantly the *Local Government Act 1995* (LG Act) and its regulations.

In order to comply with, and enforce, obligations imposed on it by statute,<sup>101</sup> the City has various governance documents and processes in place. This Section does not explore all of these in detail but will provide an overview of the essential elements relevant to matters considered by the Inquiry. Some chapters of this Report provide detailed information about the policies, procedures and processes, including **Chapter 2.3.1: Chief Executive**, **Chapter 2.3.2: People management**, **Chapter 2.3.3: Financial management and planning** and **Chapter 2.3.4: Procurement and contracting**.<sup>102</sup>

Strengthening elements of the City's governance will assist in mitigating current and future risks to the organisation.

During the time that the Inquiry was conducting its investigation, the City developed a Corporate Governance Framework.<sup>103</sup> The Inquiry supports this development, but also notes that the City of Perth Council (Council) and Administration of the City are ultimately made up of people, and the problems which led to the suspension of the Council, and are described in this Report, were not necessarily caused by a lack of policies or a governance framework, but by the preparedness of people, council members and employees alike, to subvert the rules in their self-interest and to use their power to ensure that the requirements of the law and policies were not applied to them.

## Policy and procedures

The City has two types of policy: Council Policy and Organisational Policy. The City's Administration also has procedures established to guide the actions of employees in undertaking the activities of the local government.

This Report refers to numerous Council policies, organisational policies and procedures (**Part 1.2: About this Report** provides a list of legislation and policies relevant to the matters examined).

### Council Policy

Council policies are adopted by the Council to provide the Chief Executive Officer (CEO) and Administration with direction in respect to matters requiring decision and action. There are two types of policies:

- General Council Policy: A policy adopted by Council that is not statutory in nature. This includes Council 'directives' on general matters.
- Legislative Policy: A policy that is either required by law or created to supplement the City's Local Planning Scheme or a City local law.

The "*Council Policy Manual*" contains and consolidates policy decisions made by the Council. It provides the Council, committees, the CEO and employees with guidelines over a range of issues.

In the Inquiry's view, during the Inquiry period, 1 October 2015 to 1 March 2018, the City maintained good governance practices for the approving and recording Council policies.

### Organisational Policy

Organisational policies consist of standards and guidelines to guide employees in relation to operational matters.<sup>104</sup> They govern the day-to-day operations of the City and do not require Council approval.

The "*Organisational Policy Manual*" contains policy statements relevant to corporate administration and operational management of the City. The manual provides the scope and procedure for dealing with specific issues within the organisation.

### Corporate procedures

The City's corporate procedures are formalised processes to be used by specific employees for the governance, management and administration of corporate units within the City. Procedures may be business unit specific, or apply across the City.

### Planning, monitoring and reporting

Councils are required to undertake certain planning and reporting functions. This ensures they responsibly manage resources and are accountable to the public. They are often required to consult with the public while exercising these functions.<sup>105</sup>

### Integrated Planning and Reporting Framework

In Western Australia, local governments are required to “*plan for the future*”. This is known as an Integrated Planning and Reporting Framework.<sup>106</sup> During the Inquiry period, the City had the following elements of this Framework in place:

- Strategic Community Plan;
- Corporate Business Plan;
- Long-Term Financial Plan;
- Asset Management Plan;
- Workforce Plan; and
- Annual Budget.

The City also publishes an Annual Report each year. It “*is a key mechanism by which your council reports to, and is accountable to, the community. The annual report outlines your council's achievements against objectives included within ... relevant plans*”.<sup>107</sup>

Local governments manage substantial finances to enable them to provide a wide range of public services and maintain public infrastructure. In order to finance their activities, councils are granted certain powers to raise funds. These are raised mainly by levying municipal rates or through other activities, including commercial enterprises.

Local governments require effective processes and procedures to facilitate efficient financial management. This is critical to the overall operations of a local government and to protect assets used for the delivery of services.

**Chapter 2.3.3: Financial management and planning**, examines the nature of the City's integrated planning and reporting framework, the City's financial position, and its financial management practices.

## Risk, audit and assurance

It is vital that local governments have well-established processes for monitoring all aspects of the business, and for escalating issues of significant risk and ensuring they are resolved by the right people at the right time. A strong focus on building and sustaining effective governance frameworks and on detecting signs of poor governance can assist in dealing with problems before they develop into serious performance issues.

Risk, assurance and audit mechanisms provide for better practice governance, create alignment with the strategic direction and enable the achievement of outcomes. These should also be linked to the strategic, corporate and business planning processes.

In Western Australia, the Auditor General adopts a ‘four lines of defence’ model<sup>108</sup> (Figure 2.1), a variation of the ‘3 lines of defence model’ of the Institute of Internal Auditors.<sup>109</sup> This is a valuable tool for monitoring how the risk profile of a local government is managed and governed. It provides for an integrated view of risk, audit and assurance.

Without a risk-management focused culture, outcomes are less likely to be achieved, both in terms of efficiency and expectation, reputation can be damaged, and misconduct and corruption are more likely. A clear understanding of roles and responsibilities for risk, including how it occurs and can be identified and prevented, can also positively affect organisational effectiveness.

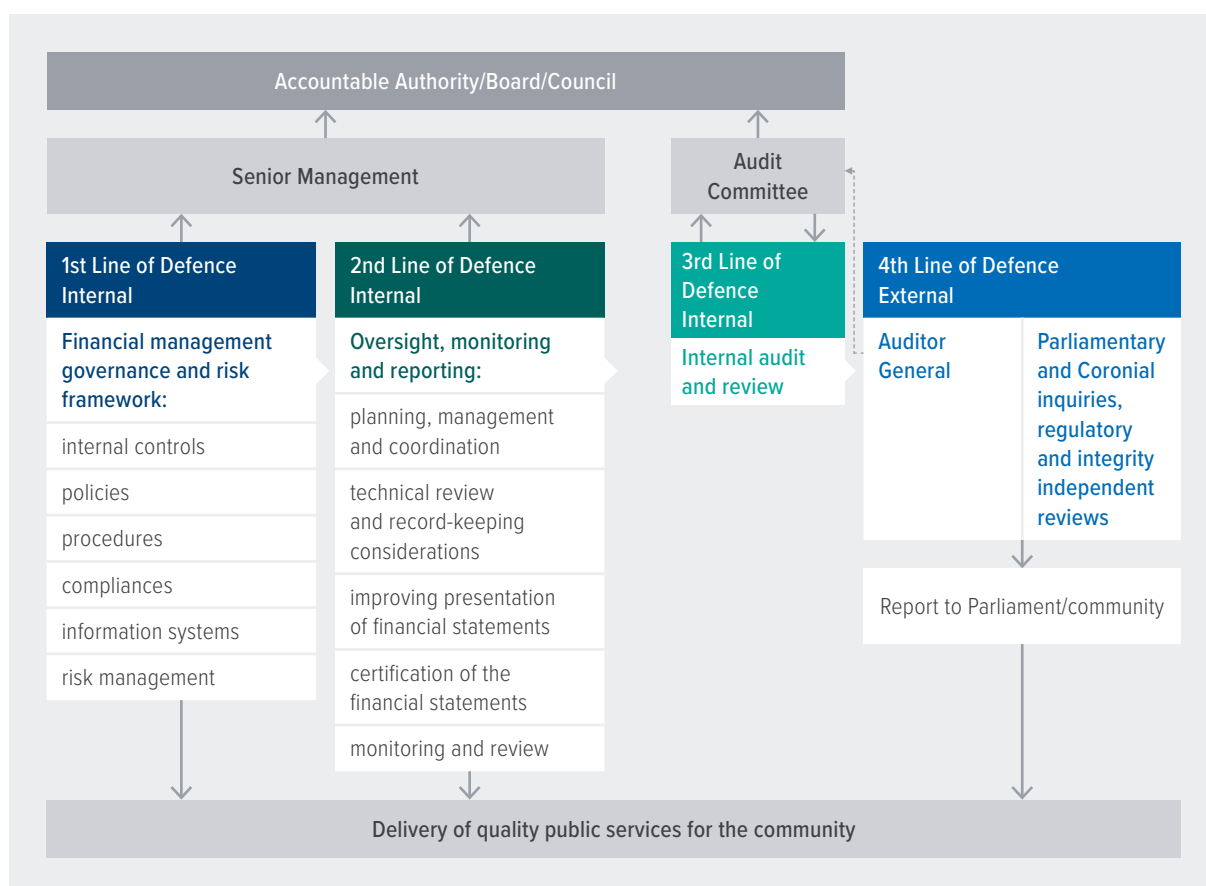


Figure 2.1: Western Australian Auditor General, ‘Four lines of defence’ model, March 2020.

The legislation provides for local governments to have an audit committee of Council, with the *Local Government (Audit) Regulations 1996* setting out its functions and the requirement to conduct a compliance audit each year.<sup>110</sup>

At the City, there is evidence that the risk, audit and assurance mechanisms were not as effective as would be expected for a large local government. They were not strategically focused and lacked assurance elements. There was also limited capability in the functions supporting these activities, and organisational engagement and value derived from the activities could be greater. Misconduct, fraud and corruption risks were not adequately identified and documented. This is examined further in **Chapter 2.3.3: Financial management and planning**.<sup>111</sup>

## Accountability

### Conflict of interest

A conflict of interest is a situation in which a person has a conflict between their private interests and their public (or sometimes other) duty. Conflicts of interest can affect council members and employees of local governments. For example, where:

- a council member is voting on a planning issue, which will affect a property which he or she owns; or
- an employee is sitting on a selection panel and is related to one of the applicants.

Having a conflict of interest is not wrong or bad, it happens to most people at some time, and to council members regularly. The problem arises where a council member or employee fails to identify or acknowledge a conflict or, worse, deliberately uses his or her official role to benefit his or her private interest.

In deciding whether there is a conflict of interest which should be declared, the question is not only whether it would *actually* affect the performance of official duties, but also whether it could give the *appearance* of doing so.

The question the person with the conflict should ask themselves is: *If the public became aware of the undeclared conflict, would it raise a suspicion about motive, a suspicion that the decision or action was taken for the wrong reasons?*

State Government legislation provides rules about how conflicts of interest should be addressed. This is supplemented by the City in its “*Code of Conduct*” and other policies.

The LG Act and its subsidiary legislation, including the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations), sets out the law intended to ensure that private interests are disclosed.

The LG Act requires council members and employees to disclose an interest when a relevant matter is to be discussed at a Council or committee meeting. ‘Interest’ is defined to include a financial interest, proximity interest, gift and contribution to travel. With some exceptions, a council member making a disclosure of a financial or proximity interest is not permitted to remain in a meeting and vote.

The Conduct Regulations provides “General principles to guide the behaviour of council members”, and specific rules of conduct. Regulation 7 states:

***“Securing personal advantage or disadvantaging others***

*A person who is a council member must not make improper use of the person’s office as a council member---*

- (a) to gain directly or indirectly an advantage for the person or any other person; ...”.*

Regulation 11 requires a council member to disclose an interest in any matter to be discussed at a Council or committee meeting. It defines ‘interest’ as being:

*“an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association”.*

During the Inquiry period, the City had a “Code of Conduct” at Policy CP10.1 of the “Council Policy Manual”. This Code applied to council members and employees.

Although the City revamped the “Code of Conduct” in 2017, at all times it was clear about preventing conflicts of interest. Part 3 of the “Code of Conduct” dealt with “Conflict and Disclosure of Interests”. Clause 3.1 headed “Conflict of interests” stated that council members and employees:

*“must ensure there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties and functions”.<sup>112</sup>*

The conflict between public and private interests underlies many of the situations investigated by the Inquiry. These include:

- Council decisions on:
  - a development application relating to the Adagio, an apartment building; and
  - a sponsorship application to rejuvenate the Piccadilly Theatre.

These matters are examined in **Chapter 2.2.2: Decision-making**, Section: *The Adagio, 90 Terrace Road, East Perth*; Section: *Sponsorship Proposal to rejuvenate the Piccadilly Theatre*.

- Council decisions on sponsorships or grants to organisations or events:
  - when a council member had a personal connection to the organisation; and
  - when council members or employees received a benefit, such as tickets to an event.

These matters are examined in **Chapter 2.2.4: Grants and sponsorship**.

A decision to employ a contractor when the contractor had provided a gift to the CEO.

This matter is examined in **Chapter 2.3.4: Procurement and contracting**, Section: *Request for quotation 057-17/18 and the engagement of Bartlett Workplace Training Pty Ltd.*

Tender processes in which employees may have improperly assisted tenderers to obtain contracts with the City.

This matter is examined in **Chapter 2.3.4: Procurement and contracting**, Section: *Award of irrigation tender 031-17/18 to Western Irrigation Pty Ltd.*

Misuse by a council member of her official position to help her to obtain commissions through her private business.

This matter is examined in **Chapter 2.2.3: Disclosure, personal interest and entitlements**, Section: *Improper use of Councillor position to obtain a private benefit.*

Failures to make financial disclosures as required by the LG Act.

This matter is examined in **Chapter 2.2.3: Disclosure, personal interest and entitlements**, Section: *Disclosure of financial interests.*

## Records management

A key element of sound governance and accountability is adequate recording or documentation of the business of government, in this case, local government. The Western Australian Auditor General expressed it succinctly:

*“Local governments are involved in a range of activities and make decisions on a daily basis that directly impact their local community. .... In addition, councillors debate, set policy and can make local government rules and resolutions. All of these activities generate records”.*

Records can take many forms and *“Most importantly, records and good recordkeeping practice promote accountable and transparent decision making”*.<sup>113</sup>

According to the Western Australian State Records Office, *“Accurately created and managed records provide reliable, legally verifiable evidence of decisions and actions”*. This includes records created or received by elected members that relate to local government business.<sup>114</sup>

In the course of its investigations, the Inquiry has examined the records of the City and individual council members and officers of the City. In the opinion of the Inquiry, there were shortcomings in record-keeping in some areas. These included records of the Council and the Administration.

Despite the willingness of City employees to assist, sometimes significant documents and electronic records requested by the Inquiry were either missing, or were difficult to find, because they were not captured in the City's records management system but were stored on internal local network drives or in separate business systems. Many emails, personal communications and electronic documents relevant to the business activities and decisions of the City had not been captured.

Under section 5.41 of the LG Act. The CEO's functions are to:

*“(h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law”.*

*The State Records Act 2000* (SR Act) sets out the requirements for records management by government organisations. Local governments, including the City, are government organisations.<sup>115</sup> Section 19 of the SR Act requires that “every government organisation must have a record keeping plan that has been approved by the [State Records] Commission” (Commission).

The City's Record-Keeping Plan during the Inquiry period was approved by the Commission on 4 December 2009.<sup>116</sup> The review date for the plan was 4 December 2014, but this was not met. On 13 May 2015, Mr Robert Mianich, Director, Corporate Services, requested from the Commission an extension of time until June 2017 for submitting the City's amended Record-Keeping Plan, due to a review of the organisational structure. On 26 May 2015, the Commission approved the request.<sup>117</sup>

At its meeting on 23 March 2018, the Commission approved the City's amended Record-Keeping Plan.

During the course of the Inquiry, it became clear that many of the City's records had not been kept in accordance with City's policy “*OP[10] Record Keeping*” and the SR Act. In particular, the Inquiry noted that many electronic communications and documents relevant to decisions and activities had not been captured in the City's record-keeping system.

### **Records of reasons for decisions by Council and committees**

The Inquiry noted a number of situations in which Council and committee deliberations, including reasons for decisions, were not recorded, and are therefore not available to the public or to the Inquiry. Often at Council and committee meetings there was a record of the motion and the vote, but little or no indication of the reasons for the decision, or what was said and by whom, during the discussion.

The recording of reasons for decisions is an essential requirement of accountability, of administrative law and of good governance.

Without such records it is not possible to be sure that council members received full and unbiased information, or that they were acting for reasons relating to the community interest rather than their private interests.

Examples of decisions where reasons were not recorded are provided in the relevant chapters:

- Activation of the Crisis Management Plan by several ELG members on 27 February 2018. The Inquiry found that, although there were file notes made by officers involved, there was no official record of the reasons for the decision, when it was made or how it was made (**Chapter 2.4.1: Events leading to the suspension of the Council**).
- Council and committee meetings at which key decisions were made relating to the termination of CEO Gary Stevenson and the appointment of Martin Mileham as CEO (**Chapter 2.3.1: Chief Executive**).
- Decisions relating to the allocation of some sponsorships and grants, including a decision to refuse sponsorship for the refurbishment of the Piccadilly Theatre building (**Chapter 2.2.2: Decision-making**, Section: *Sponsorship Proposal to rejuvenate the Piccadilly Theatre*).

### Records relating to workforce and finances

At his hearing before the Inquiry, Mr John Nicolaou of ACIL Allen Consulting, which reported on aspects of the City's financial management for the Inquiry, said he had experienced difficulty in obtaining workforce information about the City. He said the City had no accurate record of how many people were working for it or had worked for it at any time in the past.

Mr Murray Jorgensen, who became CEO of the City in November 2018, advised the Inquiry that when he commenced at the City he asked how many employees there were on the payroll:

*"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."*

Mr Andrew Hammond, Commissioner and Chair Commissioner of the City since the suspension of the Council was asked about accessing key financial information at the City:

*"Was it difficult to obtain financial data to explain the big picture?---Yes.*

*When you commenced on 2 March 2018?---Yes, absolutely.*

*Can you tell me why?---Well, on 2 March 2018 I didn't know – it's become apparent since then that the reporting and the financial accounting systems were less than good and the way that the accounting system was, I guess, not interconnected effectively with other programs around the place, and also we did find out that there was not actually an enterprise approach to accounting and each division had its own accountant, and in some cases, as we understand it, actually its own accounting records."*

This is examined in **Chapter 2.3.3: Financial management and planning**.

### People management records

In respect of recruitment records, the Inquiry found that some records were not maintained in accordance with either the State Records Commission General Disposal Authority or the City's Organisational Policy "*Record Keeping*".

In addition, when the Inquiry investigated matters relating to individual employees, such as grievances and performance appraisals, records could not be located on the employee's personal file. Records on recruitment decisions and processes were not located in the official record-keeping system. There were also some instances found on an internal local network drive or in hard copy files not connected to the official record-keeping system.

This is examined in **Chapter 2.3.2: People management**.

Good record-keeping is an essential element of good governance. A failure to record decisions accurately, or at all, is not good government.

### External oversight

In addition to the internal governance framework, to ensure good governance by local governments the following external agencies have a role in monitoring local governments.

In local government, an individual can also be held accountable by others. For a Council, it could be the community, specific groups in the electorate, other council members, oversight agencies or the CEO. For employees, this could be the CEO or a line manager.

### Office of the Auditor General

Since 28 October 2017, the Auditor General has had a mandate to audit local governments in Western Australia. The Auditor General currently has jurisdiction to conduct performance audits and has taken responsibility for conducting annual financial audits of local governments, as the existing audit contracts expire. It undertook the financial audit for the City for the 2017/2018 financial year.<sup>118</sup>

### Department of Local Government, Sport and Cultural Industries

The Department of Local Government, Sport and Cultural Industries (Department) states, on its website, "*The department partners with local government to deliver good governance to the community*".<sup>119</sup>

The Department advises the Minister for Local Government and issues operational guidelines and circulars. The Department is also responsible for investigative and regulatory aspects of the local government sector, including breaches of the LG Act and associated regulations.

### Complaint and allegation investigation bodies

The Local Government Standards Panel (LGSP) deals with complaints of minor breaches of the LG Act by council members. Minor breaches include a contravention of the Conduct Regulations. The LGSP does not deal with complaints about local government employees.

Under the *Corruption Crime and Misconduct Act 2003*, the Public Sector Commissioner has jurisdiction to investigate allegations of minor misconduct by public officers, including employees of a local government, but not council members. The Corruption and Crime Commission (CCC) has jurisdiction to investigate allegations of serious misconduct by public officers, including council members and employees.

The Western Australian Ombudsman will investigate “... *any decision or recommendation made, or any act done or omitted, that relates to a matter of administration and affects any person or body of persons in his or its personal capacity in or by any department or authority to which this Act applies in the exercise of any power or function*”. The term “*authority*” includes a local government.<sup>120</sup>

### Complaint and allegation handling

An essential feature of accountability for an organisation is to be able to deal honestly, accurately and thoroughly with complaints and allegations.

On 2 April 2020, the CCC published “*Review of an inadequate investigation by the Department of Communities into allegations of bribery*”.

This was an examination of an internal investigation conducted by the Department of Communities into an allegation of possible bribery of departmental officers by people wishing to jump the queue for housing. The CCC considered the investigation to be inadequate. Specifically, the CCC was concerned about the length of time taken to undertake the investigation and the inadequate investigation techniques used.

‘Complaints and allegations’ made in relation to the City, refer to situations in which a person states that he or she is not satisfied with something that a person associated with the City has done. Complaints and allegations can be made by members of the public, by employees, or they may be formally referred by the CEO or a delegate to an external agency.

The types of complaints and allegations made to and about the City can vary from the minor, “*a customer service officer was chewing gum*” to the significant, “*an employee accepted a bribe*”.

Complaints and allegations can include the following:

- Complaints by members of the public about customer service or another facet of the City.
- Grievances about human resources matters, including:
  - recruitment, promotions, ‘higher duties’, performance management; and
  - treatment of employees, including harassment, discrimination and bullying.
- Allegations of misconduct by council members or employees relating to conflicts of interest, bribery, fraud, corruption or other offences.

In **Chapter 2.3.2: People management**, the Inquiry deals with complaints and grievances made about the conduct of employees at the City.

In **Chapter 2.3.4: Procurement and contacting**, the Inquiry has examined several examples of the way in which the City dealt with, or failed to deal appropriately with, complaints and allegations of serious and minor misconduct relating to tender processes and procurements conducted by the City. These matters may also, more broadly, highlight concerns about procurement procedures and controls in the local government sector generally.<sup>121</sup>

These chapters highlight weaknesses in City governance processes which, in many cases, failed to prevent the situations complained of from developing, and failed to appropriately deal with them after a complaint had been made.

The City's processes for the handling of complaints had flaws in areas such as staff capability, processes and procedures. Internal investigations may have failed to identify all issues and sources of evidence. The complaint handling system at the City was not effective and did not contribute to good governance and good government.

When complaints and allegations are not properly addressed, bad behaviour and misconduct is often not identified or prevented, and can flourish.

### **Misconduct management**

Misconduct is defined in section 4 of the *Corruption, Crime and Misconduct Act 2003*. In brief:

- Serious misconduct involves a public officer acting corruptly in his or her official capacity, corruptly taking advantage of his or her office to gain a benefit, or committing a serious offence while acting in his or her official capacity.
- Minor misconduct includes a range of other conduct relating to a public officer failing to act in a way which is honest or impartial, or which constitutes a breach of the trust placed in the public officer, or misusing information officially obtained.

Allegations of serious misconduct by council members or local government employees are within the jurisdiction of the CCC.

Matters relating to minor misconduct by local government employees, but not council members, are within the jurisdiction of the Public Sector Commissioner.

In 2014 and 2018, two City employees were sentenced to prison for corruption and related serious misconduct arising from their dealings with contractors to the City. Several contractors were also convicted.

Good governance is one of the primary means by which misconduct can be prevented, or if it has already occurred, then it can be identified and properly investigated, and action taken to prevent its recurrence.

Several examples of the role of governance in relation to misconduct are given in **Chapter 2.2.1: Local government elections**. That Chapter examines how the governance processes of the City operated in relation to three separate potential abuses of electoral processes, with varying success:

- Governance processes were sufficient to prevent a council member, who was a candidate for election, from using his own private post office box as an address for ballot papers for people enrolled to vote as corporate nominees.
- Governance processes were able to detect a sham lease being used by a candidate to create his eligibility to stand. However, those processes did not prevent the candidate from improperly using the sham lease.
- Governance processes were not able to prevent the enrolment of people, who should not have been eligible, to vote as corporate nominees. It appeared that governance officers simply accepted the forms presented to them on face value, or with a simple check that the company was genuine, but without independently verifying that it met the property ownership or occupation qualifications.

Other chapters in this Report also examine possible misconduct by council members and employees in which governance processes did not prevent the conduct in question.

This included:

- Failures to declare gifts and financial interests.<sup>122</sup>
- Failures to properly use contracting procedures, such as Sole Supplier Justifications.<sup>123</sup>
- Failures to properly conduct tender evaluations.<sup>124</sup>
- Allocations of sponsorships and grants.<sup>125</sup>
- Failures to properly investigate complaints or allegations of misconduct.<sup>126</sup>

Comprehensive governance processes, and the resources to properly implement them, are a vital tool in dealing with misconduct, actual or potential. Although the City had governance processes, the Inquiry's investigation has shown that all too often they were not implemented in a way which was sufficient to prevent, detect, investigate and deal with misconduct.

## Endnotes

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# 2.2

## Community Leadership





## About this Part

The Perth City Council (Council) and its members perform an important strategic leadership role for the community.

Council members are drawn from across the community. They are elected to represent the interests of their community.

As representatives, they plan for and make decisions for the local government's future. They are required to act with the highest level of integrity when they undertake their official duties.

On accepting office, the Lord Mayor and councillors of the City of Perth (City) promise to:

*"... duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district ...".*

Council members should perform their role in the best interests of the community by working constructively with each other and managing disagreements, conflicts or differences in a professional manner.

By continually improving their skills and knowledge, council members perform their roles better and improve the quality of their decision-making, thereby benefiting the local government and their community.

Good government occurs when council members demonstrate the behaviours of good community leaders, when they show integrity in their actions, decisions are made in the community's interests and not their own, and they are accountable for their actions and decisions to the community they serve.

**This Part: Community Leadership** explores integrity and decision-making by the Council and its members.

## 2.2.1 Local government elections

Elections are the cornerstone of a democracy. There are two key parts to the electoral system in local government:

- elected council members, representing the interests of the community as a whole; and
- voters exercising their democratic right to elect leaders in their community to represent them.

This Chapter examines in depth how some candidates interfered with election processes for the position of a council member, and thereby subverted the democratic process.

### Timeline

|      |                      |   |
|------|----------------------|---|
| 2011 | 15 October           | Local government ordinary election.   |
| 2012 | 22 March             | Mr Keith Yong was nominated as a corporate nominee to vote in the City's elections by Lex Legal, his family's company with an office in the City.   |
|      | 21 September         | City officer, Ms Cathryn Clayton, told Mr Yong that being a nominee did not make him eligible to run for election at the City. He would need a lease or similar in his own name.  |
| 2013 | 24 August            | Lex Legal emailed Ms Clayton a copy of a lease for Mr Yong dated 1 January 2012. <ul style="list-style-type: none"> <li>• Mr Yong later admitted to the Inquiry that the lease was a sham and falsely backdated.</li> </ul>   |
|      | 5 September          | Mr Yong nominated himself as a candidate for election.  |
|      | 23 September         | Mr Yong's mother, Ms Lilly Yong, emailed City officers alleging fraud on the electoral roll – that company nominees with voting rights were not authorised.   |
|      | 24 September         | Mr Yong emailed the election Returning Officer with letters from the directors of five companies stating that nominees for their companies were not authorised, and they would be reporting fraud to the police.  |
|      | 2 October            | AWEC officer and a City officer met with the company directors – Mr Yong, his parents and a friend. They found that in all cases the companies had approved the nominees. <ul style="list-style-type: none"> <li>• Mr Yong admitted to the Inquiry that he made the complaints, because the nominees had been nominated to support another candidate, and they may not vote for him.</li> </ul> |
|      | 19 October           | Local government ordinary election. Mr Yong was elected as a council member with a margin of 54 votes over one candidate and 59 votes over another.   |
|      |                      |   |
| 2015 | 3 and 5 February     | Ms Lilly Yong, Mr Yong, his brother, Mr Jonas Yong and his sister Ms Angie Yong made statutory declarations applying to be silent electors on the basis that publication of their addresses would put their safety at risk. <ul style="list-style-type: none"> <li>• There was no proper basis for these alleged concerns.</li> </ul>   |
|      | 17 October           | Local government ordinary election.   |
|      | During 2015 and 2016 | Mr Yong arranged for at least 45 of his friends, friends of his family and family members to be corporate nominees, and for the ballot papers for these voters to be sent to post office boxes (PO Boxes) controlled by him and other family members.   |

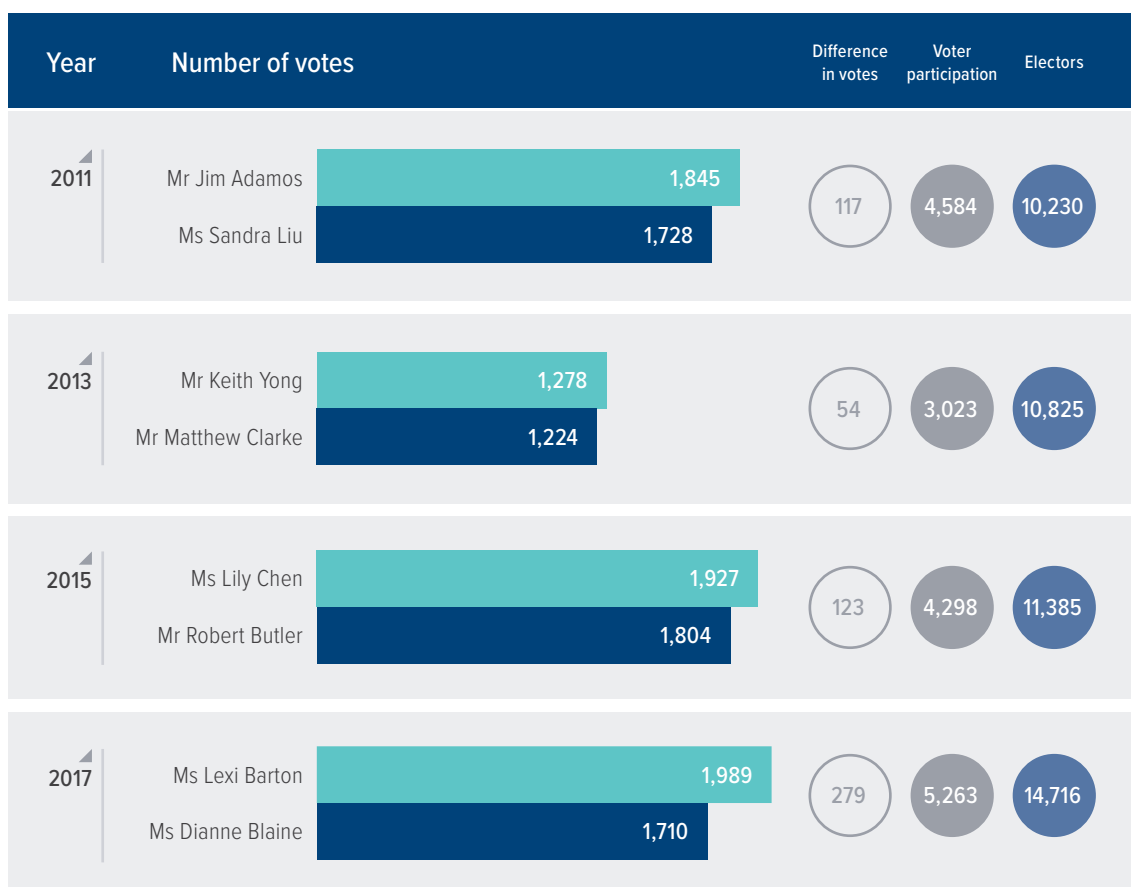
|      |             |   |
|------|-------------|---|
| 2016 | During May  | Ms Clayton noticed that a large number of electoral applications gave Mr Yong's PO Box as a postal address.   |
|      | 30 May      | Mr Mark Ridgwell, Manager Governance, met Mr Yong and recommended these addresses be changed to the electors' residential addresses. Mr Yong did not do this.   |
|      | 8 July      | Mr Ridgwell wrote to Mr Yong stating the electors would be contacted and told that their residential address would be used for the elections.   |
|      | 24 November | Mr Yong was asked by Mr Ridgwell for a copy of his new lease, to verify he was eligible to stand for election again. It was not provided.   |
| 2017 | 21 October  | Local government ordinary election. Mr Yong was unsuccessful.   |
|      | 5 March     | <p>During a hearing, Ms Angie Yong was directed by the Inquiry to produce a copy of a lease. The following day she produced a copy of the lease which she said she had found, it was dated 1 September 2009.</p> <ul style="list-style-type: none"> <li>At a public hearing on 12 August 2019, Ms Angie Yong admitted that she had prepared a new lease which she and her mother had signed and falsely backdated.</li> </ul> |

## City of Perth elections

### Introduction

1. Elections are a fundamental part of democracy in local government. They allow the community to elect representatives and hold the local government to account. A transparent and effective electoral system is essential to good government.
2. The Council of the City of Perth (Council) consists of eight council members and the Lord Mayor who are elected for four-year terms. Elections for the Council are held every two years and four council members are elected. At each alternate election (that is, at an election every four years) the Lord Mayor is elected.
3. Unlike State and Federal elections, it is not compulsory to vote in local government elections and voter turnout is often low. For example, the 2013 Council elections had a voter turnout of 26.98 per cent. This increased to 35.93 per cent for the 2015 Council elections and 37.08 per cent for the 2017 Council elections.<sup>1</sup>

4. By reason of the small size of the electorate, and low voter turnout, results can be determined by a relatively small number of votes (Figure 2.2)<sup>2</sup>. For the last four City of Perth (City) elections, the number of votes between the successful candidate with the lowest vote, and the unsuccessful candidate with the highest vote, was as follows:



**Figure 2.2:** City of Perth election results, 2011 to 2017.

5. That means that every vote in a Council election is important.
6. This Section will examine whether the City's electoral system has been improperly manipulated by candidates for election and if so, how.
7. While this Section will principally examine the actions of Mr Yong and his family members as a case study, the Inquiry's investigations suggest this conduct was not isolated and that other council members engaged in similar conduct.
8. Furthermore, the evidence before the Inquiry indicates the City's electoral system and its internal processes were vulnerable to manipulation.

### Legislative background

9. It is necessary to briefly explain the electoral system established by the *Local Government Act 1995* (LG Act).
10. There are two categories of electors who are eligible to vote in elections for the Council and who can nominate as a candidate for Council:
  - People who are enrolled to vote in elections for the Western Australian Legislative Assembly (Legislative Assembly) in relation to a property in the City. These electors are enrolled on the “*residents roll*”, which is maintained by the Western Australian Electoral Commission (WAEC).<sup>3</sup>
  - People who are enrolled to vote in elections for the Legislative Assembly or the House of Representatives for a property outside of the City, but who “*own or occupy*” rateable property within the City. These electors are enrolled on the “*owners and occupiers roll*”, which is maintained by the City. The Chief Executive Officer (CEO) of the City decides whether people are eligible to be enrolled on the owners and occupiers roll and may make any inquiries needed to make those decisions.<sup>4</sup>
11. To occupy property, a person must have “*a right of continuous occupation under a lease, tenancy agreement or other legal instrument*” and must, at the time they applied to be enrolled as a voter, have that right for at least the next three months.<sup>5</sup>
12. Bodies corporate (such as companies or incorporated associations) which own or occupy property within the City may nominate two people to vote in elections for the City.<sup>6</sup> That is done by a director of the body corporate completing an “*enrolment eligibility*” form and providing it to the City. That form includes a declaration that the body corporate owns or occupies property in the City. The form must be signed by the two voters and requires their contact details (including their postal address) be provided. The City should then assess whether the body corporate is eligible to enrol voters.
13. A person nominated by a body corporate is only required to be enrolled as an elector for the Legislative Assembly or the Commonwealth House of Representatives. There is no requirement that nominees have any connection to the company or the City. However, these voters are not entitled to nominate as a candidate in the City’s ordinary election.<sup>7</sup>
14. A person successfully elected to Council must continue to be eligible to be enrolled on the residents roll or the owner and occupiers roll to continue to hold office as a council member.<sup>8</sup>
15. A returning officer is responsible for conducting an election for Council including, for example, investigating whether misconduct, malpractice or maladministration has occurred in relation to an election. Where a local government nominates the Western Australian Electoral Commissioner (Electoral Commissioner) as responsible for conducting an election, the Electoral Commissioner may appoint a returning officer and that officer is to conduct the election under the Electoral Commissioner’s direction.<sup>9</sup>

## Issues considered by the Inquiry

16. This Section will consider:

- Whether candidates for election and council members engaged in improper or unlawful conduct in relation to elections that undermined, or had the capacity to undermine, the integrity of the City's elections and the Council.
- The City's internal processes in managing Council elections and its responses to suspected unlawful or improper conduct.

17. Specifically, the Inquiry has investigated whether:

- Mr Yong used a sham lease to purportedly become eligible to stand for election to Council in 2013 and 2017 and remain a council member until October 2017.
- Mr Butler used sham leases to purportedly become eligible to stand for election to Council and remain a council member until October 2015.
- Mr Adamos used a sham lease to enrol his family members to vote.
- The City had adequate processes in place to ensure that candidates and voters were eligible to be on the electoral roll and therefore eligible to nominate for election and vote.
- Mr Yong made, and arranged for a family friend and members of his family to make, fraudulent complaints to the City prior to the 2013 election for the purpose of removing electors from the electoral roll.
- Mr Yong arranged for his family and friends to be nominated to vote on behalf of companies owning or occupying property in the City, and whether that conduct was improper or unlawful.
- Mr Yong arranged for companies to enrol voters, when he knew those companies were not entitled to do that.
- Mr Yong arranged for ballot papers for the 2017 election to be directed to post office boxes (PO Boxes) controlled by his family, rather than to electors, and whether that conduct was improper or unlawful.
- Whether the action taken by the City and the WAEC, in circumstances that suggested misconduct had occurred in relation to an election, was adequate.

## Investigation by the Inquiry

### Witnesses

18. The Inquiry held private and public hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section.

- Council members Mr Yong, Mr Butler, Mr Adamos and Mr James Limnios.
- Mr Yong's mother, Ms Lilly Yong, and his sister, Ms Angie Yong.
- Mr Michael Sutherland, former council member with the City and Member for Mt Lawley in the Legislative Assembly (Western Australian Parliament) and current member of the Administrative Appeals Tribunal.
- Mr Martin Mileham, CEO of the City.
- Mr Mark Ridgwell, Manager, Governance with the City.
- Dr Kenneth Evans, Electoral Co-ordinator with the City.
- Ms Cathryn Clayton, Governance Electoral Officer with the City.
- Ms Lyn Cavanagh, an employee of the WAEC and the returning officer for the 2013 City local government election.
- Mr Keiji Takemori, Managing Director of Osaka Gas Australia Pty Ltd (Osaka Gas Australia).
- Seven witnesses who had been nominated to vote in the City's ordinary election by companies associated with Mr Yong, his family and friends.

19. Most of the hearings were held in private, although the Inquiry held public hearings on these matters with Mr Yong, Ms Lilly Yong, Ms Angie Yong, Mr Adamos and Mr Ridgwell.
20. In the course of its inquiries, the Inquiry heard evidence and received information on the alleged conduct of Mr Yong's brother, Mr Jonas Yong. The Inquiry did not hear evidence from Mr Jonas Yong and makes no findings in relation to him.

### Evidence of Mr Keith Yong

21. Mr Yong's evidence before the Inquiry was frequently evasive, inconsistent and dishonest.
22. In a hearing on 6 August 2019, Mr Yong gave evidence that was inconsistent with evidence he had given before the lunch adjournment. Mr Yong admitted that he had spoken to Mr Jonas Yong about his evidence during the lunch adjournment.<sup>10</sup>

23. After the Inquiry adjourned to provide an opportunity for Mr Yong's lawyers to give him advice on his obligations as a witness, Mr Yong agreed with Counsel Assisting that he had given false evidence following his discussion with Mr Jonas Yong. Mr Yong agreed with Counsel Assisting that he and Mr Jonas Yong had attempted to pervert the course of justice.<sup>11</sup>
24. Except where Mr Yong's evidence went against his own interests or the interests of his family members, the Inquiry has treated Mr Yong's evidence with extreme caution.

### Evidence of Ms Angie Yong

25. Ms Angie Yong was frequently non-responsive and evasive when giving evidence at her private hearing on 5 March and 6 March 2019. She delayed answering questions and appeared to be crafting her answers with a view to protecting her interests and the interests of her brother and family.
26. On 5 March 2019, Ms Angie Yong was directed by the Inquiry to produce a copy of a lease for premises within the City for Beau Geste Pty Ltd (Beau Geste). She was reminded that she should not discuss her evidence or that direction with anyone.<sup>12</sup>
27. On 6 March 2019, she produced a document that was purportedly a copy of the lease and gave evidence about how she had found it the previous evening.
28. At a public hearing on 12 August 2019, Ms Angie Yong admitted that she had failed to find this lease on the evening of 5 March 2019 and had prepared a new lease which she and her mother had signed and dated 1 September 2009. That new lease was provided to the Inquiry on 6 March 2019. She agreed with Counsel Assisting that she had repeatedly lied about that lease on 6 March 2019 and had discussed her evidence with Mr Yong and Ms Lilly Yong on 5 March 2019, contrary to the Inquiry's direction.<sup>13</sup>
29. Except where her evidence went against her own interests or the interests of her family members, the Inquiry has had little regard to Ms Angie Yong's evidence.

### Evidence of Ms Lilly Yong

30. Ms Lilly Yong was an evasive witness at her private hearing on 5 March 2019.
31. At her private hearing, Ms Lilly Yong was directed not to discuss her evidence with anybody and was reminded of that direction twice.
32. At a public hearing on 12 August 2019, she gave evidence she had spoken to Mr Yong, Ms Angie Yong and her husband Mr Tet Khiong Yong about her evidence in the private hearing. She claimed that she had forgotten the Inquiry's directions.
33. Ms Lilly Yong agreed with Counsel Assisting she had signed a lease on or about the date she gave evidence at the private hearing that pretended to be a lease that was supposedly signed on 1 September 2009, knowing that it was going to be provided to the Inquiry by her daughter to prove the existence of a lease in 2009.<sup>14</sup>
34. Except where her evidence went against her own interests or the interests of her family members, the Inquiry has had little regard to Ms Lilly Yong's evidence.

## Evidence obtained by the Inquiry

### Sham leases used to create eligibility to stand for Council and enrol electors

35. At law, a “*sham*” refers to a document or transaction that the parties do not intend to have any legal effect yet is intended to appear to third parties to create legal rights and obligations.<sup>15</sup>
36. Parties may, for example, enter into a sham lease for property in the City that the parties do not intend to give rise to any rights, although it is intended to appear to be an enforceable lease. Such a document would not give a person “*a right of continuous occupation*” under the LG Act that would enable that person to enrol to vote.

#### Mr Keith Yong

37. Mr Yong has, at all relevant times, been a legal practitioner admitted to practice in Western Australia and employed as a solicitor by the firm Lex Legal Pty Ltd trading as Lex Legal (Lex Legal). Mr Jonas Yong is the sole director of Lex Legal and Mr Yong and Mr Jonas Yong are the only shareholders. Prior to the 2013 election, Mr Yong did not own or occupy any residential property in the City.
38. Since March 2012, Lex Legal has occupied an office at Suite 9, Level 3, 231 Adelaide Terrace, Perth.
39. Lex Legal Management Pty Ltd (Lex Legal Management) owned Suite 9, Level 3, 231 Adelaide Terrace, Perth. Ms Lilly Yong was the sole director, secretary and shareholder of Lex Legal Management.
40. On 1 January 2012, Lex Legal entered into a lease agreement with Lex Legal Management to lease Suite 9 at 231 Adelaide Terrace, Perth. The lease agreement was signed by Ms Lilly Yong as director of Lex Legal Management and Mr Jonas Yong as director of Lex Legal.
41. On 22 March 2012, Lex Legal Management nominated Mr Yong to vote in Council elections (Figure 2.3).<sup>16</sup>
42. On 19 September 2012, Ms Clayton, Governance Electoral Officer with the City, sent Mr Yong an email asking him to send the missing page of an enrolment eligibility form and a “*copy of the lease agreement/tenancy agreement or legal instrument for the two individual occupiers Mr Yit-Kee Yong and Mr Yit-Joon Yong*”.<sup>17</sup>
43. On 20 September 2012, Mr Yong sent Ms Clayton an email advising that the lease between Lex Legal Management and Lex Legal was sent the previous day.<sup>18</sup>
44. On 21 September 2012, Ms Clayton sent an email to Mr Yong confirming receipt of the lease between Lex Legal Management and Lex Legal and stating she understood Mr Yong wished to stand as a candidate for Council at the next election. She also advised him that being a nominee for Lex Legal Management did not make him eligible to nominate as a candidate.

# APPLICATION TO REGISTER A CORPORATE NOMINEE

(Enrolment Eligibility Claim for Notice of Nomination of Corporate Nominees)

PLEASE RETURN TO City of Perth, 27 31 George's Terrace, Perth, WA 6000  
FACSIMILE : 9461 3083



CITY of PERTH

See accompanying form for notes on when and how to complete this form.  
All sections must be completed for the City of Perth to consider the claim. For any assistance please contact telephone 9461 3302.

|  |                           |
|--|---------------------------|
| Full Name of Corporate Body (include Pty Ltd / Ltd as appropriate) | Australian Company Number |
| Lex Legal Management Pty Ltd                                       | (Please complete)         |

Rateable Property on which Claim is based (complete whichever is applicable)<sup>4, 5</sup>

Suite 9/231 Adelaide Terrace  
PERTH WA 6000

Postal Address of Corporate Body (complete whichever is applicable)

PO Box 6116  
EAST PERTH WA 6892

Person authorised by the Corporate Body  
to nominate person(s) to vote on its behalf

|                               |             |             |                          |
|-------------------------------|-------------|-------------|--------------------------|
| First Name<br>(Print or Type) | Family Name | Other Names | Work Email<br>Mobile     |
| YONG                          | YONG        | LILLY       | [REDACTED]<br>[REDACTED] |

The Corporate Body is the owner ☒ or occupier ☐ of the rateable property (please tick one box only)<sup>6</sup>

For occupiers only (tick one box)<sup>5</sup>

The Corporate Body that is making this application to register a nominee(s) ☒ does ☐ does not have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of that property for at least the next three months.

Proof of your right of occupation may be requested.

I am authorised as an Officer of the Corporate Body to nominate the following person(s) to vote on behalf of the Corporate Body.

Name of Nominee(s): (1) Mr / Mrs / Ms / Miss YIT-KEE YONG  
(2) Mr / Mrs / Ms / Miss LILLY YONG

Signature of authorised person: [Signature] Date: 22/03/2012

PLEASE TURN OVER

CC 16/3/12

Figure 2.3: Application to register a corporate nominee, City of Perth, Lex Legal Management Pty Ltd, 22 March 2012.

**First Nominee<sup>2</sup>**

|       |             |             |               |   |
|-------|-------------|-------------|---------------|---|
| Title | Family Name | Other Names | Date of Birth | CONTACT NUMBERS   |
| MR.   | YONG        | Yit-Ke      | [REDACTED]    | Home [REDACTED]<br>Work [REDACTED]<br>Mobile [REDACTED]<br>Email [REDACTED] |

**Postal Address**

|                                |       |               |        |        |       |          |
|--------------------------------|-------|---------------|--------|--------|-------|----------|
| Street No.<br>or<br>PO Box No. | Level | Building Name | Street | Suburb | State | Postcode |
| 6116                           |       |               |        |        |       |          |
| East Perth<br>6892             |       |               |        |        |       |          |

**Entitlement to be enrolled (tick one box)**

- I am ☒ On the State or Commonwealth Electoral roll for a residence outside the electorates  
My address on that roll is [REDACTED]
- or ☐ Not on the State or Commonwealth Electoral Roll but I am qualified as an Elector under Clause 12 of  
Schedule 9.3 of the Local Government Act 1995

**Claim and Declaration (Making a False Declaration is an Offence)**

I claim eligibility to have my name included on the City of Perth Owners and Occupiers Roll and I declare that all of the details set out above are true and correct.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

22/3/2012

**Second Nominee<sup>2</sup>**

|       |             |             |               |   |
|-------|-------------|-------------|---------------|---|
| Title | Family Name | Other Names | Date of Birth | CONTACT NUMBERS   |
| MRS.  | YONG        | LILLY       | [REDACTED]    | Home [REDACTED]<br>Work [REDACTED]<br>Mobile [REDACTED]<br>Email [REDACTED] |

**Postal Address**

|                                |       |               |        |        |       |          |
|--------------------------------|-------|---------------|--------|--------|-------|----------|
| Street No.<br>or<br>PO Box No. | Level | Building Name | Street | Suburb | State | Postcode |
| 6116                           |       |               |        |        |       |          |
| EAST PERTH<br>6892             |       |               |        |        |       |          |

**Entitlement to be enrolled (tick one box)**

- I am ☒ On the State or Commonwealth Electoral roll for a residence outside the electorates  
My address on that roll is [REDACTED]
- or ☐ Not on the State or Commonwealth Electoral Roll but I am qualified as an Elector under Clause 12 of  
Schedule 9.3 of the Local Government Act 1995

**Claim and Declaration (Making a False Declaration is an Offence)**

I claim eligibility to have my name included on the City of Perth Owners and Occupiers Roll and I declare that all of the details set out above are true and correct.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

22/03/2012

CC 18/3/12

45. Ms Clayton told Mr Yong he would need to be eligible as an “*individual occupier*” and show “*a lease/tenancy agreement or legal instrument*” in his name. Ms Clayton gave the example of “*a Lawyer who leases an office space from a Law firm who owns or occupies the Rateable property*”.<sup>19</sup>
46. On 24 August 2013, the ‘*Secretary*’ for Lex Legal sent an email to Dr Evans, Electoral Co-ordinator with the City, and Ms Clayton, attaching a copy of “*a lease agreement of Mr YitKee Yong*”. The email asked for confirmation that Mr Yong was “*now eligible to stand for election as a Council member*”.<sup>20</sup>
47. Ms Clayton responded by email two days later and provided Mr Yong with the contact details of the City’s Electoral Co-ordinator, Dr Evans, and the returning officer for the election, Ms Cavanagh, and advised that a disc titled “*Candidate Information Kit*” had been mailed.<sup>21</sup>
48. The attached lease agreement was between Lex Legal Management as landlord and Mr Yong as tenant. The lease stated that it was made and commenced on 1 January 2012. The lease was for “*A room / office situated at Suite 9, Level 3, 231 Adelaide Terrace, Perth ... having an area of 14.76 square metres*”. The premises were said to be outlined on a plan attached to the lease, although no plan was attached. The rent was \$9,600.00 per annum payable in monthly instalments. The agreement was, in almost all respects, identical to the lease agreement between Lex Legal and Lex Legal Management.
49. In his evidence before the Inquiry, Mr Yong admitted that the lease was drawn up in August 2013 and backdated to 1 January 2012. Mr Yong said that he had backdated the lease to make it look like a legitimate lease and he lied about the date “*To be consistent with the earlier lease*”, the lease between Lex Legal and Lex Legal Management. Mr Yong did not pay and never intended to pay any rent under the agreement. However, rent was included in the agreement to give the impression the lease was legitimate. Mr Yong admitted the lease agreement was solely drawn up so he could purport to be eligible to stand for election.<sup>22, (a)</sup>
50. Ms Lilly Yong also admitted the lease agreement was only drawn up so Mr Yong could stand for election, although she asserted that Mr Yong requested the office so he could have a separate office to complete his work as a council member.<sup>23</sup> However:
  - Mr Yong did not give evidence to that effect.
  - That is inconsistent with the terms of the lease, which provided Mr Yong was to use the premises only for the purpose of “*Office of law practice*”.
  - When he was elected as a council member, Mr Yong had the use of an office at Council House.
51. Mr Yong nominated himself as a candidate for election as a council member on 5 September 2013. He signed to verify “*I am eligible to nominate as a council member*”. Mr Yong was successfully elected to the Council for a four-year term at the election on 19 October 2013.

a While Counsel Assisting put to Mr Yong that the lease was drawn up in August 2012, it is apparent that Counsel Assisting was referring to August 2013 and it was clear that Mr Yong understood that to be the case.

52. On 24 November 2016, after Mr Yong had been a council member for three years, Mr Ridgwell emailed Mr Yong pointing out that his lease would expire on 31 December 2016 and asking him to update his eligibility status by providing a copy of his new lease and fresh enrolment form. Mr Yong replied, “*The lease agreement provides a further term of 5 years*”. However, he did not provide a copy of it. Mr Ridgwell said to Mr Yong “*there needs to be an evidentiary trail that the extension was exercised*”.<sup>24</sup> There is no evidence before the Inquiry that any evidence of an extension was provided to the City by Mr Yong.<sup>b</sup>
53. The Inquiry is satisfied on the evidence that the lease was a sham, created on or around August 2013, falsely backdated to 1 January 2012 and created purely so that Mr Yong was able to provide the City with a lease which appeared to make him eligible to stand for election to Council. Consequently, Mr Yong was not eligible to stand for election or take office as a council member.

#### Mr Jim Adamos

54. The Inquiry also heard evidence from Mr Adamos, who arranged for his family investment company, of which he and his wife were the sole directors and shareholders, to lease an office in his home, which was owned by him and his wife. Having drawn up the lease, Mr Adamos nominated his brother and sister-in-law to enrol to vote as the company’s nominees.<sup>25</sup> Those nominations were accepted by the City.
55. The rent payable under the lease was \$1.00 per annum, although no rent was ever paid. The term of the lease was for five years commencing from 1 July 2016. The lease was signed by Mr Adamos and his wife as guarantors, yet there was no guarantee under the lease. The lease also referred to the “*Commercial Tenancy Agreements Act 1995*” as legislation applying to the lease. However, that Act does not exist (Figure 2.4).<sup>26</sup>
56. Mr Adamos admitted the sole purpose of this lease was to enable his investment company to nominate two people to vote for him in the City’s ordinary election. Mr Adamos accepted that the lease was a sham and his behaviour was not ethical.<sup>27</sup>
57. Although Mr Adamos was not contesting the next Council election to be held on 21 October 2017, the term of the lease extended beyond October 2019 when he was due to stand for re-election. If the status quo remained, Mr Adamos’s brother and sister-in-law would have also been eligible to vote in that election.<sup>28</sup>
58. Mr Adamos claimed that, at the time, he did not know there was anything wrong with this behaviour. Mr Adamos held the view that it was the responsibility of the City’s Administration to tell him that creating a sham lease was the wrong thing to do.<sup>29</sup> As a consequence and notwithstanding his admissions at paragraph 56, the Inquiry is not satisfied that Mr Adamos accepted full responsibility for his conduct.

<sup>b</sup> In response to a notice to produce documents issued by the Inquiry, Ms Lilly Yong produced a document, signed by her as a director of Lex Legal Management and purportedly dated 1 September 2016, in which Lex Legal Management “*hereby consent to the Tenant a further term of five (5) years lease commencing 1st January 2017*”. Extension of Lease, 1 September 2016. However, the lease agreement provided that Mr Yong had the unilateral right to exercise an option to extend the lease for a further five years and the landlord’s (Lex Legal Management’s) consent to the extension was not required. Given this, and Ms Lilly Yong’s admission at paragraph 33, the Inquiry has concerns about the authenticity of this document.

## Lease of Commercial Office

---

***Landlord:***

Jimmy and Helen Adamos of [REDACTED]

***Tenant:***

East Perth Investments Pty Ltd (ACN 103 590 192)

---

Part Premises: The front office space of [REDACTED]

Rent: \$1 per year inclusive of GST

Term of Lease: 5 Years commencing from 1/7/2016

How rent is to be paid: Annually on July 1<sup>st</sup> each year

Building outgoings which the Tenant must pay or reimburse: Nil

The Tenant's proportion of Building Outgoings: 0%

Interest rate on overdue money: 5% per annum

Permitted Use: Office

Application of Act: Commercial Tenancy Agreements Act 1995

Market Review date(s): Nil

CPI review date(s): Nil

Fixed review date(s) and percentage increases or fixed amount: Nil

Further Term: 10 years.

Latest date for Exercising Option for Renewal: 30/6/2021

Security Deposit: Nil

Additional Provisions: Nil

Figure 2.4: Lease of commercial office, Mr Jimmy Adamos and Ms Helen Adamos, and East Perth Investments Pty Ltd, 1 July 2016.

***EXECUTED AS A DEED ON THIS 1st Day of July 2016***

EXECUTED by the LANDLORD, Jimmy and Helen Adamos in accordance with Section 127 of the *Corporations Act 2001* (Cth) by being signed by the authorised persons:

Jimmy Adamos 

Helen Adamos 

Jimmy Adamos and Helen Adamos both of 8 Henry Lawson Walk East Perth as joint Directors

EXECUTED by the **TENANT, East Perth Investments**, in accordance with Section 127 of the *Corporations Act 2001* (Cth) by being signed by the authorised persons:

  
Director Jimmy Adamos of 8 Henry Lawson Walk East Perth WA 6004

  
Director Helen Adamos of 8 Henry Lawson Walk East Perth WA 6004

EXECUTED by the **GUARANTOR**, in accordance with Section 127 of the *Corporations Act 2001* (Cth) by being signed by the authorised persons:

  
Director Jimmy Adamos of 8 Henry Lawson Walk East Perth WA 6004

  
Director Helen Adamos of 8 Henry Lawson Walk East Perth WA 6004

### Mr Robert Butler

59. Mr Butler was a council member of the City from May 2003 until October 2015 and was previously a council member of the City of Subiaco from 1989 to 1999.
60. Mr Butler gave evidence before the Inquiry that he had not lived in the City while he was a council member and he relied on several leases with three commercial premises at different times for eligibility to stand for Council. He paid a very low rent for these premises. On two occasions, the landlords for the premises were friends or acquaintances of Mr Butler.
61. From 1 August 2012, Mr Butler entered into a third lease for an office space above a bar. The initial one page lease was set out like a letter, contained no provision for the payment of rent (although Mr Butler claimed he did pay some money to the putative landlords) and was signed by only one of the two owners of the premises.<sup>30</sup> A formal lease was prepared<sup>31</sup> after the City advised Mr Butler the lease agreement did not demonstrate that he had a right to occupy property in the City and he was therefore ineligible to enrol on the owners and occupiers roll.<sup>32</sup>
62. Mr Butler denied the leases were shams, but freely admitted that he procured these leases for the sole purpose of being eligible to stand for election, had no intention of using the premises in any meaningful way and did not require the premises for any other purpose.
63. Mr Butler was a difficult witness who obfuscated his answers and was frequently argumentative. The way Mr Butler gave evidence on this topic contrasts sharply with his evidence on other matters and suggests that he did not believe there was anything wrong with this approach. That is consistent, for example, with his assertion that his three leases were “*accepted by the City and ticked off*”.

### City of Perth’s practices in assessing enrolment claims from occupiers of property

64. Mr Ridgwell gave evidence to the Inquiry that the City can readily confirm whether a person or company is an owner of rateable property by checking the City’s rates database.<sup>33</sup>
65. However, Mr Ridgwell said that where an enrolment form is submitted to enrol voters on the basis that the person or a company occupies property, the City relies on the declaration made in the form and the only checks carried out by the City are:
  - to confirm the proposed voter is an “*Australian elector*”;<sup>c</sup>
  - to confirm the property the person occupies is “*rateable property*”; and
  - where applicable, an Australian Securities and Investments Commission search of the company.<sup>34</sup>

<sup>c</sup> That is, they are enrolled as an elector for the Legislative Assembly or the Commonwealth House of Representatives: *Local Government Act 1995*, s 4.30(1)(a) and 4.31(1G).

66. Mr Ridgwell said the City had not requested proof that a person applying to be enrolled to vote occupies property, because of “*work capacity*” and “*resourcing*”.<sup>35</sup> Mr Ridgwell said he believed that the checks performed and the City’s reliance on the declaration in the form were “*appropriate at the time*”.<sup>36</sup>
67. Mr Ridgwell said that where a person nominates as a candidate for a Council election and claims to be eligible because they own or occupy property, the City will require proof of their eligibility, for example, by the production of a rates notice or a lease for the property and will check the person’s lease.<sup>37</sup>
68. However, Ms Clayton gave evidence that she would not have scrutinised the leases provided by Mr Yong in support of his eligibility to be enrolled on the owners and occupiers roll and would have simply accepted them on face value. She gave evidence that her role was administrative and that Dr Evans, as Electoral Co-ordinator, was “*responsible for the decisions*”, although she did not know if Dr Evans would have scrutinised the leases.<sup>38</sup>
69. Mr Ridgwell gave evidence that, had he known the facts of Mr Adamos’s lease, he would not have raised any concerns with Mr Adamos and would have only turned his mind to whether the requirements under the LG Act had been satisfied. Mr Ridgwell said it was Parliament’s role to address issues arising out of the legislation and that it was not his role, and he did not have the powers, to investigate the intent or purpose of a lease.<sup>39, (d)</sup>

### Conclusions

70. The Inquiry finds that Mr Yong and Mr Butler created sham leases to appear to be eligible to nominate as a candidate for Council elections and, in Mr Adamos’s case, he created a sham lease so his family investment company appeared to be able to enrol nominees to vote for him.
71. This conduct subverted the intent of the LG Act that only people with a sufficient connection with the City are permitted to vote in Council elections and hold office as a council member.
72. This conduct does not appear to be isolated. Mr Butler gave evidence that it was a common practice for council members to rent an office they either did not use or hardly used for the sole purpose of qualifying for election.<sup>40</sup> Mr Adamos claimed that another Council member, possibly Mr Butler, gave him the idea to lease a room in his house to his family company to obtain two votes.<sup>41</sup>

d The Inquiry notes the Chief Executive Officer of the City or the Chief Executive Officer’s delegate (which would include Mr Ridgwell) has the power to “*make any inquiries needed in order to make a decision*” on whether an occupier of property is eligible to enrol to vote or enrol others to vote: *Local Government Act 1995*, s 4.32(5). In the Inquiry’s view, that would include the power to make inquiries in circumstances that suggest a lease is not bona fide or is a sham.

73. It appears that the City's processes were inadequate to detect and prevent the use of sham leases. In the case of Mr Yong, the City should have been alert to the issue of whether his lease with Lex Legal Management was legitimate, because:
- the City was told Mr Yong intended to stand as a candidate, relying on his nomination by Lex Legal Management;
  - the City was then sent a copy of Mr Yong's lease with Lex Legal Management and asked if he was now eligible to stand for election;
  - the City, as at 24 August 2013, held two lease agreements which purported to lease the same premises (Suite 9, Level 3, 231 Adelaide Terrace) from the same date (1 January 2012) to different tenants; and
  - Mr Yong's lease agreement with Lex Legal Management stated that the premises being leased were outlined on a plan in the lease, but no plan was included.<sup>42</sup>
74. The Inquiry is concerned by Mr Ridgwell's evidence that had the facts of Mr Adamos's lease been brought to his attention, he would not have questioned it. It suggests that unless the City changes its processes and its approach to overseeing the owners and occupiers roll, there will continue to be the risk that candidates and council members will exploit vulnerabilities in the electoral system.
75. While the Inquiry accepts that the ability of City officers to detect fraudulent or improper conduct may be limited, it appears there are straightforward measures which could be adopted to verify that occupiers of property are eligible to vote in Council elections. For example, the City could require occupiers of property to provide a copy of the lease for the property and receipts of payments for rent. Mr Ridgwell agreed this would be relatively straightforward for the City to do.<sup>43</sup>
76. However, the City must scrutinise such documents and make further enquiries where necessary.


### False complaints orchestrated by Mr Keith Yong

77. In or around August 2011, Mr Yong assisted Ms Liu to enrol voters through companies affiliated with Mr Yong or members of his immediate family.<sup>44</sup>
78. Mr Yong completed an application form on behalf of Maxiwest Pty Ltd (Maxiwest), of which Mr Yong was the sole director and shareholder, to nominate himself to vote on the company's behalf and then gave the incomplete form to Ms Liu to procure "*her choice*" for the second nominee. Mr Yong did not know who the second nominee for his company would be and did not know who submitted the nomination form to the City (Figure 2.5).<sup>45</sup>
79. For Beau Geste Pty Ltd, for which Ms Angie Yong was the secretary, Mr Yong assisted her to complete the application form, register herself to vote on the company's behalf before providing the form to Ms Liu.<sup>46</sup> For Bellvista Pty Ltd (Bellvista), for which Ms Lilly Yong was a director, Mr Yong assisted her to complete the application form, register herself to vote on the company's behalf before providing the form to Ms Liu or her friend, Mr Sutherland.<sup>47</sup>

**APPLICATION TO REGISTER A CORPORATE NOMINEE**

(Enrolment Eligibility Claim for Notice of Nomination of Corporate Nominee)

PLEASE RETURN TO : City of Perth, 27 51 George's Terrace, Perth, WA 6000  
FACSIMILE : 9461 3083

  
CITY of PERTH

See accompanying form for notes on when and how to complete this form.  
All sections must be completed for the City of Perth to consider the claim. For any assistance please ring 9461 3122.

**Full Name of Corporate Body** (Include Pty Ltd / Ltd as appropriate) Australian Company Number

MAXIWEST PTY LTD

**Rateable Property on which Claim is based** (Include lot or lot number as appropriate)<sup>1, 2</sup>

| Street No. | Lot | Building Name | Street     | Suburb | Postcode |
|------------|-----|---------------|------------|--------|----------|
| 326        |     | MINT HOUSE    | HAY STREET | PERTH  | 6000     |

**Postal Address of Corporate Body** (Include lot or lot number as appropriate)

| Street No. or PO Number | Lot | Building Name | Street   | Suburb | Postcode |
|-------------------------|-----|---------------|----------|--------|----------|
|                         |     |               | AS ABOVE |        |          |

**Person authorised by the Corporate Body to nominate person(s) to vote on its behalf**

| Title (Mr, Mrs, Ms, Miss) | Family Name | Other Name | Home Phone / Mobile |
|---------------------------|-------------|------------|---------------------|
| MR                        | YONG        | YIT-KEE    |                     |

The Corporate Body is the owner ☐ or occupier ☒ of the specified property. (Please tick one box only)<sup>3</sup>

For occupiers only tick one box<sup>3</sup>

The Corporate Body that is making this application to register a nominee(s) ☒ does ☐ does not have a right under a lease, tenancy agreement or other legal instrument to the continuous occupation of that property for at least the next three months.

**Proof of your right of occupation may be requested.**

I am authorised as an Officer of the Corporate Body to nominate the following person(s) to vote on behalf of the Corporate Body:

Name of Nominee(s) (1) Mr / Mrs / Ms / Miss KEITH YONG

(2) Mr / Mrs / Ms / Miss WILLIE LIM

Signature of authorised person: [Signature] Date: 12/8/11

**PLEASE TURN OVER**

Figure 2.5: Application to register a corporate nominee, City of Perth, Maxiwest Pty Ltd, 12 August 2011.

**First Nominee <sup>2</sup>**

|   |  |                               |  |                             |  |                                       |  |
|---|--|-------------------------------|--|-----------------------------|--|---------------------------------------|--|
| Title      Family Name<br><b>MR.    YOUNG</b> |  | Other Names<br><b>YIT-KEE</b> |  | Date of Birth<br>[REDACTED] |  | CONTACT NUMBERS<br>Home    [REDACTED] |  |
| Street No<br>or<br>PO Box No                  |  | Locality      Building Name   |  | Street                      |  | Suburb                                |  |
|   |  | <b>AS Below</b>               |  |                             |  | State<br><br>Post                     |  |

**Entitlement to be enrolled (tick one box)**

- I am ☒ On the State or Commonwealth Electoral Roll for a residence outside the electorate.  
 My address on that roll is [REDACTED]
- or ☐ Not on the State or Commonwealth Electoral Roll but I am qualified as an Elector under Clause 12 of Schedule 4 of the Local Government Act 1995.

**Claim and Declaration (Making a False Declaration is an Offence)**

I claim eligibility to have my name included on the City of Perth Owners and Occupiers Roll and I declare that all of the details set out above are true and correct.

Signature:  Date: **12/08/2011**

**Second Nominee <sup>2</sup>**

|   |  |                                       |  |                             |  |                                       |  |
|---|--|---------------------------------------|--|-----------------------------|--|---------------------------------------|--|
| Title      Family Name<br><b>MR.    E</b> |  | Other Names<br><b>JOHN ALE</b>        |  | Date of Birth<br>[REDACTED] |  | CONTACT NUMBERS<br>Home    [REDACTED] |  |
| Street No<br>or<br>PO Box No              |  | Locality      Building Name           |  | Street                      |  | Suburb                                |  |
| <b>5502</b>                               |  | <b>2nd FLOOR</b><br><br><b>STREET</b> |  | <b>PERTH</b>                |  | State<br><br>Post                     |  |

**Entitlement to be enrolled (tick one box)**

- I am ☒ On the State or Commonwealth Electoral Roll for a residence outside the electorate.  
 My address on that roll is [REDACTED]
- or ☐ Not on the State or Commonwealth Electoral Roll but I am qualified as an Elector under Clause 12 of Schedule 4 of the Local Government Act 1995.

**Claim and Declaration (Making a False Declaration is an Offence)**

I claim eligibility to have my name included on the City of Perth Owners and Occupiers Roll and I declare that all of the details set out above are true and correct.

Signature:  Date: **12/08/2011**

80. Mr Yong nominated as a candidate on 5 September 2013.<sup>48</sup> After the City provided him with a copy of the electoral rolls, Mr Yong and Ms Lilly Yong examined those rolls to ascertain who had been registered as nominees for the companies affiliated with Mr Yong and his family. Mr Yong and Ms Lilly Yong could not identify the second nominee for several of those companies.<sup>49</sup>
81. By that time voter registration had closed and the consolidated electoral rolls were final. Nominees for Maxiwest, Beau Geste and Bellvista had been procured by Ms Liu or another third party in 2011. Mr Yong could not be assured those nominees would vote for him. As a result of the electoral rolls having closed, those companies could not nominate alternative voters.
82. On 23 September 2013, less than a month before the election, Ms Lilly Yong emailed Ms Clayton, Governance Electoral Officer at the City of Perth. She wrote *"We have found a number of irregularities in the Register of the Elector Mail List"*. Ms Clayton asked her for further details and Ms Lilly Yong replied:  
  
*"Yes, I was referring to the Electoral Rolls as supplied to Keith. The irregularities involved a number of voters purported to be authorised by companies that either did not authorise them or are non existent. That would amount to fraud. The scrutinising of the rolls is continuing and there may be more irregularities to be found"*.<sup>50</sup>
83. Ms Lilly Yong sent this email at Mr Yong's direction and with his assistance.<sup>51</sup> Ms Lilly Yong admitted that she had made these serious allegations so the City would have to act on them and that at the time she *"probably"* knew the allegations were wrong.<sup>52</sup>
84. Ms Clayton forwarded that complaint on to Ms Cavanagh, the returning officer for the 2013 City ordinary election.<sup>53</sup>
85. Around this time, Mr Yong telephoned Ms Cavanagh. He complained of corruption and said that he did not recognise the names of the people nominated and believed that it had been a *"set up"*.<sup>54</sup>
86. On 24 September 2013, Mr Yong sent an email to Ms Cavanagh lodging *"a complaint in relation to the irregularities and possible fraud in the City of Perth electoral roll"*.<sup>55</sup> It attached letters signed by the directors of Bellvista, Beau Geste, Maxiwest, MKF Investments Pty Ltd (MKF Investments) and Australian Education Pty Ltd (Australian Education).
87. Each of those letters were alleging fraud and worded in very similar terms. The letters from Bellvista, Beau Geste and Maxiwest were prepared by Mr Yong and by Mr Yong's parents with Mr Yong's assistance.<sup>56</sup>
88. In the letter from Mr Yong, in his capacity as a director of Maxiwest, he stated *"I will be lodging [a] police report for the alleged fraud"* (Figure 2.6).<sup>57</sup> When giving evidence Mr Yong admitted he had absolutely no intention of lodging a police report (Figure 2.6).<sup>58</sup>



**Figure 2.6:** Letter from Mr Yit-Kee (Keith) Yong, Director, Maxiwest Pty Ltd, to Ms Lyn Cavanagh, Returning Officer, 24 September 2013.

89. Mr Yong knew that each of the second nominees for Bellvista, Beau Geste and Maxiwest had been properly nominated. As a result of the owners and occupiers roll having closed, Mr Yong could not arrange for those companies to nominate different people. Mr Yong made the complaints, because he did not know whether the second nominees for Bellvista, Beau Geste and Maxiwest would vote for him and he therefore wanted to remove them from the electoral roll. Mr Yong agreed with Counsel Assisting that by making these complaints he had committed a fraud.<sup>59</sup>
90. Ms Lilly Yong denied she had made the allegations about the nominees, because she hoped to make changes to the electoral roll. However, she accepted that she wanted to make sure all the voters associated with her family's companies would vote for her son in the upcoming elections and that she would do whatever she could to help him get as many votes as possible.<sup>60</sup>
91. In relation to the letters from MKF Investments and Australian Education, Mr Yong contacted Mr Meng Wong, his friend and the sole director and secretary of those companies, about the nominees for those companies on the owners and occupiers roll. Mr Wong told Mr Yong, after Mr Yong asked, that he did not recognise the nominees and did not know if those nominees would vote for Mr Yong in the 2013 election.
92. Mr Yong suggested, and Mr Wong agreed, that this may be a fraud and that Mr Wong should make a complaint alleging fraud.<sup>61</sup> Mr Yong sent a copy of his Maxiwest letter to Mr Wong, who created two copies of the letter, edited them to refer to MKF Investments and Australian Education, signed the letters and sent copies to Mr Yong.
93. Those letters were in the same terms and contained the same typographical errors as the Maxiwest letter. Those letters also stated that Mr Wong would be lodging a police report. Mr Yong admitted that Mr Wong just did what he suggested and that he had a fair idea that the allegations were baseless.<sup>62</sup>
94. The Inquiry finds that Mr Yong and Ms Lilly Yong acted dishonestly in making, and arranging for other people to make, serious allegations of fraud, when they knew those allegations were baseless. Mr Yong and Ms Lilly Yong did so for the ulterior purpose of having those nominees removed from the electoral roll to benefit Mr Yong in the 2013 election.

#### **Mr Keith Yong gave inconsistent evidence**

95. Mr Yong gave the evidence at paragraph 89 before lunch at a public hearing before the Inquiry on 6 August 2019. When the Inquiry resumed after lunch on that day, Mr Yong recanted that evidence and denied that it was his intention, by making the complaints that were made, to have the nominees fraudulently removed from the electoral roll.<sup>63</sup>
96. Under questioning from Counsel Assisting, Mr Yong admitted that he had spoken, by telephone, to his brother, Mr Jonas Yong, about his evidence during the lunch break and that was the reason he provided a different explanation as to why the complaints were made.<sup>64</sup>

97. The Inquiry then adjourned to allow Mr Yong's legal representatives to give him some advice on his obligations as a witness. When the hearing resumed Mr Yong accepted that:
- he knew the second nominees for Bellvista, Beau Geste and Maxiwest had been nominated by Ms Liu; and
  - he deliberately made a complaint without any basis for the purpose of having those nominees removed from the electoral roll, because he did not know whether they would vote for him.
98. Mr Yong agreed with Counsel Assisting that the evidence he gave immediately after lunch was false. Mr Yong said that Mr Jonas Yong had told him, and he agreed, to give false evidence. Mr Yong agreed with Counsel Assisting, by doing that, he and Mr Jonas Yong had attempted to pervert the course of justice.<sup>65</sup>

### Investigation into Mr Keith Yong's complaints

99. The City and the WAEC appear to have formed the view that the complaints made and arranged by Mr Yong needed to be addressed urgently. That was because:
- the CEO, before making any decision that a person was not eligible to be on the owners and occupiers roll, was required to give that person 28 days to make submissions;
  - the CEO's decision could be appealed to the WAEC; and
  - consequently, the complaints needed to be resolved by 11 October 2013, to enable any appeals to be heard and the rolls to be corrected before election day.<sup>66</sup>
100. Ms Cavanagh had previously been a returning officer for many State and local government elections. Dr Evans was a former Electoral Commissioner of Western Australia.
101. On 2 October 2013, Ms Cavanagh and Dr Evans met with Mr Yong, Ms Lilly Yong, Mr Tet Khiong Yong (Mr Yong's father and Ms Lilly Yong's spouse) and Mr Wong at the same time to discuss the complaints.<sup>67</sup> At the meeting:
- Dr Evans produced the enrolment eligibility claim forms for Bellvista, Beau Geste, Maxiwest, MKF Investments and Australian Education and went through each one.
  - Mr Wong and Mr Tet Khiong Yong admitted they had signed the forms, but had not checked or did not know who the second voter was. Mr Wong and Mr Tet Khiong Yong quickly withdrew their complaints.
  - Ms Lilly Yong initially denied that it was her signature on the enrolment form, but later accepted it was likely her signature and that she had not checked the second voter on the form.
  - Mr Yong agreed that it appeared he, Ms Lilly Yong, Mr Tet Khiong Yong and Mr Wong did not check who the voters for their respective companies were.<sup>e</sup>

<sup>e</sup> Transcript, L Cavanagh, private hearing, 17 April 2019, p 26-29, 33; Letter, L Cavanagh to K Yong, 4 October 2013. In her evidence and her letter to Mr Yong, Ms Cavanagh referred to a "*Mr Meng Yong*", "*Mr Keith Yong*" and "*Mr Yit Kee Yong*". However, considering the evidence of Ms Cavanagh and Dr Evans in total, Ms Cavanagh's letter to Mr Yong and Dr Evans's report, it appears that "*Mr Meng Yong*" was a reference to Mr Meng Wong and "*Mr Yit Kee Yong*" a reference to Mr Tet Khiong Yong.

102. At the end of the meeting, Ms Cavanagh confirmed that Mr Yong, Ms Lilly Yong, Mr Tet Khiong Yong and Mr Wong did not wish to take the matter any further and considered the complaints to be resolved.<sup>68</sup>
103. Ms Cavanagh and Dr Evans respectively documented the outcomes of their inquiries in a letter to Mr Yong and a report, both dated 4 October 2013.<sup>69</sup>
104. Ms Cavanagh and Dr Evans did not consider contacting the second nominees for Bellvista, Beau Geste, Maxiwest, MKF Investments and Australian Education to find out how they were nominated. Ms Cavanagh thought it was not necessary to interview the nominees, because the complainants had agreed they had completed the forms without checking who the nominees would be. Dr Evans said that taking this step did not enter his mind.<sup>70</sup>
105. Dr Evans gave the following evidence:
- “And how did you reconcile your disbelief or your concerns about the honesty of what these people were telling you with the seriousness of the allegations that they had made which contended that the forms were fraudulent? How did you reconcile the two?---Well I – I’m not sure now but I – I suspect I sort of thought they were making up a story about something for some reason when, in fact, they did know that these people were on the roll. But now for some reason they’re trying to tell us they shouldn’t be on. You know, why would they be doing that I don’t know but that – what it looked to me, like they did know, they did sign the forms, they did nominate the people or didn’t care and got somebody else to write a name on. But they’d taken the initial action. Now, they’re trying to claim they didn’t do it. And that was my – what I thought”.<sup>71</sup>*
106. As to his conclusion in his report that Mr Yong “doesn’t appear to have committed an offence”,<sup>72</sup> Dr Evans admitted that, upon reflection, he “probably would’ve made a slightly different conclusion”. He gave this evidence:
- “... I’m not sure but I think it’s probably wrong because the – this is a statutory declaration, this form. And if somebody has signed it and then they’re claiming they don’t know what’s in it then I assume they probably have committed an offence so there might have been some – perhaps that’s where I should have been going back to the City and saying, ‘I think we should be investigating whether we could prosecute these people because they’ve clearly – they’re claiming they haven’t written this material but they’ve signed it’, I think”.<sup>73</sup>*
107. Ms Cavanagh formed the view Ms Lilly Yong had instigated the complaints and that her and Mr Yong had involved Mr Wong and Mr Tet Khiong Yong in the matter.<sup>74</sup>
108. Ms Cavanagh believed, based on her experience as a returning officer, that Mr Yong, his mother, his father and Mr Wong had initially not been concerned about the nominees for their companies, because Mr Yong was not standing for election:
- “But now that Mr Keith Yong was standing for election, they had taken much closer notice of the companies that his family were – I assume family were involved with and the votes that would come his way”.<sup>75</sup>*

109. Dr Evans gave evidence that he regarded the investigation as being conducted by the WAEC, although Ms Cavanagh wanted him present because of his knowledge of electoral procedures.<sup>76</sup> Dr Evans presumed Ms Cavanagh was conducting the investigation under briefing from the WAEC, but Ms Cavanagh gave evidence she had no assistance from the WAEC in dealing with the matter.<sup>77</sup>

#### **Conclusions on Ms Lyn Cavanagh's and Dr Kenneth Evans's investigation**

110. The Inquiry accepts that the investigation carried out by Ms Cavanagh and Dr Evans resolved the complaints in an effective and transparent manner. However, the Inquiry finds the process was flawed in two respects.
111. First, Ms Cavanagh and Dr Evans should have met with Mr Yong, Ms Lilly Yong, Mr Tet Khiong Yong and Mr Wong separately rather than together. That would have minimised the risk that their answers to questions were contaminated, because they would not have heard what the others had said. Dr Evans accepted that the better process would have been to speak to each complainant individually.<sup>78</sup> However, the Inquiry notes that neither Ms Cavanagh nor Dr Evans were legally trained and may not have been familiar with the appropriate witness interview techniques.
112. Secondly, Ms Cavanagh and Dr Evans should have contacted the disputed nominees of Bellvista, Beau Geste, Maxiwest, MKF Investments and Australian Education to discover how they had been enrolled to vote. That is, because:
- Mr Yong, Ms Lilly Yong, Mr Tet Khiong Yong and Mr Wong made serious allegations of fraud, but quickly withdrew these complaints when presented with the forms bearing their signatures.
  - Mr Yong, a candidate in the election, had made one of the complaints.
  - Ms Cavanagh formed the view that Mr Wong and Mr Tet Khiong Yong had been drawn into the matter by Mr Yong and his mother.
  - Dr Evans had formed the view that the complaints had been fabricated. Relevantly, it is an offence punishable by a fine of \$5,000.00 or one year's imprisonment to knowingly give a false statement in answer to a question asked by a returning officer investigating electoral misconduct.<sup>79</sup>

#### **Abuse of owners and occupiers roll**

##### **Mr Keith Yong attempted to redirect ballot papers to his family's post office boxes**

113. In or around 2015 and 2016, Mr Yong arranged for at least 45 of his friends, friends of his family and family members to be nominated by companies owning or occupying property in the City.

114. Mr Yong arranged for the ballot papers for these voters to be sent to PO Box 6116, East Perth and PO Box 862, Victoria Park. These PO Boxes belonged to Mr Yong and members of his family. He listed the PO Boxes as the voters' postal addresses on the enrolment eligibility claim forms submitted to the City. The City's records show that, as at 24 May 2016 and 31 May 2016, respectively:
  - PO Box 6116, East Perth was the postal address for 32 voters on the owner and occupiers roll, including Mr Yong, Ms Lilly Yong and Ms Angie Yong; and
  - PO Box 862, Victoria Park was the postal address for 16 voters on the owner and occupiers roll.<sup>80</sup>
115. This meant, in effect, Mr Yong would have access to at least 45 ballot papers at the time of the 2017 election. Mr Yong admitted that he intended to arrange for more of his friends and family members to be enrolled to vote before the 2017 City ordinary election.<sup>81</sup>
116. Mr Yong agreed his conduct was unethical and that he did this *"to encourage numbers of voters and second, to encourage their support for my election"*. Mr Yong appeared to accept this conduct was inconsistent with *"the intent and purpose of the electoral process"*.<sup>82</sup>
117. On almost all of the forms used to enrol these voters, the fields for the voters' telephone numbers, email addresses and other personal contact details were left blank. Mr Yong did this because he did not want the City contacting the nominees other than through the two PO Boxes and he did not want the nominees to know they were on the electoral roll.<sup>83</sup>
118. The City wrote to these voters confirming they had been enrolled and sent this correspondence to the two PO Boxes. Mr Yong admitted he did not forward these letters to the voters and he did not inform the voters or the directors of the companies that had nominated them that the voters were now on the electoral roll.<sup>84</sup>
119. Mr Yong denied that he intended to complete the ballot papers or arrange for persons other than the electors themselves to do so.<sup>85</sup> Mr Yong gave evidence that he intended to collect the ballot papers from the PO Boxes and *"distribute"* them to the appropriate electors to *"make sure they vote"*.<sup>86</sup>
120. However, Mr Yong could not plausibly explain how he would contact up to 45 electors and distribute their ballot papers to them in several weeks. While those electors were Mr Yong's family and friends, Mr Yong admitted he did not have contact details for all these electors.<sup>87</sup> Mr Yong agreed that his explanations as to how he would distribute the ballots defied logic,<sup>88</sup> but could not provide an alternative, logical explanation despite being given repeated opportunities to do so.<sup>89</sup>
121. Mr Yong conceded that any person who had access to the PO Boxes could have filled in the ballot papers to vote for him on behalf of the electors. He understood that these electors intended to vote for him and agreed with the proposition that if someone else had completed their ballot papers, that would have been *"just a technicality"*.<sup>90</sup>

122. Mr Yong denied that he was going to complete the ballot papers by asserting “the ballot paper requires signatures to verify [it] is actual person signing it”.<sup>91</sup> While that is correct,<sup>92</sup> Mr Yong had also kept copies of the enrolment eligibility claim forms, which contained the signatures of all the nominees.<sup>93</sup> In other words, he knew what they looked like.
123. The Inquiry does not accept Mr Yong’s denials that he did not intend to complete ballot papers belonging to other electors. It may reasonably be expected that allegations of serious criminal behaviour may result in Mr Yong giving an untruthful denial, particularly when earlier that day he admitted giving false evidence.

#### Yong family apply to become silent electors

124. Regulation 13(2) of the *Local Government (Elections) Regulations 1997* (Election Regulations) provides that electors may be entitled to have their address omitted from electoral rolls if they provide the CEO with a statutory declaration stating that publication of their address would place their safety or their family’s safety at risk.
125. On 28 January 2015, Mr Ridgwell sent an email to Lord Mayor Lisa Scaffidi and council members attaching an uncertified copy of the City’s owners and occupiers roll.<sup>94</sup>
126. On 2 February 2015, Mr Yong responded to Mr Ridgwell asking if he could be a silent elector on the roll.<sup>95</sup>
127. Mr Ridgwell replied to Mr Yong that day and advised him of regulation 13(2) of the Election Regulations. Mr Ridgwell noted that Mr Yong’s “brother and others” were listed on the roll and that it may be beneficial if they were also silent electors.<sup>96</sup>
128. On 3 February 2015, Mr Yong, Ms Lilly Yong and Mr Jonas Yong made statutory declarations on the same day (and likely at the same time) before the same authorised witness applying to be silent electors on the owners and occupiers roll. They each declared they believed the publication of their address would put their safety at risk.<sup>97</sup>
129. On 5 February 2015, Ms Angie Yong also made a statutory declaration applying to be a silent elector on the owners and occupiers roll, declaring that she believed the publication of her address would put her safety at risk.<sup>98</sup>
130. Ms Lilly Yong, Ms Angie Yong and Mr Jonas Yong declared that the basis for the belief that the publication of their address would risk their safety was that they were related to Mr Yong. Save and except for their names and occupations, Mr Yong’s, Ms Lilly Yong’s, Ms Angie Yong’s and Mr Jonas Yong’s statutory declarations were substantially identical with only minor differences.
131. Each of the statutory declarations gave the declarant’s address as PO Box 6116, East Perth. Had they not applied to be silent electors, the electoral roll would have listed Mr Yong’s, Ms Lilly Yong’s, Ms Angie Yong’s and Mr Jonas Yong’s address as PO Box 6116, East Perth.<sup>99, (f)</sup> It is difficult to understand how the inclusion of that address on the electoral roll could have put their personal safety at risk.

<sup>f</sup> This was because the City’s record-keeping system for the election listed the address for Mr Yong, Lilly Yong, Angie Yong and Jonas Yong as PO Box 6116, East Perth: Extract, City of Perth, Pathways system: owners and occupiers electoral roll.

132. The City accepted Mr Yong's, Ms Lilly Yong's, Ms Angie Yong's and Mr Jonas Yong's statutory declarations and omitted their address from the owners and occupiers register.<sup>100</sup> This omission made it more difficult for the City to identify that it was Mr Yong who had arranged to redirect ballot papers to the PO Box 6116, East Perth address.
133. Under examination, Mr Ridgwell agreed that the fact that the Yong family members were applying to remove a PO Box address (rather than a residential address) from the roll should have been considered by the City when determining their applications.<sup>101</sup>
134. Ms Lilly Yong and Ms Angie Yong gave evidence that they did not fear for their safety, because Mr Yong was a council member and admitted their statements that *"publication of my address would place my safety at risk being related to Cr Yong"* in their respective statutory declarations were false.
135. Ms Angie Yong could not explain why she made that statement. Ms Lilly Yong gave evidence that she applied to be a silent elector on the electoral roll, *"because keep on seeing my address there, maybe doesn't look so good"*.<sup>102</sup>
136. The Inquiry accepts Ms Lilly Yong's evidence on this issue and notes that admission was made voluntarily and had the potential to reflect poorly not just on her but also Mr Yong, Ms Angie Yong and Mr Jonas Yong.
137. Mr Yong gave evidence that the reason he applied to become a silent elector was because he believed that his election and the publishing of his residential address would risk his safety and his family's safety.
138. However, Mr Yong did not make the statutory declaration until 16 months after he was first elected and was never threatened or had his safety put at risk before he completed the declaration. Notwithstanding that his statutory declaration gave his address as PO Box 6116, East Perth and the letter from Mr Ridgwell confirming his successful application as a silent elector was sent to the PO Box 6116 address, Mr Yong said it was his residential address that should have been listed as silent.<sup>103</sup>
139. Mr Yong initially asserted that Ms Lilly Yong had told him her safety was at risk, because she was related to him and her address would be public. He then gave evidence that she had not told him that and instead he was concerned about her safety.<sup>104</sup>
140. Mr Yong accepted that it was logical for the PO Box 6116 address not to be listed on the electoral roll as the postal address for members of his family, when that address would be listed as the address for numerous other voters. He also accepted that it could be perceived that the purpose of omitting the PO Box 6116 address on the electoral roll was to distance members of the Yong family from that PO Box, but denied this was his intention.<sup>105</sup>
141. The Inquiry does not accept Mr Yong's evidence, which at times was inconsistent and evasive and which must be assessed, among other matters, in light of his admission that he was dishonest in giving evidence before the Inquiry.

### Voters nominated by Osaka Gas companies

142. Of the 45 voters who Mr Yong arranged to be nominated, and whose ballot papers were sent to the PO Box 6116 or PO Box 862 addresses, 16 voters were nominated by companies associated with Osaka Gas Australia. The parent company, Osaka Gas Co., Ltd, is an international Japanese gas company, which operates and has companies registered in Australia.
143. Mr Yong's girlfriend at the time worked at Osaka Gas Australia and introduced Mr Yong to Mr Takemori, the Managing Director of Osaka Gas Australia. Mr Yong and Mr Takemori saw each other at social events organised by the Japanese Chamber of Commerce and the Japanese Consulate in Perth, dined together at Mr Yong's invitation in the Council's Dining Room and developed a friendship.<sup>106</sup>
144. As at 2016, Mr Takemori was a director of Osaka Gas Australia and its seven wholly-owned subsidiary companies.<sup>107</sup> Mr Yong became interested when he learned of the number of Osaka Gas companies in Australia, because each of those companies could potentially nominate two voters and it would be in his interests if each of those voters voted for him in the October 2017 elections.<sup>108</sup>
145. On 5 March 2016, Mr Yong met with Mr Takemori at a café near Osaka Gas Australia's office on St Georges Terrace and brought with him enrolment for corporate nominees eligibility claim forms (the forms) for the eight Osaka Gas companies.<sup>109, (g)</sup> The names and addresses of the companies and Mr Takemori's name and position had been completed on the forms, but the names and addresses of nominees were blank.<sup>110</sup> Mr Yong asked Mr Takemori to sign the forms and told him he did not need to worry about completing the other parts of the forms because he, Mr Yong, would do that.<sup>111</sup> Mr Takemori signed each form, but did not complete any other parts of the form and Mr Yong dated his signatures.<sup>112</sup>
146. Mr Takemori gave evidence that he understood that the forms were a kind of performance assessment of Mr Yong as a council member. He understood that Mr Yong wanted as many forms as possible completed for the Osaka Gas companies, because that would show how many companies supported Mr Yong as a council member. Mr Takemori did not have the time to read the forms carefully, because he was leaving Perth permanently for Japan at the end of March 2016 and was very busy with work. Mr Takemori trusted Mr Yong and believed what Mr Yong had told him about the forms.<sup>113</sup>
147. Mr Takemori said that he told Mr Yong that he did not like to be involved in political matters, because Osaka Gas Australia was an Australian company and he was seconded from the Japanese parent company. Mr Takemori told Mr Yong he was anxious about signing the forms and Mr Yong told him he did not need to worry.<sup>114</sup>

g While Mr Takemori did not recall the precise date the meeting took place, he gave evidence that it was his practice to ensure that the date of his signature was accurate and on that basis, believes that he signed the forms on 5 March 2016.

148. Mr Takemori did not understand that the purpose of the forms was to nominate persons to vote on behalf of the Osaka Gas companies in local government elections. He did not know that companies could nominate people to vote, because that arrangement did not exist under Japanese law. Had Mr Takemori understood the true purpose of the forms, he would not have signed them. In Mr Takemori's experience as a long-serving and senior Osaka Gas employee, Osaka Gas did not become involved in or arrange for people to vote in local government elections.<sup>115</sup>
149. In his evidence before the Inquiry, Mr Yong twice asserted that he told Mr Takemori that signing the forms would nominate two people to vote on the company's behalf, but after being questioned by Counsel Assisting, admitted he did not explain this.<sup>116</sup> Mr Yong admitted that he should have explained the purpose of the forms to Mr Takemori and by asking him to sign the forms without explaining them, the forms had been signed by Mr Takemori under a false pretence.<sup>117</sup>
150. Mr Yong denied that Mr Takemori said that he did not want to get involved in local government politics. However, Mr Yong admitted that he thought that Mr Takemori may have simply signed the forms on his request, because Mr Takemori thought he was a man of integrity.<sup>118</sup> Furthermore, Mr Yong knew Mr Takemori would not have signed the forms if Mr Takemori understood their true purpose and as a result he had to come up with an explanation that was different or unclear.<sup>119</sup>
151. After Mr Takemori signed the forms, Mr Yong selected the nominees for the eight Osaka Gas companies.<sup>120</sup> Mr Takemori did not know any of the nominees and Mr Yong did not tell Mr Takemori their names.<sup>121</sup> All the nominees selected by Mr Yong were either his friends or friends of his family.<sup>122</sup>
152. Mr Yong deliberately did not provide Mr Takemori's contact details on the forms, so that the City could not contact him and so that Mr Takemori would not become aware that Mr Yong had nominated 16 nominees to vote on behalf of the Osaka Gas companies. He also wrote the postal address of the body corporate on each of the forms as being PO Box 6116, East Perth. On some of the forms, Mr Yong falsely dated the signatures of nominees and Mr Takemori to give the impression that Mr Takemori had been present when the nominees had signed and to cover up his improper conduct.<sup>123</sup>
153. The Inquiry accepts Mr Takemori's evidence, who presented as a witness of truth. The Inquiry does not accept Mr Yong's evidence, save and except where it is corroborated by Mr Takemori and/or goes against Mr Yong's own interests.

#### **Conclusions on Mr Keith Yong's, Ms Lilly Yong's and Ms Angie Yong's conduct**

154. The Inquiry is satisfied, to the required standard,<sup>124</sup> that Mr Yong arranged for ballot papers to be sent to the two PO Boxes so that he or others acting on his behalf could complete ballot papers and then return the postal votes to the City. The Inquiry finds accordingly. In effect, Mr Yong had done everything in his power to ensure that ballot papers belonging to other electors would be delivered to the PO Boxes under his and his family's control come election time.

155. The Inquiry is also satisfied, to the required standard, that Ms Lilly Yong, Ms Angie Yong and Mr Yong made false statutory declarations to conceal or obscure the Yong family's connection to the PO Box 6116, East Perth address, and finds accordingly.
156. The Inquiry finds that:
- Mr Yong deliberately did not provide Mr Takemori with a full explanation as to the purpose of the forms, because he knew that if he did provide that explanation and Mr Takemori understood the purpose, then Mr Takemori would not have signed the forms.
  - Mr Takemori signed the forms under a false pretence and was, in effect, misled by Mr Yong.
  - Mr Yong attempted to conceal his conduct from the City and from Mr Takemori by falsely dating when the forms were signed and falsely completing the postal address details for the Osaka Gas companies.
  - Mr Yong also attempted to conceal his conduct by deliberately omitting the personal contact details of the nominees on all but one of the forms.<sup>125</sup>
157. The Inquiry notes that the persons selected by Mr Yong (purportedly on behalf of the Osaka Gas companies) to be nominees had no connection to the companies that nominated them. That is not consistent with the intent of the LG Act, which is to enable businesses with property interests in the City to have the opportunity to participate in the electoral process and be represented by their preferred council members.
158. In the course of its investigations, the Inquiry received information and heard evidence that suggested it is common for council members and candidates to arrange for companies owning or occupying property in the City to enrol voters. It appears such voters often have no connection to the company nominating them.<sup>126, (h)</sup>
159. While this evidence and information was often hearsay, and the Inquiry does not rely on it as the basis for any findings against any other parties, it suggests that Mr Yong's conduct may not have been isolated.

#### City of Perth's investigation of the misuse of postal addresses

160. In or around early 2016, Ms Clayton noticed, quite fortuitously, that the address of PO Box 6116, East Perth had been provided as the postal address for numerous voters on the owners and occupiers roll. On further investigation, Ms Clayton found that many of these voters had been nominated by companies with an address at 108 St Georges Terrace, Perth.
161. At that stage, Ms Clayton did not identify that PO Box as being associated with Mr Yong, because Mr Yong, Ms Lilly Yong and Ms Angie Yong were listed on the City's silent electors extract, which was separate to the City's Pathways system.

<sup>h</sup> In exercising its power under section 8B of the *Royal Commissions Act 1968*, boxes of documents apparently belonging to council members were produced to the Inquiry by the City of Perth. Some of these boxes contained numerous completed and partially completed enrolment forms for companies owning or occupying property in the City of Perth.

162. Ms Clayton was concerned that come election time, numerous ballot papers would be sent to the same address and raised the issue with Mr Ridgwell.
163. Ms Clayton gave evidence that Mr Ridgwell said it was not unusual for tenancies in the one building to use the same PO Box address and said he was comfortable with the issue.<sup>127</sup>
164. Mr Ridgwell gave evidence that he recalled a conversation with Ms Clayton where he told her it was not unusual for the tenancies in the same building to use the same PO Box address. However, he did not believe he was not concerned as he had asked Ms Clayton to provide him with *“a fulsome report”*. Mr Ridgwell also said that he had *“encouraged [Ms Clayton] to look through the whole process, for any duplication”*.<sup>128</sup>
165. Ms Clayton subsequently discovered that PO Box 6116, East Perth was the postal address for Mr Yong, Ms Lilly Yong and Ms Angie Yong, after looking at the extract of silent electors. Ms Clayton also identified that PO Box 862, Victoria Park was also being used as the postal address for voters, although she could not recall this at the time she gave her evidence.<sup>129</sup>
166. Mr Ridgwell contacted the WAEC and discussed his intention to meet with Mr Yong and recommend that the postal addresses for these electors be amended to the address on the WAEC or Australian Electoral Commission’s system. The WAEC agreed that *“the collection of ballot papers could potentially constitute a breach of the [Local Government] Act and should be addressed to ensure it does not occur”*.<sup>130</sup>
167. On 30 May 2016, Mr Ridgwell met with Mr Yong and *“strongly recommended that the electoral addresses be amended to the individuals AEC/WAEC address”*.<sup>131</sup> According to Mr Ridgwell, Mr Yong said he would hand-deliver ballot papers to the nominees to ensure that they would participate in the election process.
168. Mr Ridgwell also gave evidence, which was corroborated by the contemporaneous file note he had written, that Mr Yong told him he would consider the matter. When Mr Ridgwell followed up with Mr Yong 24 hours later, Mr Yong advised him he was still considering it.<sup>132</sup>
169. Mr Yong initially gave evidence that he told Mr Ridgwell at that meeting *“Do it straightaway. I don’t want to get involved with anything illegal and this will be perceived as fraud”*. Under further examination from Counsel Assisting, Mr Yong then said he told Mr Ridgwell to change the addresses *“straight after – as soon as possible, if not immediate, will be hours or a day or two”*.<sup>133</sup>
170. On 28 June 2016, Mr Ridgwell and Mr Mileham met with Mr Yong to discuss the issue.<sup>134</sup>
171. On 8 July 2016, Mr Ridgwell sent Mr Yong an email attaching a memorandum stating all voters using PO Box 6116, East Perth or PO Box 862, Victoria Park as their postal address (except for Mr Yong, Ms Angie Yong, Ms Lilly Yong and Mr Jonas Yong) would be contacted and told the City would be using their residential address for all matters relating to the City’s elections.<sup>135</sup>

172. The Inquiry prefers the evidence of Mr Ridgwell on this issue, who presented as a witness of truth attempting to earnestly assist the Inquiry. The Inquiry does not accept Mr Yong's evidence, which is inconsistent with Mr Ridgwell's evidence and the contents of Mr Ridgwell's contemporaneous file note dated 30 May 2016.
173. On 13 July 2016, Mr Ridgwell wrote to the nominees whose postal address was listed as PO Box 6116, East Perth or PO Box 862, Victoria Park to advise that the City would be using their residential addresses in relation to the City's ordinary election. One of these letters was sent to Ms Christine Yong, who was a nominee for Osaka Gas Ichthys Development Pty Ltd and who had previously been employed by Lex Legal.<sup>136</sup>
174. On 18 July 2016, Ms Christine Yong called Ms Clayton and told her that she did not know she had been nominated to vote on behalf of Osaka Gas Ichthys Development Pty Ltd. Ms Christine Yong also informed Ms Clayton she had no recollection of that company and had not received a letter sent to the PO Box 6116, East Perth addresses, confirming her enrolment.<sup>137</sup>
175. That same day, Ms Clayton emailed Ms Christine Yong a copy of the enrolment form for Osaka Gas Ichthys Development Pty Ltd and asked her to confirm if it was her signature on the form and if she wanted to remain a nominee of the company on the electoral roll.<sup>138</sup>
176. Ms Christine Yong responded to Ms Clayton that day saying she did not want to remain on the electoral roll for the company.<sup>139</sup>
177. On 19 July 2016, Ms Clayton emailed Ms Christine Yong confirming that she would be removed from the electoral roll and asked her again to confirm if the signature on the enrolment form for Osaka Gas Ichthys Development Pty Ltd was hers and if she received the notice confirming that she had been enrolled.<sup>140</sup>
178. That same day, Ms Christine Yong confirmed by reply email that the signature was hers and that she did not receive any confirmation of her enrolment from the City.<sup>141</sup>
179. Ms Clayton forwarded her email correspondence with Ms Christine Yong to Mr Ridgwell. The subject line of that email was *"Please don't be a can of worms ..."*. In that email, Ms Clayton said:

*"... what worries me is that she did not receive her acceptance notice. This could be a problem as we don't know if all the Body Corporate entities have also received the copies of the acceptance notices to ensure that the people nominated are actually their nominees. This is a worry".*<sup>142</sup>
180. Ms Clayton said that she used that subject line for the email, because she was concerned more voters previously linked to the PO Box 6116, East Perth and PO Box 862, Victoria Park addresses would contact the City to say they did not understand what they were doing when they signed enrolment forms and they did not want to be on the electoral roll.<sup>143</sup>

181. On 22 July 2016, Mr Ridgwell replied to Ms Clayton's email and said *"It is a worry people sign documentation without knowing what it is, also that is exactly why we re changing the address to their home address. Was worth the changes made, great spotting!"*<sup>144</sup> Mr Ridgwell did not take any further action in relation to the matter.

### Conclusions on the City of Perth's investigation

182. The Inquiry accepts that Mr Ridgwell prevented Mr Yong from accessing ballot papers belonging to other electors by changing the addresses of the corporate nominees from the PO Boxes nominated by Mr Yong to their residential addresses.
183. However, given the seriousness of Mr Yong's conduct and Ms Clayton's email, Mr Ridgwell ought to have investigated the matter further or referred the matter to an appropriate authority, such as the WAEC or the Western Australian Police Force.
184. Mr Ridgwell was on notice that at least one of the voters with the postal address listed as PO Box 6116, East Perth apparently did not understand the effect of the enrolment form and had not received correspondence sent by the City. Combined with his knowledge of Mr Yong's use of the two PO Box addresses, that should have prompted Mr Ridgwell to take further action.
185. Ms Clayton gave evidence that, in hindsight, the City should have spoken to each nominee whose postal address was listed as PO Box 6116, East Perth or PO Box 862, Victoria Park and asked in what circumstances they had been nominated to vote on behalf of the relevant company.<sup>145</sup>
186. Mr Ridgwell accepted, when giving evidence before the Inquiry, that his failure to refer the matter was *"a massive oversight"*.<sup>146</sup> The Inquiry is satisfied that it was Mr Ridgwell, not Ms Clayton, who was responsible for taking further action on the matter.

### Mr Keith Yong arranged for voters to be enrolled who were not entitled to be enrolled

187. Mr Yong organised for companies who did not own or occupy property in the City to enrol voters on the electoral roll. These companies included:
- Yong Family Super Pty Ltd (Yong Family Super) for which Ms Angie Yong, Ms Lilly Yong, Mr Yong and Mr Jonas Yong were directors and shareholders;<sup>147</sup>
  - Burswood Development Pty Ltd (Burswood Development) for which Ms Lilly Yong and Mr Tet Khiong Yong were directors and their company, Bellvista, was the sole shareholder;<sup>148</sup>
  - Time Out Trading Pty Ltd (Time Out Trading);
  - Maxiwest;
  - Osaka Gas Ichthys Development Pty Ltd;
  - Osaka Gas Niugini E&P Pty Ltd;
  - Osaka Gas Niugini Pty Ltd;
  - Osaka Gas Crux Pty Ltd;
  - Osaka Gas Ichthys Pty Ltd;
  - Osaka Gas Sunrise (PSC 20) Pty Ltd; and
  - Osaka Gas Gorgon Pty Ltd.

188. The Inquiry considers it likely that Mr Yong, or others acting on his behalf, arranged for further companies to enrol when those companies did not have occupied property in the City. Among the companies which nominated voters who had PO Box 6116, East Perth or PO Box 862, Victoria Park as their postal address were:
- Twinspell Pty Ltd, for which Mr Jonas Yong was the sole director, secretary and shareholder,<sup>149</sup> Radiant Land Pty Ltd and PKG Group Pty Ltd. These companies enrolled voters based on their purported occupation of “10/231 Adelaide Terrace”. That was the property that Yong Family Super, Burswood Development and Time Out Trading each claimed to occupy when they enrolled voters;<sup>150</sup>
  - Dangie Pty Ltd, for which Ms Angie Yong and her husband were the sole directors and shareholders,<sup>151</sup> and Bellvista, for which Ms Lilly Yong and Mr Tet Khiong Yong were the sole directors and shareholders.<sup>152</sup> These companies enrolled voters based on their purported occupation of “9/231 Adelaide Terrace”.<sup>153</sup> That was the property owned by Lex Legal Management and leased by Lex Legal; and
  - the Hakka Association of WA Inc. (Association) enrolled voters based on its purported occupation of “3/231 Adelaide Terrace Perth”.<sup>154</sup> As of February 2019, Mr Yong appeared to be the president of the Association. The Association has the same registered address, postal address, telephone number and fax number as Lex Legal and lists Lex Legal as its sponsor.<sup>155</sup>
189. That Twinspell Pty Ltd, Dangie Pty Ltd and Bellvista did not occupy property in the City is consistent with Mr Yong’s admission that he arranged for “family companies” to enrol voters who did not have an interest in property in the City.<sup>156</sup>
190. In the case of Yong Family Super, Burswood Development Pty, Time Out Trading and Maxiwest, Mr Yong knew these companies were not entitled to vote, yet he submitted the nomination forms in the hope of increasing the votes that would be cast in his favour at the next Council election.<sup>157</sup>
191. In the case of the Osaka Gas companies, Mr Yong completed their enrolment forms on the basis that each of the seven subsidiaries were entitled to enrol nominees based on their occupation of Level 16, 108 St Georges Terrace Perth.
192. However, only Osaka Gas Australia had the right to occupy the premises under a lease and be entitled to enrol two voters. None of the other seven Osaka Gas companies had a lease over the premises and therefore could not enrol two voters. This appears to be because these Osaka Gas companies were established as subsidiaries to simplify the accounting for each Osaka Gas project in Australia and did not, for example, employ any employees.<sup>158, (i)</sup>

i Mr Takemori gave evidence that he did not think that any of the subsidiaries of Osaka Gas Australia held a lease. The Inquiry subsequently served a notice to produce documents on Osaka Gas Australia requiring the production of any leases, tenancies or other legal instruments giving Osaka Gas Australia or any of its subsidiaries the right to occupy the premises in or around March 2016: Notice to Produce Documents No. 044 of 2019, 26 July 2019. Osaka Gas Australia’s solicitors confirmed that the only document meeting that description was a lease held by Osaka Gas Australia: see lease, Level 16, 108 St Georges Terrace, Perth, Brookfield Funds Management Limited and Brookfield Australia Funds Management Limited & Osaka Gas Australia Pty Limited, 19 June 2012; Emails, Solicitor Assisting and Clayton Utz, 24-27 July 2019.

193. Mr Yong admitted he did not ask Mr Takemori on 5 March 2016 whether those companies had a lease over property in the City. Mr Yong also admitted, as a lawyer who works in property law, he did not seriously expect that each subsidiary would have a lease over the premises and agreed this situation would be “very extraordinary”.<sup>159</sup>
194. In his public hearing on 7 August 2019, Mr Yong claimed that at the meeting on 5 March 2016, Mr Takemori had signed a document confirming that each of the Osaka Gas subsidiaries had a lease over the premises. Mr Yong claimed the purpose of this letter was to ensure that Mr Takemori understood the effect of his declarations in the forms Mr Yong asked him to sign.
195. However, when the Inquiry directed Mr Yong to produce this document, its contents were inconsistent with his evidence. That document was undated, purportedly signed by Mr Takemori in his capacity as a director and read as follows:

*“Director Resolution*

*Osaka Gas Australia consent the following companies for the continue [sic] occupation and operation within the premises at Level 16, 108 St Georges Terrace, Perth WA:*

- *Osaka Gas Niugini Pty Ltd*
- *Osaka Gas Ichthys Development Pty Ltd*
- *Osaka Gas Ichthys Pty Ltd*
- *Osaka Ga [sic] Gorgon Pty Ltd*
- *Osaka Gas Crux Pty Ltd*
- *Osaka Gas Sunrise (PSC 20) Pty Ltd*
- *Osaka Gas Sunrise (PSC 19) Pty Ltd*
- *Osaka Gas Niugini E&P Pty Ltd”.*<sup>j</sup>

196. Mr Takemori was not shown this document and did not give any evidence about its existence at his private hearing in June 2019, because it was unknown to the Inquiry.<sup>k</sup>
197. The Inquiry does not accept Mr Yong’s evidence on this issue. The Inquiry notes the purported resolution uses some wording similar to the relevant provision of the LG Act.<sup>160</sup> However, it is not satisfied that Mr Takemori, by Mr Yong requesting him to sign this document, would have understood the effect of the declarations Mr Yong was asking him to make.
198. The Inquiry finds that Mr Yong knew it was extremely unlikely the seven Osaka Gas subsidiary companies met the requirements under the LG Act for a company occupying property within the City. He nevertheless arranged for his or his family’s friends to be enrolled to vote on behalf of these companies.

j Director resolution, undated.

k The Inquiry only became aware of the document during Mr Yong’s evidence on 7 August 2019.

**City of Perth's practices in assessing enrolment claims from occupiers of property**

199. The Inquiry has had regard to the evidence of Mr Ridgwell at paragraphs 64-69 in considering the adequacy of the City's practices in assessing enrolment forms from purported occupiers of property.
200. Consistent with the Inquiry's findings at paragraphs 73-76, it is apparent that these practices were inadequate. The City's reliance on declarations in enrolment forms meant that people who were not entitled to enrol to vote were enrolled.
201. The Inquiry notes Mr Ridgwell appeared to justify the City's reliance on declarations made in enrolment forms on the basis *"there are penalties that are applicable to ... people that falsely represent themselves in respect to making electoral applications"*.<sup>161</sup> That is so, the offence and penalties are set out in section 4.90 of the LG Act.
202. However, it is clear that the existence of this provision did not deter Mr Yong (or for that matter, Mr Butler or Mr Adamos) from engaging in this conduct, and the City's reliance on these declarations was misplaced.

## Findings

### Finding 2.2.1 – 1

The Inquiry makes the following findings:

- i. Mr Yong and Mr Butler created sham leases to appear to be eligible to nominate as a candidate for Council elections. Mr Adamos created a sham lease so his family investment company appeared to be able to enrol nominees to vote for him.
- ii. Mr Yong and Ms Lilly Yong made, and arranged for other people to make, serious allegations of fraud, when they knew those allegations were baseless, for the purpose of having nominees removed from the electoral roll to benefit Mr Yong in the 2013 election.
- iii. During and prior to the period 1 October 2015 to 1 March 2018 the governance arrangements in place, and the actions taken by, the City and the WAEC to ensure the integrity of the City's elections were inadequate. In particular:
  - The City failed to properly scrutinise the eligibility of Mr Yong to stand for election in October 2013, hold office as a council member or stand for election in October 2017.
  - The City (in particular, Dr Evans) and the WAEC (in particular, Ms Cavanagh) did not sufficiently investigate or take action in relation to the complaints of fraud from Mr Yong, Ms Lilly Yong, Mr Tet Khiong Yong and Mr Wong.
  - The City (in particular Mr Ridgwell) did not sufficiently investigate or take action in relation to Mr Yong's use of the PO Boxes and his actions in arranging the nomination of voters by companies occupying property within the City.
  - The City's processes to confirm the eligibility to nominate voters of companies purportedly occupying property within the City, and the eligibility of candidates standing for election, were inadequate.
- iv. Mr Yong arranged for companies to nominate voters, and gave voters' postal addresses as PO Boxes belonging to his family, with the intention that the ballot papers for these voters would be sent to those PO Boxes and he, or someone else on his behalf, would complete and submit the ballot papers as postal votes.
- v. Ms Lilly Yong, Ms Angie Yong and Mr Yong made misleading statutory declarations in support of their applications to be silent electors to conceal or obscure the Yong family's connection to PO Box 6116, East Perth.
- vi. Mr Yong deliberately allowed Mr Takemori to be misled as to the effect of voter enrolment forms and had him sign those forms under a false pretence.
- vii. Mr Yong attempted to conceal his conduct by deliberately omitting the contact details of Mr Takemori and voters on enrolment forms.
- viii. Mr Yong arranged for companies to enrol voters that did not have the right to do that, and which he knew did not have, or were very unlikely to have, that right.

## Finding 2.2.1 – 1 (contd)

- ix. It was a common practice for candidates and council members to organise for companies owning or occupying property in the City to enrol people to vote who had no business or organisational connection with the company. This is inconsistent with the intent of the LG Act, which is to enable businesses with property interests in the City to have the opportunity to participate in the electoral process and be represented by their preferred council members.
- x. There also existed a practice for candidates and council members to create sham leases or to lease premises that they did not use, or hardly used, to be eligible to nominate as a candidate and hold office. Again, that undermines the intent of the LG Act that only people with a sufficient interest in the City may serve as council members.
- xi. Furthermore, the City's reliance on the accuracy of declarations made in enrolment forms, on the basis that it was an offence for a candidate or a person applying to enrol voters to provide a false declaration, was misplaced. The existence of that offence did not deter candidates or council members from falsely claiming they were eligible to nominate as a candidate or hold office, or from enrolling people ineligible to vote, to increase the number of votes they may receive at an election.
- xii. The Inquiry notes that the small size of the electorate and low voter turnout in the City's ordinary elections may provide an incentive for candidates or people acting on their behalf to engage in improper or unlawful conduct, and may increase the risk that such conduct may have a material impact on the result of elections. Mr Yong was elected in 2013 by a margin of 54 votes. By May 2016, he had arranged for 45 ballot papers to be posted to PO Boxes he had access to and was expecting to increase that number prior to the October 2017 election had the City not intervened.

## Endnotes

- 1 Report, 2013, 2015 and 2017 Local Government Ordinary Elections Report, Western Australian Electoral Commission Website – Local Government Elections.
- 2 Website, Western Australian Electoral Commission – Local Government Elections, Ordinary Election Perth Results for elections in 2011, 2013, 2015, 2017.
- 3 *Local Government Act 1995*, s 4.29, 4.40.
- 4 *Local Government Act 1995*, s 4.30, 4.32, 4.34, 4.35, 4.41.
- 5 *Local Government Act 1995*, s 4.31(1C), 4.32(3).
- 6 *Local Government Act 1995*, s 4.31(1G).
- 7 *Local Government Act 1995*, s 2.19(2), 4.30(1)(a), 4.31(1G).
- 8 *Local Government Act 1995*, s 2.27.
- 9 *Local Government Act 1995*, s 4.20(4), 4.22, 4.96.
- 10 Transcript, K Yong, public hearing, 6 August 2019, p 66, 68.
- 11 Transcript, K Yong, public hearing, 6 August 2019, p 80-82.
- 12 Transcript, A Yong, private hearing, 5 March 2019, p 143.
- 13 Transcript, A Yong, public hearing, 12 August 2019, p 20-29.
- 14 Transcript, L Yong, public hearing, 12 August 2019, p 5-13.
- 15 *Snook v London and West Riding Investments Ltd* [1967] 2 QB 786, 802; cited by *ICT Pty Ltd v Sea Containers Ltd* (1995) 39 NSWLR 640, 656; *Equuscorp Pty Ltd v Glengallan Investments Pty Ltd* [2004] HCA 55; (2004) 218 CLR 471 [46].
- 16 City of Perth, Form, Application to register a nominee, L Yong and Lex Legal, 22 March 2012.
- 17 Email, C Clayton to K Yong, 19 September 2012.
- 18 Email, K Yong to C Clayton, 20 September 2012.
- 19 Email, C Clayton to K Yong, 21 September 2012.
- 20 Email, Secretary for Lex Legal to Dr Evans and C Clayton, 24 August 2013.
- 21 Email, C Clayton to info@lexlegal, 26 August 2013.
- 22 Transcript, K Yong, public hearing, 6 August 2019, p 15-17.
- 23 Transcript, Lilly Yong, private hearing, 5 March 2019, p 99-101.
- 24 Email, M Ridgwell to K Yong, 3.42 pm 25 November 2016.
- 25 Form, City of Perth, Form 2 (modified) enrolment eligibility claim for corporate nominees, East Perth Investments Pty Ltd, 26 August 2017.
- 26 Lease, Front office space of 8 Henry Lawson Walk, East Perth, Jimmy Adamos and Helen Adamos & East Perth Investments Pty Ltd, 1 July 2016.
- 27 Transcript, J Adamos, public hearing, 8 August 2019, p 67-69.
- 28 *Local Government (Elections) Regulations 1997*, reg 11(3).
- 29 Transcript, J Adamos, public hearing, 8 August 2019, p 72-74.
- 30 Transcript, R Butler, private hearing, 12 July 2019, p 45, 48-49; Lease, Office space at 84-86 Beaufort Street, Perth, Trayn Andonovski and Robert Butler, 1 August 2012.
- 31 Lease, Part 84 Beaufort Street, Perth, Tomania, Andonovski, Philip Nicola Andonovski and Trayn Nicola Andonovski and Robert Butler, 30 October 2012.
- 32 Letter, G Dunne to R Butler, 2 October 2012.
- 33 Transcript, M Ridgwell, public hearing, 15 August 2019, p 69-70.
- 34 Transcript, M Ridgwell, private hearing, 24 July 2019, p 32-33, 37; Transcript, Mr Ridgwell, public hearing, 15 August 2019, p 69-70.
- 35 Transcript, M Ridgwell, public hearing, 15 August 2019, p 69-70.
- 36 Transcript, M Ridgwell, private hearing, 24 July 2019, p 36.
- 37 Transcript, M Ridgwell, public hearing, 15 August 2019, p 70; Transcript, M Ridgwell, public hearing, 24 July 2019, p 32.
- 38 Transcript, C Clayton, private hearing, 26 February 2019, p 36, 39.
- 39 Transcript, M Ridgwell, private hearing, 24 July 2019, p 43-51.
- 40 Transcript, R Butler, private hearing, 12 July 2019, p 40-42.
- 41 Transcript, J Adamos, public hearing, 8 August 2019, p 69-72.
- 42 Lease, Suite 9 (Part), Level 3, 231 Adelaide Terrace, Perth, Lex Legal Management and Yit-Kee Yong, 1 January 2012.
- 43 Transcript, M Ridgwell, public hearing, 15 August 2019, p 70.
- 44 Transcript, K Yong, public hearing, 6 August 2019, p 27.
- 45 Transcript, K Yong, public hearing, 6 August 2019, p 28-30; Form, City of Perth, Application to register a corporate nominee, Maxiwest, 12 August 2011.
- 46 Transcript, K Yong, public hearing, 6 August 2019, p 31-36; Form, City of Perth, Application to register a corporate nominee, Beau Geste, 15, 25 August 2011.
- 47 Transcript, K Yong, public hearing, 6 August 2019, p 34-36; Form, City of Perth, Application to register a corporate nominee, Bellvista, 15, 21 August 2011.

- 48 Form, City of Perth, Nomination for election by candidate, K Yong, 5 September 2013.
- 49 Transcript, K Yong, public hearing, 6 August 2019 p 36.
- 50 Email, L Yong and C Clayton, 1.21 pm 23 September 2013.
- 51 Transcript, K Yong, public hearing, 6 August 2019, p 42, 50.
- 52 Transcript, L Yong, private hearing. 5 March 2019, p 52-54, 56, 57-59.
- 53 Transcript, C Clayton, private hearing, 26 February 2019, p 44.
- 54 Transcript, L Cavanagh, private hearing, 17 April 2019, p 24.
- 55 Email, K Yong to L Cavanagh, 2.39 pm 24 September 2013, p 13-14.
- 56 Transcript, L Yong, private hearing. 5 March 2019, p 41, 71-72; Transcript, K Yong, public hearing, 6 August 2019, p 51-52, 58.
- 57 Letter, K Yong to L Cavanagh, 24 September 2013.
- 58 Transcript, K Yong, public hearing, 6 August 2019, p 58.
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### 2.2.1 Local government elections

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## 2.2.2 Decision-making

The City of Perth (City) has a long-established position as a prominent local government in Western Australia. The *City of Perth Act 2016* (CoP Act), enacted on 3 March 2016, formally recognised this status. It gave specific emphasis to the City's social, economic, cultural, environmental and civic roles.

Section 8(1)(b) of the CoP Act provides that City of Perth Council (Council) is:

*“to represent the community and encourage community participation in decision-making”.*

In addition, the Council is to provide for the *“good government of persons in the City”*, which includes ratepayers, residents and visitors.<sup>1</sup>

Local governments have legislative and discretionary functions. Matters commonly determined by the Council relate to both functions, including planning matters, heritage matters and grants and sponsorships.

Councils are democratically elected governments. They should make representative, informed, accountable and transparent decisions in the interests of their local communities.

The Lord Mayor and councillors at the City have this role succinctly articulated in the CoP Act. Each is required:

*“(a) to represent the interests of electors, ratepayers and residents of the City of Perth;  
(b) to serve the current and future interests of the community in the City of Perth;  
(c) to provide leadership and guidance to the community in the City of Perth;  
(d) to facilitate communication between the community and the City of Perth Council;  
(e) to participate in the City of Perth Council’s decision-making processes at council and committee meetings ...”.*<sup>2</sup>

In many respects, local governments are the closest tier of government to the people they serve. For many in the community, participation in the democratic process goes beyond voting in elections.

The views, needs and perspectives of members of the community can be diverse. The ability for them to voice their different points of view, and have them taken seriously, is fundamental to local government and the community's participation in it. There are many ways the community and interested parties can participate in local government decision-making.<sup>a</sup>

<sup>a</sup> *Local Government Act 1995*, s 1.3(2) – This Act is intended to result in: “(a) better decision-making by local governments; and (b) greater community participation in the decisions and affairs of local governments; and (c) greater accountability of local governments to their communities; and (d) more efficient and effective local government”.

At the City, this is sometimes done through the *City of Perth Standing Orders Local Law 2009*. This local law is intended to result in:

- “(a) better decision-making at meetings;*
- (b) the orderly and efficient conduct of meetings; and*
- (c) greater community understanding of the business of the Council.”<sup>3</sup>*

Council meetings allow members of the community to participate in decisions on matters which affect them directly. They can do so by asking questions, making statements and seeking representation through council members.

Better engagement in and greater transparency of decision-making helps build community understanding and buy-in.<sup>4</sup> Participation in the process has benefits for the community generally, as well as for the individuals involved. Outcomes can be better, governance improved and, importantly, relationships strengthened and preserved. However, when participation is not handled appropriately by Council and its members, it can be harmful – financially, physically or psychologically, to those involved or those affected by decisions.

Council members have a responsibility to balance the interests of the whole community when making their decisions. Greater transparency around council decision-making enables the community to understand how council members reach decisions on the matters they are required to consider. Sometimes the process leading to a Council decision involves compromises, mediation or trade-offs between different points of view.

Good government is achieved when council members represent, and balance, the interests of the whole community, and not just a segment of it. Decisions should ultimately be based on the information before Council and the legislative framework and involve a consideration of risks related to any decision being made. Decision-making should be transparent and the reasons for decisions appropriate and documented.

This Chapter examines some examples of decision-making by the Council and how community interests were balanced. The matters examined include:



Consideration of a planning application for a local shop at The Adagio building, 90 Terrace Road, East Perth.



Inclusion of the Grand Central Hotel, 379 Wellington Street, Perth, on the City Heritage List.



Decision-making on a sponsorship proposal to rejuvenate the Piccadilly Theatre in the City.



Photo: anastas\_styles/Shutterstock.com

## The Adagio, 90 Terrace Road, East Perth

### Introduction

#### Role of council members in relation to development applications

1. Council members are sometimes required to make decisions about development applications, including applications to use land for a particular purpose.
2. The process of determining a development application is a two-step one that requires decision-makers to determine, first, whether an application is permitted to be granted, and secondly, whether the application should be granted. The second step of the decision-making process may permit some discretion, but this discretion is not unlimited. As a public decision-making body, the power of a council is largely defined and limited by the legislation and the instruments that give the council its decision-making power. In the case of planning decisions, a planning framework guides and limits how council members can exercise their discretion in planning decisions.
3. The planning framework includes, at the State level, the *Planning and Development Act 2005* (PD Act) and its regulations. The PD Act gives power to local governments to prepare local planning schemes.<sup>5</sup> These local planning schemes establish a planning regime for the local government area, in conjunction with the PD Act and other applicable legislation. The City of Perth (City) has a planning strategy and planning scheme, as well as separate planning policies and precinct plans for different areas in the City.
4. If an applicant is dissatisfied with the decision of a council on a planning matter, there is a right to lodge an application for review to the State Administrative Tribunal (SAT). The SAT makes decisions based on, among other things, the planning framework.

5. Under the planning framework, areas are zoned to regulate the types of activities which may occur and to ensure that compatible activities are located in appropriate places. For example, industrial areas may be kept separate from residential areas.
6. Often a planning framework will permit certain commercial activities in residential areas, such as childcare centres and schools, medical centres, cafés and shops. Sometimes this is not to the liking of certain residents who live close by, because they feel, rightly or wrongly, that they will be affected by extra traffic, or parked cars, or the noise of children, or rubbish on the street, or more people in the area, or anti-social behaviour. While these residents may be happy to have these facilities within easy reach, they may not want them right next door.
7. People may have a range of interests and concerns about a particular development application. It is often reasonable for interested parties, including members of the local community, to have their say on development applications which affect the amenity of their locality. In contentious cases, this may result in significant pressure being applied to council members. Many of these interests and concerns may seem reasonable to the parties themselves or to an outside observer. However, not all interests or concerns are valid planning considerations, which should be considered under the planning framework. This is not always well understood.
8. Council members do not have the luxury or flexibility to make decisions on legitimate applications just to appease or benefit an interested party, whether it is the developer or a group of objectors. Decisions should be based on the relevant planning framework and sound planning principles. Council members should not make planning decisions to further their personal interests, such as rejecting a development application to avoid negative media comment, or to gain votes and support in a forthcoming election. Doing so could cause financial harm to people who have legitimately invested in a project. It could also cause applicants and the City to spend considerable time and money going through the application for a review process in the SAT.
9. As noted in a State Government publication on *“Making Good Planning Decisions”*:

*“Decision-makers have an obligation to exercise their statutory responsibilities properly. Making a decision based upon irrelevant considerations undermines confidence in the planning system, and exposes a decision-maker to an order for costs, if the applicant is successful upon a review of that decision at the SAT. Therefore, it is important that reasons [for a decision] be seen as based on sound planning principles, and not be seen as catering to the views of an individual or select group of individuals”.<sup>b</sup>*

<sup>b</sup> Guideline, Department of Planning, Lands and Heritage, Development Assessment Panel Practice Notes: Making Good Planning Decisions, July 2018, p 52. This publication is not specifically targeted at decision-making by local governments.

### Unit 8 in The Adagio apartment complex

10. The Adagio is an apartment complex at 90 Terrace Road, East Perth. It comprises a 23-storey residential tower and two 4-storey mixed use buildings fronting the road. It overlooks Langley Park and the Swan River. It was opened by the Lord Mayor, Ms Lisa Scaffidi, in April 2013. At that time, the building was advertised as containing 113 apartments and “two ground floor commercial lots”.<sup>6</sup>
11. Unit 8 is one of those commercial lots. It is on the ground floor in one of the 4-storey mixed use buildings. It faces Terrace Road and Langley Park. Unit 8 had food related facilities such as gas, a grease trap and exhaust fans fitted during construction. It was sold for \$1.7 million to Mr Levant Altintas and Ms Sebahat Altintas as commercial premises.<sup>7</sup>
12. Documents provided by the City to the SAT included the following statement:
 

*“The Adelaide Precinct Plan identifies the Terrace Road Residential Area as remaining as an area for high-density residential uses. The Precinct Plan further provides that non-residential uses such as local shops are appropriate, provided they are small scale and serve the residents and visitors and are part of a residential or special residential development.*

*The north side of Terrace Road is predominantly residential (multiple dwellings) with some short-stay accommodation, small lunch bars, café/restaurants and offices.*

*... Langley Park is intended to be maintained as an area of expansive public open space and will continue to develop as a major focus for sporting and leisure events, activities and will be promoted as one of the City’s principal visitor attractions.*

*The proposed convenience store will be visible from Langley Park and by passing pedestrians and motorists.*

*The City’s Policy 6.4 ‘Terrace Road Design Policy’ applies to the proposed local shop”.<sup>8</sup>*
13. One of the objectives of the Terrace Road Design Policy (Design Policy) was:
 

*“To encourage a range of incidental and complimentary [sic] commercial uses adjacent to street frontages in order to increase the level of activity along both Terrace Road and the existing north/south streets”.*
14. Section 2.1 of the Design Policy provided the following objective for “Land Use”:
 

*“To actively encourage a wide variety of high density residential development supported by a range of complimentary [sic] commercial uses along the Terrace Road frontage”.<sup>9</sup>*
15. A local shop was a contemplated use for the area, and the Design Policy identified local shops as a use which could complement and support the residential uses of the area.

## Development application

16. On 1 December 2014, Mr and Mrs Altintas leased the premises at Unit 8, 90 Terrace Road, to a company, ABQ Investment Group Pty Ltd (ABQ) with a commencement date of 1 April 2015.<sup>10</sup> The directors of ABQ were Mr Jordan Qaraleh and Mr Imad Bkooor. Mr Qaraleh and Mr Bkooor (Applicants, which term will be used to refer to Mr Qaraleh, Mr Bkooor and ABQ, as the context demands) intended to operate a convenience store. They had established ABQ for that purpose, along with their fellow shareholder Mr Kayis Abuzayan. Mr Altintas also owned a property in West Perth, which was leased by Mr Bkooor and successfully operated as a convenience store. There had been no difficulty in obtaining development approval from the City for that shop.<sup>11</sup>
17. Unit 8 was leased at an annual rent of \$80,000.00 plus GST and outgoings.<sup>12</sup> The rental was personally guaranteed by the Applicants.<sup>13</sup>
18. The Applicants engaged a project manager. On 26 November 2014, they lodged a development application with the City to use Unit 8 as a convenience store.<sup>14, (c)</sup>
19. Based on Mr Bkooor's previous experience with obtaining development approval for shops,<sup>d</sup> Mr Bkooor expected to get an indication that his application was appropriate, which would enable the Applicants to proceed with the work required to establish the business, until final approval was received. With the advantage of hindsight, it might be said the Applicants should have waited for their development application to be approved before commencing the lease.
20. Initially, the Applicants intended to operate as an Independent Grocers of Australia supermarket (IGA), but this changed to an independent store after they met with some of The Adagio residents and before the City of Perth Council (Council) had made a decision on their application.<sup>15</sup>
21. According to Mr Bkooor, the residents objected to the idea of an IGA, because:
 

*"They said IGA will attract lots of public and also to attract homeless people ... and they were not happy about that because it's meant to be a luxury place".*<sup>16</sup>
22. Ms Margaret Smith, the Manager, Development Approvals for the City, confirmed that some residents considered that an IGA would devalue their property.<sup>17</sup>
23. Mr Dennis Martin, who was then the Senior Development Compliance Officer for the City, said *"there are a number of IGA outlets on ground floor commercial tenancies below apartment buildings throughout the City of Perth"*. However, the residents of The Adagio objected to the proposed IGA signage. Mr Martin recalled that one resident, Ms Michelle Noble, said things to the effect that it would be embarrassing to residents to have visitors to such an exclusive apartment complex be greeted by an IGA on the ground floor.<sup>18</sup>

c Note: Although the Applicants used the term "convenience store" throughout hearings, their intended use fell within the definition of a local shop under the planning framework and so the application proceeded on that basis.

d Mr Bkooor had a convenience store in West Perth and another retail shop in Fremantle where he had to apply for local government approvals: Transcript, I Bkooor, private hearing, 18 December 2018, p 45-47.

24. Accordingly, the Applicants decided to operate as an independent store and had their project manager design it to better fit the image of the building and the views of certain residents.<sup>19</sup>
25. However, several apartment residents in The Adagio appear to have objected to having a convenience store of any type in the building. Ms Noble, in particular, became very active in her opposition and frequently lobbied council members and City officers with reasons to refuse the application.<sup>20</sup>
26. In order to understand the basis for the residents' objections to the shop, it is helpful to quote from Ms Noble's statement, dated 1 July 2015, for a SAT hearing on the application. She provided this background to her specific concerns about the proposed shop:

*"I decided to purchase an apartment in the Adagio Apartments as it is a high end and luxurious development. When the Adagio Apartments were advertised, every element was described as being 'prestigious'. Attached to this statement and marked MN2 are copies of advertising material describing the Adagio Apartments as 'an exclusive luxury lifestyle', 'one of the last and most prestigious of Perth's riverside development locations'.*

*The Adagio Apartments are located in a very prestigious area, being the area of Terrace Road from Hill Street to Bennett Street, which has a beautiful streetscape, with other similar high end apartment buildings nearby. It is a very attractive and desirable place to live. I have often seen people walking past on Terrace Road stopping to admire the Adagio Apartments".<sup>21</sup>*

27. In relation to two of her specific objections to the shop, signage and shelving, Ms Noble wrote:

*"If the proposed local shop is approved, I am concerned that the visual pollution caused by the proposed signage will significantly detract from the appearance of the Adagio Apartments and the surrounding area. I am also concerned that the shelving racks on which the merchandise is displayed will be visible through the windows of the proposed local shop and will further detract from the appearance of the Adagio Apartments and surrounding streetscape".<sup>22</sup>*
28. Ms Noble and the other objectors raised concerns about the visual appearance of the proposed store, whether the store was a suitable use of the "prime foreshore location",<sup>23</sup> and other issues relating to waste management, parking, deliveries, and the potential for noise or anti-social behaviour.
29. When the application came before Council, the council members at first deferred and then rejected the application. As a result, an application which would typically have been dealt with in the statutory time of 90 days,<sup>24</sup> took considerably longer and required an application for review to the SAT to resolve it. In addition, once the shop was operating it was subject to a number of restrictive conditions, including for trading hours and signage.

The Applicants made a further application to the City in relation to these conditions and then brought a further application for review to the SAT. As a result of ongoing complaints by residents, the shop also received regular visits from a City Development Compliance officer.

30. While waiting for approval for the shop, the Applicants incurred a liability for rent, lost potential income and had stock expire and become unsaleable. In addition, the legal fees incurred before and during the multiple SAT proceedings, as well as the delays, meant that when the shop did open for business, the Applicants were unable to stock or re-stock the store in the manner hoped. The limit on trading hours also meant that the Applicants did not have access to the market they had wished to target outside of supermarket hours.
31. The shop closed in September 2017.
32. The Inquiry has received, and accepts, evidence that the protracted approval process the Applicants went through cost them dearly, financially and emotionally, and caused serious adverse effects for them, their families and their health.

## Timeline

|      |              |  |
|------|--------------|--|
| 2013 | 12 April     | The Adagio apartment complex at 90 Terrace Road, Perth opened by the Lord Mayor, Ms Lisa Scaffidi.   |
|      | 2 May        | Mr Levant Altintas and Ms Sebahat Altintas became the registered owners of Unit 8.   |
| 2014 | 26 November  | Development application lodged with the City to use Unit 8 as a convenience store.   |
|      | 1 December   | Unit 8 leased to Mr Jordan Qaraleh and Mr Imad Bkoor (the Applicants), with a commencement date of 1 April 2015.   |
| 2015 | 27 January   | Application considered by the Council's Planning Committee, which accepted the recommendation by planning officers for approval by Council.                      |
|      | 3 February   | Application considered by the Council, which also received a petition objecting to the shop. Council referred it back to the Planning Committee.                 |
|      | 17 February  | Application considered by the Planning Committee, with an officer recommendation to approve. The Planning Committee voted two-to-one against the recommendation. |
|      | 24 February  | Application again considered by Council, which declined it due to amenity concerns.  |
|      | 20 March     | The Applicants applied to the State Administrative Tribunal (SAT) for a review of the Council decision.  |
|      | 8 April      | SAT directions hearing listed the matter for mediation.  |
|      | 10 April     | Mr Jim Adamos hosted a dinner at Council House for The Adagio residents.   |
|      | 1 May        | SAT mediation failed to settle the matter.   |
|      | 15 May       | SAT directions hearing instructed both parties to provide "a statement of issues, facts and contentions".  |
|      | 14 July      | SAT directions hearing made an order to list the matter for mediation in September 2015.   |
|      | 22 September | Council Meeting authorised the "Chief Executive Officer to negotiate and execute a Consent Order ...".   |
|      | 26 October   | Consent Order was executed, with nine conditions for the shop. The shop commenced trading three months later.  |

|      |               |  |
|------|---------------|--|
| 2016 | 8 August      | The Applicants lodged another development application with the City to extend trading hours and signage and add an alfresco area.                    |
|      | 25 October    | Additional application considered by the Planning Committee.   |
|      | 1 November    | Additional application considered by Council, which voted to approve the alfresco area and increased signage, but not an extension to trading hours. |
|      | 29 November   | The Applicants applied for a review by SAT in relation to trading hours. Through mediation a six-month trial of extra trading hours was granted.     |
| 2017 | 10 April      | Trial of extended trading hours commenced.   |
|      | Mid-September | By this date the shop had ceased trading.  |

## Issues considered by the Inquiry

33. The Inquiry identified the following issues:

- Whether the decisions of council members on the Planning Committee and Council, resulting in the deferral and then refusal of the application, were justified on planning grounds.
- Whether some council members followed an improper decision-making process in deciding to refuse the application.
- Whether some council members voted against the application, knowing that if an application for review were to be made to the SAT, it would be successful.
- If so, whether the decision to refuse the application was made by some to appease some residents of The Adagio in the hope of gaining support for the forthcoming Council election.
- Whether some council members decided to defend the SAT proceedings, despite expecting that their decision would be overturned.
- The consequences of the decisions and the process for the City and for the Applicants.

## Investigation by the Inquiry

### Applicable Terms of Reference

34. The Inquiry is to inquire into and report on, among other things, the adequacy and competency of Council decision-making.<sup>25</sup> Broadly speaking, the Inquiry must inquire into and report on those matters which bear on good government by the City.<sup>26</sup>
35. The Terms of Reference for this Inquiry refer to the period 1 October 2015 to 1 March 2018. Following the review process in the SAT, the ultimate decision to approve the development application was made in October 2015.

36. Part A.2 of the Terms of Reference states that *“The Inquiry Panel may inquire into and report on a period, or periods, before 1 October 2015 if it considers that to be necessary for the purpose of properly discharging its function ... and placing the matters inquired into within a relevant context in the circumstances”*.<sup>27</sup>
37. The Inquiry considers it appropriate to consider Council’s full decision-making process in relation to this application, including events that occurred before 1 October 2015. Those events are relevant to the adequacy and competency of Council’s decision-making on this issue, as well as the issue of *“whether there has been a failure to provide for the good government of persons in the City of Perth’s district”* in terms of Part A.1(i) of the Terms of Reference.

### Witnesses

38. The Inquiry held private and public hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members, Ms Lisa Scaffidi, Mr Adamos, Mr Rob Butler, Ms Lily Chen, Ms Janet Davidson, Ms Judy McEvoy, Dr Jemma Green, Mr Reece Harley, Mr James Limnios and Mr Keith Yong;<sup>e</sup>
- Mr Gary Stevenson, Chief Executive Officer (CEO);
- Mr Martin Mileham, Director, Planning and Development. Mr Mileham was also a CEO of the City, but during the period under consideration he was a Director;
- Ms Smith, Manager, Approval Services for the City to July 2015 and Manager, Development Approvals after July 2015;
- Mr Martin, Senior Development Compliance Officer;
- the owner of Unit 8, Mr Altintas; and
- the Applicants, Mr Qaraleh and Mr Bkoor.

39. The Inquiry notes that Ms Smith was present at all relevant stages of the process and the Inquiry is satisfied that she was and is a very experienced local government planning officer and a truthful and reliable witness.
40. Ms Noble did not give evidence to the Inquiry. In accordance with its Terms of Reference, the Inquiry was concerned with the adequacy of Council decision-making on this matter. The involvement of objectors during Council’s decision-making process provides essential factual context, but those objectors did not make the relevant decisions. The Inquiry makes no criticism of, and makes no findings in relation to, Ms Noble or any other residents of The Adagio or neighbouring properties. The conduct of those objectors is not in issue for the purposes of this Report.

<sup>e</sup> These were all council members for at least some of the period that applications were before the City of Perth or the State Administrative Tribunal.

## Evidence obtained by the Inquiry

### Council consideration of the development application

41. On 26 November 2014, the Applicants lodged a development application with the City for a convenience store in Unit 8.<sup>28</sup> Under the planning framework, the Applicants' intended use fitted the definition of a local shop.<sup>f</sup>
42. The applicable planning framework included the PD Act and its regulations, the City Planning Scheme No. 2 (Planning Scheme), and Precinct Plan No. 13 (Adelaide) (Precinct Plan).
43. Under the Planning Scheme, the City was required to advertise the contemplated use of the premises before granting the application.<sup>29</sup> Accordingly, the application was advertised to the owners of apartments in The Adagio building and the owners of properties on either side. In response, the City received 15 submissions, 14 of which opposed the development application.<sup>9</sup>
44. City planning officers considered the objectors' concerns and communicated with the Applicants to determine how the Applicants would address the planning concerns raised against the application.<sup>30</sup> In some cases, the Applicants modified their proposal to meet the objectors' concerns.<sup>31</sup>
45. City planning officers decided that, according to the Planning Scheme and applicable policies, *"a convenience type store was appropriate within that residential zoned area"* and that the application met the City's planning requirements.<sup>32</sup>
46. Senior Planning Officer, Ms Kathy Lees, prepared a report for Council's Planning Committee, under the supervision of Ms Smith. The report set out the concerns and potential issues with the application and addressed each issue by reference to the planning framework.<sup>33</sup> Notably, the report stated that some of the objectors' specific concerns were not valid planning considerations.<sup>h</sup> The planning officers also provided a table setting out the Applicants' responses to each of the planning concerns,<sup>34</sup> and proposed four conditions to address the objectors' valid planning concerns. The report stated that *"subject to appropriate conditions the local shop is unlikely to have a significant impact on the amenity of the Residential Use Area and can therefore be supported"*.<sup>35</sup>
47. During the Inquiry's examination of Ms Smith, Counsel Assisting asked her whether the recommendations of planning officers were normally accepted. She said that during the period covered by the Inquiry, she was only aware of two occasions on which Council had not accepted the recommendation of City planning officers.

<sup>f</sup> Note: The initial application was made for a "convenience store" however the City's planning officers and the Applicants confirmed in writing that "local shop" was the appropriate category for the Applicants' intended use under the planning framework: Email, K Lees to M Al Shanti, 12.06 pm 17 December 2014.

<sup>g</sup> Note: The specific concerns raised related, broadly, to "Access, Traffic and Parking Issues", "Noise and Safety", "Waste Disposal", "Signage", "Trading Hours", "Structural", and "General" concerns which related mostly to the perceived risk to the luxury, aesthetic disposition and value of The Adagio complex: Document, City Planning Officers, "Summary of Issues – Advertising for 90 Terrace Road", undated.

<sup>h</sup> For example, "While submissions did indicate that there are already sufficient local shops in Adelaide Terrace to serve the residents, this is a matter that is determined by the market and is not a valid planning consideration. Similarly, the suggestion that a use which makes a better use of the foreshore location would be preferable is also not a valid planning consideration. Council is required to determine the application before it ...": Minutes, Planning Committee Meeting, 27 January 2015.

Both of them were situations in which planning officers had recommended that an advertising sign included in an application be refused, but Council had decided to approve it. She recalled no other cases in which Council had refused an application recommended by planning officers.<sup>36</sup>

48. In their examinations on this matter, each council member who was asked about Ms Smith's capabilities agreed she was a very capable planning officer.<sup>i</sup>

### Planning Committee and Council meetings

49. On 27 January 2015, the development application was considered at a Council Planning Committee Meeting. The Planning Committee had an advisory role to Council. It was not a decision-making body. The Planning Committee comprised three council members during this period: Mr Butler (presiding member), Mr Harley, and Ms McEvoy.<sup>37</sup> The Planning Committee received the report from the planning officers with a recommendation that the application be approved. Ms Noble, as a resident of The Adagio, was present at the meeting and made a deputation. The Planning Committee unanimously recommended that Council approve the application, subject to the conditions recommended by planning officers and with an additional condition relating to window signage.<sup>38</sup>
50. On 3 February 2015, the matter came before Council. Ms Scaffidi was not present.<sup>39</sup> Before and at the meeting, council members were lobbied by objecting residents. Ms Noble had presented a petition with 205 signatures objecting to the application.<sup>j</sup> Council received the planning officers' report and the Planning Committee's recommendation for approval. However, Council decided to refer the matter back to the Planning Committee. The reason given by Council was *"In light of the petition received in relation to this report"*. The motion for referral back to the Planning Committee was moved by Ms Davidson and seconded by Ms McEvoy.<sup>40</sup>
51. It appears some council members assumed that, because some residents were not happy with the application, their concerns must not have been sufficiently addressed by the conditions proposed by the planning officers and the Planning Committee. For example, Mr Yong said:

*"If the five items have been addressed, the residents would not have been putting a petition if they had been addressed. They must have some issues that has not been addressed and that's the reason why we have such a large number of residents bringing a petition against this item".<sup>41</sup>*

i Mr Adamos said Ms Smith was *"highly skilled"*: Transcript, J Adamos, public hearing, 8 August 2019, p 95; When asked his opinion of Ms Smith's capabilities, Mr Butler said *"she was excellent"*: Transcript, R Butler, private hearing, 11 July 2019, p 35; Ms Chen said Ms Smith *"seems to [her] very capable lady"*: Transcript, L Chen, private hearing, 1 July 2019, p 72; Ms Davidson said Ms Smith worked *"very professionally, very thoroughly"*: Transcript, J Davidson, private hearing, 4 July 2019, p 53; Ms McEvoy said she *"thought [Ms Smith] was always very capable"*: Transcript, public hearing, J McEvoy, 7 August 2019, p 56; Mr Yong said *"I believe she [Ms Smith] has the experience in planning ... My personal opinion, yes, she is capable"*: Transcript, K Yong, private hearing, 3 July 2019, p 15-16.

j Memorandum, CEO to All Elected Members, *"Petition – Council Meeting to be Held 3 February 2015"*, 3 February 2015. Ms Noble said the signatures were from *"residents of 90 Terrace Road ... residents of surrounding developments in Terrace Road and ... people living and/or working in close proximity to 90 Terrace Road or those who visit the Langley Park area for recreation"*.

52. However, not all the concerns raised by the objectors were valid planning considerations. For example, in the letter accompanying the petition, Ms Noble wrote:  
*“... The fact that the original development application [for The Adagio building] did not nominate the specific uses of the two commercial tenancies gives Council the opportunity to determine what would now suit and enhance the development and the surrounding area ... . There is an opportunity cost to approving the application before Council. It is the opportunity for the subject premises to have a commercial use that would enhance Terrace Road far more than yet another local shop ...”.*<sup>42</sup>
53. Many of the objectors’ concerns throughout the process were based on a similar false assumption, namely, that it was appropriate for Council to reject the application in favour of another hypothetical application that would, in the objectors’ view, better match the “open” design, “luxury” and perceived “prestige” of The Adagio apartment block.<sup>43</sup>
54. The objectors need not be criticised. It is not their responsibility to understand the proper application of the planning framework. It was, however, the council members’ responsibility to understand their own decision-making powers in relation to planning matters and to make transparent decisions based on valid planning considerations.
55. The role of the planning officers was to provide expert advice to guide the council members in this task. The role of the Planning Committee in this situation was to carefully consider that advice and make appropriate recommendations to Council. While council members were not required to follow the planning officer’s recommendation, it was important that they exercise their discretion properly and make their decision for proper planning reasons.
56. The planning officer’s report clearly advised the Planning Committee and Council that the existence of other local shops in the vicinity and the possibility that there could be a more favourable use for the prime foreshore location were not valid planning considerations.<sup>44</sup> These matters are the subject of two of the five issues listed in the objectors’ petition.<sup>k</sup>
57. Similarly, the section of the report entitled “Parking and Deliveries” explained the application of the Perth Parking Policy and advised that “As a consequence no customer car parking is required on site for the shop and the application cannot reasonably be opposed on the basis of insufficient parking”.<sup>45</sup> This section of the report also addressed deliveries and likely traffic sources and suggested the City undertake a review of parking at the site, “notwithstanding” that insufficient parking was not a reasonable basis for opposing the application. This relates to one of the remaining three issues raised by the objectors’ petition.<sup>l</sup>

<sup>k</sup> Memorandum, City of Perth, Chief Executive Officer to Lord Mayor and Councillors, Schedule – 3 February 2015. Issue 2 reads “The lack of demonstrated need or support for a local shop at this site, noting that 93% of respondents raised concerns and opposed the proposed use of a local shop, with there being at least 5 other local shops within 500 metres of the subject site” and Issue 5 reads “Planning approval for this site as a local shop being a poor use of a prime, high-end, heritage listed, river-view location, particularly when there is no evidence of demand or support for this use within the area”.

<sup>l</sup> Memorandum, City of Perth, Chief Executive Officer to Lord Mayor and Councillors, Schedule, 3 February 2015. Issue 4 reads “Inadequate provision to effectively monitor and manage the additional delivery, traffic and resultant parking issues at and around the subject site, due to the high volume of short stay traffic expected from the use of this site as a local shop”.

58. These sections of the report were reproduced each time the matter came before the Planning Committee and Council before the application was rejected, both before and after the objectors' petition was received.
59. Ms McEvoy was asked about this in a public hearing of the Inquiry and, although she agreed that the points made in the petition appeared to have been dealt with by the conditions proposed in the recommendation, she said that it was hard to *"flesh things out in a Council meeting"* and it was better to go back to the committee room where it could be discussed.<sup>46</sup> Mr Harley made similar comments, stating that *"... if there's a significant concern about an issue and a whole bunch of people rock up and they are concerned, and there's a petition, we will refer a matter back to the committee so that there can be a full and frank discussion and so that issues can be thrashed out"*.<sup>47</sup>
60. However, Mr Harley was also of the view that some of the information had not been in the Council documentation in the form it appeared in the petition. He gave an example of not recalling that *"93 per cent of respondents raised concerns ... being in the Council documentation"*.<sup>48</sup> This figure appears to be Ms Noble's reformulation of information that appeared on the first page of the planning officers' report, which was that 13 out of 14 submissions received through the advertising period opposed the application.
61. Applications under the planning framework should generally be resolved in 90 days.<sup>49</sup> By way of comment, the Inquiry notes that had Council accepted the recommendation of the Planning Committee to approve the application at this stage, rather than referring it back to the Planning Committee, the application would have been approved within the statutory time of 90 days. The Applicants could have continued with their fit out,<sup>50</sup> and then commenced trading, and neither the City nor the Applicants would have spent the time, and incurred the costs, associated with the application for review to the SAT. There would also have been less delay in opening the shop.
62. The City wrote to the Applicants asking for an agreement to an extension of the 90-day standard determination period.<sup>51</sup>
63. On 17 February 2015, the matter was considered again by the Planning Committee. Mr Harley declared an impartiality interest, in that he knew one of the residents at Adagio who had written to Council.<sup>52</sup> However, in accordance with the *Local Government (Rules of Conduct) Regulations 2007*, an impartiality interest did not prevent Mr Harley from remaining in the meeting and voting.
64. In their updated report to the Planning Committee, the planning officers stated that *"additional information addressing the matters raised in the petition has been provided by Officers at the end of this report"*.
65. That additional information set out each of the concerns raised in the objectors' petition and stated that *"the issues raised in the petition are generally reflected in the submissions received during the advertising period"*, which had been previously *"addressed"* in the report when it was first provided to the Planning Committee on 27 January 2015 and to Council on 3 February 2015.

66. The planning officers did note, however, that the petition raised one concern which had not been previously addressed, which related to the “clutter” of racks and merchandise that might be visible through the shop windows. The planning officers added one more condition to address this additional concern. The Inquiry is of the view that this relatively minor matter did not warrant a delay beyond the statutory time of 90 days to determine the development application.
67. The conclusion in the report was that the establishment of the local shop was “consistent with the intent” of the Planning Scheme and Design Policy. The report stated “it is considered that appropriate conditions can be imposed to address other valid planning considerations raised by submitters” and that “subject to those conditions the local shop is unlikely to have a significant impact on the amenity of the Residential Use Area and can therefore be supported”.<sup>53</sup>
68. At the meeting, deputations were presented by Ms Noble on behalf of the objectors, and by a legal representative on behalf of the Applicants.<sup>54</sup>
69. The Officer Recommendation in the report was that Council approve the application subject to the (now six) conditions.
70. However, the Planning Committee voted two-to-one to recommend that Council decline the application. The minutes state:

*“Moved by Cr Harley, seconded by Cr McEvoy*

*That Council declines the application for the use of Unit 8/90 (Lot 8 on SP 58159) Terrace Road, East Perth as a ‘local shop’ with associated signage as detailed on the Metropolitan Region Scheme Form One dated 25 November 2014 and as shown on the plans received on 1 December 2014 and 19 January 2015, due to amenity concerns which would have adverse impacts on the affected adjoining owners of the proposed tenancy use.*

*The motion was put and carried*

*The votes were recorded as follows:*

*For: Crs Harley and McEvoy*

*Against: Cr Butler*

*Reason: The Planning Committee agreed that there are amenity concerns in relation to the proposed tenancy use which would have adverse impacts on the affected adjoining property owners.”*<sup>55</sup>
71. Ms Smith said that nothing had materially changed from when the Planning Committee had previously considered, and recommended approval of, the application, and in her opinion the conditions that were now imposed were “certainly more stringent than we would have imposed had there not been the objections”.<sup>56</sup>

72. Ms McEvoy said that the objection of the residents was a main reason for the Committee decision: *“When you’ve got 250 people objecting to something going into their apartments, you’ve got to look at it”*. Ms McEvoy said that her decision *“was on the amenity of the area”*. She therefore changed her mind. She said, *“It was a popular decision in the end”*.<sup>57</sup>
73. The Inquiry accepts that this development application had caused, in the words of Mr Harley, *“significant concern”* to *“a whole bunch of people”*.<sup>58</sup> Nevertheless, if all those concerns that were valid planning considerations had already been sufficiently addressed by proposed conditions, as it appears was the case here, then there should have been no proper reason for the Planning Committee to not recommend that Council approve the application.
74. Indeed, Mr Butler said he was prepared to recommend at this Planning Committee Meeting that the application be approved, because *“it complied with everything”* and he agreed the conditions imposed had satisfied any legitimate objections that had been taken.<sup>59</sup>
75. The day before the matter came before Council again, the solicitors for the Applicants wrote to council member Mr Limnios, and provided reasons why the objections were unfounded or had already been addressed.<sup>60</sup> Mr Limnios forwarded this email to Mr Mileham, then Director, Planning and Development, and asked for Mr Mileham’s thoughts.<sup>61</sup> Mr Mileham responded, stating, among other things:
- “It is also worth noting that some matters concerning the management of issues coming under the Strata Titles Act as were raised by opponents of the application were not considered germane to the Planning matters under consideration in this case”;*
- and
- “While I cannot guarantee or predict an outcome, it is my opinion (on advice from the APS) that if the [Development Application] before Council is rejected as it stands an appeal to SAT may, if mounted, be successful potentially with conditions retained, omitted or altered”*.<sup>62</sup>
76. Later that day, on 24 February 2015, the application came back before Council. All council members were present.<sup>63</sup>
77. At her hearing, Ms Scaffidi was asked whether she discussed how she would vote with any of her fellow council members before the meeting, and which council members she would have spoken to. She responded, *“Quite likely all of them”*.<sup>64</sup>

78. The Applicants' solicitors provided the City with a petition in support of the application. This contained 290 signatures, although none of the addresses given identify the signer as being from The Adagio apartments or the immediate surrounding area.<sup>65</sup> This petition was provided to council members at the Council Meeting on 24 February 2015.<sup>66</sup> Ms Noble and the solicitor for the Applicants each made statements to Council. Council received the Planning Committee's report from 17 February 2015, which included the updated planning officers' report that had been provided to the Planning Committee and the Planning Committee's recommendation to refuse the application.

79. The following motion was carried unanimously:

*"Moved by Cr Butler, seconded by Cr Harley*

*That Council declines the application for the use of Unit 8/90 (Lot 8 on SP 58159) Terrace Road, East Perth as a 'local shop' with associated signage as detailed on the Metropolitan Region Scheme Form One dated 25 November 2014 and as shown on the plans received on 1 December 2014 and 19 January 2015, due to amenity concerns which would have adverse impacts on the affected adjoining owners of the proposed tenancy use.*

*The motion was put and carried".<sup>67</sup>*

80. The motion was in identical terms to the Planning Committee's recommendation. Neither the Planning Committee nor Council listed in their reasons which amenity concerns had not been, or could not be, sufficiently addressed by conditions.

81. Ms McEvoy said of the decision:

*"... at the end of the day, the reason was the amenity for these people in these units. It wasn't the amenity of what they were wanting around Langley Park, around their units, over towards the river".<sup>m</sup>*

82. Fellow council member Mr Adamos said:

*"... my decision was based on, that there was a large number of residents who were directly in the vicinity of it that were affected by it and didn't want the shop there".<sup>68</sup>*

83. Ms Scaffidi gave evidence that one reason she ultimately voted against the application was her personal *"abhorrence of convenience stores, of which there is a plethora in Perth"* and the fact she had *"an issue with there being too many convenience stores in the City of Perth"*. Ms Scaffidi acknowledged that *"It's a personal view and it's not based on planning recommendations ...".<sup>69</sup>*

84. Ms Scaffidi also noted, on examination, in relation to the condition relating to signage at the proposed shop, that *"Personally, I'm of the view that 1.5 addresses all that the planning legislation allows but it doesn't actually, because it's not able to, address all of the things that were of concern and I believe, legitimate concern to the residents".<sup>70</sup>*

<sup>m</sup> Transcript, J McEvoy, public hearing, 7 August 2019, p 79. The Applicants were advised in writing on 26 February 2015 that their application had been refused *"for the following reason: 1. amenity concerns which would have adverse impacts on the adjoining owners of the proposed tenancy use"*. Document, Notice of Decision on Application for Planning Approval, City of Perth to L and S Altintas, 26 February 2015.

85. Mr Limnios also acknowledged that he “... voted because [he] took other matters other than planning into consideration”. He said: “I think we can, the policy allows us to do that”.<sup>71</sup>
86. The Inquiry notes that Mr Limnios had been specifically advised by Mr Mileham, on the morning of the Council Meeting, that an “appeal”<sup>72</sup> to the SAT could well be successful. Despite this, Mr Limnios gave the following evidence:
- “But then the review by SAT would overturn the decision?---For sure, but there’s a right of appeal as well.*
- What’s the point of doing it then?---I take into consideration many factors, sir.*
- What was the point in doing it?---I wanted to be seen as being – doing the right thing. At that time, to the best of my ability---*
- Doing the right thing to who, for who?---For all those concerned, all stakeholders.*
- Not all stakeholders though?---To the best of my ability, sir.*
- Not the 290 who signed the petition, not the proprietors, not the owner of the premises, but certainly you were doing it for the stakeholders who objected, weren’t you?---It can be seen like that, for sure”.<sup>73</sup>*
87. Mr Yong gave the following evidence:
- “If you cast your vote other than on the merits of this application, how can that be a proper exercise of your voting power, Mr Yong?---I think a person being elected should have the discretion to represent the ratepayer, so in this case I believe I have acted in their best interests”.<sup>74</sup>*
88. Mr Butler said he was unable to recall why he did “a complete about-face from one week earlier” when he had recommended that Council approve the application. He maintained that he did not know the reason he had changed his mind. Nevertheless, he was of the view “the process needed to be continued further down the line”, meaning that the shop owners had the option of applying to have the SAT review Council’s decision.<sup>75</sup>
89. When asked for her view on why Council had made this decision, Ms Smith said:
- “... there was a well organised vocal group that opposed it within the development and they were all there in the gallery and they were all lobbying the Councillors hard and the Councillors wanted to demonstrate that they had heard their concerns and were voting to represent them”.<sup>76</sup>*
90. Ms Smith was asked whether she considered it to be the right or wrong decision. She said “Well, as a planner I’d have to say it’s the wrong decision”.
91. Ms Smith was asked if council members had expressed a view to her about their decision-making. She said, “Not to me directly”, although she had overheard comments made in discussion between the council members along the lines of “Well if this goes to SAT we know it is going to get approved. But at least they [the objectors] seen us make that decision”. Ms Smith said Ms McEvoy made this comment to Mr Adamos and another council member who Ms Smith could not recall.

92. When asked if she had a view about why Ms McEvoy might have made that comment, Ms Smith said:
- “It was Local Government politics, it was swinging into a Local Government election year ... Election years are always – tend to be a little bit more volatile when it comes to decision making. They’re a little bit more responsive, perhaps to, to objections and rate payer views than they might otherwise be”.*<sup>77</sup>
93. Ms McEvoy said that she “*may well have*” had a conversation with Mr Adamos about the issue on the date of the second Council Meeting, and “*may well have*” made the statement to which Ms Smith referred, although she did not remember having done so.<sup>78</sup> Mr Adamos also said he did not remember Ms McEvoy saying words to that effect.<sup>79</sup>

### Events following the Council

94. Ms Smith said the City’s planning officers were disappointed with Council’s decision, because they felt there was no planning reason why the application should have been refused. They were also concerned for the Applicants who, Ms Smith said, had committed themselves financially and “*should have expected to be able to get an approval*”.<sup>80</sup>
95. Following the meeting, Ms McEvoy emailed Ms Noble congratulating her.<sup>81</sup> Ms McEvoy wrote:
- “Hi Michelle*
- I trust you were as pleased as I was with the outcome tonight.*
- I want to compliment you on the effort you put in to your submission and petition and such wonderful backup you had at the meeting, as Lisa said and I believe it is the largest support group I have seen in 17 years on council.*
- Will be interesting to see if they go to SAT?”*<sup>82</sup>
96. The following day, Ms Noble emailed Ms McEvoy at her City email address to express how “*thrilled*” the Terrace Road residents were with the Council’s decision.<sup>83</sup> Ms McEvoy forwarded this email from her own private email address to Mr Adamos’s private email address, stating:
- “Thought you may like this – you will be in like Flyn in October!*
- From this building. JM”.*<sup>84</sup>
97. The Inquiry takes this to refer to the then forthcoming October 2015 elections, at which Mr Adamos would be up for re-election. It appears from the email, and Mr Adamos’s evidence, that Ms McEvoy made a typographical error in the email address and he said that he did not receive that initial email.<sup>85</sup> However, an identical email was successfully delivered to Mr Adamos’s City email address 30 minutes later.<sup>86</sup>
98. Three hours later, Mr Adamos also emailed Ms Noble congratulating her, stating “*I was so pleased that you and your team achieved the win that you had and it only happened because of people power!*”. Mr Adamos invited Ms Noble and other residents from The Adagio to dinner at Council House (at the City’s expense).<sup>87</sup> The dinner took place on 10 April 2015.<sup>88</sup>

99. Ms McEvoy agreed, at her public examination, that by the time this matter came to Council for a vote, the fact that five council members in her “*alignment*” were coming up for re-election (although Ms McEvoy herself was not) was a factor.<sup>89</sup> Mr Adamos maintained he did not consider his election prospects when making a decision on this application.<sup>90</sup>

### State Administrative Tribunal hearings

100. On 20 March 2015, the Applicants applied to the SAT to have the Council decision reviewed. They employed a firm of solicitors to represent them.<sup>91</sup>
101. The City engaged an independent planning expert, Mr Joe Algeri, who provided a report to the SAT on behalf of the City.<sup>92</sup> Mr Algeri’s report was comprehensive and concluded that the application to SAT should be refused in the interests of orderly and proper planning. However, Ms Smith gave evidence that Mr Algeri told her, informally, that he considered “*it was going to be very challenging to present a defensible position on that Council decision*”. She said his approach was going to be to manage the expectations of the objecting residents and discuss appropriate conditions in mediation.<sup>93</sup>
102. The first SAT directions hearing took place on 8 April 2015. After this hearing, Ms Smith sent the CEO of the City an email which included the following paragraph:
- “In this case, SAT is aware that the Council has made a recommendation contrary to the City’s Planning officers and that the reasons given for the refusal are a bit ‘light on’. Reading between the lines, SAT wants to involve the Councillors to make them accountable for their decision and to determine whether there are any valid planning grounds behind their decision that were not clearly articulated in the minutes. If the SAT mediator comes to the opinion that this was just a ‘popular’ decision without a firm planning basis, the Council will be requested to reconsider their decision under sec 31 of the SAT Act. Mediation is set for 1 May 2015, on-site.”*<sup>94</sup>
103. The CEO emailed all council members on 12 April 2015 and explained that SAT “*has taken the unusual step of requiring that some elected members participate in the mediation exercise ...*”. He asked them to advise of any contact with the Applicants or objectors.<sup>95</sup>
104. Mr Adamos then emailed the CEO and advised him that he had dinner at Council House with some of the “*members of the council of owners and objectors of Adagio Apartments*”. He stated he would like to attend the mediation at the SAT and had “*advised the owners that [he] would*”.<sup>96</sup>
105. The CEO advised Mr Adamos by email that it was “*clearly not appropriate for you to attend as a nominee of the objectors*”. He stated the only option for him to attend was if the Lord Mayor added him as an additional delegate.<sup>97</sup> During his examination, Mr Adamos agreed with Counsel Assisting that his attendance at the mediation would have presented a conflict of interest, “*given the fact that [he] had wine and dined with eight of the objectors*”, although he said that he did not think about the conflict until the CEO brought it to his attention.<sup>98</sup>

106. The CEO also emailed Ms Scaffidi, copying Mr Butler. He wrote:

*"It is important as you will be aware, that SAT looks only at the planning merits of the application and can consider only relevant planning matters. Any Councillor attending the mediation must be prepared to explain what the specific planning issues were that led to the refusal decision and would be expected to be able to explain why the officers recommendation could not be supported and to elaborate on what is meant by amenity concerns and adverse impacts on the affected adjoining owners. The explanation must be confined to the facts of the application (in other words, what was actually applied for, not what the applicant might do)";*

and

*"In essence it appears to me that SAT intends to hold Councillors accountable to their decision in asking for their attendance".<sup>99</sup>*

107. Ms Scaffidi nominated Mr Butler and Ms McEvoy to attend on behalf of Council.<sup>100</sup> She advised Mr Adamos, by email, that it was too late as nominations had been made and that she *"simply went with Chair of Planning [Mr Butler] & a Cr who is on Planning [Ms McEvoy] (but also not up for reelection in Oct.)"*.<sup>101</sup>
108. Mr Adamos replied, *"I'll advise Ms Noble that I won't be in attendance"*.<sup>102</sup>
109. Ms Smith felt that Mr Adamos was conflicted, because *"he understood the planning framework but felt he should be representing the residents who appeared to be this majority view of what should happen on the site"*.<sup>103</sup>
110. An initial SAT mediation on 1 May 2015 did not settle the matter and a directions hearing was then held on 15 May 2015, at which the Applicants and the City were instructed to undertake some legal work. Accordingly, the City employed a legal firm to represent it.
111. The City provided to the SAT a statement from the independent planning expert it had employed and a witness statement from Ms Noble.<sup>104</sup> This also appears to be an unusual step. Ms Smith said that in other matters before the SAT in which she has been involved, she has not known the City to call an interested party as a witness.<sup>105</sup>
112. By this stage, July 2015, it was more than seven months since the Applicants had lodged their application. They had not been able to trade for this period and had incurred the expense of employing consultants and lawyers, as well as the costs of lodging an application for review to the SAT. They had also committed to making major purchases as a part of their fit out. They were suffering financially.<sup>106</sup> That said, it is clear that some of the delay in the SAT proceedings can be attributed to the Applicants' failure to submit their witness statements on time, which led to a one day SAT hearing of the application scheduled for 14 July 2015 to be vacated at a SAT directions hearing on 10 July 2015.<sup>107</sup>

113. Another SAT directions hearing was held on 14 July 2015. On that day, Ms Smith emailed the council members and copied in the CEO, Mr Stevenson, and relevant City officers. She stated that at the SAT directions hearing that morning the SAT member Mr McNab made an order to list the matter for mediation in September on a date to be confirmed. Ms Smith also wrote that Mr McNab found it “*surprising*” that none of the SAT’s proposed dates for a hearing in August 2015 were suitable to the Applicant’s solicitors. Ms Smith’s email then continued:

*“His preliminary view that the Application is clearly capable of being approved (with conditions) has been further confirmed by reading the City planning officer’s report which in his view was the correct assessment and recommendation, and it is likely for the applicant to succeed.*

...

*The City should be aware of cost implications (ie the City being ordered to pay the applicant’s costs) if this matter proceeds to hearing on whether the use can be approved. The amount of costs may be tempered by the delays caused to the process by the applicant’s actions. Alternatively, if mediation is unsuccessful, the parties can agree to proceed to a hearing on the conditions only.”*<sup>108</sup>

114. Mr Harley responded to this email (and to all council members and senior officers) by stating:

*“Thanks for the update.*

*It’s proceeding as expected. I hope that an outcome can be negotiated prior to September.”*<sup>109</sup>

115. Ms Smith interpreted Mr Harley’s comment “*It’s proceeding as expected*” as meaning that he expected the Council’s decision would not be upheld by the SAT.<sup>110</sup>
116. Ms Smith was asked whether there had been a concern by senior officers of the City that council members might act improperly in their decision-making on this matter because of the impending election. Ms Smith agreed that there had been such a concern.<sup>111</sup> The Inquiry notes that the contents of Ms McEvoy’s email to Mr Adamos the day after the Council Meeting on 24 February 2015 lends some support to this notion.<sup>112</sup>
117. Ms Smith also agreed, when it was put to her, that the residents of The Adagio could have represented about 200 potential votes. She said, “*Seats can be won or lost over a handful of votes*”.<sup>113</sup>
118. A Planning Committee Meeting on 15 September 2015 considered an officer report on the progress of the matter before the SAT.<sup>114</sup>
119. The officer report pointed out that SAT member Mr McNab had ordered that the matter be listed for another mediation which had not yet taken place. Mr McNab had confirmed his view that the application was “*capable of being approved*” and “*The City should be aware of cost implications if this matter proceeds to a hearing*”.

120. The report also noted that the City had spent \$26,782.00 to date on fees for its representatives before the SAT, with the prospect of further expenses to come. This did not include the costs of the involvement of City officers over the previous 10 months.
121. The report stated, *“It is a matter for the City to decide which approach it would prefer, that is, for Council to deal with the proposed consent orders, or for Council to reconsider the application”*.<sup>115</sup>
122. Nine proposed conditions for the shop were attached to the report.
123. The Planning Committee noted the information and *“requested that a report be presented to the Ordinary Council Meeting of 22 September 2015 for further determination of the matter”*.<sup>116</sup>
124. Before the Council Meeting, Ms Noble emailed Ms Scaffidi setting out her concerns about what the decision of Council might be and stated:

*“... At tonight’s Council meeting, please again consider the views of the residents. It continues to astonish residents that the Elected Members of the City of Perth do not have the ability to lead and direct planning for the City of Perth – it instead appears that the people who own this business have more entitlement to determine what happens within the City of Perth than the people who were voted in by the ratepayers”*.<sup>117</sup>
125. Ms Scaffidi forwarded this to other council members, stating it was *“Very hard to vote against as clearly our fave CEO has been handling this another way ...”*. She also said:

*“This puts us in a VERY difficult position tonight”*.

and

*“We don’t need this right now”*.<sup>118</sup>
126. Ms McEvoy replied, and her email began:

*“My comment – very inappropriate that it’s coming up election time!!!”*.<sup>119</sup>
127. Mr Butler also replied, and his email began:

*“The timing is not good ?? Discussion at the briefing should happen”*.<sup>120</sup>
128. These comments suggest that the implications for the local government elections being held the following month were in the thoughts of some council members. They suggest that they appear to have been concerned about the votes of the residents from The Adagio.
129. By way of comment, the Inquiry also notes that Ms Noble’s response reflects a potential disparity between the general public’s understanding of planning matters, and what can actually occur under the planning framework. The PD Act and its subsidiary frameworks constrain and direct council discretions in a way that may not reflect the council’s usual range of discretionary powers in decision-making. The fact that ratepayers or residents may misunderstand, and be upset by this, is not a valid reason to depart from the constraints imposed by that framework, even if, in Ms Scaffidi’s words, *“This puts us in a VERY difficult position tonight”*.

130. This email thread was put to Mr Adamos at his public hearing and he agreed that these comments made by other council members were (in his view) referring to the ramifications for the upcoming election, and that these were also his thoughts at the time. He agreed that this was *“a totally inappropriate consideration to take into account”*.<sup>121</sup> He said that the way he voted on Council was because he was trying to support the residents, but the elections were not a significant factor for him. However, he accepted that the *“decision by Council on 24 February 2015 in rejecting this application was the wrong decision”*.<sup>122</sup>
131. At the Council Meeting on 22 September 2015, all council members except Ms Davidson were present. The Council considered *“Options for resolution”* of the application before the SAT. Five options were provided in the officer report. Option 1 was: *“Agreeing to a Consent Order to allow conditional approval of the proposed use and revised signage by the SAT”*.
132. The Council decision was:
- “Moved by Cr Adamos, seconded by Cr Chen*
- That given the State Administrative Tribunal’s apparent disposition to inevitably grant approval for a local shop at 8/90 Terrace Road, East Perth, Council authorises the Chief Executive Officer to negotiate and execute a Consent Order in relation to SAT DR96/2015 Altintas & Anor and City of Perth.*
- The motion was put and carried”*.<sup>123</sup>
133. A SAT Consent Order was signed by the solicitors for the two parties on 26 October 2015. It included a schedule of nine conditions with which the shop had to comply (Consent Order).<sup>124</sup>
134. The conditions related to waste management, signage, limits on hours of trading, restrictions on hours and parking for deliveries, location of shelving, access routes to the shop and use of parking bays.
135. Ms Smith was confident that the Consent Order, with conditions, was a better outcome for the objecting residents than they would have received if the matter had gone to a hearing before the SAT. She also felt that the shop had ended up with a far more stringent set of conditions than most other local shops in the City would get.
136. In relation to the process followed by Council in dealing with the application, and the effect on the business, Ms Smith said:
- “it’s evident from where we started with four conditions, I think, and we’ve ended up with nine. So that in itself shows that more controls have been imposed on the applicant than would ordinarily have been considered. And you combine that with the length of time and the costs that the applicants had to endure, it’s a far less desirable or appropriate outcome than had it been able to be dealt with under delegation or if the Council had accepted the original recommendation”*.<sup>125</sup>

## Aftermath

137. More than 10 months had passed between the application being lodged and the Consent Order being signed. Once it was signed, the Applicants continued the fit-out of the shop and three months after that they began to trade.<sup>126</sup>
138. In the meantime, the Applicants' financial viability had been damaged. Stock in which they had invested had expired. They incurred significant legal fees and a liability for rent. They were unable to re-stock, or stock to the extent they had planned, because of the delays and the money spent elsewhere.<sup>127</sup>
139. The conditions in the final settlement confined the shop to trading during the same hours as some supermarkets, which limited the market the Applicants wished to access.
140. Mr Qaraleh also felt that the restrictions on signage significantly affected the store's profits, because potential customers did not know that there was a convenience store there.<sup>128</sup>
141. The conditions that had been imposed may also have opened the business up to greater scrutiny by residents who objected to it being there. Ms Smith commented that the City received very regular complaints from some Adagio residents about the shop breaching conditions; things like using balloons or flashing lights as advertising, having a shelf against a window, opening half an hour later than permitted hours, or having Christmas lights.<sup>129</sup>
142. When complaints were made, Mr Martin, then the City's Senior Development Compliance Officer, would visit the shop and speak to the operators. Mr Martin advised the Inquiry that he had no concerns about the presentation of the shop and said, *"If anything it might have been better than some of the others around town"*. He considered the complaints to be petty, but it was his job to go and talk to the operators of the shop about them. He said he did not think they had been treated fairly and justly by the City, because he believed the amount of complaints became vexatious and should have been dismissed, yet they were not. Mr Martin said:  
*"I can't think of any other small shop development that I've dealt with in the City that had the same amount of scrutiny as this place"*.<sup>130</sup>
143. Ms Smith commented that at around this time some council members became less sympathetic to the objecting residents.<sup>131</sup>
144. In May 2016, Ms Smith sent Mr Adamos a series of emails containing Ms Noble's complaints and Ms Smith's responses.<sup>132</sup> This seems to have been preceded by a conversation between Ms Smith and Mr Adamos about the issue.

145. In her response to Ms Noble, Ms Smith had acknowledged the information Ms Noble had provided and advised Ms Noble about the procedures the City would follow to ensure compliance by the operators of the shop. Ms Smith advised Ms Noble that the City was currently taking “*all reasonable measures*” to achieve compliance, which is something the City would need to demonstrate prior to taking any legal action. Although she did acknowledge that with respect to the “*current non-compliance issues*” the operators of the shop had “*not shown any evidence of taking heed of the City’s requests to date and so we share your frustration*”.<sup>133</sup>
146. Ms Smith wrote to Mr Adamos that “*While matters raised by [Ms Noble] are all technically breaches of the planning conditions, they are really are quite minor ...*”.<sup>134</sup> Mr Adamos responded to Ms Smith, and commented on her response to Ms Noble, stating: “*That’s a perfect and fair email. She should be happy with the efforts and the process that you have applied to date. There is a plan in place*”.<sup>135</sup>
147. The change in attitude that Ms Smith observed by some council members towards the objecting residents appears to also have been noted by Ms Noble, who wrote in an email to Mr Adamos:
- “I received a previous response from the Mayor, which I will paraphrase as ‘don’t call us, we’ll call you’. Funny how things change when it isn’t an election year.”*<sup>136</sup>
148. The Applicants’ business was experiencing financial difficulty. They made an additional development application to extend trading hours and signage and to have an alfresco area. The application was received by the City on 8 August 2016.<sup>137</sup> It went before the Planning Committee on 25 October 2016 and Council on 1 November 2016. The Applicants presented a petition in support, which included signatures from residents of The Adagio and neighbouring properties. Once again, they faced opposition from some objecting residents. Council accepted the recommendation made by the City’s planning officers and voted unanimously to approve the application for an alfresco area and increased signage (with the exception of an A-frame sign). However, Council did not approve the requested extension to trading hours.
149. The Applicants again sought a SAT review of the trading hours. Through the mediation process, they were granted a six-month trial of extended trading hours, but before the end of that period, by September 2017, the shop had closed.
150. Mr Bkoor, who is an experienced shop owner and who had researched the area before taking on the lease, told the Inquiry that in his opinion the shop should have been very successful. He considered that it failed because it took too long to get approval, the conditions relating to signage and opening hours were too rigid and the monitoring by City officers was excessive.<sup>138</sup> The Inquiry considers that these factors contributed to the failure of the shop.

151. Mr Altintas, the owner, advised the Inquiry that he had been attempting to sell or lease the unit since the shop closed, without success. He believed that the negative experience the Applicants had in trying to obtain approval and run a business from The Adagio has affected his ability to lease the unit. He said he still had to pay about \$2,000.00 per quarter in rates.<sup>139</sup>
152. The evidence provided to the Inquiry was that the process of trying to get the application approved by Council, and the failure of the business, had a profound and lasting financial, medical and emotional impact on each of Mr Bkoo, Mr Qaraleh and Mr Altintas and their families. Mr Qaraleh and Mr Bkoo each have young children, and as a result of the extended application process and the failure of the business, they had on-going debts.
153. Mr Qaraleh had a heart attack in early 2015, during the initial application process.
154. Mr Bkoo said:

*“So after the project was stopped, I acquired loss as a result of – from the failure of the business. I had debts and the debts attracted interest and I was in financial hardship. And as a result of that experience I had to see a psychologist for six months because I had to deal with high level of stress. Okay. And I even dealing with a financial counsellor from the City to help me with the debts. And I had to sell my share from the West Perth store last month to be able to negotiate with the debt collectors and to be able to pay off the debts I have because it’s causing me lots of stress and I can’t cope or deal with the stress any more. And I can’t cope with the amount of phone calls I keep receiving all the time. And this has actually impacted and affected my relationship with my family, my relationship with my wife, and I’m even having memory issues because of all this stress I’ve been dealing with.”*<sup>140</sup>
155. Mr Bkoo was asked if he had expected the process of obtaining approval from the City to be straightforward. He said:

*“From my experience from my own business and from the experience of my friends who own other businesses as well, the procedure should be very easy.”*<sup>141</sup>
156. Mr Altintas said:

*“... I’ll [sic] come to this country here almost – almost with nothing, just 20 years old go here, I come here, I love this country”.*
157. And in relation to the way the application process was dealt with by Council:

*“But I always believed Australia is a very transparent country ... When I saw this I – that’s why I was questioning myself, I said it can’t be. This cannot – this cannot exist in Australia.”*<sup>142</sup>

158. These events also had a professional and personal impact on some officers at the City. Mr Martin commented:

*“It wasn’t a nice thing to witness, it wasn’t a nice thing to be involved with. I had a lot of empathy even sympathy for the proprietor of the business. So, as I said, I thought it was very sad and disappointing when I saw that the building – that the business had gone”.*

159. He said that others in his team at the City *“shared the disappointment and overall we were probably somewhat angry”*.<sup>143</sup>

## Analysis

160. On the evidence available, the Inquiry is satisfied to the appropriate standard, that approval of an application for a local shop at Unit 8, 90 Terrace Road, should have been fairly routine. The premises were designed and built for a commercial purpose and planning officers concluded the application was consistent with the operation and intent of the relevant planning framework. In addition, the Applicants demonstrated a desire to work with the residents of The Adagio by abandoning their plans to trade as an IGA and developing signage in a way they hoped was sympathetic to the apartments. Instead, their application became a lengthy, expensive, unnecessarily difficult and destructive process, which caused considerable work for City officers, expense for the City, and financial and personal harm to the Applicants and the owner of the premises.
161. In the Inquiry’s view, based on the evidence it heard from the City’s officers, the application was consistent with the relevant precinct plan and design policy. The decision by the Planning Committee, and then Council, to refuse the application was not based on proper planning principles. The decision was to decline the application because of *“amenity concerns”*. The Inquiry accepts the evidence of City officers that there were no valid planning concerns, which had not been addressed by the conditions they had proposed, and that the Applicants had agreed to conditions that went further than ordinary planning concerns would require.
162. Council members who were asked about their reasons for refusing the application all gave evidence to the effect that they had been influenced by the objecting residents and therefore voted against the application on *“amenity”* grounds.
163. Ms Scaffidi said:
- “Whilst the convenience store complied on planning grounds, there was, I feel, justifiable concern as expressed by the 30 or 40 that came to the meeting about the potential of odour.*
- ...
- I believe their main decision influencer was probably the dissatisfaction by people who had invested significant amounts into, as you described them, premier river view apartments, to have to deal with a convenience store and wrongly or rightly, all convenience stores are not equal”*.<sup>144</sup>

164. It was clear other council members were also affected by the intensity of opposition expressed by some residents.<sup>145</sup> Many council members gave evidence to the effect that they considered matters other than valid planning considerations in making their decision.<sup>146</sup>
165. Some council members agreed that electoral prospects were, in the words of Mr Adamos, “*a consideration for some candidates*”, including himself.<sup>147</sup> However, none agreed that this was the reason they rejected the application.
166. The minutes recording the reason given for the decision to refuse the application were brief and non-specific, namely: “*due to amenity concerns which would have adverse impacts on the affected adjoining owners of the proposed tenancy use*”.<sup>148</sup>
167. The City’s planning officers are employed to provide specialist advice to Council on planning matters. It is rare that council members would vote against the planning officers’ recommendations. However, the Planning Committee and Council are not required to follow the recommendations of their planning officers. They are not required to grant a planning application simply because it is not prohibited by the planning framework. However, the council members should, as elected public officials, make decisions which are fair, transparent, and based on proper grounds as defined by the applicable statutory framework.
168. The *Local Government (Administration) Regulations 1996* provide that the content of minutes of a meeting of a council or a committee is to include written reasons for a decision that “*is significantly different from the relevant written recommendation of a committee or an employee ...*”.<sup>149</sup> The Inquiry notes that Council was on one view therefore not required to provide written reasons for its decision, as it did not depart from the recommendation of the committee. On the other hand, the provision arguably required the Committee to provide written reasons for its decision to make its recommendation to Council, as that recommendation was significantly different from the written recommendation of an employee as contained in the planning officers’ report. In any event, both the Committee and the Council did each provide a brief written reason for their decision.
169. However, the Inquiry is required to consider the adequacy of Council decision-making<sup>150</sup> and it is the Inquiry’s view that the reason given was inadequate given its context. The regulations require reasons for a decision only where the decision is significantly different from a relevant recommendation on the matter. It is the Inquiry’s view that the reason given should therefore clearly address those differences and seek to account for the disparity between the recommendation and the ultimate decision.
170. In this case, the application was contentious with many interested parties, as evidenced by the number of submissions and deputations received. The decision was also made outside of the usual timeframe for decisions of this nature and there was a reasonable prospect the decision would be examined by the SAT if the Applicants applied to have it reviewed.

171. In the Inquiry's view, if the council members were each of the opinion that there were valid planning considerations that had not been addressed by the planning officers, that is, they each disagreed with the planning officers' statements that *"The issues raised in the petition ... have been addressed"* and that *"appropriate conditions can be imposed to address other valid planning considerations raised by submitters"*, it would have been better practice to set out which valid amenity concerns were not properly addressed by the planning officers and why such concerns could not be addressed by appropriate conditions.
172. This is particularly the case for the Planning Committee, whose reasons Council ultimately adopted in rejecting the application. Both Mr Harley and Ms McEvoy gave evidence that the purpose of referring the application back to the Planning Committee was to enable a full discussion of the matter in light of the petition and vocal opposition at the Council Meeting. Mr Harley and Ms McEvoy were the two members of the Planning Committee who moved and seconded the motion that Council reject the application once it was referred back to them. Mr Butler voted against the motion.
173. There is no evidence before the Inquiry, that the Planning Committee turned its mind to identifying or considering what were valid amenity concerns or appropriate conditions during its second meeting on 17 February 2015. In any case, that kind of analysis is not evident in the reason given for the recommendation. The reason for the decision does not specify the amenity concerns or adverse impacts which form the basis of the recommendation. It does not set out why the proposed conditions did not address those issues or make any reference to whether those impacts could be managed by additional conditions. This is despite it being open to the Planning Committee to formulate and recommend its own additional conditions, which it did when it initially considered the application on 27 January 2015.
174. It was pointed out to most of the council members that the shop was intending to serve a much wider clientele than the residents, including visitors to events at Langley Park. It was also pointed out that the shop had a number of supporters, both visitors and local. However, it is clear to the Inquiry that the focus of the council members was primarily on the vocal opposition expressed by some residents at The Adagio.
175. When asked why Council changed its decision at the Council Meeting on 22 September 2015, most council members suggested it was inevitable given the comments made by the SAT and that the conditions imposed were appropriate. For example, Ms Scaffidi said:
- "Then at this later meeting post SAT with the conditions and an understanding that the SAT process had been fairly exhaustive from a mediation perspective, there was an acceptance that it was necessary to approve it".<sup>151</sup>*

176. Ms Smith commented on the overall process:

*“So what ... should have been a pretty straightforward, minor application escalated into something far more complex and with the same outcome ultimately, in terms of a decision. But the whole process was quite unprecedented, in terms of the support that the Council gave to the objectors, when their grounds for objecting weren’t strong, from a planning point of view. It certainly seemed to be the weight of objections that swayed the Council, as opposed to the nature of the objections.”*<sup>152</sup>

177. Ms Smith confirmed that her view was that if Council had initially acted on proper planning grounds there would have been no need for the considerable time and money spent by all parties on this matter.<sup>153</sup>

178. The impacts of this decision were severe, for the City in terms of resources unnecessarily squandered, and for the Applicants in terms of the effects on their lives and livelihoods.

179. Mr Qaraleh said, during his evidence to the Inquiry, that his wife said that he should not have chosen the supermarket to be in that area. He said:

*“And I told her, this is a really good area and this country has law and the law should serve everyone.”*<sup>154</sup>

180. In the opinion of the Inquiry, Council made a decision contrary to the advice of its expert planning officers and its own policy, without a valid planning basis. Council members based their decision on matters that were not valid planning considerations. The Inquiry considers that, on the evidence, it is reasonable to conclude that at least some council members appear to have had the upcoming elections in their minds when making their decisions. At least some of the council members knew, at the time of making the decision, that if the decision was reviewed by the SAT it was likely to be overturned, at significant cost to both the City and Applicants. They appear to have done this to appease some residents of The Adagio apartments who opposed the shop.

181. Mr Butler said, about the planning process, in his private hearing before the Inquiry:

*“Honestly, I can say out of all of the buildings that we have put up in the City of Perth, and there’s been a hell of a lot and a hell of a lot of applications, this would have to be the worst.*

*Worst why?---For the drawing out from go to whoa, from January right through to after October, after the election.”*<sup>155</sup>

182. It is the Inquiry’s view that the decision-making process followed by some council members on this matter was inadequate. The decision-making on this matter did not demonstrate an appropriate exercise of Council’s discretion. In the Inquiry’s view, as at the Council Meeting on 24 February 2015, the arguments in favour of approving the application with the conditions that were imposed far outweighed the arguments against an approval.

## Findings

### Finding 2.2.2 – 1

The Inquiry makes the following findings:

- i. At the Council Meeting on 3 February 2015, council members based their decision to refer the application back to the Planning Committee on matters which were not valid planning considerations. The application was capable of being approved at that Council Meeting and the decision to refer the application back to the Planning Committee caused the application to be determined later than the standard determination period of 90 days.
- ii. The Planning Committee, at its meeting on 17 February 2015, based its recommendation to reject the application on matters that were not valid planning considerations.
- iii. Council, at its meeting on 24 February 2015, based its decision to reject the application on matters that were not valid planning considerations.
- iv. Some council members may have had the impending October 2015 elections in their minds when making their decision to reject the application.
- v. The Planning Committee, at its meeting on 17 February 2015, did not provide adequate reasons in the meeting's minutes for its recommendation to reject the application. Council, at its meeting on 24 February 2015, did not provide adequate reasons in the meeting's minutes for its decision to reject the application.<sup>n</sup> The decision to reject the application was not transparent.
- vi. The decision to reject the application had no proper planning basis. If Council had determined the application based only on proper planning principles, the application could and should have been granted with appropriate conditions no later than 24 February 2015. Instead, Council voted to grant the application on the basis of consent orders on 22 September 2015, following a lengthy and unnecessary SAT process.
- vii. At least some council members knew, at the time of making the decision to refuse the application, that if the decision were to be reviewed by the SAT, it was likely to be overturned. They voted to reject the application anyway.
- viii. The refusal of the application, and the contentious defence of the decision by the City before the SAT, cost the Applicants, the owner of the premises, the City and its ratepayers moneys which would not otherwise have been spent.

<sup>n</sup> This finding is maintained notwithstanding there was no legislative requirement that the reasons for the Council's decision to reject the application be recorded in the meeting's minutes: *Local Government (Administration) Regulations 1996*, reg 11. As the Council in this instance elected to record its reasons in the meeting's minutes, it was required to provide reasons that were proper.

### Finding 2.2.2 – 1 (contd)

- ix. The conditions that were ultimately accepted by the Applicants to appease the residents went beyond what would ordinarily be expected and put the business in a position where it potentially could be subject to further unnecessary scrutiny and vulnerable to complaints by objectors.
- x. The delays and the costs incurred by the Applicants, caused in part by the rejection of the application by Council, contributed to the failure of the Applicants' business.
- xi. The delay in approving the application contributed in part to serious financial and personal difficulties and distress to Mr Qaraleh, Mr Bkoor and Mr Altintas.
- xii. The decision-making process followed by the Planning Committee and by Council did not demonstrate an appropriate exercise of the Council's discretion. The way in which Council dealt with this development application was not good government.



Photo: Adwo / Shutterstock.com

## Inclusion of the Grand Central Hotel, 379 Wellington Street, Perth on the City of Perth Heritage List

### Introduction

1. The purpose of this Chapter is to examine the circumstances surrounding the heritage listing of the Grand Central Hotel at 379 Wellington Street, Perth.
2. The Grand Central Hotel<sup>o</sup> is a building in Wellington Street, near the corner with Barrack Street in the Perth Central Business District. It dates from 1903. It is now called the Akara Hotel.<sup>156</sup>
3. The Grand Central Hotel, has been owned by Central City Pty Ltd (Central City) since 11 October 2007.<sup>157</sup>
4. During the period covered by the Inquiry's Terms of Reference, Ms Lisa Scaffidi and her husband, Mr Giuseppe (Joe) Scaffidi, owned a 75 per cent interest in the Grand Central Hotel. This was made up of shareholdings in Central City and shares in two other companies, which held shares in Central City.<sup>158</sup>
5. In 2009, the City of Perth Council (Council) placed a number of buildings in a precinct around Barrack Street on the City of Perth (City) Heritage register. In the original proposal the Grand Central Hotel was to be included in the precinct. After considering a submission from Mr Scaffidi, the Grand Central Hotel was not included. There is no indication Ms Scaffidi was directly involved in this process in her role as a council member.

<sup>o</sup> The property at 379 Wellington Street, Perth is named by the Heritage Council as the "Grand Central Hotel". Over time, this property has also been known as the Grand Central Coffee Palace, the Grand Central YWCA, the Grand Hotel, the Grand Central Backpackers and the Akara Hotel; Document, Historical Business Name Extract, Grand Central Backpackers, 14 August 2019.

6. On 10 March 2015, in a schedule to the minutes of a Planning Committee Meeting, the Grand Central Hotel was included in a list of 14 potential heritage properties identified for further investigation.<sup>159</sup>
7. Between that date and 29 May 2018, when it was included on the City Heritage register, the potential heritage listing of the Grand Central Hotel was considered a number of times by the Planning Committee, the Council and by staff of the City.
8. In a letter to the City on 6 July 2015, Mr Scaffidi disagreed with the proposal to place the property on the City Heritage register and wrote “*we will be lodging a Development Application for the total redevelopment of the property in the very short term*”.<sup>160</sup>
9. In 1992, Mr Scaffidi had demolished two-thirds of the façade of another nearby property, the Railway Hotel, in contravention of a conservation order by the Heritage Council. He was successfully prosecuted and rebuilt the façade.
10. Several witnesses have expressed concern to the Inquiry, and to other bodies, about the length of time taken to register the Grand Central Hotel on the City Heritage register, and it has been suggested that Ms Scaffidi, using her position as Lord Mayor, may have taken action to delay the listing. Consequently, the Inquiry has investigated the circumstances surrounding this listing.

### Heritage listing

11. There are Federal, State and Local Government processes for managing buildings and places with heritage significance.
12. At the Federal level, this is governed by the *Environment Protection and Biodiversity Conservation Act 1999*. At the State level, it is governed by the *Heritage Act 2018*, and before that by the *Heritage of Western Australia Act 1990*.
13. The Heritage Council of Western Australia is responsible for managing the State Register of Heritage Places (State Heritage list), protection orders, and heritage agreements.
14. Under the State *Planning and Development Act 2005* and the City of Perth City Planning Scheme No 2 (CPS2), the City is responsible for registering properties on its own Heritage list.<sup>161</sup>
15. Places which are on the City Heritage register require special attention in matters of planning approval for demolition, additions and other works.

### Declarations of interest

16. Section 5.65 of the *Local Government Act 1995* (LG Act) requires that council members who have an interest in any matter to be discussed during a Council or committee meeting which will be attended by that member must disclose the nature of the interest in a written notice given to the Chief Executive Officer (CEO) before the meeting, or at the meeting immediately before the matter is discussed.
17. Section 5.60 of the LG Act provides that a person has an interest in a matter if the person has a direct or indirect financial interest, or a proximity interest, in the matter.
18. Section 5.67 of the LG Act provides that a council member who makes a disclosure under section 5.65 of the LG Act must not participate in any discussion or decision-making procedure relating to the matter, unless they are allowed to do so under section 5.68 or section 5.69. A penalty of \$10,000.00 or imprisonment for two years applies to a breach.
19. Section 5.68 of the LG Act empowers those council members present at a meeting of council to allow a disclosing member to be present during any discussion. That decision is to be recorded in the minutes.
20. Read together, the effect of sections 5.67, 5.68 and 5.69 of the LG Act is to prohibit council members from participating in discussions at a Council Meeting about matters in which they have an interest. They do not apply to discussions outside the meeting.
21. Part 3 of the City's Council Policy "*CP10.1 – Code of Conduct*" (Code of Conduct) deals with conflicts of interest and disclosure of interests. At the relevant time, clause 3.1 dealt specifically with conflicts of interest and provided that "*Members and employees must ensure there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties and functions*".<sup>162</sup>
22. At the relevant time, while the Grand Central Hotel was under consideration by the Council for potential heritage listing, Ms Scaffidi had a financial interest. At all Council meetings which Ms Scaffidi attended where the Grand Central Hotel was discussed, she declared her interest in the matter, left the Council Chamber and did not return until the item was concluded.
23. Ms Scaffidi was not a member of the Planning Committee. The terms of reference for that Committee include overseeing and making recommendations to the Council on matters related to heritage.

## Timeline

|      |              |   |
|------|--------------|---|
| 2015 | 10 March     | The Council's Planning Committee included the Grand Central Hotel (Hotel) in a list of 14 potential heritage properties for further investigation.  |
|      | 16 March     | The day before the next Council Meeting, Ms Scaffidi sent WhatsApp messages to Mr James Limnios about the potential inclusion of the Hotel on the City Heritage register.   |
|      | 17 March     | At the Council Meeting, the recommendation by the Planning Committee that the Hotel be included in a list of potential heritage properties was not endorsed. Council referred the matter back to the Planning Committee.                        |
|      | 6 July       | In a letter to the City, Mr Giuseppe (Joe) Scaffidi wrote to the City advising that he disagreed with the proposal to place the Hotel on the City Heritage register.  |
|      | 19 October   | Changes to the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> took effect, allowing Council to require that a heritage assessment be carried out before the approval of any development proposal in a heritage area. |
| 2016 | 12 January   | The City's environment and public health officers visited the Hotel. Ms Scaffidi emailed the manager about the visits.  |
|      | 29 March     | The Planning Committee put the Hotel in a group of three properties for further assessment.   |
|      | 5 April      | Council supported the Planning Committee recommendation.  |
|      | 12 July      | The Planning Committee recommended the other two properties be progressed, but Hotel be the subject of a separate future report.  |
|      | 19 July      | Council endorsed the Planning Committee recommendation.   |
|      | 31 July      | An independent architect provided a report to the City in relation to Hotel advising that it " <i>is worthy of inclusion</i> " on the Heritage register.  |
|      | 13 September | The Planning Committee deferred a decision for further investigation and discussions between City officers and the property owner.  |
|      | 25 October   | The Planning Committee recommended to Council that it " <i>propose to include</i> " the Hotel on the Heritage register with an opportunity for the owners to respond.   |
|      | 1 November   | Council endorsed the Planning Committee recommendation.   |
| 2017 | 20 January   | Mr Scaffidi was notified of the Council decision and invited to make a submission – no submission was provided.   |
| 2018 | 29 May       | City Commissioners (following suspension of Council) decided to enter the Hotel on the City Heritage register.  |

## Issues considered by the Inquiry

24. Issues which arise for the Inquiry in relation to the Grand Central Hotel include:

- Did Ms Scaffidi delay, or attempt to delay the progress of the Grand Central Hotel through the City's heritage listing process?
- Did Ms Scaffidi have a conflict of interest when she communicated with council member Mr James Limnios about the potential heritage listing in WhatsApp messages on 16 March 2015?
- Did Ms Scaffidi interfere with the City's Administration in emails dated 12 January 2016 to Mr Eugene Lee, the City's Manager, Environment and Public Health, about visits by City officers to the Grand Central Hotel?
- Did Mr Martin Mileham, Acting CEO, take action on 17 August 2016 to delay the consideration by the Planning Committee of heritage listing for the Grand Central Hotel, in order to improve his chances of being appointed to the CEO position?

## Investigation by the Inquiry

### Inquiry's Terms of Reference

25. Among other things, Part A.3 of the Terms of Reference for the Inquiry direct it to inquire into:

- whether there was improper or undue influence by any member of the Council in administrative tasks, such as recruitment, employee management and grants administration;
- whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations;
- governance practices; and
- the adequacy and competency of Council decision-making.

26. The jurisdiction of the Inquiry is for the period 1 October 2015 to 1 March 2018. However, the Inquiry may inquire and report on a period before 1 October 2015 for the purpose of placing the matters inquired into in a relevant context.

## Witnesses

27. The Inquiry held private and public hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members, Ms Scaffidi, Mr Jim Adamos, Mr Rob Butler, Ms Lily Chen, Ms Janet Davidson, Dr Jemma Green, Mr Reece Harley, Mr Limnios, Ms Judy McEvoy, and Mr Keith Yong;
- CEOs, Mr Gary Stevenson (until 20 January 2016) and Mr Mileham (from 20 January 2016);
- Mr Robert Mianich, Director, Corporate Services; and
- Mr Mark Ridgwell, Manager, Governance.

## Evidence obtained by the Inquiry

### Grand Central Hotel is placed on a list for future assessment

28. On 10 March 2015, at a meeting of the Planning Committee attended by Mr Butler, Ms McEvoy and Mr Harley, proposed new planning policies were discussed. In particular, the City officer's recommendation was that the finalisation of a draft *"Heritage Assessment and Registration Policy"* be delayed until some proposed regulatory changes were resolved and, in the interim, the City progress heritage assessment and registrations where:

*"A development application involving demolition is received for a potential heritage place. Potential heritage places in this context includes those places included in the database of potential heritage places and any other places that have a construction date that indicates possible heritage significance".<sup>163</sup>*

29. A list of heritage places identified for further assessment was attached as a confidential schedule. The Grand Central Hotel was listed, together with 13 other properties. Three photographs of the Grand Central Hotel from different times were included.

30. The Planning Committee recommended that Council:

*"Approves further assessment, and consultation with affected landowners, of those properties detailed in the attached Confidential Schedule 11 for the purposes of possible inclusions [sic] in the City Planning Scheme No.2 Register of Places of Cultural Heritage Significance".<sup>164</sup>*

### Ms Lisa Scaffidi and Mr James Limnios communicate by WhatsApp

31. On 16 March 2015, the day before the next Council Meeting, Ms Scaffidi and Mr Limnios exchanged WhatsApp messages.<sup>165</sup>

32. Mr Limnios wrote (at 9.47 pm):

**Mr Limnios**



*"Lisa I can't see the list of proposed properties for consideration in heritage list schedule? Should we return this to Planning Committee for further discussion?"*

33. Ms Scaffidi replied (at 9.49 pm):

**Ms Scaffidi**



*"It's in confidential schedule not attached to the other public schedules  
Lily & Rob away tmw  
Best thing is deferral to Cte for discussion after property owners have been contacted and not before as they are suggesting!!!  
It's a weird approach  
Talk to Janet ahead of mtg tmw night.  
Also a Chair will be needed for that time so probably best to nominate her".*

34. The messages continue:

(9.51pm)

**Mr Limnios**

*"Ok I didn't have that list in my pigeon hole ... I am concerned at the cost to owners and red tape this will create ..."*

**Ms Scaffidi**

*"Thx agree"*

(9.53 pm)

**Ms Scaffidi**

*"It's not saying they'll be listed – it reads like someone creating work for the admin. Whole thing is weird. The properties listed include Rosie O'Gradys (Chris Brockwell) John Kannis property, Plaza Arcade and others".*

35. In public hearings, Ms Scaffidi agreed she should not have entered into communication with Mr Limnios concerning what the Council should do with the agenda matter involving the Grand Central Hotel. Ms Scaffidi also agreed it would be inappropriate for a council member with a financial interest to become involved in the Council's considerations. Ms Scaffidi agreed she should have said to Mr Limnios *"Look, I can't discuss this with you"* or *"please, I can't enter into these discussions"*.<sup>166</sup>
36. The Inquiry finds Ms Scaffidi contravened clause 3.1 of the City's Code of Conduct. It was improper for Ms Scaffidi to communicate with Mr Limnios on how Council should deal with this agenda item. There was an actual conflict between her personal interest in the potential heritage listing of the Grand Central Hotel and the impartial fulfilment of her duties as Lord Mayor, which included providing leadership and guidance to the Council.<sup>167</sup> It makes no difference whether Ms Scaffidi ultimately influenced Mr Limnios in his consideration of the matter.
37. Furthermore, Ms Scaffidi's conduct in sending her 16 March 2015 WhatsApp messages to Mr Limnios undermined the clear intent of the LG Act to prevent a council member who has a financial interest in a matter before Council from influencing Council's decision-making. There is little achieved by a council member being absent from Council's discussion of a matter in which they have a financial interest<sup>168</sup> if that council member discusses that matter with other council members ahead and outside of the Council Meeting.

#### Council Meeting, 17 March 2015

38. A Council Meeting was held the following day, 17 March 2015. Mr Butler, Ms Chen and Mr Adamos were absent.
39. At 6.13 pm, Ms Scaffidi left the meeting, having previously disclosed a financial interest in an item concerning the City Heritage register.<sup>169</sup> Mr Limnios nominated Ms Janet Davidson to preside over the meeting in Ms Scaffidi's absence. This was as Ms Scaffidi had suggested to Mr Limnios in her WhatsApp message.
40. An officer report was presented to Council. It was in the same terms as the report presented to the Planning Committee on 10 March 2015.
41. The Council did not endorse the officer recommendation. Instead, a motion was moved by Mr Limnios to refer the matter back to the Planning Committee. The motion was seconded by Ms McEvoy and was put in the following terms:  
*"That Council refer consideration of the report titled 'Proposed Principles of New City Planning Scheme No. 2 Planning Provisions and Policy – Heritage Assessments and Registrations' back to the Planning Committee"*.<sup>170</sup>
42. Mr Limnios, Ms Davidson, Ms McEvoy and Mr Yong voted in favour of the motion. Mr Harley voted against it.

43. Reasons for the decision were recorded in the minutes:  
*“Council were concerned that consultation with the people affected or potentially affected had not taken place and therefore agreed that the Item should be referred back to the Planning Committee for further consideration”.*<sup>171</sup>
44. Mr Limnios was asked during his examination before the Inquiry whether he moved to defer the matter for discussion, because Ms Scaffidi asked him to do so. He said *“No, I agreed with her ... I agreed with the sentiment of the pushing it back”.*<sup>172</sup>
45. At Planning Committee meetings on 31 March 2015, 12 May 2015 and 23 June 2015, there was no mention of the matter.
46. On 6 July 2015, Mr Scaffidi, on behalf of Central City, wrote to the City expressing disagreement with the proposal to place the property on the City Heritage register, citing the State Heritage Council reasons for it being *“below threshold”*. In the letter, Mr Scaffidi stated the building had been significantly altered since it was constructed and bore little resemblance to the original building. He also noted the building was not a landmark building when viewed from the northern side and it retained a low degree of authenticity.
47. Mr Scaffidi said, *“we will be lodging a Development Application for the total redevelopment of the property in the very short term”.*<sup>173</sup>
48. At the Planning Committee meetings held on 14 July 2015 and 4 August 2015, there was no mention of the matter.

#### **Regulatory change takes effect**

49. On 19 October 2015, changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* took effect.
50. The new regulations required the City Heritage register to set out a description of each place and the reason for its entry on the list, and the term *“Heritage area”* was created. Certain other provisions allowed for Council to require a heritage assessment to be carried out before the approval of any development proposal in a heritage area or in respect of a heritage place.
51. City Heritage register matters were not mentioned at Planning Committee meetings on 17 November 2015 or 8 December 2015.

### Ms Lisa Scaffidi contacts Mr Eugene Lee

52. On 12 January 2016, three City officers from the Environment and Public Health Unit visited the Grand Central Hotel.
53. At 3.45 pm on that date, Ms Scaffidi emailed Mr Lee at the City, and asked about the visit. She wrote:

*"Its been brought to my attention that you visited 379 Wellington Street today. Can I ask why and if the visit was instigated by yourselves? If so why?"*<sup>174</sup>
54. Ms Scaffidi used her Lord Mayor signature block on the email and sent it from her City email address. She did not send it in her private capacity.
55. Mr Lee replied to Ms Scaffidi, addressing her as "Lord Mayor" and explained that City employees "attended the premises to inspect works that are being conducted at 379 Wellington Street, Perth" because of concerns raised by the Department of Fire and Emergency Services (DFES). Mr Lee told Ms Scaffidi "The Manager of the premises had applied for a Café to be established in the Hostel" and the manager had been advised to seek planning approval for a "change of use" before works could be undertaken. Mr Lee also said that DFES had "raised concerns that works were being undertaken on the emergency systems without proper reference to DFES" and the City Building Surveyor wanted to ensure that the new detectors complied with Australian Standards and "As the building is still being occupied by lodgers, the City wants to confirm that the emergency systems will still be operational whilst works are being undertaken".<sup>175</sup>
56. Mr Lee forwarded his reply to Mr Mileham, then Director, Planning and Development.
57. Shortly afterwards, at 4.31 pm, Ms Scaffidi sent Mr Lee another email and copied in Mr Stevenson as CEO, Mr Mileham, and two employees of Mr Scaffidi, Mr Gary Sugget and Ms Kay Collinson. She wrote:

*"There was already a café there in the beginning. If the CoP checks their records it was already there. Can you do that? Please update me. I don't believe a change of use is therefore warranted".*<sup>176</sup>
58. Again, Ms Scaffidi used her Lord Mayor signature block and her City email address. She did not send it in her private capacity.
59. Mr Lee replied to Ms Scaffidi, again addressing her as "Lord Mayor", stating that he would need to check with another officer and said he would advise Ms Scaffidi after he had done so.<sup>177</sup> He then forwarded Ms Scaffidi's email to Ms Smith, the City's Manager, Development Approvals.

60. In her evidence before the Inquiry, Ms Scaffidi said that she should not have contacted Mr Lee and this was a breach of regulation 10(1)(a) of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations). Ms Scaffidi accepted that she knew at the time that she was not allowed to contact Mr Lee and that the law required her not to do that. However, Ms Scaffidi said that she did it because she was upset, and she denied that she deliberately breached the law.<sup>178</sup>
61. Ms Scaffidi accepted that she should not have sent the emails from her City of Perth email address, rather than her personal email address. Ms Scaffidi could not recall why she did this. She denied that she sent an email from her City of Perth address rather than her personal address, because she was sending that email in her capacity as Lord Mayor. Ms Scaffidi did not agree that she contacted the City herself, rather than asking one of her husband's employees to do it, because as Lord Mayor she had more gravitas within the City.<sup>179</sup>
62. Ms Scaffidi had a personal email account. She did not use it to correspond with Mr Lee on this occasion. She used her City email account. Ms Scaffidi had a financial interest in the property. Ms Scaffidi was the Lord Mayor and there was a power imbalance between her and Mr Lee.<sup>180</sup> In the absence of a satisfactory explanation, the Inquiry is satisfied that Ms Scaffidi intentionally corresponded with Mr Lee in her capacity as Lord Mayor.
63. It was improper for Ms Scaffidi to correspond with Mr Lee about the City's activities in relation to the property. In her capacity as Lord Mayor, she should not have corresponded with Mr Lee about any work the City may be doing on the property. In doing so, Ms Scaffidi put her own personal interests above those of the City. This gave rise to a conflict of interest, contrary to clause 3.1 of the City's Code of Conduct, and the Inquiry so finds.
64. Furthermore, the Inquiry finds that Ms Scaffidi directed Mr Lee in his work as a City employee. That may have been in breach of regulation 10(1)(a) of the Conduct Regulations which states:

*“(1) A person who is a council member must not —*

*(a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; ...”*

### Planning Committee Meeting, 29 March 2016

65. On 29 March 2016, the Planning Committee met to consider a new heritage assessment planning policy, with specific reference to the CPS2 heritage provisions.<sup>181</sup>
66. Thirteen potential heritage properties were described in a confidential schedule, including the Grand Central Hotel.<sup>182</sup> The Grand Central Hotel (Property I), a property in Milligan Street (Property H) and another in Hay Street (Property J) were grouped together. The minutes record:

*“1. In relation to the results of landowner consultation on heritage assessments –*  
*...*  
*1.3 notes that further assessment is required to determine if properties H, I and J are of cultural heritage significance and worthy of built heritage conservations, and requests that Officers undertake internal site inspections of the properties to determine their internal condition and authenticity”.*<sup>183</sup>
67. The Council was asked to consider the matter at a meeting on 5 April 2016. The motion moved in the Planning Committee was put before the Council and carried unanimously.
68. Ms Scaffidi left the Council Meeting at 6.02 pm and returned at 6.05 pm.<sup>184</sup>
69. From this point, the Grand Central Hotel was included with properties H and J for the purpose of conducting internal site inspections to determine their internal condition and authenticity.

### Mr Joe Scaffidi is advised of progress

70. On 11 April 2016, Ms Tabitha McMullan, Manager, Arts Culture and Heritage at the City, wrote to Mr Scaffidi at Central City stating:

*“Whilst the heritage assessment for the property demonstrated that it may have some heritage significance, its heritage significance remains unproven until further assessment is undertaken;*  
*An inspection of the property is required to determine its internal condition and authenticity, and that the results of the inspections and the further consultation will be reported back to Council for a final decision; and*  
*The owner is not supportive of the above property being heritage listed”.*<sup>185</sup>
71. A site inspection was to be arranged.

### Central City requests further consultation

72. By email dated 29 June 2016, Mr Peter Simpson, Director, PTS Town Planning Pty Ltd, wrote to the City on behalf of Central City, referring to a previous conversation and seeking the results of any heritage assessment. Mr Simpson added:

*“We therefore request that the report not be presented to a Planning Committee or the Council until you’ve undertaken the further consultation as the Council has advised you and as you indicated in the Council report”.*<sup>186</sup>

73. By email dated 4 July 2016, Ms Annaliese Battista, Acting Director, Economic Development and Activation, replied to Mr Simpson noting the City had undertaken a thorough review of his concerns and the consultation process was deemed to be robust and in adherence with Council decisions. Ms Battista went on to state:

*“Given the property ... has been the subject of significant publicity ... it has been deemed appropriate to procure an independent review of the City’s determinations in relation to the property’s heritage attributes. It is therefore necessary to delay the report proceeding to Committee until such time as this assessment has been completed. The Heritage Team commenced this process today ... assessment by the end of the week ... It is intended the resultant report will be submitted to Planning Committee on 2 August 2016, then to Council on 9 August 2016 to determine if the property is worthy of inclusion in the City Planning Scheme Heritage List ...”.*<sup>187</sup>

### Planning Committee Meeting, 12 July 2016

74. At a Planning Committee Meeting on 12 July 2016, the Committee voted to recommend that Council progress properties H and J. It was proposed that Property H would be included on the heritage list, and Property J would not. Once notified of the decision, the owners of Property H were given 21 days in which to make a submission.<sup>188</sup>
75. Property I, the Grand Central Hotel, was noted as being the subject of a separate and future report.

### Council Meeting, 19 July 2016

76. On 19 July 2016, Council endorsed the Planning Committee’s recommendation. Ms Scaffidi was present and voted in favour of the motion.<sup>189</sup>
77. With respect to the Grand Central Hotel, the officer report again noted that Property I, *“will be reported to Council as a separate future report”.*<sup>190</sup> No reason was given.
78. From this point onwards, the Grand Central Hotel was the only remaining property in the group requiring heritage assessment.

### An independent heritage assessment is completed

79. By letter dated 31 July 2016, Mr Philip Griffiths of Griffiths Architects Pty Ltd provided a detailed report to the City, addressing the question of whether or not the Grand Central Hotel had “sufficient heritage value to meet threshold for entry in to City Planning Scheme 2 Heritage List”.
80. In his report, Mr Griffiths tested the assessed values of the building against the assessment criteria. To be considered for entry it only needed to meet one of the criteria.
81. Mr Griffiths concluded:
- “... that the place has at least some significance. It is possible for the front section of the building to represent the values and the degree of significance. In other words, the front portion of the building has the highest significance and the remaining sections much less significance.*
- In our view the place is worthy of inclusion in the CPS2 Heritage List. There is the capacity for a fairly high degree of intervention, as the degree of significance suggests, notably the rear portion of the building. However, the first order issue is for the City to determine whether or not the place is to be included in the list.”<sup>191</sup>*

### Did Mr Martin Mileham deliberately delay the heritage listing?

82. On 16 August 2016, Mr Mileham was interviewed for the position of CEO. It was a first-round interview. Mr Mileham had been Acting CEO since 20 January 2016.
83. On 17 August 2016, the Executive Leadership Group held an agenda settlement meeting in which there were discussions concerning whether the officer report on the Grand Central Hotel should go to the Planning Committee. Mr Mileham considered certain amendments were required.<sup>192</sup> Ms Battista supported the matter going forward.
84. Ms Battista told the Inquiry that in support of her view she attempted to explain why the officer report should go before the committee. She said she heard Mr Mileham express his frustration by saying “Really”, and saw him throw down his paperwork, or pen or glasses and say something along the lines of “Why would you do this to me now?”<sup>193</sup>
85. Mr Mileham could not recall saying these words and he did not accept Ms Battista’s account.<sup>194</sup>
86. Mr Mileham requested a number of minor amendments to the report, which included the addition of a timeline regarding the decision-making about properties H and J, compared to Property I.<sup>195</sup> The addition of this timeline to the officer report allowed a reader of the report to trace the movement of the Grand Central Hotel through the heritage process, making the process more transparent.
87. Ms Battista was concerned that Mr Mileham had withdrawn the report due to concerns he had about his application to be the CEO of the City. At her hearing before the Inquiry this was put to her and she said “Yes. He had in fact articulated that”.

88. She was asked *“But those were concerns that you held in August 2016?---Yes, I was quite sure that was the reason why that report was deferred at that point in time”*.<sup>196</sup>
89. Shortly after that meeting, Ms Battista spoke to Mr Mileham on the telephone. Ms Battista told the Inquiry that her best recollection of what he said, in her words not his, was:
- “Martin had reconfirmed to me that the timing was terrible for him because he was in the middle of a recruitment process for being the CEO and he felt that that would undermine his chances of getting the gig”*.
90. She was asked if she had addressed her concerns directly with him. She said:
- “I don’t recall directly challenging him on that point because it would have been – I think he would have responded quite angrily to that, and I would probably add to that that his dialogue with the Executive around that recruitment process and his chances of getting it and what he would like us to do to help him get that, it wasn’t a secret”*.<sup>197</sup>
91. Ms Battista raised her concerns with Mr Ridgwell shortly after the agenda settlement meeting. According to Ms Battista, she had a short meeting with Mr Ridgwell, who did not agree that there should be a concern about the CEO recruitment process or the listing of the Grand Central Hotel on the City Heritage register.<sup>198</sup>
92. Mr Ridgwell had no recollection of any investigation taking place into the delay of the heritage listing of the Grand Central Hotel. Although he remembered the meeting and Ms Battista being frustrated that the Grand Central Hotel report was withdrawn, he said:
- “I recall stating that whilst I could understand the frustration it was the CEO’s call on presenting reports to Council meetings. I do not recall Ms Battista linking withdrawal of the Grand Central Hotel Agenda item to the CEO recruitment process that was taking place in or around that time. I believe that had such a conversation taken place that I would remember”*.<sup>199</sup>
93. In relation to Mr Mileham requesting more information or amendments, Mr Ridgwell told the Inquiry:
- “It was consistent with Mr Mileham in the context of, when anything had a political reputational concern, that he wanted to make sure that it was very thorough and meticulous in respect to the report and its recommendations. So it was not uncommon, but it also wasn’t common, to have items that would be deferred to provide additional information”*.<sup>200</sup>
94. Mr Mileham told the Inquiry that, given there was negative media towards Mr and Ms Scaffidi:
- “So I’m assuming, and again I can’t recall the detail, that we would need to be certain that we were unassailable in our decision to list it, or recommend listing; an abundance of caution perhaps”*.<sup>201</sup>

95. Ms Battista reported the matter to the Corruption and Crime Commission on 25 August 2016.<sup>202</sup>
96. On 29 August 2016, Ms Battista emailed Mr Mileham about the amendments he had requested at the agenda settlement meeting. Ms Battista also remarked that there had been several attempts to refer the report to Council. She wrote:

*“Over 17 months, the Officer’s Recommendation has not changed and the continual referral back to Administration for additional work, most recently at Agenda Settlement on 17 August 2016, perpetuates the speculation that this property is being afforded special attention”.*<sup>203</sup>
97. Ms Battista also wrote, *“I note your concerns over the timing of the most recent report coinciding with the CEO recruitment process”.*<sup>204</sup>
98. On the same day, Mr Mileham participated in a second-round interview for the position of the City’s CEO.
99. On 30 August 2016, there was a Council Meeting. The Grand Central Hotel was not on the agenda.
100. On 1 September 2016, Mr Mileham was appointed CEO.
101. The Inquiry accepts Ms Battista’s evidence about what happened at the agenda settlement meeting on 17 August 2016, and what she and Mr Mileham said and did in relation to whether the Grand Central Hotel should progress towards heritage listing. Ms Battista was clear in her evidence about this, had a detailed recollection of what was said and was so concerned about it that she took it further. Although Mr Mileham refuted her account, he had no recollection of the meeting. He recalled discussions around heritage matters in several agenda settlement meetings, but he could not specify the *“whens and wheres”*.<sup>205</sup>
102. Apart from Ms Battista’s account, there is no evidence before the Inquiry connecting Mr Mileham’s interview for the substantive CEO position to what occurred at the agenda settlement meeting. Both Ms Scaffidi and Mr Mileham were asked and both denied a connection.<sup>206</sup>
103. The Inquiry also notes that one of the amendments Mr Mileham requested, the inclusion of a timeline reflecting the decision-making, could have aided Planning Committee members in their deliberations and enhanced the transparency of the heritage listing process.
104. There is no other evidence before the Inquiry to connect what occurred in the agenda settlement meeting to the interests of the owners or occupiers of the Grand Central Hotel.
105. On balance, although the Inquiry accepts Ms Battista’s account of what occurred at the agenda settlement meeting on 17 August 2016, the Inquiry does not consider that there is sufficient evidence before it to justify a finding that Mr Mileham caused consideration of the heritage listing of the Grand Central Hotel to be deferred, because he was concerned about damaging his prospects in the CEO selection process.

### Council members support the heritage listing

106. In the lead up to a Planning Committee Meeting on 13 September 2016, Mr Harley attempted to garner support from Dr Green and Mr Limnios for heritage listing the Grand Central Hotel.

107. On 11 September 2016, at 12.54 pm, Mr Harley sent an Instant Message to Dr Green:

**Mr Harley**



*"You, me, James, Lily could block it as there wouldn't be a majority (Lisa has to declare)".*

108. In an exchange of messages at 3.13 pm:

**Dr Green**



*"We just need lily – James will be presiding over the item and so if we have Lily, James will have the casting vote".*

**Mr Harley**

*"Haha. Hilarious. James will do anything to fuck Lisa up".*

**Dr Green**

*"We can save the building if we get Lily!!!"<sup>207</sup>*

109. At 3.25 pm, Mr Harley wrote:

**Mr Harley**

*"It's Keith and Jim first on planning [t]hat will determine it".*

110. Dr Green responded to Mr Harley:

**Dr Green**

*"Yes exactly  
If they oppose the admin We need to make a big noise about this that they are in her faction and always vote consistent with her".*

111. On 12 September 2016, Dr Green messaged Mr Harley and said:

**Dr Green**

*"Lisa is trying to give Lily Nanjing trip and bypass Limnios to win her favours to knock down the hotel".<sup>208</sup>*

112. Dr Green also messaged Mr Limnios:

Dr Green



*"Lily being offered trip to China to support knocking down of heritage building".<sup>209</sup>*

113. Mr Limnios replied:

Mr Limnios



*"It could be confirmed if you wrote to Lily and expressed your dismay at the fact that you heard the LM is trying to bypass me and at same time disrespect our sister city by sending a councillor rather than the DLM to a mayors conference. Loss of face".<sup>210</sup>*

114. Dr Green and Mr Limnios continued messaging:

Dr Green

*"Loss of face for DLM?"*

Mr Limnios

*"For Nanjing as they are very big on titles etc.*

*No not about me".*

Mr Limnios

*"JUST SENT*

*Lily there is a big game being played re Nanjing. Lisa is trying to stop me from going to a mayors conference she can't attend. Had she offered it to you to try and cause a rift between us?"*

Dr Green

*"Let's see what she says".*

Mr Limnios

*"LILY*

*No she has not. I do not want to go anyway".*

Dr Green

*"Ok no story then".<sup>211</sup>*

115. On 13 September 2016 Dr Green ended her chat with Mr Harley with a message which read:

**Dr Green**



*“Only trouble is Lily doesn’t want to go on the trip. But the offer may do its work in any case”.<sup>212</sup>*

116. In relation to this comment, Ms Chen told the Inquiry she went to Nanjing with a group of councillors including Mr Limnios, Ms Davidson and Ms Scaffidi. Although she was not clear as to when she took the trip, she denied that Ms Scaffidi had offered it to her so she would vote against the Grand Central Hotel being heritage listed.<sup>213</sup> On this point the Inquiry notes that Ms Chen did not vote against the property’s heritage listing. The evidence does not support a finding connecting Ms Chen’s trip to Nanjing with the Grand Central Hotel’s heritage listing.
117. These text conversations between Mr Harley and Dr Green, and Dr Green and Mr Limnios provide examples of the context in which these council members were working at the time; in a faction, suspicious of the other faction’s motives and actions.

#### Deputation request is received

118. On 13 September 2016, Ms Yvonne Honmon, Governance Officer at the City, emailed Ms McEvoy attaching a request from Mr Simpson of PTS Town Planning Pty Ltd, acting for Central City, to make a deputation to a Planning Committee Meeting scheduled for that evening.<sup>214</sup>

119. Later that morning, Mr Simpson sent an email directly to Ms McEvoy, thanking her for accepting the request and providing an outline to her of a:

*“... request to defer the item to enable the City’s officers and my client to discuss the extent of the building that may be required to be retained under any heritage listing”.*

120. Mr Simpson went on to say:

*“... my client may entertain the possible inclusion of the site on the heritage list if the scope of any retention is agreed between the City and my client. My client may investigate retaining the front portion of the building, which has been identified in the heritage documentation as the [sic] having some heritage significance (the rear portion does not have any real heritage significance). However, the extent of any retention will have a significant impact on the redevelopment of the site and therefore this needs to be established with the City prior to any consideration of the listing.*

*Therefore we respectfully request that the item be deferred to enable the extent of building retention to be determined between the City and my client, before the Planning Committee and Council consider initiating the heritage listing process ...”.<sup>215</sup>*

### Planning Committee Meeting, 13 September 2016

121. On the evening of 13 September 2016, a Planning Committee Meeting was held. It was attended by Ms McEvoy, Mr Yong and Mr Adamos. Mr Harley attended as an observer. The heritage listing of the Grand Central Hotel was on the agenda.
122. The officer report recommended *“the inclusion of the Grand Central Hotel on the Heritage List based on the findings of three heritage assessments”*. One of these was an independent heritage assessment from Griffiths Architects.
123. The officer report noted:

*“The independent heritage report referred to above was not undertaken for [Property H] and [Property J] that, together with the Grand Central Hotel constituted the group of places Council requested Officers to assess more fully, including an internal site inspection, prior to reporting back to Council.*

*The extra heritage assessment was commissioned to ensure that an additional independent and full assessment of the place was obtained given the recent media attention that the possible heritage listing of this place had attracted.”*<sup>216</sup>
124. As requested by Mr Mileham, a timeline and summary of the heritage listing process for the three properties was provided in the report.
125. The officer report then stated:

*“Should Council resolve to propose that the Grand Central Hotel be included on the Heritage List, further consultation will be undertaken with each owner and occupier of the place. A copy of the Draft Heritage Place Assessment will be provided and the owner and occupier will have a period of 21 days to make a submission on the proposal.”*<sup>217</sup>
126. The officer report recommended:

*“that Council ... proposes to include Grand Central Hotel, 379 Wellington Street, Perth in the City Planning Scheme No. 2 Heritage List and gives the affected owner and occupier a description of the place, the reasons for the proposed entry and 21 days to make a submission on the proposal ...”*

### Mr Peter Simpson speaks to the meeting

127. Ms McEvoy approved Mr Simpson’s deputation and Mr Simpson is recorded as having spoken for two minutes.<sup>218</sup>
128. As the City did not record the audio of confidential items at Council or Committee meetings, in order to ascertain the details of what occurred at the meeting, the Inquiry has had to rely on evidence from those who attended. Only Mr Harley and Mr Adamos had any memory of this.

129. Mr Harley said the owners had someone attend and:
- “... speak on behalf of them and lobby for a delay in the property being Heritage Listed so that information could be obtained as to whether or not only a portion of the property could be included in the Municipal Heritage Inventory rather than the entire property, and that delay and request for further information was granted by the committee”.*<sup>219</sup>
130. Mr Harley noted the representative spoke about the idea of heritage listing the façade, but not the back of the property, as the owners wanted to proceed with the development.<sup>220</sup>
131. Mr Adamos recalled Mr Simpson addressing the Committee about proportional registration of certain parts of the building.<sup>221</sup>

### Recommendation of the Planning Committee, 13 September 2016

132. Notwithstanding the officer report, Ms McEvoy moved a motion to defer the matter:
- “That the item titled ‘Proposed Entry of Grand Central Hotel – 379 Wellington Street, Perth in the City Planning Scheme No., 2 Heritage List’ be deferred for further investigations and discussions to be carried out between City of Perth Officers and the property owner”.*<sup>222</sup>
133. The motion was seconded by Mr Yong and carried unanimously.
134. As a result, Council was not asked to consider the officer report and the matter was referred back to the Administration for further work.

### Fallout from the Planning Committee Meeting

#### Mr Reece Harley raises questions

135. At 5.50 pm on 13 September 2016, Mr Harley messaged Dr Green and Mr Limnios:<sup>223</sup>

Mr Harley



*“Item was deferred. There have already been three reports recommending listing. Now Jim, Judy and Keith have kicked the can along the road. The building remains not listed and unprotected”.*

136. In answer to Dr Green asking why, Mr Harley advised further consultation with the owner was required and said, in a message at 5.55 pm:

Mr Harley



*“Annaliese [Battista] said [to the Committee] the admin report would be the same next time round”.*<sup>224</sup>

### Mr Reece Harley raises further questions

137. In emails sent on the evening of 13 September 2016, Mr Harley asked Mr Mileham to explain the process applicable to proportional registration.

138. At 9.38 pm, Mr Harley wrote:

*“Dear CEO*

*Does our planning scheme allow part of a property to be on our municipal heritage inventory or is the whole property on the lot on the inventory.*

*My understanding is that the whole property gets listed and then a survey takes place which determines significant fabric from less significant fabric allowing development to take place.*

*I don’t understand why the owners of this property would seek a deferral on these grounds?*

*R”.*<sup>225</sup>

139. In reply Mr Mileham wrote:

*“Committee has asked us to ask that question I would suppose. I don’t believe ‘partial listing’ can easily be accommodated in the Scheme, however, I will be keen to hear the officers’ view on that and await the review”.*<sup>226</sup>

140. Mr Harley responded:

*“I think the committee tonight has asked you to go away and have yet another conversation with the Scaffidi’s about the heritage value of their property – which they contest. Annaliese stated that the administration’s view would not change as there have been multiple reports about the heritage value of the property by different independent assessors.*

*...*

*What you saw tonight was three councillors who are scared of retribution ...*

*I was also disappointed by your silence on the item. I believe if this property was owned by a different owner you may have been more likely to say something tonight and would have pushed the committee to give proper consideration to the recommendation. You said literally nothing.*

*You’re the CEO. It’s your recommendation, and yet you didn’t back it, speak to the item, or defend your officer’s work. I’m not sure why you held your tongue but it does concern me.*

*I expect this item to be back in front of council as soon as possible. I’ll be watching it closely”.*<sup>227</sup>

141. Mr Harley also raised a question about whether “the Nanjing Trip issue related to this item”. He added “I believe it’s very possible that the two are tied”.<sup>228</sup>
142. Mr Mileham was scheduled to be at a citizenship ceremony with Mr Harley in the evening and forwarded the item to Mr Ridgwell for advice.<sup>229</sup> He later replied to Mr Harley by letter dated 14 September 2016.
143. In his letter to Mr Harley, Mr Mileham addressed Mr Harley’s disappointment in the deferral of the item, and over the way in which he conducted himself. In particular, Mr Mileham wrote:
- “In regards to your observance of myself not speaking to the item I note that for most Committee meeting items I will defer to the relevant member of my Management Team who are the subject matter experts and who ultimately prepared the reports to respond ... Ms Battista responded professionally and factually to all matters raised ...*
- I have no reason to intervene if the Committee wish to make a fully informed decision ... should you have any concerns or questions you are well within your rights as an Observer Member to state your objects or seek clarification in such Committee deliberations ...*
- In respect of your assertions that the Planning Committee members fear retribution by the property owner I note I have not witnessed or seen such actions or evidence that would indicate such. However should this be the case I would encourage you to report the matter to the relevant State Government agency, such as the Department of Local Government & Communities.*
- I can confirm that the proposed entry heritage listing will be reconsidered by the Planning Committee at the earliest opportunity”.*<sup>230</sup>
144. In his evidence to the Inquiry, Mr Harley said he did not see or hear anything to give him the impression the Planning Committee were afraid of retribution. He said:
- “It was an assumption that I made based on the votes and the circumstances and the history of Scaffidis in relation to heritage matters”.*<sup>231</sup>
145. When Mr Harley was asked if he had any reason to think the Grand Central Hotel was not being dealt with on the merits at the time, he said:
- “The matters were very protracted, so other than the timeline, the fact that it had taken a very long time to get to this point and I had a view that the Administration were perhaps dragging their heels on the matter, I had not seen or witnessed anything, anything said, any particular behaviour that would suggest there had been any lobbying of Councillors or anything of the sort”.*<sup>232</sup>

### City of Perth officers raise concerns about the delay

146. At 2.15 pm on 16 September 2016, Ms McMullan, emailed Ms Battista asking for guidance about the workload arising from the deferral of the Grand Central Hotel report. She wrote:

*“... As you are aware, there has already been significant investigation and consultation behind this report, above and beyond what is standard practice. It is highly unlikely that any further investigation or consultation will change the officer’s recommendation. The officers are already stretched with embedding the restructure; an unprecedentedly high volume of DA’s to review; and a SAT hearing. I feel that I must express my concern about the workload associated with the number of revisits to this report ...”*<sup>233</sup>

147. In reply, Ms Battista wrote:

*“Your points are very much valid. I share your unequivocal support for both our officers, their thorough work and yourself.*

*I have discussed this at length with the Chief Executive Officer and determined that the Report should be amended simply to say that what was proposed was feasible through the Development Application process, but that partial Heritage Listing is both unprecedented and not in line with the City’s Policy etc ...*

*I suggest also – if deemed appropriate by Governance given the recommendation was for further consultation with the owner – to contact Peter Simpson and explain this ...”*<sup>234</sup>

### Planning Committee Meeting, 25 October 2016

148. On 25 October 2016, the Planning Committee met. It was comprised of Ms McEvoy, Mr Adamos and Mr Yong.<sup>235</sup>

149. Both Mr Limnios and Dr Green were observers and present during discussion of the item concerning the Grand Central Hotel.

150. The officer report stated:

*“It should be noted that in accordance with the City of Perth’s standard procedures, further consultation between Officers and the landowner in relation to identifying specific zones of cultural heritage significance of a place that is being considered for heritage listing is not usually undertaken at this point in the heritage listing process. As far as Officers are aware, to date, all such consultation has occurred after a property is heritage listed”.*

151. The report referred to the *Planning and Development (Local Planning Scheme) Regulations 2015* and stated:

*“This report requests Council to initiate this process, following which, the City will formally consult with the owner, undertake any other consultation considered appropriate and consider any submissions received by the owner and occupier.*

*Should the place be entered on the Heritage list, any impacts of heritage listing on development will be determined and negotiated through the development application process”.*<sup>236</sup>

152. The report concluded:

*“The City of Perth Draft Heritage Place Assessment demonstrates that the Grand Central Hotel warrants entry in the Heritage List. Both the SHO Assessment and the independent heritage consultant’s advice reflect this position.*

*Further consultation will be undertaken with the owner and occupier prior to Council making its final decision on the proposed heritage listing”.*<sup>237</sup>

153. A motion recommending to Council that it “propose to include” the Grand Central Hotel on the City Heritage register was moved and carried. Like Property H, the recommendation to Council contained a mechanism by which the owners would have 21 days to respond to the proposal and Council officers would then report back to Council.

### **Council Meeting, 1 November 2016**

154. On 1 November 2016, a Council Meeting was held. Ms Scaffidi did not attend, and the meeting was presided over by Mr Limnios as Deputy Lord Mayor. All of the other councillors attended.

155. An agenda item concerning the potential heritage registration of the Grand Central Hotel was included, but not as a confidential item.<sup>238</sup>

156. After discussing the matter for five minutes,<sup>239</sup> the following motion was endorsed unanimously:

*“That Council:*

- 1. in accordance with Part 3 Clause 8 of the Planning and Development (Local Planning Scheme) Regulations 2015, proposes to include Grand Central Hotel, 379 Wellington Street, Perth in the City Planning Scheme No. 2 Heritage list and gives the affected owner and occupier a description of the place, the reasons for the proposed entry and 21 days to make a submission on the proposal; and*
- 2. notes that Officers will report back to Council with the results of the consultation with owners and occupiers proposed at part 1 above”.*<sup>240</sup>

### Delays

157. Council meetings were held on 15 November 2016, 22 November 2016, 6 December 2016 and 13 December 2016.
158. There was no mention of the Grand Central Hotel at any of these meetings.

### Mr Joe Scaffidi is notified of the Council decision of 1 November 2016

159. On 20 January 2017, Ms McMullan wrote to Mr Scaffidi at Central City and notified him of the Council's determination to include the Grand Central Hotel on the City Heritage register. A draft heritage assessment and a copy of the independent consultant's advice was enclosed.<sup>241</sup>
160. A submission was invited by 10 February 2017, and Mr Scaffidi was advised that:  
*"Any submissions received will be presented to the Council when it next considers the matter".*
161. There is no evidence before the Inquiry to explain why it took more than two months to write to Central City. However, the Inquiry notes that on 16 September 2016, Ms McMullan had advised Ms Battista that officers were stretched with an *"unprecedentedly high volume of development approvals and a SAT hearing"*.<sup>242</sup>
162. Central City did not make a submission.<sup>243</sup>

### Further delays

163. Eight Planning Committee meetings were convened between 4 April 2017 and 19 December 2017. The Grand Central Hotel was not mentioned in any of them.
164. Ten Council meetings were held between 11 April 2017 and 19 December 2017. The Grand Central Hotel was not on the agenda for any of them.

### Inquiries into the delay

165. In April 2018, Mr Mianich asked Ms McMullan for an explanation as to why the report had not yet been submitted to Council. In reply, Ms Battista said:  
*"As confirmed with you this morning, the draft Report is largely complete and due to me for review and approval by next Monday, 7 May 2018. It will therefore be submitted to Council on 29 May 2018.*  
*It is both Tabitha's [Ms McMullan's] and my view that the Report should have been submitted to Council several months ago. The delay is inexcusable. I am enquiring into the matter further as this delay appears anomalous. I will also refer the matter to Governance if appropriate"*.<sup>244</sup>

166. Ms Battista told Mr Mianich that the officer who had originally authored the report was on maternity leave and another employee had been tasked with completing it, but had not done so.
167. Ms Battista told the Inquiry that she had been “*quite surprised and frankly embarrassed*” that this matter had not been actioned. She said she “*had assumed it had taken place in a fairly routine manner*”. She had a meeting with the responsible officer, who undertook to expedite the process.<sup>245</sup>
168. Several delaying factors were identified, one of which was that the matter was deprioritised during a period of scarce resources in the unit. She emailed Mr Mianich on 30 April 2018 stating:
- “As you are aware, the Unit is currently operating at 57% of its approved headcount and has been for quite some time. While I accept the challenging operating environment as a possible factor, I do not accept such an extended delay and have advised Tabitha of this.”*<sup>246</sup>
169. The proposed heritage listing for the Grand Central Hotel was considered at an Ordinary Council Meeting on 29 May 2018 following suspension of the Council.<sup>247</sup> At this time decisions were made by Commissioners as the council members had been stood down.
170. The following motion was carried:
- “That Council, in accordance with Part 3 Clause 8 of the Planning and Development (Local Planning Scheme) Regulations 2015:*
- 1. NOTES that no submissions have been received in response to the Council’s proposal to include Grand Central Hotel, 379 Wellington Street, Perth, in the City Planning Scheme No. 2 Heritage List;*
  - 2. ENTERS Grand Central Hotel, 379 Wellington Street, Perth, in the City Planning Scheme No. 2 Heritage List;*
  - 3. ADOPTS the Heritage Assessment as detailed in Attachment 13.8B; and*
  - 4. GIVES NOTICE of recommendation point 2 above to the Heritage Council of Western Australia and the owner and occupier of the place”.*

## Findings

### Finding 2.2.2 – 2

The Inquiry makes the following findings:

- i. On 16 March 2015, Ms Scaffidi breached clause 3.1 of the City’s Code of Conduct when she sent WhatsApp messages to Mr Limnios relating to consideration at the next day’s Council Meeting of the potential heritage listing for the Grand Central Hotel.
- ii. On 12 January 2016, Ms Scaffidi breached clause 3.1 of the City’s Code of Conduct, and regulation 10(1)(a) of the Conduct Regulations, when she emailed a City employee, Mr Lee, Manager, Environment and Public Health:
  - using her Lord Mayor signature block and email address and in her capacity as Lord Mayor;
  - copying in the CEO and Mr Lee’s Director;
  - asking Mr Lee questions about inspections by City staff to the Grand Central Hotel; and
  - directing him to undertake some enquiries and report back to her.
- iii. The Inquiry finds that the delay in this matter coming before Council between 20 January 2017 and 29 May 2018 was caused by administrative shortcomings exacerbated by staff shortages and that this amounts to a failure by the City’s administration to provide good government. The evidence does not justify a finding that Mr Mileham or Ms Scaffidi caused or influenced the delay.



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## Sponsorship Proposal to rejuvenate the Piccadilly Theatre

### Introduction

1. This Section is about a decision made by the City of Perth Council (Council) to refuse a sponsorship proposal (Sponsorship Proposal) to rejuvenate the Piccadilly Theatre (Theatre). Specifically, this Section will examine the reasons for that decision.
2. The Theatre is a second-floor establishment inside the Piccadilly Arcade at 700 Hay Street, Perth. In broad terms, the Sponsorship Proposal contemplated the City providing funding of up to \$1.7 million staggered evenly over 10 years, subject to performance criteria, to a private operator called Mellen Promotions Pty Ltd (Mellen Events) to rejuvenate the Theatre and operate a live music and theatre business.
3. Although it represented significant expenditure by the City of Perth (City), the Sponsorship Proposal appeared, in all respects, a meritorious one. It:
  - was aligned with Council's strategic objective of activating the night-time economy of the City and rejuvenating under-utilised spaces;
  - represented the culmination of three years research and planning by a City Economic Development Officer;<sup>248, (p)</sup>
  - was the subject of extensive economic modelling, which suggested it would be a far more lucrative proposal than any previous sponsorship had been for the City; and
  - was linked to performance indicators, which ensured that if certain targets were not met by Mellen Events, sponsorship would not continue, thereby mitigating risk to the City.

p This was the equivalent of six to eight months full-time work.

4. The Sponsorship Proposal was initially presented to council members at a briefing session in October 2016, where it appears to have been, in general, favourably received.
5. A few months later, in late January 2017, council members Ms Janet Davidson, Ms Lily Chen and Lord Mayor Ms Lisa Scaffidi, received complaints from two prominent local business owners. Both complainants had positive and longstanding relationships with Ms Scaffidi.<sup>249</sup>
6. At about the same time as the complaints were made, the Sponsorship Proposal was considered by the Council's Marketing, Sponsorship and International Engagement Committee (Committee). The Committee ultimately recommended the refusal of the Sponsorship Proposal. The reason the Committee provided for its refusal was concern about the financial viability of the sponsorship recipient, Mellen Events, and the land developer. This reason did not make sense. It was not supported by the facts. Both the sponsorship recipient, Mellen Events, and the developer, were wealthy and experienced business owners. No effort was made to seek more information regarding their financial positions, which was particularly unusual as the Managing Director of Mellen Events was present at the Committee meetings.
7. The Sponsorship Proposal was then considered by Council at a meeting on 14 March 2017, where a majority of council members adopted the Committee's recommendation and refused the application.
8. On the face of the material presented to Council, the Sponsorship Proposal was a commendable one which aligned with the City's strategic aims and which stood to benefit the City as a whole, both economically and culturally. If there were legitimate grounds to refuse the Sponsorship Proposal, they were not articulated in the minutes of the meetings of the Committee or the Council.

## Timeline

|      |                   |  |
|------|-------------------|--|
| 2016 | 20 October        | Piccadilly Theatre Sponsorship Proposal presented to members of Council during a briefing session attended by the proponent, Mr Bradley Mellen of Mellen Events. |
|      | 29 and 31 January | Complaints about the Sponsorship Proposal made to Ms Davidson, Ms Scaffidi and other council members by two local business owners.                               |
| 2017 | 31 January        | Sponsorship Proposal considered by the Marketing, Sponsorship and International Engagement Committee (Committee), and deferred for more information.             |
|      | 28 February       | A Committee Meeting considered the Sponsorship Proposal and refused it, despite a recommendation by City officers that it be supported.                          |
|      | 14 March          | Council Meeting considered the Sponsorship Proposal. It was refused by a majority of Council members. No reasons were given.                                     |

## Issues considered by the Inquiry

9. The unusual circumstances of the Council's decision to refuse the Sponsorship Proposal and the prospect that the decision was influenced by external stakeholders whose business interests may have been affected by it, raise a number of issues within the Inquiry's Terms of Reference, particularly within clause A.3(ii) and A.3(vi).

10. Broadly, those issues are:

- Why some council members changed their attitude in relation to the Sponsorship Proposal between the briefing session in October 2016 and the final Council Meeting in March 2017.
- Whether the reason the Committee gave for rejecting the Sponsorship Proposal was genuine.

## Investigation by the Inquiry

### Witnesses

11. The Inquiry held private hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section.

- Council members involved in decisions about the Sponsorship Proposal, Ms Scaffidi, Mr Jim Adamos, Ms Chen, Ms Davidson, Mr Reece Harley, Mr James Limnios, Ms Judy McEvoy, Mr Keith Yong.
- City employees involved in the Sponsorship Proposal:
  - Mr Mark Close, Economic Development Officer, working on place activation. He reported to Mr Daniel High and was responsible for preparing the officer's report to the Committee and the Council for the Sponsorship Proposal.<sup>250</sup>
  - Mr Daniel High, Manager, Economic Development at the City.<sup>251</sup>

- Private businessmen who made complaints to certain council members about the Sponsorship Proposal:
  - Mr Adrian Fini, a director of FJM Property Pty Ltd with substantial and longstanding interests in the hospitality and property development sectors in Western Australia.<sup>252</sup> Among other ventures, Mr Fini was at the time co-proprietor of Rechabite Hall in William Street, Northbridge, which included a live performance area.
  - Mr Patrick Coward, founder and co-owner of the Margaret River Chocolate Factory, Margaret River Providore, Coward and Black Vineyards and the Sewing Room live performance space on Murray Street, Perth.<sup>253</sup>
- Proponents of the Sponsorship Proposal:
  - Mr Bradley Mellen, Managing Director of Mellen Events.
  - Mr Terry Posma, the holder of a power of attorney for the overseas owners of the Piccadilly Arcade.

## Evidence obtained by the Inquiry

### Sponsorship Proposal is formed

12. The idea of activating the Theatre was part of a broader concept of rejuvenation designed to draw more visitors to under-utilised spaces within the City, including the Hay Street Mall.
13. This broader rejuvenation project was developed over a number of years, in accordance with the City's Strategic Community Plan Vision 2029. That plan set Council's strategic priorities over 10 years, which included increasing the use of under-utilised spaces and collaborating with the private sector to enhance and develop a healthy night-time economy.<sup>254</sup>
14. Mr Close was central to the rejuvenation project and began working on it in October 2013.<sup>255</sup> He identified about 11 sites as potentially forming part of the activation. Most of these sites were situated in the Hay Street Mall, because he believed it was "*suffering*" from fewer visitors than other parts of the City.<sup>256</sup> Mr Close researched building audits, liaised with owners and property managers and viewed potential spaces for activation. He then formed a view of how feasible the spaces were for adaption as part of the rejuvenation project.<sup>257</sup>
15. In or around December 2015, a strategy session attended by council members "*sought immediate and on-going improvements in activating*" and revitalising the Hay Street Mall.<sup>258</sup>

16. On 18 December 2015, Mr Close sent a memorandum<sup>259</sup> to the Director, Planning and Development and the Director, Economic Development and Activation. The memorandum represented a “*set of key recommendations*” about the best ways to activate the Hay Street Mall.<sup>260</sup> Mr Close worked this memorandum up into a report, which was eventually provided to Council. He estimated this report was the product of six to eight months of full-time work, spread over three years.<sup>261</sup>
17. Due to difficulties with other landowners, the appropriateness of the space, co-operation of property managers and other factors, the Theatre was identified by Mr Close as “*really the only space that could be activated*” in the Hay Street Mall.<sup>262</sup>
18. Mr Close’s recommendation, considered by the Committee and Council, was that subject to noting certain returns to the City, compliance criteria for the proposed funding recipient and mechanisms to bring the arrangement to an end, Council “*approve [a] cash Events Sponsorship of \$170,000 annually, over a period of 10 years, commencing in the 2018/19 financial year, for Mellen Events, within the Piccadilly Theatre at 700–704 Hay Street Mall, Perth*”.<sup>263</sup>
19. Mellen Events is a concert promotion and entertainment company run by Mr Mellen, a prominent and experienced businessman within the Perth entertainment industry. In a report prepared by Mr Close for the consideration of Council, he wrote that Mr Mellen is “*acknowledged by [the entertainment] industry as a principal contact in Perth*”.<sup>264</sup> Mr Close told the Inquiry that Mellen Events was chosen, because it was the only serious candidate that had shown longevity.<sup>265</sup>
20. The Piccadilly Arcade, in which the Theatre is situated, is itself owned by wealthy Indonesian families.<sup>266</sup> By all accounts, these owners are experienced property developers and landlords. For example, Mr Fini told the Inquiry that they “*own hundreds of millions of dollars of property here in Perth*”.<sup>267</sup>
21. Mr Close gave evidence that one of the main aims of the Sponsorship Proposal was to provide an economic return to the City, either in employment, activation or visitation spend. He said the Sponsorship Proposal would yield significant economic return to the City.<sup>268</sup>

#### October 2016: Council is briefed on the Sponsorship Proposal

22. A Council briefing session is an informal information session in which the City Administration informs council members about upcoming events, policies and the like. Council members are invited to discuss the topics and have their questions answered. Council does not vote or make decisions and there are no official minutes taken. Instead, a City officer takes notes.<sup>269</sup>
23. On 20 October 2016, Mr High presented a PowerPoint presentation prepared by Mr Close to a Council briefing session. He then introduced Mr Mellen, who also presented on the Sponsorship Proposal.

24. The briefing session was attended by all council members, other than Dr Jemma Green and Mr Limnios. Notes of the session were taken. Based on the attendance list for the session, it is likely that those notes were recorded by Ms Ashlee Rutigliano, Acting Governance Administration Officer.<sup>270</sup>
25. The briefing session notes indicate there was some discussion about the Sponsorship Proposal and there were various, seemingly minor, concerns raised by some council members. For example:
  - Ms Scaffidi questioned why she had not been informed of this Sponsorship Proposal sooner, asked what shows would be hosted in the Theatre, raised concerns about the noise from the venue and indicated she would prefer to “*control the story*” with the media.
  - Ms McEvoy asked why there was one operator, questioned whether there had been a tender process and asked whether there would be a liquor licence.
  - Ms Davidson asked whether any other companies had expressed an interest in submitting a proposal.
26. Notably, no concerns were recorded as being raised about the financial viability of Mellen Events or the property developer.
27. The briefing session notes conclude with the summary “*Feedback is good recommendation and well done*”.<sup>271</sup>
28. The evidence of the council members who attended the briefing session, other than Ms Scaffidi, suggested that the council members’ response to the Sponsorship Proposal was positive overall.<sup>272</sup> Mr High<sup>273, (q)</sup> and Mr Close recalled a generally favourable, or at least not negative, reception to the presentation. Mr Close said that the Lord Mayor gave some “*push back*” and that she was “*not happy*” about it as it was “*a surprise to her, and it was too far advanced in absence of consultation*”, although when asked whether anyone else voiced any opposition Mr Close said “*everyone was fairly quiet other than the Lord Mayor*”.<sup>274</sup>
29. Consistently with Mr Close’s recollection that Ms Scaffidi at least expressed some negative views in relation to the Sponsorship Proposal, Ms Scaffidi quibbled with the statement in the briefing session notes. She gave evidence that the notes were not a correct and faithful recording of the feeling of the meeting. She said she would have praised the work done by City officers, but in her view a more accurate summary would be “*Varied feedback*”.<sup>275</sup>
30. Ms Scaffidi’s qualification of the summary in the briefing note is not an unreasonable one. However, the briefing session notes do not reflect any significant resistance to the Sponsorship Proposal. Given the consistency of the evidence of other attendees, the Inquiry finds that while Ms Scaffidi had some issues with the Sponsorship Proposal, Council’s attitude to the Sponsorship Proposal at this briefing session appears to have been broadly (although not entirely) positive and supportive, or at least not so obviously negative as to foreshadow its rejection by Council.

q In response to being questioned about how the council members received the presentation, Mr High said “*I left the room feeling pretty good ...*”.

### January 2017: Mr Patrick Coward and Mr Adrian Fini complain about the Sponsorship Proposal

31. On 29 January 2017, Mr Coward emailed Ms Davidson complaining that he had read in the newspaper that:
 

*“... the Council was considering donating \$1.7 million to the ‘Asia based’ owners of Piccadilly Arcade so that national promoter Brad Mellen can put his shows on there, meanwhile 200 metres down the road a couple of local lads are scraping every cent they have to fit-out and open a live performance space without getting one cent of assistance from the City ...”*<sup>276</sup>
32. He complained it was *“inconsistent, unfair and completely inappropriate”*.
33. He emailed Ms Chen and sent messages through Facebook to Mr Harley and Mr Adamos that same day in the same terms.<sup>277</sup>
34. Within hours, both Ms Davidson<sup>278</sup> and Ms Chen<sup>279</sup> had forwarded the emails they had received from Mr Coward to Ms Scaffidi. Mr Adamos said that he *“probably would have”* advised Ms Scaffidi of Mr Coward’s Facebook message.<sup>280</sup>
35. Ms Scaffidi’s subsequent email correspondence indicated she was sympathetic to Mr Coward’s point of view. She made inquiries as to whether Mr Coward had received any financial support for establishing his own live music venue, the Sewing Room, which was located near to the Theatre. She learned he had not.<sup>281</sup>
36. Mr Coward and Ms Scaffidi had a history. As at 2017, they had known each other for four to six years, with a relationship Mr Coward described as both *“friendly”* and *“very friendly”*, although one marked by *“infrequent contact”*.<sup>282</sup> Mr Coward sent an email to Ms Scaffidi on 30 January 2017 asking if he could take her out for lunch as he had not seen her for ages. Ms Scaffidi declined the invitation until after her *“SAT hearing”*.<sup>283</sup>
37. Around this time, Mr Fini also learned of the Sponsorship Proposal. He emailed Ms Scaffidi late in the morning of 31 January 2017, the date on which the Committee was to meet to consider the Sponsorship Proposal, complaining that *“to see Council handing over \$1,700,000 to a commercial venue seems to be unprecedented”* and asking whether it would be supported.<sup>284</sup> As Mr Fini said in his email and explained to the Inquiry, he was involved in many companies with interests in property in the City.<sup>285</sup>
38. Sixteen minutes after it was sent to her, Ms Scaffidi forwarded Mr Fini’s email to Ms Davidson and Mr Yong,<sup>286</sup> both of whom would, later that day, sit on the Committee that would decide whether to recommend Council approve or refuse the Sponsorship Proposal. They were the only council members who sat on the Committee that day.<sup>287</sup>
39. Mr Fini and Ms Scaffidi also had a history. Mr Fini gave evidence they had known each other since he was at university.<sup>288</sup>

### 31 January 2017: Marketing, Sponsorship and International Engagement Committee considers the Sponsorship Proposal for the first time

40. The Committee met in the afternoon of 31 January 2017 to consider, among other things, the Sponsorship Proposal. Mr Yong and Ms Davidson were the quorum for the meeting. Mr Limnios and Ms Chen had been granted a leave of absence. Ms Davidson, the Committee's first deputy, acted as the Presiding member in the absence of Ms Chen.
41. Mr Mellen sought, and was granted, deputation to attend and address "*Item 8.3: Commercial Events Sponsorship – Mellen Events, Piccadilly Theatre, Hay Street Mall, Perth*" at the Committee Meeting.<sup>289</sup>
42. The Committee Meeting was closed to the public for consideration of this item. In a motion moved by Ms Davidson and seconded by Mr Yong, the Committee agreed to defer consideration of the Sponsorship Proposal to allow for the provision of the following additional information:<sup>290, (r)</sup>
  - legal advice obtained by officers regarding the Sponsorship Proposal;
  - other potential proponents;
  - other potential venues/locations; and
  - financial information (budget).
43. The information requested by the Committee was then provided in annexures to a report, which was considered by the Committee at its next meeting on 28 February 2017.<sup>291</sup> This report was also provided to council members in anticipation of Council's meeting on 14 March 2017. The information comprises some 33 pages and appears to be fulsome. The financial and legal advice contained in the report generally supported the Sponsorship Proposal.

### 28 February 2017: Marketing, Sponsorship and International Engagement Committee meets to consider the Sponsorship Proposal for the second time

44. In the days before the second Committee Meeting, a series of email exchanges occurred.
45. On 21 February 2017, Ms Annaliese Battista, who was acting in the role of Director, Economic Development and Activation, sent an email to Mr High stating that she had "*quite a lot of feedback*" on the Sponsorship Proposal from council members and that she was "*intuiting that a number of high profile stakeholders are lobbying EMs in opposition to the proposal and I'm concerned it may not get through at this stage*".<sup>292</sup> Ms Battista's intuition appears to have been accurate. Messrs Coward and Fini (who both fitted the description of "*high profile stakeholders*")<sup>s</sup> had already voiced their opposition approximately three weeks earlier.
46. In evidence, Ms Battista explained that the "*EMs*" to which she referred in this email were those in the "*voting bloc*" that comprised Ms Scaffidi, Ms Davidson and Mr Adamos.<sup>293</sup>

r Mr Close was of the view that this information had already been addressed in his report to the Committee: Transcript, M Close, private hearing, 14 March 2019, p 21.

s Mr Fini had a number of companies which either owned or had interests in property within the City: Transcript, A Fini, private hearing, 13 March 2019, p 2-3. Mr Coward also had interests in property within the City, however he was best known for founding the Margaret River Chocolate Company: Transcript, P Coward, private hearing, 13 March 2019, p 17-18.

47. On 23 February 2017,<sup>294</sup> Mr Miles Hull, a resident of Melville (not the City) who was employed by Mr Fini and his business partner as the manager of the “*Rechabite’s Project*” and who had discussed the Sponsorship Proposal with Mr Fini,<sup>295</sup> sent emails to the City’s Governance unit and council members asking questions about the Sponsorship Proposal. The questions were generally critical of the proposal. Mr Hull did not disclose his involvement with Mr Fini or the Rechabite Hall in his correspondence with the council members. He used his private address to forward his questions.<sup>296, (t)</sup>
48. On 28 February 2017, the Committee met for a second time to consider the Sponsorship Proposal. Ms Davidson deputised for Ms Chen and again acted as the Presiding member. Mr Yong and Mr Limnios also attended.
49. Included with the minutes of that meeting, is a record of a number of questions posed to the Committee by Mr Hull, with responses from the City. As with Mr Hull’s emails to council members, the questions recorded in the minutes of the Committee Meeting reflected a generally negative attitude to the Sponsorship Proposal. The responses prepared by the City, on the other hand, reflected a positive attitude.
50. Mr Mellen again sought and was granted a deputation to the Committee Meeting and provided another overview of the Sponsorship Proposal and answered questions from the Committee about it.
51. Despite the officers’ recommendation for approval of the Sponsorship Proposal and despite the positive attitude conveyed by the responses to Mr Hull’s questions, an alternate motion, that the Committee refuse the application, was moved by Ms Davidson and seconded by Mr Yong. The reason given by the Committee for this decision was “*Due to insufficient information regarding the financial viability of both the developer and the operator*”.<sup>297</sup>
52. Each of the council members who attended the Committee Meeting, Ms Davidson, Mr Yong and Mr Limnios, were examined by the Inquiry about the reason the Committee gave for refusing the Sponsorship Proposal.
53. Ms Davidson’s evidence is concerning. For most of her evidence, Ms Davidson consistently explained that her main reservation with the Sponsorship Proposal was the amount of money that was going to be the subject of the sponsorship. That is a legitimate concern. However, she was unable to explain to the Inquiry why, given she purported to hold that view, the Committee’s reason for rejecting the Sponsorship Proposal was something different.<sup>298</sup>
54. Ms Davidson also could not explain why, if her reason for refusal was the cost of the Sponsorship Proposal, she did not propose an alternate motion for less money over fewer years. Instead, she simply (and insufficiently) explained “*that was my thinking at the time, that [the Sponsorship Proposal] needed to be refused*”.<sup>299</sup>

t Mr Hull had also used the same private email address to forward questions to the Committee just before its meeting on 31 January 2017.

55. Ms Davidson could not give a cogent reason why she believed so strongly that the Sponsorship Proposal needed to be refused. She also could not explain why she did not ask Mr Mellen what his financial position was, even though he was present at the meeting.
56. As she maintained it was not her reason, Ms Davidson was asked about where the reason given by the Committee came from. Ms Davidson consistently denied that the reason came from Ms Scaffidi. However, she could not suggest anyone else who could have offered this reason<sup>300</sup> and agreed that logically it would have been Ms Scaffidi.<sup>301</sup>
57. Although Ms Davidson said that she had done her “*own reasoning*” in her decision not to support the Sponsorship Proposal, after extensive questioning, Ms Davidson conceded that she decided on the refusal because “*that’s what the Lord Mayor wanted*”.<sup>302</sup>
58. Mr Yong was also asked about the Committee Meeting.<sup>303</sup> His evidence is also, from a good governance perspective, concerning.
59. Mr Yong was taken to a number of the responses prepared by the City to Mr Hull’s questions and confirmed that he agreed with those responses. He also agreed that the Sponsorship Proposal “*seemed like a very good proposal*”. He said he thought (wrongly) that at the second Committee Meeting the Sponsorship Proposal was approved.
60. When taken to Ms Davidson’s alternative motion and the reason given by the Committee for refusing the Sponsorship Proposal, Mr Yong agreed that the reason preferred “*must have been*” Ms Davidson’s. He agreed it was not a good reason. He agreed that it would not have been very hard for the Committee to satisfy itself about the financial viability of the entities who would have received City funding under the Sponsorship Proposal.
61. Mr Yong was then asked why he voted in support of Ms Davidson’s alternative motion to refuse the Sponsorship Proposal if he thought the Sponsorship Proposal was a good one and the reason for its refusal was not. He confirmed that he did so “*because [he] understood that the group that [he] belonged to would vote that same way at the Council meeting*”.<sup>304</sup>
62. Ms Scaffidi could not recall if she had any communications with Ms Davidson and Mr Yong prior to the Committee Meeting on 28 February 2017. Nonetheless, Ms Scaffidi denied that she had provided advice to Ms Davidson and Mr Yong about what she wanted them to do at the meeting on 28 February 2017 or that she told Ms Davidson that she wanted the Sponsorship Proposal defeated. Ms Scaffidi did not believe that she had discussed a reason for refusing the Sponsorship Proposal with Ms Davidson and Mr Yong prior to the meeting.<sup>305</sup>

63. Mr Limnios was also asked about the second Committee Meeting. He told the Inquiry that he voted against the alternative motion, because he believed in the activation of the Hay Street Mall. He agreed that the reason given by the Committee for refusing the Sponsorship Proposal was not a good reason, because:

*“... it’s very wishy-washy and I don’t understand what else they expect from this person. This person’s making a commitment to undertake – if the owner of the land is satisfied with the financial viability of his tenant and has the guarantees that he wants in place, I don’t understand. The developer themselves, you could see that they are long-term owners of the building”.*<sup>306</sup>

#### **Observations by City officers at Marketing, Sponsorship and International Engagement Committee meetings on 31 January 2017 and 28 February 2017**

64. Ms Davidson’s and Mr Yong’s evidence is consistent with the evidence of Mr Close, who had formed the view that Ms Davidson and Mr Yong voted to defer the item in the Committee Meeting on 31 January 2017, because *“it was obvious to all and sundry that they were taking carriage of a message that might have been coming from elsewhere”*. Mr Close reached that conclusion, because Ms Davidson and Mr Yong *“had prepared a few dot points but [they] weren’t particularly passionate about [the dot points]”*<sup>307</sup> and were *“Reading their notes somewhat uncomfortably”*, when *“Generally they can speak without referring to their notes”* and *“they usually speak from the heart on what they’re passionate about and what their thoughts are”*.<sup>308</sup> Ms Battista also had a recollection of Ms Davidson chairing a particular committee meeting (which may have been this one) when she was *“receiving direction via phone”*.<sup>309</sup>
65. Mr Yong denied that he had read from notes at the Committee Meeting on 31 January 2017.<sup>310</sup> Ms Davidson also disagreed that she was conveying a message on behalf of someone else at this Committee Meeting as she could not recall doing that, nor could she remember receiving messages from Ms Scaffidi on her mobile telephone during the meeting. She agreed she could not exclude the possibility that she might have been using her mobile telephone at the meeting.<sup>311</sup>
66. At the meeting on 28 February 2017, Mr Close observed that *“in particular Councillor Yong was pretty uncomfortable”* about rejecting the recommendation.<sup>312</sup>
67. The Inquiry prefers the evidence of Ms Davidson and Mr Yong, who both made concessions against their own interests, to that of Ms Scaffidi. Ms Davidson’s and Mr Yong’s evidence were consistent with Mr Close’s observations of their conduct at the first Committee Meeting and his observations of Mr Yong at the second Committee Meeting. In contrast, Ms Scaffidi could not recall what communications she had with Ms Davidson and Mr Yong.

The Inquiry also has regard to the following evidence from Mr Yong:

*“Yes, and you told me that you found out how the group was going to vote at the Council meeting through the WhatsApp message.<sup>u</sup> What I want to know from you now is who prompted the discussion that led to what I assume was an agreement in the group that you vote that way at the Council meeting, who started that discussion?---Usually it’s Lisa.*

*And on this occasion, who was it?---I can’t have a recollection of that message but my understanding is Lisa”.<sup>313</sup>*

68. On that basis, the Inquiry finds that Ms Davidson and Mr Yong voted to recommend refusing the Sponsorship Proposal because Ms Scaffidi did not want it approved and because they knew that council members aligned with Ms Scaffidi would be voting against the proposal when presented to Council.

#### 14 March 2017: Council refuses the Sponsorship Proposal

69. At the Ordinary Council Meeting on 14 March 2017, a majority of the members of Council, voted to refuse the Sponsorship Proposal. The motion was moved by Ms Davidson, who had moved the alternative motion at the second Committee Meeting and seconded by Ms McEvoy. The motion was identical to that passed at the Committee Meeting: *“That the Council refuses the application of Commercial Events Sponsorship – Mellen Events – Piccadilly Theatre, Hay Street Mall, Perth”.*

70. The moving and seconding of the motion happened very quickly. It occurred before the Lord Mayor could even complete the reading out of the item for consideration. The transcript of that meeting relevantly reads:

*“THE LORD MAYOR: .... Item 13.5, commercial event sponsorship Melon [sic] Events---*

*COUNCILLOR DAVIDSON: Move---*

*THE LORD MAYOR:---Picadilly [sic] Theatre.*

*COUNCILLOR DAVIDSON: Move---*

*THE LORD MAYOR: (Indistinct).*

*COUNCILLOR DAVIDSON:---Lord Mayor (indistinct).*

*THE LORD MAYOR: Item – sorry, that’s Councillor Davidson moving. Second.*

*COUNCILLOR McEVOY: I’ll second it, Lord Mayor.*

*THE LORD MAYOR: Councillor McEvoy seconding. Okay ...”.<sup>314</sup>*

71. In addition to Ms Davidson and Ms McEvoy, Ms Scaffidi, Mr Adamos, Mr Yong and Ms Chen all voted in favour of the refusal. Dr Green, Mr Harley and Mr Limnios voted against the refusal.

<sup>u</sup> The Inquiry did not have access to this WhatsApp message as it only had records of the “Team” communications from 22 October 2015 to 22 April 2016.

72. Mr Harley spoke against the refusal and then asked whether he could move an amendment to the motion to approve the Sponsorship Proposal. However, he was told by Ms Scaffidi that he could not do so because he had already spoken.
73. Dr Green then moved the amendment that Mr Harley had attempted to move, but the motion lapsed for want of a seconder. Ms Scaffidi said that the motion needed to be seconded by a council member who had not already spoken.<sup>315</sup> There is no basis for this claim in the City's *Standing Orders Local Law 2009*.
74. The minutes of the Council Meeting contained no record of the reason for the refusal of the Sponsorship Proposal. However, the minutes do set out the decision of the Committee, which was adopted by Council,<sup>316</sup> which may lead a reader to infer the reason for refusal was the reason given by the Committee, being concerns about the financial viability of the recipients of the proposed funding.
75. However, during the meeting none of the council members who voted for the refusal mentioned the financial viability of Mellen Events or the property owners as the reason for voting that way.
76. Ms McEvoy said that, generally, she was not in favour of sponsorship, that the sponsorship was a lot of money, and that the Sponsorship Proposal would be setting a precedent to other business owners who might want the same level of support.<sup>317</sup> In her speech during the Council Meeting, she expressly praised Mr Mellen as an experienced and accomplished operator, stating "*there is no problem with his credibility as an operator of this*".<sup>318</sup>
77. In evidence before the Inquiry, Ms McEvoy expressed those views in similar terms, although, she added that she did not think the City should be "*propping up*" private business.<sup>319</sup>
78. Ms McEvoy agreed that the reason given by the Committee for refusing the Sponsorship Proposal was a "*pathetic*" one and that Mellen Events was a very successful entertainment promoter.<sup>320</sup> Ms McEvoy accepted that it was "*quite possible*" that she knew "*her group*" would be voting against the Sponsorship Proposal. She also accepted that the reason she seconded Ms Davidson's motion very quickly was because she knew beforehand that it was going to be moved.<sup>321</sup> Ms McEvoy was not able to cogently explain why, if she thought the amount of the sponsorship was too great, she did not propose an alternative motion for a lower amount.
79. Ms Scaffidi said, during the Council Meeting, her reason for refusing the Sponsorship Proposal was, that in her view, it did not represent a sponsorship arrangement. Rather, Ms Scaffidi thought it was public money being used to underwrite private business between a private property owner and a private lessee.<sup>322</sup> The Inquiry observes that her purported reason for refusing the Sponsorship Proposal was not dissimilar to the complaints made a matter of weeks earlier by Messrs Fini and Coward.

80. Ms Scaffidi's evidence before the Inquiry was in similar terms. She also told the Inquiry she was sure that, before the Council Meeting, the group of council members which were aligned with her *"would have been in fierce agreement over our nonacceptance of the item"*. She agreed, while no record was made in the minutes of the Council Meeting of the reason for the refusal of the Sponsorship Proposal, it *"would not have been due to insufficient information regarding the financial viability of both the developer and the operator"*.<sup>323</sup> Ms Scaffidi agreed that would have been a *"woefully inadequate reason"*. Ms Scaffidi also told the Inquiry she agreed with the opinions expressed by Messrs Coward and Fini.<sup>324</sup>
81. Ms Davidson did not add anything substantive to the discussion at the Council Meeting.<sup>325</sup> In her evidence to the Inquiry, she said, as described above, her reason for refusing the Sponsorship Proposal was that the size and time period of the sponsorship was too much.<sup>326</sup> Her evidence is approached by the Inquiry with caution for reasons explained in the discussion above of her evidence relating to the Committee Meeting.
82. Mr Adamos and Ms Chen were asked by Counsel Assisting about their reasons for voting to refuse the Sponsorship Proposal:
  - a. Mr Adamos said that the Sponsorship Proposal was unprecedented in its size and time period;<sup>327</sup> and
  - b. Ms Chen said she voted in accordance with the recommendation of the Committee.<sup>328</sup>

**Process by which the decision to refuse the Sponsorship Proposal was arrived at lacked transparency**

83. It is apparent from the evidence of those council members who voted to refuse the Sponsorship Proposal that they did so, not because of the financial viability of the proposed recipients of the funding, but for a range of other reasons. Those reasons were not recorded in the formal record of the meeting.
84. The Inquiry has serious doubts about the transparency of the decision-making process in relation to the Sponsorship Proposal. The evidence supports the inference that the council members received the proposal, generally positively, in October 2016 when originally briefed about it. This positive view changed by the time of the first Committee Meeting on 31 January 2017. That Committee Meeting was held very shortly after complaints were made to certain council members by Mr Coward and Mr Fini, and questions were asked by Mr Hull.

85. The evidence of Ms Davidson and Mr Yong as to the reasons why they rejected the Sponsorship Proposal at the second Committee Meeting on 28 February 2018 was, as already described, concerning. It revealed that those council members voted along “party lines” and were not giving proper, independent consideration to Mr Close’s recommendation – a recommendation that on its face appeared thoroughly researched, consistent with the Council’s strategic priorities, backed by legal and financial advice and was many years in the making.
86. Had proper and independent consideration been given to the Sponsorship Proposal, it would either have been approved by the Committee, and later the Council, or it would have been refused and a proper reason given in the minutes for that refusal. However, the consideration given to the Sponsorship Proposal by those council members who recommended its refusal at the second Committee Meeting was not proper or independent. Rather, it appears to have been informed by the complaints made by Messrs Coward and Fini and in accordance with a voting bloc aligned with Ms Scaffidi.
87. Finally in this respect, Ms Scaffidi gave evidence that had she received an email from “an ordinary person from the suburbs expressing an opinion” on the Theatre, she would not have ignored it and would have forwarded it onto Ms Davidson and Mr Yong, particularly if it was a “well thought out statement of thought”.<sup>329</sup>
88. However, contrary to this evidence, on 22 March 2017, Ms Davidson received a lengthy and considered email from a resident of Tuart Hill expressing disappointment at the Council’s decision. Ms Davidson forwarded this email to Ms Scaffidi, saying “FYI. I am sure there will be others. I have just thanked him for his comments”. Ms Scaffidi responded to Ms Davidson stating only “Ignore – Tuart Hill”.<sup>330</sup>
89. In carrying out her role as Lord Mayor, Ms Scaffidi was required to have regard to the interests of the broader community, including visitors to the City, not only to the interests of residents or ratepayers of the City.<sup>331</sup> That is because of Perth’s unique role and status as the capital city of Western Australia.<sup>332</sup> It was not appropriate for Ms Scaffidi to suggest that Ms Davidson ignore that email because its sender was a person who lived outside the boundaries of the City. The Inquiry considers that the regard and attention that Ms Scaffidi paid to that email stands in stark contrast to the regard and attention that she paid to those of Mr Fini and Mr Coward, who, although they owned property in the City, did not reside in it.

## Findings

### Finding 2.2.2 – 3

The Inquiry makes the following findings:

- i. The attitude of council members changed from one which in October 2016 appeared generally (although not entirely) positive, to one which was generally (although not entirely) negative in March 2017.
- ii. The general attitude of Council appears to have changed at least in part as a result of lobbying from prominent stakeholders and allegiances to a voting bloc aligned with Ms Scaffidi.
- iii. Ms Davidson and Mr Yong voted at the second Committee Meeting on 28 February 2017 along “*party lines*”, rather than by the application of an independent consideration of the merits of the Sponsorship Proposal.
- iv. Council’s decision-making in relation to the Sponsorship Proposal lacked transparency. The reasons for its decision to refuse the application were not recorded in the minutes of the Council Meeting. In the Inquiry’s view, they should have been; if not for statutory compliance then for best practice.<sup>v</sup> The need for reasons is directed towards transparency in decision-making.

<sup>v</sup> *Local Government (Administration) Regulations 1996*, reg 11 states: “The content of minutes of a meeting of a council or a committee is to include – ... (da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee ...”.

## Endnotes

- 1 *City of Perth Act 2016*, s 8(1)(b).
- 2 *City of Perth Act 2016*, s 11(2).
- 3 *City of Perth Standing Orders Local Law 2009*, 1.3 – Purpose and effect, p 6.
- 4 Report, Productivity Commission New Zealand, Local government insights, February 2020.
- 5 *Planning and Development Act 2005*, s 72.
- 6 Document, Brief and Information Request Sheet for Adagio Grand Opening, City of Perth, 12 April 2013, p 8.
- 7 Transcript, L Altintas, private hearing, 18 December 2018, p 19-21.
- 8 Statement, City of Perth, Respondent's statement of issues, facts and contentions for the purposes of mediation, *Altintas & Anor and City of Perth*, SAT DR 96 of 2015, 24 April 2015.
- 9 Policy, City of Perth, Planning Policy Manual, City planning scheme no 2, s 6.4, Terrace Road Design Policy, 26 February 2013, p 3-5.
- 10 Lease, Altintas and ABQ Investment Group Pty Ltd, Unit 8, 90 Terrace Road, undated.
- 11 Transcript, L Altintas, private hearing, 18 December 2018, p 20-21; Transcript, I Bkoo, private hearing, 18 December 2018, p 44-45.
- 12 Lease, Altintas and ABQ Investment Group Pty Ltd, Unit 8, 90 Terrace Road, undated, p 7, 9-10, 38.
- 13 Lease, Altintas and ABQ Investment Group Pty Ltd, Unit 8, 90 Terrace Road, undated.
- 14 Transcript, J Qaraleh, private hearing, 18 December 2018, p 6-7; Transcript, I Bkoo, private hearing, 18 December 2018, p 46; Document, Application for Approval to Commence Development, L Altintas, 28 November 2014.
- 15 Transcript, J Qaraleh, private hearing, 18 December 2018, p 6-7; Transcript, I Bkoo, private hearing, 18 December 2018, p 49-50.
- 16 Transcript, I Bkoo, private hearing, 18 December 2018, p 49.
- 17 Transcript, M Smith, private hearing, 10 December 2018, p 31.
- 18 Transcript, D Martin, private hearing, 17 April 2019, p 9-10.
- 19 Transcript, J Qaraleh, private hearing, 18 December 2018 p 7; Transcript, I Bkoo, private hearing, 18 December 2018, p 49-50.
- 20 Transcript, D Martin, private hearing, 17 April 2019, p 7.
- 21 Witness statement, State Administrative Tribunal, M Noble, 1 July 2015, p 1.
- 22 Witness statement, State Administrative Tribunal, M Noble, 1 July 2015, p 2.
- 23 Email, K Lees to M Al Shanti, 4.58 pm 15 January 2015; Memorandum, Chief Executive Officer to All Elected Members, Petition – Council Meeting to be held 3 February 2015, 3 February 2015; Witness statement, State Administrative Tribunal, M Noble, 1 July 2015.
- 24 *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2, Part 9, clause 75.
- 25 Terms of Reference, Part A.3(iv).
- 26 Terms of Reference, Part A.1.
- 27 Terms of Reference, Part A.2.
- 28 Document, Application for Approval to Commence Development, L Altintas, Received by City of Perth, 1 December 2014.
- 29 Document, Department of Planning, City Planning Scheme No 2, Schedule 3 – Use Group Tables, P13 Adelaide, S3-13, 18 July 2014.
- 30 Email, K Lees to M Al Shanti, 4.58 pm 15 January 2015.
- 31 Minutes, Planning Committee Meeting, 27 January 2015.
- 32 Transcript, M Smith, private hearing, 10 December 2018 p 30.
- 33 Minutes, Planning Committee Meeting, 27 January 2015, p 1-3, 14-24, Schedules 6, 7, 8.
- 34 Minutes, Planning Committee Meeting, 27 January 2015, Schedule 8.
- 35 Minutes, Planning Committee Meeting, 27 January 2015.
- 36 Transcript, M Smith, private hearing, 10 December 2018, p 13, 49-50.
- 37 Minutes, Planning Committee Meeting, 27 January 2015; Minutes, Planning Committee, 17 February 2015.
- 38 Minutes, Planning Committee Meeting, 27 January 2015.
- 39 Minutes, Ordinary Council Meeting, 3 February 2015.
- 40 Minutes, Ordinary Council Meeting, 3 February 2015.
- 41 Transcript, K Yong, private hearing, 3 July 2019, p 23.
- 42 Memorandum, City of Perth, CEO to Lord Mayor and Councillors, 3 February 2015.
- 43 Witness statement, State Administrative Tribunal, M Noble, 1 July 2015.
- 44 Minutes, Planning Committee Meeting, 27 January 2015.
- 45 Minutes, Planning Committee Meeting, 27 January 2015.
- 46 Transcript, J McEvoy, public hearing, 7 August 2019, p 67.
- 47 Transcript, R Harley, private hearing, 5 July 2019, p 79.
- 48 Transcript, R Harley, private hearing, 5 July 2019, p 79.
- 49 *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2, Part 9, clause 75.
- 50 Transcript, M Smith, private hearing, 12 December 2018, p 18-19.
- 51 Email, K Lees to M Al Shanti, 6.06 pm 5 February 2015.

- 52 Minutes, Planning Committee Meeting, 17 February 2015.
- 53 Minutes, Planning Committee Meeting, 17 February 2015.
- 54 Minutes, Planning Committee Meeting, 17 February 2015; Document, Deputation to Planning Committee, I Borello and M Al Shanti, 17 February 2015.
- 55 Minutes, Planning Committee Meeting, 17 February 2015.
- 56 Transcript, M Smith, private hearing, 10 December 2018, p 55.
- 57 Transcript, J McEvoy, public hearing, 7 August 2019, p 71-73.
- 58 Transcript, R Harley, private hearing, 5 July 2019, p 79.
- 59 Transcript, R Butler, private hearing, 11 July 2019, p 45.
- 60 Email, I Roger to J Limnios, 23 February 2015.
- 61 Email, J Limnios to M Mileham, 5.44 pm 23 February 2015.
- 62 Email, M Mileham to J Limnios, 9.07 am 24 February 2015.
- 63 Minutes, Ordinary Council Meeting, 24 February 2015.
- 64 Transcript, L Scaffidi, private hearing, 9 July 2019, p 21.
- 65 Minutes, Ordinary Council Meeting, 24 February 2015, Schedule 18, Petition, Proposed proprietors of Glory Xpress Convenience Market.
- 66 Minutes, Ordinary Council Meeting, 24 February 2015.
- 67 Minutes, Ordinary Council Meeting, 24 February 2015.
- 68 Transcript, J Adamos, public hearing, 8 August 2019, p 91.
- 69 Transcript, L Scaffidi, private hearing, 9 July 2019, p 21-22.
- 70 Transcript, L Scaffidi, private hearing, 9 July 2019, p 22.
- 71 Transcript, J Limnios, private hearing, 2 August 2019, p 43.
- 72 The correct terminology is an *"application for review"*.
- 73 Transcript, J Limnios, private hearing, 2 August 2019, p 43.
- 74 Transcript, K Yong, private hearing, 3 July 2019, p 29.
- 75 Transcript, R Butler, private hearing, 11 July 2019, p 49-52.
- 76 Transcript, M Smith, private hearing, 10 December 2018, p 66.
- 77 Transcript, M Smith, private hearing, 10 December 2018, p 66-67.
- 78 Transcript, J McEvoy, public hearing, 7 August 2019, p 85-86.
- 79 Transcript, J Adamos, public hearing, 8 August 2019, p 104-105.
- 80 Transcript, M Smith, private hearing, 10 December 2018, p 67.
- 81 Email, J McEvoy to M Noble, 8.08 pm 24 February 2015.
- 82 Email, J McEvoy to M Noble, 8.08 pm 24 February 2015.
- 83 Email, M Noble to J McEvoy, 5.36 pm 25 February 2015.
- 84 Email, J McEvoy to J Adamos, 6:06 pm 25 February 2015.
- 85 Transcript, J Adamos, public hearing, 8 August 2019, p 104-105.
- 86 Email, J McEvoy to J Adamos, 6.36 pm 25 February 2015; Transcript, J Adamos, public hearing, 6 September 2019, p 79-80.
- 87 Email, J Adamos to M Noble, 9.01 pm 25 February 2015.
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- 227 Email, R Harley to M Mileham, 11.34 pm 13 September 2016.
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- 238 Minutes, Ordinary Council Meeting, 1 November 2016, p 1.
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- 250 Transcript, M Close, private hearing, 13 March 2019, p 67.
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- 252 Transcript, A Fini, private hearing, 13 March 2019, p 6.
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## 2.2.3 Disclosures, personal interest and entitlements

The sections in this Chapter examine:

- Failure by some council members to disclose their financial or other interests.
- Misuse by some council members of entitlements, which were available to assist them in their official role. This included use of the Council dining room and reimbursement for costs associated with restaurants, clothes and dry cleaning.
- Misuse by a council member of her official title, office, business cards, email and the dining room for private business purposes.

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### Interests

In serving the electorate and representing the interests of the whole community, council members must act to avoid any conflict between their own interests and the interests of the community in general.

A council member's own interests may relate to their business interests or any other benefit they receive in their private capacity while they are a council member.

A fundamental principle is that council members must always consider the community's interest in any decisions or actions taken in their role as a council member. Each matter should be considered and decided on its own merits.

In the event of a conflict between the public and private interests of a council member, the former must prevail.

Interests should be disclosed by council members. There are a variety of mechanisms for this to occur under the *Local Government Act 1995* (LG Act) and regulations, including primary and annual returns, and interest declarations at council and committee meetings related to impartiality, financial interests (direct or indirect) and proximity interests.<sup>1</sup>

Disclosure of interests ensures transparency and integrity in decision-making and that the interests of the community are paramount. It also ensures that council members are accountable. Without disclosure, transparency and accountability are reduced and, if a council member is tempted to act to benefit himself or herself, the chances of this being identified are reduced.

This Chapter examines the quality of disclosures made by council members in relation to their financial interests. A situation involving the improper use by a council member of that member's position to obtain a private benefit is also examined.

### Council member allowances and entitlements

Council members are effectively the trustees of local government funds and property. A council member is considered a "*public officer*".<sup>2</sup> Funds of the City must be used appropriately. Funds must not be used for personal gain or benefit by a public officer.

The legislation and City of Perth Council (Council) policy contain the rules governing allowances and entitlements of council members at the City. The maximum amounts and categories of allowances are set by the Council. Claims for expenses and entitlements related to the council activities of a council member are certified as a legitimate expense and processed by the City's Administration. On some occasions, City officers have raised concerns about claims made by council members.

In their representative roles, council members are paid for their attendance at Council and committee meetings.<sup>3</sup> This amount is set annually by the Salaries and Allowances Tribunal. The allowance for the Lord Mayor and salary for the Chief Executive Officer is also provided for in that determination. The Salaries and Allowances Tribunal provide a minimum and a maximum for the fees and allowances across four "*Bands*". The City is considered a "*Band 1*" local government.

The Council determined the policy for the Lord Mayor's and Deputy Lord Mayor's allowances and council member meeting attendance fees in accordance with Part 5, Division 8 of the LG Act. Attendance fees for council members and the lord mayoral allowance were to be the maximum provided for in the Salaries and Allowances Tribunal determination.<sup>4</sup> Annual attendance fees were paid in lieu of the payments for individual council meetings, committee meetings and prescribed meeting attendances (Table 2.1). Committee members who were not council members or employees were not entitled to be paid for their attendance.<sup>5</sup> However, they could be reimbursed for expenses in accordance with Council policy.<sup>6</sup>

**Table 2.1: Lord Mayor and Councillor attendance fees and allowances during financial years 2015/2016 to 2017/2018.**

| Category <sup>7</sup>             | 2015/2016    | 2016/2017    | 2017/2018    |
|-----------------------------------|--------------|--------------|--------------|
| <b>Annual attendance fees</b>     |              |              |              |
| Councillor                        | \$30,900.00  | \$31,364.00  | \$31,364.00  |
| <b>Local government allowance</b> |              |              |              |
| Lord Mayor Allowance              | \$133,900.00 | \$135,909.00 | \$135,909.00 |
| Deputy Lord Mayor <sup>a</sup>    | \$33,475.00  | \$33,977.25  | \$33,977.25  |

Council members were also entitled to be reimbursed for expenses and/or be paid an allowance for certain types of expenses (Table 2.2).<sup>8</sup> Council Policy provides for the categories of reimbursement. Council members were provided with appropriate facilities, equipment and access to information and training opportunities to enable them to perform their duties. In addition, Council members had the use of the Council dining room facilities, on Level 10 of Council House, to entertain guests for purposes connected to Council business. If the dining room was closed or unavailable, Council policy provided for the reimbursement of the cost of a restaurant meal incurred by a council member.

<sup>a</sup> This is calculated by taking the figure in the row titled 'Lord Mayor Allowance' and multiplying 0.25. The deputy lord mayoral allowance is 25 per cent of the Lord Mayor Allowance as contained in the Determination of the Salaries and Allowances Tribunal in 2015, 2016 and 2017.

**Table 2.2: Entitlements and allowances set by Council during financial years 2015/2016 to 2017/2018.**

| Category                           | 2015/2016   | 2016/2017   | 2017/2018                |
|------------------------------------|-------------|-------------|--------------------------|
| Reimbursement of Expenses          | \$13,360.00 | \$13,360.00 | \$13,360.00 <sup>b</sup> |
| Dining Room allowance <sup>g</sup> | \$12,000.00 | \$12,000.00 | \$12,000.00              |

During the three financial years covered by the Inquiry's Terms of Reference, approximately half a million dollars annually was paid to council members in the form of fees, allowances and expenses (Table 2.3). Council members, during the Inquiry's Terms of Reference period of 1 October 2015 to 1 March 2018, incurred \$118,385.26 of costs at the Council's dining room (Table 2.4).

**Table 2.3: Total payments to City council members during financial years 2015/2016 to 2017/2018.**

| Categories of financial expenditure     | 2015/2016 <sup>10</sup> | 2016/2017 <sup>11</sup> | 2017/2018 <sup>12, (c)</sup> |
|---|-------------------------|-------------------------|------------------------------|
| Annual attendance fees <sup>d</sup>     | \$293,550.00            | \$297,958.00            | \$223,312.00                 |
| Local government allowance <sup>e</sup> | \$167,375.00            | \$169,886.00            | \$149,828.00                 |
| Reimbursement of expenses <sup>f</sup>  | \$68,440.00             | \$48,993.00             | \$36,461.00                  |
| <b>Total</b>                            | <b>\$529,365.00</b>     | <b>\$516,837.00</b>     | <b>\$409,601.00</b>          |

**Table 2.4: Total cost of dining room expenses incurred by council members for the period 1 October 2015 to 1 March 2018 (allocated by financial year).**

| Categories of financial expenditure | 2015/2016<br>(from 1 October 2015) | 2016/2017   | 2017/2018<br>(to 1 March 2018) |
|-------------------------------------|------------------------------------|-------------|--------------------------------|
| Dining room <sup>13</sup>           | \$43,090.94                        | \$60,170.70 | \$15,123.62                    |

It should be noted that at the 24 April 2018 Ordinary Council Meeting, the City of Perth Commissioners amended Council Policy "CP10.5 – Council Member Allowance and Meeting Attendance Fees". It was amended to provide the following by way of attendance fees and allowances for the Council:

- the lord mayoral allowance is to be the minimum level set within the appointed band allocation of the City as set out by the Salaries and Allowances Tribunal;
- no deputy lord mayoral allowance is to be paid; and
- council member meeting attendance fees are to be per meeting and at the minimum level within the appointed band allocation of the City as set out by the Salaries and Allowances Tribunal.

This Chapter explores the misuse of council member entitlements at the City during the period of the Inquiry's Terms of Reference.

<sup>b</sup> On 21 November 2017, an annual limit for clothing, apparel and dry cleaning of \$3,000.00 was introduced.

<sup>c</sup> The Council was suspended from 2 March 2018.

<sup>d</sup> This relates to payments for "Meeting Attendance Fees" referred in CP10.5, Council Member Allowance and Meeting Attendance Fees.

<sup>e</sup> This relates to payments for the "Lord Mayor Allowance" and "Deputy Lord Mayor Allowance" referred in Council Policy CP10.5, Council Member Allowance and Meeting Attendance Fees.

<sup>f</sup> This relates to the reimbursement of expenses provided in CP10.6, Elected Members – Reimbursement of Expenses. The City advised the Inquiry that expenses related to council members use of the dining room may not be included in this amount. It is dependent upon the cost account the expense was attributed to at the time, as to whether it is captured in this data.

## Disclosure of financial interests

### Introduction

1. Council members and designated employees (Relevant Persons) of the City of Perth (City) are required to disclose certain financial interests in annual and primary returns. They must also disclose other financial interests, including certain gifts and contributions to travel,<sup>g</sup> on an ongoing basis. When a Relevant Person has a financial interest that could affect a decision to be made by the City, rules around conflicts of interests may require that person to disclose the interest and remove themselves from decision-making on that issue.
2. This Section focuses on financial interest disclosures by council members and the role played by the Chief Executive Officer (CEO) and the Governance unit in that process. Designated employees mostly complied with their financial interest disclosure obligations.
3. The issue of council members' financial interests, and particularly gifts, has proved important to many local government constituents. In 2017, the State Government announced a review of the *Local Government Act 1995* (LG Act),<sup>14</sup> marking the first significant reform of local government conducted in more than two decades. Part of that review process has been an extended period of public consultation. Fifty per cent of the submissions returned through that consultation process addressed the issue of gifts and almost 80 per cent of submissions from the community wanted gift declaration rules tightened. The consultation process revealed that:
 

*“Feedback on the issue of gifts reflected the complexity and contentiousness of the topic, with diverse opinions offered on a suitable regulatory approach to gifts.*

...

*Community members generally opposed the receipt of gifts in all forms, even if they were declared, as all forms of gifts could be perceived as a conflict of interest”.*
4. Amendments to the LG Act and its Regulations have been recently introduced with the passing of the *Local Government Legislation Amendment Act 2019*. These amendments change how and when gifts must be declared.

<sup>g</sup> Since 18 October 2019, the definition of a gift includes a travel contribution: *Local Government Act 1995*, s 5.57(b).

5. Transparency and accountability around financial interests is fundamental to good government. As the Department of Local Government, Sport and Cultural Industries (Department) noted in its position paper on gifts policies:

*“Given the important role of council members and many local government employees as decision-makers in positions of power, the public has a reasonable expectation that the important decisions that a local government makes are free from improper influence. It is critical that the receipt of gifts is openly and transparently acknowledged and recorded, and that those records are made freely available to the community.*

*The receipt or non-disclosure of gifts that may have an effect on, or could be perceived as possibly having an effect on, the decision-making of council members run the risk of damaging the reputation of the local government sector and the trust placed in council members by their communities. In extreme cases this could leave Councils unable to perform their primary function of providing for the good government of people in their districts.”<sup>15</sup>*

6. Similar principles apply to other financial interests of council members and City employees that could affect, or be perceived to affect, decision-making by the City.
7. An important goal of the Inquiry process is to restore public confidence in the City’s ability to provide good government for its community.<sup>16</sup> A thorough assessment of financial interest disclosures is a vital part of achieving that goal.

## Issues considered by the Inquiry

8. The Inquiry examined:

- the extent of compliance with the disclosure requirements for financial interests and gifts;
- where a council member had a financial interest in a matter coming before the Council for a decision, whether that council member made disclosures and took appropriate steps to avoid conflicts of interest;
- the extent to which checks and balances were provided by way of:
  - i. accurate, appropriate and legally compliant disclosures of income sources and other financial interests in council members’ primary and annual returns; and
  - ii. governance mechanisms in place at the City; and
- the protections and support provided by the legislative framework that governs these disclosure requirements, and whether the application of that framework served the goals of the disclosure regime.

## Investigation by the Inquiry

### Applicable Terms of Reference

9. The Terms of Reference require the Inquiry to inquire into and report on:

- adequacy and competency of Council decision-making;<sup>17</sup>
- governance practices, including adherence to the financial interest provisions of the LG Act;<sup>18</sup>
- sponsorship arrangements between organisations and the City and the acceptance of gifts in the form of tickets to events by members from those organisations;<sup>19</sup> and
- whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations.<sup>20</sup>

10. Broadly, the Inquiry must inquire into and report on those aspects, operations and affairs of the City which may be necessary in order to determine whether there has been a failure to provide good government and whether good government can be provided in the future.<sup>21</sup>

### Financial interest disclosures are an essential part of good government

11. In *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222, the Court of Appeal set out the purpose of the framework for the disclosure of gifts and financial interests, as established by the LG Act and applicable Regulations. The following paragraphs from the judgement of the Court helpfully demonstrate the connection between financial interest disclosures, transparent and unbiased decision-making and the provision of good government:

*“The purpose of the above [financial disclosure] provisions is evident from their text, and is directed to the objects specified in s 1.3(2) of the [LG] Act of resulting in ‘better decision-making by local governments’ and ‘greater accountability of local governments to their communities’.*

*In broad summary, the objective legislative intention is to prevent council members from making decisions in matters in which they, or closely associated persons, have an interest which might, or might reasonably be apprehended to, divert the member from deciding the matter on its merits. The regime is also designed to deter third parties who may be affected by decisions of council from seeking to influence the decisions by the provision of gifts and contributions to travel to council members by ensuring disclosure of interests and relationships and preventing participation by an affected member.*

*By requiring disclosure in returns which are available for public inspection, the legislation provides a means for the identification of failures by members to disclose interests at meetings and recuse themselves from consideration of a matter in which they were interested. The disclosure mandated by s 5.82 and s 5.83 also serves to designate persons ‘closely associated’ with a council member, and to prevent the member’s participation in decisions which may affect the financial interests of those associated persons. Importantly for the resolution of this case, the focus of the legislation is on interests and relationships which might influence a council member to decide a matter otherwise than on its merits, or which a fair-minded observer might reasonably apprehend to do so. Contrary to the findings of the Tribunal noted below, the purpose of the regime is not to prevent council members from establishing interests which could improperly influence their decisions. Rather, the [LG] Act requires that, where such an interest exists, the council member must disclose the interest and not participate in a decision which could affect that interest. In that respect, the [LG] Act’s specific express provisions may be seen as an expression of, or closely related to, that aspect of the rules of procedural fairness, otherwise implied in the [LG] Act, which is concerned with bias and reasonable apprehension of bias arising from personal interest”.<sup>22, (h)</sup> [citations omitted]*

## Investigation

12. The Inquiry conducted a comprehensive intelligence-led investigation, which compared the City’s financial disclosure records with intelligence holdings from sources including the Australian Securities and Investments Commission, Land Titles records, open source research and a range of other records held by the City.
13. Relying on its coercive powers under the *Royal Commissions Act 1968* (RC Act)<sup>23</sup> the Inquiry served Notices to Produce Documents or Notices to Produce Statements of Information on council members and the CEO, Mr Martin Mileham. The purpose of these Notices was to obtain information regarding disclosable sources of income and financial interests. The responses provided by council members and Mr Mileham have been considered when making findings in this Section.
14. The Department commenced an inquiry under Division 1 of Part 8 of the LG Act (Departmental Authorised Inquiry) into the “*operations and affairs surrounding the acceptance of tickets to events and the accompanying sponsorship arrangements between organisations and the City from 1 January 2008*”. The Department provided its Departmental Authorised Inquiry files to the Inquiry on 10 May 2018. The Departmental Authorised Inquiry was not finalised before handover to the Inquiry. The Departmental Authorised Inquiry has been considered later in this Report and the Inquiry has considered the information revealed by the Departmental Authorised Inquiry when making its findings in this matter. In doing so, this Inquiry has conducted its examination of that information within the parameters of its own Terms of Reference.

<sup>h</sup> This case did not consider the *Local Government (Rules of Conduct) Regulations 2007*.

## Witnesses

15. The Inquiry held private and public hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members Ms Lisa Scaffidi, Mr Jim Adamos, Ms Lily Chen, Ms Janet Davidson, Mr Reece Harley, Mr James Limnios, Mr Keith Yong;
- Mr Martin Mileham, CEO;
- Mr Mark Ridgwell, Manager Governance;
- Mr Chad Ferguson, Director of the property development company Devwest Group Pty Ltd;
- Mr Daniel Sean Choung Ow, a former employee of Devwest Group Pty Ltd; and
- Mr Xin Ping Chen (Henry), Ms Chen's accountant.<sup>24</sup>

## Evidence obtained by the Inquiry

### Disclosure of financial interests in primary and annual returns

#### Relevant persons must lodge a primary return and annual returns

16. The LG Act requires that council members and designated employees each file a primary return with the City within three months of their start day. They must also file a retrospective annual return by 31 August for each year they are a council member or a designated employee.<sup>25</sup> In those returns, they must disclose their sources of income,<sup>26</sup> interests in or dispositions of real property located within the City's district or in an adjoining district,<sup>27</sup> certain interests in trusts,<sup>28</sup> interests and positions in corporations<sup>29</sup> and debts owed.<sup>30</sup>
17. The LG Act permits council members and designated employees to make additional discretionary disclosures of any direct or indirect benefits, advantages or liabilities, whether financial or not, "*which the person considers might appear to raise a conflict between the person's private interests and the person's duty as a council member or a designated employee*".<sup>31</sup>
18. As noted in *Scaffidi v Chief Executive Officer, Department of Local Government and Communities*,<sup>32</sup> the main focus of the disclosure regime is to protect the integrity of decision-making by the City.
19. This is further supported by the fact that council members and designated employees are not required to disclose the value or amounts of their interests,<sup>33</sup> and that income and debts do not need to be disclosed if they fall below the prescribed amount of \$500.00.<sup>34</sup>

20. The LG Act prescribes the maximum penalties for not lodging a primary or annual return by the required dates, or for not complying with the requirements for information to be disclosed in those returns, as a \$10,000.00 fine or imprisonment for two years.<sup>35</sup>

**Council members largely complied with disclosure requirements for annual and primary returns**

21. Council members, the CEO and City's Executive Leadership Group (ELG) members (who are designated employees) were largely compliant with the primary return and annual return requirements of the LG Act. However, the Inquiry has identified some isolated instances of non-disclosure by some council members and substantial non-disclosure by one council member, Ms Lily Chen.
22. The Inquiry's investigations have also revealed ambiguities in the legislative framework, particularly around the disclosure of income in primary and annual returns.

**Lodgement of primary returns and annual returns by specified dates**

23. Within the period covered by the Inquiry's Terms of Reference, all council members, the CEO and ELG members lodged their annual returns for the financial years 2015/2016 and 2016/2017 with the City by the due date.<sup>i</sup>
24. Annual returns for the 2017/2018 financial year were due to be lodged by 31 August 2018.<sup>36</sup> The Inquiry's Terms of Reference span the period 1 October 2015 to 1 March 2018. Accordingly, the return date of August 2018 falls outside the Inquiry's Terms of Reference.
25. However, annual returns are completed retrospectively and financial interests accrued from 1 July 2017 to 1 March 2018 would be required to be disclosed in those annual returns. The Inquiry therefore considers it appropriate and within its Terms of Reference to consider the annual returns for 2017/2018.
26. Ms Chen did not lodge her annual return for 2017/2018 by 31 August 2018. All other council members, the CEO and ELG members lodged their annual returns for 2017/2018 with the City by the due date.
27. Although the Council had been suspended by this time, the Department provided the following advice to the City:
- "The Department's view is that even though the Council was suspended, the elected members still acted in their role for part of the relevant period. Therefore, it is best to err on the side of caution and request an Annual Return be lodged".<sup>37</sup>*
28. Mr Mileham wrote to all council members by email on 6 August 2018 advising them that, in accordance with the LG Act, they were required to provide an annual return for the 2017/2018 financial year, notwithstanding they were suspended at the time. Mr Mileham's memorandum attached an example annual return form and the previous return form completed by the relevant council member and reminded the council members that the return should be submitted by no later than 30 August 2018.<sup>38</sup> Ms Chen recalled receiving that information from Mr Mileham.<sup>39</sup>

i Being 31 August of that year: *Local Government Act 1995*, s 5.76(1).

29. Ms Chen did not recall whether she filed an annual return. However, she said she “*might*” not have completed it or might have completed the return and forgotten to lodge it with the City. Ms Chen said that if she did not file an annual return for 2017/2018, it was likely she forgot because she was busy working as a sole legal practitioner.<sup>40</sup>
30. The Inquiry considers that the Department’s advice to the City was correct and that annual returns did have to be completed by council members for 2017/2018, notwithstanding that when a council is suspended, the powers and duties of the Council or any council member cannot be performed by that Council or council member.<sup>41</sup> The Council had sat for approximately eight months of 2017/2018 before it was suspended and would have made many decisions in this time. It was therefore vital that the public continued to have access to an updated register of council members’ financial interests that included the final months of the Council before it was suspended.<sup>42</sup>
31. The Inquiry was able to obtain annual returns for 2017/2018 for all council members except Ms Chen and finds Ms Chen did not file an annual return for the 2017/2018 financial year.

#### Disclosure of real property ownership in primary and annual returns

32. Council members who own real property in the City of Perth or an adjoining district have two types of disclosure obligations: (i) the interest in the property itself,<sup>43</sup> and (ii) any rental or other income received in respect of the property.<sup>44</sup>

#### Ms Lily Chen

33. Ms Chen and her husband owned multiple residential properties in the City’s district and in adjoining districts.
34. Ms Chen acquired a residential property in Nedlands in December 2013. As Nedlands is an adjoining district of the City, Ms Chen was required to disclose this property in her annual return for 2013/2014. Ms Chen did not disclose the interest in her 2013/2014 return,<sup>45, (j)</sup> or in her 2014/2015 annual return.<sup>46</sup> She eventually disclosed her ownership of the property in her annual return for 2015/2016,<sup>47</sup> which meant this interest remained undisclosed for two years.
35. Separately, Ms Chen disclosed a different property she owned in her annual return for 2013/2014. However, Ms Chen gave the property the wrong address in this annual return, writing “114/239 Pier St. WA 6000” instead of the correct address.<sup>48</sup>
36. Ms Chen said she “*forgot about the address*” once the property had settled. The relevant documents were not in her office when she completed her return, so rather than contacting her property manager or obtaining the documents, she simply conducted an online search and used a street address that was close to what she remembered about the property’s location.<sup>49</sup> The result is that Ms Chen declared a property interest she did not have and did not declare a property interest she did have.

j Transcript, L Chen, public hearing, 13 August 2019, p 49-50 (at p 50 Counsel Assisting incorrectly stated the property was acquired in December 2016, not 2013).

37. Ms Chen admitted she had not been careful and had not paid attention to details in filling out her annual return.<sup>50</sup> Ms Chen used this same inaccurate address on her annual return the following year.<sup>k</sup> She eventually recorded the correct address in her annual return for 2015/2016.<sup>51</sup> Ms Chen did not inform the City her previous two disclosures had been inaccurate and did not seek to have her previous disclosure records corrected.
38. Ms Chen's conduct may not have complied with her disclosure obligations. There is no evidence before the Inquiry that Ms Chen wrote down the incorrect address to intentionally mislead the City, or that it resulted in Ms Chen inappropriately voting on matters in which she had an interest. However, Ms Chen's careless approach to disclosure in this instance defeated the purpose for which the disclosure regime exists.
39. The focus of the disclosure regime is on preserving the integrity of the City's decision-making and ensuring that decision-making is performed in the public interest, rather than to benefit individual council members or their associates.
40. The LG Act requires council members to disclose their financial and property interests with enough accuracy and specificity so that a potential conflict of interest can be identified if a matter were to come before the Council that could be affected by a council member's private interests.
41. For example, a council member may be required to abstain from voting on a matter before Council if the council member has a proximity interest in the matter.<sup>52</sup> Proximity interests arise when certain decisions before Council affect land that "adjoins" the council member's land. A proximity interest can only be determined by reference to the specific location of a council member's land.
42. If a matter had come before the Council, which affected the land Ms Chen actually owned and created a proximity interest under the LG Act, there would have been no way for anyone other than Ms Chen to identify the potential conflict of interest.
43. This situation did not arise. However, the clear potential for this situation to occur underlines the point that inaccurate and incomplete disclosures of interests can have significant and undesirable consequences. The need to preserve the integrity – both actual and perceived – of council decision-making in practice requires accurate and complete disclosures of interests. Ms Chen's careless approach to her disclosure obligations in this instance created an unacceptable and entirely unnecessary risk. Regrettably, this reckless indifference to her disclosure obligations was not an isolated event for Ms Chen, as described later in this Section.
44. The Inquiry is not aware of any evidence that other council members did not disclose ownership interests in real property in their primary or annual returns.
45. However, three council members and one member of the ELG either did not, or did not correctly, disclose rental income as a source of income in their returns.

k Form, L Chen, Annual Return for 2014/2015, 28 July 2015, p 1. Although for this return, she recorded the address as "1114/239 Pier St", not "114/239 Pier St".

### Disclosure of rental income in returns

#### Mr Reece Harley

46. Mr Harley disclosed ownership of one property in his primary return. In that same return, he declared rental income earned from that property.<sup>53</sup> It is apparent from the return form that Mr Harley disclosed this rent as though it were an additional discretionary disclosure, as permitted by section 5.87 of the LG Act, rather than as a source of income which he was required to disclose under sections 5.78 and 5.80 of the LG Act. Mr Harley wrote “N/A” under the heading “*sources of other income*”. Mr Harley disclosed this rental income, again as though it were a discretionary disclosure, in his next annual return for 2013/2014.<sup>54</sup>
47. It was appropriate that he disclosed this rental income to the City, although there are some deficiencies in the disclosure. Mr Harley disclosed this rental income in the incorrect part of the form.
48. Mr Harley did not disclose this rental income in any subsequent returns. Where income is disclosed in a return under section 5.80 of the LG Act, it does not need to be disclosed again in each subsequent return,<sup>55</sup> and so it is appropriate that he did not do so, notwithstanding the fact that he completed the initial form incorrectly.
49. In his annual return for 2014/2015, Mr Harley declared co-ownership of two additional properties.<sup>56</sup> In response to the Inquiry’s Notice to Produce a Statement of Information,<sup>57</sup> Mr Harley provided a spreadsheet which showed he did receive rental income from these two properties from at least 2015/2016.<sup>58, (l)</sup> However, he did not disclose rent as an income source from those properties in any return.<sup>59</sup>

#### Dr Jemma Green

50. Dr Green disclosed ownership interests in a number of properties in her primary return dated 3 December 2015 and her annual returns for the years 2015/2016 to 2017/2018.
51. In response to the Inquiry’s Notice to Produce a Statement of Information,<sup>60</sup> Dr Green’s legal representatives provided a table which disclosed Dr Green did receive rental income from three of these properties from at least 2015/2016.<sup>61, (m)</sup> However, she did not disclose rent as an income source from those properties in any return.<sup>62</sup>

#### Ms Lily Chen

52. Ms Chen received rental income from multiple properties from 2011/2012 to 2016/2017. She did not disclose rental income in her annual returns for 2011/2012 or 2012/2013. She did disclose the receipt of rental income in her annual return for 2013/2014.<sup>63</sup> Although Ms Chen did not disclose any rental income in her annual returns for 2014/2015, 2015/2016 and 2016/2017, there was and is no requirement for a council member to include in a return any information regarding a source of income that had already been disclosed in a previous return.<sup>64</sup>

l The period of time in the notice was confined to providing defined sources of income for 2015/2016 and 2016/2017.

m The period of time in the notice was confined to providing defined sources of income for 2015/2016 and 2016/2017.

53. Ms Chen said she had thought it was “*good enough*” that, although she had not disclosed her receipt of rent as a source of income in her annual return for 2011/2012, she had listed her ownership interests in multiple residential properties. She maintained that as a person can only live in one property at a time, it should have been apparent the remaining properties may be subject to a lease.<sup>65</sup> This reasoning does not follow as a matter of course. In any event, Ms Chen’s disclosure in this area was inconsistent, because although she did not disclose rental income from properties in her annual return for 2012/2013, she did so in her annual return for 2013/2014.<sup>66</sup>

#### Mr Paul Crosetta

54. Mr Paul Crosetta, the City’s Director, Construction and Maintenance, disclosed ownership of three properties in addition to his residential address in his primary return dated 7 January 2016.<sup>67</sup> He did not disclose income from any rent from these properties as a source of income. In his annual return for 2015/2016, he disclosed two of these properties in the section headed “*Real property*” as “*own – rented*” and the third was disclosed as having been sold in the section headed “*Disposition of property*”.<sup>68</sup> However, he did not disclose the receipt of any rent as a source of income in the section headed “*Income sources*”.<sup>69</sup> He completed his annual returns for 2016/2017 and 2017/2018 in the same manner; identifying that the two properties were either rented or investments in the section headed “*Real property*”, although he did not declare rent as an income source in those returns.<sup>70</sup>

#### Ambiguities in the disclosure regime – rental income

55. The Inquiry notes the City’s return forms did not expressly state that rent must also be disclosed as a source of income from properties that were listed. The Inquiry also accepts that the City did not advise the three council members referred to above or Mr Crosetta that further disclosure or clarification from them was required after they had submitted the return forms to which reference has been made. The Inquiry does not consider there was any intention by these council members or Mr Crosetta to not comply with their disclosure obligations. The Inquiry considers that if any errors were made, they were inadvertent.
56. In light of the above observations, the Inquiry is not critical of Mr Harley, Dr Green, Ms Chen and Mr Crosetta for not disclosing rental income where they did disclose ownership of the relevant properties from which they received rent. There are ambiguities in this aspect of the disclosure regime. The Inquiry considers it more appropriate to recommend that the Department update its guidance material to clarify:
- the disclosure requirements for rent as an income source, where a council member has appropriately declared ownership of multiple properties; and
  - the annual disclosure requirements for income sources with respect to rent, when further rental properties are acquired after the initial disclosure.

### Disclosure of directorships in companies

57. Council members must disclose in their primary and annual returns the interests and positions they hold in corporations.<sup>71</sup> Information before the Inquiry revealed some council members may not have made complete disclosures of these interests.

#### Mr James Limnios

58. Mr Limnios did not disclose in any of his returns that he was a director of the Limnios Superannuation Fund Pty Ltd.<sup>72</sup> As Mr Limnios became a director of this company on 28 June 2006<sup>n</sup>, it would appear he was required to disclose this position in his primary return dated 8 December 2009.

#### Mr Keith Yong

59. Mr Yong did not disclose in any of his returns that he was a director of Bon Geste Pty Ltd, which is described as a Superannuation Trustee Proprietary Company. As Mr Yong became a director of Bon Geste Pty Ltd on 3 September 2014,<sup>o</sup> it would appear he was required to disclose this position in his annual return for 2014/2015.<sup>73</sup>
60. Mr Yong was also a director of Yong Family Super Pty Ltd and a director and secretary of Maxiwest Pty Ltd, when he was elected in October 2013. He continued to hold those positions throughout his term as a council member.<sup>74</sup> Although he did not disclose those positions under the heading *“Interests and positions in corporations”* in his primary return dated 8 November 2013, he did disclose both companies in other parts of the return. He disclosed that Yong Family Super Pty Ltd was the trustee of a trust he was receiving an income from and Maxiwest Pty Ltd was a trustee of a trust in which he held a beneficial interest.<sup>75</sup> In those circumstances, only limited criticism can be made of Mr Yong for not disclosing the positions he held in those two companies.

#### Ms Lily Chen

61. Ms Chen did not disclose that she was a director of Wayon Pty Ltd in her primary return dated 11 December 2011.<sup>76</sup> As Ms Chen had become a director of this company on 18 June 2008 and was still a director as at 10 August 2018,<sup>77</sup> it would appear she was required to disclose this position in her primary return.
62. Under the heading marked *“Interests and Positions in Corporations”*, Ms Chen wrote “N/A” in her primary return.<sup>78</sup> Ms Chen’s explanation for not disclosing her directorship in this return was, *“This is error because I thought the question is, apart in your own corporation, whether you have an interest or position in other corporations. My mistake, understanding”*. Her explanation for misunderstanding what interests and positions in corporations she was required to disclose was, *“I tended to forget my own because I thought everyone knew, so wrong presumption”*.<sup>79</sup> It is difficult to comprehend how Ms Chen, a legal practitioner, could possibly have this misunderstanding. If her assertion that *“everyone knew”* she was a director of Wayon Pty Ltd was meant to mean there was no need to disclose this interest, then that too is incomprehensible.

<sup>n</sup> Mr Limnios was still a director as of 28 August 2018: ASIC, Historical Company Extract for Limnios Superannuation Fund Pty Ltd, 28 August 2018, p 2.

<sup>o</sup> Mr Yong remained a director for the duration of his term as a council member: ASIC, Historical Company Extract for Bon Geste Pty Ltd, 13 September 2018, p 1.

63. Ms Chen did not make a disclosure of her directorship in the section titled *“Interest and positions in corporations”* until her second annual return for 2012/2013.<sup>80</sup> Her explanation for making this disclosure was the experience of being on Council and acquiring better knowledge of what was required.<sup>81</sup> The Inquiry notes that Ms Chen had disclosed she was a director of Wayon Pty Ltd in her first annual return for 2011/2012, although it was in the section titled *“Income sources”*.<sup>82</sup>
64. Ms Chen also did not disclose in any of her returns that she was a director of Global Australia Pty Ltd, a position she held from 18 March 2008 to 12 September 2013. Her explanation was she had *“totally forgot”*.<sup>83</sup> It would appear Ms Chen was required to disclose this position in her primary return dated 11 December 2011.<sup>84</sup>

### Disclosure of beneficial interests in trusts

#### Dr Gemma Green

65. A Relevant Person is required to disclose the name and address of the settlor and the trustee of any trust from which he or she derives an income<sup>85</sup> and *“any trust in which the person held a beneficial interest”* where no income is derived.<sup>86</sup> The template annual return form provided by the City included separate spaces to enter *“income earned from a trust”* and *“trusts in which the relevant person holds a beneficial interest”*.
66. In her primary return under the section titled *“Trusts”*, Dr Green disclosed, pursuant to section 5.81 of the LG Act, that she held a beneficial interest in the Morton – Green Family Trust. She identified herself as a settlor and wrote her Mount Lawley residence as her address as the settlor. Although section 5.81 of the LG Act also requires disclosure of the name and address of the trustee, Dr Green only completed the details of the address of the trustee (which was her residential address).<sup>87</sup>
67. In her three annual returns, Dr Green wrote identically incomplete details for the settlor and trustee regarding the same family trust in the sections titled *“Income sources”* and *“Trusts”*. In the *“Income sources”* section under the sub-heading *“(b) income from a trust”*, Dr Green identified the name of the trust and the name and address of the trustee (being herself and her Mount Lawley residence). However, in all three annual returns, she only identified the address of the settlor (and not the name, which is also a requirement under section 5.80(2)(b) of the LG Act). This address was Dr Green’s residence.
68. In the section titled *“Trusts”*, in all three annual returns, Dr Green identified her Mount Lawley residence as the settlor’s address, although she did not identify the settlor’s name (as required by section 5.81 of the LG Act). No details were provided in any of the annual returns of the name and address of the trustee, which are also requirements under section 5.81 of the LG Act.<sup>88</sup>

69. Although section 5.78(2)(a) of the LG Act does not require disclosures already made in a previous return to be repeated in subsequent returns, when viewed separately there were deficiencies in the initial disclosures made by Dr Green regarding her receipt of income from, and the beneficial interest she held in, the Morton – Green Family Trust. However, when Dr Green’s primary return and first annual return are viewed in combination, there appears to be a sufficient disclosure in the returns to meet the purpose of the disclosure obligations.<sup>p</sup>
70. During the Inquiry’s investigations in December 2019 of the Morton – Green Family Trust, it identified another trust that Dr Green may have had an interest in. This trust is called the Morton – Green Superannuation Trust (Superannuation Trust), a self-managed superannuation fund that had been active since September 2014.<sup>89</sup>
71. The Inquiry asked Dr Green’s legal representatives if they could confirm whether Dr Green had an interest in the Superannuation Trust. By letter dated 19 December 2019, the Inquiry was advised that *“Dr Green is a member of the Superannuation Trust. However, we are also instructed, she receives no income from the Superannuation Trust and has received no income from the Superannuation Trust, during the period 1 October 2015 to 30 June 2018”*.<sup>90</sup>
72. It is apparent that Dr Green’s membership of the Superannuation Trust was a beneficial interest and if that interest existed during her term as a council member, then Dr Green may have been required to disclose that interest in the relevant return. She did not.
73. In written submissions dated 17 February 2020, Dr Green advised that *“because she received no income from the Superannuation Trust and was not entitled to access it until her retirement (many years hence), she did not consider it was a matter that was required to be disclosed”*. She also submitted that she *“is not a trust or accounting professional and her understanding must be assessed in that light. She did not know that being a member of a self-managed superannuation fund which she has no right to access until she retired could amount to a ‘beneficial interest’ in a trust that she was required to disclose for City purposes”*.
74. The Inquiry considers that Dr Green did not deliberately withhold disclosing this interest, if disclosure was required, and only limited criticism is made of her for not doing so. Her uncharacteristic non-disclosure in this regard highlights the need for the Department to provide the necessary guidance material to assist those who are required to complete returns.

p There may also exist an argument that, at least inferentially, full disclosure had occurred in the primary return as a settlor of a family trust will commonly appoint themselves as a trustee and Dr Green, by completing this section, was disclosing that this was a trust in which she held a beneficial interest. In addition, her address as the settlor was identical to the address of the trustee.

### Disclosure of other income required to be disclosed

75. No council member reported share dividends as a source of income on their return forms in the section at 2(c) titled “*sources of other income*” completed for the period of the Inquiry’s Terms of Reference. Share dividends are assessable income within the meaning of the *Income Tax Assessment Act 1936* and are therefore required to be disclosed as an income source if they exceed the prescribed threshold of \$500.00.<sup>91</sup>
76. Information before the Inquiry revealed some elected members did not disclose all sources of income exceeding the \$500.00 threshold.

#### Ms Lisa Scaffidi

77. Ms Scaffidi earned two disclosable shareholding dividends of \$2,750.00 on 30 June 2016 and again on 30 June 2017. Ms Scaffidi also earned bank interest exceeding the disclosure threshold in 2015/2016 and 2016/2017.<sup>92</sup> She did not disclose this bank interest as being a source of income she received in her annual returns for those periods.<sup>93</sup> She would have been required to have disclosed this income unless she had previously disclosed them in a return.<sup>94</sup> On the assumption disclosure was required, the Inquiry does not consider that this non-disclosure was intentional.

#### Ms Janet Davidson

78. Ms Davidson disclosed bank interest as a source of income in her primary return.<sup>95</sup> She also earned bank interest above the \$500.00 threshold in 2015/2016 and 2016/2017.<sup>96</sup> She did not disclose this as income in her annual returns for those periods.<sup>97</sup> However, as Ms Davidson had already disclosed her bank interest as a source of income in her primary return, she was not required to make any further disclosures.<sup>98</sup> The Inquiry notes that in her annual returns for 2015/2016 and 2016/2017, Ms Davidson wrote “NIL – all stated in 2(a)” in the section at 2(c) titled “*sources of other income*”. That was not strictly true as the income sources written in 2(a) (which was titled “*income from an occupation*”) in both returns did not include her income from bank interest.<sup>99</sup>

### Substantial non-disclosure of income by Ms Lily Chen

79. There were apparent substantial and ongoing non-disclosures of income by Ms Chen. The Inquiry finds these non-disclosures were plainly not attributable to any ambiguities in the legislation or guidance provided by the Department. The Inquiry also finds this repeated non-disclosure reflects an ongoing pattern that cannot be attributed to occasional oversight.
80. Ms Chen appeared to understand both the content and importance of the disclosure requirements. As a practising lawyer, that much would be expected. Ms Chen said she regarded the “*duty of the Councillor*” to file an annual return as a “*very serious*” obligation. She noted the importance of these requirements, saying “*because you elected to a public position and then you need to be responsible – accountable to the general public or to the ratepayer who elected you*”.<sup>100</sup>

81. Ms Chen agreed it was important to ensure all details are truthful and accurate and initially maintained she had completed her returns accurately and “every year”.<sup>101</sup> However, during examination on areas in which she did not disclose income, Ms Chen admitted “*there were missing pieces*” and she had not completed her annual returns accurately.<sup>102</sup>
82. As already noted, the forms for primary and annual returns set out three categories for disclosure: “*income from an occupation*”, “*income from a trust*” and “*other sources of income*”. In her primary return dated 11 December 2011, Ms Chen only disclosed the income she earned as a solicitor through the firm, Lily Chen & Associates.<sup>103</sup> Although Ms Chen was also working as a registered migration agent from the same firm on an ongoing basis from 2011, she did not disclose that occupation until she completed her fourth return for 2013/2014. When asked to explain the delay in disclosing her occupation as a registered migration agent, Ms Chen answered, “*Slow learner*”.<sup>104</sup>
83. Ms Chen also did not disclose other income she earned during her time as a council member. Ms Chen received ongoing commission payments from Stanley International College Pty Ltd (Stanley College) and Bupa Health Insurance (Bupa) as part of referral arrangements she had with those entities. Ms Chen gave evidence she had been receiving commission payments from Stanley College for “*probably four or five years*”.<sup>105</sup> She also said she had received commissions from Bupa for “*maybe three, four years*”,<sup>106</sup> and these payments totalled more than \$1,000.00 annually.<sup>107</sup>
84. Evidence before the Inquiry shows that between 4 February 2013 and 4 November 2014, Ms Chen received five commission payments from Stanley College. The payments ranged from \$1,491.00 and \$6,375.00 and totalled \$18,853.35.<sup>108</sup> Despite these large amounts, Ms Chen did not disclose this income in her annual returns lodged with the City for 2012/2013, 2013/2014 and 2014/2015.<sup>109</sup> Ms Chen had also written “*N/A*” under the heading “*other sources of income*” in her primary return dated 11 December 2011 and her annual return for 2011/2012.<sup>110</sup>
85. Ms Chen contends that the commissions from Stanley College and Bupa “*did not need to be disclosed in Ms Chen’s annual returns because they were income of Wayon Pty Ltd trading as Lily Chen & Associates*”.
86. The contention is partly reliant on an Education Agent Agreement dated 28 June 2016 between Stanley International College Pty Ltd and Lily Chen & Associates (Agreement). Ms Chen signed the Agreement as the “*Authorised Representative*” of the Education Agent, being Lily Chen & Associates. She also relied on an invoice to Bupa from Lily Chen & Associates dated 24 January 2020 in the amount of \$541.92. The invoice did not specify what this payment was for.<sup>111</sup>

87. The contention is that as Lily Chen & Associates had been disclosed as Ms Chen's employer in her primary return<sup>112</sup> then no further disclosure was required as Wayon Pty Ltd was trading as Lily Chen & Associates. The relationship between Wayon Pty Ltd and Lily Chen & Associates was disclosed in Ms Chen's first annual return.<sup>113</sup>
88. In her evidence Ms Chen initially said that as these commissions formed part of the income of Wayon Pty Ltd trading as Lily Chen and Associates, she did not need to disclose this income separately. However, she then admitted she had not received the commission payments from Stanley College or Bupa in her capacity as a solicitor or migration agent, and she should have disclosed the income separately as "*other income*".<sup>114</sup> Ms Chen's admission that she ought to have disclosed these commissions payments as an additional income source is to be preferred. It is consistent with the disclosure requirements of the LG Act.
89. Ms Chen was not only required to disclose "*the name and address of ... her employer*"<sup>115</sup> in relation to income from an occupation, she was also required to disclose "*a description of the occupation*".<sup>116</sup> The only descriptions she gave of her occupations in any of her returns was "*solicitor*",<sup>q</sup> "*migration agent*" and "*councillor*". Ms Chen was not acting in any of those capacities when she was earning commissions from Stanley College and Bupa.<sup>r</sup>

#### Ms Lily Chen did not disclose ongoing commissions from a property developer totalling \$307,200.00

90. Ms Chen received ongoing payments from a Perth-based property development company, Devwest Group Pty Ltd (Devwest).<sup>117</sup> Under a consultancy agreement and a fund-raising agreement, both dated 10 April 2013, between Ms Chen and Devwest,<sup>118</sup> Ms Chen referred potential investors to Devwest. Where a referral resulted in an investor paying investment capital to Devwest, Ms Chen was to receive a commission equal to five per cent of the investment figure.<sup>119</sup> Ms Chen signed both agreements as an individual and not in her capacity as an officer of Wayon Pty Ltd trading as Lily Chen & Associates.<sup>120</sup>
91. Ms Chen admitted receiving 10 commission payments from Devwest from 2 April 2013 to 27 April 2017, ranging from \$7,200.00 to \$90,000.00, and totalling \$307,200.00.<sup>121,(s)</sup> These payments are clearly recorded in bank records obtained by the Inquiry and were made from the bank accounts of Hay 263 Pty Ltd on nine occasions and Barker 3 Pty Ltd on one occasion.<sup>122</sup> These entities were two subsidiary companies of Devwest.<sup>123</sup> Devwest created a company for each individual property development and named it from the street address of the particular project the company was supervising.<sup>124</sup> Over a span of four years, these commission payments from Devwest equated to an average annual income of approximately \$77,000.00 for Ms Chen.<sup>125, (t)</sup>

q Or other descriptors for a legal practitioner.

r The Agreement's terms identified Lily Chen & Associates as an "Education Agent" which had completed an Educational Agents Training Course.

s For two of these commission payments Ms Chen stated she split the commission amount with a third party who had provided assistance.

t Even allowing for the splitting of two of these commission payments, Ms Chen's average annual income from Devwest was still in excess of \$66,000.00.

The details in Table 2.5 are from Westpac deposit transaction records.<sup>126</sup>

**Table 2.5: Commission payments from DevWest Group Pty Ltd to Ms Lily Chen between 2013 and 2017.**

| Date         | Payment       | Nature of Payment  |
|--------------|---------------|--|
| <b>2013</b>  |               |  |
| 2 April      | \$90,000.00   | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Canning Vale branch)                  |
| 15 April     | \$50,000.00*  | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Investment Property Loan Account of David Majri & Lily Chen (TMC Adelaide branch) |
| <b>2014</b>  |               |  |
| 26 November  | \$34,000.00** | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Mount Lawley branch)                  |
| <b>2015</b>  |               |  |
| 25 September | \$7,500.00    | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Mount Lawley branch)                  |
| 25 September | \$67,500.00   | From NAB Barker 3 Pty Ltd Account to Westpac savings account of David Majri & Lily Chen (Mount Lawley branch)                            |
| 23 October   | \$7,200.00    | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Mount Lawley branch)                  |
| 21 December  | \$7,200.00    | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Mount Lawley branch)                  |
| <b>2016</b>  |               |  |
| 18 February  | \$10,800.00   | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Mount Lawley branch)                  |
| <b>2017</b>  |               |  |
| 31 March     | \$20,000.00   | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Canning Vale branch)                  |
| 27 April     | \$13,000.00   | From NAB Hay 263 ATFT Hay 263 Trust Account to Westpac Savings Account of David Majri & Lily Chen (Canning Vale branch)                  |

Notes:

\* This payment was evenly split between Ms Chen and a third party.

\*\* This may have been the second payment that Ms Chen split with a third party.<sup>u</sup>

<sup>u</sup> Ms Chen was not certain whether it was this commission or another commission in the amount of \$25,000.00 that was split: Transcript, L Chen, public hearing, 13 August 2019, p 101. However, as can be seen from the table, there was no single commission payment identified in the amount of \$25,000.00 (although three consecutive payments from 23 October 2015 to 18 February 2016 did amount to a total of \$25,200.00 and one payment on 31 March 2017 was for \$20,000.00). Even if this was the commission that Ms Chen split with a third party, she still personally benefited from Devwest commission payments in the amount of \$265,200.00 from 2 April 2013 to 27 April 2017.

92. Ms Chen did not disclose this income in any annual returns lodged with the City, stating she had mistakenly forgotten and that it was not deliberate. She admitted she was required to disclose this income and she should have done so.<sup>127</sup>

**Ms Lily Chen did not disclose commission payments to the Inquiry and other bodies**

93. Ms Chen did not disclose the Devwest commissions to the Inquiry until pressed on the issue at length during her public hearing on 13 August 2019. In March 2019, the Inquiry served Ms Chen with a Notice to Produce a Statement of Information, relying on its coercive powers under section 8A(2) of the RC Act (Notice).<sup>128</sup>
94. The Notice required Ms Chen to disclose all income she had earned in the 2015/2016 and 2016/2017 financial years where that income exceeded \$500.00 per year.<sup>129. (v)</sup> The Notice expressly prompted Ms Chen to disclose income that was in the form of commission payments, bonuses, or fees. The phrase “*commission payments*” appeared three times in the Notice and it was expressly included in what the Inquiry regarded as “*income*”.<sup>130</sup> In her response to the Notice, Ms Chen only disclosed rental income. She did not disclose any of the commission payments totalling \$133,200.00 she had received from Devwest during 2015/2016 and 2016/2017.<sup>131</sup>
95. When questioned by the Commissioner, Ms Chen gave the following evidence:
- “That notice to produce clearly requires you to produce the information related to, among other things, commission payments?---Yes.*
- Doesn’t it?---Yes.*
- That would’ve been apparent to you at the time that you got the notice, wouldn’t it?---I got.*
- It would have been apparent to you at the time you got the notice, wouldn’t it?---Yes.*
- And you knew at the time you got the notice that you had, in those years, received commission payments from Devwest, didn’t you?---Yes.***
- So put those three things together: it would have been obvious to you that you should have told this Inquiry, me, about the commission payments, s*  
*houldn’t it?---Should”.<sup>132</sup> [emphasis added]*
96. Nonetheless, Ms Chen maintained throughout the balance of her evidence she had not intentionally concealed the Devwest commissions from the Inquiry by not disclosing them in her response to the Notice, or from the City by not disclosing them as a source of income in her annual returns.<sup>133</sup>
97. Ms Chen could not initially recall whether the Devwest payments had been included in her tax returns filed with the Australian Taxation Office (ATO), and she admitted she did not check her tax returns to confirm she was providing accurate information to the Inquiry in response to the Notice. Ms Chen could not provide a reason for this, except that she had been negligent.<sup>134</sup>

v Except for (i) any fees, allowances or expenses reimbursed by the City of Perth in connection with her role as an elected member, (ii) any income she received from her occupation/s or (iii) any income she received from a trust.

98. When asked whether she had always disclosed her full income to her accountant for the purpose of preparing her tax returns, Ms Chen replied, “*maybe sometime miss some*”. When asked specifically whether she had disclosed the Devwest commission payments to her accountant, she initially responded, “Yes” before changing her evidence to “*some of them, they knew, some of them they did not*”.<sup>135</sup> After obtaining the details of her accountant from Ms Chen, the Inquiry subsequently called him to a private hearing.<sup>136</sup>
99. From the accountant’s evidence, it emerged Ms Chen disclosed no Devwest commissions to the ATO in any of her tax returns for the financial years 2011/2012 to 2017/2018.<sup>137</sup> Ms Chen’s tax returns for this period included a salary or fee for her work at Lily Chen & Associates. Some of those tax returns also included council sitting fees from the City, one or two additional payments and some rental income. For each of the financial years 2012/2013 and 2015/2016, the purported total income declared in Ms Chen’s individual tax return was considerably less than the income through commission payments she had received from Devwest in the same financial year.<sup>138</sup>
100. Shortly after the public hearing in which she admitted to having received the Devwest commissions, and being told the amount was \$307,200.00, Ms Chen contacted her accountant and advised him she had not disclosed over \$300,000.00 in commission payments to the ATO. She requested he make the required amendments. Ms Chen told her accountant that she “*forgot*” to inform him of this income.<sup>139</sup> She confirmed to the accountant she had received those commission payments in her personal capacity.<sup>140</sup> The accountant gave evidence to the Inquiry that Ms Chen had never disclosed any commission payments to him in the past.<sup>141</sup>
101. Following this evidence from Ms Chen’s accountant, it was put to Ms Chen she did not disclose the Devwest commission payments to her accountant before 13 August 2019. Ms Chen maintained she had, in 2013, “*mentioned to him but not the figure*”. She also maintained she had said to him, “*I got a commission payment from Devwest*”. Ms Chen said she had told her accountant this information “*for tax purpose*”, although she did not provide him with any figures or invoices to substantiate those payments. According to Ms Chen, her accountant did not ask her to provide that information. Ms Chen conceded the accountant “*could not know*” what amounts she had earned from Devwest if she did not provide them to him, and that he therefore could not include that information in her tax returns.<sup>142</sup>
102. On Ms Chen’s own evidence, she did not disclose the actual amount of any commission payments from Devwest to her accountant, and she did not disclose any of the Devwest commission payments to the ATO before being questioned at the Inquiry’s public hearings.<sup>143</sup>

103. An examination of Ms Chen's tax returns for the years 2012/2013, 2014/2015, 2015/2016 and 2016/2017 reveals that if Ms Chen had disclosed the Devwest commissions she received during those years,<sup>w</sup> her combined total taxable income for these financial years could have almost doubled.<sup>x</sup>
104. Ms Chen's compliance with taxation legislation is not of direct interest to the Inquiry. However, Ms Chen's tax records are relevant to the Inquiry's role in making findings regarding her non-compliance with income disclosure requirements that applied to local government and to the Inquiry process. It is significant that Ms Chen did not disclose the same income source to the ATO.
105. When asked repeatedly why she had not disclosed the Devwest commission payments to the City, to the Inquiry, or to the ATO, Ms Chen repeatedly answered to the effect of "no reason", "no excuse", or "I forgot".<sup>144</sup> For an extended period of questioning, she did not provide a reasonable explanation, or indeed any real explanation, as to why she had not disclosed the Devwest commission payments to three separate bodies, as she admitted she was required to do by three separate statutory frameworks.
106. Finally, Ms Chen said that her decision not to disclose the commission payments to the ATO, the City, or the Inquiry was because Devwest owed her money and she was upset about her own unsuccessful investment with Devwest.<sup>145</sup>
107. In addition to referring investors to Devwest for a commission, Ms Chen made her own investment in a Devwest property development project through her family company, Wayon Pty Ltd. Ms Chen gave evidence she had taken out a \$1 million bank loan to facilitate this investment. The investment was documented by an investment agreement which Ms Chen signed in her capacity as a director of Wayon Pty Ltd.<sup>146</sup>
108. As construction on this property had not commenced, Ms Chen's investment remained locked in the project fund and she was unable to access the initial investment capital or receive a return on that investment.<sup>147</sup> After pressure from Ms Chen, Devwest agreed to enter into a loan agreement with Wayon Pty Ltd, whereby Devwest returned \$400,000.00 of the \$1 million investment<sup>148</sup> and paid Ms Chen the amount of monthly interest payable on the bank loan on an ongoing basis.<sup>149</sup> From May 2013 until at least March 2018, being the end of the Inquiry's Terms of Reference, Devwest made regular payments amounting to a total of \$141,882.59 into one of two Westpac joint savings accounts in the names of Ms Chen and her husband.<sup>150</sup>
109. This situation may well have been an unfavourable outcome for Ms Chen and her personal finances. The investment arrangement was, however, separate from the referral arrangement Ms Chen had with Devwest. Ms Chen's investment, profitable or otherwise, does not cancel out the income received under a separate contractual arrangement, and does not negate her obligation to disclose her sources of income to the City in her annual returns. Ms Chen was required to disclose only the source and nature of her financial interests, and not the amounts or value of those interests.

<sup>w</sup> Ms Chen received no Devwest commission payments during 2013/2014 or 2017/2018.

<sup>x</sup> Ms Chen's declared combined total income (less total deductions) for these four financial years was \$302,978.00. Her commission payments from Devwest during the same period was \$307,200.00. Even accepting Ms Chen's evidence to allow for the splitting of two of those payments (which she recalled were in the amounts of \$50,000.00 and \$25,000.00\*), she still received commissions totalling \$265,200.00.

\*there was no single commission payment in this amount.

110. In the period 2 April 2013 to 29 March 2018, Ms Chen received 40 separate deposits from Devwest.<sup>y</sup> Ten of these can be attributed to commission payments to her, ranging from \$7,200.00 to \$90,000.00. Twenty-nine payments can be attributed to deposits made in respect of interest repayments on the bank loan to facilitate the investment by Wayon Pty Ltd, ranging from \$2,755.00 to \$9,183.34 and being paid at an average of once every two months from May 2013 to March 2018. The other deposit was in the amount of \$400,000.00 on 26 June 2015 being a part repayment of the investment by Wayon Pty Ltd following the restructuring of the investment into a loan agreement on that same day.<sup>151</sup> The total amount of these deposits from Devwest was \$849,082.59.
111. From April 2013 to March 2018, Ms Chen was required to lodge five tax returns with the ATO and five annual returns with the City. In the case of the Notice, Ms Chen was specifically prompted to consider and disclose commission payments. Ms Chen was further prompted by the Inquiry to accurately disclose all her income during her examination at her public hearings. She admitted to receiving the commission payments from Devwest only after extended questioning by Counsel Assisting, and in some cases only after being confronted with formal financial records.
112. The Inquiry considers it highly improbable that, at each of these 12 interfaces with her disclosure obligations, Ms Chen simply forgot she had received numerous commission payments from Devwest of up to \$90,000.00. Her evidence in this regard is highly unsatisfactory.
113. Ms Chen did not comply with her disclosure obligations on multiple occasions over a number of years. It is open to the Inquiry to find these breaches occurred either intentionally or through ongoing negligence.
114. The Inquiry put to Ms Chen that she had “*constantly concealed these payments from authorities*” to which she was “*compelled to disclose them*”. While Ms Chen had again admitted “*part of the reasons*” for her non-disclosure was because of a “*fight over [her] investments*” with Devwest, she otherwise emphatically denied that she had intentionally concealed the payments from the City, the ATO, or the Inquiry.<sup>152</sup> She once again offered the explanations that it was “*not intentionally*”, there was “*no reason*” and that she “*really forgot*”.<sup>153</sup>
115. At a minimum, Ms Chen’s non-disclosure of the Devwest commissions to three separate bodies across 12 separate occasions shows an ongoing disregard of her apparent disclosure obligations under the law and a level of carelessness that should be of the utmost concern to the City. It is completely at odds with Ms Chen’s obligations as a council member and her training as a lawyer.
116. Considering all of the evidence and for the reasons set out in this Section, it appears Ms Chen may have intentionally withheld this information from, among others, the City and the Inquiry.

y Through its subsidiary companies, Hay 263 Pty Ltd (on 39 occasions) and Barker 3 Pty Ltd (on one occasion).

117. The Inquiry finds the conduct by Ms Chen in this matter may have infringed five of the eight principles that are intended to guide the behaviour of council members, as set out in the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations), namely:<sup>154</sup>

- a. *act with reasonable care and diligence;*
- b. *act with honesty and integrity;*
- c. *act lawfully;*
- d. *avoid damage to the reputation of the local government; and*
- e. *be open and accountable to the public.*

#### Ms Chen's evidence and recollection on this matter

118. Ms Chen purported to be suffering from a deficient memory that had not been medically diagnosed and for which she had not sought medical treatment. She speculated it might be because of her age or that she had too many things on her mind.<sup>155</sup> Although she had not suffered any difficulties with her memory as a council member, the issue became apparent to her in February 2018 just before the Council was suspended. Her gradual memory losses had become evident to her, *"in past few months"*.<sup>156</sup>
119. The Inquiry notes Ms Chen did not raise this issue regarding her memory loss at her private hearing; which Ms Chen acknowledged.<sup>157</sup> However, she raised it without prompting very early during the first day of her public hearings stating, *"My memory is not so great now"*.<sup>158</sup>
120. The Inquiry has not been provided with any medical evidence or other evidence that would support Ms Chen's claim of memory issues.
121. In the absence of such evidence, the Inquiry does not accept Ms Chen has a recognisable memory deficiency that only became apparent at or about the same time the Council was suspended and the Inquiry was announced. The Inquiry notes that since then she has continued to operate her own law firm and migration agency. The Inquiry finds Ms Chen's alleged memory loss was a disingenuous attempt to justify her inability to legitimise her conduct that was the subject of the Inquiry's investigations. It was yet another unsatisfactory assertion made by Ms Chen in the witness box when giving evidence under affirmation.

#### Accounting Standard AASB – Related Party Disclosures

122. Australian Accounting Standard *AASB 124 Related Party Disclosures* requires that all local governments disclose, in Annual Financial Reports, related party relationships, transactions and outstanding balances.<sup>159</sup> *"Key Management Personnel"* (council members, the CEO and the ELG members) are required to complete a form with details of the names of close family members and entities that they or their close family member control or jointly control.

123. All council members, the CEO and ELG members submitted their Related Party Disclosures for 2016/2017. For 2017/2018, all members of the ELG, the CEO and all council members, except Dr Green and Mr Harley, submitted their Related Party Disclosures declaration.
124. The Inquiry observes that like the primary and annual returns, this form was not always accurately completed. For example, in the disclosure form the City states that *“Close family members at a minimum include your partner, children (including partner’s children) and other dependents over the age of 16, and **must be listed below**”*.
125. The form requires council members to list the names of close family members, their relationship to the council member, and any entities controlled or jointly controlled by each close family member in a given financial year. Despite this, Mr Limnios wrote *“Not applicable”* to this requirement on his form dated 12 September 2018 for the year 2017/2018, despite having close family members, including his wife, who were his co-directors of various companies at the relevant time.<sup>160</sup>
126. Failing to declare appropriate information reduces transparency and the City’s ability to comply with its legislative responsibilities.

#### City’s governance of financial disclosure requirements

127. In *Scaffidi v Chief Executive Officer, Department of Communities and Local Government* [2017] WASCA 222, the Court stated:  
*“By requiring disclosure in returns which are available for public inspection, the legislation provides a means for the identification of failures by members to disclose interests at meetings and recuse themselves from consideration of a matter in which they were interested”*.<sup>161</sup>
128. This reflects a view that primary and annual returns are designed to function as a safeguard to enable discovery of inconsistencies in council members’ disclosures.
129. The responsibility for accurate completion of primary and annual returns rests with the person making those disclosures. The City provides council members with departmental guidelines and an example of a return form to assist their disclosure.<sup>162</sup> Nevertheless, the process of receiving and collating the information in returns received by the City should not be a rubber-stamping exercise.
130. Mr Ridgwell gave evidence that the City did not undertake an assessment of the interests disclosed in primary and annual returns lodged with the City. The only checks conducted by the City as to the information contained in these returns are, *“to ensure that it meets the criteria that is set for completion of it, so adequate disclosure i.e., in the instances where a person has landholdings, they have to annotate it as nil rather than leaving it blank”*. These inspections of the returns are conducted by other governance officers, not by Mr Ridgwell.<sup>163</sup>

131. The returns are then retained in a register and available for inspection by members of the public. The extent of the City's oversight was to, *"make sure that their disclosures are captured and then registered"*. It appears that, provided the council member had entered an interest or words to the effect of *"nil"* or *"N/A"* under each of the disclosure headings, the City did not follow up with council members or otherwise confirm the accuracy and completeness of the disclosures made.<sup>164</sup>
132. For example, where a council member had disclosed ownership of multiple residential properties and no disclosure of any rental income, the City did not clarify with the council member whether rental income had been obtained from any of the properties. This was so despite Mr Ridgwell's agreement that such a situation would *"at least give ... a suggestion"* the person had properties which were investment properties. Likewise, the City did not follow up if interest from bank accounts which was above the prescribed amount had been disclosed as income.
133. The City does not compare annual returns with those lodged in previous years to ensure the details being recorded are consistent. This was despite the fact that in one case an annual return submitted by a council member simply said *"See annual return 2011/2012"* under the heading *"Real property"*.<sup>165</sup>
134. Disclosing interests in this way is permitted by the legislation and the guidance material provided by the Department. The LG Act provides a council member is not required to *"include in a return any information which has been disclosed in a previous return"* by the council member.<sup>166</sup> Guidance material previously circulated by the then Department of Local Government and Communities in 2011 included an example annual return form which used the phrase *"See annual return for 2009"*.<sup>167</sup>
135. It is apparent the City's Governance unit does not conduct any checking through independent databases of the disclosures made and does not engage in any proactive management of potential conflicts which may arise. Council members are not required to submit any records to substantiate their disclosures.
136. The returns are available for public inspection.<sup>168</sup> A concerned person who is aware of a particular interest held by a council member could apply to inspect the returns and bring any discrepancies to the attention of the City or the council member. In the Inquiry's view, this does not provide adequate or meaningful protection against council members failing to disclose financial interests, failing to disclose conflicts of interest or failing to recuse themselves from decisions which could be affected by a private interest. This risk exists whether the non-disclosure is intentional or inadvertent. In the Inquiry's view, the current disclosure regime and the governance mechanisms which surround it do not adequately support the principle behind the legislation.

## Legislative framework

137. It is also the Inquiry's view the legislative framework governing financial interest disclosures lacks clarity.
138. The requirement under section 5.78(2)(a) of the LG Act for matters to be disclosed only once means a person seeking information about disclosures that have been made by a Relevant Person may need to go back many years to examine the primary return and all annual returns filed by the Relevant Person. The result is the disclosure regime lacks transparency and makes it very difficult for Relevant Persons to be held to account and for local governments to adequately monitor interests that may affect impartiality.
139. It would not be unnecessarily burdensome for those who must complete annual returns to state in each return their real property, income sources, interests in trusts and corporations and their debts for the last financial year. These details are designed by the legislative provisions to be very general in nature and the Relevant Person can be assisted by having a copy of their previous return provided to them to determine if any changes need to be made. Even if no changes are required, the return should still be completed in full.
140. Mr Ridgwell supported this change when he was questioned about the current regime:
- "... would you think that would be something that would assist the City in keeping track of the consistency of returns if in fact each return has to specify exactly what income or what real property is applicable for the last financial year?---Yes, I would agree. I always encourage people to fill out the disclosure as if it's a new disclosure as well, so that you're repeating so that it comes to forefront of mind as well to be able to do that".<sup>169</sup>*

## Gifts

### Statutory framework for the disclosure of gifts

141. Gifts (which now include contributions to travel) are subject to a different disclosure regime than other financial interests. Prior to 4 March 2016, gifts and third-party contributions to travel were to be disclosed in annual returns, similar to income and property interests. Council members were required to provide descriptions and amounts of gifts they received and the names and addresses of the persons who made each gift. From 4 March 2016, these interests had to be disclosed on a rolling basis and with greater specificity.

### Definition of a Gift

142. From 4 March 2016 to the end date of the Inquiry's Terms of Reference, section 5.82 of the LG Act required council members to disclose certain "*gifts*" they had received.<sup>170</sup> It was therefore important all Relevant Persons understood what type of interest constituted a gift, whether a person was permitted to accept that gift and how gifts that were accepted were to be disclosed.

143. The term “*gift*” was defined in section 5.82(4) of the LG Act. Where a provider makes a disposition of property or confers a financial benefit on a council member and the council member does not provide consideration in money or money’s worth or provides consideration that is not “*fully adequate*”, then that property or benefit is likely to be a gift that required disclosure.
144. A gift from a relative of the Relevant Person did not require disclosure<sup>171</sup> and an interest from a disposition of property by a will was not regarded as a gift.<sup>172</sup> Financial or other contributions to travel were not considered to be gifts for the purposes of section 5.82 of the LG Act and were dealt with separately under section 5.83 of the LG Act.<sup>z</sup>
145. The proper construction of the definition of gift in section 5.82(4) of the LG Act was considered by the Court of Appeal in *Scaffidi v Chief Executive Officer, Department of Communities and Local Government* [2017] WASCA 222. The case illustrates the potential complexity that can apply to benefits conferred on council members, particularly where a council member is attending an event or providing services in his or her capacity as a council member.

#### Council members may be required to refuse a Gift

146. Additional regulations applied where the provider of a gift was undertaking or seeking to undertake, or who it is reasonable to believe, was intending to undertake, “*an activity involving a local government discretion*”.
147. A “*gift*” (with minor exceptions) had the same meaning as a gift under section 5.82 of the LG Act. A “*prohibited gift*” was a gift worth \$300.00 or more or a gift that was one of two or more gifts given by the same person within six months that were in total worth \$300.00 or more. An “*activity involving a local government discretion*” was an activity that cannot be undertaken without an authorisation from the local government or an activity by way of commercial dealing with the local government.<sup>173</sup>
148. During the period of the Inquiry’s Terms of Reference, regulation 12(2) of the Conduct Regulations provided a council member must not accept a “*prohibited gift*” from a person who is undertaking or seeking to undertake, or who it is reasonable to believe is intending to undertake, “*an activity involving a local government discretion*”.<sup>174</sup>
149. Regulation 12(3) of the Conduct Regulations required a council member to disclose a “*notifiable gift*” from a person who was undertaking or seeking to undertake, or who it was reasonable to believe was intending to undertake, an activity involving a local government discretion. A “*notifiable gift*” was a gift worth between \$50.00 and \$300.00 or a gift that was one of two or more gifts given by the same person within six months that were in total worth between \$50.00 and \$300.00.<sup>175</sup>

z Section 5.83 has been deleted by *Local Government Legislation Amendment Act 2019*, s 37.

150. A council member was required, within 10 days of accepting the notifiable gift, to notify the CEO in writing that he or she has accepted the gift and include the name of the person who gave the gift, the date on which the gift was accepted, a description and the estimated value of the gift and the nature of his or her relationship with the giver of the gift. If the gift was “notifiable” because it was one of two or more gifts given by the same person within six months that were in total worth between \$50.00 and \$300.00, a council member had to also disclose to the CEO, in writing, a description, the estimated value and the date of acceptance for each other gift accepted within that six month period.<sup>176</sup> The CEO was required to maintain a register of gifts recording the details of the disclosures of notifiable gifts by council members.<sup>177</sup>

#### Content of the duty to disclose gifts

151. If a council member accepted a gift that was not a prohibited gift and was not exempt from the disclosure requirements, he or she had to disclose the gift in accordance with the disclosure requirements.
152. Local governments are also required to adopt a code of conduct to be observed by council members. During the period of the Inquiry’s Terms of Reference, the City had a Code of Conduct which contained provisions on the acceptance and disclosure of gifts by council members and generally replicated the existing statutory obligations.<sup>178</sup>
153. Part 4.5 of Council Policy CP10.1 required the disclosure of the gift to be made in writing to the CEO within 10 days of receiving the gift and it had to include a description of the gift, the name and address of the person who made the gift, the date on which the gift was received, the estimated value of the gift at the time it was made and the relationship between the council member and the person who made the gift.
154. Part 4.5 of CP10.1 also required the CEO to keep a register of disclosures made by council members.

#### Consequences of failing to comply with the disclosure requirements

155. It was an offence for a council member to fail to comply with the requirements of section 5.82 of the LG Act<sup>179</sup> or to provide information in a gift declaration under section 5.82 of the LG Act that the council member knew to be false or misleading in a material particular or likely to deceive in a material way.<sup>180</sup> Those offences were punishable by a fine of \$10,000.00 or imprisonment for two years.
156. Failure by council members to disclose gifts in accordance with regulation 12 of the Conduct Regulations may be dealt with by the Local Government Standards Panel (LGSP) or, where the council member had previously been found to have committed two or more breaches of the Regulations, by the State Administrative Tribunal (SAT). The LGSP and SAT can order the council member be publicly censured or be required to publicly apologise or undertake training. The SAT also has the power to order that the council member be suspended from office for up to six months or be disqualified from holding office for up to five years.

## Non-compliance with gift disclosure requirements

### Ms Lily Chen

157. Ms Chen is a member of the Liberal Party and ran as a Liberal candidate for the seat of Mirrabooka in the 2017 State Elections. She was unsuccessful.<sup>181</sup>
158. On 28 September 2016, Ms Scaffidi and her husband, Mr Joe Scaffidi donated some pottery bowls to benefit Ms Chen's State election campaign. Their estimated total value was \$75.00. Ms Scaffidi gave evidence she intended the bowls to be raffled or used as a door prize at Ms Chen's fundraising event. She arranged to provide them *"in regret of"* being unable to attend the event and pay the fundraising ticket price.<sup>182</sup>
159. On the afternoon of 11 October 2016, Mr Graham Hansen, a Perth resident, emailed Mr Ridgwell and the City's Governance unit with two questions to be raised at the Council's Ordinary Meeting that evening (Council meeting). Mr Hansen requested that Ms Chen be asked whether she had made disclosures to the City about donations she had received in connection with her State election campaign and whether the City had advised Ms Chen that such disclosures needed to be made. Mr Hansen also wanted Ms Scaffidi questioned about her donation of a gift to Ms Chen's election campaign for the seat of Mirrabooka.<sup>183</sup>
160. Mr Ridgwell forwarded this email to Ms Chen.<sup>184</sup> Ms Chen responded 19 minutes later, stating:

*"Noticed with thanks!*

*I accepted the donation on the advice of the CEO. Secondly, I did not use them for my campaign purpose but to donate to Chung wah association for its functions in Chinese New Year in 2017. Thirdly, I do not need to declare until next year's annual return".*<sup>185</sup>
161. Ms Chen and Mr Ridgwell then had a telephone conversation about the issue.<sup>186</sup> About two and a half hours later, Mr Ridgwell responded to Ms Chen by email stating:

*"Just confirming our telephone conversation.*

*You have received crockery from Mr Joe Scaffidi for a nominal value of \$75.*

*A gift declaration is required to be completed on your return to Council House and submitted to the CEO, it is not to wait until the Annual Return process.*

...

*If any of the above is contrary to our discussion, can you please advise".*<sup>187</sup>
162. Ninety minutes later, the Council meeting took place with Ms Chen and Mr Ridgwell in attendance.<sup>188</sup>

163. At some point before 13 October 2016, Ms Chen declared the gift of the bowls using the appropriate gift declaration form (form). She dated the form 10 October 2016. Notably, the form was time-stamped to indicate the CEO Office received the form on 12 October 2016, being the day after the Council meeting. Director, Corporate Services, Mr Mianich, signed for the receipt of the form, instead of the CEO Mr Mileham, and he dated that signature 13 October 2016.<sup>189</sup>
164. The date written on the form by Ms Chen was 12 days after her receipt of the gift. The Council meeting was 13 days after receipt of the gift and the form was stamped as received by the CEO office 14 days after receipt of the gift. On any version of events, Ms Chen had not disclosed the gift within 10 days as it would appear she was required to do. Ms Chen's justification was that she was busy.<sup>190</sup>
165. Ms Chen's evidence on this matter requires careful consideration. Ms Chen said she had not completed the form before the statutory deadline because she was busy. When presented with the email exchange with Mr Ridgwell from 11 October 2016, she then said she had completed the form after the deadline (although before the email exchange). However, she had not submitted it to the City. She said this was because she believed, at the time of completing the form, she was not required to declare the gift in that manner and would not need to declare it until completing her annual return for 2016/2017 in the following year.<sup>191</sup>
166. The Inquiry notes if that was the case, as it had been prior to 4 March 2016, such a disclosure would have been made in the annual return form for 2016/2017 which Ms Chen was required to complete between 1 July 2017 and 31 August 2017.<sup>192</sup> Therefore, the disclosure would not have been made on the separate declaration form which Ms Chen had completed. This form had been created earlier in 2016 for the express purpose of declaring gifts on a rolling basis following the legislative changes to the disclosure of gifts which came into effect on 4 March 2016. That creation date – 9 March 2016 – appears in the footer of the form.<sup>193</sup> The version of events put forward by Ms Chen would render the form she completed entirely redundant.
167. The Inquiry also notes the gift declaration form is split into demarcated sections clearly marked "STEP 1", "STEP 2", and "STEP 3". The direction "STEP 3 – *Submit Declaration to the CEO within 10-days of acceptance of the Gift*" appears in a brightly highlighted text box immediately below where Ms Chen signed and dated the form as part of "STEP 2".<sup>194</sup>
168. Throughout her evidence before the Inquiry, Ms Chen made assertions that her failure to complete other forms was because she was a very busy person.<sup>aa</sup> She also asserted she was too busy to complete this very form within the 10-day timeframe. The Inquiry finds it highly improbable that on this specific occasion, Ms Chen would complete a form she believed to be unnecessary 8–10 months ahead of schedule and retain it in her possession for that period.

aa For example, (i) Ms Chen was too busy to undertake a proper investigation of a request by the City to provide a description of clothes she had claimed a reimbursement: Transcript, L Chen, private hearing, 1 July 2019, p 69 and (ii) Ms Chen was too busy to complete an annual return for 2017/2018 as had been requested by the City: Transcript, L Chen, public hearing, 13 August 2019, p 40.

169. It is also implausible that, if Ms Chen had already completed the form, she did not inform Mr Ridgwell of this fact during a telephone conversation in which he told her this very form was required and directed her to complete it on her return to Council House.
170. Ninety minutes before the Council meeting, it is clear Ms Chen had not submitted the form to the CEO. Mr Hansen's question was put to Ms Chen at the Council meeting and the response was recorded as:

*"Cr Chen advised that she had disclosed the donations by completing the disclosure of interest form and had submitted it to the City of Perth".<sup>195</sup>*

171. At Ms Chen's private hearing, Counsel Assisting put to her she had misled the Council as she had not submitted the form. Ms Chen asserted that, when arriving at the Council meeting, she took the form she had previously completed and, *"just hand it in to Governance or a Director"*. She did not identify the recipient, although Ms Chen said she *"didn't give to CEO, the CEO was sitting on the front with the Lord Mayor"*.<sup>196</sup>
172. Ms Chen only gave this explanation after she was shown the page from the minutes of the Council meeting and asked to read the response she had given to Mr Hansen's question in which she stated she had submitted the form to the City.<sup>197</sup> However, this explanation was completely at odds with her evidence immediately before that:

*"Ms Chen, isn't it the case then that if that's what happened, that you had not completed that Gift Declaration form prior to the Council meeting, that you've misled the Council?---I didn't mislead. I completed but I didn't submit.*

*When you said that you had completed the relevant form?---I did.*

*Had you submitted it?---No".<sup>198</sup>*

173. The Inquiry does not accept Ms Chen's evidence that she completed the form on 10 October 2016. The Inquiry finds Ms Chen completed the form on 11 or 12 October, after a member of the public raised concerns about her disclosures and after Mr Ridgwell explicitly instructed her to do so. The Inquiry finds Ms Chen backdated the form to give the impression she had disclosed the gift of her own volition the day before the Council meeting.
174. The Inquiry also finds Ms Chen may not have disclosed the gift to the City within 10 days of receipt.
175. The Inquiry also finds Ms Chen had not submitted the form to the City before the Council meeting, and may have knowingly misled the Council and the public by stating she had done so during that meeting's Public Question Time.

176. Ms Chen listed the Chung Wah Association as the entity that would benefit from her acceptance of the gift,<sup>199</sup> although she ultimately donated the items to the Jiang Su Association.<sup>200</sup> Ms Chen declared on the form that she had “*relinquished*” the gift to the Chung Wah Association on 29 September 2016, being the day after she received the gift and at least 11 days before she made the declaration.<sup>201</sup> If Ms Chen did donate the bowls to Jiang Su Association, she may have knowingly made a misleading declaration to the City as to who would “*benefit from acceptance of the gift*”.

### Connection between the gift declaration and voting on Council matters

177. Ms Chen also raised a connection between the gift item and a matter that was to appear before the Council in the coming weeks. When Mr Ridgwell forwarded Mr Hansen’s question to Ms Chen there was no reference to voting matters, although Mr Hansen’s question to Ms Scaffidi did raise the matter of Ms Chen being conflicted and unable to vote on the heritage listing of Ms Scaffidi’s building on Wellington Street.<sup>ab</sup> However, in her response, Ms Chen wrote:
- “Fourthly, I do not prepare to vote [on] the heritage item as I accepted the donation from the Lord Mayor on behalf of Chinese Community”.*<sup>202</sup>
178. Mr Ridgwell’s response to Ms Chen was, although she was required to disclose the gift to the City, the gift would not require her, or indeed permit her, to abstain from voting on the heritage matter when it came before Council:
- “I wish to also clarify that the receipt of the Gift is therefore below \$200 and therefore does not make you a closely associated person and you are to consider any matters before Council”.*<sup>203</sup>
179. On 1 November 2016, despite Mr Ridgwell’s advice, Ms Chen declared an impartiality interest in respect of the gift from Mr Scaffidi.<sup>204</sup> However, she ultimately voted on the matter.<sup>205</sup>

ab This matter concerned the potential listing of the Grand Central Hotel on the City’s Heritage Register. Ms Scaffidi and her husband had a significant financial interest in this property.

## Findings

### Finding 2.2.3 – 1

#### Ms Lily Chen

The Inquiry makes the following findings:

- i. Ms Chen did not disclose income in her primary return dated 11 December 2011 and in her annual returns for 2011/2012, 2012/2013, 2014/2015, 2015/2016 and 2016/2017.
- ii. Ms Chen did not disclose interests in real property in her annual returns for 2013/2014 and 2014/2015.
- iii. Ms Chen disclosed the incorrect address for one of her real property interests in her annual returns for 2013/2014 and 2014/2015.
- iv. Ms Chen did not disclose rent as an income source she had received in her annual returns for 2011/2012 or 2012/2013. The Inquiry notes that Ms Chen disclosed the properties from which she received rental income in her annual returns.
- v. Ms Chen did not disclose she was a director of Wayon Pty Ltd in her primary return dated 11 December 2011 and in her annual return for 2011/2012.
- vi. Ms Chen did not disclose she was a director of Global Australia Pty Ltd in her primary return dated 11 December 2011 and her annual returns for 2011/2012, 2012/2013 and 2013/2014.<sup>ac</sup>
- vii. Ms Chen did not file an annual return for 2017/2018 with the City by 31 August 2018.
- viii. Ms Chen did not disclose to the City's CEO Mr Scaffidi's gift within 10 days of receipt.
- ix. Ms Chen backdated the gift declaration form regarding Mr Scaffidi's gift.
- x. Ms Chen gave a misleading answer to a question from the public at the Ordinary Council Meeting on 11 October 2016 regarding her disclosure obligations of the gift she received from Mr Scaffidi.
- xi. Ms Chen produced a statement of information that does not appear to contain all information required to be produced under a Notice dated 1 March 2018 [sic 2019] issued pursuant to section 8A of the RC Act.

ac Although Ms Chen resigned as a director of Global Australia Pty Ltd on 12 September 2013, she was still required to disclose her position in her annual return for 2013/2014 as she was still a director "at any time during the return period": *Local Government Act 1995*, s 5.84(1)(a)(iii).

### Finding 2.2.3 – 2

#### Mr Reece Harley

The Inquiry makes the following findings:

- i. Mr Harley did not disclose rent as an income source he had received from one listed property in his primary return or in his annual return for 2013/2014. In his annual returns for 2015/2016, 2016/2017 and 2017/2018 he did not disclose rent as an income source he had received from any of the listed properties.
- ii. The Inquiry notes that Mr Harley disclosed the properties from which he received rental income in his annual returns. The Inquiry considers Mr Harley's non-disclosure of rent as an income source in those returns should be seen in that context. For that reason, the Inquiry has not referred this matter to the Department.

### Finding 2.2.3 – 3

#### Mr Paul Crosetta

The Inquiry makes the following findings:

- i. Mr Crosetta did not disclose rent as an income source he had received in his primary return dated 7 January 2016 or as an income source in his annual returns for 2015/2016, 2016/2017 or 2017/2018.
- ii. The Inquiry notes that Mr Crosetta disclosed the properties from which he received rental income in his annual returns as "*rented*" or "*investment*" and considers his specific non-disclosure of rent as an income source in those returns should be seen in that context. For that reason, the Inquiry has not referred this matter to the Department.

### Finding 2.2.3 – 4

#### Mr James Limnios

The Inquiry makes the following findings:

- i. Mr Limnios did not disclose he was a director of Limnios Superannuation Fund Pty Ltd in his primary return dated 8 December 2009 and in any of his annual returns for the years 2009/2010 to 2017/2018. The Inquiry has referred this matter to the Department for it to consider whether offences may have been committed under Part 5, Division 6 of the LG Act.
- ii. Mr Limnios did not disclose he had close family members who were his co-directors in Iraklion Group Pty Ltd, Limnios & Johns Pty Ltd, Limnios Superannuation Fund Pty Ltd and Olympic Group Pty Ltd in his AASB Related Party Disclosure form for 2017/2018.

### Finding 2.2.3 – 5

#### Mr Keith Yong

The Inquiry makes the following findings:

- i. Mr Yong did not disclose he was a director of Bon Geste Pty Ltd in any of his annual returns for 2014/2015, 2015/2016 and 2016/2017. The Inquiry has referred this matter to the Department for it to consider whether offences may have been committed under Part 5, Division 6 of the LG Act.

### Finding 2.2.3 – 6

#### Dr Jemma Green

The Inquiry makes the following findings:

- i. Dr Green did not disclose rent as an income source she had received in her annual returns for 2015/2016, 2016/2017, or 2017/2018.
- ii. The Inquiry notes that Dr Green disclosed the properties from which she received rental income in her annual returns and considers her non-disclosure of rent as an income source in those returns should be seen in that context. For that reason, the Inquiry has not referred this matter to the Department.
- iii. Dr Green did not disclose she held a beneficial interest in the Superannuation Trust in the return that she may have been first required to do so or in any other subsequent return when she may have been required to do so. The Inquiry has referred this matter to the Department for it to consider whether offences may have been committed under Part 5, Division 6 of the LG Act.

### Finding 2.2.3 – 7

#### Ms Lisa Scaffidi

The Inquiry makes the following findings:

- i. Ms Scaffidi did not disclose shareholding dividends she had received, in excess of \$500.00, as income in her 2016/2017 or 2017/2018 annual returns.
- ii. Ms Scaffidi did not disclose bank interest she had received, in excess of \$500.00, as income in her 2015/2016 or 2016/2017 returns.
- iii. The Inquiry has referred these matters to the Department for it to consider whether offences may have been committed under Part 5, Division 6 of the LG Act.

### Finding 2.2.3 – 8

#### The City of Perth

The Inquiry makes the following findings:

- i. The City did not undertake a proper analysis of the primary and annual returns filed by council members to ensure they contained all relevant information and were sufficiently detailed to identify potential conflicts that could arise.

## Council member entitlements

### Introduction

1. The Terms of Reference for the Inquiry require it to give due consideration to, and inquire into and report on, among other relevant matters *“whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations”*.<sup>206</sup>
2. The Inquiry is also required to inquire into and report on matters of the aspects, operations and affairs of the City of Perth (City) which may be necessary to determine whether there has been a failure to provide good government, the prospect of good government being provided in the future, and any steps which may need to be taken to ensure that good government happens in the future.<sup>207</sup>
3. The conduct of some council members may have been illegal or improper. Such conduct by a council member is directly linked to good government, particularly where that conduct relates to inappropriate use of entitlements afforded to that person because of his or her status as a council member.
4. Some of the events in this Chapter occurred before the time period stipulated in the Terms of Reference commenced. The Inquiry is authorised to inquire into and report on a period before 1 October 2015, if it considers that to be necessary for the purpose of properly discharging its functions, and placing the matters inquired into within a relevant context in the circumstances.<sup>208</sup>
5. The Inquiry considers that the use of the dining room by council members prior to 1 October 2015 contextualises the use of the dining room within the period covered by the Terms of Reference.

### Issues considered by the Inquiry

6. The Inquiry has identified seven significant issues that relate to the potential misuse of council members’ entitlements.
7. First, whether certain City council members misused their entitlements to entertain guests in the City of Perth Council (Council) dining room (dining room).
8. Secondly, whether the administrative arm of the City failed to properly address any misuse by council members of their entitlements to entertain guests in the dining room.
9. Thirdly, whether Ms Lisa Scaffidi as the Lord Mayor failed to take the appropriate action to prevent the misuse by council members of their entitlements to entertain guests in the dining room.
10. Fourthly, whether any council members misused their entitlements to entertain guests at restaurants within the City when the dining room was unavailable by seeking reimbursements of the costs from the City.

11. Fifthly, whether the Administration failed to properly address any misuse by council members of their entitlements to entertain guests at restaurants within the City when the dining room was unavailable.
12. Sixthly, whether Mr Jim Adamos claimed reimbursement from the City of costs that were not associated with his attendance at Council-related functions or activities.
13. Seventh, whether the Administration failed to properly consider Mr Adamos's claims for reimbursement of costs purportedly associated with his attendance at Council-related functions.

## Investigation by the Inquiry

### Witnesses

14. The Inquiry held private and public hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members Ms Scaffidi, Mr Adamos, Mr Rob Butler, Ms Lily Chen, Ms Janet Davidson, Dr Jemma Green, Mr Reece Harley, Mr James Limnios, Ms Judy McEvoy, Mr Keith Yong;
- Mr Martin Mileham, CEO; and
- Mr Mark Ridgwell, Manager, Governance.

## Evidence obtained by the Inquiry

### Summary and reconciliation of the relevant evidence

15. There is no doubt that council members commit themselves to performing many hours of unpaid work. Although they receive attendance fees for committee and council meetings,<sup>209</sup> only the Lord Mayor is entitled to receive a salary.<sup>210, (ad)</sup>
16. During the period of the Inquiry's Terms of Reference a council member (including the Lord Mayor) was, however, able to claim reimbursement for certain expenditure incurred in the performance of his or her duties and was entitled to a limited use of the dining room to entertain guests at the City's expense.
17. The City maintains a comprehensive Policy Manual which contains a variety of policies relevant to the operation of the City and its Council. A copy of this Policy Manual was provided to each council member upon being elected to Council for the first time<sup>211</sup> and was regularly updated.

ad Council Policy 10.5 provides that the Lord Mayoral allowance is to be set at the maximum level within the appropriate band for the City determined by the Salaries and Allowances Tribunal: Policy, City of Perth Council Policy Manual, CP10.5, Council Member Allowance and Meeting Attendance Fees, 30 April 2015, p1.

The Policy Manual included policies relevant to:

- the circumstances in which council members could provide hospitality on behalf of the City to their invited guests in the dining room; and
- the reimbursement of council members for certain expenditure incurred in the performance of their duties.

### Council Policy CP10.12 – Provision of Hospitality

18. Council Policy 10.12 (CP10.12) is a three-page document setting out, among other things, the catering services provided by the dining room. During the period of the Inquiry's Terms of Reference, CP10.12 stated that its objective was to determine "*the nature and extent of catering services for civic functions and official meetings*".<sup>212</sup>

19. The relevant portions of CP10.12 read as follows:

*"POLICY STATEMENT*

*The Council acknowledges that as Western Australia's Capital City local government, it has unique civic responsibilities to receive and host visiting dignitaries, significant business partners and corporations, community organisations, and residents and ratepayers of the City.*

*The Council shall maintain a limited hospitality facility available to Elected Members to assist them to meet their unique civic responsibilities on the following basis:—*

*1. Dining Room*

*The dining room being available to Elected Members from 12.30 pm to 3.30 pm on Fridays, excluding the second Friday of each month, and 7.30 pm to 10.30 pm on the second Friday of each month and on one Saturday per month (except December). The following must be adhered to in relation to Council Members use of the dining room:—*

*...*

*1.2 a maximum of ten guests, including members' spouses, are permitted in the Dining Room. Any additional guests must be noted and referred to the General Purposes Committee;*

*1.3 a guest book identifying the main guest of honour at each function is to be maintained;*

*...*

*1.7 bookings for the use of the Dining Room must be made through the councillors' Resource Officer;*

*1.8 the Dining Room is available to Freeman during regular Dining Room hours on Fridays with a maximum of three guests, including Freeman's spouses;*

*...*

*1.9 Elected Members may use restaurants (within the City of Perth area) for hospitality purposes on Fridays or for Saturday Dinners if there are insufficient numbers to meet the minimum catering requirement for the City of Perth Dining Room, being 10 people; or where the Dining Room is fully booked".<sup>213</sup>*

20. CP10.12 is to be read in conjunction with Council Policy 10.8 (CP10.8) which is titled “Office Accommodation – Elected Members”. Part of the Policy Statement for CP10.8 states: “The Reception Suite at Council Chambers and Committee Rooms and dining room are not to be used for other than official functions”.<sup>214</sup>
21. There is no ambiguity in CP10.8 or CP10.12 as to the limitations placed on the use of the dining room by council members. CP10.8 stipulates that the dining room is “not to be used for other than official functions”. Likewise, CP10.12 states that the use of the dining room is a “limited hospitality facility available to Elected Members to assist them to meet their unique civic responsibilities”. Those unique civic responsibilities arise from the fact that the Council is “Western Australia’s Capital City local government”.
22. The City’s Council Policy Manual did not impose a financial threshold upon council members for the expenses they incurred in their use of the dining room. Ms Davidson gave evidence that she believed each council member could use the dining room up to \$12,000.00 annually.<sup>215</sup> Similarly, Mr Yong told the Inquiry that he asked what was the budgetary limit for the use of the dining room and was told it was \$12,000.00 by Mr Dale Quinlivan (the Manager, Executive Support).<sup>216</sup> Mr Ridgwell was also aware of the \$12,000.00 limit, but could not say from where it originated.<sup>217</sup>
23. From documents in the Inquiry’s possession, it is evident that for a number of years the City’s Budget Item “Dining Room – Catering Supplies and Beverages” was allocated to council members and “Freeman” on the following basis:
  - ninety-ninths of the balance was uniformly allocated to each of the nine council members; and
  - one-tenth of the balance was allocated to “Freeman”.<sup>218</sup>
24. As at June 2015, the annual amount of \$12,000.00 (which had “been nominally set for a number of years”) had been allocated to each council member for their use of the dining room.<sup>219</sup>
25. Notwithstanding the Council policies that mandated limited use of the dining room for council members to entertain guests at the City’s expense, evidence before the Inquiry clearly established that some council members flagrantly ignored the limitations that their own policies had set down and invited guests for their own self-interest instead of the City’s interest.

### Council Policy CP10.6 – Elected Members – Reimbursement of Expenses

26. Council Policy 10.6 (CP10.6), titled *“Elected Members – Reimbursement of Expenses”*, stated that its objective is to *“provide for the reimbursement of expenses incurred by an Elected Member while performing his or her duties”*.<sup>220</sup> During the period of the Inquiry’s Terms of Reference, parts 1.1 to 1.8 of CP10.6 provided for the reimbursement of costs associated with a broad range of travel and incidental expenses including attending conferences, travel and parking, professional development, interstate and overseas travel, childcare costs, telephone/facsimile costs, protocol use, spectacles and other aids, personal donations and an electronic diary.<sup>221</sup>
27. Relevantly, part 1.9 of CP10.6 also stated that the City shall meet costs associated with a council member’s *“clothing apparel, drycleaning, personal presentation and incidental costs associated with a member’s attendance at Council-related functions and activities”*.<sup>222</sup>
28. Part 3 of CP10.6 provided that the costs in part 1 were to be met by the Council up to a limit of \$13,360.00 in each financial year. Part 6 of CP10.6 provided that a record of all council member reimbursements was to be maintained.
29. The above provisions in CP10.6 operated throughout the period of the Inquiry’s Terms of Reference except for an amendment to part 1.9, effected on 21 November 2017, that inserted *“to a maximum claimable amount of \$3,000.00 per annum”* and deleted *“and incidental costs”* with respect to a council member’s attendance at Council-related functions and activities.<sup>223</sup>
30. Evidence before the Inquiry established that one council member claimed for reimbursement of costs from the City pursuant to part 1.9 that he was not entitled to claim. These costs were met by the City.

#### Issue (1): Whether council members misused the dining room

31. Seven of the nine council members who were suspended in March 2018 were questioned about their use of the dining room.<sup>ae</sup> Two former councillors were questioned, namely, Mr Butler and Ms McEvoy.



City of Perth Council dining room.

<sup>ae</sup> Mr Hasluck and Ms Barton were not questioned due to their short time as council members before the suspension and their very limited use of the dining room.

### Mr Rob Butler

32. Mr Butler was a council member for the City from 3 May 2003 until 21 October 2015 when he failed to be re-elected. He was the Deputy Lord Mayor from 22 October 2013 to 21 October 2015.<sup>224</sup> In the last full financial year that he was a council member, Mr Butler had used up his annual dining room allowance of \$12,000.00 and made arrangements with his fellow council member, Ms Davidson, to access the unused portion of her allowance.<sup>225</sup>
33. When questioned about his use of the dining room, Mr Butler was frequently non-responsive and evasive. He was argumentative and many of his answers lacked veracity and consistency.
34. When asked what were the restrictions on the guests that a council member could invite to the dining room he answered, *“there was nothing in the policy that restricted who you could invite”* although he then added, *“You couldn’t just invite every Tom, Dick and Harry”*.<sup>226</sup>
35. He then confirmed it was his recollection:
  - there was nothing in the City’s policy that restricted who a council member could invite to the dining room;
  - that council members could entertain guests for private events that were not related to Council business; and
  - guests could be invited by a council member with respect to a matter that was not related to the council member’s civic responsibilities.

Mr Butler maintained these scenarios would comply with the Council policy.<sup>227</sup>

36. Mr Butler admitted that there were occasions when he invited personal friends who were either ratepayers or non-ratepayers.<sup>228</sup>
37. After agreeing that there was no point having a Council Policy Manual unless the policies were complied with, Mr Butler was shown the relevant provisions of CP10.8 and CP10.12.<sup>229</sup> Nevertheless, when asked whether he always complied with the council policies regarding the use of the dining room, Mr Butler answered “yes”.<sup>230</sup>
38. Notwithstanding the above evidence, Mr Butler then provided these answers:

*“Are you saying that you did not abuse your use of the dining room?*  
*---I’m saying that, yes.*  
*That every single guest you had fell within the provisions of the Council Policy Manual that I’ve taken you to?---No.*  
*No, they didn’t?---I mean, you say yes or no and it’s – if that’s what you want, yes or no but, you know – yes or no. The answer is no.*  
*Mr Butler, I just want the truth. So there were some guests of yours who didn’t fall within Council policy?---Correct”*.<sup>231</sup>

39. Mr Butler then gave evidence that there was “*an acknowledgement between the councillors*” that for a Saturday night dinner at the dining room, council members could invite family and friends as their guests. This convention, according to Mr Butler, came into effect in 1998 as council members held the view they were entitled to do this because of the hours they had put in.<sup>232</sup>
40. Mr Butler was then asked the following questions:
- “So the ratepayers who weren’t invited, what view do you think they would take of that?---Well, what view? The view might be, you do work your butt off so therefore, you’re entitled to it, go for it.*
- You’re entitled to it?---Make it happen.*
- Then it just makes a mockery of the Council’s policy on these matters, doesn’t it?---Not a total mockery, no.*
- What, a half mockery then?---Yes.*
- A partial mockery?---Yes.*
- It’s a mockery, isn’t it?---It’s a yes or a no and if it’s a yes, no and if it’s a no, no.*
- It’s completely ignoring Council policy, isn’t it?---No, not completely because there’s more in the policy than just the Saturday night.*
- The policy makes it clear that it’s a ‘limited hospitality facility available to council members to assist them to meet their unique civic responsibilities’?---That’s right.*
- A free meal for friends and relatives, that doesn’t meet your civic responsibilities, does it?---I think it goes more than just a free meal, I think it goes to the time and effort and the conversation around the table in reference to the City of Perth and so forth. So it’s more than just a free meal.”<sup>233</sup>*
41. Mr Butler’s evidence was contradictory and inconsistent. At times it was fanciful, such as when he asserted that every ratepayer of the City was his friend.<sup>234</sup> His justifications for using the dining room in the way he did were not only in breach of Council policy, but entirely unmeritorious. The Inquiry is only prepared to accept his evidence on relevant issues where it is against his own interests.
42. Mr Butler admitted that he never identified his main guest of honour for any function that he hosted in the dining room as required by part 1.3 of CP10.12.<sup>235</sup>

### Ms Janet Davidson

43. Ms Davidson was elected in February 1998 and remained a council member until she resigned from her position on 27 May 2019.<sup>236</sup>

### Dining room expenditure

44. Ms Davidson was an extensive user of the dining room. Over the 29-month period of the Inquiry's Terms of Reference, she entertained 269 guests at a total cost to the City of \$20,260.80. Although she did not use the dining room to entertain any guests after October 2017, the average monthly cost to the City for Ms Davidson and her guests still came to just under \$700.00.

45. Ms Davidson gave evidence that council members could invite anyone to the dining room and that she would be entitled to invite her husband and eight other guests who were friends of hers and not City ratepayers.<sup>237</sup> She believed that a council member could have lunch for family and friends for somebody's birthday, although she did not "think it would make a very good look". Ms Davidson was then asked these questions:

*"So you know of occasions when councillors would have guests that weren't ratepayers and that the function was clearly not related to any Council related matters, would that be fair to say?---Yes.*

*And you believe that councillors were entitled to do that?---Yes.*

*And their meals would be paid for by the City?---Yes.*

*Including their drinks?---Yes.*

*Which included alcohol?---Yes".<sup>238</sup>*

46. Counsel Assisting later asked:

*"Council policy should be followed at all times by councillors, should it not?---Yes.*

*Otherwise there's not much point in having a policy, is there?---No.*

*You don't want to honour a policy more in its breach than its practice, would you?---No.*

*Otherwise, there's not much point having it?---M'mm.*

*Commissioner: Indeed, isn't it the role of a councillor to lead by example in that regard?---Yes".<sup>239</sup>*

47. After being taken through the relevant provisions of CP10.8 and CP10.12, Ms Davidson was asked "So where did this entitlement come that councillors could just use the dining room [without any restrictions] at ratepayers' expense?" She said "I can only say normal practice". Ms Davidson stated that this practice was in place when she began serving as a council member in 1998.<sup>240</sup>

48. Ms Davidson was asked the following questions by the Commissioner:

*“Explain to me, please, Ms Davidson how it is proper behaviour for a councillor to entertain family and friends in the dining room in the way that you did when the Council policy does not permit it?---I understand that. As I said, accepted practice.*

*How was that proper behaviour for a councillor? If you have some explanation, I would like to hear it?---Yes. Other than the dining room was made available to council members in order to give dining opportunities to a variety of people.*

*But you know that wasn’t my question, don’t you?---Yes.*

*How was it proper behaviour for a councillor, who should lead by example and follow the Council’s policy, to entertain family and the friends in the way what you did?---That is true according to these guidelines now.*

*It wasn’t proper behaviour, was it?---No”.*<sup>241</sup>

49. Ms Davidson agreed that the unrestricted use by council members of the dining room was a considerable benefit that council members would not necessarily want to have stopped. She also agreed that it would be useful for councillors to turn a blind eye to what was stipulated in the Council Policy Manual.<sup>242</sup>
50. Ms Davidson agreed that it was “extraordinary” that the Council policy regarding the use of the dining room by council members was not followed and that it was also extraordinary that it had to be pointed out to her, being a councillor of 20 years, what the Council policy was with respect to the dining room.<sup>243</sup>
51. Ms Davidson accepted that in regard to the Council policy, the use of the dining room to entertain the friends of council members was an “appalling use of Council moneys”.<sup>244</sup>
52. Ms Davidson was asked:
- “Did you ever consider that [what view the ordinary ratepayer would have] as you sat down with nine or 10 of your friends?---I always appreciated what I received and as I say, it was by practice that those times for the dining room occurred.*
- But did you ever consider, is this really right? Should I be entitled to this? Did that thought ever cross your mind?---No.*
- Why not?---Just something that you actually did.*
- No pangs of guilt?---I can’t [say] that you’re making me feel terribly good about it, so I would agree with you, there probably is [sic] pangs of guilt.*
- Not at the time though?---No, I – no”.*<sup>245</sup>

53. The Commissioner then asked:

*“And when entertaining them [family and friends], did you consider that to be ethical behaviour?---At the time, yes, because the dining room was there to be used”.*<sup>246</sup>

Ms Davidson deliberately ignored the Council’s own policies with respect to the use of the dining room, policies that she admitted she would have read. She maintained that the Council policies were *“not pointed out by admin”*.<sup>247</sup> That is not correct as the Inquiry has sighted written memoranda from 2001 and 2005 addressed to the Lord Mayor and council members at the time (which included Ms Davidson) regarding the use of the dining room.<sup>248</sup> Ms Davidson displayed a lack of understanding of the inappropriateness of her excessive and improper use of the dining room in her 20 years as a council member. Of all the council members questioned about their misuse of the dining room, the Inquiry finds Ms Davidson’s self-entitlement and justification of her over-usage the most reprehensible.

### Mr James Limnios

#### Hospitality expenditure

54. During the 29 months of the Inquiry’s Terms of Reference, Mr Limnios entertained 269 invited guests in the dining room at a total cost to the City of \$20,399.43. This equated to a monthly expenditure of just over \$700.00. In the 2016 calendar year, he invited 186 guests to the dining room at a cost of \$13,712.93.
55. When asked whether there were any restrictions placed on the type of guests a council member could invite to the dining room, Mr Limnios stated that ratepayers, residents, business people and people that the council member was encouraging to be part of the City could be invited and that the *“dining room was there to support your role as a councillor”*. He admitted inviting relatives including his wife,<sup>af</sup> his father, his mother, his two sisters and his godfather.<sup>249</sup> Mr Limnios understood that the entertaining of guests in the dining room had to be connected with his civic responsibilities as a council member. He maintained that he was still performing his civic responsibilities when he invited his friends who had no connections to the City, because he was *“promoting the City”*. He denied taking such friends to the dining room because it meant that neither he nor his friends would have to pay for it.<sup>250</sup>
56. Mr Limnios admitted that an estimated 5–10 per cent of his guests were friends or relatives,<sup>251</sup> but he claimed that *“in most instances”* the people he invited had connections with the City.<sup>252</sup>
57. Mr Limnios said that when he would invite his friends, the civic responsibility he was exercising was that he was *“encouraging people to come to the City and be involved with the City”*.<sup>253</sup> He claimed that in return for the City’s investment in his use of the dining room, the City received *“promotion, support, encouragement”*.<sup>254</sup>

af Spouses of council members were permitted to attend the dining room: Policy, City of Perth, CP10.12, Provision of Hospitality, 22 February 2011.

58. These “returns” are ambiguous and unquantifiable. Even if these returns were achieved by Mr Limnios’s use of the dining room, the Inquiry does not accept it was a cost-efficient method of achieving them. When taken through the relevant Council policies regarding the council members’ entitlements to use the dining room, Mr Limnios admitted CP10.12 was not always adhered to and that it seemed nothing was done to stop this.<sup>255</sup>
59. Mr Limnios was at times evasive and non-responsive when asked questions regarding his personal use of the dining room. The Inquiry finds that his answers were self-serving and were, at times, not entirely accurate. The Inquiry does not accept that his invitations to his friends and relatives to dine at the dining room were motivated solely for the purpose of promoting the City. The Inquiry finds a reasonable inference can be drawn that because these guests were either Mr Limnios’s friends or relatives, there was a personal benefit for him and his guests to have a meal without paying for it. It can reasonably be inferred that this fact would have been a motivation for Mr Limnios to make use of the dining room to entertain guests he was related to or who were his friends.
60. Even if it is accepted that Mr Limnios invited his friends and relatives for the vague purpose of promoting the City, he was still in breach of the Council policy regarding the use of the dining room as it was not being used as a “limited hospitality facility” available to Mr Limnios to assist him to meet his “unique civic responsibilities” as a council member of “Western Australia’s Capital City local government”.<sup>256</sup>
61. Although the existence of a fine-dining facility with expansive river views may have been unique to this particular local government, that fact did not mean Mr Limnios’s civic responsibilities entitled him to invite his own friends and relatives who had no connection to the City for a meal; the cost of which was incurred by the City. The Inquiry accepts the evidence from Martin Mileham, the City’s Chief Executive Officer (CEO), as to the type of guests permitted to use the dining room:

*“Was it your understanding that the dining room shall only be used by Elected Members if they had guests that were somehow connected to the City?---Yes.*

*Say in the sense that they had business dealings with the City or there were other Councillors from other Cities attending as guests, things like that?---Yes, the overarching City business.*

*Would that extend though to just inviting friends who might happen to be ratepayers of the City of Perth?---Might happen to be wouldn’t be a great reason. If they were being invited for specific stakeholder work under the auspices of the City, maybe, but certainly just a general invite ‘Come and have lunch’, I wouldn’t think would be appropriate”.<sup>257</sup>*

62. The requirement in part 1.3 of CP10.12 identifying the main guest of honour in a guest book is consistent with Mr Mileham's evidence that a friend of a council member (whether a ratepayer or not) could be invited if he or she was involved in specific stakeholder work for the City. In these situations, the identification of a main guest of honour would be a relatively simple exercise. In circumstances where a council member was only inviting friends and relatives for the generic purpose of promoting the City, it would be difficult to identify a genuine main guest of honour within the group as there is no good reason to specially honour one guest over any other. The Inquiry notes it is therefore unsurprising that many council members failed to comply with part 1.3 of CP10.12.
63. As to Mr Limnios's estimate that his friends and relatives only represented 5–10 per cent of the total number of guests that he invited, the Inquiry finds that this estimate may be inaccurate. Mr Limnios did not remember ever recording his guest of honour when attending the dining room.<sup>258</sup> Nor was he ever asked to provide the names to the City of the guests he was inviting and he was uncertain how often he would email his guests' names to Cecelia Firth, the City's Resource Officer for council members. It is therefore not possible for the Inquiry (or indeed Mr Limnios) to verify the accuracy of his estimates. When asked whether he was sure it was not more than 5 or 10 per cent, Mr Limnios answered: *"I wouldn't know"*.<sup>259</sup>

### Mr Keith Yong

#### Hospitality expenditure

64. From 1 October 2015 to when he failed to be re-elected on 21 October 2017, Mr Yong invited 299 guests to the dining room at a total cost \$21,517.36. He therefore spent on average over \$850.00 a month entertaining guests. In the calendar year 2016, he invited 171 guests at a cost of \$11,587.73. Mr Yong was one of the most prolific users of the dining room. For the financial years 2015/2016 and 2016/2017, he hosted 306 guests incurring a total cost of \$21,870.72 for the City.<sup>260</sup>
65. When asked whether there were any restrictions placed on who he could invite to the dining room, Mr Yong stated that he was not aware of any restrictions placed by the City and he understood he could invite whoever he wanted. When he was asked where he got that understanding from Mr Yong stated that it was *"the City"*. However, he conceded that although he asked Mr Quinlivan about what the annual limit was on council members' expenditure in the dining room, he never asked whether there were any limits on the type of guests he could invite. Mr Yong admitted that he broadly interpreted the term *"guest"* and that he did not confine his guests to those he invited when he was carrying out his civic responsibilities. That meant he could entertain his own guests for personal reasons, including friends and relatives and their meals would be paid for by the City.<sup>261</sup>
66. Even though Mr Yong had read the Council policies and that he remembered they placed limitations on council members' use of the dining room, he agreed he did not abide by those policies.<sup>262</sup>

67. The Inquiry accepts that there were occasions when Mr Yong used the dining room in accordance with the provisions of CP10.12.<sup>263</sup> However, the Inquiry also finds that there were many occasions when he entertained guests purely for his own personal reasons without undertaking any of his civic responsibilities. With respect to these occasions his evidence was candid and contrasts sharply with the evidence of Mr Limnios referred to above. Mr Yong's evidence included the following admissions:

*"What about the guests that came and dined out at the City's expense who were just your friends and relatives, what return from that expenditure did the City receive?---None.*

*None, is that your answer?---No, just purely entertain friends and relatives.*

*Your own personal entertainment?---Yes".<sup>264</sup>*

68. The Inquiry also accepts Mr Yong's concession that he ignored Council policy when he used the dining room for those purposes.<sup>265</sup>

69. The Inquiry also accepts the accuracy of Mr Yong's answer to the following question, which concerned the behaviour of council members using the dining room for personal reasons:

*"So what would you think the ordinary City of Perth ratepayer would think of that behaviour?---Unacceptable".<sup>266</sup>*

70. By Mr Yong's own admissions, he clearly breached CP10.8 and CP10.12. In contrast to the evidence of some other council members, he made no attempt to justify his behaviour with implausible explanations.

71. Mr Harley recalled an occasion in the dining room in the lead up to the October 2017 election when he observed Mr Yong hand out yellow coloured voter enrolment forms to his guests at the end of their dinner.<sup>267</sup>

72. Mr Yong gave inconsistent accounts as to whether he did hand out such forms to his guests after entertaining them in the dining room. Although he admitted he had handed out the yellow coloured voter enrolment forms to his close friends and relatives, he at first could not recall if he had handed out such forms to his guests in the dining room. He then maintained that it *"definitely did not happen"*. His explanation as to why he would not do that was, because it would not be proper for him to be giving out such forms in the dining room.<sup>268</sup> The Inquiry does not accept Mr Yong's eventual denials that he had not handed out voter enrolment forms to his guests on an occasion in the dining room. Given Mr Yong's evidence that he would invite his friends to the dining room for purely personal reasons, the Inquiry accepts the evidence of Mr Harley.

73. The Inquiry finds that Mr Yong behaved improperly by not only inviting his friends as guests to the dining room but also, on one occasion, handing out voter enrolment forms to his guests after they had dined there. The Inquiry finds, to the required standard, that part of Mr Yong's motivation in inviting guests on this occasion was to hand out voter enrolment forms to support him in the forthcoming election.

## Ms Lily Chen

### Hospitality expenditure

74. Over the 29 months of the Inquiry's Terms of Reference, Ms Chen entertained 332 guests in the dining room at a cost of \$23,440.68. This was an average monthly expenditure of over \$800.00.
75. An examination of Ms Chen's financial year use of the dining room is telling, as the \$12,000.00 limit was based on a financial rather than calendar year. For the financial year 2015/2016, Ms Chen had expended \$11,963.53 entertaining 179 guests by April 2016. She did not use the dining room for the last two months of that financial year, because she had almost reached her \$12,000.00 limit.<sup>269</sup> For the financial year commencing 1 July 2016, Ms Chen had entertained 151 guests in the dining room to the end of November 2016<sup>270</sup>; a monthly average of 30 guests. She did not use the dining room again for the balance of that financial year.<sup>ag</sup> From 1 July 2016 to 25 November 2016 Ms Chen incurred costs of \$10,782.25 at a monthly average of above \$2,150.00.<sup>271</sup>
76. From 1 July 2015 to 25 November 2016 (in other words just under 17 months), Ms Chen incurred costs of \$22,745.78 entertaining 330 guests in the dining room. That represents a monthly average of entertaining nearly 20 guests at a cost to the City of over \$1,300.00. There was no evidence before the Inquiry that Ms Chen exceeded her \$12,000.00 limit in any financial year, although she admitted that it was likely she used close to this amount for the other years she was a council member.<sup>272</sup>
77. Ms Chen admitted to using the dining room to entertain her immediate family and she agreed that Council policy did not permit her two children to be invited. She justified inviting her children because there was an unwritten rule that councillors were permitted to invite family members and that this had been in place for many years.<sup>273</sup>
78. Ms Chen also admitted to inviting friends who were ratepayers to the dining room, which she maintained was a discharge of her duties as they spoke about Council issues. Ms Chen made the implausible assertion that she had to invite ratepayers to the dining room if they expressed a wish to see it.<sup>274</sup> After admitting that she overused the dining room, Ms Chen admitted she entertained guests that she should not have in the dining room and that had happened on more than just an isolated occasion.<sup>275</sup> She did, however, deny using the dining room to entertain guests for her own personal business reasons, because *"this is my own conscience, my choice, principle in life"*.<sup>276</sup> The Inquiry rejects that evidence of Ms Chen. The Inquiry accepts the evidence from other witnesses that on two known occasions she entertained guests at the dining room purely to advance her own personal business dealings and/or political standing at a State level. These occasions are dealt with elsewhere in this Report.
79. When asked about what benefit her use of the dining room brought to the City, Ms Chen said that some of her guests raised issues of general concern, which she reported back to the Administration to take action. However, she admitted that the dining room was an unnecessary location for these conferrals, which she agreed could have been communicated to her over the telephone or over a coffee.<sup>277</sup>

ag This non-use of the dining room coincided with the time that Ms Chen took a number of months leave of absence from the Council in order to contest the March 2017 State election.

80. Ms Chen's answers to questions regarding her personal use of the dining room were frequently non-responsive and evasive. Questions often had to be repeated and many of Ms Chen's answers were self-serving, inaccurate or implausible.
81. The Inquiry finds that during the period of the Inquiry's Terms of Reference, Ms Chen deliberately breached the Council policy regarding her use of the dining room. She was an unreliable witness and her evidence on relevant issues is only accepted where it involves admissions against her interests.

### Mr Jim Adamos

#### Hospitality expenditure

82. During the period of the Inquiry's Terms of Reference, Mr Adamos entertained 275 guests either at the dining room or city restaurants at a total cost to the City of \$20,514.61. This equated to an average monthly cost of just over \$700.00.
83. Mr Adamos admitted he misused the dining room by inviting extended members of his family. His explanation was that he "*made the mistake of misusing the policy at that time*", although he was not able to offer an explanation as to why he made that mistake. He said that he did not remember the convention or unwritten agreement amongst council members that on a Saturday night the dining room could be used to entertain friends and relatives.<sup>278</sup>
84. Mr Adamos admitted that on approximately "*half a dozen times*" in his seven years as a council member he had only his wife and extended family members as his guests in the dining room. He admitted this was "*poor judgment*" on his part. Like other council members who were questioned regarding this, Mr Adamos agreed there was no point having a Council policy regarding the restricted use of the dining room if those restrictions were simply going to be ignored.<sup>279</sup>
85. Mr Adamos admitted that he invited his friends to the dining room, although he maintained they were only friends of his who he had first met as stakeholders or ratepayers of the City and whom he had subsequently befriended. He denied that he would invite these friends for personal reasons and said that the reason for the invitation "*would have been about the City*".<sup>280</sup>
86. The Inquiry finds that Mr Adamos misused the dining room by inviting extended members of his family as guests. The question whether Mr Adamos misused the dining room by inviting his friends for the reasons he gave is more difficult to answer. For example, the Inquiry was unable to test the accuracy of Mr Adamos's evidence that the friends he invited were only those individuals he had first met as stakeholders or ratepayers of the City and who subsequently became his friends. That is because the City did not require that records be kept of the names of invited guests to the dining room. Mr Adamos did not even follow the Council policy requirement that the main guest of honour of each function be identified in the guest book.<sup>281</sup> The Inquiry was also unable to test Mr Adamos's evidence that the inviting of his friends "*would have been about the City*" as there was no Council policy requiring council members to identify the precise reason for the invitation. Though these matters are addressed in the Inquiry's recommendations, the lack of such records hindered the Inquiry's efforts to independently verify Mr Adamos's account.

87. The large number of guests Mr Adamos entertained during the period of the Inquiry's Terms of Reference does give rise to a suspicion that he may have entertained his friends in the dining room in circumstances that were not necessary to assist him to meet his *"unique responsibilities"* as a council member of *"Western Australia's Capital City local government"*.<sup>282</sup> However, as the evidence falls short of establishing that fact to the required standard, the Inquiry makes no finding that Mr Adamos misused the dining room by inviting stakeholders and ratepayers who were his friends.

#### Other council members' use of the dining room

88. The council members referred to above extensively used their entitlement to entertain guests in the dining room. Leaving aside Mr Butler who was not re-elected in the October 2015 elections, the other five council members each incurred costs of over \$20,000.00 in their use of the dining room during the period of the Inquiry's Terms of Reference.
89. The other council members' expenditure during that time was far less. Ms Scaffidi entertained 139 guests at a cost to the City of \$10,109.82. Given her position as the Lord Mayor, the Inquiry finds that this cost reflects a reasonable use of the dining room.
90. Use of the dining room by Ms McEvoy, Mr Harley, Dr Green, Ms Barton and Mr Hasluck during the period of the Inquiry's Terms of Reference was either minimal or non-existent. The Inquiry finds, unlike other council members, these individuals were able to perform their *"unique civic responsibilities"* in a manner that didn't require incurring significant costs for the City by their use of the dining room.
91. Dr Green gave evidence that she used the dining room just once when she invited her husband, her mother, her parents-in-law and her sister-in-law. Dr Green admitted that there was only one *"bona fide ratepayer"* amongst her guests (being her husband), but this was a justification she was given that would permit her to use the dining room. She could not recall how or from whom she got that information.<sup>283</sup>
92. Dr Green was of the view that had she regularly invited her relatives to the dining room then that would not have been appropriate. However, the one occasion that she did was for the purpose of understanding what the experience was like and what she could use it for in her role. In those circumstances she did not feel it was an inappropriate use of resources.<sup>284</sup>
93. Considering her explanation and given Dr Green's known opposition to the excessive use of the dining room by council members, the Inquiry does not make any adverse finding against Dr Green for her one-off use of the dining room.
94. Mr Harley's use of the dining room was minimal. Although he did admit to inviting friends who were not stakeholders of the City, this was in circumstances where stakeholders of the City had also been invited. Mr Harley further admitted that when he was first elected he did make use of the dining room *"... from time to time, but there reached a point in time where I formed the view that it was being misused and I stopped making bookings"*.<sup>285</sup> He agreed that it was only then his *"ethical considerations eventually prevailed"*.<sup>286</sup>

95. The Inquiry heard hearsay evidence from Mr Adamos regarding Mr Harley's alleged use of the dining room for a buck's party. Mr Adamos did not witness this alleged use and had only heard about it from other council members who he couldn't identify. He did not ask Mr Harley if he had ever held such an event.<sup>287</sup> Due to the hearsay nature of Mr Adamos's evidence, his inability to recall who told him and the lack of any reliable corroboration of the event, the Inquiry finds that Mr Harley did not misuse the dining room for a buck's party.
96. Like Dr Green, Mr Harley was known for his opposition to the use of the dining room beyond what was contained in CP10.12. However, unlike Dr Green, he did invite guests to the dining room on more than one occasion in circumstances which he accepted was clearly a misuse of the dining room. With respect to those occasions he was asked:  
*"And, by your own admission, even though you weren't a principal offender, as it were, you did take advantage of it for a while?---Yes at the beginning, but not to a great extent, and you would, I believe, have access to the figures if you've requested them from the City. Councillors were provided with quarterly statements".*<sup>288</sup>
97. An examination of the City's expenses spreadsheets for Mr Harley supports his evidence that during the period of the Inquiry's Terms of Reference he was not misusing the dining room to any significant extent. In those circumstances, the Inquiry does not make an adverse finding against Mr Harley regarding his use of the dining room.<sup>289</sup>
98. Ms McEvoy, who was a councillor from 1997 to 2017,<sup>290</sup> was the most experienced council member during the period of the Inquiry's Terms of Reference. Ms McEvoy used very little of her entitlements under CP10.6 and CP10.12 during this period and disapproved of council members who used their entitlements more liberally.<sup>291</sup> Apart from introducing the guest book for the dining room (as required by part 1.3 of CP10.12), because *"that was a bit of a bone of contention of mine, because it needed to be put down who was actually attending",*<sup>292</sup> Ms McEvoy did nothing else to curtail the misuse of the dining room, even though she had concerns about it.<sup>293</sup>
99. Ms McEvoy believed it was the responsibility of the City's Administration to bring any misuse to the attention of the council members.<sup>294</sup> As noted above, the Administration had reminded the Lord Mayor and council members of the restrictions regarding their use of the dining room in 2001 and again in 2005 (on both occasions Ms McEvoy was a council member).
100. Regulation 3(1)(d) of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations) states that *"a person in his or her capacity as a council member should avoid damage to the reputation of the local government"*. The misuse of the dining room *"was a matter that was widely reported by the media"*.<sup>295</sup> As the most experienced council member and, more relevantly, a council member who did not abuse her entitlements to use the dining room and who had concerns about its potential misuse, it is surprising that Ms McEvoy did not do more to dissuade her fellow council members from misusing their entitlements with respect to the dining room.

## Issue (2): City's response to council members' misuse of the dining room

### Prior to 1 October 2015

101. As outlined above, the Council policies that addressed the use by council members of the dining room were ignored over a considerable period. The practice or convention that was in place since at least 1998, when Ms Davidson was first elected, was that council members were permitted to invite family members and friends as guests to the dining room.
102. The Inquiry also finds that some council members broadly defined their civic responsibilities when it came to justifying their invitation of guests to the dining room who had no connection to the City other than being ratepayers. That interpretation, however, ignored the provisions of CP10.12, which stated that the dining room was to be *"a limited hospitality facility"* that would be made available to council members *"to assist them to meet their unique civic responsibilities"*.<sup>296</sup> The Inquiry finds the administrative arm of the City did very little prior to the period of the Inquiry's Terms of Reference, and nothing constructively during the period of its Terms of Reference, to address what was clearly a misuse by some council members of their entitlement to entertain guests in the dining room.
103. Records from the City suggest that memoranda were provided to council members on two separate occasions reminding them of *"the Council's protocols and procedures relating to hospitality in the dining room and councillors' lounge"*. These memoranda were from 2001 and 2005. They were both in almost identical terms.
104. The first was from Noelene Jennings, Director, Corporate Services, to the Lord Mayor and council members and dated 21 June 2001. The second was dated 21 September 2005 and forwarded to the Lord Mayor and council members by Jamie Parry, Manager, Corporate Support.
105. In these memoranda, CP10.12 is paraphrased. With respect to the use of the dining room both memoranda stated the following:
 

*"The City of Perth, as the capital city and premier local authority of the State of Western Australia, is expected to be able to provide entertainment to visiting dignitaries from overseas, eastern states, major corporations, business and community groups, as well as **long-standing ratepayers and residents based within the City**. An effective means of offering and returning hospitality to groups and individuals is by the provision of meals in civic functions"*.<sup>297</sup> [emphasis added]
106. The Inquiry heard no evidence as to why these reminders were forwarded to council members in 2001 and 2005. However, it is reasonable to infer that the purpose was to address the misuse or broad interpretation that council members were applying to the guests they invited. The Inquiry heard from council members who were councillors in 2001 and/or 2005, who gave evidence that this was the case at these times.<sup>298</sup>

107. Given the evidence that the Inquiry heard regarding the use of the dining room post 2005, the Inquiry finds that if the purpose of these memoranda was to stop the misuse of the dining room facilities, they failed.

#### What was done by the Administration during the Inquiry's Terms of Reference?

108. After Mr Adamos admitted that he made a mistake in misusing the Council policy regarding the use of the dining room, he was asked:

*"I'm asking you to think as to why you made the mistake?---I can't think at the time, it's just it was the wrong thing for me to do.*

*And you were never pulled up for it, were you?---No.*

*Is that because the policy could be breached by councillors and there would be no penalty imposed or they weren't told they could not do that? Is that why these mistakes were made by you?---Well, I don't know. Nobody ever raised it with me. I suppose if they did raise it, I might have learned from it.*

*So no-one raised it with you in the seven years that you were a councillor?---Not that I remember, no.*

*In which time you entertained hundreds of guests, didn't you?---Yes".<sup>299</sup>*

109. And further:

*"... All right, so there's a least half a dozen occasions in which you dined with, say, your wife and extended family members at the City's expense?---That's right.*

*You weren't entitled to do that, were you?---No, you're right, I wasn't.<sup>ah</sup>*

*So why did you do it?---It was a poor judgment on my part.*

*Or did you do it because you knew you could get away with it?---No, I didn't. It was poor judgment on my part but at the same time if it was the wrong thing to do, if somebody pulled me up on it, it would have stopped the practice.*

*Yes, because nobody pulled you up, you just continued to do it, didn't you?---Yes, that's right.*

*Even though you knew it was contrary to Council Policy?---I guess that's right.*

*Not guess, it is right, isn't it?---Yes".<sup>300</sup>*

110. The Inquiry heard no evidence nor sighted any documents refuting Mr Adamos's evidence that the City's Administration did not raise the misuse of the dining room with council members following his election in October 2011. The Inquiry finds that was the case, even though such misuse was commonplace by 2015.
111. The Administration had no effective means of determining who were the guests that the council members had invited and the reasons for these invitations. The only requirement identifying any guest was part 1.3 of CP10.12, which provided "*a guest book identifying the main guest of honour at each function is to be maintained*".<sup>301</sup> The evidence before the Inquiry established that council members did not comply with this requirement.<sup>302</sup>

ah It is accepted that pursuant to part 1.2 of CP10.12 Mr Adamos was entitled to invite his wife as a guest but no other family members.

112. Mr Ridgwell was responsible for ensuring council members complied with the Council policy regarding the use of the dining room from 2017 onwards. Prior to that it was Mr Quinlivan. Mr Ridgwell gave evidence that he was not in favour of council members using the dining room and the entitlement of \$12,000.00 each annually was excessive.<sup>303</sup> He agreed that council members inviting their friends as guests to the dining room was not appropriate. However, he conceded that *“there was no mechanism that I’m aware of that would go through a testing of the appropriateness or otherwise of the guests”*.<sup>304</sup> Mr Ridgwell’s concession was properly made.
113. Mr Ridgwell gave evidence that rather than attempting to ensure that council members complied with the current policy he concentrated on having the policy reviewed and ultimately amended. Mr Ridgwell was then asked:

*“Why did it need to be reviewed if Elected Members only had a “limited hospitality facility” available to them to assist them to meet their unique civic responsibilities? ---That doesn’t give – for me, that policy doesn’t give me a definitive answer about how I can assess who was appropriate and otherwise to it all. So I wanted the policy reviewed for its appropriateness of actually having the spend at all because it is, as it says in there, unique responsibilities. I’ve worked in other local governments where we dent [sic] operate this way with a dining room. I didn’t believe the use of a dining room at all was appropriate.*

*So the status quo just remained?---Whilst we were going through the policy review process”*.<sup>305</sup>
114. Mr Ridgwell’s attempts to have the policy relating to the use of the dining room reviewed were unsuccessful. He agreed that it was difficult to get council members to attend meetings to address the issue, because they did not want their privilege of using the dining room taken away. The conflicts of interest prevalent were obvious. Council members who stood to gain a benefit from an entrenched practice of ignoring the limitations placed on their use of the dining room were not going to support any changes. Mr Ridgwell agreed the policy was not changed prior to the suspension of the Council in March 2018.<sup>306</sup>
115. Mr Ridgwell accepted that in hindsight it would have been appropriate for him to tell the council members to comply with the current policy while he made efforts to change the policy. The Inquiry finds that Mr Ridgwell should have done that.
116. Mr Ridgwell also admitted that he had heard of the unwritten rule that council members could entertain friends and relatives at the dining room on Saturday nights when it was open. He admitted that he did not try to stop that practice.<sup>307</sup> The Inquiry finds that it was incumbent on him to have done that, notwithstanding the backlash that may have occurred from some council members.

117. Mr Mileham gave evidence that Annaliese Battista, Director, Economic Development and Activation, was given “*complete control*” of the dining room shortly after he became CEO “*so it could be managed appropriately with the assistance of Governance*”. A reason for that was because the Administration wanted a return to a more consistent approach that complied with the Council policy and to manage costs. The Inquiry found no evidence of these outcomes being achieved prior to the suspension of the Council. Mr Mileham’s evidence was that the Administration was still “*reviewing the whole dining room set-up prior to my termination*”. It was only after the appointment of the three Commissioners to fulfil the role of Council that the decision was made to close the dining room.<sup>308</sup> The Inquiry finds that this decision was appropriate and notes it was made by those who had no vested interest in the continuing operation of the dining room.

### Issue (3): What should the Lord Mayor have done regarding the misuse of the dining room

118. It is trite to say that, of all council members in a local government, the council member elected as the Mayor or Lord Mayor should lead, often by example. For the following reasons, the Inquiry finds that Ms Scaffidi failed in her leadership responsibilities as Lord Mayor by not encouraging council members to comply with Council policies regarding their use of the dining room.
119. By her own admission Ms Scaffidi was another council member who gave a very broad interpretation of the Council policies regarding the use of the dining room:
- “I will pose this scenario to you: did you believe that an Elected Member was entitled to have as their guests just friends and family?---Well, often, as we have realised earlier, friends can be work colleagues and family can also be ratepayers too.*
- I see, so provided there was at least one guest in the party which could be as many as 10, is that right?---Up to 10, yes.*
- As long as one person there was a ratepayer, that would entitle the Elected Member to have what would essentially be a private function without any other connection to the City?---I don’t think it was ever that formalised in my time as a councillor and Lord Mayor.*
- Could someone do that?---Could someone?*
- Could an Elected Member do that?---Invite anybody?*
- Yes?---M’mm.*
- Is that your understanding?---Yes. Yes, and they did.*
- And be paid for by the City?---That is definitely how the dining room had been operating during my time as the Councillor and Lord Mayor.*
- ...
- Are you saying that Elected Members could entertain guests for private events in the dining room that weren’t---?---Private luncheons or dinners yes.*
- related to Council business?---Yes.*
- Yes?---Yes.”*<sup>309</sup>

120. After Ms Scaffidi had given evidence that “over time, the usage of the dining room and the pattern of the usage of the dining room had certainly changed”, she was asked the following:

*“You’ve just given evidence as to how this was the practice that went for many, many years and my question to you was, how come someone in authority, like the Lord Mayor, did not say, ‘We need to comply with our own Council policies’?---I admit error there and perhaps given the extent that you’re telling me that there was, you know, birthday parties and the like, it should have been done.*

*You knew that was being abused in that way, didn’t you?---Well, abused is ---*

*Okay, misused in that way, how about that? You were aware of that, weren’t you? ---Was I aware of the misuse? I felt that there was a laxness perhaps in it and yes, I regret now not tightening it up but at the same time, any ratepayers who came in and people, it was a privilege to be there and they certainly took it as that.”<sup>310</sup>*

121. And further on:

*“So my question for you is, if an Elected Member had read those two Council policies that I’ve taken you to, 10.12 and the earlier one, 10.8, if they just simply invited friends for a meal, they would be deliberately breaching Council policy?---Yes.*

*From what I understand of your evidence, Elected Members believe that they are entitled to invite precisely those guests that I’ve identified, a group of 10 friends?---Yes.*

*Do you accept that if that was the case, then the Council policy was clearly breached?---Yes.*

*So then my question for you is, why didn’t you, as the Lord Mayor, say, ‘You must adhere to the Council policy’?---If the extent of breach is as wide as you suggest, I wished I had and I regret that.*

*I haven’t given you any specific examples of Elected Members doing exactly that, I just simply asked you whether it was your view an Elected Member was entitled to do that, and you agreed and now you’ve also agreed that that is in clear breach of the Council policy? So how on earth did you allow that to happen in all your years as the Lord Mayor?---I accept that.”<sup>311</sup>*

122. As demonstrated from her evidence, Ms Scaffidi was aware of a long-standing culture of council members using the dining room for personal use in contravention of Council policies. Yet she did nothing to address the misuse of the dining room when she was Lord Mayor between 2007 and 2015. Although she promised to look at the use of the dining room after the 2015 election, meetings to discuss the matter among council members were never successfully convened.<sup>312</sup>

123. The Inquiry finds that Ms Scaffidi failed to take the necessary action to encourage strict compliance with the Council policies regarding the use of the dining room. Examples of taking such action would include issuing a memorandum (or requesting the CEO to issue a memorandum) or raising the issue with transgressing council members in private.

124. The Inquiry notes that the five council members who incurred dining room costs in excess of \$20,000.00 each during the period of the Inquiry's Terms of Reference were all members of the Ms Scaffidi's "WhatsApp" team.<sup>ai</sup> Mr Butler, who was also aligned with Ms Scaffidi prior to his loss at the 2015 elections, was another frequent user of the dining room. In those circumstances, the Inquiry finds that it would not have been easy for Ms Scaffidi to counsel those council members who were aligned with her to comply strictly with their dining room entitlements. Such counselling was unlikely to be well-received. Nevertheless, this did not provide a legitimate excuse for her failure to do so.

#### **Issue (4): Council members misusing their entitlements to claim reimbursements for restaurant meals**

##### **Ms Lily Chen**

125. Ms Chen admitted to using the provisions of part 1.9 of CP10.12, which entitled a council member to take guests to a restaurant within the City if the dining room was fully booked or not open on a Saturday night. She admitted to doing this "one to three times". Ms Chen volunteered that one of those restaurants was a Chinese restaurant called Han Palace, located on Bennett Street in East Perth. She admitted that this was with approximately 6–8 friends and that it was "*just a meal with friends*".<sup>313</sup>
126. A subsequent examination of the City's records by the Inquiry showed that Ms Chen made only one claim for the reimbursement of dining expenses incurred at the Han Palace Chinese Restaurant at 73–75 Bennett Street, East Perth. This related to a claim for lunch she hosted on 20 February 2015 for 5 or 6 members of the East Perth Community Safety Group and was in the amount of \$533.20.<sup>aj</sup>
127. It is evident from an exchange of emails between Ms Chen and Jim Meneely, the Chairman of the East Perth Community Safety Group,<sup>314</sup> and then with Ms Chen and Ms Firth,<sup>315</sup> that this lunch was with a community organisation and was convened to discuss safety of the city and the forthcoming *City of Perth Act 2016*. Although from one email's subject heading it may have also included a celebration of the Chinese New Year.<sup>316</sup>
128. It is apparent this lunch did not take place at the dining room due to one of the reasons specified in part 1.9 of the CP10.12, and as it involved discussing City issues with a community organisation,<sup>317</sup> the Inquiry accepts it was appropriate for Ms Chen to claim a reimbursement of the cost from the City.

ai Ms Davidson, Mr Yong, Ms Chen, Mr Adamos and Mr Limnios (although Mr Limnios did not remain on this team for the entire period of the Inquiry's Terms of Reference).

aj Form, L Chen, *City of Perth Elected Member Claim for Reimbursement Expenses*, February 2015. This form was not signed by Ms Chen, however the receipt from the Han Palace Restaurant was attached and there was a handwritten note on the reverse of the form which read, "*Lily Chen hosted East Perth Safe City Group [sic East Perth Community Safety Group]*".

129. After being prompted, Ms Chen also recalled taking guests who she knew (and were possibly friends)<sup>318</sup> to the Szechwan Zen Chinese Restaurant in Northbridge on 30 January 2016.<sup>319</sup> She was then shown a receipt from this restaurant and email correspondence she had with City staff, which established that she claimed a reimbursement from the City for the full amount of the cost of that meal, being \$480.40.<sup>320</sup> It is apparent from the restaurant's receipt that there was a table of nine (Figure 2.7 and Figure 2.8).
130. Ms Chen admitted that she should not have been entitled to be reimbursed by the City, although she made the claim because she had previously been reimbursed for the Han Palace Restaurant and she was following the unwritten rule that permitted council members to entertain their own personal guests at the City's expense on a Saturday night.<sup>321</sup> Ms Chen admitted the only return the City got from this expenditure was that the owners of the restaurant gained a benefit. Ms Chen also admitted there might have been another time in which she made a claim to the City for the costs of entertaining guests at a City restaurant to which she was not entitled.<sup>322</sup>
131. The Inquiry finds that on at least one occasion, Ms Chen sought reimbursement from the City (which it subsequently met) for costs associated with dining with her friends at a restaurant for which she was not entitled to claim.



**Figure 2.7:** Original tax invoice, issued to Ms Lily Chen, Szechwan Zen Chinese Restaurant, 30 January 2016.

maxplus pty ltd  
Szechwan zen chinese restaurant  
ABN:49166452124

# INVOICE

# 2

Bill To:  
city perth  
cr lily chen

Date: Jan 30, 2016  
Due Date: Jan 30, 2016

Balance Due: \$ 0

| Item                        | Quantity | Rate                | Amount              |
|-----------------------------|----------|---------------------|---------------------|
| to fu with salty egg york   | 1        | \$19 <sup>80</sup>  | \$19 <sup>80</sup>  |
| BYO                         | 9        | \$3                 | \$27                |
| chinese tea                 | 9        | \$1 <sup>50</sup>   | \$13 <sup>50</sup>  |
| taro toast rolls            | 2        | \$9 <sup>80</sup>   | \$19 <sup>80</sup>  |
| mushroom with beancurd      | 1        | \$15 <sup>80</sup>  | \$15 <sup>80</sup>  |
| stir fried beef tenderlion  | 1        | \$18 <sup>80</sup>  | \$18 <sup>80</sup>  |
| bitter melon with eggs      | 1        | \$16 <sup>80</sup>  | \$16 <sup>80</sup>  |
| crumbed prawn               | 1        | \$24 <sup>80</sup>  | \$24 <sup>80</sup>  |
| lamb ribs                   | 1        | \$25 <sup>80</sup>  | \$25 <sup>80</sup>  |
| barramondi steamed          | 1        | \$70                | \$70                |
| lobstor ginger and shallot  | 1        | \$182 <sup>70</sup> | \$182 <sup>70</sup> |
| crunchy cucumber            | 1        | \$6 <sup>80</sup>   | \$6 <sup>80</sup>   |
| szechwan style pickled vege | 1        | \$5 <sup>80</sup>   | \$5 <sup>80</sup>   |
| spinach with ginger sauce   | 1        | \$6 <sup>80</sup>   | \$6 <sup>80</sup>   |
| boiled beef slices chillie  | 1        | \$12 <sup>80</sup>  | \$12 <sup>80</sup>  |
| spicy bean jelly            | 1        | \$6 <sup>80</sup>   | \$6 <sup>80</sup>   |
| black fungus salad          | 1        | \$6 <sup>80</sup>   | \$6 <sup>80</sup>   |

Subtotal: \$480<sup>40</sup>

Total: \$480<sup>40</sup>

Amount Paid: \$480<sup>40</sup>

Notes:  
Paid already

Figure 2.8: Amended invoice, issued to Ms Lily Chen, Szechwan Zen Chinese Restaurant, 30 January 2016.

### Mr Jim Adamos

132. After prompting, Mr Adamos recalled using the provisions of part 1.9 in CP10.12 to entertain Michael Sutherland and his wife at The Point Bar and Grill Restaurant on 28 January 2017. However, he, denied inviting the Sutherlands to dine with him and his wife simply because they were friends, maintaining that Mr Sutherland was “*a stakeholder of the City*” and he was connected with the City being a “*Freeman*” and the then Speaker of the Legislative Assembly.<sup>323</sup> When taken to the provisions of CP10.12, Mr Adamos agreed that the Sutherlands did not fall within those guests entitled to be invited to dine at the dining room and that it was wrong to invite them. He maintained he believed he was entitled to invite Mr Sutherland as he was a “*dignitary*” and he had missed the word “*visiting*” that appeared in front of the word “*dignitaries*” in CP10.12.<sup>324</sup> Mr Adamos admitted that he paid the bill of \$410.00 for the meal that night and was subsequently reimbursed by the City after he made a claim.<sup>325</sup> Mr Adamos agreed he should not have claimed for this meal, although he maintained the City benefited from the meal. This was despite him not being able to give a single example of what that benefit was, aside from continuing his relationship with Mr Sutherland.<sup>326</sup>
133. The Inquiry rejects Mr Adamos’s assertion that he was “*conducting official business*” by simply speaking to Mr Sutherland “*about issues going on in the City of Perth*”.<sup>327</sup> The fact that a council member speaks to a friend, who is a former council member, about general matters regarding the City (which each would have a common interest in) does not elevate this dining experience into “*official business*”. Mr Adamos could not remember the exact discussions regarding the City.<sup>328</sup> In those circumstances, the Inquiry rejects Mr Adamos’s evidence that “*we would have spoken predominately about City business*”<sup>329</sup> and is able to find that if any issues regarding the City were discussed they were of a minor nature and were not the main reason for these two friends and their wives to spend the evening together. This finding is consistent with the Inquiry’s earlier finding regarding the invitations to the dining room by council members for their friends and/or relatives for the generic purpose of promoting the City.
134. Again, after prompting, Mr Adamos admitted that he took his wife and his parents-in-law out for dinner at the C Restaurant on St Georges Terrace on 25 February 2017.<sup>330</sup> Mr Adamos was shown the form for reimbursement expenses that he had completed for the cost of these meals in which he claimed the total amount of the restaurant’s invoice, which was \$486.90.<sup>331</sup> In that claim form Mr Adamos certified that his expenditure of \$486.90 at the C Restaurant was “*incurred on Official Business*”.<sup>332</sup> He was subsequently reimbursed this amount by the City (Figure 2.9 and Figure 2.10).<sup>333</sup>

135. Mr Adamos admitted that having dinner with his parent-in-laws was not official business. Mr Adamos was then asked the following questions:

*“Can I ask then why you did that [make a claim for this reimbursement]?---It was the wrong thing to do.*

*It’s obviously the wrong thing to do but I want to know why you did it. I don’t want to have to ask that question over and over again. Mr Adamos, can you please tell the Commissioner why you did that? ---I don’t know why I did it. I shouldn’t have done it, it was the wrong thing to do.*


*My explanation as to why you did it is because you knew you could do it and get away with it and be reimbursed, isn’t that why you did it?---That’s right”.*<sup>334</sup>

136. The Inquiry finds that Mr Adamos had no right to claim reimbursements from the City for the restaurant meals he had with his wife and Mr and Mrs Sutherland and then with his wife and his parents-in-law. His claim for reimbursement of the meal he had with his wife and his parents-in-law is particularly concerning. The fact that Mr Adamos would falsely certify that such an occasion was “official business” is troubling. It was inappropriate conduct by an experienced council member, particularly one who had previously campaigned on the basis that he was a trustworthy and reliable person who was a highly ethical member of the community.<sup>335</sup> Unfortunately, the Inquiry has found there were other occasions regarding Mr Adamos’s conduct as a council member that were also of some concern.

| C Restaurant  |           |
|---|-----------|
| IN THE SKY  |           |
| Level 33, 44 St Georges Terrace<br>Perth, Western Australia, 6000<br>Phone (+61) 08 9270 8333 |           |
| TABLE #65   | BILL #1   |
| ORDER #P2224337   | COVERS #4 |
| <b>FOOD</b>   |           |
| 2 BREAD SELECTION   | 16.00     |
| 1 OLIVES *  | 8.00      |
| * EARLY BIRD DINNER   | 290.00    |
| GNOCCHI   | 0.00      |
| 2 BEEF  | 0.00      |
| 1 BABY CODS   | 12.00     |
| 1 SHRIMP FRIES  | 12.00     |
| 1 CHEESE SOUFFLE  | 0.00      |
| 1 GNOCCHI [M]   | 0.00      |
| 1 SALMON  | 0.00      |
| 1 PORK LOIN   | 0.00      |
| 4 AMUSE BOUCHE  | 0.00      |
| 3 ADD DESSERT   | 45.00     |
| 1 LEMON PIE   | 0.00      |
| 1 CHOCOLATE MOUSSE  | 0.00      |
| 1 DOUGHNUTS   | 0.00      |
| 1 BOWT PLATE  | 0.00      |
| 28 ITEMS  | 383.90    |
| <b>DRINKS</b>   |           |
| 2 ESPRESSO  | 10.40     |
| 1 INN BYSTAND   | 28.00     |
| 1 BLOOD ORANGE  | 5.90      |
| 2 LLB   | 11.00     |
| 1 PEPSI MAX   | 4.50      |
| 1 PEPSI   | 4.50      |
| 2 C MOCKTAIL  | 20.00     |
| 2 VOSS STILL  | 19.60     |
| 12 ITEMS  | 103.90    |
| <b>TOTAL</b>  |           |
| 1 WINDOW  | COMP      |
| 1 WINDOW  | COMP      |
| 2 ITEMS   | 0.00      |
| 42 ITEMS  | 486.90    |
| 486.90  |           |

**Figure 2.9:** Tax invoice, issued to Mr Jim Adamos, C Restaurant in the Sky, 25 February 2017.

**CITY OF PERTH ELECTED MEMBER**  
**CLAIM FOR REIMBURSEMENT EXPENSES**  
*(Policy No. 10.6)*

  
**CITY of PERTH**

**NAME:** Cr Adamos **MONTH:** February 2017

**PARTICULARS OF CLAIM**  
 This allowance claim covers costs applicable to City of Perth Policy 10.6: Elected Members - Reimbursement of Expenses.

**CAR USE ON OFFICIAL BUSINESS** (please complete details on reverse)

**Vehicle Details** **This Claim** **DATE RECEIVED BY CEO OFFICE**  
 Make: \_\_\_\_\_ = \$ \_\_\_\_\_ **9 MAR 2017**  
 Registration No: \_\_\_\_\_  
 Engine Displacement: \_\_\_\_\_


**OTHER EXPENSES** (Please attach Dockets/Receipts where applicable)

| Personal      | Clothing      | Parking       | Other  | Telephone/ Facsimile |
|---------------|---------------|---------------|--|----------------------|
|               |               |               | C RESTAURANT (DINING ROOM)<br>UNABLE TO OPEN DN<br>SAT 25/2/17 DUE TO<br>INSUFFICIENT NUMBERS. |                      |
|               |               |               |  |                      |
| <b>Total:</b> | <b>Total:</b> | <b>Total:</b> | <b>Total:</b> \$486.90   | <b>Total:</b>        |

**Other Expenses Sub-Total** = \_\_\_\_\_

**Authorised for Payment:** \_\_\_\_\_  
 Chief Executive Officer  
bas  
9-3-2017  
 Date

I certify that the above expenditure was incurred on Official Business.  
 Period Covered: From \_\_\_\_\_ to \_\_\_\_\_  
 being a grand total amount of: \$486.90

  
 Signature of Claimant

**Figure 2.10:** Claim for Reimbursement Expenses Form, City of Perth, C Restaurant in the Sky, 25 February 2017, certified by Mr Jim Adamos, 9 March 2017.

**Issue (5): Whether the administrative arm of the City failed to properly address any misuse by council members of their entitlement to reimbursement for restaurant expenses**

137. In contrast to the failure by the City's Administration to enforce compliance by council members of identifying the "*main guest of honour*" at each function in the dining room, by February 2017 the City made it a requirement for council members to provide the names of guests that they had entertained at restaurants when the dining room was closed or unavailable.<sup>336</sup> An obvious reason for that requirement would be to ensure that the relevant expenditure was incurred on "*official business*" (as required on the claim form for reimbursement expenses). It would also assist with determining whether the meal was necessary for the council member to meet his or her "*unique civic responsibilities*" (as required by CP10.12 of the Council Policy Manual).
138. With respect to the claim for reimbursements by Mr Adamos for the two restaurant outings referred to above, Ms Firth requested the names of his guests.<sup>337</sup> In each instance Mr Adamos responded by email with "*myself, Helen Adamos, Michael Sutherland, Michelle Sutherland*"<sup>338</sup> and "*Mr and Mrs Monastra, myself and my wife (Mrs Helen Adamos)*".<sup>339</sup> With respect to both claims the reimbursement was provided without any further inquiry by the City's Administration.<sup>340</sup>
139. As Mr Sutherland was a former long-standing City councillor<sup>ak</sup> and a State Member of Parliament<sup>341</sup>, the Inquiry makes no finding that the City should have clarified Mr Adamos's certification on the claim form he had completed that the expenditure was incurred on official business. That is not to say the Inquiry accepts the expenditure was incurred on official business. The Inquiry has found that it was not (see above). However, the Inquiry finds that it was not unreasonable for the City to accept the accuracy of Mr Adamos's certification that his claim for reimbursement was appropriate.
140. However, the second claim for reimbursement by Mr Adamos should have been investigated further. The Inquiry finds that the City ought to have requested further information from Mr Adamos as to who "*Mr and Mrs Monastra*" were, what was their connection to the City and what was the official business he had certified as having occurred and/or the civic responsibilities he was undertaking. If those enquiries had been made and truthful responses given, then the claim should have been rejected as it failed to comply with the provisions of CP10.12.
141. The Inquiry also finds that there was a failure by the City to properly scrutinise the claims for reimbursement made by Ms Chen with respect to the reimbursement of restaurant expenses that were paid to her on the two occasions referred to above. With respect to Ms Chen's claim for reimbursement of the cost of the meal at the Han Palace Restaurant on 20 February 2015, the City ought to have ensured the relevant claim form was signed by Ms Chen to certify that the expenditure was incurred on "*official business*". Ms Chen did not sign the form.<sup>342</sup>

ak A Council Member qualifies to be a Freeman of the City after being a councillor for 10 years: Transcript, J McEvoy, private hearing, 12 July 2019, p 95; Mr Sutherland had been a councillor from 1995 to 2008.

With respect to Ms Chen's claim for reimbursement of the cost of the meal at the Szechwan Zen Chinese Restaurant on 30 January 2016, had the City requested the names of the guests, their relationship to Ms Chen and the purpose of the attendance at the restaurant, then the claim ought to have been rejected as it failed to comply with the provisions of CP10.12. Furthermore, despite a request from the Inquiry, the City was unable to produce a claim form from Ms Chen relating to the reimbursement she received for this meal. Although Ms Chen provided invoices and a receipt to the City,<sup>343</sup> it appears she did not, and was not asked to, complete or sign a claim form certifying that the expenditure was incurred on "*official business*". Nevertheless, the City reimbursed the full amount of \$480.40 once the second invoice was received.<sup>344</sup> The Inquiry finds that for this claim by Ms Chen, the City did not comply with the record-keeping requirements outlined in CP10.6.

**Issue (6): Whether Mr Jim Adamos made claims for reimbursement pursuant to part 1.9 of CP10.6 that were not related to his attendance at Council-related functions and activities**

142. The Inquiry found evidence of potentially suspect claims by Mr Adamos to the City for clothing, apparel and dry-cleaning costs that were reimbursed notwithstanding their suspicious nature. Mr Adamos was questioned about these claims.
143. Before he was taken to specific claims, Mr Adamos was asked:  
*"Have your claims for clothing, apparel and dry-cleaning always been in accordance with the requirement that it be associated with Council-related functions and activities?---Yes.*  
*You're absolutely certain of that?---Yes, I am".<sup>345</sup>*
144. Mr Adamos was then questioned regarding his claim for reimbursement with respect to the Swan River Run on 24 July 2016, in which he represented the City on behalf of the Lord Mayor.<sup>346</sup> The day before, Mr Adamos purchased socks, a Nike shirt, Nike tracksuit pants, a training fleece and Nike tennis shoes totalling \$400.00.<sup>347</sup>
145. Mr Adamos justified this claim on the basis that he did not have adequate clothing to wear to the event and it would not have been appropriate for him to simply wear shoes, pants, a shirt and sports jacket. He gave evidence that he had no clothing that suited "*what was on that [the City's] briefing note*" which he said "*from memory was something about active wear*".<sup>348</sup> The briefing note Mr Adamos referred to stated that the dress code was "*Informal*".<sup>349</sup> He maintained that the only sneakers he had were "*some old dirty sneakers but not appropriate to wear to an event like that*".<sup>350</sup>

146. The Inquiry finds that Mr Adamos improperly claimed for the reimbursement of the clothing apparel he purchased. Although, strictly speaking, the claim complied with part 1.9 of CP10.6, the Inquiry finds that the items were not necessary purchases. His duties at this function were to give a four-minute speech prior to the run and then start the race.<sup>351</sup> The Inquiry finds that Mr Adamos already had suitable clothing that he could have worn and finds that he would not have purchased any of these items if he was not going to be reimbursed.<sup>352</sup> The Inquiry accepts Mr Adamos's eventual concession that the purchase of these items at the ratepayers' expense would not have passed "*the pub test*". In those circumstances, the Inquiry rejects Mr Adamos's evidence that he would have personally bought some clothing to appear at this event. It would have been perfectly acceptable to wear clothing and shoes he already possessed that fitted the broadly defined dress code he was given.<sup>353</sup> It was completely unnecessary for the City to incur the expense of fully clothing Mr Adamos for this one-off attendance that had him performing an official function that lasted for a matter of minutes.
147. Pursuant to part 1.9 of CP10.6, Mr Adamos regularly claimed from the City for dry cleaning costs (including ironing) during the period of the Inquiry's Terms of Reference.<sup>354</sup> He did this by completing the relevant form<sup>355</sup> and submitting invoices from a laundry service. He was fully reimbursed for all his claims for dry cleaning costs in the total amount of \$2,889.79 during this period.<sup>356</sup> That was an average monthly cost of just under \$100.00.
148. Mr Adamos gave evidence that he would get suits dry-cleaned and shirts ironed that he wore at Council-related functions and activities at a laundry service called Jack's Wash House.<sup>357</sup> From an examination of the invoices from Jack's Wash House which Mr Adamos provided to the City, it is evident that most of the costs incurred related to the ironing of shirts. It is arguable whether the costs of ironing shirts fall within "*dry cleaning*", which is specified in part 1.9 of CP10.6. It could be regarded as "*incidental costs associated with a member's attendance at Council-related functions and activities*". The Inquiry finds that an interpretation of those descriptions that includes the ironing of shirts worn at Council-related functions and activities is not unreasonable.
149. Mr Adamos was questioned in some detail regarding the average number of Council-related functions and activities he would attend in a month. He initially stated 60, but when it was pointed out that that meant he was going to two Council-related functions or activities every day he corrected it to "*probably about 30–40 functions a month*". When questioned in more detail about exactly what those functions were he nevertheless maintained that estimate of 30–40 per month, although he was not able to precisely identify the functions or activities that would make up that number.<sup>358</sup> Given his inability to identify Council-related functions that constituted this monthly estimate, the Inquiry finds that Mr Adamos exaggerated the number of events he attended to justify his excessive use of the laundry services he claimed were eligible for legitimate reimbursement.

150. Mr Adamos was referred to six invoices from Jack's Wash House between 31 March 2016 and 14 May 2016. He maintained that all of the shirts referred to in these invoices were for ironing of business shirts that he wore for Council-related events.<sup>359</sup> The contents of these invoices are summarised as follows in Table 2.6.

**Table 2.6: Summary of invoices claimed by Mr Jim Adamos for laundry services between 31 March 2016 and 14 May 2016.**

| Date of invoice | Number of shirts | Cost claimed |
|-----------------|------------------|--------------|
| 31 March 2016   | 13               | \$52.00      |
| 13 April 2016   | 8                | \$32.00      |
| 22 April 2016   | 5                | \$20.00      |
| 28 April 2016   | 8                | \$32.00      |
| 3 May 2016      | 7                | \$28.00      |
| 14 May 2016     | 6                | \$24.00      |

151. This meant that after having 13 of his business shirts ironed on 31 March 2016 Mr Adamos then claimed for another 28 business shirts from 13 April to 3 May 2016. His explanation was that this was probably the period he was out for 20 days straight, attending Council-related functions. In his public hearing on 8 August 2019, Mr Adamos said that he would be able to provide the Inquiry with the records of each Council event he attended between 13 April 2016 and 3 May 2016 by accessing his City electronic diary. He stated that he would provide the Inquiry with the information from those diary entries if he “*can get to it*”.<sup>360</sup>
152. The Inquiry subsequently received an affidavit with annexures from Mr Adamos dated 22 November 2019.<sup>361</sup> In summary, the affidavit established that during the period in question, based on his electronically recorded acceptance of invitations, Mr Adamos considered it “*reasonably likely*” he attended 14 events in his capacity as a council member. Based on his usual conduct with respect to particular functions he asserted it was also “*reasonably likely*” he attended a further three and also a fourth event.
153. With respect to the 14 events, there were four days when Mr Adamos attended two events on the same day (21 April, 26 April, 29 April and 1 May 2016). Given the short span of time between events on these 4 days (as recorded in Mr Adamos’s electronic calendar) it is highly unlikely that Mr Adamos would have worn another shirt to the second event. That meant he would have worn a total of 10 shirts on these 14 occasions.
154. As to the other four events, one of those was the opening ceremony of a festival in Langley Park on 16 April 2016. However, as Mr Adamos ultimately declined that invitation and he has no specific recollection whether he actually attended, the Inquiry is not prepared to accept that he did. Another event was a citizenship ceremony on 20 April 2016 at Council House. The Inquiry notes that the time of this ceremony overlapped with another appointment in East Perth that Mr Adamos has claimed he attended on that day. Even if he did attend both events, it is highly unlikely he would have changed his shirt.

155. The remaining two events were held on 17 April 2016 and 22 April 2016. None of the 14 confirmed events were held on these days. Even if it is accepted that it was “*reasonably likely*” Mr Adamos attended these events then the most likely number of shirts he had worn to “*council-related functions or activities*” during the period 13 April to 3 May 2016 was 12. This number falls substantially short of the 28 shirts Mr Adamos paid to be ironed during the period and for which he successfully sought reimbursement.<sup>al</sup> Accordingly, the Inquiry does not accept Mr Adamos had a legitimate claim for the reimbursement of the costs for all the shirts he had ironed during this period, despite his assertions that he did. The circumstantial evidence regarding the volume of shirts for which he claimed ironing costs allows for the only reasonable inference to be drawn that it simply was not possible for them to all be worn by Mr Adamos for his attendance “*at Council-related functions and activities*”.
156. After he was questioned about the six invoices referred to in the table at paragraph 150, Mr Adamos was asked:
- “Mr Adamos, before I do, are you absolutely certain that every item that you claimed to be dry-cleaned, be it ironing or dry-cleaned, was a legitimate item for you to claim?---Yes, from my memory, yes. Every time I put those receipts in, from memory they were always shirts.*
- And you crossed out those items [on the invoices] in which it was clear they did not belong to you?---That’s right.*
- You’re absolutely adamant on that?---I’m sure of it, unless I missed one.*
- You would carefully check, wouldn’t you?---I would carefully check.”<sup>362</sup>*
157. Mr Adamos was shown a further three invoices from Jack’s Wash House from September and October 2016. He maintained that these invoices were all for shirts that he had worn for Council-related functions or activities.<sup>363</sup> The relevant details of these invoices appear in Table 2.7:<sup>364</sup>

**Table 2.7: Summary of invoices claimed by Mr Jim Adamos for laundry services between 27 September 2016 and 13 October 2016.**

| Date of invoice   | Number of shirts | Cost claimed |
|-------------------|------------------|--------------|
| 27 September 2016 | 10               | \$40.00      |
| 10 October 2016   | 9                | \$36.00      |
| 13 October 2016   | 13               | \$52.00      |

al Even if it is assumed (a) Mr Adamos wore different shirts on those days he had attended two functions and (b) he had attended the four events that it was “*reasonably likely*” he did, that meant he wore a total of 18 shirts which is 10 less than the number he had had ironed.

158. After being shown these three invoices Mr Adamos was asked the following questions:

*“27 September you’ve submitted and got, it would seem, ironed 10 shirts, 13 days later, the second one, 10 October, you’ve got another nine and then just three days later, you’ve got another 13 shirts either ironed or dry cleaned. 32 shirts over 16 days, can you see that?---Yes.*

*Not every single one of these shirts was worn for a Council-related function or activity were they?---Yes, they were, but some of those shirts may have been from a period before that.*

*You maintain that, do you?---Yes.*

*There’s an awful lot of shirts in the ironing basket between 10 October and 13 October, wasn’t there?---Yes, there was.*

*You had to take nine on 10 October and another 13 on the 13th. Let’s just stay with that for the moment. How could you have possibly – obviously you would take all the shirts that needed to be ironed on the one occasion?---Yes.*

*So based on that, you took all the shirts that needed to be ironed from the ironing basket on 10 October but three days later there’s another 13. From what you’re saying, you used 13 shirts in Council-related activities between 10 October and 13 October?---But some of them may have been there from before that. I may not have always washed them or taken them all on the first occasion.*

*Still, it’s 22 shirts over the course of three days, bearing mind you already had 10 done less than two weeks earlier?---M’m.*

*I’m not an accountant, Mr Adamos, but the maths don’t add up to me. Do they add up to you?---When you put it that way, no, they don’t, but as I say, I don’t know if they were the shirts from those particular weeks or prior.*

*I’m just suggesting to you on the face of it, it looks like you’re getting shirts either dry-cleaned or ironed that weren’t related to Council activities?---No.*

*No? So on your version, the maths don’t add up, do they?---No, they don’t.*

*I’m going to give you another opportunity, Mr Adamos, to answer this question: did you make claims for dry-cleaning and/or ironing for items that you weren’t entitled to claim?---No.”<sup>365</sup>*

159. In his above answers, Mr Adamos asserted that the shirts that were submitted for ironing during this period may have come from the ironing of shirts that had been washed in the days or weeks prior but were still to be ironed. However, earlier invoices from Jack’s Wash House that were submitted by Mr Adamos to the City in his claims for reimbursement refute that explanation.<sup>366</sup> The relevant details of these invoices are contained in Table 2.8.

**Table 2.8: Summary of invoices claimed by Mr Jim Adamos for laundry services between 2 and 19 September 2016.**

| Date of invoice   | Number of shirts | Cost claimed |
|-------------------|------------------|--------------|
| 2 September 2016  | 8                | \$32.00      |
| 8 September 2016  | 11               | \$44.00      |
| 19 September 2016 | 8                | \$32.00      |

160. Again the Inquiry finds that with respect to the above period between 27 September 2016 and 13 October 2016, the circumstantial evidence regarding the volume of shirts for which Mr Adamos claimed ironing costs allows for the reasonable inference to be drawn that it simply was not possible for all these shirts to be worn by Mr Adamos for his attendance *“at Council-related functions and activities”*.
161. Mr Adamos submitted the below invoice dated 12 October 2015 to the City from Jack’s Wash House in order to claim reimbursement for these costs.<sup>367</sup> This invoice amount of \$46.00 was subsequently reimbursed to Mr Adamos by the City (Figure 2.11).<sup>368</sup>
162. When shown this invoice Mr Adamos admitted that he should never have claimed for these items, which he agreed was school clothing for his two boys that had been drycleaned. Mr Adamos maintained that this was his *“oversight”* and that it was *“a mistake”* before saying *“I don’t know why I claimed it”*.<sup>369</sup>
163. The Inquiry finds that Mr Adamos did not make a mistake in submitting this invoice as a claim for reimbursement. In making that finding, the Inquiry notes that all the items on the invoice were clearly defined as children’s clothing and there was no other item on the invoice that belonged to Mr Adamos. The Inquiry also notes that these items would likely have been the winter uniforms of Mr Adamos’s two sons who were attending school. The date of the invoice, 12 October 2015, was the first day for the fourth school term for that year.<sup>370</sup> Mr Adamos agreed that schools change into summer uniform at the start of term 4.



**Figure 2.11: Tax invoice, issued to Mr Jim Adamos, Jack’s Wash House, 12 October 2015.**

164. Despite his denials,<sup>371</sup> the Inquiry finds, based on all the evidence and to the required standard, that Mr Adamos deliberately submitted this invoice, perhaps to test if the City would reimburse him without seeking clarification. If a staff member of the City's Administration had queried Mr Adamos as to the contents of the invoice, then it would have been plausible for Mr Adamos to assert that it was a mistake. The City, however, did not question the invoice and subsequently reimbursed Mr Adamos the full amount. Taken in isolation, a plausible argument could be made that Mr Adamos mistakenly submitted this invoice to the City for reimbursement. However, this was not an isolated example of Mr Adamos claiming reimbursement for expenditure to which he was not entitled.
165. The Inquiry finds the reasonable inference can be drawn that after the City accepted this claim without question, Mr Adamos was fortified in his view that the City was not scrutinising his claims for laundry expenses. He then continued to submit invoices of items that were dry-cleaned or ironed, which he knew he was not entitled to claim for reimbursement. The large volume of shirts he had ironed at Jack's Wash House allows for a reasonable inference to be drawn that the shirts were not all worn by him for Council-related functions or activities. Mr Adamos accepted that his conduct, when viewed objectively, might seem contrary to his evidence that his reimbursement claim for the dry-cleaning costs of his sons' school uniforms was an unintentional mistake:
- "Because this is in 2015, it got through to the keeper, you were reimbursed and then you started getting an awful lot of items either dry-cleaned or ironed in 2016 and I've taken you to two periods for that following year?---No.*
- It seems to all tie together, doesn't it?---Definitely not.*
- But it all seems to tie together though, doesn't it?---No, it doesn't.*
- You've tested the water to---?---No.*
- see if this got through, it did and so thereafter at times in 2016 you were submitting more items---?---I can't explain.*
- Let me finish – more items than you were entitled to be reimbursed for, yes?---No.*
- But it seems like that, doesn't it?---No.*
- It seems like that, doesn't it?---Not to me. This is a mistake. This is not---*
- No? You looking at it objectively?---It might seem like that".<sup>372</sup> [emphasis added]*
166. After being questioned regarding his claims for reimbursement from the City for dry-cleaning costs, Mr Adamos was asked the following questions:
- "I'm going to give you another opportunity now, it's sort of a related area because it's to do with entitlements. You know how I've said to you that those dry-cleaning items that you claimed for your sons' school uniforms?---That's right.*
- I said to you that – I put it to you that you deliberately did that, to which you emphatically denied?---That's right.*
- Again, you still maintain that?---I do. I don't know how that receipt came---*
- I'm not going to go over, I just want to make sure you maintain that?---Yes.*

*I'm going to ask you this direct question now and consider your answer carefully, okay?---Mm hmm.*

*I put it to you that you were claiming clothing items or clothing or apparel items for persons in your family other than yourself. So you were buying them and then claiming them as a disbursement?---No.*

*No?---No.*

*...*

*No other items of clothing?---No.*

*That you did not wear or that you did not buy for yourself?---I may have bought some – no, everything I bought was for myself.”<sup>373</sup>*

167. Mr Adamos was then shown the receipt and tax invoice from the Foot Locker store in Murray Street, Perth dated 3 May 2016<sup>374</sup> for a Nike pair of boy’s running shoes<sup>am</sup> costing \$99.95. He made a claim for reimbursement of the cost of these shoes from the City, which it accepted (Figure 2.12).<sup>375</sup>
168. Although he could not recall making this purchase, Mr Adamos accepted the shoes must have been for one of his sons and they could not have been for him, because he had purchased a pair of sports shoes for himself two months later to attend the Swan River Run referred to above.<sup>376</sup>



Nike Free 5.0 GS (2015).

**Foot Locker.**

Receipt and Tax Invoice  
Foot Locker Australia, Inc.  
A.B.N. 22 619 093 977  
A.R.B.N. 089 717 251

-----

STORE: 94751      REGISTER: 002  
CASHIER: Mervize  
ASSOCIATE: 00000000851

-----

-NK FREE 5-0 (GS) WOLF G      99.95 1  
6575938704060 1 @ 99.95

-----

\*\*\*\*\*  
PRICE EXCLUDING GST      90.86  
ST      9.09  
PRICE INCLUDING GST      99.95  
\*\*\*\*\*

AMOUNT TENDERED

Cash      100.00

TOTAL PAYMENT      100.00

CHANGE      .05

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Trans:140635      May 03, 2016 11:59 AM

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94751 MURRAY STREET  
197 MURRY STREET  
197 MURRY STREET  
PERTH, WA 06000  
08 62179400

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\*\*\*\*\*SPECIAL OFFER\*\*\*\*\*  
Get \$10 OFF your next purchase!  
Minimum \$50 purchase required  
go to [www.footlocker.com.au/survey](http://www.footlocker.com.au/survey)  
or call 1-800-461-931  
within 14 days and tell  
us about your visit.

Offer available first day of month  
following survey completion.

Offer valid for 30 days.

\*\*\*\*\*

Figure 2.12: Tax invoice issued to Mr Jim Adamos, Foot Locker, 3 May 2016.

am The receipt and tax invoice described the shoes as “NK FREE 5-0 (GS) WOLF G”. The Inquiry was able to verify from an online shoe store that this was a description for a Nike brand boys running shoes (cost \$99.95) available from 2015: *Home > Boys* on Sportitude website.

169. Mr Adamos was then asked the following questions:

*"So this is an appalling misuse of what you're entitled to for reimbursements, wasn't it?---Yes, it is.*

*What's your explanation for it?---I don't know how that came about.*

*Mr Adamos, please. Are you seriously expecting---?---The only thing is---*

*Are you seriously expecting that answer to be accepted as an honest and truthful one?---It doesn't sound it but I don't remember putting in this claim, but I must have.*

*...*

*So you're rorting the system, aren't you?---Not rorting the system, I---*

*What other explanation is there for it?---I don't have any other explanation for it.*

*So my explanation for it is that you're rorting the system, that's what you were doing, making a claim for an item which you had no right to claim at all, which you full well knew, that's right, isn't it?---It seems so.*

*Well, it is so. It's not 'seems so' it is so. There is no doubt about it, you weren't entitled to make that claim?---That's right, I wasn't entitled to make that claim.*

*...*

*That is appalling conduct, is it not, by someone who promoted himself as being an ethical candidate for the elections the year before, isn't it?---That's right.*

*It's not just appalling conduct for a candidate who's relying on his ethics, but it's appalling conduct for any candidate, isn't it?---Yes.*

*It's a fraud, isn't it?---Yes.*

*And you didn't expect the sort of scrutiny that you're now getting for your claims did you?---No.*

*Because you got away with this one as well, because this claim was paid out?---Yes, it was".<sup>377</sup>*

170. By his own admission, Mr Adamos accepted his claim for reimbursement of these running shoes was a fraud. The Inquiry finds that Mr Adamos intentionally submitted this receipt to the City to claim a reimbursement and in doing so falsely represented to the City that it was apparel associated with his attendance at a Council-related function or activity. He expected the City would not exercise the necessary scrutiny to determine the validity of the claim and would automatically process it for payment. The Inquiry finds that is precisely what happened.

### Mr Jim Adamos's health issues

171. Mr Adamos advised the Inquiry that he was suffering from some health issues when he gave evidence. He argues that they made him “*vulnerable and prone to agree to propositions that were being put to him during his examinations*”. Various medical reports, including one dated 23 October 2019 from a medical specialist, were provided to the Inquiry. This specialist saw Mr Adamos for the first time on 23 September 2019, more than six weeks after he had given evidence regarding the subject matter of this Section. The consultation was for “*assessment purposes*” only and not for the “*providing of ongoing treatment*”. The report made no reference to the specialist having read any of the transcript of Mr Adamos’s evidence to the Inquiry from the previous month. Although this and the other medical reports were signed, no evidence of a medical nature was heard or adduced to the Inquiry under oath or affirmation. Nor was any of it subject to any examination under oath or affirmation. It was open to Mr Adamos and his legal representatives to put on such evidence, but it must be assumed they chose not to do so.
172. The Inquiry has carefully considered all the material provided on Mr Adamos’s behalf regarding his health and accepts it has some effect on how his evidence should be considered. The Inquiry has, in the circumstances, accorded this material the weight it deserves. Nonetheless, the admissions against interest made by Mr Adamos were all corroborated by contemporaneous records. This has allowed the Inquiry to be satisfied to the required degree of its findings against Mr Adamos. Furthermore, a review of the transcript of Mr Adamos’s evidence demonstrates that he frequently denied adverse propositions that were put to him by Counsel Assisting.

### Issue (7): Did the administrative arm of the City properly consider claims for reimbursement for expenses by Mr Jim Adamos

173. By his own admission, Mr Adamos accepted that he made claims for reimbursements that he should not have made. And although he denied any wrongdoing, it is apparent that the volume of invoices he was submitting for reimbursement regarding his laundry expenses required greater scrutiny.
174. The practice of the City was to receive one claim form for multiple expenses with receipts or invoices attached from council members who were claiming reimbursements pursuant to part 1.9 of CP10.6. The council member would sign and certify that the total amount of the expenses “*was incurred on Official Business*”. After the CEO authorised the claim for payment by signing the claim form, the City would issue a payment voucher to the council member that attached a summary of the matters to be reimbursed. The council member would then receive a form confirming that the amount had been transferred into the council member’s nominated bank account.<sup>378</sup> This procedure was adopted by Mr Adamos when he claimed the cost of:
- the dry-cleaning for his sons’ uniforms in the sum of \$46.00;<sup>379</sup> and
  - his son’s running shoes in the sum of \$99.95.<sup>380</sup>

175. The Inquiry finds that there was a lack of scrutiny by the City in its assessment of expenditure claims by council members. The most striking example of that was its failure to question the invoice submitted by Mr Adamos regarding the laundry of his sons' school uniforms. Even a cursory glance of that invoice would have established there was no possible way those costs related to "*a member's attendance at Council-related functions and activities*".<sup>381</sup> Similarly, the large number of invoices submitted by Mr Adamos for laundry services over an extended period of time should have caused some closer scrutiny of what those laundry services were, and for enquiries to be made of Mr Adamos.
176. A council member submitting to the City an invoice for reimbursement for purchase of a pair of Nike brand shoes from a store that is a well-known retail outlet for the sale of sports shoes should have been followed up by the relevant administrative officer. The question to Mr Adamos would have been a very simple one: What was the Council-related function or activity that you attended which required you to wear these shoes?

### Travel entitlements

177. The Inquiry investigated whether council members improperly sought reimbursements for travel expenses. Although no such conduct was identified during the period of the Inquiry's Terms of Reference, it should be noted that the Inquiry's investigations were confined to an audit and review of invoices for any factual errors. As the Inquiry did not have access to the travel records of council members, it was not possible to examine whether any activities of an inappropriate nature (such as undertaking personal business dealings) may have occurred during travel that was claimed to be related to the City. The Inquiry lacked the resources that the Corruption and Crime Commission (CCC) had regarding its investigation of the travel undertaken by Ms Scaffidi. The CCC's report on that matter was handed down on 5 October 2015.<sup>382</sup>

### Council members' claims for reimbursements of expenses pursuant to part 1.9, CP10.6

178. The Inquiry finds that certain council members spent considerable sums of money on clothing and apparel and then claimed reimbursement from the City pursuant to part 1.9 of CP10.6. Aside from Mr Adamos, the Inquiry found no misconduct by any council member with respect to these purchases as the Council policy entitled them to do so, provided the items were associated with attendance at Council-related functions and activities.
179. It is apparent that the excessive use of the provisions of part 1.9 of CP10.6 by some council members led to the Council amending the clause by capping the maximum that could be claimed to \$3,000.00 per annum.<sup>383</sup> Even then not all council members agreed with the cap. Ms Chen and Mr Adamos were of the view that it was too low. Ms Chen thought it should be \$6,000.00 and maintained that notwithstanding her occupation as a lawyer, she needed an annual allowance in this amount as she attended a lot of functions as a councillor and she needed a different set of clothes for each function.<sup>384</sup> Mr Adamos was not able to say how much more the allowance should be, although he said that a limit of \$3,000.00 per year was not reasonable in his case.<sup>385</sup>

180. The Inquiry finds that this attitude of Ms Chen and Mr Adamos is an example of the culture of self-entitlement that existed amongst a number of council members at the City.
181. The Inquiry notes that since the suspension of the Council in March 2018, CP10.6 was amended on 29 September 2018. It is evident from those changes that the reimbursement of expenses for council members has been considerably restricted. It is now limited to an annual allowance of \$3,500.00 per annum for information and communications technology. The following expenses are also reimbursable, subject to the application and submission of appropriate supporting documentation: child care and carer expenses and travel and parking expenses to attend or perform at an authorised function.<sup>386</sup> There is no clause in the current CP10.6 that allows for the reimbursement of expenses for *“clothing, apparel, dry cleaning or personal presentation associated with a member’s attendance at Council-related functions and activities”*. The Inquiry endorses the changes that have now been made to CP10.6. These changes have limited the scope for claiming reimbursements by council members and reduced the opportunity for unnecessary or fraudulent claims.

## Conclusion

182. Regulation 3 of the Conduct Regulations provides for the general principles to guide the behaviour of council members. Members of the community have a legitimate expectation that those who they elect to represent their community will comply with the five principles set out in regulation 3(1)(a)-(e):

- Council members Ms Scaffidi, Mr Adamos, Mr Rob Butler, Ms Lily Chen, Ms Janet Davidson, Dr Jemma Green, Mr Reece Harley, Mr James Limnios, Ms Judy McEvoy, Mr Keith Yong;
- Mr Martin Mileham, CEO; and
- Mr Mark Ridgwell, Manager, Governance.

The Inquiry, however, finds that with respect to their use of the dining room and their claims for reimbursement of their expenses, there were some council members who failed to comply with these principles.

## Findings

### Finding 2.2.3 – 9

The Inquiry makes the following findings:

- i. Certain council members<sup>an</sup> made improper use of their entitlements to use the dining room by not complying with the Council policies. In so doing, these council members may have breached regulation 7(1)(b) of the Conduct Regulations. At the very least, they caused a financial detriment to the City by hosting guests who should not have been invited to the dining room. As this is a breach involving a rule of conduct, it is defined as a “*minor breach*”.<sup>387</sup>
- ii. The City failed to properly scrutinise and regulate the use of the dining room by council members thereby enabling its improper use to continue.
- iii. Ms Scaffidi, as the Lord Mayor, failed to take adequate measures to encourage compliance with Council policies by council members regarding their limited entitlements to invite guests to the dining room.
- iv. Mr Adamos and Ms Chen made improper use of their entitlements to entertain guests at restaurants within the City when the dining room was unavailable by seeking reimbursements of the costs from the City for meals they were not entitled to claim.<sup>ao</sup> In so doing, these council members may have breached regulation 7(1)(b) of the Conduct Regulations. At the very least, they caused a financial detriment to the City which reimbursed their unauthorised claims. As this is a breach involving a rule of conduct, it is defined as a “*minor breach*”.<sup>388</sup>
- v. The City failed to properly scrutinise the claims for reimbursement by Ms Chen and Mr Adamos referred to in (iv) above and erred in reimbursing these council members the amounts that were claimed.
- vi. Mr Adamos incorrectly certified on a “*City of Perth Elected Member Claim for Reimbursement Expenses*” form dated 9 March 2017, that the costs of dining with his parents-in-law and wife at the C Restaurant on 25 February 2017 were incurred on “*official business*”.
- vii. Mr Adamos made claims for reimbursement of expenses from the City pursuant to part 1.9 of CP10.6 that were not associated with his attendance at Council-related functions or activities; namely, laundry expenses relating to shirts and school uniforms and a pair of boy’s running shoes. In so doing, Mr Adamos may have breached regulation 7(1)(b) of the Conduct Regulations. At the very least, this caused a financial detriment to the City which reimbursed these unauthorised claims. As this is a breach involving a rule of conduct, it is defined as a “*minor breach*”.<sup>389</sup>
- viii. The City failed to properly scrutinise the claims of Mr Adamos for reimbursement of his expenses outlined in (vii) and erred in reimbursing the amounts that were claimed.

an Namely, Mr Yong, Ms Chen, Ms Davidson, Mr Limnios and Mr Adamos. Another council member, Mr Butler, also made improper use of his entitlements of the dining room, although this use occurred almost entirely before the period of the Inquiry’s Terms of Reference as he was not re-elected at the elections held on 21 October 2015.

ao With respect to Ms Chen, this concerned her claim for a reimbursement of costs for her and her guests at the Szechwan Zen Restaurant on 30 January 2016. With respect to Mr Adamos this concerned his claim for reimbursements of costs for him and his guests at the Point Bar and Grill Restaurant on 28 January 2017 and the C Restaurant on 25 February 2017.

## Improper use of councillor position to obtain a private benefit

### Introduction

1. A council member must not make improper use of their office to gain an advantage for themselves or another person, whether directly or indirectly.<sup>390</sup>
2. The Inquiry has evidence that former council member, Ms Lily Chen, used her councillor title, City of Perth (City) business cards (City business cards), City office space, and City email account to increase her standing and obtain benefits in her private business dealings. This was improper. It may also be a breach of regulation 7 of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations). Breaches of regulation 7 of the Conduct Regulations are dealt with by the Local Government Standards Panel.
3. Ms Chen agreed that council members should only use their councillor title when performing civic duties, and should not use the title of councillor to promote their private interests. She also maintained she had never used her councillor title to promote her private interests.<sup>391</sup> Despite this, the evidence reveals an ongoing pattern of conduct in which Ms Chen did use her position as a council member to promote her own private and business interests in both Western Australia and China.
4. It is clear Ms Chen repeatedly used her councillor title, her City business cards and the facilities of the City in pursuing her private and business interests. In doing so, she showed an ongoing disregard for the importance of maintaining an appropriate separation between her civic duties and her private interests. The continued use of her title and position also provided Ms Chen with a cultural status or standing within the Chinese community. While this standing cannot be accurately measured, it has provided her with distinct advantages.

### Issues considered by the Inquiry

5. The Inquiry must consider “*whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations*”.<sup>392</sup>
6. Broadly, the Inquiry must inquire into and report on matters that affect good government at the City.<sup>393</sup> Ms Chen’s conduct, as described in this Section, may have breached legislation that was made to regulate the activities of the City and its Council. Improper conduct of a council member is directly linked to good government, particularly where that conduct relates to an improper use of benefits and privileges that are afforded to the person only because of their status as a council member.

## Investigation by the Inquiry

7. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this matter. The positions given below for council members and employees are the positions held at the time of the events described in this Section:

- Council members Ms Chen and Ms Lisa Scaffidi;
- Mr Mark Ridgwell, Manager, Governance;
- Mr Geoffrey Blades, who was engaged by the City in 2013 to conduct a performance review of Mr Gary Stevenson, CEO;
- Mr Daniel Ow Sean Choung, a former employee of Devwest Group Pty Ltd;
- Mr Chad Ferguson, a Director of Devwest Group Pty Ltd; and
- Mr Anthony Tran, a lawyer and migration agent who had a business relationship with Ms Chen.

## Evidence obtained by the Inquiry

### Ms Lily Chen's professional background

8. Ms Chen was first elected as a councillor on 15 October 2011 and was reelected on 17 October 2015. Her recent term expired on 19 October 2019.
9. Ms Chen is a lawyer and registered migration agent. Ms Chen and her husband are directors of Wayon Pty Ltd (Wayon) trading as Lily Chen & Associates.
10. Ms Chen was born in Nanjing, China, and maintains strong ties with Perth's Chinese community. She was President of the Chinese Women's Federation from 2009 to 2014. She was also Vice President of the Migration Institute of Australia from 2012 to 2014 and has been President of the National Australian Chinese Women's Association since 2012. Ms Chen is a member of the Chung Wah Association, Western Australia's largest and most established Chinese organisation, which was established in 1909 to care for the welfare of its members, the promotion of Chinese culture and maintaining goodwill between the Chinese community and the local community.
11. Wayon is also the holding company of the Australian Migration Times. The stated aim of *"the editorial team"* of the Australian Migration Times, which describes itself as a community newspaper, is *"to introduce and promote the Chinese community and culture to the wider local community"* as well as *"introducing, equipping and informing the latest migration policies to all potential migrants with a Chinese ethnicity background"*. Ms Chen is listed as the editor-in-chief and the legal advisor for the publication.<sup>394</sup>

12. Ms Chen is also a member of the Liberal Party and President of the WA Chinese Liberal Club Incorporated. She unsuccessfully ran as a Liberal candidate for the seat of Mirrabooka in the May 2017 Western Australian State Elections.<sup>395</sup>
13. Ms Chen's position as a council member was highly regarded within the Chinese community and carried significant cultural status. She agreed that elected members to government positions have a high status in Chinese culture and are regarded as trustworthy within the Chinese community.<sup>396</sup>

#### Prior conduct regarding the use of the Perth Town Hall

14. The Inquiry may inquire into and report on any conduct by Ms Chen before 1 October 2015 if it is necessary to "*placing matters inquired into within a relevant context in the circumstances*".<sup>397</sup> Ms Chen continually denied throughout her evidence that she used her position as a council member to benefit her own personal business interests or the business interests of others during the period of the Inquiry's Terms of Reference. If there was evidence of such conduct by Ms Chen prior to 1 October 2015 then it would be capable of demonstrating a longstanding pattern of conduct in which she used the advantages available to her as a council member to obtain private benefits for herself or others.
15. A witness before the Inquiry gave evidence that Ms Chen's use of her Councillor position in her private capacity was an issue extending back to her first year as a council member. The Inquiry therefore considers it appropriate to consider the conduct outlined below, although it occurred prior to 1 October 2015.
16. In 2012, Mr Geoffrey Blades, a director of Lester Blades,<sup>ap</sup> was engaged by the City in the selection process of the person who would replace Mr Frank Edwards as the City's Chief Executive Officer (CEO).<sup>398</sup>
17. Following the appointment of Mr Gary Stevenson as the CEO in October 2012, Mr Blades was again engaged by the City to conduct performance reviews of Mr Stevenson in 2013 and 2014.<sup>399</sup> Mr Blades recalled meeting with Ms Chen during the 2013 performance review and Ms Chen telling him:
 

*"... when the previous CEO was here I used to be able to use the Perth Town Hall whenever I wanted to bring in groups of people that ... I know and bring them in for different functions and I could use it and I never used to have to pay for it. Now under Gary I have to pay for it".*<sup>400</sup>
18. Mr Blades said he remembered this conversation "*now as clearly as I remember it in 2013*".<sup>401</sup> However, documents obtained by the Inquiry suggest this conversation may have occurred during the 2014 performance review.<sup>402</sup>
19. At her public hearing, Ms Chen acknowledged that "*Anyone who hires the Town Hall should pay*", and she agreed on some occasions the associations she was connected with had to pay the City a fee to use the Perth Town Hall.<sup>403</sup>

ap A company specialising in the recruitment and appointment of senior executives.

20. Ms Chen initially said she could not remember if Mr Edwards allowed her to use the Perth Town Hall without paying a fee. However, after some prompting, she agreed that “*probably once*” Mr Frank Edwards did allow her to use the Perth Town Hall for an event she was involved in organising, without paying a fee. She accepted this would have been for one of the Chinese associations with which she was affiliated.<sup>404</sup>
21. Ms Chen could not remember being asked anything by Mr Blades in relation to Mr Stevenson.<sup>405</sup> Ms Chen’s answers were often evasive or non-responsive and her evidence was that her memory was poor.<sup>406</sup>
22. By comparison, Mr Blades’s evidence was clear on this point and the Inquiry finds him to be a credible witness on this issue. Mr Blades was an external consultant. It is highly unlikely he would have known that the previous CEO had permitted Ms Chen to use the Perth Town Hall free of charge, or that Mr Stevenson had required payment to use the venue, unless Ms Chen had given him this information.
23. For these reasons, the Inquiry prefers the evidence of Mr Blades to that of Ms Chen and accepts that shortly after she was elected, Ms Chen used her position as a council member to hold private functions in the Perth Town Hall, free of charge, for an organisation in which she had private membership. This conduct was an early example of Ms Chen’s ongoing behaviour, in which she appeared to make improper use of her councillor role to obtain private benefits for herself and her associates.

#### **Use of councillor role in procuring overseas investors for private business interests**

24. Ms Chen used her Councillor position to facilitate the introduction of Chinese investors to a Perth-based property development company, Devwest Group Pty Ltd (Devwest). Ms Chen potentially earned commissions from these introductions.
25. Other issues arise in relation to Ms Chen’s association with Devwest. These have been considered in another Section in this Chapter. They are:
  - Ms Chen’s apparent failure to disclose income received from Devwest to the City and the Australian Tax Office; and
  - Ms Chen’s apparent failure to disclose income received from Devwest to the Inquiry, after a Notice to Produce a Statement of Information was served upon her by the Inquiry under the provisions of the *Royal Commissions Act 1968*.

#### **Ms Lily Chen’s business relationship with Devwest**

26. Devwest primarily develops apartment blocks and large commercial buildings in Perth. Most of its investment capital comes from overseas investors, who are typically from China. Many of these investors are attracted through introductions and referrals, for which the referring party earns a commission based on the investment amount.
27. It appears that a number of migration agents, including Ms Chen, had ongoing referral relationships with Devwest. These agents used the investment process to enable investors to obtain certain classes of Australian business visas, which permitted the investors or their family members to migrate to Australia.<sup>407</sup>

28. These referral relationships were typically documented by capital-raising agreements that set out the terms of the arrangement and the commission to be paid.<sup>408</sup> For Ms Chen, the referral arrangement was governed by a consultancy agreement and a fund-raising agreement both dated 10 April 2013 between Ms Chen and Devwest.<sup>409</sup>
29. The commission or success fee was usually five per cent of the investment figure.<sup>410</sup> This was the case for Ms Chen.<sup>411</sup> Mr Chad Ferguson, a director of Devwest, gave evidence that, while investment amounts ranged from several hundred thousand dollars to \$5 million, a typical investment would be \$1.5 million, resulting in a potential commission of \$75,000.00 to the referring party.<sup>412</sup>
30. Mr Ferguson gave evidence that Ms Chen used her role as a council member to impress and attract potential investors from China for Devwest projects.<sup>413</sup> As already noted, Ms Chen's position as a council member was highly regarded within the Chinese community and carried significant cultural status.

#### **Ms Lily Chen's use of the Council dining room to host potential Devwest investors**

31. Ms Chen used the Council dining room (dining room) on at least one occasion to host officers of Devwest, along with potential investors for Devwest property developments.<sup>414</sup>
32. Initially, Ms Chen denied she ever used the dining room to entertain guests for her own personal business reasons, which she knew she was not permitted to do.<sup>415</sup> She stated she did not use the dining room for that purpose, because *"this is my own conscience, my choice, principle in life"*. This denial occurred at Ms Chen's public hearing before she was examined about Devwest. The Inquiry notes Ms Chen was very reluctant to reveal her business dealings with Devwest until pressed. After the Inquiry made clear to Ms Chen it was aware of her relationship with Devwest, she admitted she had invited Devwest officers and potential investors to the dining room on possibly two occasions.<sup>416</sup> This was consistent with the evidence of Mr Ferguson, who recalled attending the dining room twice at the invitation of Ms Chen in or about 2017.<sup>417</sup>
33. Nevertheless, Ms Chen maintained that, as she was showing these guests *"the hospitality of the City"*, she had not breached the council policy relating to the dining room. The Inquiry rejects that explanation.
34. Council Policy CP10.12 deals with the *"Provision of Hospitality"* and expressly states the dining room shall be maintained as *"a limited hospitality facility available to Elected Members to assist them to meet their unique civic responsibilities"*.<sup>418</sup>
35. Ms Chen refused to admit she had invited the Devwest officers and potential investors to attend the dining room for predominately private reasons. This was despite her admission that she had a vested personal interest in being paid a commission by Devwest *"if the result is good"*.<sup>419</sup>

36. Whilst Devwest did own property within the City, Mr Ferguson recalled he attended the dining room with potential investors and other senior Devwest officers on one occasion that was related to the dealings Devwest had with Ms Chen in a private business capacity, rather than any property interests Devwest held within the City. Mr Ferguson could not remember the reason for the other occasion Ms Chen had invited him to the dining room.<sup>420</sup>
37. On the one occasion that Mr Ferguson recalls, the Inquiry finds that Ms Chen was not using the ratepayer-funded dining room as part of her “*unique civic responsibilities*”. This use was clearly connected to private business dealings in which she had a personal financial interest.
38. Given Ms Chen’s fund-raising agreement with Devwest and the positive impression the potential investors would have had from their experience of attending the dining room and dining free of charge, the Inquiry finds this was not a proper use of the dining room by Ms Chen and a use that may have been a breach of regulation 7 of the Conduct Regulations.
39. The Inquiry is not able to determine whether Ms Chen secured a commission in relation to the investors who attended the dining room on this occasion. However, Ms Chen’s conduct is clearly not a proper use of her elected office. This conduct, at the very least, appears to be a concerted attempt by her to gain an advantage in her private capacity.

#### Ms Lily Chen repeatedly used her councillor title in meetings with potential investors

40. The Inquiry heard that Ms Chen used her status as a council member to improve her standing with potential investors in Western Australia and China. As noted, Ms Chen had a direct financial interest in the outcome of her introductions of these investors to Devwest.
41. Senior officers of Devwest travelled to China with Ms Chen on at least two occasions, where she introduced them to many potential investors.<sup>421</sup>
42. Mr Ferguson, who had been personally introduced to foreign investors by Ms Chen on an overseas networking trip with her, gave the following evidence in examination by Counsel Assisting:

*“Can you tell me, does Ms Chen introduce herself or mention the fact that she’s a Perth City Councillor to these people [potential Chinese investors]?---Look I mean, it doesn’t – I can’t recall it being, you know, part of the introduction, but obviously it gets brought up at some point in our dealings.*

*Yes?--- Investors are aware of it.*

*You obviously have some familiarity with Chinese culture and the like?--- I do.*

*Is it your understanding that Government officials, particularly elected ones, are held in very high regard?--- Absolutely.*

*In China?--- Absolutely.*

*Is that why Ms Chen is such a valuable asset for the company to have, amongst other things obviously, would that be one?---Yes, that's fair to say.*

*She promotes herself when she's acting in the interests of your company as a Councillor for the City of Perth?---Yes, as I said, I don't recall she goes, 'I'm Lily Chen from the City of Perth', but it comes up at some point, you know, obviously, whether it's the first meeting, second meeting or, you know, whenever. The investors are aware that she is a Councillor for the City of Perth.*

*And then notwithstanding the translation difficulties, is it obvious to you that these investors are impressed with that?---Absolutely".<sup>422</sup>*

43. Mr Ferguson's evidence that Ms Chen's position as a City of Perth councillor was a valuable asset for Devwest was telling. The Inquiry is not suggesting that being a councillor should be a secret, or that Ms Chen was not entitled to tell people she was a councillor. However, given the significant advantages afforded to her within the Chinese culture as an elected council member, Ms Chen should have been particularly careful to maintain an appropriate separation between her civic duties and the private interests she had with Devwest. Given the substantial commissions which she stood to make from referring investors to Devwest, there was clear potential for her to misuse her official position for a personal advantage or benefit. Her invitation to Devwest senior officers and potential investors of Devwest projects to the dining room was a clear example where Ms Chen did not separate her civic responsibilities from her private interests.
44. Ms Chen had also handed her City business card to private business connections in China, rather than her private business card which she also carried. When first questioned, Ms Chen denied having handed out her City business card when in China for business not connected with the City. When she was reminded by Counsel Assisting that the Inquiry was aware of the truthful answer to almost every question it asked, Ms Chen then said she could not remember. When it was directly put she had handed out her City business card to people in China when she had been there for her own personal business dealings, Ms Chen answered, "*Maybe occasion*". She was then asked, "*Definitely occasionally, isn't that right?*" and she responded, "*Yes*".<sup>423</sup>
45. The Inquiry notes that this was just one example of numerous occasions when Ms Chen would initially answer a question with a self-serving incorrect response before she would eventually give an accurate response that was against her interests. This repeated behaviour reflected poorly on Ms Chen's overall credibility as a witness. Whenever she was initially questioned about conduct that was inappropriate, Ms Chen would often answer with unequivocal denials until presented with material that tended to contradict those answers, whereupon her evidence would change.

### Ms Lily Chen obtained a private benefit

46. Ms Chen did, in fact, receive a substantial financial benefit from the referral arrangement she had with Devwest. She eventually admitted receiving commission payments from Devwest from April 2013 to April 2017 totalling \$307,200.00, ranging from \$7,200.00 to \$90,000.00.<sup>424, (aq)</sup> Prior to that admission, Ms Chen maintained she could not remember receiving any other commissions payments during her time as a council member apart from noticeably smaller payments by several other entities she had little difficulty identifying.<sup>425</sup> This matter is dealt with in more detail in another Section in this Chapter.

### Use of councillor role in connecting a Chinese investment company with State Government officials in private business dealings with Mr Anthony Tran

47. In 2016, Ms Chen used her role as a council member to facilitate introductions and meetings between a business associate named Mr Anthony Tran and members of the State Government.
48. Ms Chen had a direct financial interest in these introductions and meetings. If they resulted in a successfully funded infrastructure project, Ms Chen was to receive a proportion of an introduction fee that was to be paid for the project.<sup>426</sup> For the reasons outlined below, the Inquiry finds Ms Chen was acting in her private capacity in these dealings, and not in her capacity as a council member.
49. Ms Chen first met Mr Tran at a Migration Institute of Australia conference in 2015.<sup>427</sup> She was not acting in her capacity as a council member at this event, although she gave Mr Tran her City business card rather than her private business card. Ms Chen said that she usually carried both her City and private business cards, and had given her private card to others at the event. She was not able to account for her choice in giving Mr Tran her City business card, and her evidence on this point was inconsistent.<sup>428</sup>
50. Mr Tran believed Ms Chen gave him her private business card,<sup>429</sup> although he thought the City business card belonging to Ms Chen contained her photo (which it did not) so he may have been mistaken. Mr Tran was able to recall that, throughout their interactions, he saw Ms Chen's City business card more often than he saw her private business card and that she had given one of his business contacts her City business card.<sup>430</sup>

aq For two of these commission payments Ms Chen stated she shared the amount with a third party who had provided assistance.

### Ms Lily Chen hosted Mr Anthony Tran at the Council dining room and in her office at Council House

51. Ms Chen hosted Mr Tran for lunch in the dining room in late 2015 or early 2016. Mr Tran gave evidence that the other guests at the table were members of the Young Liberals, and the lunch was primarily to facilitate networking related to Ms Chen's bid for the 2017 State election.<sup>431</sup> However, as outlined below, the Inquiry notes that Ms Chen's personal business relationship with Mr Tran began within about six months of this lunch. In those circumstances, the Inquiry finds that Ms Chen's use of the dining room on this occasion was for the dual purpose of developing a personal business relationship with Mr Tran and her own political ambitions at a State level.
52. At her private hearing, Ms Chen denied meeting anyone at her Council House office to discuss private business dealings.<sup>432</sup> However, evidence shows that on 10 May 2016, Mr Tran did meet with Ms Chen in her Council House office to discuss a potential business arrangement between them.<sup>433</sup> This meeting took place in Council House despite both parties being in their own private offices in Perth until the time of the scheduled meeting. To arrive at Council House, Mr Tran walked from his office at 197 St Georges Terrace and Ms Chen drove from her law firm's offices in James Street.<sup>434</sup>
53. Two days after this meeting, Mr Tran emailed Ms Chen at her City email address, stating *"Following my discussion I am more than happy to discuss with your [sic] the funding opportunity I can present to you"*.<sup>435</sup> The email then set out an arrangement whereby *"GB Asiatic Shd Bdn [sic Sdn Bhd]"*,<sup>ar</sup> a Malaysian company (with backing from China Machinery Engineering Corporation, a Chinese state-owned company), would partner with Australian companies on large infrastructure projects in Australia, with a minimum project value of \$300 million.<sup>436</sup>
54. Mr Tran had discussed the arrangement with Ms Chen at their meeting on 10 May 2016 at Council House.<sup>437</sup> Mr Tran's email noted the *"synergies"* that existed between himself and Ms Chen following the *"very enlightening conversation"* at their meeting.<sup>438</sup> Mr Tran agreed that, given the nature and size of the potential projects identified in the email, they would have to be built outside the City boundaries.<sup>439</sup> This further supports a view Ms Chen was acting in her private capacity in these interactions, and not in her capacity as a council member for the City.

### Ms Lily Chen had a direct financial interest in her dealings with Mr Anthony Tran

55. One of the requirements for the projects outlined in the email was that *"an introduction fee must be paid by the lendee"* (being the Australian project partner) for each successfully funded project.<sup>440</sup> Mr Tran gave evidence his company, as the intermediary between the Asian companies and potential Australian partners, would receive that introduction fee.<sup>441</sup>

ar An abbreviation of *"Sendirian Berhad"* which translates to *"Incorporated in Malay"*.

56. Initially, Mr Tran's evidence was that Ms Chen would not have received any part of an introduction fee.<sup>442</sup> He maintained that even after he was shown the contents of his email dated 12 May 2016 to Ms Chen<sup>443</sup> and was reminded by Counsel Assisting of his earlier evidence where he agreed that if he had mentioned an introduction fee to Ms Chen then he would have remunerated her for any assistance.<sup>444</sup> After the Commissioner reminded Mr Tran of his obligation to tell the truth,<sup>445</sup> Mr Tran admitted that if Ms Chen had assisted him to find a suitable project, his company would have paid her 30 per cent of the introduction fee.<sup>446</sup>
57. Ms Chen also initially gave inaccurate answers regarding the arrangement she had with Mr Tran. She eventually admitted she would have received some of the introduction fee if a project went ahead due to her assistance.<sup>447</sup> Ms Chen maintained, however, that she was not told by Mr Tran, nor did she ask him, what split of the introduction fee she was to receive.<sup>448</sup> The Inquiry does not accept this evidence. Given the many business dealings Ms Chen has been involved in, including arrangements based on the payment of commissions, the Inquiry finds she would not have entered this arrangement with Mr Tran without understanding how she would be paid.
58. The introduction fees for these infrastructure projects were determined on a casebycase basis and were generally between one per cent and five per cent.<sup>449</sup> Based on the initial minimum project cost of \$300 million<sup>as</sup> and a 30 per cent payment of the introduction fee, Ms Chen had a potential financial interest of between \$900,000.00 and \$4.5 million.<sup>450</sup>

#### **Ms Lily Chen used her councillor title when attending meetings to connect Mr Anthony Tran with potential investors**

59. Mr Tran agreed he approached Ms Chen for her assistance because she was a member of the Chinese community in Australia whose role as a council member gave her high status within the Chinese community.<sup>451</sup> He also agreed she had good communication and negotiating skills and had contacts with the State Government. It was for these reasons he was prepared to pay her such a substantial part of the introduction fee.<sup>452</sup> As it was a Liberal State Government at the time, Ms Chen also agreed she had contacts within that government.<sup>453</sup>
60. Ms Chen made concerted efforts to assist Mr Tran by attempting to set up meetings between Mr Tran and Ministers of the State Government to discuss potential funding partnerships for infrastructure projects.<sup>454</sup> One week after meeting Mr Tran, she had started communicating with Mr Alan Green, an economic and trade promotion agent specialising in Asia, for the purpose of setting up a meeting with the then State Treasurer, the Hon. Dr Michael (Mike) Nahan, MLA.<sup>455</sup> Dr Nahan's appointment secretary subsequently advised Ms Chen it was "*not appropriate*" for the Treasurer to have such a meeting.<sup>456</sup>

as This was later reduced to \$150 million: Transcript, A Tran, private hearing, 9 August 2019, p 61.

61. Two weeks later, Ms Chen tried to set up a meeting with the Minister for State Development and Finance, the Hon. William (Bill) Marmion, MLA.<sup>457</sup> Mr Marmion was unable to attend “*due to a highly overscheduled diary*” although his appointment secretary offered a meeting with the Minister’s policy advisors, Mr Cam Fraser and Mr Gary MacLean, for 1 July 2016.<sup>458</sup> Ms Chen attended that meeting with Mr Tran and Mr Leon Siew, another of Mr Tran’s business partners. At the meeting, they discussed potential infrastructure projects with a minimum value of \$100 million.<sup>459</sup> Even at this lower threshold amount, a successful \$100 million project would have resulted in a minimum introduction fee of \$1 million for Mr Tran’s company, of which Ms Chen would have received \$300,000.00.<sup>460</sup>
62. Mr Tran gave evidence that Ms Chen was the primary spokesperson at the meeting.<sup>461</sup> Ms Chen said, although she had spoken at the meeting, she was not the primary spokesperson and was mainly there “*connecting*” the others who were present. Ms Chen confirmed she was acting in her private capacity at this meeting. Despite this, at the end of the meeting she gave her City business cards to those who were present, even though she also had her private business cards, which listed her contact details for Lily Chen & Associates.<sup>462</sup>
63. Ms Chen provided various explanations for having handed out her City business card rather than her personal one. The explanations were: it was a mistake; both cards should have been given out; and she had run out of her private business cards.<sup>463</sup> The Inquiry rejects these explanations.
64. When asked whether her evidence outlined above made “*perfect sense*” Ms Chen answered, “*Not perfect*”.<sup>464</sup> When it was put to her the real reason was because her City business card “*would have more gravitas, more importance*”, Ms Chen answered, “*More recognisable, yes*”.<sup>465</sup> This was the closest Ms Chen came to giving an accurate account as to why she had handed out her City business cards at a meeting in which she appeared in her private capacity and in which she had a financial interest in the outcome.
65. There is nothing inherently improper about Ms Chen connecting Mr Tran with government officials for the purpose of attracting overseas funding for infrastructure projects. The improper conduct arises in relation to:
- Ms Chen’s ongoing use of her councillor title and Council House facilities to bolster an arrangement in which she had a personal financial interest; and
  - The potential for Ms Chen to obtain a financial interest from those introductions.
66. Whether or not Ms Chen led the meeting on 1 July 2016, it is clear she took an active role in connecting Mr Tran with government advisers, with a view to securing a successfully funded project in which she had a personal and lucrative financial interest. It is also clear Ms Chen used the dining room, her Council office, her City email address, and her City business cards in the course of these private dealings with Mr Tran. This was not a proper use of the office she held as an elected council member.

67. Ms Chen later advised Mr Tran of an opportunity to invest in a private hospital project outside the City boundaries and suggested his client companies may be interested in funding the project.<sup>466</sup> Nothing eventuated from this suggestion.<sup>467</sup> Mr Tran said Ms Chen was “*always pitching meeting Parliament staff and things like that*”.<sup>468</sup>
68. As the meetings with State Government officials did not result in any successfully funded projects, Ms Chen did not ultimately receive a commission or an introduction fee in respect of this relationship.<sup>469</sup> The Inquiry finds this was not due to any lack of effort on her behalf.
69. Nevertheless, the Inquiry finds Ms Chen may have used her position as a council member to try and obtain benefits for herself in her private business dealings with Mr Tran. This conduct may have been in breach of regulation 7 of the Conduct Regulations.

#### Ms Lily Chen’s evidence on this issue lacked credibility

70. It was clear Ms Chen was acting in a private capacity in the business arrangement she had with Mr Tran. If Ms Chen was genuine in her efforts to give accurate answers to the Inquiry, she would have made that admission when she was first questioned at her private hearing on 2 July 2019.
71. Instead, she gave two different explanations of her arrangement with Mr Tran. She initially maintained her contact with Mr Tran was only connected to her duties and functions as a council member as it involved “*international engagement*” and that she was not invited to be Mr Tran’s business partner.<sup>470</sup>
72. Only when it became apparent to Ms Chen that the Inquiry was aware of the true nature of the relationship she had with Mr Tran did she admit she would receive a portion of the introduction fee,<sup>471</sup> and her dealings with him were “*private business dealings*”.<sup>472</sup>
73. The Inquiry notes this was another example of an initial self-serving account from Ms Chen which was discarded when she was confronted with the contrasting evidence available to the Inquiry.

#### Misuse of position in private business advertising

74. Ms Chen’s councillor title appeared on an invitation for an event that related to her private interests, and which had no relationship to the City. This risked creating the erroneous impression the event was affiliated with or supported by the City.
75. This could have resulted in a benefit being improperly obtained for Ms Chen, and certainly for an organisation with which Ms Chen has had a longstanding involvement. If the use of the councillor title constituted improper use by Ms Chen, she may have breached regulation 7 of the Conduct Regulations.
76. On 27 September 2016, the Lord Mayor, Ms Lisa Scaffidi emailed Mr Martin Mileham, CEO, copying Mr Mark Ridgwell, Manager, Governance, stating the “*need to discuss CR [councillor] use of titles together*”.<sup>473, (at)</sup>

at In this context, “CR” is used as an abbreviation for “Councillor”.

77. Ms Scaffidi's email attached a letter inviting her to attend the 2016 Mrs Chinatown World Pageant Perth and World Outstanding Women Awards Ceremony. The letter identified Ms Chen as one of three members on the organising committee. The events were not affiliated with the City. Ms Chen's details appeared at the base of the letter in a format resembling a signature block, which identified her as "*Lawyer/Councillor of City of Perth*" and "*President, Australia Chinese Women's Council*".<sup>474</sup>
78. Ms Scaffidi said she was aware of the issue, because Ms Chen "*had been advised from the time of Mr Edwards being the CEO to be very mindful of*" the inappropriate use of her councillor title as "*it had occurred previously*".<sup>475</sup> If Ms Scaffidi is correct, and noting Mr Edwards completed his position as the CEO of the City in September 2012, Ms Chen would have been aware of the correct use of her councillor title for at least four years.
79. The Inquiry accepts Ms Scaffidi's evidence on this point. As Ms Scaffidi said "*... it was drawn to my attention during Mr Frank Edwards' time as the CEO that that was not appropriate and so when I saw it on this occasion, I clearly recognised it. Otherwise, I wouldn't have probably thought about it*".<sup>476</sup>
80. In response to Ms Scaffidi's email, Mr Ridgwell emailed Mr Mileham stating, "*Yes I too agree that placement of a Councillor title on an external parties [sic] letterhead is not appropriate*".<sup>477</sup>
81. Mr Ridgwell's email said that the Governance unit would "*prepare a respectful letter to Cr Chen requesting that she desist from future use of her Councillor title in such communication. Noting the intention is not to create a perception that this is a City of Perth sanctioned event*" and would make it clear this was "*a general request for this and future matters*".<sup>478</sup> The reference to a "*general request*" and "*future matters*" supports Ms Scaffidi's evidence and suggests this was not an isolated incident for Ms Chen.
82. Mr Mileham wrote a letter dated 29 September 2016 (Mr Mileham's Letter) to Ms Chen which read:

*"I am writing to you in respect of [a] letter dated 27 September 2016 (attached) from Swanlake Australia Pty Ltd. The letter was in relation to the upcoming 2016 Mrs. Chinatown World Pageant Perth and World Outstanding Women Awards Ceremony.*

*The letter was not signed by yourself but the signature line included your details and noted your position as a Councillor of the City of Perth.*

*I request that you avoid the use of your title in communications regarding events that are not related to the City of Perth. The use of your title in the signature line could give the incorrect impression that the event is officially sanctioned by, or jointly organised with, the City of Perth. Please ensure that Swanlake Australia Pty Ltd removes this reference from future correspondence. Please also avoid the use of your title in similar correspondence from any other party*".<sup>479</sup>

83. Despite Mr Ridgwell's email clearly stating that the use of Ms Chen's councillor title was not appropriate, at his hearing Mr Ridgwell clarified his views as to when it was appropriate for a council member to use the title of Councillor:

*"Given your position as manager of Governance at the time, it's not appropriate, is it, for a Councillor to use her title as Councillor on correspondence that has nothing to do with the City?---That is the status of what an Elected Member is titled. So in another instance, the Lord Mayor would have her title as Lord Mayor. I guess the conflicting part to this was where the focus was in this was the legitimacy of then supporting another event which was where probably the focus was, but a person can refer to themselves as a Councillor in any regard at any time.*

*Is that your view?---Yes.*

*So, for example, Councillor Chen in her occupation as a lawyer, could use [in] the signature block in corresponding with a client that she's a Councillor for the City of Perth?---Probably – I would say it wouldn't be appropriate. I mean, this is where I'm saying about the context of this, it's questionable. Someone could be in sense of explaining who they are, representing what they are, they could list themselves and identify themselves as a Councillor of the City of Perth. That would seem reasonable".<sup>480</sup>*

84. From the above answers, it is difficult to distil precisely what Mr Ridgwell's view was on the use by a council member of their councillor title. However, he later stated council members should ensure the use of their title is *"not creating an advantage or misrepresenting the City's position on anything"*, and the appropriateness of using a councillor title outside of City duties would be context-dependant. With respect to the letter of invitation received by Ms Scaffidi, Mr Ridgwell believed the use of the councillor title by Ms Chen *"sort of looked to be advocating a Council position potentially"*.<sup>481</sup>
85. The Inquiry must consider whether Ms Chen may have engaged in improper conduct in relation to the invitation. In her evidence, Ms Chen denied consenting to the use of her councillor title on the invitation. She said she did not see the letter before it was sent out, and the organiser must have drawn that information from *"the public domain"* and used it for the letter without her consent.<sup>482</sup>
86. The Inquiry has no evidence to the contrary. The letter was emailed to Ms Scaffidi directly and Ms Chen was not copied.<sup>483</sup> The letter was designed to be signed only by the Chairman of the Events (Chairman) and not by Ms Chen or the other committee member.<sup>484</sup> Ms Chen also asserted that although she was a participant she was not a member of the organising committee for these events.<sup>485</sup> However, she is identified as a member of the organising committee in the letter.<sup>486</sup> Although the Inquiry does not make a finding contrary to Ms Chen's explanations, what does concern the Inquiry is Ms Chen's failure to acknowledge that the use of her councillor title in the letter was inappropriate.

87. This was her evidence:

*“Do you agree with me that your name and description should not have appeared like that?---I disagree. Because that is true, is the fact situation and are positions I held at the time.*

...

*So you’re saying there’s no problem with that?---That’s correct.”<sup>487</sup>*

88. The Inquiry put to Ms Chen that the events in the invitation were not connected with her role as a council member. Ms Chen gave a number of disconnected justifications for why such a connection existed. She argued the event was connected to the City as the Chairman was a ratepayer of the City, and ratepayers were entitled to address her as Councillor. She also stated that as this was a community event, to which council members were often invited, it would be appropriate for her to send out the letter even under her own hand and refer to herself as a councillor in that letter.<sup>488</sup>
89. This view of Ms Chen is totally inconsistent with Mr Mileham’s Letter.<sup>489</sup> When asked whether she received a letter from the City advising her not to use her councillor title in communications not related to the City or her role as a council member, Ms Chen initially answered she *“cannot recall”*. After admitting that if she had received such advice it would be *“the total opposite”* to the earlier advice she says she had received (detailed below) Ms Chen’s recollection became firmer, because she then said she *“didn’t receive”* the subsequent advice contained in Mr Mileham’s Letter.<sup>490</sup>
90. The Inquiry obtained a hard copy of Mr Mileham’s Letter from the City. That letter was retrieved from Ms Chen’s own office at Council House, so it is clear she did receive it.

#### **Whether the City of Perth gave Ms Lily Chen inconsistent advice about using her councillor title in private communications**

91. Ms Chen said she had a verbal conversation with *“senior executives at Director level or Chief Executive Officer”*,<sup>491</sup> who informed her it was acceptable to use her councillor title for business not related to the City provided it appeared in a list with her other titles (such as *“lawyer”*, or her role in various associations).<sup>492</sup> She could not recall who that person was (although she thought it was probably someone in the Governance unit), when the conversation occurred, or whether it was by telephone or face-to-face. However, she said it occurred before Mr Ridgwell commenced at the City.<sup>493</sup> That meant it would have been before October 2013.<sup>494</sup>
92. Ms Chen said she took the initiative to seek this advice, that the City sought legal advice on the point, and then gave her the advice there were no limitations as to context or use of the councillor title.<sup>495</sup> Mr Ridgwell did not recall discussing the topic with Ms Chen. However, he agreed it would be *“odd”* for anyone in the Governance unit to condone unrestricted use of the councillor title. His personal view, which the Inquiry accepts as correct, was that it would not be appropriate for a council member to describe themselves as a Councillor on *“a business letter”* as *“it’s got no relation to the role of an Elected Member”*.<sup>496</sup>

93. It was directly put to Ms Chen she had never received the earlier advice permitting her to have unrestricted use of her councillor title, yet Ms Chen maintained that she had.<sup>497</sup>
94. The Inquiry has not found any evidence that the City sought the legal advice which Ms Chen refers, nor has it found any evidence that advice of this nature was delivered to Ms Chen. Ms Chen has not provided any information to assist the Inquiry to verify her evidence, if such evidence exists, despite being requested to do so by Counsel Assisting during her private hearing on 2 July 2019.<sup>498</sup>
95. As referred to earlier in this Section, Ms Scaffidi's evidence demonstrates that Ms Chen's misuse of her councillor title was a longstanding issue and she had been counselled on more than one occasion that it was improper to use her title in this way.<sup>499</sup>
96. There is a clear conflict in this evidence which requires resolution by the Inquiry.
97. Ms Chen's conduct throughout the Inquiry process has demonstrated an apparent unwillingness to comply with the directions of the Inquiry, including those issued using the coercive powers of the *Royal Commissions Act 1968*. The Inquiry has uncovered instances of Ms Chen withholding information, giving evasive and inconsistent answers, and giving inaccurate and incorrect evidence.
98. Those matters are properly dealt with elsewhere in this Report. However, their effect is that where there is conflicting evidence that is against Ms Chen's interests, it is appropriate for the Inquiry to afford substantially less weight to the evidence of Ms Chen. This is particularly so in this instance, where:
  - there is no apparent reason for Ms Scaffidi to give inaccurate evidence on this point and her evidence was partially supported by documents;
  - Ms Chen's evidence lacks consistency and specificity; and
  - the Inquiry has not been able to independently verify the formal governance processes Ms Chen said the City undertook, or find any record of legal advice the City may have obtained on this issue.
99. Nonetheless, it was evident Mr Ridgwell had some difficulty clearly articulating where and when a council member might legitimately use their councillor title. This suggests the City lacks clear guidance as to how to properly interpret and enforce regulation 7 of the Conduct Regulations in circumstances that suggest a council member is misusing their councillor title.
100. It appears the City and the Department of Local Government, Sport and Cultural Industries (Department) have provided no formal guidance as to when and how a council member may use his or her official title when they are not acting in their capacity as a councillor. The Code of Conduct provisions in the City's Council Policy Manual do not provide information on this issue.
101. In any event, as a council member Ms Chen was required to be familiar with and to comply with the Conduct Regulations.

102. In the Inquiry's view, it would be clearly improper for Ms Chen to use her councillor title, in an unrestricted way, in private business communications that are not connected with the City. As an elected public official, Ms Chen must maintain an appropriate separation between her civic duties and her private for-profit business dealings. If there is a risk the inclusion of the councillor title could mislead people into thinking the City endorses a private business dealing, or her holding the office would somehow advantage that dealing, then use of that title would be improper.

#### **General use by Ms Lily Chen of her councillor title in private business dealings**

103. Ms Chen repeatedly asserted that where her councillor title appears in a list with her other titles, it is "*a matter of fact*" rather than a promotion of herself as a council member.<sup>500</sup> Whilst that may have been the case in some circumstances, there were other occasions in which she used her councillor title to promote her own business interests.
104. Ms Chen knew only too well that her standing within the community, particularly the Chinese community, was greatly enhanced by her position as a City councillor. The Inquiry finds that she took many opportunities to promote herself in that capacity when it was to her advantage, even when she was acting in a private business capacity.
105. The Inquiry does not consider there is necessarily anything wrong with a council member listing their titles or qualifications, or membership of organisations, in correspondence or documents (including electronically). An obvious example would be a council member's profile on LinkedIn, as cited by Mr Ridgwell.<sup>501</sup>
106. What is of concern to the Inquiry, is if Ms Chen was advertising her position as a council member of the City to persuade people to use her services when applying to migrate to Australia, thereby enabling her to gain business as a migration agent. In providing these services, Ms Chen also had the opportunity of obtaining commission payments from property investments by people applying for migration. This would be a potential misuse of her council position to gain a personal advantage.
107. Ms Chen has included the title "*Councillor of City of Perth*" in her correspondence and advertising, including for her private businesses as a lawyer and registered migration agent. A brief check of the internet in December 2019 found numerous examples of this, including Facebook and LinkedIn pages, the website for Lily Chen & Associates (website), newspaper advertisements, and various websites relating to migration.
108. Frequently, the title "*Councillor of the City of Perth*" has been listed first among Ms Chen's positions.
109. During the period of the Inquiry's Terms of Reference, Ms Chen regularly used her Lily Chen & Associates email address for private business matters and migration work. The email signature block for that address included her councillor title under her name, along with other roles she held with community organisations.<sup>502</sup>

110. Ms Chen’s personal profile page on the website as at 27 May 2019 listed “*Councillor of the City of Perth*” as the first title in a list of six and is above her descriptions as “*Principal of Lily Chen & Associates*” and “*Solicitor*”.<sup>503</sup> Although Ms Chen asserted the website was “*outdated*” at her private hearing on 2 July 2019,<sup>504</sup> an examination of the website on 3 December 2019 and again on 26 February 2020 revealed that the same list of titles appeared in the exact same order on her personal profile page.<sup>505</sup> Ms Chen’s last term as a council member expired on 19 October 2019. However, the same paragraph that appeared on 27 May 2019 regarding her achievements as a council member still appeared in her personal profile in the website on 3 December 2019 and again on 26 February 2020:

*“In October 2011, Ms Lily Chen was elected to the City of Perth as a Councillor. She hopes that this opportunity will bring a positive influence and example to the Australian Chinese women [sic] community. At the City of Perth, Ms Lily Chen is tasked with chairing the Marketing, Sponsorship and International Relations Committee amidst other committee responsibilities. Her dedication and capabilities has [sic] won her the admiration and praise from her colleagues.”*<sup>506, (au)</sup>

111. As outlined above, Ms Chen also regularly handed out her City business card at events where she appeared in her private business capacity.<sup>507</sup>
112. The Inquiry finds Ms Chen did use her councillor title for private business purposes in circumstances when it was inappropriate to do so. This includes Ms Chen’s repeated inclusion of her councillor title in the signature blocks she used for her private business communications through Lily Chen & Associates. The Inquiry further finds that she ignored advice from the City regarding her misuse of her councillor title.
113. The Inquiry rejects Ms Chen’s evidence regarding the advice she says she received from the City at a time prior to October 2013. Considering the following answers she gave, it cannot be said Ms Chen was ignorant of the circumstances when her councillor title should not be used:<sup>508</sup>

*“In what context should you be referring to yourself as Councillor Chen?---  
When you conduct your civic duties.*

*That would be the only basis?---Yes.*

*Do you agree that an Elected Member of Council should not use their  
Councillor title to promote their own private interests?---Yes, not.*

*Have you ever done that?---No.”*<sup>509, (av)</sup>

114. It is of considerable concern to the Inquiry that Ms Chen has continued to describe herself as a “*Councillor of the City of Perth*” (in English and Chinese characters) on the website for Lily Chen & Associates several months after the Inquiry questioned the appropriateness of that description in an extract of the Inquiry’s draft Report which was provided to her legal representatives in December 2019.

au Ms Chen’s profile is also translated into Chinese characters.

av At the time Ms Chen gave this response she was not aware that the Inquiry possessed evidence that contradicted her answer.

## Findings

### Finding 2.2.3 – 10

The Inquiry makes the following findings:

- i. Ms Chen used her Councillor position to advance her own personal business interests. This conduct may be a breach of regulation 7 of the Conduct Regulations. This conduct was repeated on numerous occasions, including:
  - the use of the dining room to entertain officers from Devwest and potential investors to Devwest's property developments;
  - the use of the dining room to entertain Mr Tran;
  - the use of her council office to meet with Mr Tran regarding a private business proposition which she subsequently accepted; and
  - the deliberate use of her City business card and email address when carrying out private business matters.
- ii. The City has insufficient guidance material for the proper interpretation and enforcement of regulation 7 of the Conduct Regulations.

## Endnotes

- 1 *Local Government Act 1995*, s 5.60A, 5.60B, 5.61, 5.63; *Local Government (Administration) Regulations 1996*, reg 34C; *Local Government (Rules of Conduct) Regulations 2007*, reg 11.
- 2 *Criminal Code*, s 1.
- 3 *Local Government Act 1995*, s 5.98(1) and (2A); *Local Government (Administrative) Regulations 1996*, reg 30(3A).
- 4 Policy, City of Perth Council Policy Manual, CP10.5, Council Member Allowance and Meeting Attendance Fees, 30 April 2015.
- 5 *Local Government Act 1995*, s 5.100.
- 6 Policy, City of Perth Council Policy Manual, CP10.13, Reimbursement of Expenses for Non-Council Committee Members, 1 February 2011.
- 7 Document, Salaries and Allowances Tribunal, Determination of the Salaries and Allowances Tribunal – Local Government Chief Executive Officers and Elected Members, 17 June 2015, p 34, 37; Determination, 12 April 2016, p 27, 29; Determination, 11 April 2017, p 35, 27.
- 8 *Local Government Act 1995*, Part 5, Division 8.
- 9 Email, D Quinlivan to G Stevenson, 19 June 2015.
- 10 Report, City of Perth, Annual Report 2016/2017, p 40.
- 11 Report, City of Perth, Annual Report 2016/2017, p 37.
- 12 Report, City of Perth, Annual Report 2017/2018, p 41.
- 13 Document, City of Perth, Notice to Produce a Statement of Information No. 001 of 2018, 23 November 2018.
- 14 Report, Department of Local Government, Sport and Cultural Industries (Department), website, *Local Government Act 1995* Review, Phase 1: Consultation Paper, 8 November 2017.
- 15 Information sheet, Department, website, Gifts policy position, 31 July 2018.
- 16 Media Statement, Minister for Local Government; Heritage; Culture and the Arts, the Hon. David Templeman, City of Perth suspended, inquiry to determine fate, 2 March 2018.
- 17 Terms of Reference, Part A.3(vi).
- 18 Terms of Reference, Part A.3(v).
- 19 Terms of Reference, Part A.3(iv).
- 20 Terms of Reference, Part A.3(ii).
- 21 Terms of Reference, Part A.1.
- 22 *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222, p 17-18, [46]-[48].
- 23 *Royal Commissions Act 1968*, s 8A, 8B.
- 24 Transcript, X Chen, private hearing, 16 August 2019.
- 25 *Local Government Act 1995*, s 5.74-5.76.
- 26 *Local Government Act 1995*, s 5.80.
- 27 *Local Government Act 1995*, s 5.79, 5.86.
- 28 *Local Government Act 1995*, s 5.81.
- 29 *Local Government Act 1995*, s 5.84.
- 30 *Local Government Act 1995*, s 5.85.
- 31 *Local Government Act 1995*, s 5.87.
- 32 *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222.
- 33 *Local Government Act 1995*, s 5.78(2).
- 34 *Local Government Act 1995*, s 5.80(3), 5.85(2)(a); *Local Government (Administration) Regulations 1996*, reg 24, 27.
- 35 *Local Government Act 1995*, s 5.75 (lodging primary returns), 5.76 (lodging annual returns), 5.78 (information disclosed in returns).
- 36 *Local Government Act 1995*, s 5.76(1).
- 37 Email, M Sucur to N Mendoza, 31 July 2018.
- 38 Memorandum, M Mileham to Lord Mayor and Councillors, Request for 2017/18 Annual Return, 6 August 2018.
- 39 Transcript, L Chen, public hearing, 13 August 2019, p 37.
- 40 Transcript, L Chen, public hearing, 13 August 2019, p 37-38, 40.
- 41 *Local Government Act 1995*, s 8.29(1).
- 42 *Local Government Act 1995*, s 5.94(b).
- 43 *Local Government Act 1995*, s 5.79(1).
- 44 *Local Government Act 1995*, s 5.80.
- 45 Form, L Chen, Annual Return for 2013/2014, 11 July 2014.
- 46 Form, L Chen, Annual Return for 2014/2015, 28 July 2015.
- 47 Form, L Chen, Annual Return for 2015/2016, 30 August 2016.
- 48 Form, L Chen, Annual Return for 2013/2014, 11 July 2014.
- 49 Transcript, L Chen, public hearing, 13 August 2019, p 50-51.
- 50 Transcript, L Chen, public hearing, 13 August 2019, p 51.

- 51 Form, L Chen, Annual Return for 2015/2016, 30 August 2016; Transcript, L Chen, 13 August 2019, p 55.
- 52 *Local Government Act 1995*, s 5.60(d), 5.60B, 5.65, 5.67.
- 53 Form, R Harley, Primary Return, 3 December 2013.
- 54 Form, R Harley, Annual Return for 2013/2014.
- 55 *Local Government Act 1995*, 5.78(2)(a).
- 56 Form, R Harley, Annual Return for 2014/2015.
- 57 Notice to R Harley, Inquiry into the City of Perth, Notice to produce a statement of information, 1 March 2018 [sic 2019].
- 58 Letter, N Malone and A McDonald, Response to notice to produce a statement of information by R Harley, 15 March 2019, p 2.
- 59 Form, R Harley, Annual Return for 2014/2015; Form, R Harley, Annual Return for 2015/2016; Form, R Harley, Annual Return for 2016/2017; Form, R Harley, Annual Return for 2017/2018.
- 60 Notice to J Green, Inquiry into the City of Perth, Notice to produce a statement of information, 1 March 2018 [sic 2019].
- 61 Letter, Dr Green's solicitor to the Inquiry, Response to notice to produce a statement of information, 15 March 2019, p 2.
- 62 Form, J Green, Primary Return, 3 December 2015; Form, J Green, Annual Return for 2015/2016, 25 August 2016; Form, J Green, Annual Return for 2016/2017, 15 July 2017; Form, J Green, Annual Return for 2017/2018, 30 June 2018.
- 63 Form, L Chen, Annual Return for 2013/2014, 11 July 2014, p 2.
- 64 *Local Government Act 1995*, s 5.78(2)(a).
- 65 Form, L Chen, Annual Return for 2011/2012, dated 29 August 2012. It should be noted Ms Chen incorrectly wrote on this return it was for the period from "1/7/2012 to 30 June 2013"; Transcript, L Chen, Public hearing, 13 August 2019, p 45-46.
- 66 Form, L Chen, Annual Return for 2012/2013, 1 August 2013; Form, L Chen, Annual Return for 2013/2014, 11 July 2014.
- 67 Form, P Crosetta, Primary Return, 7 January 2016.
- 68 Form, P Crosetta, Annual Return for 2015/2016, 23 August 2016.
- 69 Form, P Crosetta, Annual Return for 2015/2016, 23 August 2016, p 3.
- 70 Form, P Crosetta, Annual Return for 2016/2017, 12 August 2017; Form, P Crosetta, Annual Return for 2017/2018, 9 August 2018.
- 71 *Local Government Act 1995*, s 5.84.
- 72 ASIC, Historical Company Extract for Limnios Superannuation Fund Pty Ltd, 28 August 2018; Form, J Limnios, Primary Return, 8 December 2009.
- 73 Form, K Yong, Annual Return for 2014/2015, 11 July 2014.
- 74 ASIC, Historical Company Extract for Yong Family Super Pty Ltd, 13 September 2018; ASIC, Historical Company Extract for Maxiwest Pty Ltd, 13 September 2018.
- 75 Form, K Yong, Primary Return, 8 November 2013.
- 76 Form, L Chen, Primary Return, 11 December 2011.
- 77 ASIC, Historical Company Extract for Wayon Pty Ltd, 10 August 2018.
- 78 Form, L Chen, Primary Return, 11 December 2011.
- 79 Transcript, L Chen, public hearing, 13 August 2019, p 43.
- 80 Form, L Chen, Annual Return for 2012/2013, 1 August 2013, p 3.
- 81 Transcript, L Chen, public hearing, 13 August 2019, p 49.
- 82 Form, L Chen, Annual Return for 2011/2012, 29 August 2012.
- 83 ASIC, Historical Company Extract for Global Australia Pty Ltd, 13 September 2018; Transcript, L Chen, public hearing, 13 August 2019, p 44-45.
- 84 Form, L Chen, Primary Return, 11 December 2011.
- 85 *Local Government Act 1995*, s 5.80(2)(b).
- 86 *Local Government Act 1995*, s 5.81.
- 87 Form, J Green, Primary Return, 3 December 2015, p 2.
- 88 Form, J Green, Annual Return for 2015/2016, 25 August 2016, p 2; Form, J Green, Annual Return for 2016/2017, 15 July 2017, p 2; Form, J Green, Annual Return for 2017/2018, 30 June 2018, p 2.
- 89 Super fund lookup on Australian Taxation Office website.
- 90 Letter, Dr Green legal representatives to the Inquiry, 19 December 2019.
- 91 *Local Government Act 1995*, s 5.80(3) and 5.80(4); *Local Government (Administration) Regulations 1996*, reg 24.
- 92 Document, Spreadsheet of income for L Scaffidi, Response to notice to produce a statement of information, undated.
- 93 Form, L Scaffidi, Annual Return for 2015/2016, 16 August 2016, p 2; Form, L Scaffidi, Annual Return for 2016/2017, 15 August 2017, p 2.
- 94 *Local Government Act 1995*, s 5.78(2).
- 95 Form, J Davidson, Primary Return, 24 February 1998.
- 96 Document, Statement of information by J Davidson, Response to notice to produce a statement of information, 12 March 2019.
- 97 Form, J Davidson, Annual Return for 2015/2016, 23 July 2016, p 2; Form, J Davidson, Annual Return for 2016/2017, 16 July 2017.
- 98 *Local Government Act 1995*, s 5.78(2).
- 99 Form, J Davidson, Annual Return for 2015/2016, 23 July 2016, p 1-2; Form, J Davidson, Annual Return for 2016/2017, 16 July 2017, p 1-2.
- 100 Transcript, L Chen, public hearing, 13 August 2019, p 38-39.
- 101 Transcript, L Chen, public hearing, 13 August 2019, p 39.

- 102 Transcript, L Chen, public hearing, 13 August 2019, p 58.
- 103 Form, L Chen, Primary Return, 11 December 2011, p 1.
- 104 Transcript, L Chen, public hearing, 13 August 2019, p 41, 46, 49, 51; Form, L Chen, Annual Return for 2013/2014, 11 July 2014.
- 105 Transcript, L Chen, public hearing, 13 August 2019, p 7-9.
- 106 Transcript, L Chen, public hearing, 13 August 2019, p 74.
- 107 Transcript, L Chen, public hearing, 13 August 2019, p 11.
- 108 Bank statement, L Chen, Bankwest Hero transaction account; Transcript, L Chen, public hearing, 14 August 2019, p 33.
- 109 Transcript, L Chen, public hearing, 13 August 2019, p 54.
- 110 Form, L Chen, Primary Return, 11 December 2011; Form, L Chen, Annual Return for 2011/2012, 29 August 2012.
- 111 Submissions on Behalf of L Chen, Disclosure of Financial Interests, 20 February 2020, Annexures 1 and 2.
- 112 Form, L Chen, Primary Return, 11 December 2011, p 1.
- 113 Form, L Chen, Annual Return for 2011/2012, 29 August 2012.
- 114 Transcript, L Chen, public hearing, 13 August 2019, p 52, 54, 74; Transcript, L Chen, public hearing, 14 August 2019, p 33.
- 115 *Local Government Act 1995*, s 5.80(2)(ii).
- 116 *Local Government Act 1995*, s 5.80(2)(i).
- 117 Transcript, L Chen, public hearing, 13 August 2019, p 68-69.
- 118 Contract, L Chen and Devwest, Consulting agreement, 10 April 2013; Contract, L Chen and Devwest, Fund raising agreement; Transcript, L Chen, public hearing, 13 August 2019, p 84-86.
- 119 Transcript, L Chen, public hearing, 13 August 2019, p 68; Contract, L Chen and Devwest, Fund raising agreement
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- 431 Transcript, A Tran, private hearing, 9 August 2019, p 37, 49-50.
- 432 Transcript, L Chen, private hearing, 2 July 2019, p 14.
- 433 Transcript, A Tran, private hearing, 9 August 2019, p 50-51; Email, C Firth to L Chen, 10 May 2016.
- 434 Transcript, A Tran, private hearing, 9 August 2019, p 50; Transcript, L Chen, private hearing, 2 July 2019, p 19, 21.
- 435 Email, A Tran to L Chen, 12 May 2016, p 1.
- 436 Email, A Tran to L Chen, 12 May 2016, p 1.
- 437 Transcript, A Tran, private hearing, 9 August 2019, p 50-51.
- 438 Email, A Tran to L Chen, 12 May 2016, p 1.
- 439 Transcript, A Tran, private hearing, 9 August 2019, p 53-54.
- 440 Email, A Tran to L Chen, 12 May 2016, p 1
- 441 Transcript, A Tran, private hearing, 9 August 2019, p 43-44.
- 442 Transcript, A Tran, private hearing, 9 August 2019, p 44.
- 443 Transcript, A Tran, private hearing, 9 August 2019, p 55; Email, A Tran to L Chen, 12 May 2016.
- 444 Transcript, A Tran, private hearing, 9 August 2019, p 51.
- 445 Transcript, A Tran, private hearing, 9 August 2019, p 58.
- 446 Transcript, A Tran, private hearing, 9 August 2019, p 61-64.
- 447 Transcript, L Chen, public hearing, 13 August 2019, p 2.
- 448 Transcript, L Chen, public hearing, 13 August 2019, p 6.
- 449 Transcript, A Tran, private hearing, 9 August 2019, p 61.
- 450 Transcript, A Tran, private hearing, 9 August 2019, p 61-62.
- 451 Transcript, A Tran, private hearing, 9 August 2019, p 57-58.
- 452 Transcript, A Tran, private hearing, 9 August 2019, p 66.
- 453 Transcript, L Chen, public hearing, 13 August 2019, p 20.
- 454 Transcript, L Chen, public hearing, 13 August 2019, p 20-23.
- 455 Transcript, L Chen, public hearing, 13 August 2019, p 20; Emails, between A Green and L Chen, 18 May 2016.
- 456 Transcript, L Chen, public hearing, 13 August 2019, p 21; Emails, between L Chen and E Baird, 19 and 24 May 2016.
- 457 Transcript, L Chen, public hearing, 13 August 2019, p 21; Email, L Chen to N Byrne, 7 June 2016.
- 458 Transcript, L Chen, public hearing, 13 August 2019, p 22-23; Email, N Byrne to L Chen, 8 June 2016; Transcript, A Tran, private hearing, 9 August 2019, p 65.
- 459 Transcript, A Tran, private hearing, 9 August 2019, p 65-66; Form, *Meeting agenda*, 8 June 2016.
- 460 Transcript, A Tran, private hearing, 9 August 2019, p 65-66.
- 461 Transcript, A Tran, private hearing, 9 August 2019, p 66.
- 462 Transcript, L Chen, public hearing, 13 August 2019, p 22-25.

463 Transcript, L Chen, public hearing, 13 August 2019, p 25-30.  
 464 Transcript, L Chen, public hearing, 13 August 2019, p 30.  
 465 Transcript, L Chen, public hearing, 13 August 2019, p 26.  
 466 Email, L Chen to A Tran, 24 October 2016; Transcript, A Tran, private hearing, 9 August 2019, p 67-68.  
 467 Transcript, A Tran, private hearing, 9 August 2019, p 43.  
 468 Transcript, A Tran, private hearing, 9 August 2019, p 68.  
 469 Transcript, A Tran, private hearing, 9 August 2019, p 73.  
 470 Transcript, L Chen, private hearing, 2 July 2019, p 24-25.  
 471 Transcript, L Chen, public hearing, 13 August 2019, p 2.  
 472 Transcript, L Chen, public hearing, 13 August 2019, p 22.  
 473 Email, L Scaffidi to M Mileham (cc to M Ridgwell), 27 September 2016, p 1.  
 474 Letter, T Su to L Scaffidi, 27 September 2016, p 3.  
 475 Transcript, L Scaffidi, private hearing, 8 July 2019, p 66.  
 476 Transcript, L Scaffidi, private hearing, 8 July 2019, p 66.  
 477 Email, M Ridgwell to M Mileham, 28 September 2016, p 1.  
 478 Email, M Ridgwell to M Mileham, 28 September 2016, p 1.  
 479 Letter, M Mileham to L Chen, 29 September 2016.  
 480 Transcript, M Ridgwell, private hearing, 24 July 2019, p 4-5.  
 481 Transcript, M Ridgwell, private hearing, 24 July 2019, p 5.  
 482 Transcript, L Chen, private hearing, 2 July 2019, p 3.  
 483 Email, T Su to L Scaffidi, 27 September 2016.  
 484 Letter, T Su to L Scaffidi, 27 September 2016, p 3.  
 485 Transcript, L Chen, private hearing, 2 July 2019, p 4.  
 486 Letter, T Su to L Scaffidi, 27 September 2016, p 3.  
 487 Transcript, L Chen, private hearing, 2 July 2019, p 3.  
 488 Transcript, L Chen, private hearing, 2 July 2019, p 4-5.  
 489 Letter, M Mileham to L Chen, 29 September 2016.  
 490 Transcript, L Chen, private hearing, 2 July 2019, p 10.  
 491 Transcript, L Chen, private hearing, 2 July 2019, p 7.  
 492 Transcript, L Chen, private hearing, 2 July 2019, p 5-9.  
 493 Transcript, L Chen, private hearing, 2 July 2019, p 7.  
 494 Transcript, M Ridgwell, private hearing, 24 July 2019, p 6.  
 495 Transcript, L Chen, private hearing, 2 July 2019, p 7.  
 496 Transcript, M Ridgwell, private hearing, 24 July 2019, p 5-6.  
 497 Transcript, L Chen, private hearing, 2 July 2019, p 10.  
 498 Transcript, L Chen, private hearing, 2 July 2019, p 10.  
 499 Transcript, L Scaffidi, private hearing, 8 July 2019, p 66.  
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 501 Transcript, M Ridgwell, private hearing, 24 July 2019, p 5-6.  
 502 For example, emails, L Chen to A Green and E Baird, 18 and 19 May 2016.  
 503 Website, Lily Chen & Associates, Our Team.  
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 508 Transcript, L Chen, private hearing, 2 July 2019, p 2.  
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## 2.2.4 Grants and sponsorship

The purpose of this Chapter is to describe how the City of Perth (City) made decisions about, and administered, sponsorships, grants and donations during the period of the Inquiry's Terms of Reference, 1 October 2015 to 1 March 2018.

Partnerships with other organisations through grants and sponsorships can provide positive and tangible benefits to the community. The best use of public funds should be a key consideration of City of Perth Council (Council), its committees and staff of a local government, when making decisions about which initiatives and events to support. Accountability of the outcomes delivered, and acquittal of those funds should be the responsibility of the local government.



**\$4m+**

Spent each year on grants, sponsorship and donation to more than 100 organisations and events.

The community expects high standards of ethical behaviour and fair dealing in decision-making related to partnerships, sponsorships, grants and donations. This includes:

- disclosure and management of interests, especially conflicts between private interests and public duties;
- refusal of personal gifts, invitations to events and functions (other than when performing an official role), or other favours;
- maintenance of high standards of accountability and transparency in decision-making; and
- receiving approaches from organisations which might be interpreted as attempts to obtain influence or advantage.

At the City, funds were allocated through a process in which organisations applied for sponsorships, grants and donations from the City. The applications were considered by City employees, who made reports and recommendations to a Council committee called the Marketing, Sponsorship and International Engagement Committee (MSIE Committee or Committee).

The Committee consisted of three council members. They considered each application for funding and either approved or declined applications for small amounts of funding,<sup>a</sup> or made a recommendation to the Council in respect of larger funding amounts. These recommendations went to a Council meeting for decision.

<sup>a</sup> Up to \$10,000.00 before 13 December 2016 and up to \$15,000.00 after that date.

Some council members had close relationships with some organisations and events which received funding from the City. Examples are provided in this Section.

Tickets were often provided by funded organisations to the City and were accepted by some council members. These tickets were gifts under the definition in the *Local Government Act 1995* (LG Act). Examples of this are examined in this Chapter. Tickets were provided for, among others, the following events:

- Perth Fashion Festival;
- Hopman Cup;
- WA Business News 40under40 Awards; and
- Perth International Arts Festival.

The Inquiry also considered decision-making and the governance related to specific grants, sponsorships and donations at the City.

Elements examined included:

- tickets or benefits connected to funding of this nature;
- connections or relationships of some council members to funded organisations, including declaration of interests;
- authorisation and approval of grant and sponsorship funding agreements; and
- financial and grant practices related to acquittal of City funds for activities outcomes delivered by grant and sponsorship agreements.

Other grant matters examined in this Report are:

- **Chapter 2.2.2: Decision-making**, Section: *Sponsorship Proposal to rejuvenate the Piccadilly Theatre*; and
- **Chapter 2.3.3: Financial management and planning**, Section: *Perth Public Art Foundation and the 2016 CowParade*.

## Terms of Reference

The Terms of Reference for the Inquiry require that it determine whether there has been “good government” by the City.

“Good government” requires that government bodies meet their legitimate objectives in a manner that is honest, fair, accountable and transparent. This means that decisions made by the Council and actions taken by employees must be in the community’s interest and for the good of the community, and not motivated by personal interest.

If council members or employees do not act in accord with the objectives of the City or to the benefit of the community; if they act from self-interest, with bias, with a conflict of interest, or outside their authority, then their actions are not good government.

In this context part 3 of the Inquiry's Terms of Reference states:

*"The Inquiry Panel is ... to give due consideration to, and inquire into and report on, the following matters:*

- i. whether there was improper or undue influence by any member ... of the Council of the City of Perth in administrative tasks, such as ... grants administration;*
- ...*
- iv. sponsorship arrangements between organisations and the City and the acceptance of gifts in the form of tickets to events by members from those organisations".*

### Issues considered by the Inquiry

In examining the allocation of funding by the City through sponsorships, grants and donations the Inquiry has:

- obtained and analysed records of the City and other information;
- engaged the services of Crowe (formerly Crowe Horwath) to audit processes followed by the City and examine specific sponsorships, grants and donations;
- examined relationships between council members and organisations and events which were allocated funds; and
- considered the involvement by individual council members in decision-making and administrative processes relating to funding.

### Investigation by the Inquiry

#### Background

On 5 October 2015, the Corruption and Crime Commission provided Parliament with its *"Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth"*.

This report noted that two companies which had provided the Lord Mayor, Ms Lisa Scaffidi, with gifts of travel, and which she had not declared, later applied for a sponsorship or grant from the City.

On 8 January 2018, the Department of Local Government, Sport and Cultural Industries (Department) commenced an Authorised Inquiry under Part 8, Division 1 of the *Local Government Act 1995* into gifts received by council members in the form of tickets. It was to encompass *"... operations and affairs surrounding the acceptance of tickets to events and the accompanying sponsorship arrangements between organisations and the City from 1 January 2008 to the present day"*.<sup>1</sup>

The Department obtained details of some sponsorship agreements and tickets provided to the City and conducted interviews with some senior officers of the City. The Department provided its files to this Inquiry on 10 May 2018. The Department's Authorised Inquiry was not completed.

### Initial investigation

The Inquiry conducted initial “discovery” interviews with a number of people, including senior employees of the City. Arising from the information obtained, the Inquiry became concerned that the allocation of funds for sponsorships, grants and donations by the Council may not always have been performed in a disinterested manner by council members. Some council members may have had personal associations with organisations or events which they supported, to the detriment of other applications. Some council members may have benefited personally through their receipt of tickets and other gifts.

By way of example, in her discovery interview by the Inquiry, Ms Annaliese Battista, former Director Economic Development and Activation with the City, was asked:

*“do you think that the potential for tickets and benefits and so on flowing from sponsorship arrangements could have influenced the types of sponsorship the Elected Members were interested in pursuing?”*

She said “Yes” and explained:

*“I think it would not be an understatement to say it was mandatory for VIP hospitality and tickets to be included and implied that that was, um, necessary to secure funding. And the events that the Elected Members were most partial to were the ones where they received the greatest benefit”.<sup>2</sup>*

### Sponsorship, grants and donations

According to the City’s website:

*“The City of Perth offers a wide range of grants and sponsorships to event organisers, community organisations and businesses in the arts, recreation, community, events and business sectors. Grants and sponsorships help recipients to deliver quality programs, events and services which are of great benefit to Perth and our community, bringing a wide range of social and economic returns to the city”.<sup>3</sup>*

Crowe, in its report to the Inquiry, based on the City’s policies, explained and defined sponsorships, grants and donations in the following way:

*“The City ... provides grants, sponsorships and donations to individuals and organisations within the community to:*

- Stimulate inner city cultural development, through support of cultural events and activities;*
- Provide philanthropic support to community groups, whilst enhancing the delivery of services to the community of, and visitors to, the City;*
- Exploit opportunities to advance the corporate image of the City; and*
- Empower the community to develop and deliver a wide range of projects and initiatives that build upon the social, cultural, environmental and economic life within the City.*

*Grants, sponsorships and donations are provided by the City in the form of cash and/or in-kind contributions (provision of goods and services including venue hire, waiving City fees and charges, etc).<sup>4</sup>*

### Legislation and policy

The LG Act and associated regulations do not refer to sponsorships, grants and donations. However, the City has policies and guidelines to provide guidance and governance arrangements.

Until 13 December 2016, the City had six separate Council policies relating to sponsorship, grants and donations. These included:

- CP6.1 Heritage Grants;
- CP6.18 Small Business Grants;
- CP6.19 Matched Funding Grants;
- CP8.3 Environment Grants;
- CP8.4 Environment Sponsorship; and
- CP18.8 Provision of Sponsorship and Donations.<sup>5</sup>

At the Council Meeting on 19 December 2017, a simplified sponsorship and grant policy was developed, supported by a policy in respect of donations.<sup>6</sup> The two umbrella policies at that time were:

- CP18.13 – Sponsorship and Grants; and
- CP18.14 – Donations.<sup>7</sup>

No policy was developed, for partnership grant policies. The following extracts are taken from these two policies.

#### Council Policy CP18.13 – Sponsorship and grants

Section 1 of this policy defined sponsorship and grants:

*“Sponsorship is a commercial, negotiated arrangement in which the City provides cash and/or in-kind contributions to an entity in return for commercial leverage, promotion, activation or exposure to achieve defined outcomes from the City’s Strategic Community Plan. Sponsorship is not philanthropic in nature and the Council expects to receive a reciprocal benefit beyond a modest acknowledgement. The sponsorship will provide tangible and mutual compensation for all parties in the arrangement*

...

*Grants mean cash and/or in-kind contributions provided to a recipient for a specific, eligible purpose. This is as part of an approved grant program which ties into the City’s Community Strategic Plan, with the understanding that there will be a defined outcome that directly or indirectly benefits the public, but with no expectation of a commercial return to the City. Grants are subject to conditions including reporting, accountability and a requirement for the funds to be expended for the direct purpose for which they were granted”.*

Section 2 of the policy stated:

*“The sponsorship and grants portfolios will consist of a number of programs as determined from time to time by Council and subject to regular review and budgetary considerations. Each program has its own guideline document that specifies application time frames, funding limits, categories, eligibility and assessment criteria. Applicants will be required to address the criteria within the relevant guideline”.*

Section 8 of the policy provided criteria for assessment of applications for sponsorship and grants:

*“All applications will be assessed against the following criteria as a minimum:*

- 8.1 the extent to which the proposal contributes towards the achievement of the Strategic Community Plan and the Corporate Business Plan;*
- 8.2 the extent to which the project plan and budget is realistic and provides value for money;*
- 8.3 a demonstrated capacity of the applicant to undertake all aspects of the project; and*
- 8.4 anticipated community benefit.*

*Additional assessment criteria may apply and will be detailed within the guideline document for the program.*

*Individual applications for funding of less than \$15,000 will be assessed by a minimum of two persons.*

*Individual applications for funding in excess of \$15,000 or applications as part of a Round will be assessed by a minimum three person assessment panel”.*

Section 9 stated:

*“All successful applicants will be required to enter into a written funding agreement with the City which includes terms and conditions pertaining to the approved funding”.*

Section 10 stated:

*“All sponsorships and grants must be acquitted within four months of the completion of the project or prior to subsequent application of further funding, whichever comes first”.*

### Council Policy CP18.14 – Donations

Section 1 of this policy defined donations:

*“Donations by the City of Perth reflect its commitment to improve the wellbeing of the community within the City of Perth and the residents of Western Australia and Australia as a whole. The provision of a donation by the City of Perth is of a philanthropic nature to an organisation and the City does not seek a direct cost benefit to be returned”.*

This policy stated that to be eligible for donations the recipient must be a Deductible Gift Recipient (DGR) in accordance with Australian Tax Office requirements and an incorporated non-profit organisation.

Before December 2016, there was no requirement for the recipient of a donation to have DGR status. At that time, to be eligible for a donation, the applicant needed to be an Association incorporated under the *Associations Incorporation Act 1987*.<sup>b</sup>

Section 3 of the policy set the maximum limit for donations at \$100,000.00.

Section 4 of the policy stated that there was no application process for a donation and donations were only considered following a direction to do so by the Chief Executive Officer (CEO) and were subject to approval by the Council.

### Process

#### Marketing, Sponsorship and International Engagement Committee

Throughout the period of the Inquiry’s Terms of Reference, sponsorships, grants and donations were considered by the MSIE Committee. The Committee consisted of three council members and was supported by City employees who provided reports to the Committee for each application considered. Meetings of the Committee were held monthly.

The terms of reference for the MSIE Committee varied during the relevant period, but from 13 December 2016 they included the following:

*“1. To oversee and make recommendations to the Council on matters related to:*

*...*

- b. sponsorship of business, events and festivals ...;*
- c. the provision of and grants to individuals or organisations;*
- d. the provision of donations to eligible organisations”.*<sup>8</sup>

The MSIE Committee had a delegation to approve or decline requests of up to \$10,000.00. At the same time as the policies relating to sponsorship, grants and donations were changed on 13 December 2016, the Council amended the delegations for funding decisions to increase the delegated limits, as follows.
















- The MSIE Committee to *“approve or decline requests for donations, grants or sponsorships or up to \$15,000”.*
- The CEO to *“determine the allocation”* of sponsorships and grants up to a value of \$5,000.00.<sup>9</sup>

<sup>b</sup> Replaced by the *Associations Incorporation Act 2015*.

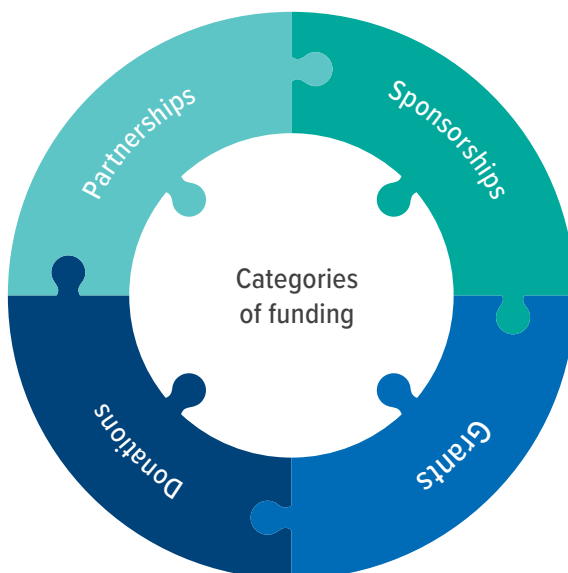
Membership of the Committee was for two years from the date of Council elections in October 2013, 2015 and 2017.

Council members who were members of the Committee are provided in Table 2.9. Ms Lily Chen and Mr James Limnios were members of the Committee for the entire period, although Mr Limnios was a deputy member from October 2017.

**Table 2.9: Marketing, Sponsorship and International Engagement Committee membership 2013 to 2018.**

| October 2011 – October 2013   | October 2015 – October 2017  | October 2017 – October 2019 <sup>c</sup>   |
|---|--|--|
|  <b>Ms Chen</b><br>Presiding member      |  <b>Ms Chen</b><br>Presiding member       |  <b>Ms Chen</b><br>Presiding member       |
|  <b>Mr Adamos</b><br>Member              |  <b>Mr Limnios</b><br>Member              |  <b>Ms Barton</b><br>Member               |
|  <b>Mr Limnios</b><br>Member             |  <b>Mr Yong</b><br>Member                 |  <b>Mr Hasluck</b><br>Member              |
|  <b>Mr Harley</b><br>Deputy member (1)  |  <b>Ms Davidson</b><br>Deputy member (1) |  <b>Mr Adamos</b><br>Deputy member (1)   |
|  <b>Ms McEvoy</b><br>Deputy member (2) |  <b>Dr Green</b><br>Deputy member (2)   |  <b>Mr Limnios</b><br>Deputy member (2) |

The City provided funding in four ways:



### Categories of sponsorships and grants

The categories used by the City to describe organisations and events which received sponsorships, grants and donations varied during the period of the Inquiry's Terms of Reference. The categories included:

|   |                  |
|---|------------------|
|  | Arts and culture |
|  | Events           |
|  | Community        |
|  | Heritage         |
|  | Corporate        |
|  | Business         |

<sup>c</sup> The City of Perth Council was suspended on 2 March 2018.

### Facilitation and evaluation

The City developed tools and resources to assist with the facilitation and evaluation of the sponsorship and grants programme. These were explained at the Ordinary Council Meeting of 13 December 2016.<sup>10</sup> They included:

- SmartyGrants: An online management system which allows the City to receive online applications and manage the entire sponsorship and grants cycle from application to evaluation. The City began using this programme in early 2017.
- Culture Counts: A subscription-based measurement tool used to measure the impacts of events against defined social, cultural and economic outcomes. These could be benchmarked against similar events or projects elsewhere in Australia or internationally. According to the City, the use of Culture Counts would enable the City to “*objectively measure our return on objectives and our return on investment in order to make informed future funding decisions*”.
- Legal agreement: The City’s lawyers developed a legal agreement for sponsorship and grant funding arrangements. A letter of agreement containing a simple agreement was used for sponsorships or grants of less than \$20,000.00, and a more detailed agreement for funding over \$20,000.00.

### Return on investment

In dealing with applications for funding for events, the City attempted to estimate the economic impact or return on investment using a range of data sources and methodologies designed to calculate or project the economic impact.<sup>11</sup> These included:

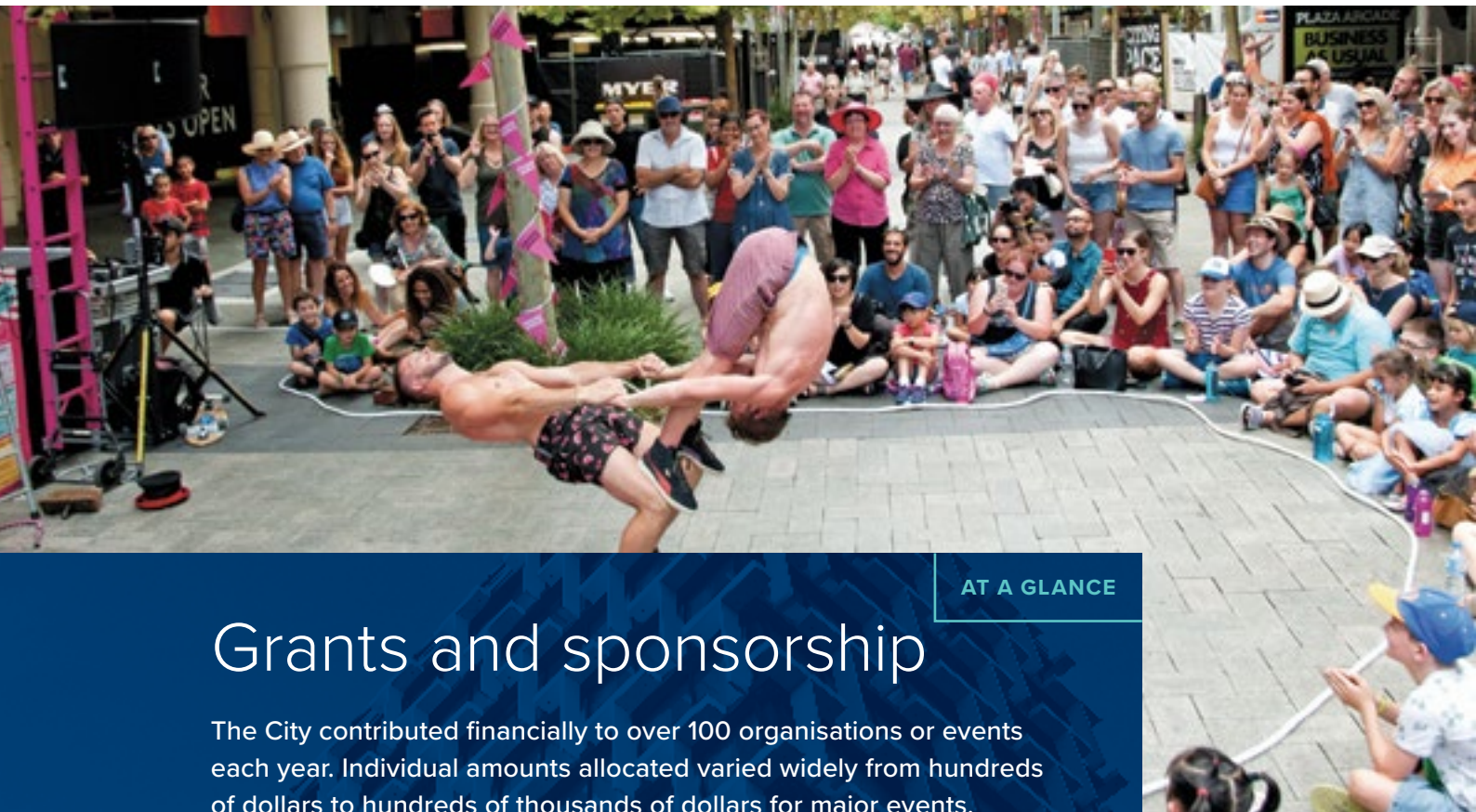
- estimated attendance numbers (including actual attendance numbers from previous years);
- analysis of visitor expenditure;
- REMPLAN – an established economic impact modelling tool, which provided economic and demographic data and modelling;<sup>12</sup> and
- impact assessments or equivalent reports.



Photo: Pawonike\_Gallery/Shutterstock.com

Five recipients accounted for 25 per cent of the total value of all sponsorships, grants and donations administered by the City during the Inquiry period.

- 1 Perth Convention Bureau
- 2 Perth International Arts Festival
- 3 Perth Theatre Trust
- 4 Heritage Perth Incorporated
- 5 West Australian Symphony Orchestra



AT A GLANCE

## Grants and sponsorship

The City contributed financially to over 100 organisations or events each year. Individual amounts allocated varied widely from hundreds of dollars to hundreds of thousands of dollars for major events.

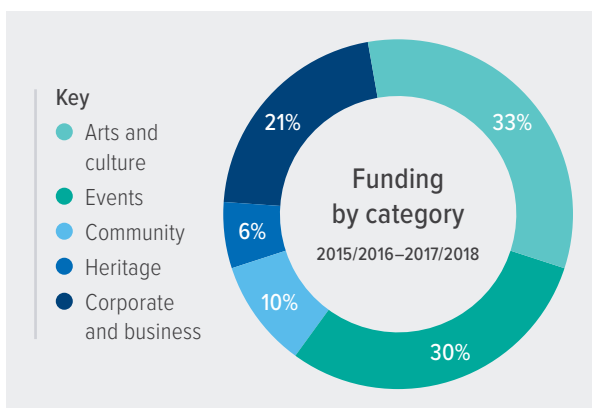
Photo: Adwo/Shutterstock.com

### City spend on grants, sponsorship and donation<sup>13</sup>

2015/2016  
**\$4.5m** ↓

2016/2017  
**\$4.7m** ↑

2017/2018  
**\$4.2m** ↓



#### Funded initiatives

2015/2016–2017/2018

|                                     |     |
|-------------------------------------|-----|
| Applications received – initiatives | 568 |
| Applications received – entities    | 367 |
| Funded – initiatives                | 477 |
| Funded – entities                   | 311 |

#### Funding trends

Average funded amount per initiative



2015/2016

\$24,900



2017/2018

\$32,300

**29%**

Reduction in the number of funded initiatives

**26%**

Reduction in the number of funded entities



Two categories of grants and sponsorship examined by the Inquiry are:

- Arts and cultural support sponsorship; and
- Events sponsorship.

The top 10 organisations or events funded for each category are provided in Table 2.9 and Table 2.10. Annually, these 20 sponsorships accounted for nearly 50 per cent of the City's total grants and sponsorship spend. On average amounting to nearly \$2.1 million each year.

### Arts and culture

The City supported a range of arts and cultural organisations, as well as independent artists, through the Arts and Cultural Sponsorship programme. This programme partnered with the major arts and culture organisations to present annual events including the Perth International Arts Festival, the Black Swan Prize for Portraiture, Awesome Festival and Fringe World.

These sponsorships accounted for approximately 26 per cent of the annual amount funded and more than \$3.4 million over the three years.

**Table 2.9: Top 10 Council funded culture and arts sponsorships between 2015/2016 to 2017/2018.**

| Top funded organisations <sup>14</sup>   | 2015/2016    | 2016/2017    | 2017/2018    | Total funding  |
|--|--------------|--------------|--------------|----------------|
| <b>Perth International Arts Festival</b><br>City estimated total economic impact \$89 million in 2016/2017 and \$60 million in 2017/2018.                    | \$365,000.00 | \$360,000.00 | \$300,000.00 | \$1,025,000.00 |
| <b>West Australian Symphony Orchestra</b><br>City estimated total economic impact \$3 million in 2016/2017 and \$1.7 million in 2017/2018.                   | \$195,000.00 | \$195,000.00 | \$150,000.00 | \$540,000.00   |
| <b>Artrage (Fringe World Festival)</b><br>City estimated total economic impact \$84 million in 2016/2017 and \$98 million in 2017/2018.                      | \$75,000.00  | \$100,000.00 | \$300,000.00 | \$475,000.00   |
| <b>West Australian Opera</b><br>City estimated total economic impact \$2.3 million in 2016/2017 and in 2017/2018.  | \$165,000.00 | \$160,000.00 | \$120,000.00 | \$445,000.00   |
| <b>Awesome Arts Australia</b><br>City estimated total economic impact \$27.6 million in 2016/2017 and \$1.2 million in 2017/2018.                            | \$100,000.00 | \$100,000.00 | \$100,000.00 | \$300,000.00   |
| <b>Blue Room Theatre (Performing Arts Centre Society)</b><br>City estimated total economic impact \$6.9 million in 2016/2017 and \$2.5 million in 2017/2018. | \$62,531.00  | \$72,351.00  | \$55,000.00  | \$189,882.00   |
| <b>Artrinsic (Black Swan Prize for Portraiture)</b><br>City estimated total economic impact \$2.5 million in 2016/2017 and \$0.46 million in 2017/2018.      | \$41,000.00  | \$41,000.00  | \$60,000.00  | \$142,000.00   |
| <b>Revelation Perth International Film Festival</b><br>City estimated total economic impact \$0.68 million in 2016/2017 and \$4.1 million in 2017/2018.      | \$11,000.00  | \$20,000.00  | \$90,240.00  | \$121,240.00   |
| <b>West Music Industry Association (WAM Festival)</b><br>City estimated total economic impact \$1.7 million in 2016/2017 and \$4.8 million in 2017/2018.     | \$40,000.00  | \$40,000.00  | \$40,000.00  | \$120,000.00   |
| <b>West Australian Ballet</b><br>City estimated total economic impact not recorded.  | \$50,000.00  | \$55,000.00  | N/A          | \$105,000.00   |

## Event sponsorship

The City also provided event specific sponsorship, with the 10 largest event sponsorships by the City for the financial years 2015/2016 to 2017/2018, including the estimated total economic impact of each event, provided in Table 2.10.

**Table 2.10: Top 10 Council funded event sponsorships between 2015/2016 to 2017/2018.**

| Top funded events <sup>15</sup>  | Organisation funded   | 2015/2016                 | 2016/2017    | 2017/2018                | Total funding       |
|--|---|---------------------------|--------------|--------------------------|---------------------|
| <b>Telstra Perth Fashion Festival</b><br>City estimated total economic impact \$5.1 million in 2016/2017 and \$7.4 million in 2017/2018.         | 2015–2017: Perth Fashion Concepts Incorporated;<br>2017–2018: WA Fashion Council Ltd. | \$313,000.00              | \$269,314.00 | \$255,000.00             | <b>\$837,314.00</b> |
| <b>Perth Heritage Days</b><br>City estimated total economic impact \$5.4 million in 2016/2017 and \$4.2 million in 2017/2018.                    | Heritage Perth Incorporated   | \$200,000.00 <sup>d</sup> | \$100,000.00 | \$62,100.00              | <b>\$362,100.00</b> |
| <b>Channel 7 Christmas Pageant</b><br>City estimated total economic impact \$39 million in 2016/2017 and \$4.3 million in 2017/2018.             | Seven Network Ltd   | \$72,000.00               | \$150,000.00 | \$120,000.00             | <b>\$342,000.00</b> |
| <b>Hopman Cup</b><br>City estimated total economic impact \$29 million in 2016/2017 and \$57.7 million in 2017/2018.                             | Tennis Australia Ltd  | \$100,000.00              | \$95,380.00  | \$100,000.00             | <b>\$295,380.00</b> |
| <b>West Coast Fever 2017 and 2018 Seasons</b><br>City estimated total economic impact \$4.8 million in 2016/2017 and \$5.5 million in 2017/2018. | Netball WA (Incorporated)   | Nil.                      | \$85,000.00  | \$120,000.00             | <b>\$205,000.00</b> |
| <b>Perth Chinese New Year Fair</b><br>City estimated total economic impact \$11 million in 2016/2017 and \$2.4 million in 2017/2018.             | Chung Wah Association   | \$60,000.00               | \$70,000.00  | \$60,000.00              | <b>\$190,000.00</b> |
| <b>IGA Carols by Candlelight</b><br>City estimated total economic impact \$0.98 million in 2017–18).   | Variety WA Incorporated   | \$36,015.00               | \$60,000.00  | \$60,000.00              | <b>\$156,015.00</b> |
| <b>Pride Festival</b><br>City estimated total economic impact \$7.8 million in 2016/2017 and \$3.8 million in 2017/2018.                         | Pride Western Australia Incorporated  | \$45,000.00               | \$55,000.00  | \$50,000.00 <sup>e</sup> | <b>\$150,000.00</b> |
| <b>Quit Targa West Tarmac Rally</b><br>City estimated total economic impact \$7.3 million in 2016/2017 and \$0.5 million in 2017/2018.           | Targa West Pty Ltd  | \$50,000.00               | \$47,500.00  | \$48,000.00              | <b>\$145,500.00</b> |
| <b>Open House Perth</b><br>City estimated total economic impact \$11.8 million in 2016/2017 and \$9.7 million in 2017/2018                       | Open House Perth  | \$45,000.00               | \$40,000.00  | \$30,000.00              | <b>\$115,000.00</b> |

Note: Not all entities funded through partnership funding agreements, grants and sponsorships are listed in the City's Annual Report (for which the data was sourced for Table 2.10 and 2.11).

<sup>d</sup> The initiative received funding through an arts and culture sponsorship (\$200,000), rather than an events sponsorship.

<sup>e</sup> The initiative received funding through an arts and culture sponsorship (\$50,000), rather than an events sponsorship.

## Role of council members

### Disclosure of interests

Council members who are making decisions on funding organisations or events must act impartially and in the interests of the community. If they act in their own personal interests, or in the interests of a person or organisation with whom they are associated, then they may be acting corruptly.

Part 5, Division 6 of the LG Act is headed “*Disclosure of financial interests and gifts*”.

Sections 5.59 to 5.69 describe what financial interests of council members are and how they must be addressed. These sections apply to direct or indirect financial interests and proximity interests for a relevant person (which includes a council member) and any “*closely associated*” person.

Financial interest is defined in section 5.60A as follows:

*“For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person”.*

An indirect financial interest is defined in section 5.61 as follows:

*“A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter”.*

Failure to declare a financial interest, as required by these sections, is a serious offence with a penalty of up to a \$10,000.00 fine or imprisonment for two years.

There are exceptions. Section 5.63 sets out some interests which do not need to be disclosed, including:

*“(f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects”.*

Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* requires that a council member discloses any impartiality interest he or she has in a matter to be discussed at a council or committee meeting:

*“interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association”.*

A council member who has such an “impartiality interest” must disclose it either in a written notice to the CEO before the meeting or at the meeting immediately before the matter is discussed. The nature of the interest is to be recorded in the minutes of the meeting. However, a council member who has declared an impartiality interest (rather than a financial interest) is not prevented from participating in the meeting and voting.

In January 2011, the Department released *“Operational Guideline 1: Disclosure of Interests Affecting Impartiality”*.<sup>f</sup> This Guideline poses the following questions for consideration by council members in deciding whether to disclose an interest:

*“If you were to participate in assessment or decision making without disclosing, would you be comfortable if the public or your colleagues became aware of your association or connection with an individual or organisation?”*

*Do you think there would be a later criticism of perceived undisclosed partiality if you were not to disclose?”*

Operational Guideline 1 asked:

*“What Types of Associations may give rise to a Perception of Partiality?”*

*There are two major categories of associations that members or employees may have which in certain circumstances may give rise to interests that affect impartiality. These are associations with people and associations with organisations”.*

In relation to “associations with organisations” the Guideline states:

*“Subject to the person considering the extent of their involvement in an association or organisation, disclosure is warranted when matters are discussed at council or committee meetings which directly relate to groups with which members and employees are affiliated. These include sporting clubs, resident groups and associations, business groups and associations, professional associations and so on”.*

The Guideline makes it clear that the onus is on a council member to consider the extent of his or her involvement in an association or organisation.

<sup>f</sup> Updated in 2019.

The City's *"Code of Conduct"*, although it was amended during the period of the Inquiry's Terms of Reference, was clear at all times about the requirement for council members and employees to ensure that there was *"... no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties and functions"*.

The Inquiry has identified a number of instances in which council members have been involved in making decisions on allocation of funds through sponsorships, grants and donations despite having a personal connection with an organisation or event applying for funding.

This Chapter deals with issues relating to the receipt of gifts by council members, particularly in the form of tickets to events.

However, the Inquiry has noted several other situations which could give rise to a concern about the impartiality of council members involved in decision-making on funding, and the integrity of the process.

In the course of its investigations, the Inquiry has obtained information about personal links between the following council members and community organisations or events funded by the City:

- Ms Chen and Mr Keith Yong had links to the Chung Wah Association (Chung Wah).
- Mr Limnios had links to the Hellenic Community of Western Australia (HCWA).
- Ms Scaffidi and Ms Janet Davidson had links to the Perth Fashion Festival. This is considered in a later Section in this Chapter.
- Ms Scaffidi had links to Open House Perth.

### Chung Wah Association

The Chung Wah Association is based in Northbridge and states on its website:

*"Founded in 1909, the Chung Wah Association is the largest and most established Chinese organisation in Western Australia. We are recognised by the Federal, State and local governments as the spokesperson for the Chinese community in Western Australia, which numbers around 140,000.*

- *Our Vision – Through promoting Harmony, preserving our Heritage and practising Humanity, we serve as the bridge between the Chinese community and mainstream society.*
- *Our Mission – To service and uphold the interests and welfare of the Chinese community in Western Australia by promoting our culture, speaking up on our views, and dealing with social issues affecting our community".*

Since 2004, Chung Wah applied regularly for sponsorship and support from the City for festivals, including the Chinese New Year Festival. The City provided funding on some occasions and declined on others.

Ms Chen was elected to the Council on 15 October 2011. She was appointed to the MSIE Committee at that time and remained a member until the Council was suspended on 2 March 2018.

Ms Chen appears to have been involved with Chung Wah before and throughout her term as a councillor. She appears to have been at least a member of Chung Wah and an honorary legal counsel for it.

On 3 August 2011, before she was elected to the Council, Ms Chen sent an email from her legal firm email address to the International Relations Co-ordinator at the City, to request a meeting about the proposed Chinese New Year Festival 2012.<sup>16</sup>

She and several officials of Chung Wah attended the City to discuss plans for the festival with City officers.<sup>17</sup>

On 22 November 2011, after she was elected and appointed to the MSIE Committee, which was to make a decision on sponsorship, Ms Chen was notified by the Governance Officer at the City that:

*“As you are a member of the Chung Wah Association, you will need to declare a non-financial interest for Item 4 (Event sponsorship – 2012 Perth Chinese New Year Fair). Please note that, in accordance with the Elected members Code of Conduct and the Local Government (Rules of Conduct) Regulations 2007, you can still discuss and vote on the actual item.”*<sup>18</sup>

Ms Chen disclosed a financial interest with respect to Chung Wah at the meeting on 22 November 2011. She left the room and did not vote on the item and the other two members recommended sponsorship of \$40,000.00 for the event.<sup>19</sup> This was approved by the Council.<sup>20</sup>

In November 2012, Chung Wah received sponsorship of \$50,000.00 from the City for the Chinese New Year event. In November 2013 and November 2014, the sponsorship was \$60,000.00 for each year. For all of these sponsorship decisions, Ms Chen appears to have been present and voted in the Committee and Council Meetings.

During the period of the Inquiry's Terms of Reference, nearly \$2 million was provided by the City to Chung Wah for specific events (Table 2.11).<sup>21</sup>

**Table 2.11: Grants and sponsorship funding provided to Chung Wah Association between 1 October 2015 and 1 March 2018.**

| Date         | Event  | Amount<br>(excl. GST) |
|--------------|--|-----------------------|
| <b>2015</b>  |  |                       |
| 8 December   | Sponsorship – Chinese New Year                   | \$30,000.00           |
| 8 December   | Sponsorship – Chinese New Year                   | \$30,000.00           |
| <b>2016</b>  |  |                       |
| 24 February  | RFD Bond-Hire Northbridge Piazza Comm            | \$2,250.00            |
| 8 April      | Hire of Chinese Lanterns for Yum Cha in the Park | \$200.00              |
| 11 April     | Lion Dancers for Yum Cha in the Park             | \$1,350.00            |
| 19 December  | Sponsorship 2016–2017                            | \$35,000.00           |
| <b>2017</b>  |  |                       |
| 6 February   | Sponsorship 2016–2017                            | \$35,000.00           |
| 21 February  | RFD Bond-Reserve Hire Chinese New Year           | \$650.59              |
| 4 December   | Chinese New Year Fair 2018 Sponsorship           | \$30,000.00           |
| <b>2018</b>  |  |                       |
| 12 January   | Chung Wah Chinese New Year Performance           | \$59.90               |
| 12 January   | Chung Wah Chinese New Year Performance           | \$599.00              |
| 28 February  | Chinese New Year Fair 2018 Sponsorship           | \$30,000.00           |
| <b>Total</b> |  | <b>\$195,109.49</b>   |

Council elections were held in October 2015. Following the elections, the MSIE Committee consisted of Ms Chen, Mr Yong and Mr Limnios, with Ms Davidson and Dr Jemma Green as deputies.

At an MSIE Committee meeting on 10 November 2015, Ms Chen and Mr Yong both disclosed an impartiality interest, as non-financial members of Chung Wah. Chung Wah applied for event funding of \$70,000.00. The Committee recommended \$60,000.00 as part of the total funding approved for all sponsored events of \$315,070.00. Ms Chen and Mr Yong voted on the funding.<sup>22</sup>

At the subsequent Council Meeting of 24 November 2015, Ms Chen and Mr Yong again disclosed an impartiality interest. Funding for the sponsorship of Chung Wah was approved as part of the Northbridge Festival budget. Dr Green and Mr Limnios voted against the motion (although Mr Limnios had voted in favour at the MSIE Committee meeting). The remaining council members voted in favour, including Ms Chen and Mr Yong.<sup>23</sup>

At an MSIE Committee meeting on 29 November 2016, 17 applications requested a total event sponsorship of \$373,100.00, with an available budget of \$284,000.00. This included a request from Chung Wah for sponsorship of \$80,000.00. The Committee recommended sponsorship for Chung Wah of \$70,000.00. Four applications were refused funding.<sup>24</sup>

At the meeting, the Committee *“expressed a desire to explore options for increasing the proposed sponsorship of the Chung Wah Association’s 2017 Chinese New Year event to \$80,000”*.<sup>25</sup>

Council considered this item on 13 December 2016. At that meeting, Ms Chen declared that she was a financial member and an honorary legal adviser for Chung Wah.<sup>26</sup> She remained at the meeting and moved the motion to approve the event sponsorship funding, which included \$70,000.00 for Chung Wah. All council members voted for the motion.<sup>27</sup>

Council elections were held in October 2017. Following the elections, the members of the MSIE Committee were Ms Chen, Ms Lexi Barton and Mr Steve Hasluck. Deputies were Mr Adamos and Mr Limnios.

The MSIE Committee met on 7 November 2017. Ms Chen disclosed an impartiality interest as a member of Chung Wah.

The Committee approved total event sponsorships for 2017/2018 of \$200,000.00. It considered an officer recommendation for funding of \$50,000.00 for Chung Wah, but increased this to \$60,000.00. The Committee declined funding for five events.<sup>28</sup>

Council considered this sponsorship at its meeting on 21 November 2017 and voted to sponsor Chung Wah for \$60,000.00. Ms Chen declared an impartiality interest as a member of Chung Wah. She moved the motion to approve the list of sponsorships, including the increased amount to Chung Wah, and she voted on the item.<sup>29</sup>

Throughout the period of the Inquiry’s Terms of Reference, Ms Chen was associated with Chung Wah. Throughout that period, she was a member of the three person MSIE Committee which made recommendations about sponsorships. She disclosed an impartiality interest at Committee and Council Meetings she attended where decisions were made on sponsorship of Chung Wah. This meant that she was able to remain, participate in the discussion, and vote. She did not declare a financial interest, if she had she would not have been able to remain in the meeting.

To a lesser extent the same issues also applied to Mr Yong. He was a member of the MSIE Committee for two years and declared he was a non-financial member of Chung Wah. He remained in the meetings and voted on sponsorship of Chung Wah.

The Inquiry makes no findings in relation to the associations of Ms Chen and Mr Yong with Chung Wah. However, the facts relating to their involvement do suggest possible shortcomings in the disclosure regime in that they, and particularly Ms Chen, were able to participate in decision-making despite a conflict of interest.

### Hellenic Community of Western Australia

The City provided sponsorship and donations to organisations and events associated with the HCWA, including the Perth Glendi Greek Festival (Glendi Festival), Greek Orthodox Easter Services (Easter Services), and the Hellenic Women's Association.

Mr Limnios was a council member for the City from 2009 until the Council was suspended. He was Deputy Lord Mayor from 22 October 2015 to 23 October 2017. He was a member of the MSIE Committee throughout the period of the Inquiry's Terms of Reference.

Mr Limnios was also a member of the HCWA.

During the term of the Inquiry's Terms of Reference, funding of \$76,500.00 was provided by the City to events and organisations associated with the HCWA (Table 2.12).

**Table 2.12: Grants and sponsorship funding provided to Hellenic Community of Western Australia between 1 October 2015 and 1 March 2018.<sup>30</sup>**

| Event sponsored                                    | 2015/2016          | 2016/2017          | 2017/2018      |
|--|--------------------|--------------------|----------------|
| Perth Greek Glendi Festival (Sponsorship)          | \$25,000.00        | \$25,000.00        | Nil (declined) |
| HCWA for Greek Orthodox Easter Services (Donation) | \$15,000.00        | \$10,000.00        | Nil (declined) |
| Hellenic Women's Association (Donation)            | \$1,500.00         | N/A                | N/A            |
| <b>Total</b>                                       | <b>\$41,500.00</b> | <b>\$35,000.00</b> | <b>N/A</b>     |

The sponsorships for the Glendi Festival were recommended by the MSIE Committee. At the meetings at which sponsorship was recommended Mr Limnios declared an impartiality interest as a member of the HCWA. He then voted for the sponsorship.<sup>31</sup>

Similarly, at the Council Meetings which approved the sponsorships for the Glendi Festival, Mr Limnios declared an impartiality interest and then voted for the sponsorships.<sup>32</sup>

Similarly, in relation to donations by the City to the HCWA for annual Easter Services, Mr Limnios declared an impartiality interest in these matters, but then voted for them at MSIE Committee meetings and subsequent Council Meetings.<sup>33</sup>

There were also instances in which Mr Limnios appeared to have involved himself in administrative or decision-making processes relating to applications by the HCWA.

On 4 November 2014, council member Ms Judy McEvoy emailed Ms Scaffidi about a meeting of the MSIE Committee earlier that evening. Ms McEvoy said:

*“Just between you and I James made a big song and dance about the Glendi Festival only receiving \$20,000 instead of the requested \$40,000, we gave in and added an extra \$5,000, Don’t know how you feel but I thought it was very inappropriate for him to make such an issue about it, he had declared an interest as a member of the Greek Community!”<sup>34</sup>*

This comment was put to Mr Limnios at an Inquiry hearing and he said *“I just don’t remember making a song and dance about it. I don’t remember that”*.<sup>35</sup>

The minutes of the Committee meeting for that date show that the HCWA requested \$40,000.00 in sponsorship for the 2015 Glendi Festival. City officers recommended \$20,000.00 be approved. However, the minutes record the following:

*“The Marketing and Administration Committee agreed to amend Part 1.1 (a) of the Officer Recommendation as follows:*

*a. Hellenic Community of WA Inc. (\$20,000 \$25,000)”*.<sup>36</sup>

Several years later, in November 2017, City officers recommended to the MSIE Committee that sponsorship applications for the 2018 Glendi Festival and Easter Services be declined. On 5 November 2017, Mr Limnios emailed Ms Battista, Director, Economic Development and Activation for the City. He referred to this recommendation and said:

*“Hi Annaliese I note that they are both declined? May I have information as to why? James Limnios Councillor”*.

Ms Battista replied the following day:

*“Of course, Councillor Limnios.*

*There were 16 applications received requesting a total of \$472,500. The available budget is \$200,000.*

*With such a strong field of applicants, the three-member assessment panel recommended 11 only for sponsorship, with a minimum mark of 54%.*

#### ***Perth Glendi Festival***

*This event scored **51%**, so did not make the cut-off. Some of the lowest scoring areas were:*

*Economic outcomes (five separate measurements): 10/20*

*Environmental and place outcomes (two separate measurements): 2.67/8 Organisational competency (four separate measures): 8/16*

### **Greek Orthodox Easter Celebration**

*This has previously been provided a donation by the City. The City advised the Hellenic Community in 2016 that under Council's new Sponsorships, Partnerships and Grants Policy, this event would no longer be eligible for a donation. The group applied for a sponsorship though we had provided this advice in 2016. To be as fair as we could, we assessed it alongside the other proposed sponsorships and it scored lowest of the 16 at 40%.*

*Some of the lowest scoring areas were:*

*Economic outcomes (five separate measurements): 5.34/20*

*Environmental and place outcomes (two separate measurements): 3.76/8*

*Civic outcomes (two separate measures): 2.67/8*

*Organisational competency (four separate measures): 6.33/16*

*The full assessment of all Round 2 Event applications is available online and the full officer's reports for each event are included so the relevant applicants can better understand the determinations.*

*I have attached them here in case you would like to review or send them on.*

*Regards,  
Annaliese"*

Shortly afterwards, Mr Limnios responded by email with the comment, "Lets have a chat".<sup>37</sup>

This email chain was put to Mr Limnios at an Inquiry hearing. He was asked if he had spoken to Ms Battista about this matter. He said

*"I spoke very regularly with Ms Battista because of her role in the activation and economic development. I could have and it wouldn't surprise me if I did, but I don't remember specifically.*

*Did that chat involve a conversation of maybe persuading her or one of her officers to endorse or support the sponsorship?---No, I would not do that.*

*You shouldn't do that, a Councillor shouldn't do that, should they?---I agree with you.*

*Yes. So therefore I'm just asking you as to what it was that you wanted to have a chat with her about?---Just to give clarity.*

*Given the rather this rather detailed email she provided to you?---Probably to get clarity and to see how we could communicate that, because we were quite big in communicating and making sure that there was no---*

*What required clarity for her---?---For me, for me to understand how the new processes worked, the new assessments, but I don't recall specifically having a conversation. That's what I meant by, 'Let's have a chat' but not to influence Ms Battista in any way".<sup>38</sup>*

On 7 November 2017, the MSIE Committee declined funding for the 2018 Glendi Festival and the HCWA for the Easter Celebration.

Mr Limnios attended the meeting as an observer. He declared an impartiality interest and left the meeting while a decision was made on those items. The minutes state:

*“Cr Limnios requested the administration contact the Hellenic Community of WA Inc. to advise they are ineligible for this program, however they can apply for a donation.”*<sup>39</sup>

On 18 January 2018, the HCWA requested a \$15,000.00 donation from the City to support the Easter Celebrations. This was declined by the City on 8 February 2018 due to the policy for donations, which required an organisation to be a registered DGR. The HCWA did not have that status at the time and was ineligible.<sup>40</sup>

### Open House Perth

Open House Perth is an international architectural initiative which, on one weekend in November each year, provides the public with an opportunity to access a diversity of structures in the City including residential, civic and commercial buildings and studios.

Ms Scaffidi was a member of the Open House Perth Board from 2012 until at least May 2017. The inaugural Open House Perth event was held in November 2012, with the official launch being conducted by Ms Scaffidi.

The City funded the Open House Perth event from 2012.

For the Open House Perth events in the years covered by the Inquiry’s Terms of Reference, the City provided \$115,000.00 in sponsorship (Table 2.13).

**Table 2.13: Grants and sponsorship funding provided to Open House Perth in 2015/2016 to 2017/2018.**

| 2015/2016   | 2016/2017   | 2017/2018   |
|-------------|-------------|-------------|
| \$45,000.00 | \$40,000.00 | \$30,000.00 |

On 27 February 2017, a City Sponsorship and Grants Officer emailed the Director of Open House Perth attaching a letter advising her that the application for sponsorship of Open House Perth was preliminarily recommended for funding of \$20,000.00. This was half the amount which had been funded the previous year. The letter explained that the City had received 14 applications for Round 1 of Event Sponsorship 2017/2018, requesting a total of \$507,000.00 from an available budget of \$195,000.00.<sup>41</sup>

Shortly after receiving this letter the Director of Open House Perth forwarded a copy to Ms Scaffidi, who forwarded it to council members on her “team”, stating:

*“FYI*

*Pls note letter*

*I am very concerned about this letter on a number of fronts*

- 1. 14 applications could include new and annual events – not fair to assess all in one lump basket*
- 2. Open House brings in huge visitation for little cost and there should have been at least the same funding but not less.*

*Be mindful of this pls*

*Lisa”.*<sup>42</sup>

On 2 March 2017, Ms Scaffidi emailed Ms Battista, Director Economic Development and Activation and, among other things, wrote:

*“Why are less of the other sponsorships now coming to Cte or Council. Did the delegated authority change? Please remind me.*

*I’m not happy as shared with Martin [Mileham] on the huge drop in support for Open House Perth which I’ve asked him to re-assess”.*

Ms Battista replied:

*“Yes, Lord Mayor.*

*MSIE Committee’s delegated authority is now \$15,000 – \$5,000 for CEO (or DEDA by delegation).*

*Fully agree re: Open House. Our clear advice to them was there was duplication with Heritage Perth Days and that they should combine. They have been unable to agree terms and our recommendation will reflect at the very least, a much reduced contribution”.*

Ms Scaffidi said:

*“What funding are we giving Heritage Perth?*

*I thought intention was to encourage them to combine over the next year or two. To cut the funding as [sic] put this event into complete jeopardy. This event brought over 200,000 people into the city and their economic reporting shows huge flow on economic benefit.*

*Ben’s letter lumped them in with 14 other submissions probably some of which are one off small events and should not be compared to open house at all”.*<sup>43</sup>

Ms Battista forwarded this email chain to Mr Mark Ridgwell, Manager Governance, stating:

*"Hello Mark,*

*Please see below.*

*The Lord Mayor is on the Board of Open House – I'm concerned she has a clear impartiality issue in terms of the nature of these questions and direction being given.*

*The process she is referring to is actually our Rounds Process, which is the way we process all applications under the new Policy, adopted by Council.*

*I'm happy to respond – can you provide me words around her potential conflict and likewise, I'm not keen to stand for her taking aim at one of my team members (again)".*

Later the same day, Ms Battista sent another email to Mr Ridgwell stating:

*"Hello Mark,*

*An update on this matter.*

*The Lord Mayor had an elevator conversation today with [name omitted] (Heritage Perth) advising (words to the effect of) Open House have had their 2017 budget slashed in half and that Heritage Perth should be warned their event – Heritage Perth Days – will be next. I understand some derogatory comments were also made about [a manager] ...*

*Heritage Perth have not yet submitted any application for 2017 Heritage Perth Day funding, nor an assessment been made. This is pre-empting two Council decisions that have not yet been made. It also pre-empts an Officer's recommendation that is yet to take place.*

*I am fine to respond, though will await your advice as discussed".*

The following day, on 3 March 2017, Ms Battista forwarded this email chain to Ms Barbara Moyser, Senior Employment Relations Adviser with the City, with the comment:

*"FYI – example of the type of interaction with the Lord Mayor and issues arising as discussed yesterday. I probably get three to five of these a week.*

*A lot of concern for staff involved".<sup>44</sup>*

Also, on 3 March 2017, Ms Scaffidi emailed Mr Martin Mileham and Ms Battista stating:

*"As discussed with Martin and Annaliese separately this week I'm very concerned that revised delegated authority aside in regards to event sponsorships decision-making has effectively been taken away from the Council on many sponsorship matters.*

*This is inappropriate and leaves us no ability to discuss the merits or otherwise of an event ahead of (as it seems) organisers being informed without our knowledge.*

*Case in point which triggered my questions is Open House which has been advised of significantly reduced funding as it found it self in a pool of 14 other applications. I do not know if those other applications were similar or one off events and it is unfair to compare Open House to 14 generic "other" events.*

*Given there is a track record of almost double the funding for the past three years of Open House I have to ask why Crs [councillors] are not being asked to refuse or approve such changes? Not even coming to us for information purposes? In effect, the decision making process has seemingly been stripped from us.*

*This would clearly apply to many other events. I'm ccing Chair of Mktg / Sponsorship & Chair of Budget Ctr as Janet was with me when it was discussed with the CEO.*

*Thanks*

*Lisa".*

Ms Battista replied to Ms Scaffidi stating:

*"Can I suggest we meet to go through this in detail with all of the relevant documentation It seems there have been some misunderstandings that may best (and most efficiently) be cleared-up in person.*

*In short summary:*

- The Rounds process where Council consider all applications received twice per year against the available budget was approved by Committee and Council (Dec 16).*
- The delegation adjustments – 15K for Committee and 5K for the CEO – were approved by Committee and Council (Dec 16).*
- The approach to combining Open House and Heritage Perth Days was endorsed by Committee and Council (Sep 16).*
- Open House and Heritage Perth held a facilitated workshop to try and reach agreement on this (Jan 17). They were unable to reach an agreement and this matter remains unresolved.*
- The Report and Recommendation/s into Open House's 2017 proposal has not yet been finalised. However, Officers have assessed all applications received in the Round and have been in touch with proponents to optimise terms.*
- Committee and Council have every opportunity and right to change the Officer's Recommendation when the Report does come to Committee, then Council.*
- No funding application has been received for Heritage Perth Days for 2017. It is therefore not possible to pre-empt either the panel's assessment, Officer's Recommendation or Report to Council.*
- There needs to be a reduction in the City's Sponsorship, Partnership and Grants budget in 2017/18 for reasons Martin will likely have briefed you on. This will be in the order of \$1 million (ie. from around \$6 million). This will impact all applications as the budget is now 17% less.*

*I trust and hope this information clears a few issues. However, as mentioned, perhaps Martin, Mark you and I should meet to discuss further? I would like to address your concerns at the earliest opportunity".*

Ms Scaffidi replied:

*"Happy to Annaliese*

*Very easy to throw policy at us but it's not working and the devil is always in the operational detail which we don't see until examples like this arise.*

*It's not ok to slash good events who deliver the activation we seek.*

*It's not appropriate to tell 2 events to combine – who do we think we are. We can suggest but as you may not know Open House is a international event.*

*Let's meet asap – Tue if possible. I will ask Ang to create a mutually suitable time & hope Cr Davidson can join us too. Lily of course is on a LOA [leave of absence]*

*Bring Ben if you wish and the full list of 14 he referred to in his letter to Open House for full discussion".<sup>45</sup>*

Mr Mileham then emailed Ms Scaffidi to advise that he recalled *"the suggestion to combine certain events was canvassed at Council and met with Council support"*.

Ms Scaffidi replied, *"It was discussed as something that would be good but Open House is an international event".<sup>46</sup>*

On 10 March 2017, Ms Battista sent an email to Ms Scaffidi advising her that she and the relevant manager had reviewed applications for several events. This included *"Open House amount to be increased from \$20,000 to \$30,000".<sup>47</sup>*

On 26 April 2017, the MSIE Committee, with Ms Davidson acting as presiding member, recommended sponsorship of \$189,000.00 to eight organisations, including \$30,000.00 for Open House Perth. Sponsorship was declined for six organisations.<sup>48</sup>

On 9 May 2017, Council approved event sponsorships including \$30,000.00 for Open House Perth. Ms Scaffidi presided at the meeting and declared an impartiality interest in this matter due to being on the board of Open House Perth. She remained in the Council Meeting and voted on the item.<sup>49</sup>

## Conclusion

In the Inquiry's view it is clear, that some council members, although they generally disclosed impartiality interests, were prepared to actively promote organisations and events they had a personal interest in to assist them to receive funding from the City. This active promotion included voting, in Committee and Council Meetings.

## Tickets associated with sponsorship and grants

### Introduction

#### Tickets and gifts associated with the City of Perth's sponsorship and grant arrangements

1. Conflicts of interest represent a significant threat to the impartiality of any decision-making process and strike at the heart of good governance. Ratepayers should be able to expect council members to always perform their duties in a fair and impartial way, placing the public interest first.
2. Although conflicts of interest are not wrong in themselves, public officials are also private individuals and there will be occasions when their private interests come into conflict with their duty to put the public interest first. Such conflicts must be identified and disclosed. They must also be effectively managed.
3. The use by the City of Perth (City) council members of free tickets to events that the City sponsored is relevant to their disclosure obligations under the *Local Government Act 1995* (LG Act) with respect to the receipt of gifts.
4. It also has a bearing on their obligations to disclose the relevant interest they have in any matter which is before the City of Perth Council (Council) and requires a decision. In this context, section 5.65 of the LG Act requires a council member who has an interest in any matter to be discussed at a Council or committee meeting that will be attended by that council member to disclose the nature of that interest. The disclosure must be made in a written notice given to the Chief Executive Officer (CEO) before the meeting, or at the meeting immediately before the matter is discussed.
5. Under section 5.67 of the LG Act, a council member who makes such a disclosure must not preside at that part of the meeting relating to the matter or participate in, or even be present during, any discussion or decision-making procedure relating to the matter. The disclosure is also to be recorded in the minutes of the meeting. Limited exceptions to this requirement are contained in sections 5.68 and 5.69 of the LG Act. A failure to comply with these requirements is an offence punishable by a maximum penalty of a fine of \$10,000.00 or two years imprisonment.<sup>50</sup>

### Notifiable and prohibited gifts

6. During the period of the Inquiry's Terms of Reference, the legislation divided gifts given to council members from persons undertaking, or who were seeking to undertake, or who it was reasonable to believe were intending to undertake an activity involving a local government discretion into categories including notifiable gifts and prohibited gifts. A gift that was worth less than \$50.00 was not, by itself, a notifiable or prohibited gift and did not require, on its own, disclosure. A gift worth between \$50.00 and \$300.00, or multiple gifts given by the same person to the same council member within six months with a combined worth of \$50.00 to \$300.00, would be a notifiable gift.<sup>51</sup> A gift worth \$300.00 or more, or multiple gifts given by the same person to the same council member within a six month period and totalling \$300.00 or more, would be a prohibited gift.<sup>52</sup>
7. An activity involving a local government discretion means an activity that cannot be undertaken without an authorisation from the local government, or by way of a commercial dealing with the local government.<sup>53</sup>
8. A council member must not accept a prohibited gift from a person who is undertaking, who is seeking to undertake or who it is reasonable to believe is intending to undertake, an activity involving a local government discretion.<sup>54</sup>
9. If a council member accepts a notifiable gift from a person who is undertaking, who is seeking to undertake, or who it is reasonable to believe is intending to undertake, an activity involving a local government discretion, the council member must notify the CEO within 10 days of accepting the gift.<sup>55</sup> The council member must notify the CEO in writing and must include:
  - a. the name of the person who gave the gift;
  - b. the date on which the gift was accepted;
  - c. a description, and the estimated value, of the gift; and
  - d. the nature of the relationship between the council member and the person giving the gift.<sup>56</sup>
10. The CEO must record and maintain these details in a register of gifts that is to be available for public inspection.<sup>57</sup>

### Closely associated persons

11. Under section 5.60 of the LG Act a council member has a financial interest in a matter if he or she, or a person with whom the council member is closely associated, has either a direct or indirect financial interest in the matter. For these purposes, section 5.60A of the LG Act provides that:

*“... a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government, or member of the council of the local government in a particular way, result in a financial gain, loss, benefit or detriment for the person”.*

12. Section 5.61 of the LG Act states that:

*“... an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in a matter”.*

13. A closely associated person, as defined in section 5.62(1) of the LG Act, includes a person who:
- gave the council member a “*notifiable gift*” (as defined by section 5.62(2) of the LG Act) in relation to the election at which that council member was last elected;<sup>58</sup> or
  - since the council member was last elected, gave the council member a notifiable gift<sup>59</sup> or a gift that section 5.82 of the LG Act required the council member to disclose.<sup>60, (g)</sup>
14. During the period of the Inquiry’s Terms of Reference, the relevant prescribed amount for these gifts was \$200.00.<sup>61</sup>

g Although section 5.82 of the *Local Government Act 1995* existed during the period of the Inquiry’s Terms of Reference, it has since been repealed.

## Responsibilities of council members and the City of Perth's Administration in relation to receipt of gifts

15. It is apparent, from what is set out above, that the statutory framework relating to the acceptance and disclosure of gifts by council members was complex. The receipt of a gift by a council member could, depending on the circumstances, trigger different obligations at different times that carried different consequences.
16. It was the role of the City's Administration (in particular, the CEO and the Manager, Governance) to ensure that advice was available to council members in relation to their obligations.
17. However, it remained the responsibility of council members to ensure they complied with their statutory obligations regarding the acceptance and disclosure of gifts. It was not for the City's Administration to ensure that council members complied with their obligations, for example, by identifying when council members were required to make a disclosure or remove themselves from a Council or committee meeting.

## Timeline

|      |                 |  |
|------|-----------------|--|
| 2015 | January         | Investigation report <i>"Acquisition and use of hospitality resources by Healthway"</i> issued by the Public Sector Commissioner.  |
|      | 1 July          | Commencement date for declarations of gifts.   |
|      | 21 August       | Telstra Perth Fashion Festival (TPFF) programme launch. The Lord Mayor, Ms Lisa Scaffidi, gave a speech.   |
|      | 15–20 September | TPFF events held each day.   |
|      | 17 October      | Local government elections held. Ms Scaffidi and Ms Lily Chen re-elected.  |
|      | 22 October      | Ms Chen, Mr Keith Yong and Mr James Limnios appointed as members of the Council's Marketing, Sponsorship and International Engagement Committee (MSIE Committee).  |
| 2016 | January         | Four council members received up to 12 tickets each for the Hopman Cup. They each took up to five guests at a time and were in a corporate box, with food and drink provided.  |
|      | 17 February     | Investigation report <i>"Ticket use for sponsored or financially supported events"</i> presented to Parliament by the Public Sector Commissioner   |
|      | 4 March         | The <i>City of Perth Act 2016</i> came into operation. Transitional provisions allowed 28 days for council members to disclose gift and travel contributions received since 1 July 2015.   |
|      | March           | Mr Martin Mileham, Acting CEO, requested all council members to retrospectively complete gift declaration forms for events that the City had sponsored since 1 July 2015 and for which the council member had received free tickets.   |
|      | 22 March        | TPFF WA Fashion Awards held.   |
|      | 23 March        | Council members briefed on changes to gift and travel declarations. They were advised <i>"Sponsorship Tickets/Invitations are 'Gifts' "</i> and <i>"All Elected Members who attended events with tickets/invitations from Sponsorship arrangements during the transition period (1 July 2015 to now) must complete a gift declaration"</i> . |

|      |                     |  |
|------|---------------------|--|
| 2016 | 7 June              | Letter from Mr Mileham to the Department asking for Ministerial approval for council members who had disclosed financial interests to participate in meetings. The letter cited 49 financial interests involving all nine council members.   |
|      | 26 July             | MSIE Committee meeting. Sponsorship application for the 2016 TPFF considered.  |
|      | 9 August            | Special Council Briefing Session, council members briefed on when a gift declaration was required in relation to tickets.  |
|      | 9 August            | Ordinary Council Meeting. TPFF sponsorship increased by \$30,000.00.   |
|      | 22 and 23 September | Two TPFF events held <i>“International Runway: Whole9Yards Event”</i> and <i>“Future Runway Event”</i> .   |
|      | 10 October          | Mr Yong emailed Mr Ridgwell asking, <i>“For clarification purposes, please advise if all EMr [Elected Members] previously attended city’s sponsored event must declare interest for the rest of their terms as Councillors”</i> . Mr Ridgwell replied, <i>“On [sic – Only] those Elected Members who have received a gift over \$200 in value in the past 12 month period”</i> . |
|      | 24 October          | Ms Annaliese Battista, Acting Director, Economic Development and Activation, refused a TPFF request for sponsorship for an event.  |
|      | 9 or 10 November    | Ms Scaffidi emailed Ms Battista saying her response to TPFF was not acceptable.  |
|      | 14 November         | Meeting in Ms Scaffidi’s office with TPFF officers and Ms Battista.  |
| 2017 | 6 June              | Ordinary Council Meeting voted to reduce sponsorship for the Hopman Cup by \$25,000.00 and increase sponsorship for TPFF by \$25,000.00.   |

## Issues considered by the Inquiry

18. The Inquiry examined:

- whether council members identified and disclosed their financial interests to the CEO, and whether those disclosures were complete and accurate;
- whether council members identified and disclosed their financial interests to the Council or a committee when the law required them to do so;
- whether council members appropriately left Council or committee meetings while matters in which they had a financial interest were considered;
- whether decisions by Council or a committee on certain sponsorship applications from 2016 onwards involved the participation of council members who should have excluded themselves from the decision-making process due to their interests in the matters being considered; and
- if in fact gift declarations were not accurately made by council members, whether there was a sufficient degree of governance being exercised at the time by those who bore that responsibility.

## Investigation by the Inquiry

19. Part A.3(iv) of the Inquiry's Terms of Reference states: *"The Inquiry Panel is ... to give due consideration to, and inquire into and report on, ... sponsorship arrangements between organisations and the City and the acceptance of gifts in the form of tickets to events by members from those organisations"*.<sup>62</sup>
20. Part A.3(ii) of the Terms of Reference also provides that the Inquiry is to give due consideration to, and inquire into and report on, *"whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions or obligations"*.<sup>63</sup>
21. The Inquiry held public hearings between 24 September 2019 and 1 October 2019 with a number of people, and a private hearing on 24 June 2019, in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members Ms Lisa Scaffidi, Mr Keith Yong, Ms Lily Chen, Mr James Limnios, Ms Janet Davidson, Mr Jim Adamos and Mr Reece Harley;
- Mr Mark Ridgwell, Manager, Governance;
- Mr Martin Mileham, CEO; and
- Ms Annaliese Battista, Director, Economic Development and Activation.

## Evidence obtained by the Inquiry

### Public Sector Commission reports

22. The arrangement of providing free tickets to public servants by organisations which had received sponsorships from government agencies was the subject of two reports conducted by the Public Sector Commission (PSC) in 2015 and 2016. The first was titled *Acquisition and use of hospitality resources by Healthway*.<sup>64</sup> This investigation found there were a number of factors which contributed to governance and oversight deficiencies in the systems and practices at Healthway regarding sponsorships.
23. In that context, it was found that Healthway officers derived significant private benefits in the form of tickets or seats for themselves and their families in corporate boxes for events that Healthway had sponsored. In 2015, as a result of the findings of that report, the State Government requested a further report from the PSC that addressed the acquisition and provision by all public sector agencies of ticket and corporate box access for sporting and cultural events that they had sponsored or financially supported.

24. This report, which was titled *“Ticket use for sponsored or financially supported events”* (PSC Report) found that the arrangements and practices that existed in Healthway were not confined to that public sector agency. The PSC Report was submitted to the Parliament of Western Australia on 17 February 2016.
25. Relevantly, it stated:

*“Sponsorship or financial support for an event may be closely aligned to a government body’s core business, however it does not follow that all tickets received by that government body for the event would always meet public expectations that the tickets are used in an appropriate manner, i.e. for a public purpose.*

*In general, attendance by board members or employees at events without a specific ‘public purpose’ or ‘business focussed’ role should not occur. Staff or board members should ask themselves, is there any essential benefit to business in me attending the event? If not, then they should strongly consider whether it would be appropriate for them to attend the event”.*<sup>65</sup>
26. As a result of these two reports, government bodies had their attention clearly drawn to what was an inappropriate use of tickets and/or corporate box access to events, which they had sponsored or financially supported.
27. The City fell within this group. It was responsible for funding, through sponsorship arrangements, various events within its precincts totalling around \$4 million every year. Prior to the two reports by the PSC, the supply of free tickets to the City was written into many of these sponsorship agreements and were frequently accessed by council members. Such tickets were not regarded by the City as gifts, as defined by the LG Act.

### Communication of the changes to council members

28. On the evening of 23 March 2016, Mr Ridgwell, Manager, Governance, conducted a briefing session with council members that addressed recent legislative changes to gift and travel declarations arising from the enactment of the *City of Perth Act 2016*. Following that briefing session, he emailed all council members (with the exception of Ms Scaffidi the Lord Mayor) attaching a PDF copy of his PowerPoint presentation at that briefing session. Part of that presentation advised that *“Sponsorship Tickets/Invitations are ‘Gifts’ ”* and *“All Elected Members who attended events with tickets/invitations from Sponsorship arrangements during the transition period (1 July 2015 to now) must complete a gift declaration”*.<sup>66</sup> From communications that followed (outlined below), between Ms Scaffidi and her then six aligned council members, it was clear that council members were well aware of the circumstances in which a council member would be forbidden from considering sponsorship applications by entities that had previously offered, or were likely to offer, council members free tickets to their events.<sup>67</sup>

29. On 24 March 2016, Ms Davidson wrote a message to the WhatsApp message group titled “Team”, which had been created by Ms Scaffidi on 22 October 2015,<sup>68</sup> and included Ms Davidson, Mr Adamos, Ms Chen, Ms Judy McEvoy, Mr Yong and Mr Limnios, stating:

**Ms Davidson**



*“All was said and presented at the meeting yesterday by Governance and lawyer there also. Copy sent out today. Affects all EMr – not JG – serious implications re gifts that we’ve had in the past. Hopefully not but we have to declare all from 1 July 2015. It was clearly laid out yesterday – how much more does she want to put it in the public arena. City is working hard on this so that we can be an exemplar Council – does not need to get any more stringent nor trigger stuff going to CCC or Department but it is obvious thinking now that what has been done in the past – EMr and officers doesn’t cut the mustard now. Let the admin get on with getting it right. Surely she can’t want anymore rigidity. Please hold tight – looking for splintering people. Janet”.*<sup>69</sup>

30. Ms Scaffidi then wrote:

**Ms Scaffidi**



*“Yes Janet is right  
Gifts = hospitality & tickets and in case some of you still don’t get that ...  
if you’ve voted on events & attended them in the past you well could have voted with a financial conflict.  
This is no joke ... ”.*<sup>70</sup>

31. Ms Scaffidi followed shortly after with:

**Ms Scaffidi**



*"Good example*

*You all voted to support Christmas Pageant – then attend party & pageant with your family*

*You voted with a conflict*

*Same with Ballet, Opera, PIAF – the list goes on and on ...".<sup>71</sup>*

32. Messages from Mr Adamos then included the following passages:

**Mr Adamos**



*"This is a huge issue and as Lisa said we have voted and accepted tickets. We have been conflicted hundreds of times".*

*"You need to understand James that we could all lose our jobs".*

*"Are you ready for that".<sup>72</sup>*

33. Despite this awareness by council members from 23 March 2016, the Inquiry identified significant deficiencies in the following areas after this date:

- council members' disclosure of tickets as gifts in accordance with the legislation;
- council members' disclosure of conflicts of interest at Council and committee meetings, including participation in decisions in which the council member had an interest that should have prevented him or her from doing so; and
- governance of the disclosure regime by the CEO and the Manager, Governance.

34. In March 2016, following the receipt of legal advice,<sup>73</sup> the then Acting CEO, Mr Mileham, requested all council members retrospectively complete gift declaration forms for any events that the City had sponsored since 1 July 2015 and for which the council member had received free tickets. These forms were to be submitted by 31 March 2016. The relevant context to this request was that the *City of Perth Act 2016* (which had received royal assent on 3 March 2016) amended the provisions of the LG Act and its regulations relating to the disclosure of gifts and travel.<sup>74</sup>

The amendments to sections 5.82 and 5.83 of the LG Act meant that disclosures of the acceptance of gifts and contributions to travel were to be made within 10 days of the acceptance rather than annually. The transitional provisions allowed for 28 days from 4 March 2016 for council members to disclose gift and travel contributions they had received during the transition period of 1 July 2015 to 3 March 2016.<sup>75</sup> With respect to any free tickets received by council members for City sponsored events during the transition period, the additional objective of the retrospective gift declaration forms was to rectify any previous inadvertent failure by council members to declare such tickets as gifts and to prevent those failures from impacting on the decision-making functions of the Council in the future.<sup>76</sup> However, this objective to “*right the record*” with respect to tickets could only be achieved if these forms were completed accurately and with the necessary details.

35. The Inquiry has considered the following four events as case studies:

- Perth Fashion Festival (2015–2017);
- Hopman Cup (2016–2017);
- WA Business News “40under40” Awards (2016); and
- Perth International Arts Festival (PIAF) (2016–2017).

#### **Tickets given to council members in association with sponsored events:**

##### **Perth Fashion Festival**

##### **Mr Keith Yong**

36. On 22 October 2015, Mr Yong was appointed as a member of the Marketing, Sponsorship and International Engagement Committee (MSIE Committee). He remained a member of the MSIE Committee until his defeat in the 21 October 2017 elections.<sup>77</sup>
37. Mr Yong always voted in favour of the sponsorship applications made by the Perth Fashion Festival.<sup>78</sup>
38. Mr Yong made two gift declarations with respect to Perth Fashion Festival events he attended in 2015. One was the launch, for which he retrospectively completed a gift declaration form on 24 March 2016. He gave an estimated value of this ticket as being “\$40.00”.<sup>79</sup> The Inquiry has no evidence that this was an inaccurate estimated value.<sup>80</sup>
39. The other function Mr Yong attended was the Perth Fashion Festival’s “*Phuong My*” event on 18 September 2015. He was provided with two tickets by Singapore Airlines valued at \$140.70. Mr Yong declared this interest on 2 October 2015.<sup>81</sup>

40. At the MSIE Committee meeting on 26 July 2016, the sponsorship application for the 2016 Perth Fashion Festival was considered. As he had attended the Perth Fashion Festival the previous year, Mr Yong declared a direct financial interest that was for “*less than prescribed amount*”.<sup>82</sup> When the Perth Fashion Festival matter was called, Mr Yong left the meeting. There was no legal requirement for Mr Yong to declare a financial interest and leave the meeting. He had correctly stated the extent of his interest as being “*less than prescribed amount*”. He was only required to leave the meeting if he had received a gift (or gifts during a year) from the Perth Fashion Festival since he was last elected amounting to a total value of \$200.00 or more.<sup>83</sup> The Inquiry accepts the estimated value of \$40.00 declared by Mr Yong for his ticket to the launch. The other two tickets he had received did not give rise to a financial interest as:
  - their combined sum was less than \$200.00; and
  - Singapore Airlines was not a closely associated person with respect to the sponsorship application by the Perth Fashion Festival.
41. The irony in Mr Yong leaving this MSIE Committee meeting in the circumstances in which he did is that the other two council members in attendance (Ms Davidson and Ms Chen) had each received tickets with a total value that significantly exceeded \$200.00, yet they remained.<sup>h</sup>
42. Mr Yong repeated this conduct at the Ordinary Council Meeting on 9 August 2016, by leaving the meeting when the sponsorship application made by the Perth Fashion Festival was considered.<sup>84</sup> No other council member declared a financial interest for this item, although some may have been required to do so. Mr Yong gave evidence that he declared the financial interest with respect to all three tickets he had received in 2015 and it was his recollection the “*Governance team*” advised him to leave.<sup>85</sup>
43. Council members next considered a sponsorship application by the Perth Fashion Festival at the MSIE Committee meeting on 23 May 2017. Mr Yong was in attendance. On that occasion, he did not disclose a financial interest with respect to the Perth Fashion Festival sponsorship application. Mr Yong’s explanation for not disclosing a financial interest was that he had been advised by Mr Ridgwell in 2016, either verbally or in an email, that the Governance unit had sought legal advice and had obtained the approval of the then Department of Local Government and Communities (Department) for him to sit in the meeting.<sup>86</sup>
44. Mr Yong was essentially accurate in his recollection of the advice he had received from Mr Ridgwell. On 10 October 2016, Mr Yong sent an email to Mr Ridgwell asking, “*For clarification purposes, please advise if all EMr [Elected Members] previously attended city’s sponsored event must declare interest for the rest of their terms as Councillors*”.<sup>87</sup> The correct answer to that question, with respect to any financial interest arising from the receipt of free tickets, is “yes”. Mr Ridgwell, however, responded as follows:

*“On [sic – Only] those Elected Members who have received a gift over \$200 in value in the past 12 month period”.*<sup>88</sup>

<sup>h</sup> The tickets received by Ms Davidson and Ms Chen in relation to the Perth Fashion Festival are addressed later in this Section.

45. As already noted, Mr Yong was not required to declare a financial interest regarding sponsorship applications by the Perth Fashion Festival after March 2016. However, the ambiguous advice inadvertently provided to him by Mr Ridgwell may have caused council members who did have financial interests in sponsorship applications to not declare them after 10 October 2016.

#### Ms Lily Chen

46. Ms Chen made no disclosures of a financial interest she may have had with respect to sponsorship applications made by the Perth Fashion Festival from 2016 onwards. In addition, Ms Chen did not make any disclosures of an impartiality interest she may have had. A question requiring the Inquiry's determination is whether Ms Chen may have had a reasonable excuse for not making these disclosures.
47. Ms Chen was a member of the MSIE Committee from October 2013 through to when the Council was suspended.<sup>89</sup>
48. Ms Chen was of the view that if the amount of a gift to a council member which gave rise to a financial interest was below \$300.00, the council member could still participate in the decision-making process and vote.<sup>90</sup> Ms Chen, however, did not know what it meant when someone was a "*closely associated person*" with a council member.<sup>91</sup>
49. Ms Chen always voted in favour of sponsoring the Perth Fashion Festival and she considered herself as a council member who regarded the sponsorship more favourably; together with Mr Yong, Ms Davidson, Mr Limnios, Mr Rob Butler and Ms Scaffidi. Of these six council members, she nominated Ms Davidson and Ms Scaffidi as the strongest supporters.<sup>92</sup>
50. Ms Chen was questioned about her relationship with Ms Mariella Harvey-Hanrahan, an organiser of the Perth Fashion Festival. When asked how she would describe her relationship with Ms Harvey-Hanrahan as of 2016, Ms Chen responded "*Facebook friends*" and maintained that was the extent of it.<sup>93</sup> After denying that as of 2016 Ms Harvey-Hanrahan was a "*very good friend*" of hers and was just an "*ordinary*" friend, Ms Chen was asked by Counsel Assisting:
- "Let me put it this way then, Ms Chen: if a Councillor describes themselves as being a very good friend of someone who is responsible for organising an event that a sponsorship application is being made to the City of Perth for, if those circumstances existed, would you agree with me that the Councillor would have to, at the very least, declare an impartiality interest?---Correct".<sup>94</sup>*
51. Ms Chen attended four Perth Fashion Festival functions in 2015. She retrospectively completed four gift declaration forms for those functions on 27 March 2016.<sup>95</sup> Ms Chen provided estimated values for each of these tickets. Evidence before the Inquiry establishes that three of those tickets had significantly under-estimated values.

52. Ms Chen's handwritten entry on the gift declaration form for the estimated value of her ticket to the Perth Fashion Festival opening night on 15 September 2015 was "*less than \$50.00*".<sup>96</sup> Another handwritten entry in the same section gives an amount of "*\$49.00*". Ms Chen stated that was not her handwriting and that someone else had made that entry.<sup>97</sup> The actual value of this ticket was \$200.00.<sup>i</sup> Ms Chen's estimated value on the gift declaration form for her attendance at the Perth Fashion Festival Myer Fashion lunch on 17 September 2015 was \$100.00.<sup>98</sup> The actual value of this ticket was \$170.00.<sup>99</sup> Ms Chen estimated on her third gift declaration form that the value of the ticket for her attendance at the Perth Fashion Festival closing night on 20 September 2015 was \$100.00.<sup>100</sup> The actual value of this ticket was \$200.00.<sup>101</sup>
53. As to her attendance at the Perth Fashion Festival opening night on 15 September 2015, Ms Chen conceded she had a very good seat that may have been front row, that she was provided with drinks and food beforehand (which was invite only) and that she received a bag with promotional materials.<sup>102</sup> She conceded she "*maybe*" had a "*VIP ticket*" and she did not know how much it was worth.<sup>103, (j)</sup> Ms Chen admitted she wrote "*less than \$50.00*" so that the stated value of the ticket would make it an exempted gift that did not require disclosure.<sup>104</sup>
54. In her evidence, Ms Chen's justification for giving an estimated value of \$100.00 to the ticket she received for the closing night event, instead of its actual value of \$200.00, was because it was her "*personal view that is only worth that much*".<sup>105</sup> Ms Chen was questioned as to the appropriateness of that explanation for the tickets she had received:
- "I want to ask you this: so you maintain that the value, the total value of these tickets that you received was \$298 because that's the value you put on them?---Yes.*
- And if in fact those tickets cost somewhere in the region of \$600 if you were to buy them, you nevertheless were still entitled to give a value of half that amount, is that right?---Maybe not right.*
- Sorry?---Maybe not right.*
- No, it's not right, is it?---Yes".<sup>106</sup>*
55. Even accepting the accuracy of the actual value of the remaining ticket for the Perth Fashion Festival programme launch in August 2015 in the other gift declaration form ("*\$49.00*"),<sup>107</sup> the actual total value of these four tickets was \$619.00. When it was put to Ms Chen that the total amount of her estimates came to \$298.00 and that she "*gave those values to make sure that the total amount came under \$300*", she replied, "*not intentionally*". Ms Chen gave evidence it was a coincidence that the total value of her estimates was just under \$300.00.<sup>108</sup>

i In an email dated 16 February 2018, Ms Harvey-Hanrahan provided a number of documents regarding the Perth Fashion Festival that had been requested by letter dated 1 February 2018 from the Department of Local Government, Sport and Cultural Industries. Two of those documents were PDF and Excel spreadsheets (which were identical) containing a list of all tickets and their individual prices that had been allocated to the City for Perth Fashion Festival events (which were identified by name) from 2009 to 2017. The Inquiry has identified the actual value of tickets provided to council members who attended various events of the 2015 Perth Fashion Festival from this spreadsheet. As Ms Harvey-Hanrahan was a principal organiser of the Perth Fashion Festival since its inception, the Inquiry is satisfied that the ticket prices she provided in the spreadsheet with respect to the events in the 2015 Perth Fashion Festival were the retail prices of those tickets provided to council members. Email, M Harvey-Hanrahan to A Smith, 16 February 2018.

j The Inquiry notes that clause 7.1 of the sponsorship agreement between the City of Perth and Perth Fashion Concepts Inc. for the 2015 Perth Fashion Festival stipulated that the City was to receive, among other tickets, 12 tickets to the VIP Opening Night and 12 tickets to the VIP Closing Night: Contract, Agreement of Sponsorship between Perth Fashion Concepts Inc. and the City of Perth, 9 July 2015.

56. By the end of March 2016, the evidence establishes that Ms Chen (like other council members) was aware tickets to sponsored events were now regarded as gifts. Ms Chen did not notify the CEO within 10 days of her acceptance of the tickets to the 2015 Perth Fashion Festival, notwithstanding that under the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations) they were a notifiable gift<sup>k</sup> from a person who it was reasonable to believe was intending to undertake an activity involving a local government discretion.<sup>109</sup> However, no finding is made against her for this breach (or any other council members who also failed to notify the CEO of their acceptance of tickets to City sponsored events) as, prior to March 2016, the City had adopted the policy the use of free tickets by council members that were part of the sponsorship contractual arrangements did not have to be declared as gifts.<sup>110</sup>
57. However, the Inquiry does find that on 27 March 2016, Ms Chen under-valued her tickets to the 2015 Perth Fashion Festival on three of her four gift declaration forms. Notwithstanding her denial,<sup>111</sup> Ms Chen may have done that intentionally, so that the combined total value of the tickets fell within the range of a notifiable gift under regulation 12(2)(b) of the Conduct Regulations by being less than \$300.00. The Inquiry considers it highly improbable that it was merely a coincidence that the total of the values given by Ms Chen came to \$298.00, a mere \$2.00 less than \$300.00. As a result of under-valuing her tickets in this manner, Ms Chen believed she was allowed to vote in future sponsorship applications by Perth Fashion Festival. However, as outlined below, that belief may have been mistaken.
58. Even with Ms Chen's under-estimated valuations, she still may have been required to declare a financial interest in relation to the Perth Fashion Festival if her receipt of tickets with a total value exceeding \$200.00 meant the Perth Fashion Festival became closely associated with Ms Chen. That would not be as a result of section 5.62(1)(eb)(i) of the LG Act, because these tickets were not given to Ms Chen since she was last elected on 17 October 2015. Instead, that may be because of section 5.62(1)(ea)(i) or (ii) of the LG Act. That provision provides that a person is to be treated as being closely associated with a Relevant Person if "*the relevant person is a council member*" and the person has given "*the relevant person a notifiable gift*".
59. Confusingly, a "*notifiable gift*" as defined in section 5.62(2) of the LG Act is different to the definition of a "*notifiable gift*" in regulation 12(1) of the Conduct Regulations. It "*means a gift about which the relevant person was or is required by regulations under section 4.59(a) [of the LG Act] to provide information in relation to an election*".<sup>112</sup> Section 4.59(a) of the LG Act states that regulations may provide for the provision of information as to gifts made to, or for the benefit of, candidates.

k Based on the values L Chen subsequently provided in her retrospective gift declaration forms.

60. These regulations are the *Local Government (Elections) Regulations 1997* (Elections Regulations). Regulation 30A(4) of the Elections Regulations states that a gift is only relevant if the value of the gift is \$200.00 or more or the gift is one of two or more gifts with a total value of \$200.00 or more made by one person at any time during the period set out in regulation 30C of the Elections Regulations. Regulation 30C(1) of the Elections Regulations, which is titled “*Disclosure Period*”, states:

*“For the purposes of regulation 30B(1)<sup>I</sup> ..., the period commences 6 months before the relevant election day, and concludes –*

*...*

*(b) on the start day for financial interest returns for successful candidates under section 5.74 of the [LG] Act”.*

61. These gifts were provided to Ms Chen in July and September 2015 and before she was re-elected on 17 October 2015 and therefore fell within the six-month period before the relevant election day.
62. As can be seen from what is set out above, it is a complicated process to navigate the various legislative provisions to determine whether a person is closely associated with a council member pursuant to section 5.62(1) of the LG Act. It requires a council member, among other things, to consider gifts they have received prior to and since the election at which they were last elected.
63. As Ms Chen did not know what “*a closely associated person*” was,<sup>113</sup> it is highly unlikely she would have considered section 5.62 of the LG Act when determining what amounts she would disclose as to the values of these tickets. It is readily apparent from her evidence that she believed the threshold when a council member had a financial interest was \$300.00. This was a popular misconception – no council member who was examined by the Inquiry about gifts gave \$200.00 as being the value of a gift or the combined value of gifts triggering a financial interest.
64. On 26 July 2016, the MSIE Committee considered the sponsorship application by the Perth Fashion Festival.<sup>114</sup> Ms Chen was the presiding member of this MSIE Committee meeting. Ms Chen agreed she did not make a declaration of a financial interest with respect to the Perth Fashion Festival sponsorship application. Her explanation was, “*we are not required at a committee level*”. When asked where she got that information from, Ms Chen answered:

*“Because when I’m chairing the committee meeting, I got all the Directors and all from the Governance and also from the CEO, they all surrounding me ... And then no-one told me I should make a disclosure as to financial or impartiality interest for declaration”.*<sup>115</sup>

<sup>I</sup> This regulation states: “A candidate must disclose to the CEO a gift promised or received during the period set out in regulation 30C”.

65. Ms Chen then agreed it was her responsibility to disclose whether she had a financial interest. Although she also agreed she knew the reason why Mr Yong excused himself at the meeting from the Perth Fashion Festival item was because he had a financial interest, Ms Chen stated she remained because she was “*not advised*” and that she “*didn’t know at a committee level I should disclose*”.<sup>116</sup> Ms Davidson had also declared a financial interest that she had with respect to another item at this meeting.<sup>117</sup> Yet Ms Chen sought to justify remaining in the meeting on the basis that if she did leave, the meeting would have had to stop due to the lack of a quorum.<sup>118</sup> If Ms Chen did have a financial interest in the application, that would not be proper justification for not complying with obligation to depart the meeting under the LG Act.
66. Having earlier admitted she knew at the meeting that she did have a financial interest regarding the Perth Fashion Festival,<sup>119</sup> Ms Chen was questioned:
- “It being the Perth Fashion Festival sponsorship application. The only interest that could be that required him [Mr Yong] to leave would be a financial one, would it not?---Yes.*
- ...*
- You would have realised it was only because he had a financial interest in the matter. You knew you had a financial interest in the matter, yet you remained?---I didn’t realise as Chair I also should declare and leave.*
- Why didn’t you confer with Governance regarding this before the matter proceeded any further?---I probably more concentrate on the job to be done.*
- It’s a rather serious error you’ve made, isn’t it?---Yes.*
- So did you at least realise that after this meeting, you had to declare a financial interest with anything to do with the Perth Fashion Festival?---Yes, should be.”<sup>120</sup>*
67. Notwithstanding this final answer, Ms Chen repeated her conduct just two weeks later at the Ordinary Council Meeting on 9 August 2016. Although there were disclosures of financial interests, proximity interests and an impartiality interest for various items by six of the other seven council members present, Ms Chen did not disclose a financial interest when the sponsorship application for Perth Fashion Festival was considered.<sup>121</sup> After being shown the Council minutes recording the other council members declaring interests, Ms Chen was asked the following questions:
- “Your name’s not there?---I think I made a mistake. 2016 – I’m thinking, 2016, I probably didn’t attend anything. Then I thought I did not have to declare but I forgot about the year before, 2015. That’s a possibility I just guess.*
- But Ms Chen, you have been reminded?---Yes, did.*
- You’ve been reminded by all these people making their declarations?---I should have.*
- Yes, I know you should have. You see, I would like to know why you did not? Is the answer, you forgot?---Not intentionally, not forgot.*

*You knew you had a financial interest that you should have declared but you didn't?  
---Yes, I didn't.*

*So again, I don't know how if you knew something, then you then forget it?---  
This one, should be.*

*Yes, I know you should have, but you did not?---No, I didn't.*

*All the alarms bells should have been ringing for you?---Yes, correct.*

*With all these other members walking out?---They have done better than me.*

*For items – yes?---Most of the time I did, I don't know this one I didn't do it.*

*Might it be because the organiser of the Perth Fashion Festival was a very good friend of yours?---No.*

*Ms Harvey-Hanrahan, might that be the reason?---No”.<sup>122</sup>*

68. During the debate at this Council Meeting regarding Ms Davidson's alternate motion to increase the sponsorship to the Perth Fashion Festival, Ms Chen stated that she had called *“Mariella, because she's a very good friend of mine”* to discuss the sponsorship needs for the Perth Fashion Festival and the timing of its sponsorship application to the City. After Ms Chen had finished speaking, Ms Scaffidi interrupted the debate stating she had been conferring with *“the CEO and the officer”* and the officer was concerned that Ms Chen had mentioned a friendship. Ms Scaffidi then said to Ms Chen, *“I think I understand you mean a work association but you better just clarify it because you did say a friendship”*. Notwithstanding that suggestion from Ms Scaffidi as to how Ms Chen could describe her relationship with Ms Harvey-Hanrahan,<sup>m</sup> Ms Chen's initial response simply confirmed her friendship with Ms Harvey-Hanrahan: *“I just want to say because normally you have a conflict of interest if you consider she, you know, if you consider a friendship and you should support the motion. However I didn't keep, you know, keep my [indistinct] in support of the motion and so this is no conflict of interest in this instance”*.<sup>n</sup> There is a pause in the audio recording before Ms Chen adds, *“Yes, it is a working relationship. Yes, of course”*. An unidentified officer then clarifies that the *“good relationship”* is with a stakeholder, which Ms Chen confirms.<sup>123</sup>
69. Ms Chen could not recall describing Ms Harvey-Hanrahan at this Council Meeting as *“a very good friend”*, maintaining she was *“just an ordinary friend, not very good friend. Maybe good friend”*.<sup>124</sup> Ms Chen then agreed if Ms Harvey-Hanrahan was her good friend she should have disclosed an impartiality interest<sup>o</sup> as well, which she did not do. Ms Chen denied the mistakes she made in not declaring financial and impartiality interests were deliberate mistakes; rather they were careless.<sup>125</sup>

<sup>m</sup> Such a description would not likely give rise to an impartiality interest requiring disclosure.

<sup>n</sup> Ms Chen voted against the alternate motion put forward by Ms Davidson.

<sup>o</sup> An impartiality interest is defined as *“an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association”*: *Local Government (Rules of Conduct) Regulations 2007*, reg 11(1); A council member with such an interest must disclose the nature of the interest to the Chief Executive Officer before the meeting or at the meeting immediately before the matter is discussed: *Local Government (Rules of Conduct) Regulations 2007*, reg 11(2).

70. The Inquiry considers that Ms Chen's non-disclosure of a financial interest and an impartiality interest (if these interests existed) at the MSIE Committee meeting on 26 July 2016 and at the Council Meeting on 9 August 2016 regarding the considerations of the sponsorship application by the Perth Fashion Festival may have been intentional, rather than careless. It would have been abundantly clear to Ms Chen that she may have had those interests given the disclosures other council members made at these meetings. Ms Chen had also attended a Special Council Briefing Session immediately before the Ordinary Council Meeting on 9 August 2016. At that session council members were briefed on the offering of tickets and when a gift declaration was required.<sup>126</sup> Although the briefing notes from this session indicate that Ms Chen arrived at 4.26 pm (which was 17 minutes after it had commenced), these notes also record that included in the documents handed out was an *"Offer of Tickets for Elected Members – Process Flowchart and Notes"*.<sup>127</sup> Furthermore, the notes record that at 5.40 pm *"Manager Governance returned to the meeting and provided a brief overview about the Disclosures of Interest required at the Council Meeting"*.<sup>128</sup>
71. These briefing notes also recorded the names of individual attendees who either entered after the session had commenced or left the session before it concluded. There is no record of Ms Chen leaving prior to the conclusion of the session at 5.50 pm. Although Mr Yong is recorded as not entering the session until 4.45 pm,<sup>129</sup> he declared a financial interest at the subsequent Council Meeting on the basis he had *"attended event"* and left the meeting when the sponsorship application by the Perth Fashion Festival was considered.<sup>130</sup>
72. Ms Chen was absent from the MSIE Committee meeting which considered the sponsorship application by the Perth Fashion Festival on 23 May 2017. She was, however, at the Ordinary Council Meeting which considered the matter on 6 June 2017. She disclosed no financial or impartiality interests when the sponsorship application was considered by the Council.<sup>131</sup> On this occasion, Ms Chen voted for a motion to amend the officer and MSIE Committee recommendation to increase the sponsorship for the Perth Fashion Festival by \$25,000.00 to \$255,000.00.<sup>132</sup> That motion was carried five votes to three votes and the amended primary motion was then carried six votes to two votes, with Ms Chen again voting in favour of it.<sup>133</sup>
73. The Inquiry notes that this meeting took place nearly eight months after the email exchanges between Mr Yong and Mr Ridgwell described above, in which Mr Ridgwell inadvertently advised that council members need only declare a financial interest for a 12-month period from the receipt of the gift(s).<sup>134</sup>
74. Although Ms Chen stated that by failing to declare an interest at this Council Meeting, she had *"made the same mistake as to 2016"*, she had been copied into the email exchanges between Mr Yong and Mr Ridgwell on 10 October 2016. However, in her evidence Ms Chen stated that she did not have any recollection of these emails and maintained that she *"didn't see before"* and *"I didn't pay attention to that email"*.<sup>135</sup>

75. The question that requires resolution by the Inquiry is whether, notwithstanding her denials, Ms Chen's decision not to disclose a financial interest at the Council Meeting on 6 June 2017 may have been due to Mr Ridgwell's email the previous October. Ms Chen was a recipient of Mr Ridgwell's email and her non-disclosure of a financial interest at the 2017 Council Meeting was consistent with one interpretation of the advice contained in that email. It is possible that Ms Chen, either from reading the email or having been advised by another council member, had formed a reasonable belief by 6 June 2017 she no longer had a financial interest with respect to sponsorship applications by the Perth Fashion Festival. If Ms Chen had reasonably formed that belief by reading that email or due to advice received from another council member, the Inquiry considers that would explain her conduct and that only limited criticism could be made of Ms Chen.
76. However, there is no evidence that the relationship Ms Chen had with Ms Harvey-Hanrahan had changed since the previous year when she described Ms Harvey-Hanrahan as a very close friend. The Inquiry notes that Ms Chen's description of her relationship with Ms Harvey-Hanrahan at the meeting on 9 August 2016 was unprompted and spontaneous. It was made in an environment that sharply contrasts with the circumstances of an examination at a public hearing. As there was no reason to conceal the extent of her relationship with Ms Harvey-Hanrahan at that meeting, the Inquiry is of the view it was an accurate description. In any event, Ms Chen's own evidence at the Inquiry included a description that Ms Harvey-Hanrahan was "*maybe good friend*".<sup>136</sup> In those circumstances, and regardless of how good a friend Ms Chen was of Ms Harvey-Hanrahan, Ms Chen may have been required to declare an impartiality interest at the Council Meeting on 6 June 2017.<sup>p</sup> The Inquiry finds that she should have done so and, unlike her failure to declare a financial interest at that meeting, there was no reasonable excuse for her not to.

### Ms Lisa Scaffidi

77. Of all the council members who gave evidence regarding their knowledge of gifts and financial interests, Ms Scaffidi appeared to have the best understanding, although she mistakenly thought the time-frame for a financial interest of a council member arising from the receipt of gifts was 12 months.<sup>137</sup> Such an interest remains for the duration of the council member's term.<sup>138</sup> However, the Inquiry notes Ms Scaffidi's mistaken recollection was of the same length of time cited in Mr Ridgwell's response to Mr Yong's email on 10 October 2016.<sup>139</sup>
78. Ms Scaffidi was also aware of the circumstances where a ticket or other item would not actually be defined as a gift requiring disclosure under the LG Act if the council member had provided consideration in return.<sup>140</sup> In Ms Scaffidi's opinion, it was ultimately the responsibility of a council member to determine whether he or she had a financial interest in a matter, although it could be checked with the Governance unit. She did not agree with the proposition that it was solely up to the Governance unit, the CEO or anyone else within the Administration to advise a council member that they had a financial interest.<sup>141</sup>

<sup>p</sup> The relevant legislative provision includes an impartiality interest arising simply from a "*friendship*": *Local Government (Rules of Conduct) Regulations 2007*, reg 11(1).

79. Ms Scaffidi had been an ambassador for the Perth Fashion Festival since 2008 and remained in that position until about 2015. She then became a committee member of the incorporated body of Perth Fashion Concepts (Inc.), trading as the Fashion Council of WA. When that incorporated association was deregistered on 9 December 2016, she became a board member of the newly incorporated Fashion Council WA Ltd,<sup>142</sup> an association under the *Associations Incorporation Act 1987*.<sup>143</sup> Unsurprisingly, Ms Scaffidi agreed she was a “strong supporter” of the Perth Fashion Festival.<sup>144</sup>

#### Gift declarations: 2015 Perth Fashion Festival

80. On 23 March 2016, Ms Scaffidi completed and submitted seven gift declaration forms retrospectively declaring tickets she had received to attend the 2015 Perth Fashion Festival. Six of these forms specified actual values which made them notifiable gifts under regulation 12(1) of the Conduct Regulations. All seven forms did not have completed answers to the following three questions:
- “Is this the first gift you have been offered by this person/organisation?”
  - “Who will benefit from acceptance of the gift?”
  - “Are they [the organisation/person offering the gift] likely to be the subject of a future decision of the City?”<sup>145</sup>
81. Although answering these questions does not appear to be an explicit requirement of the disclosure requirements in section 5.82(1) of the LG Act or regulation 12(4) of the Conduct Regulations, they were relevant questions to whether a financial interest arose or may arise from the provision of the tickets. Ms Scaffidi agreed that these questions should have been answered and said it was an oversight she did not do so.<sup>146</sup> The Inquiry finds Ms Scaffidi should have answered these questions.
82. Ms Scaffidi gave speeches at some of these functions. It is therefore necessary to determine whether Ms Scaffidi’s speeches may have been “fully adequate” consideration for receiving the tickets to those functions.<sup>147</sup> As stated by the Court of Appeal in *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222 at [146]:
- “In order to avoid the conferral of a financial benefit constituting a gift, the consideration passing from the council member must be ‘fully adequate’. This invites a comparison between the value of the financial benefit and the value of the consideration in money or money’s worth which is given in return.”*<sup>148</sup>
83. If Ms Scaffidi did give fully adequate consideration for the tickets she received, the tickets were not gifts as defined in section 5.82(4) of the LG Act and Ms Scaffidi was not required to disclose them. If Ms Scaffidi did not give fully adequate consideration for the tickets, she may have been required to disclose them.
84. Ms Scaffidi accepted that if a gift declaration form relating to her attendance at a function of the 2015 Perth Fashion Festival did not state she had given a speech then it was likely she did not give one.<sup>149</sup> Only two forms stated she gave a speech: at the launch and at the opening night.

85. The decision of the Court of Appeal in *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222 can be used to assess whether any consideration passing from Ms Scaffidi for the other five functions may be regarded as “fully adequate”. However, even on an assessment of the evidence most favourable to Ms Scaffidi, it is evident that following the 17 October 2015 election, the Perth Fashion Festival may have met the criteria requiring it “to be treated as being closely associated” with her for the duration of her term pursuant to section 5.62(1)(ea)(i) or (ii) of the LG Act. Therefore, she may have had a financial interest that should have been disclosed whenever a sponsorship application by the Perth Fashion Festival was before the Council, on the completion of her seven gift declaration forms on 23 March 2016.<sup>150</sup>
86. The first Perth Fashion Festival function Ms Scaffidi attended in 2015 was its launch on 21 August 2015. In her gift declaration form dated 23 March 2016, the estimated value of the gift was \$40.00. The form also stated Ms Scaffidi gave a speech.<sup>151</sup> The Inquiry accepts this speech could have been consideration given by Ms Scaffidi for this function, which would mean her ticket was not a “gift” as defined by section 5.82(4) of the LG Act.
87. The second function Ms Scaffidi attended was the opening night of the Perth Fashion Festival on 15 September 2015. The gift declaration form she completed on 23 March 2016 indicated that she gave a speech and went with a guest.<sup>152</sup> The actual value of the gift was typewritten as “Tickets \$201.86”.<sup>q</sup> However, the value of a single ticket was \$200.00.<sup>153</sup> As Ms Scaffidi was provided with two tickets, the Inquiry finds that the actual value of the gift was \$403.72. This amount should have been written as the declared value of the gift or, alternatively, it would have been acceptable to write “two tickets \$201.86 each”.
88. Ms Scaffidi gave evidence that her speech at this function “might have gone for 5 or 6 minutes” and the time it took for her to prepare the speech was “probably a good hour to two”.<sup>154</sup> In those circumstances, the Inquiry is prepared to accept that there may have been “actual consideration” provided by Ms Scaffidi for her ticket. However, Ms Scaffidi admitted that none of the guests she invited to Perth Fashion Festival functions did “any duties per se”.<sup>155</sup> In those circumstances, there does not appear to be any factual basis on which it could be said that consideration passed from Ms Scaffidi to the Perth Fashion Festival for this additional ticket. The additional ticket may therefore have been a gift, as defined by section 5.82(4) of the LG Act.
89. The third function Ms Scaffidi attended was on 16 September 2015 where, again, she took a guest.<sup>156</sup> This event was described on the gift declaration form as “WA Designer Runway 1”. The declared value of the gift was typewritten as “Tickets \$140.70”. The evidence before the Inquiry establishes that the value of a single ticket provided to Ms Scaffidi was \$180.00.<sup>157</sup> The Inquiry finds that the total ticket value should have been declared as \$360.00, rather than \$140.70. The Inquiry also considers that if Ms Scaffidi did not give a speech at this function, there does not appear to be any factual basis on which it could be said that “adequate consideration” passed from Ms Scaffidi to the Perth Fashion Festival on this occasion. Therefore, these tickets may have been a gift, as defined by section 5.82(4) of the LG Act.

q The additional \$1.86 specified in the gift declaration form is consistent with the amount of an online booking fee.

90. Although Ms Scaffidi may not have given a speech at this function, she was most likely (as with the previous function), “*working the room during those pre-reception and post-reception time periods*”.<sup>158</sup> The Inquiry considers that Ms Scaffidi “*working the room*” may not be “*fully adequate*” consideration. It is not apparent, and there is no evidence before the Inquiry about what benefit (if any) the Perth Fashion Festival might have obtained by Ms Scaffidi working the room. This is consistent with the following passage in *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222 at [165]:

*“As to the breaches the subject of grounds 4 and 5, the conference organisers gained the benefit of having the appellant prepare for, speak at, or otherwise actively participate in, their conferences. While merely attending the conference, networking and giving media interviews may not have given any benefit to the conference organisers, the activities which the Tribunal found the appellant undertook went beyond that.”*<sup>159</sup>

91. Given the passage described above, the Inquiry finds that even if Ms Scaffidi was attending as the Perth Fashion Festival’s “*Ambassador*” (which is stated in all seven gift declaration forms she completed for tickets to the 2015 Perth Fashion Festival), this may not suffice as adequate consideration if what she did was confined to “*networking*”.
92. The fourth function Ms Scaffidi attended was the Perth Fashion Festival Myer lunch on 17 September 2015, which she attended with a guest. The stated value of the gift on the gift declaration form she signed was “*Tickets \$346.64*”.<sup>160</sup> The Inquiry accepts this was the actual value of the two tickets, inclusive of a booking fee.<sup>161</sup> There is no suggestion Ms Scaffidi gave a speech at this event.<sup>162</sup> Ms Scaffidi does not appear to have undertaken activities at this event that would be sufficient to show “*adequate consideration*” passed from Ms Scaffidi to the Perth Fashion Festival. Therefore, these tickets may have been a gift, as defined by section 5.82(4) of the LG Act.
93. The fifth function Ms Scaffidi attended was on 19 September 2015 which was the “*WA Designer Runway 2*”. She had an additional ticket for a guest. The declared value of the gift on the gift declaration form Ms Scaffidi signed was “*Tickets \$140.70*”.<sup>163</sup> The individual value for each of these tickets was not \$140.70, it was \$180.00.<sup>164</sup> Therefore, the actual value of the gift was \$360.00. The Inquiry finds that Ms Scaffidi incorrectly declared the actual value of this gift. It is apparent Ms Scaffidi did not give a speech at this event which would have been capable of showing “*adequate consideration*” passing from her to the Perth Fashion Festival on this occasion. Therefore, these tickets may have been a gift, as defined by section 5.82(4) of the LG Act.

94. The sixth function Ms Scaffidi attended was on 20 September 2015, which was described in her gift declaration form as *“Ae’lkemi & Steph Audino”*. Once again, Ms Scaffidi took a guest.<sup>165</sup> Ms Scaffidi gave an incorrect price for the tickets. The actual value of the gift is recorded on the form as *“Tickets \$140.70”*. The evidence before the Inquiry is that these tickets were \$180.00 each.<sup>166</sup> The Inquiry finds the correct actual value of this gift was \$360.00 and further finds that Ms Scaffidi incorrectly declared the value of this gift. There is no evidence that Ms Scaffidi gave a speech at this event which would constitute *“adequate consideration”* passing from her to the Perth Fashion Festival on this occasion. Therefore, these tickets may have been a gift, as defined by section 5.82(4) of the LG Act.
95. The final event Ms Scaffidi attended was the *“Closing Night: Wheels and Dollbaby”* on 20 September 2015. She was also provided a ticket for a guest. The actual value of the gift in the gift declaration form was described as *“Tickets \$201.86”*.<sup>167</sup> It seems no speech was given by Ms Scaffidi on this occasion. The evidence before the Inquiry is that the value of a single ticket to this event was \$200.00.<sup>r</sup> The Inquiry finds the correct actual value of this gift, inclusive of a booking fee, was \$403.72 and further finds that Ms Scaffidi incorrectly declared the value of this gift. The amount of \$403.72 should have been written as the declared value of the gift or, alternatively, it would have been acceptable to write *“two tickets \$201.86 each”*. Ms Scaffidi did not give a speech at this event. There does not appear to be any factual basis on which it could be shown *“adequate consideration”* passed from Ms Scaffidi to the Perth Fashion Festival on this occasion. Therefore, these tickets may have been a gift, as defined by section 5.82(4) of the LG Act.
96. The Inquiry finds that a more accurate value of the tickets Ms Scaffidi received for the 2015 Perth Fashion Festival was in excess of \$2,260.00. The Inquiry finds that, notwithstanding those functions where Ms Scaffidi gave speeches (and thereby may have provided adequate consideration for her tickets to those functions), the Perth Fashion Festival may have become a closely associated person to her following her re-election as Lord Mayor on 17 October 2015.<sup>168</sup> If so, she may have been required to declare a financial interest for matters involving sponsorship applications by the Perth Fashion Festival for the duration of her term. Although Ms Scaffidi had a reasonable excuse for not being aware of this financial interest or that she had accepted prohibited gifts when she received the tickets in 2015, by 23 March 2016 she knew that the acceptance of tickets to City sponsored events by council members could give rise to a *“financial conflict”*.<sup>169</sup>
97. The Inquiry also finds Ms Scaffidi did not pay sufficient attention to ensuring that the actual value of the tickets she received was accurately and unambiguously declared on five of her gift declaration forms relating to the 2015 Perth Fashion Festival. As to the values on those forms, Ms Scaffidi accepted there had been *“carelessness”* and that she *“should have been more diligent”*.<sup>170</sup>

<sup>r</sup> Email, M Harvey-Hanrahan to A Smith, 16 February 2018; the additional \$1.86 specified in the gift declaration form is consistent with the amount of an online booking fee.

### Ordinary Council Meeting: 9 August 2016

98. On 9 August 2016, at the Ordinary Council Meeting which dealt with the Perth Fashion Festival's sponsorship application, Ms Scaffidi declared an impartiality interest as she was "*a Board member*" for the Perth Fashion Festival.<sup>171</sup> As she only declared an impartiality interest, Ms Scaffidi did not exclude herself from the Council's consideration of the sponsorship application. Ms Scaffidi proceeded to vote for an alternative motion that increased the officer and MSIE Committee recommended sponsorship of the Perth Fashion Festival for that year by \$30,000.00.<sup>172</sup> The Inquiry notes this was the Council Meeting in which there were eight disclosures of direct financial interests by five council members due to their receipt of free tickets to various events.<sup>173</sup> In those circumstances, it should have been readily apparent to Ms Scaffidi that she may have had a financial interest with respect to the Perth Fashion Festival which she did not declare.
99. Ms Scaffidi agreed with Counsel Assisting that she should have declared a financial interest. Ms Scaffidi also admitted this was "*a very bad oversight*" and that it was "*a careless error*". She denied, however, that it was a "*deliberate error*".<sup>174</sup> The alternate motion to increase the sponsorship to the Perth Fashion Festival by \$30,000.00 was moved by Ms Davidson.<sup>175</sup> She, too, may have had a financial interest which she did not declare. This alternate motion was only carried by four votes to three. If Ms Scaffidi and Ms Davidson (both very strong supporters of the Perth Fashion Festival) had not participated, then it is highly unlikely there would have been any increase to the recommended amount.
100. The Inquiry notes that Ms Scaffidi transparently declared her status as a board member of Perth Fashion Festival at the Council Meeting. While it remained Ms Scaffidi's responsibility to comply with her obligation to disclose a financial interest under the LG Act, if she had such an interest, it does not appear from the minutes of the Council Meeting that any of the other attendees at the meeting (including Mr Mileham and Mr Ridgwell) questioned whether Ms Scaffidi's role as a Board member might give rise to a financial interest.
101. Given her warning to her "*Team*" in her WhatsApp message on 24 March 2016,<sup>176</sup> her attendance at the Special Council Briefing Session immediately before the Council Meeting in which council members were briefed on the offering of tickets and when a gift declaration was required<sup>177</sup> and the fact that she did not seek advice from the Governance unit regarding her potential financial interests, the Inquiry considers that Ms Scaffidi's non-disclosure of a financial interest (if one existed) at the Ordinary Council Meeting on 9 August 2016 may have been deliberate, or at least not unintentional. By only declaring an impartiality interest, Ms Scaffidi was aware she could remain and participate in the Council's consideration of the Perth Fashion Festival's sponsorship application.<sup>178</sup>

102. Even if Ms Scaffidi had a mistaken belief that the timeframe for a financial interest declaration was 12 months from the receipt of the gift, this would not give her a reasonable excuse for not declaring financial interests she may have had at the meeting on 9 August 2016. The date of the meeting was within 12 months of the dates of the functions Ms Scaffidi had attended.

#### Gift declarations: 2016 Perth Fashion Festival

103. The month after the Council Meeting on 9 August 2016, Ms Scaffidi attended two events of the 2016 Perth Fashion Festival. Again, in her gift declaration forms dated 11 August 2016, she under-valued the price of tickets she had received to these events.
104. On 22 September 2016, Ms Scaffidi attended the *“International Runway: Whole9Yards Event”*. For the gift declaration form she completed for this event, the declared actual value of the gift was typed as, *“\$70.27 ea”*. Underneath that entry was typed, *“Ticket value on Ticketmaster as \$70.27 per adult ticket”*.<sup>179</sup> The form did not record that Ms Scaffidi had given a speech. The actual value of the ticket given to Ms Scaffidi was \$180.00.<sup>180</sup> Ms Scaffidi should have been aware of that actual value, because she had received an email to her City email address from Ms Melissa Brennan, a manager with the Fashion Council WA, inviting her to this event and others. Attached to that email was a ticket allocation form which listed the price for any extra tickets the invitee might want to purchase in addition to the offered complimentary tickets.<sup>181, (s)</sup> Two tickets were offered to Ms Scaffidi. She could not recall whether she took a guest and did not think she had. She agreed that in all likelihood the ticket she had received was valued at \$180.00.<sup>182</sup>
105. On 23 September 2016, Ms Scaffidi attended the *“Future Runway Event”*. For the gift declaration form she completed for this event, the declared actual value of the gift was typed as *“\$49.88 ea”*. Underneath that entry was typed *“Ticket value on Ticketmaster as \$49.88 per adult ticket”*. The form did not record that Ms Scaffidi had given a speech. The actual value of the ticket given to Ms Scaffidi was \$160.00.<sup>183</sup> Again, Ms Scaffidi should have been aware of that actual value, because Ms Brennan had sent her an email inviting her to that event and had offered additional tickets at that price.<sup>184</sup> Again, Ms Scaffidi was not certain whether she received one or two tickets to this event, although she felt she went on her own. Ms Scaffidi accepted that the ticket she had received appeared to be valued at \$160.00 and the amount of \$49.88 may well have been the price of the lowest valued ticket.<sup>185</sup>
106. The under-valuing of these tickets in Ms Scaffidi’s declarations is of significance. The total amount of the values declared on the two gift declaration forms came to \$120.15. This was within the notifiable gift range set out in regulation 12(1) of the Conduct Regulations. Even accepting Ms Scaffidi’s recollection that she attended these events by herself, the actual combined value of her two tickets was \$340.00.

s Form, Fashion Council WA ticket allocation. This form stated that if additional tickets were purchased then *“Best efforts will be made to seat your guests next to you”*.

There is no evidence that Ms Scaffidi undertook activities at these events that could amount to fully adequate consideration for either ticket. The ticket to the second event may have become a prohibited gift from a person who it was reasonable to believe was intending to undertake an activity involving a local government discretion.<sup>186</sup> If the ticket was a prohibited gift, Ms Scaffidi should not have accepted it.

107. Ms Scaffidi admitted it was careless of her to accept the “*Ticketek* [sic – Ticketmaster] *price*” that had been entered on the forms by her Personal Assistant. She agreed that, as the Perth Fashion Festival might be the subject of a future decision by the City, she had accepted a prohibited gift and she had failed to comply with her legal obligations.<sup>187</sup> She maintained, however, the fact that the combined value of the tickets on her declaration forms fell within the notifiable gift range was not intentional.
108. The Inquiry considered whether these under-valuations were carelessness on Ms Scaffidi’s behalf or whether they were intentionally under-valued, so they only remained in the notifiable gift range. There is circumstantial evidence to suggest that Ms Scaffidi was exercising considerable care as to precisely when she accepted the offer of these tickets. The email offering these complimentary tickets was sent to Ms Scaffidi on 2 August 2016 to her City email address.<sup>188</sup> This email had an attached ticket order form which set out the prices for additional ticket purchases.<sup>189</sup> As described above, the Council Meeting that determined the sponsorship application for the Perth Fashion Festival took place on 9 August 2016. On the afternoon of the following day, 10 August 2016, Ms Scaffidi’s Personal Assistant sent two emails to Ms Brennan advising that Ms Scaffidi was “*delighted to accept and attend*” the two events that she subsequently attended.<sup>190</sup>
109. On 10 February 2016, exactly six months earlier, Ms Scaffidi accepted an invitation by the Perth Fashion Festival to attend its WA Fashion Awards on 22 March 2016. For the gift declaration form Ms Scaffidi completed for this event, the declared actual value of the gift was typed “*\$180.00*”.<sup>191</sup> The Inquiry does not dispute this value for Ms Scaffidi’s ticket. Although the form did not record that Ms Scaffidi had given a speech, her evidence was she “*was presenting awards and speaking*”.<sup>192</sup>
110. When the declared values of the tickets to the two events Ms Scaffidi accepted on 10 August 2016 are added to the amount of \$180.00, a figure of \$300.15 is reached. However, this would not make one of the tickets a prohibited gift as such a gift must be “*one of 2 or more gifts given to the council member by the same person **within a period of 6 months** that are in total worth \$300 or more*”.<sup>193</sup> [emphasis added]
111. Notwithstanding the timing of the emails which accepted the tickets to the September 2016 events and considering Ms Scaffidi’s denial that the invitations were intentionally accepted after the Council Meeting,<sup>194</sup> the Inquiry does not find Ms Scaffidi intentionally under-valued the tickets to only make them a notifiable gift, as defined by regulation 12(1) of the Conduct Regulations. The Inquiry does not find that Ms Scaffidi intentionally delayed her acceptance of these tickets so that one of them did not potentially become a prohibited gift that was accepted within six months of 10 February 2016.

112. The Inquiry does find, however, that Ms Scaffidi made declarations that were incorrect. She did so by ticking the box on each of her two gift declaration forms dated 11 August 2016, declaring that the information on the form was “*accurate*” and “*will not create a future conflict of interest*” for her in fulfilling her responsibilities as a council member.

#### Ordinary Council Meeting: 6 June 2017

113. On 6 June 2017, an Ordinary Council Meeting determined the sponsorship application by the Perth Fashion Festival for its September 2017 event. At that meeting, Ms Scaffidi appropriately declared a direct financial interest with respect to the Perth Fashion Festival, stating she was “*on the Board of the Telstra Perth Fashion Festival and received tickets to attend the event last year*”.<sup>195</sup> Ms Scaffidi’s evidence was she conferred with Mr Ridgwell and Mr Mileham, CEO, just before the meeting and was advised that she would need to declare a financial interest and vacate the meeting.<sup>196</sup>
114. When Ms Scaffidi was questioned as to whether she expected other council members to declare a financial interest for the Perth Fashion Festival, she responded “*I don’t know. How would I know?*” Her evidence was she did not “*turn my mind*” to raising with Mr Mileham or Mr Ridgwell before the item was called, whether other council members might have a financial interest. Ms Scaffidi could not offer an explanation as to why she did not do so.<sup>197</sup> The Council minutes record no other council member declaring any type of interest with respect to the Perth Fashion Festival item.<sup>198</sup> However, from the audio of the meeting, and after Ms Scaffidi had declared her financial interest in the Perth Fashion Festival, Ms Davidson can be heard asking, “*Could we just check with Governance in terms of TPFF [Telstra Perth Fashion Festival]?*” Mr Ridgwell responds, “*Through the Chair, the only individual assessed is the Lord Mayor in her capacity as a patron*”.<sup>199</sup> Although Ms Scaffidi could not offer an explanation when asked, this response from Mr Ridgwell provides a reasonable explanation for why she did not raise the matter.
115. At this meeting Ms Davidson moved a motion to amend, seeking an increase in the sponsorship that had been recommended by the officer and the MSIE Committee for the Perth Fashion Festival; on this occasion in the amount of \$25,000.00. This was after she had moved a motion at the meeting to amend the recommended Triennial Event sponsorship amount for the Hopman Cup by reducing it by \$25,000.00 annually. Both of these motions were successful.<sup>200</sup>
116. Ms Scaffidi admitted she may have had prior knowledge of Ms Davidson’s intention to seek a reduction in the sponsorship for the Hopman Cup.<sup>201</sup> However, she did not admit she had prior knowledge of Ms Davidson’s intention to increase the amount of sponsorship for the Perth Fashion Festival. However, from all of the evidence before the Inquiry, it was clear Ms Scaffidi and Ms Davidson were very close. They had served on Council together for 18 consecutive years. Ms Davidson agreed that Ms Scaffidi was her “*closest confidante*” of all the council members she had served with and if Ms Scaffidi expressed a view, she followed that view “*on just about every single ... matter*” before Council.<sup>202</sup>

In light of that evidence from Ms Davidson, the Inquiry accepts Mr Mileham's observation that, "*Councillor Davidson was virtually a proxy for the Lord Mayor*".<sup>203</sup> As both were very strong supporters of the Perth Fashion Festival and given their close relationship, the Inquiry considers it highly probable that Ms Davidson did advise Ms Scaffidi of her intentions prior to this meeting. After Ms Davidson professed a failure to recall whether she did discuss her intentions with Ms Scaffidi, she was asked:

*"There's no reason to keep her [Ms Scaffidi] out of the loop, as it were, as to what you intended to do, is there?---No reason to speak to her either.*

*There's every reason to speak to her, Mrs Davidson, because she's firstly, your closest confidante, and secondly, she has a vested interest in these matters, and thirdly, she's a Lord Mayor. There you go, there's three pretty good reasons, isn't it? ---Sorry, I honestly don't recall.*

*Do you agree with me, they are three very good reasons?---They are probably three very good reasons".*<sup>204</sup>

#### Regulation 10(1) of the Conduct Regulations

117. Regulation 10(1)(a) of the Conduct Regulations states: "*A person who is a council member must not direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee*". Regulation 10(2) of the Conduct Regulations states the above provision does not apply to anything that a council member does as part of the deliberations at a Council or committee meeting.
118. By her own admission, Ms Scaffidi had a financial interest with respect to the Perth Fashion Festival. If so, that interest would have remained for the duration of her term following her election on 17 October 2015. Ms Scaffidi may also have had an impartiality interest when she became a committee member of the incorporated bodies associated with the organisation of the Perth Fashion Festival from about 2015 onwards.<sup>205</sup>
119. On 13 October 2016, Ms Battista, the City's then Acting Director, Economic Development and Activation, had a meeting with Ms Harvey-Hanrahan. The purpose of this meeting was for the City to consider sponsoring a Perth Fashion Festival event during the Chinese New Year of 2017 called Windows on the Lunar New Year (event).<sup>206</sup> The event was separate from the Perth Fashion Festival, which was sponsored by the City.<sup>207</sup> The amount that was being sought was \$40,000.00.<sup>208</sup> In her subsequent email to Ms Harvey-Hanrahan dated 24 October 2016, Ms Battista stated that although "*the team here are very supportive of the initiative in principal*", the amount sought was "*un-budgeted for 2016/17*" and "*to deliver it effectively, we simply don't have the time or resources for 2017*". Nevertheless, Ms Battista suggested that the Perth Fashion Festival and the City "*work together*" on a proposal for the event in 2018.<sup>209</sup>

120. Notwithstanding that response, Ms Ragen Haythorpe, the Partnerships Manager for the Fashion Council WA, sent an email to Ms Battista on 2 November 2016 seeking the City’s support for the event to be held in 2017.<sup>210</sup> Ms Battista responded by email dated 10 November 2016, advising that *“the challenges”* for the City sponsoring the event remain: namely, *“timing, (lack of) budget and lack of digital strategy”*. Ms Battista also referred to a meeting that would be taking place on Monday, 14 November 2016 with Ms Harvey-Hanrahan, Ms Scaffidi and herself in which she *“will go through these matters in detail”*.<sup>211</sup>

121. In an earlier email, on 10 November 2016, that Ms Battista sent to Ms Angela Purnat, Ms Scaffidi’s Personal Assistant, she wrote:

*“I am meeting with Mariella Harvey Hanrahan and Kate O’Hara from TPFF this coming Monday, 14 November from 2.00–2.45pm.*

*I suggested – and the Lord Mayor yesterday expressed an interest – in her attending the meeting. Though it is scheduled for my office (and I’m very happy for this to be the case), I expect the Lord Mayor would prefer to have it in her office”*.<sup>212</sup>

122. Shortly before 10 November 2016 (and most likely on 9 November 2016), Ms Battista had received a WhatsApp message from Ms Scaffidi which read:

Ms Scaffidi



*“Update me on where TPFF CNY is please*

*You left off advising me they were asked to finalise a digital strategy*

*Am I hearing correctly no funding?*

*If so no [sic – not] acceptable*

*given your very positive dialogues in meetings*

*I’m thoroughly confused about the mixed messages”*.<sup>213</sup>

123. Regarding this message, Ms Battista gave the following evidence:

*“... if you can explain to the Inquiry, to your understanding, what the purpose of this message was if this was a proposal that the Lord Mayor would ultimately vote on?--- To influence my officers’ recommendation or my recommendation to committee and Council.*

*Why do you say that?---I can’t see any other reason for sending the message. There’s no other outcomes that the Lord Mayor would expect to achieve, I guess except to tell me off. That was my interpretation of it.*

*Had the Lord Mayor sent to you similar messages or communicated in a similar way to you previously in matters that were the responsibility of the Administration?---Yes.*

*And on those occasions when you received similar messages, what was your understanding of the Lord Mayor’s purpose?---To try and have an increased say in what the recommendation to Council would be”*.<sup>214</sup>

124. Ms Scaffidi denied that the purpose of her WhatsApp message to Ms Battista was to influence Ms Battista and her officers' recommendations to Council. Ms Scaffidi also denied that she was in breach of regulation 10(1) of the Conduct Regulations by sending that message. She also maintained it was entirely appropriate for her to have the meeting in the Lord Mayor's office and support the City's sponsoring of the event, notwithstanding she was a committee member of the incorporated association responsible for organising Perth Fashion Festival events and may have had (with the benefit of hindsight) a financial interest at the time.<sup>215</sup>
125. The meeting on 14 November 2016 did take place in Ms Scaffidi's office.<sup>216</sup> In light of Ms Battista's email to Ms Purnat (described above), the Inquiry is of the view that was an appropriate venue. The representatives from the Perth Fashion Festival in attendance were Ms Kate O'Hara, Ms Haythorpe and Ms Margie Tannock (who attended in place of Ms Harvey-Hanrahan<sup>217</sup>). Ms Battista had also asked Mr Ridgwell to attend.<sup>218</sup>
126. Although Ms Battista gave evidence that Ms Scaffidi contributed to the meeting and indicated her support for the City to sponsor the event, she also said there were no discussions which applied pressure to her to provide any support for it.<sup>219</sup> A file note was prepared by Mr Ridgwell which summarised the contents of the meeting. That file note included the following:
- "Discussion was set around 'Windows of the Lunar New Year' (Chinese New Year) a new initiative of Perth Fashion Festival. Annaliese confirmed no budget & limited officer capacity for such an initiative was available. I stated that in its current form a report by Officers was likely to be a recommendation of rejecting the request based on the above capacity constraints, which would not be a good look for either party".<sup>220</sup>*
127. Ms Scaffidi denied that she was attempting to influence the City's officers in their decision-making by her conduct in sending the WhatsApp message to Ms Battista. Instead, she maintained she was *"dialoguing"*. The Inquiry considers that explanation to be unsatisfactory. The Inquiry does not accept Ms Scaffidi's explanation that, even if she had financial and impartiality interests in the matter, her conduct was appropriate because she was *"looking out for the best interests of the City"* and *"advocating for the activation of the City"*.<sup>221</sup>
128. The Inquiry finds it was inappropriate for Ms Scaffidi to canvass support for the sponsorship of the Perth Fashion Festival event at the meeting on 14 November 2016. It was also inappropriate for Ms Scaffidi to send the WhatsApp message to Ms Battista that the decision by the Administration not to fund the event was *"not acceptable"*. Ms Battista had already provided sound reasons to Ms Harvey-Hanrahan why the City would not be able to fund the event in 2017.<sup>222</sup> Ms Scaffidi's behaviour was more serious given that she was the Lord Mayor, she had declared an impartiality interest in the matter in August 2016, and she admitted to having had a financial interest in the matter.

### Mr James Limnios

129. Mr Limnios became a member of the MSIE Committee on 22 October 2015, after he had nominated himself.<sup>223</sup> He held that position for two years and although he re-nominated himself as a member on 24 October 2017, he subsequently withdrew and nominated as a second deputy instead.<sup>224</sup>
130. Mr Limnios was another council member who professed a very limited understanding of when the receipt of gifts gave rise to a financial interest. He said he was not aware a prohibited gift could be a gift if it was one of two or more gifts given to a council member by the same person within a period of six months that were in total worth \$300.00 or more.<sup>225</sup> Mr Limnios said he was not aware of the circumstances in which the receipt of gifts would give rise to a financial interest until he had received legal advice to that effect in the week before he gave evidence to the Inquiry. Nor, he said, was he aware during his time on Council from 2015 to 2018 of the circumstances in which a person could become a closely associated person by giving gifts to a council member. Notwithstanding his professed lack of knowledge of the circumstances giving rise to a financial interest, Mr Limnios agreed that the responsibility of a council member to disclose a financial interest rested with the council member, with assistance from the Governance unit.<sup>226</sup>
131. What is of concern to the Inquiry was the under-valuing by Mr Limnios of tickets he had received to attend functions at the 2015 Perth Fashion Festival.
132. Mr Limnios attended two functions at the Perth Fashion Festival in 2015, for which he received free tickets. One was the opening night on 15 September 2015 and the other was the closing night on 20 September 2015. Gift declaration forms for these functions were retrospectively completed by Mr Limnios on 30 March 2016. For each function, the estimated value of the gift was handwritten as “\$45.00”.<sup>227</sup> The actual value of each ticket was \$200.00.<sup>228</sup> This meant that the combined actual value of the tickets would have made one of them a prohibited gift. The combined total of the declared estimated values, however, meant that one of them only fell within the threshold of a notifiable gift under regulation 12 of the Conduct Regulations.<sup>229</sup>
133. Mr Limnios gave evidence that he arranged for the City’s Administrative Assistant, Ms Cecilia Firth, to ascertain the value of the tickets.<sup>230</sup>
134. If Mr Limnios did not understand when gifts gave rise to a financial interest, it is not surprising that he did not disclose the financial interest he had when Perth Fashion Festival sponsorship applications were subsequently considered at the meetings of the MSIE Committee and the Council that he attended.
135. Mr Limnios did not disclose a financial interest at the Council Meeting on 9 August 2016 or at the MSIE Committee meeting on 23 May 2017. On both occasions his explanation for not making a disclosure was that he did not think it was necessary. At the Council Meeting on 6 June 2017, Mr Limnios did not disclose a financial interest, again agreeing that he did not do so because he did not think he was required to make a disclosure of any interest.<sup>231</sup>

136. The Inquiry finds that if Mr Limnios's second ticket to the Perth Fashion Festival in 2015 was a prohibited gift, he should not have accepted it. The Inquiry notes that the City's policy at the time did not consider such free tickets to be gifts and the Inquiry is therefore not too critical of Mr Limnios for accepting the second ticket. However, as outlined above, that policy changed in March 2016 and council members were required to retrospectively complete gift declaration forms by the end of that month for the receipt of tickets since 1 July 2015.
137. The professed lack of knowledge by Mr Limnios of when gifts created a financial interest is inconsistent with the WhatsApp dialogue between the "Team" on 24 March 2016.<sup>232</sup> It is also inconsistent with his attendance at a Special Council Briefing Session on 9 August 2016, in which council members were briefed on the offering of tickets and when a gift declaration was required.<sup>233</sup> However, the Inquiry is not satisfied to the requisite standard that Mr Limnios did know that he was required to, and deliberately chose not to, disclose a financial interest at the Council Meetings on 9 August 2016 and 6 June 2017 or the MSIE Committee meeting on 23 May 2017.
138. The Inquiry does find Mr Limnios may have had a financial interest with respect to the Perth Fashion Festival after accepting the two tickets to its functions in September 2015. The actual combined value of the tickets (\$400.00) exceeded the prescribed amount of \$200.00,<sup>234</sup> which may have meant the Perth Fashion Festival was to be treated as being closely associated with him pursuant to section 5.62(1)(eb)(i) of the LG Act. Such a financial interest would have remained for the duration of Mr Limnios's then term as a council member.<sup>t</sup> He therefore may have been required to disclose an interest at any Council or committee meeting he attended in which sponsorship applications by the Perth Fashion Festival were considered.<sup>235</sup> As described above, Mr Limnios did not do so at three meetings.
139. The Inquiry does find that Mr Limnios failed to exercise adequate care in determining the estimated value of the two tickets he received to attend the 2015 Perth Fashion Festival, when he completed and signed the two gift declaration forms on 30 March 2016. As described above, these retrospective gift declaration forms were completed to rectify any previous inadvertent failure by council members to comply with their statutory obligations and to prevent those failures from affecting the decision-making functions of the Council in the future.<sup>236</sup> Mr Limnios admitted he was aware that the Administration required the completion of these forms, because of the "new policy" that was being implemented.<sup>237, (u)</sup> It was incumbent on Mr Limnios, as it was for all council members completing these retrospectively operating forms, to ensure the details were accurate. Indeed, the gift declaration forms required the council member concerned to declare, by ticking a box, that in circumstances where the gift had been accepted the information provided in the form was "accurate".

t Until the next local government elections on 21 October 2017.

u This "new policy" was also the subject-matter of a briefing session for council members on gift and travel declarations conducted by Mr Ridgwell on 23 March 2016.

140. When he arranged for Ms Firth to find out the value of these tickets, Mr Limnios gave her no information as to where he was sitting for the two events or what he thought the value of the tickets may have been. He asked her to seek that information by speaking to the relevant Director who was responsible for the sponsorship negotiations, rather than contacting the organisers of the Perth Fashion Festival. When asked why he did not advise Ms Firth to approach the organisers, Mr Limnios stated he never considered that as *“it wasn’t something that we did independently as Councillors”*.<sup>238</sup>
141. After giving evidence that for these events it was *“not strange”* for him to be provided with free drinks and food, that he sat in the front row and that he was provided with a bag with a lot of ladies’ products,<sup>239</sup> Mr Limnios agreed that the value of \$45.00 for each ticket appeared to be a little low and, with the benefit of hindsight, the estimate he had declared *“wasn’t very close to the actual value”*.<sup>240</sup> The Inquiry is of the view that hindsight would not have been necessary for Mr Limnios had he exercised adequate care to ensure an accurate estimate for the tickets’ value was recorded in the two gift declaration forms he signed.
142. Mr Limnios’s failure to exercise adequate care meant the City’s Gift Register did not record an accurate estimate of the value of these tickets. Such a value may have shown he had a financial interest with respect to any sponsorship applications by the Perth Fashion Festival after that date and until the City’s local government elections on 21 October 2017.
143. The Inquiry further finds that no blame can be attributed to the City’s Administration for failing to advise Mr Limnios he may have held a financial interest in the Perth Fashion Festival’s sponsorship applications made after March 2016. That is because, based on the ticket values Mr Limnios provided, the City’s Gift Register would not have recorded Mr Limnios as having gifts of a total amount of \$200.00 or more from the Perth Fashion Festival, which might otherwise have provided a link to section 5.62(1)(ea)(i), (ea)(ii) and/or (eb)(i) of the LG Act.

#### Ms Janet Davidson

144. The evidence before the Inquiry establishes that Ms Davidson, a very strong supporter of the Perth Fashion Festival, significantly under-valued the tickets she received for the 2015 Perth Fashion Festival on a gift declaration form she retrospectively completed sometime in late March 2016. Ms Davidson may have deliberately under-valued the price of those tickets so she would not have to disclose a financial interest in subsequent Perth Fashion Festival sponsorship applications. Her participation in the Council’s consideration of the Perth Fashion Festival sponsorship applications in 2016 and 2017 had a significant beneficial outcome on the amount of sponsorship provided to the Perth Fashion Festival in those two years and to the detriment of another event sponsored by the City in 2017.
145. Ms Davidson gave evidence that until March 2016 she was unaware that two or more gifts given to a council member by the same person within a period of six months would be defined as a prohibited gift if the total worth was \$300.00 or more.<sup>241</sup> Ms Davidson had no recollection of being aware of the circumstances in which someone would be defined as a closely associated person with a council member.<sup>242</sup>

146. Ms Davidson agreed she always voted in favour of sponsoring the Perth Fashion Festival and that she was a council member who strongly supported it.<sup>243</sup> Ms Davidson stated that she *“would have attended probably all of”* the annual Perth Fashion Festival events and she agreed receiving up to 20 free tickets annually.<sup>244, (v)</sup>
147. As described above, on 23 March 2016 there was a briefing session conducted with council members by Mr Ridgwell which related to gift and travel declarations.<sup>245</sup> Ms Davidson attended that briefing session. She referred to it in a message she sent to the WhatsApp message group titled *“Team”* the following day. The exchange of messages thereafter made it clear that the previous acceptance of tickets to City sponsored events by a council member could create a financial interest.<sup>246</sup>
148. Ms Davidson accepted it was important that the gift declaration forms retrospectively completed by the end of March 2016 had a value for the gift that was *“as accurate as you could put in there”*. After agreeing a council member could go to the organiser and ascertain the value of any tickets provided,<sup>247</sup> Ms Davidson was asked:
- “And indeed, that’s what ought to be done for tickets if a Councillor wasn’t sure of an accurate price of that ticket?---Yes”.*<sup>248</sup>

#### Gift declarations: 2015 Perth Fashion Festival

149. Ms Davidson retrospectively completed only one gift declaration form for the four events she attended during the 2015 Perth Fashion Festival.<sup>249</sup> For one of those events, she indicated she had received two tickets.<sup>w</sup> The estimated value of the gift that she wrote on the form was *“\$100+”*. The actual total value of these five tickets was between \$900.00 and \$920.00.<sup>250</sup> When asked how much more than \$100.00 does *“\$100+”* mean, Ms Davidson responded that she had no idea. She admitted it was *“an under-value”* and that it would have been easy enough for her to determine the price of the tickets by contacting the organisers. When advised of the actual total value of these five tickets, Ms Davidson agreed that she had *“hopelessly under-estimated”* their value. She denied, however, she deliberately did that to prevent any of the tickets becoming prohibited gifts under regulation 12(1) of the Conduct Regulations. Ms Davidson agreed that the value she had stated entitled her to vote on future sponsorship applications made by the Perth Fashion Festival. She also agreed that by March 2016 she was aware that if the value cited was considerably more then she may well have had an interest that needed to be declared.<sup>251</sup> She agreed that when she ticked the box *“yes”* to the question *“Are they [the organisation/person offering the gift] likely to be the subject of a future decision of the City”* on the gift declaration form it was almost inevitable the organisers of the Perth Fashion Festival would seek a further sponsorship from the City for their 2016 event.<sup>252</sup>

v Ms Davidson received 20 tickets to the 2012 Perth Fashion Festival: Email, M Harvey-Hanrahan to A Smith, 16 February 2018.

w In the box on the gift declaration form titled *“Date Gift was Offered”*, Ms Davidson had written, *“17, 18, 19 x 2, 20/9/15”*. *“19 x 2”*, which could either mean she attended two events on that date or received two tickets to one event. As there was only one Perth Fashion Festival function held on 19 September 2015 (*“WA Designer Runway 2”*), the Inquiry finds Ms Davidson received two tickets to this event. This also accords with Ms Davidson's evidence: Transcript, J Davidson, public hearing, 27 September 2019, p 22.

150. Ms Davidson incorrectly dated the gift declaration form as “Sept 2015” instead of the correct date being sometime in late March 2016. Ms Davidson’s explanation was because this was, “*the date when the event took place*”.<sup>253</sup>

#### Gift declarations: 2016 Perth Fashion Festival

151. On 22 March 2016, Ms Davidson completed another gift declaration form regarding her attendance at the Perth Fashion Festival Awards at the State Theatre on the same date.<sup>254</sup> The estimated value of the gift was stated as “\$50.00”. Again, Ms Davidson admitted she did not make inquiries to find out the exact value of the ticket and said she had no idea why she did not do that.<sup>255</sup> When Ms Davidson was advised that Ms Scaffidi had attended the same event and declared her ticket was valued at \$180.00,<sup>256</sup> she conceded if that value was correct, her estimate was somewhat short of the actual value. Ms Davidson accepted it was unlikely she would have given a speech on behalf of the City if Ms Scaffidi had attended the event.<sup>257</sup>
152. Ms Davidson attended one event of the Perth Fashion Festival in 2016; the “*Future Runway Event*” on 23 September 2016. She completed a gift declaration form purportedly on the same date<sup>x</sup> and the estimated value of the ticket was typewritten as “\$49.88”.<sup>258</sup> In an email from Ms Davidson to Ms Firth dated 25 September 2016, Ms Davidson asked Ms Firth to check with Ms Purnat about the cost of her ticket.<sup>259</sup> On 27 September 2016, Ms Purnat responded, stating that the “*Ticketmaster*” price was “\$49.88 ea”.<sup>260</sup>
153. Ms Davidson admitted she had received a VIP ticket to this event and agreed that if VIP tickets were being charged at that amount the Perth Fashion Festival would have been running at a substantial loss.<sup>261</sup> The actual value of this ticket was \$160.00.<sup>262</sup> Ms Davidson agreed that if she had carefully considered the accuracy of the ticket price provided to her, she would have made further inquiries and followed it up.<sup>263</sup> The Inquiry also notes that if Ms Davidson correctly followed the recommendations tabled on the reverse of this gift declaration form she may have declined the ticket as a “*Gift of Influence*”.<sup>264</sup>
154. The total estimated value that Ms Davidson placed on the seven tickets she had received for Perth Fashion Festival events from September 2015 to September 2016 was \$199.76. Although the gift declaration form cited “\$100+” as the combined value of five tickets, the City would have recorded the amount of “\$100.00” on its Gift Register.<sup>265</sup> This meant, according to the City’s records, Ms Davidson was entitled to vote on any sponsorship applications by the Perth Fashion Festival. However, the actual combined value of these tickets was between \$1,240.00 and \$1,260.00. Ms Davidson’s acceptance of the ticket to the second of the four events she attended in September 2015 may therefore have made the Perth Fashion Festival a closely associated person with her.<sup>266</sup>

x Ms Davidson dated the gift declaration form “23/9/16”. It is more likely she signed the form on or after 27 September 2016 given the email exchanges between C Firth and A Purnat on 27 September 2016 and the handwritten notation that appears at the bottom of the form “*Received from CR 29/9*”.

After Ms Davidson accepted the ticket for the event on 23 September 2016, the Perth Fashion Festival may again have become closely associated with her; this time under section 5.62(1)(eb)(i) of the LG Act. However, after March 2016, Ms Davidson participated in three deliberations of sponsorship applications by the Perth Fashion Festival and, on each occasion, sought to increase the officer recommended sponsorship amount.

155. The Inquiry finds that Ms Davidson did not provide accurate estimated values for the tickets she declared from the Perth Fashion Festival on three gift declaration forms and she could not give a satisfactory reason for providing these inaccurate values. By ticking the box on each of these forms that the information was “*accurate*” and “*will not create a future conflict of interest*” for her, Ms Davidson appears to have made a declaration that was incorrect. At the time, she was a Justice of the Peace (and a longstanding one) and should have been well aware of the importance of such declarations,<sup>267</sup> highlighting the seriousness of her conduct.

[Marketing, Sponsorship and International Engagement Committee meeting:  
26 July 2016](#)

156. At the MSIE Committee meeting on 26 July 2016, Ms Davidson deputised for Mr Limnios. The meeting considered the sponsorship application for the 2016 Perth Fashion Festival. Notwithstanding Mr Yong declaring a direct financial interest for the Perth Fashion Festival item on the basis that he had attended an event, Ms Davidson made no disclosure of a financial interest, although she had declared a direct financial interest for another sponsorship application and left the meeting when the Committee considered that application.<sup>268</sup> In her evidence, Ms Davidson accepted she also had a financial interest with the Perth Fashion Festival, “*on the basis that she had received some gifts*”. She denied that her failure to declare that interest was deliberate. It was put to her that she did not declare an interest, because she was turning a blind eye to what she was required to do. Ms Davidson denied that, although she was unable to offer any alternative explanation.<sup>269</sup>
157. At the meeting, Ms Davidson moved an amendment to the officer recommendation for the total sponsorship amount to be increased by \$30,000.00. That motion lapsed for want of a seconder. The original motion was then put and carried, with the support of Ms Davidson.<sup>270</sup>
158. On the basis of the evidence described above, Ms Davidson may have deliberately chosen not to disclose a financial interest in the Perth Fashion Festival so she could participate in the decision-making process and put forward a motion to amend, seeking an increase in the recommended sponsorship amount.

### Ordinary Council Meeting: 9 August 2016

159. The Council considered this sponsorship application at its Ordinary Council Meeting on 9 August 2016. As already described, this meeting took place immediately after a Special Council Briefing Session in which the offer of tickets, and gift declarations, were explained to council members, including Ms Davidson.<sup>271</sup> Notwithstanding a large number of disclosures of financial, proximity and impartiality interests at that meeting (including two direct financial interest disclosures by Ms Davidson for other items), she did not disclose a financial interest in the Perth Fashion Festival.<sup>272</sup> The officer and MSIE Committee recommendation was that Council approve a total sponsorship of \$269,315.91. However, Ms Davidson moved an alternate motion that the total sponsorship for the Perth Fashion Festival be increased by \$30,000.00. That alternate motion was put and carried four votes to three votes.<sup>273</sup>

160. Ms Davidson's explanation for not declaring a financial interest at this meeting was, *"I thought I was perfectly in order"*. She was then asked the following questions:

*"And I just want to know how, how could you possibly think that?---Well, I did do and that was it, I didn't declare."*

*But how could you possibly think that?---Well, that was my thinking at the time."*

*And I'm asking you how? If that really was your thinking, how could it possibly be because the theory I've got is that that wasn't your thinking. You're saying it was so now I'm asking you, how could it possibly be your thinking?---Well, it was."*

*I know that and I'm asking you how, how could it be?---No idea. That's obviously the way that I viewed it and did not declare."*

*You didn't want to declare?---It wasn't a case of that, no".<sup>274</sup>*

On the basis of the evidence, Ms Davidson may have again deliberately chosen not to disclose a financial interest in the Perth Fashion Festival so that she could participate in the decision-making process and move an alternate motion that increased the recommended sponsorship amount.

### Ordinary Council Meeting: 6 June 2017

161. The Perth Fashion Festival's sponsorship application for its 2017 event was considered at the Ordinary Council Meeting on 6 June 2017. Again, Ms Davidson did not declare a financial interest in the Perth Fashion Festival. This was despite other council members declaring various interests with respect to items.<sup>275</sup>

162. At this meeting, Ms Davidson successfully moved a motion to amend that the Triennial Event sponsorship of \$125,000.00 annually to the Hopman Cup be reduced by \$25,000.00 to \$100,000.00. The amended motion was put and carried which meant for each of the next three years the Hopman Cup was to receive \$25,000.00 less than the City's officers and MSIE Committee had recommended.<sup>276</sup>

163. The next item on the agenda was the Perth Fashion Festival sponsorship application. Again, Ms Davidson moved a motion to amend that the sponsorship amount for the Perth Fashion Festival be increased by \$25,000.00; from \$230,000.00 to \$255,000.00. That motion to amend was passed five votes to three votes. The amended motion was then put and carried, which meant that the Perth Fashion Festival received \$25,000.00 more than the City officers and the MSIE Committee had recommended.
164. At the meeting, Ms Davidson's initial reasoning for the increase was that, *"it is a Council prerogative to make such a decision"*. In response, Mr Ridgwell stated, *"the reason needs to be greater enhanced and substantiated, in its response. It can't just be a prerogative of Council. We'll need a reason in accordance with [the] Act as required"*.<sup>277</sup> When subsequently pressed at the meeting, Ms Davidson stated the reason was, *"that TPFF delivers the outcomes that support a greater increase in appropriate sponsorship"*.<sup>278</sup> The Inquiry finds that reason lacked merit and could not be objectively substantiated if the Officer Assessment Report<sup>279</sup> was taken into consideration. This report was prepared with the oversight of an assessment panel comprising of seven City officers (including two Directors) across three Directorates.<sup>280</sup> It stated the following in its concluding comments:

*"The assessment panel is instructed to benchmark all City sponsorships in their assessment obligations and when comparing the Perth International Arts Festival, FRINGE WORLD Festival, Perth Convention Bureau and Mastercard Hopman Cup, these sponsorships are considered to generate a higher return on investment and which is commensurate with the investment put into them by the City.*

...

*The panel has unanimously agreed to provide funding under the Annual Event Sponsorship program with \$230,000 considered appropriate in comparison to other sponsorship's in the City's portfolio and the expected return from the Festival"*.<sup>281</sup>

165. Similar observations had been made in the Officer recommendation for the sponsorship application by the Perth Fashion Festival the previous year:

*"The panel unanimously agreed that the event does not provide optimum level of commercial returns to the City when compared to its other major partnerships including those detailed above."*<sup>y</sup>

...

*The assessment panel believes that the Festival could assist more with activation for City retailers and driving economic returns to local businesses. Significant elements of the events are ticketed or exclusive for VIPs only"*.<sup>282</sup>

y These partnerships were with Fringeworld 2016 (with a return on investment of 1:801), Perth Chinese New Year Fair 2016 (1:181), Pride Festival 2016 (1:181) and PIAF 2016 (1:156). By comparison, the return on investment for the recommended level of sponsorship for the 2016 Perth Fashion Festival was just 1:28: Minutes, MSIE Committee meeting, 26 July 2016, p 11.

166. Ms Davidson said in her evidence that at some stage (although she could not recall when) she had sought advice from the Governance unit and did not declare a financial interest in the Perth Fashion Festival as a result of what she was told.<sup>283</sup> The Inquiry subsequently checked the audio of Council Meetings where Ms Davidson might have had this conversation. As has already been noted, from the audio of the Council Meeting on 6 June 2017, and after Ms Scaffidi had declared her financial interest in the Perth Fashion Festival, Ms Davidson can be heard asking, *“Could we just check with Governance in terms of TPF?”* Mr Ridgwell answers, *“Through the Chair, the only individual assessed is the Lord Mayor in her capacity as a patron”*.<sup>284</sup>
167. The Inquiry is of the view, however, that this would not have mitigated or excused Ms Davidson from not declaring any financial interest she may have had in the Perth Fashion Festival. That is because her completed gift declaration forms for tickets received from the Perth Fashion Festival in 2015 and 2016 declared a total value of \$199.76 for those tickets. That was the amount the City would have recorded in its Gift Register. This amount fell under the notifiable gift amounts of \$200.00 or more with respect to section 5.62(1)(ea)(i) or (ii) or section 5.62(1)(eb)(i) of the LG Act. Based on its records, the City would be unaware if Ms Davidson did, in fact, have a financial interest requiring disclosure. The blame for that lies entirely at the feet of Ms Davidson. Her answer to the following question recognises that:
- “Once more, there’s a trust placed by the City in Councillors properly and accurately recording details on the Gift Declarations, isn’t there?---Correct”*.<sup>285</sup>
168. However, the Inquiry notes that Ms Davidson was included in the email exchanges between Mr Yong and Mr Ridgwell on 10 October 2016 in which Mr Ridgwell inadvertently provided advice that only those council members who had received a gift over \$200.00 in value in the previous 12 months were required to declare a financial interest.<sup>286</sup> Ms Davidson had no recollection of reading this email. Although in her evidence, when referring to council members, she stated, *“our brains were all in the same direction because we didn’t declare”*.<sup>287</sup>
169. The Inquiry finds that if Ms Davidson had read this email and followed the advice of Mr Ridgwell then she would have had a reasonable excuse for failing to disclose her financial interest when the sponsorship application for the Perth Fashion Festival was next considered in June of the following year. That is because the only ticket she received from the Perth Fashion Festival in the 12 months prior to the Council Meeting on 6 June 2017 had an actual value of \$160.00.<sup>288</sup> The Inquiry must also consider whether this was the dialogue that Ms Davidson was referring to when she recalled discussing the disclosure of financial interests with Mr Ridgwell. Although she believed this dialogue was after the Council Meeting on 9 August 2016, she did not know whether it was in oral discussions or by email.<sup>289</sup> Notwithstanding the Inquiry’s findings with respect to Ms Davidson’s non-disclosure of a financial interest at the Council and committee meetings in 2016 (which both took place prior to Mr Ridgwell’s email to Mr Yong), the Inquiry is not satisfied, to the required standard, that Ms Davidson, knowing that she may have been required to do so, did not disclose a financial interest at the Ordinary Council Meeting on 6 June 2017.

### Mr Jim Adamos

170. Mr Adamos's understanding of the disclosure requirements for gifts and financial interest was relatively sound, although it was his understanding that council members only had to declare a financial interest for a period of 12 months after that financial interest had arisen.<sup>290</sup> No criticism is made of Mr Adamos for this misunderstanding as he was included in the email exchanges between Mr Yong and Mr Ridgwell on 10 October 2016, in which Mr Ridgwell inadvertently provided advice that only those council members who had received a gift over \$200.00 in value in the previous 12 months were required to declare a financial interest.<sup>291</sup>
171. Mr Adamos accepted it was important that an accurate value be given for a gift when gift declaration forms were completed. He relied on Ms Firth to assist him in determining the value of the gifts that he had received. He stated he did that because he was not at the City full-time and, as he had a job, it was just *"the time factor"*.<sup>292</sup> Based on the exchange of messages shared by the WhatsApp *"Team"* on 24 March 2016, Mr Adamos agreed that he would have been aware of the matter of the acceptance of free tickets and potential conflicts arising from future consideration of sponsorship applications by those who had provided the tickets.<sup>293</sup>
172. Six months after these WhatsApp messages, and following two Council briefing sessions regarding gift declarations on 23 March 2016 and 9 August 2016, Mr Adamos directly organised with Ms Harvey-Hanrahan in September 2016 to be given two tickets to attend the 2016 Perth Fashion Festival.<sup>294</sup> When Ms Firth asked him for the value of each ticket to be recorded on the gift declaration forms, Mr Adamos responded, *"I think the website said \$69.00"*.<sup>295</sup>
173. Mr Adamos subsequently completed and signed two gift declaration forms for these two functions. One form was for his ticket to attend the *"International Runway: Whole9Yards Event"* on 22 September 2016. The estimated value of the ticket was typewritten as *"\$69.00"*.<sup>296</sup> Mr Adamos signed and dated the form 22 September 2016. The actual value of this ticket was \$180.00.<sup>z</sup>
174. The other gift declaration form was for the ticket he received for the *"Future Runway Event"* held on 23 September 2016. The estimated value of this ticket was typewritten as *"\$69.00"*.<sup>297</sup> Mr Adamos signed and dated this form 22 September 2016. The actual value of this ticket was \$160.00.<sup>aa</sup>

z The Inquiry was able to identify this value from the complimentary ticket allocation order form that Ms M Brennan, a ticketing manager with the Fashion Council WA, provided to Ms Scaffidi by email on 2 August 2016. Tickets for events at the Fashion Paramount venue at Perth Concert Hall (which included the event Mr Adamos attended) were listed as costing \$180.00 each. This included a *"VIP function"* which commenced one and a half hours before the event. Email, M Brennan to L Scaffidi, 6.11 pm 2 August 2016; Form, Fashion Council WA ticket allocation, undated.

aa The Inquiry was able to identify this value from the complimentary ticket allocation order form that Ms M Brennan, a ticketing manager with the Fashion Council WA, provided to Ms Scaffidi by email on 10 August 2016. Tickets for the *"Future Runway Event"* at Perth Concert Hall that Mr Adamos attended were listed as costing \$160.00 each. This included a *"VIP function"* which commenced one and a half hours before the event. Email, M Brennan to L Scaffidi, 6.11 pm 2 August 2016; Form, Fashion Council WA ticket allocation, undated.

175. Mr Adamos agreed that council members would normally have very good seats at *Perth Fashion Festival* events. He also agreed they were invited for pre-show drinks and food. He also stated that there was “*definitely a price range*” in the tickets to these events.<sup>298</sup> Mr Adamos accepted that the total estimated value of the tickets that he had declared, being \$138.00, made the tickets a notifiable gift under regulation 12(1) of the Conduct Regulations, although their combined actual value was above \$300.00.<sup>299</sup> Mr Adamos had earlier given evidence that he understood a council member had a financial interest, “*if you’d had any kind of benefit or gift or you were advantaged in some financial way that was over \$300*”.<sup>300</sup>
176. Mr Adamos was shown the table that appeared at the back of the two gift declaration forms he had completed. This table was titled “*Declaring and Managing Gifts and Benefits – Elected Members*”. It provided various examples of gifts to council members with recommendations to either “*decline*” or “*accept*” the gift.<sup>301</sup> Mr Adamos’s evidence was that he did not use this table to assist him when completing the forms. From looking at the table during his evidence, he agreed each of the tickets he had received from *Perth Fashion Festival* would be most accurately described as a “*Gift of Influence*” for which the recommendation was to decline.<sup>302</sup>
177. The Inquiry finds that Mr Adamos did not provide an accurate estimated value of the tickets he had received from Ms Harvey-Hanrahan to attend the two events of the *Perth Fashion Festival* in 2016, and he did not provide a satisfactory explanation for doing so. The Inquiry finds it would have been a simple exercise for him to contact Ms Harvey-Hanrahan to ascertain the actual value of these tickets when Ms Firth asked him for their value for the gift declarations. Alternatively, he could have asked Ms Firth to contact Ms Harvey-Hanrahan. To simply rely on his recollection that the website said “\$69.00” was inadequate, particularly when council members by this stage were aware they needed to accurately complete gift declaration forms for free tickets they had received to City sponsored events. Mr Adamos should have known that the tickets he received (which included pre-event “*VIP*” access to complimentary drinks and food and prime seating for the events) would place his tickets in the upper range of ticket prices. At best, he was naive in believing each ticket was valued at only \$69.00.
178. The combined value of these tickets may have made the second ticket a prohibited gift from a person “*who it is reasonable to believe is intending to undertake an activity involving a local government discretion*”.<sup>303</sup> If so, Mr Adamos should not have accepted it. By accepting this ticket, the *Perth Fashion Festival* may also have become a closely associated person with Mr Adamos pursuant to section 5.62(1)(eb)(i) of the LG Act. This would have required Mr Adamos to declare a financial interest at the Council Meeting he attended on 6 June 2017, which considered a sponsorship application by the *Perth Fashion Festival*. He did not.<sup>304</sup>
179. Mr Adamos’s incorrect belief that a council member’s financial interest in a matter need only be disclosed for 12 months from the date the financial interest arose would not provide him with a reasonable explanation for not disclosing such an interest. That is because this Council Meeting was conducted less than nine months after Mr Adamos had received the tickets.

180. The Inquiry further finds that no blame can be attributed to Mr Ridgwell or the City's Administration for failing to determine that Mr Adamos had a financial interest in the Perth Fashion Festival's sponsorship application in 2017. Based on the ticket values Mr Adamos provided, the City's Gift Register would not have recorded Mr Adamos as having gifts of a total amount of \$200.00 or more from the Perth Fashion Festival. Were it otherwise, they may have fallen under the provisions of section 5.62(1)(eb)(i) of the LG Act.
181. The responsibility for the under-valued amount of the tickets in the City's Gift Register was solely Mr Adamos's. By September 2016, council members had a clear understanding of the importance of accurately stating (or estimating) the value of tickets to City sponsored events. Mr Adamos did not do so with respect to the two tickets he had requested from Ms Harvey-Hanrahan.

#### Concluding observation

182. There is a further onus on a council member completing a gift declaration form to ensure its details are as accurate as possible. In circumstances where the gift has been accepted, the council member is required to declare that the information within the form is "*accurate*". The words "*I declare*" are in bold type and underlined. The Inquiry finds that some council members, when completing these forms, failed to appreciate the significance of this declaration.

### City of Perth's management of financial interests related to the Perth Fashion Festival

#### Mr Mark Ridgwell

183. Mr Ridgwell was the Manager, Governance for the City from October 2013. He held that position during the period of the Inquiry's Terms of Reference. During that period, he initially reported to Mr Robert Mianich (Director, Corporate Services) until about July 2017 when, through a re-structure, he reported to the CEO, Mr Mileham.
184. The Inquiry notes that the workload for Mr Ridgwell was clearly significant. His evidence was that he worked 50-55 hours per week, including weekends. When asked whether he was able to cope with his workload, Mr Ridgwell responded, "*I tried to, as best to my abilities*". Mr Ridgwell acknowledged that the legislation at the time relating to gifts was "*quite complex and changing*". Again, he stated that he tried to understand the legislation, "*to the best of my abilities*".<sup>305</sup>
185. Mr Ridgwell, correctly in the Inquiry's view, believed it was the responsibility of the individual council member to determine whether he or she had a financial interest in a matter, although the Governance unit would provide support and assistance.<sup>306</sup>
186. However, Mr Ridgwell gave examples where the Governance unit would not always be proactive in a matter in which a council member may have a financial interest. For example, the Governance unit would not necessarily question the value of a gift that had been declared on a gift declaration form by a council member. Although Governance would, if requested, assist a council member with determining the value of the gift to be declared on a form, once a value had been declared that would not be questioned.<sup>307</sup>

187. Although Mr Ridgwell had an overall adequate understanding of the legislative provisions relating to gifts and financial interests, he admitted that at some stage he held the mistaken understanding that after a financial interest arose, there was only an obligation to disclose that interest for 12 months. He subsequently received legal advice from the City’s lawyers that the financial interest was, in fact, for the duration of the council member’s term of office.<sup>308</sup>
188. Mr Ridgwell was able to recall the Special Council Briefing Session to council members regarding the offer of tickets he conducted on 9 August 2016.<sup>309</sup> He recalled providing an overview to those council members in attendance regarding disclosures of interests required at the Ordinary Council Meeting commencing after the session and at all future meetings as well.<sup>310</sup>
189. The Council minutes for the Ordinary Council Meeting on 9 August 2016 show that there were disclosures of financial interests, proximity interests and an impartiality interest for various items by six of the seven council members present.<sup>311</sup> However, the only council member who declared a financial interest for the item concerning the sponsorship application by the Perth Fashion Festival was Mr Yong.
190. As to whether any other council member should have declared a financial interest with respect to that item, Mr Ridgwell was shown a letter dated 7 June 2016 from Mr Mileham to Mr Brendan Peyton, an officer attached to the Investigations Unit – Governance at the Department.<sup>312</sup> Mr Ridgwell recalled assisting in the preparation of that letter,<sup>313</sup> which was applying for Ministerial approval for council members who had disclosed financial interests in matters to participate in meetings relating to those matters.<sup>314</sup> The letter nominated four council members (including Mr Yong) as having a financial interest in the Perth Fashion Festival “for their full length as serving members,” as they had accepted tickets which were gifts from the Perth Fashion Festival.<sup>315</sup> Mr Ridgwell agreed that if this part of the letter was correct, then declarations of such an interest should have been made by all four of those council members rather than just Mr Yong at the meeting on 9 August 2016.<sup>316, (ab)</sup> As to whether the Administration bore any responsibility for a potential oversight by those council members in failing to declare a financial interest with the Perth Fashion Festival at the meeting, Mr Ridgwell responded as follows:

*“This is a very difficult one in this regard because if we take, as Administration, the responsibility of this and this has been – I use the example of other officers that have – we have a transfer of officers, so transfer of knowledge, it needs to be on the individual and even to the extent that we were providing information and tools to Elected Members, and I’ve got to say also, the same rules were applying to staff as well, is, it’s your responsibility so if you miss an element in respect to this process, then the responsibility is on you as an individual”.<sup>317</sup>*

ab No Ministerial approval was granted to any council member who had a financial interest regarding the Perth Fashion Festival.

191. Mr Ridgwell was later questioned by the Commissioner:

*“But responsibility doesn’t need to be exclusive, does it?---No.*

*And responsibility must depend on the circumstances, mustn’t it, in particular what you know?---Correct, yes.*

*So that if a member of staff knows something of this kind and does not do something about it when an opportunity presents itself, then in those circumstances, would you not say that the staff member has some responsibility to do something?--  
-If you recalled a disclosure of interest at the time or that we introduce that process, and that may be a recommendation from the Inquiry Panel that we do that.*

*Let’s take this instance here, and I’m not being critical of you or anyone else on your staff for that matter, but if a staff member, for example, had access to this information and therefore knew about it, then that person ought to have done something about it, rather than just letting it through to the keeper, wouldn’t you agree?---Yes, I absolutely agree and as officers of the City, we do try to be proactive in informing people about anything, but I can see in this instance here, this has been missed, from what I can see.”<sup>318</sup>*

192. Notwithstanding Mr Ridgwell’s acknowledgement that the Administration had potentially failed to inform council members of a financial interest at the meeting, no finding will be made against the City for failing to do so in this instance. The letter from Mr Mileham to Mr Peyton cited 49 financial interests involving all nine council members and referred to nine entities. It could not be expected that Mr Mileham or Mr Ridgwell or anybody else from Administration would be able to recall each of those financial interests. The Inquiry notes the considerable amount of work that would have been undertaken by the Administration in the preparation of this letter and its efforts to avoid the City having an insufficient number of council members to form a quorum for the consideration of future sponsorship applications.
193. In the absence of any evidence that a council member specifically sought assistance from the Administration regarding any financial interest he or she may have had with the Perth Fashion Festival during the Ordinary Council Meeting on 9 August 2016, the Inquiry finds that the briefing session given to council members immediately before the meeting had sufficiently put them on notice regarding any declarations they needed to make at that meeting.
194. The Inquiry finds Mr Ridgwell undoubtedly had a very heavy workload and that he did his best to perform his job in a competent manner. The Inquiry also acknowledges the efforts undertaken by Mr Ridgwell to educate council members as to their disclosure obligations regarding the receipt of tickets to City sponsored events. Given the complexity of the legislation, this would not have been an easy task. However, the poorly worded email he sent on 10 October 2016 to Mr Yong and other council members that inadvertently conveyed inaccurate information was likely a reason why Mr Yong (and possibly other council members) failed to declare financial interests they had at subsequent Council and committee meetings. The relevant email exchange between Mr Yong and Mr Ridgwell is described earlier in this Section.

195. Mr Ridgwell accepted that the correct answer to Mr Yong's question as to whether the disclosure of financial interests by council members had to be for the balance of their terms was "yes".<sup>319</sup> Although Mr Ridgwell had an initial view that the period of time was only 12 months, by 7 June 2016 (the date of the letter from Mr Mileham to Mr Peyton), he would have understood that a council member's financial interest in a matter was maintained "*for their full length as serving members*".<sup>320</sup> Mr Yong's email was sent to Mr Ridgwell on 10 October 2016.<sup>321</sup>
196. Mr Ridgwell's explanation for his response was, "*I think I may have interpreted that to be for tickets going forward, is what it is*". Mr Ridgwell conceded his email could be read by a council member as meaning he or she only had to declare a financial interest if the ticket or gift creating that financial interest was received in the previous 12 months.<sup>322</sup> That concession was rightly made.
197. However, the Inquiry accepts Mr Ridgwell's explanation that his quick response to the question meant that he was probably in a meeting at the time and that insufficient attention was given to what it was Mr Yong was seeking clarification.<sup>323</sup> In light of the surrounding circumstances, the Inquiry is not too critical of Mr Ridgwell for sending that email. Nevertheless, it is clear some council members may have misunderstood their obligation to disclose financial interests by relying on that email.

#### Mr Martin Mileham

198. Mr Mileham was appointed as Acting CEO of the City on 20 January 2016. On 2 October 2016, he was appointed on a permanent basis. He was still the CEO for the City when the Council was suspended on 1 March 2018.
199. In his evidence, Mr Mileham displayed a good understanding of gift declarations and the circumstances in which financial interests may arise from receiving gifts. His understanding of his responsibilities when receiving gift declaration forms from council members was not so good. Mr Mileham, like many other witnesses before the Inquiry, believed the legislation relating to financial interests was "*overly complex*".<sup>324</sup>
200. Mr Mileham was responsible for signing the elected member gift declaration forms that were required to be retrospectively completed by council members by the end of March 2016. Those forms related to all tickets received by council members for City sponsored events since 1 July 2015. The evidence before the Inquiry was that a number of these forms had not been fully completed and/or had estimated values for the gift that were noticeably inaccurate. The question requiring the Inquiry's determination is whether Mr Mileham, by signing these incomplete and/or inaccurate gift declaration forms and forwarding them onto the Governance unit, was performing his duties in a proper manner.

201. As to these gift declaration forms, Mr Mileham was asked the following questions:

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

*Anything else?---My view was that at that time my job was to, as I said, do a sweep and see what had transpired over that time, to receive and log those documents.*

*So what’s the next step? I didn’t see my job, if you’re asking that question, of testing their veracity per se, but at least getting the first stage of getting them declared.*

*Why didn’t you regard it as your job of testing the veracity of the forms?---I would call it an audit process as opposed to a true quality check, quality assurance process.*

*It’s not my role, not the CEO’s role to, for want of a better term, police what people are declaring as the truth.*

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

*Yes, making sure what’s completed on these Gift Declaration Forms is accurate and full, that all the required details have been completed?---The Elected Members, with guidance and assistance where appropriate”.<sup>325</sup>*

202. Mr Mileham considered it would only be “germane” if the form left out matters that were important to the actual declaration itself. He identified those matters as being the quantum, the date and the provider.

203. Mr Mileham accepted that the information provided on the retrospective gift declaration forms was going to be used by the City to determine if there were any interests that the council members needed to disclose.<sup>326</sup>

204. Mr Mileham was questioned as to why he signed the seven gift declaration forms retrospectively completed by Ms Scaffidi on 23 March 2016 that had failed to answer the following questions:

- *“Is this the first gift you have been offered by this person/organisation?”*
- *“Who will benefit from acceptance of the gift?”*
- *“Are they [the organisation/person offering the gift] likely to be the subject of a future decision of the City?”<sup>ac</sup>*

205. When questioned by the Commissioner as to why he would sign off on a form before it was completed, Mr Mileham answered, *“As I’ve said, in my view it offers sufficient information for our purposes and it was presented in the absence of any such form or declaration in the past, so---”.<sup>327</sup>*

ac For example, Form, Elected member gift declaration, L Scaffidi, 23 March 2016.

206. Underneath the section for the CEO's signature and date on the gift declaration form was the heading, *"STEP 4 – Forward Completed Declaration form to the Governance Unit"*. After agreeing that this step was his job, Mr Mileham was asked by the Commissioner:

*"So when you read that as you signed it, what did you think 'completed declaration form' meant?---From my perspective, Governance would---*

*What did you think it meant, those words?---The form sufficiently complete with the information.*

*So you're saying to me that even though it was incomplete, it was completed?---Sufficiently for our purposes".<sup>328</sup>*

207. The Inquiry does not accept Mr Mileham's assertion that it was simply his job to receive the gift declaration forms and not to conduct a *"true quality check"*. Nor does the Inquiry accept that the seven gift declaration forms submitted by Ms Scaffidi were sufficiently completed for the City's purposes. The questions left unanswered by Ms Scaffidi were necessary for the determination of a future financial interest that may arise. Mr Mileham gave evidence that this was a reason why the council members were requested to complete the gift declaration forms retrospectively.<sup>329</sup>

208. When asked if the information on the gift declaration forms regarding the dollar value of the gift was the most important, Mr Mileham answered: *"Was it the most important? The cumulative dollar value for individual providers, yes, to individuals so that we could assess what we were facing because to that point we had zero information".<sup>330</sup>*

209. Mr Mileham was then shown the single gift declaration form that Ms Davidson had retrospectively completed for five tickets she had received to four events she had attended during the 2015 Perth Fashion Festival.<sup>331</sup> The estimated value of the gift that she wrote on the form was *"\$100+"*. Mr Mileham was asked the following questions:

*"Given the fact that you have stated that it was important that these forms 'offered sufficient information for our purposes' and you've also said that 'the monetary value was one of the important matters that needed to be accurately recorded', do you accept there the description, 'Value of gift: \$100-plus' was inadequate?---It's not accurate, not as accurate as the other ones.*

...

*So is this a Gift Declaration Form that should not have been forwarded on to the Governance unit after you signed it?---It's a declaration by the Councillor, received by me and passed to Governance.*

*I know all that?---Yes.*

*But should it have been forwarded on to Governance by you with that information on it?---Absolutely.*

*Why?---If there's any issue there, it would be quality checked by Governance.*

*Why would it be the responsibility of Governance and not you?---To advise me if there's any further action required of me, but as I've said, the forms themselves are designed for the Elected Members to make a declaration which they say is true.*

*Yes?---My signature is there to receive it.*

*Or in this instance here, as a rubber stamp?---No".<sup>332</sup>*

210. Mr Mileham was later asked the following questions by the Commissioner regarding Ms Davidson's gift declaration form:

*"When you read it and signed it, was it your view that the information on this form was adequate?---For our purposes at the time.*

*No, was it your view that the information on this form when you signed it, after having read it, was adequate, that's a simple question?---No.*

*No what?---No, it wasn't adequate in itself.*

*Then, if you didn't think it was adequate, why did you sign it?---To receive it only.*

*Thank you, Mr Mileham?---It's a step in the process".<sup>333</sup>*

211. When later asked by Counsel Assisting who was it incumbent upon to make sure the inadequacy regarding the value of the gift was addressed, Mr Mileham answered, *"I don't administer the Act".<sup>334</sup>* However, as described below, regulation 12 of the Conduct Regulations made the CEO responsible for the receipt of gift notifications and the maintenance of a register of gifts.
212. Nevertheless, after being questioned at some length by the Commissioner and Counsel Assisting, Mr Mileham accepted that it was the responsibility of the Administration to ensure that the inadequate amount specified by Ms Davidson in her gift declaration form was rectified. Although he admitted he was part of the Administration, Mr Mileham maintained it was not solely his responsibility. He was then asked:
- "If it's not your responsibility, whose responsibility is it then?---It's the CEO's responsibility to give information to Councillors so that they can do their job. If additional information would have helped that be filled out better, then that would be my responsibility.*
- Indeed in [an] ideal situation, would you accept that the value that's been given there is something that should have been addressed?---It could have been checked, as I said".<sup>335</sup>*
213. The Inquiry finds that Mr Mileham was partly responsible for ensuring that the details in Ms Scaffidi's and Ms Davidson's declarations of their gifts to the 2015 Perth Fashion Festival were fully and accurately completed. In that regard, Mr Mileham should have ensured Ms Scaffidi's seven gift declaration forms were returned to her with a request that the three questions be answered. Mr Mileham did not have Ms Davidson notified that she was required to complete a gift declaration form with respect to each event she attended at the Perth Fashion Festival in 2015 and to provide an accurate estimated value for each ticket she had received. Mr Mileham agreed in his evidence that it was *"probably appropriate"* that Ms Scaffidi had completed a separate gift declaration form for each event that she went to at the 2015 Perth Fashion Festival.<sup>336</sup> Ms Davidson should have done so as well.

214. At the relevant time, section 5.82 of the LG Act and regulation 12 of the Conduct Regulations governed the disclosure of gifts. Section 5.82(1)(d) of the LG Act provided that the disclosure was to be in writing to the CEO and include *“the estimated value of the gift at the time it was made”*. Regulation 12(5) of the Conduct Regulations read, *“The CEO must maintain a register of gifts in which details of notices received under sub-regulation (4) are recorded”*. Regulation 12(4)(c) of the Conduct Regulations provided that the notification of the acceptance of a notifiable gift was to be in writing to the CEO and was to include *“a description, and the estimated value, of the gift”*. As CEO, Mr Mileham was not only required to keep a register of gifts disclosed by council members under section 5.82 of the LG Act, he was also required to keep a register of contributions to travel disclosed by council members pursuant to section 5.83 of the LG Act.<sup>337</sup>
215. If a CEO has signed his or her name to a City’s gift declaration form under the heading *“STEP 3 – Submit Declaration to the CEO within 10-days of accepting of Gift”* and forwarded it to the Governance unit without completing any details in the *“Comments”* section regarding *“Risks/Issues”* immediately above his or her signature, those staff at the Governance unit should have been entitled to accept the form had been completed to the satisfaction of the CEO. This is how Mr Mileham signed off Ms Scaffidi’s seven incomplete gift declaration forms and Ms Davidson’s gift declaration form. In those circumstances, it should not have been incumbent on the Governance unit to have, in the words of Mr Mileham, *“quality checked”* the information contained in the forms.
216. It is the responsibility of council members to make sure the details they record in gift declaration forms are accurate. Parliament, nevertheless, had ensured that the receipt of gifts by council members was monitored by the CEO by requiring council members to disclose gifts to the CEO and requiring the CEO to keep registers of those gifts.<sup>338</sup> The register of gifts declared by council members under section 5.82 of the LG Act is a public record available for examination.<sup>339</sup> It is a primary source available for members of the public wanting to know if a council member has any interests in a matter before the Council. It must therefore contain accurate and complete information and, as it is the responsibility of the CEO to maintain the register of gifts, it is implicit that this responsibility encompasses more than simply receiving a gift declaration form that is incomplete and/or obviously inadequate. Those responsibilities are in addition and complementary to the CEO’s role in dealing with allegations of misconduct or improper conduct by council members, which may include failures by council members to declare gifts. In that context, the CEO’s role in receiving gift declaration forms from council members should never be regarded as a rubber-stamping exercise involving no requirement to review the contents of the forms.
217. With respect to Ms Davidson’s gift declaration form, the value of the gift would have been recorded in the City’s Gift Register as \$100.00.<sup>340</sup> Given it was his responsibility under the legislation to maintain the Gift Register, the Inquiry rejects Mr Mileham’s excuse that he did not think it was *“incumbent upon me or any of the Administration to necessarily police the Elected Member”*.<sup>341</sup> In this instance, it was his responsibility.

218. The Inquiry has considered whether Mr Mileham had a reasonable excuse for not addressing the deficiencies in the gift declaration forms completed by Ms Scaffidi and Ms Davidson. A reasonable excuse might have existed due to the large volume of retrospective gift declaration forms submitted at the end of March 2016. With that in mind, Counsel Assisting asked Mr Mileham the following question:

*“Might it have been the case, Mr Mileham, that with this large influx of Gift Declarations you received on or about 30 March, that given the work involved to carefully scrutinise each one, that it may have just been, because of time constraints you, for want of a better term, rubber-stamping the forms without giving the sort of attention to the forms in an ideal world you might have?---No, the opposite. It was an information gathering process that I wanted to get from the Elected Members as quickly as possible, the information we needed and registered as received, because the timeframes were important, but to register and receive the information and then assess it. So rubber-stamping would be if someone in the normal course of things just waved things through”.<sup>342</sup> [emphasis added]*

219. Having expressly disavowed himself from relying on this excuse, the Inquiry has no evidence that it was the reason for Mr Mileham not addressing the inadequacies in the gift declaration forms completed by Ms Scaffidi and Ms Davidson.

#### **Tickets given to council members in association with sponsored events: Business News 40under40 Awards 2016**

##### **Ms Janet Davidson**

220. Ms Davidson’s disclosures in relation to Perth Fashion Festival can be contrasted with the disclosures she made in relation to the WA Business News 40under40 Awards (40under40 Awards).
221. Ms Davidson said she had attended the 40under40 Awards “since its inception” and that “City of Perth always had a corporate table”.<sup>343</sup> Ms Davidson completed a gift declaration form for tickets offered for 9 March 2016. The value was given as an estimated value at “\$200+”. Ms Davidson did not submit the form until 30 March 2016 but she dated the form 9 March 2016.<sup>344</sup> Ms Davidson declared that a ratepayer would benefit from the acceptance of the gift.<sup>345</sup>
222. The day after the form was completed, Mr Ridgwell forwarded the online gift and travel register to council members, noting it would be uploaded to the City’s website at 2.00 pm that day. That register, when uploaded, included Ms Davidson’s interest in the 40under40 Awards with a value of \$200.00.<sup>346</sup> Ms Davidson gave evidence she “later discovered” the correct ticket price was \$275.00.<sup>347</sup> However, in their gift declarations for the tickets they received to the 40under40 Awards, Dr Jemma Green declared her ticket as having an actual value of \$275.00<sup>348</sup> and Mr Adamos<sup>349</sup> and Mr Harley<sup>350</sup> estimated the value of their tickets as \$275.00 and \$270.00 respectively. Ms Davidson could not explain why her estimate was inaccurate.<sup>351</sup>

223. Half an hour later, Mr Harley emailed Ms Davidson, stating:

*"Hi Janet.*

*FYI, raising this with you for your own benefit. I notice you've declared one ticket for the 40 under 40, not two. Might want to amend the record in case someone picks you up? :)"*<sup>352</sup>

224. Ms Davidson then emailed Mr Ridgwell advising that she *"had two places so the figure is incorrect"*. Mr Ridgwell responded, clarifying that she wished to amend the declaration form to read \$550.00, *"i.e. 2 x \$275"*.<sup>353</sup> Ms Davidson responded: *"Yes please – it will have to be – over the \$300, but you see at the time viewed as Sponsorship"*.<sup>354</sup>

225. At the MSIE Committee on 26 July 2016, Ms Davidson, Ms Chen and Mr Yong were in attendance. The MSIE Committee considered a corporate sponsorship proposal for the 40under40 Awards. This was the meeting at which Mr Yong declared a financial interest related to the Perth Fashion Festival in connection with tickets he had received to attend the event.<sup>355</sup>

226. Although Ms Davidson did not declare any interest in the Perth Fashion Festival, she did declare a direct financial interest in the 40under40 Awards. Her disclosure in the minutes of the meeting stated *"Nature: Attended Award Ceremony Extent: Minor"*.<sup>356</sup> Immediately after staying and voting on the Perth Fashion Festival, Ms Davidson left the meeting while the MSIE Committee considered sponsorship of the 40under40 Awards.<sup>357</sup>

227. The matter came before the Council at the Ordinary Council Meeting on 9 August 2016. Ms Davidson again disclosed a direct financial interest in the item for the sponsorship application by the 40under40 Awards, but not in the item regarding the sponsorship application for the Perth Fashion Festival.<sup>358</sup>

#### **Tickets given to council members in association with sponsored events: Hopman Cup 2016**

228. The City sponsored the Hopman Cup tennis event for at least six years, from 2011 to at least 2017. As part of the City's sponsorship arrangements, four council members received up to 12 tickets each to attend the Hopman Cup event taking place in January 2016. Those council members each brought up to five guests at a time to attend the event and were seated in a corporate box with food and drink provided.

#### **Mr Keith Yong**

229. As part of the City's sponsorship arrangements, Mr Yong received a total of 12 tickets for two days of the Hopman Cup event that took place in January 2016.<sup>359</sup> Mr Yong had received two sets of six tickets for seats in a corporate box which accommodated six attendees, namely, only Mr Yong and his five guests. Food and drink was provided.<sup>360</sup>

230. At the request of the City's Governance unit, Mr Yong completed two gift declaration forms for those tickets on 24 March 2016, along with a number of other retrospective disclosures.<sup>361</sup>

231. Mr Yong did not complete all parts of the gift declaration forms related to his Hopman Cup tickets. In the space marked *“Who will benefit from acceptance of the gift”*, Mr Yong left the section blank. He said this was an *“oversight”*.<sup>362</sup>
232. In the space marked *“Organisation/person offering the gift”*, Mr Yong wrote *“Hopman Cup organiser”*, but he did not provide any contact details as the form indicated he should.<sup>363</sup> Mr Yong said he felt this was not required as the tickets were *“coming from the City”* and the City would therefore have those details.<sup>364</sup> Mr Yong said he had not collected the tickets from the *“Hopman Cup organiser”* directly, rather that the City had received a number of tickets and had offered these to council members by email. These tickets were then placed in the pigeonhole of each council member who had requested and been allocated tickets.<sup>365</sup> Nonetheless, Mr Yong ultimately agreed that the source of the tickets was the *“Hopman Cup organiser”* and not the City.<sup>366</sup>
233. Mr Yong had provided the same value of \$96.00 per ticket on each form, although on one form he marked this as an *“estimated value”* and on the other form he marked as the *“actual value”*.<sup>367</sup> Mr Yong said he found the ticket price on the Hopman Cup website, although he did not know whether that price was for general admission tickets or corporate box tickets with the food and drink that he had received.<sup>368</sup>
234. In any event, the total ticket value at \$96.00 per ticket was \$576.00 per event day, as Mr Yong noted on the forms,<sup>369</sup> or \$1,152.00 for both days combined. The Inquiry notes this amount significantly exceeded the \$300.00 threshold after which a gift became a *“prohibited gift”* under the legislation in place as at March 2016. It also exceeded the \$200.00 threshold which may render a gift provider a *“closely associated person”*.
235. Mr Yong said that when he received the tickets, he did not understand the tickets to be a prohibited gift, although at the time he was given the disclosure forms and asked to complete them in March 2016, he realised the ticket values exceeded the prohibited gift threshold.<sup>370</sup> The Inquiry notes that Mr Yong completed the disclosure forms for the Hopman Cup on the same day the *“Team”* WhatsApp group had discussed the receipt of free tickets for City sponsored events creating potential financial interests.
236. Although Mr Yong ticked the box on each form corresponding to the statement *“Gift has been accepted”*, he did not make any mark in the checkbox in the immediate next column. The checkbox he left blank corresponded to the declaration:
- “I declare this information is accurate and that acceptance of the gift is not in conflict with the Code of Conduct or Local Government Act 1995 and will not create a future conflict of interest for me in fulfilling my position responsibilities”*.<sup>371</sup>
237. There is no evidence the forms were returned to Mr Yong after he submitted them or that he was directed to complete the missing details and make the declaration required by the form.
238. Mr Yong agreed that if he had ticked that box, the declaration would not have been accurate. Mr Yong was asked: *“So is that the reason why you didn’t cross that box, because you didn’t want to declare something that was false?”*. He answered: *“That may have been the reason”*.<sup>372</sup>

239. However, Mr Yong then said *“I believe that reason should be but at that time when completing that form, I don’t believe that I have breached because the tickets is [sic] coming from the City”*.<sup>373</sup> He later said *“If I knew that the tickets coming from Hopman Cup, I would have completed this form as soon as I received the tickets, but this form was asked to sign, completed in March”*.<sup>374</sup>
240. This is not a direct answer to the question and is incompatible with Mr Yong’s entry on the forms that the *“Hopman Cup organiser”* had provided the tickets. He later said that because the tickets had been distributed by the City, he believed the City had *“cleared those tickets to be received and to be accepted”* by council members in January 2016. He said he put *“Hopman Cup organiser”* on the form because *“As I’ve given the evidence earlier, the tickets was [sic] printed by the organiser but it was accounted for by the City, so in actual fact, the City has cleared the tickets to be accepted by Councillors”*.<sup>375</sup> At his hearing, Mr Yong accepted that the tickets had created a financial interest for him that he needed to declare.<sup>376</sup>
241. Although he had left the declaration relating to a *“future conflict of interest”* blank, Mr Yong ticked “yes” to the question *“Are they [the organisation/person offering the gift] likely to be the subject of a future decision of the City?”*.<sup>377</sup> Mr Yong said he did so because he believed it was likely the organisation would apply again for sponsorship of the Hopman Cup Event the following year. He was correct.
242. On 11 October 2016, approximately nine months later, the Council considered an application for sponsorship of the 2017 Hopman Cup.<sup>378</sup> The matter went straight to Council without having been considered by the MSIE Committee.<sup>379</sup> The day before the meeting, Mr Ridgwell emailed the council members to *“... review the agenda papers for the Council meeting and undertake the necessary disclosures ...”*.<sup>380</sup> He then sent a follow-up meeting advising that Mr Yong and other specified council members had a financial interest in relation to the upcoming meeting. He wrote:
- “Dear Councillors, it has been identified that you have a direct financial interest in item 13 of the Council agenda. Can you please complete the attached Disclosure of Interest form and return to myself. Nature: tickets as part of previous corporate sponsorship. Extent: Hopman Cup tickets. Enter number of tickets, corporate box, dollars, enter value”*.<sup>381</sup>
243. Appropriately, Mr Yong declared a financial interest in connection with the tickets he had received earlier that year and excused himself from the meeting while the sponsorship was considered by the remaining council members.<sup>382</sup>
244. The MSIE Committee next considered a sponsorship application for the Hopman Cup on 23 May 2017. Only Mr Yong and Mr Limnios were in attendance. Mr Yong did not declare a financial interest in this matter. He seconded a motion put by Mr Limnios to recommend that Council approve a triennial sponsorship application for the Hopman Cup at a value of \$125,000.00 per year for three years.<sup>383</sup> The matter was then considered by Council on 6 June 2017. Mr Yong did not disclose a financial interest at this meeting either, and he voted on the item relating to the sponsorship application.<sup>384</sup>

245. At his hearing, Mr Yong was asked why he did not disclose a financial interest in 2017 when he had done so the preceding year. He said he believed that someone from the City or Council, most likely someone in the Governance unit, and likely Mr Ridgwell, had told him he was permitted to stay and vote on matters concerning the Hopman Cup, even where he had a financial interest. He said *“my understanding is some kind of exemption to allow us to participate”* at both the MSIE Committee and Council level. He conceded there was no record of such an exemption in the minutes of the meeting.<sup>385</sup>
246. The Inquiry had obtained documentation showing that the Department had granted exemptions permitting one council member to participate in decisions relating the Western Australian Symphony Orchestra, notwithstanding the financial interest that attached to tickets they had received. Mr Yong was advised that while the Inquiry had located this documentation, it had not been able to find any correspondence showing that such an exemption had been granted in relation to the Hopman Cup. Mr Yong maintained his recollection that such a conversation had occurred.<sup>386</sup>
247. Mr Yong was then shown his response to Mr Ridgwell’s emails in relation to the preceding year’s sponsorship application, on 10 October 2016, when the council members had been advised to disclose a financial interest in relation to the Hopman Cup.<sup>387</sup> The email exchange between Mr Yong and Mr Ridgwell has already been described above. It is accepted that Mr Ridgwell had inadvertently provided inaccurate advice suggesting that the financial interests of council members arising from the receipt of a gift or gifts need only be disclosed for 12 months from the receipt of the gift(s) and not for the balance of their terms.
248. Mr Yong agreed he *“took [Mr Ridgwell’s] word that that was in fact correct”* and this was a reason he proceeded to vote on sponsorship matters relating to the Hopman Cup. He maintained the verbal conversation he had mentioned occurred in addition to the email exchange.<sup>388</sup>
249. After being shown the emails with Mr Ridgwell, Mr Yong was asked, in relation to the verbal conversations he recalled having, it *“might not have been the case that anyone said to you [Mr Yong] that the Department of Local Government has approved or exempted?”* Mr Yong replied *“It might not, yes. Maybe I related to other matters”*. Mr Yong was then asked if he could *“recall whether that matter was actually the exemption to do with the West Australian Symphony Orchestra?”* He said he could not recall which exemption was received.<sup>389</sup>
250. A question for the Inquiry is whether Mr Yong’s reliance on Mr Ridgwell’s email meant he would have had a reasonable excuse for not declaring a financial interest in the Hopman Cup sponsorship application which was considered at the meetings on 23 May 2017 and 6 June 2017. The Inquiry finds that he did have a reasonable excuse. Mr Yong had received the tickets to the Hopman Cup in January 2016, which was in excess of 12 months before the meetings. It was therefore not unreasonable for him to rely on the advice he had received from Mr Ridgwell and form a belief that he did not have a financial interest in the Hopman Cup after January 2017. Mr Yong’s non-disclosure of his interest at the 2017 meeting was consistent with the advice contained in Mr Ridgwell’s email.

### Mr Jim Adamos

251. Mr Adamos also received 12 tickets for two dates of the Hopman Cup event held in January 2016.<sup>390</sup> Mr Adamos completed retrospective gift declaration forms for those tickets, on which he also listed the ticket value at \$96.00 per ticket, totalling \$576.00 for each day,<sup>391</sup> or \$1,152.00 for both days combined.
252. In the space marked “*Who will benefit from acceptance of the gift?*”, Mr Adamos wrote: “*Self, spouse and City stakeholders*”. He said this was because, in addition to his wife, his guests at the event were City ratepayers with whom Mr Adamos was acquainted.<sup>392</sup>
253. The total amount of the tickets substantially exceeded the \$300.00 threshold at which a gift would become a prohibited gift under the legislation in force at March 2016. Mr Adamos was asked whether, by the time he completed the disclosure forms in March 2016, he understood he now had a financial interest with respect to the Hopman Cup should any sponsorship applications be made in the future.
254. He responded:

*“I guess so. I don’t remember at the time. I mean, we filled these forms in because we were asked because we hadn’t completed them when we should have.*

*... I don’t – to be honest, it’s probably just – yes, I think I just would have filled the form in. I didn’t think about the ramifications of it, I suppose, with the value of it, although I put the value in.”*<sup>393</sup>
255. When reminded that he had completed his disclosure forms four days after the “*Team*” WhatsApp group had discussed the impact of having accepted tickets to City sponsored events, Mr Adamos said:

*“Yes, but it’s still during ’16, it was still – I didn’t think the City – even with the WhatsApp messages, I still didn’t think that the City Administration really landed exactly how this was all going to be treated, so I didn’t take anyone else’s discussion as kind of anything valid until the end of the year, until it was all kind of finalised.”*<sup>394</sup>
256. On 11 October 2016, the Council considered an application for sponsorship of the 2017 Hopman Cup approximately seven months after Mr Adamos completed his disclosure forms.<sup>395</sup> The day before the meeting, Mr Ridgwell emailed the council members to “*... review the agenda papers for the Council meeting and undertake the necessary disclosures ...*”.<sup>396</sup> He then sent a follow-up meeting advising that Mr Adamos and other specified council members had a financial interest in relation to the upcoming meeting. He wrote:

*“Dear Councillors, it has been identified that you have a direct financial interest in item 13 of the Council agenda. Can you please complete the attached Disclosure of Interest form and return to myself. Nature: tickets as part of previous corporate sponsorship. Extent: Hopman Cup tickets. Enter number of tickets, corporate box, dollars, enter value.”*<sup>397</sup>

257. Appropriately, Mr Adamos declared a financial interest in connection with the tickets he had received earlier that year and excused himself from the meeting while the sponsorship was considered by the remaining council members.<sup>398</sup>
258. The Council next considered sponsorship of the Hopman Cup on 6 June 2017.<sup>399</sup> Mr Adamos was in attendance, but he did not declare a financial interest in the matter, and he voted on the item relating to the sponsorship application.<sup>400</sup>
259. Mr Adamos was asked why he had not disclosed a financial interest in relation to the Hopman Cup in 2017 when he had done so the preceding year. He initially said he did not know and attributed it to *“carelessness”*.<sup>401</sup>
260. Mr Adamos reiterated his understanding that the *“buck stops”* with council members and it is an individual council member’s *“final responsibility”* to ensure disclosures are made accurately. However, he also said it was a *“dual responsibility”* and that council members needed *“support from the Administration to help [a council member] get through this and just remind you from time to time”*.<sup>402</sup>
261. Mr Adamos understood there to be a 12-month period in which a gift would create a financial interest that may need to be disclosed, but he could not recall from where he got that information. However, he did not say this 12-month time period was a reason he did not declare a financial interest relating to the Hopman Cup at the Council Meeting on 6 June 2017.
262. Mr Adamos was then shown the email exchange on 10 October 2016 between Mr Yong and Mr Ridgwell described above, into which Mr Adamos had been copied.
263. However, Mr Adamos did not recall that email exchange, and could not say whether that was how he came to understand that a financial interest need only be disclosed in relation to gifts received within the preceding 12 months.<sup>403</sup>
264. A question that requires resolution by the Inquiry is whether Mr Adamos’s decision not to disclose a financial interest at the Council Meeting on 6 June 2017 may have been due to Mr Ridgwell’s email the previous October. Mr Adamos was a recipient of Mr Ridgwell’s email and Mr Adamos’s non-disclosure of his financial interest in the Hopman Cup at the 2017 Council Meeting would be consistent with the advice contained in that email. It is possible that Mr Adamos, either from reading the email or having been advised of it by another council member, had formed a reasonable belief by 6 June 2017 he no longer had a financial interest with respect to any sponsorship applications by the Hopman Cup made after January 2017; that is, more than 12 months after he had received the tickets. If Mr Adamos had formed his belief in that way, the Inquiry considers that would explain his conduct and only limited criticism could be made of him.

### Ms Janet Davidson

265. Ms Davidson received 12 tickets to attend two dates of the Hopman Cup event held in January 2016. She received two sets of six tickets for a corporate box at the event. At the direction of the City, Ms Davidson completed retrospective gift declaration forms for the tickets.<sup>404</sup> Ms Davidson backdated each form to the date of the relevant event. However, both forms were marked as received by the City on 30 March 2016.<sup>405</sup>
266. On each form, Ms Davidson provided an “*estimated value*” of \$600.00 for each set of six tickets. A member of the Administration had then handwritten the exact ticket values, being \$96.00 each, totalling \$576.00 for each day,<sup>406</sup> or \$1,152.00 for both days combined.
267. Ms Davidson said her guests at those events were ratepayers who she knew personally and was inclined to call “*colleagues*” rather than “*friends*”.<sup>407</sup> On the disclosure forms, in the space marked “*Who will benefit from acceptance of the gift?*”, Ms Davidson had written “*Ratepayers invited*”.<sup>408</sup>
268. On 11 October 2016, approximately seven months later, the Council considered an application for sponsorship of the 2017 Hopman Cup.<sup>409</sup> The day before the meeting, Mr Ridgwell emailed the council members to “... *review the agenda papers for the Council meeting and undertake the necessary disclosures ...*”.<sup>410</sup> He then sent a follow-up meeting advising that Ms Davidson and other specified council members had a financial interest in relation to the upcoming meeting. He wrote:
- “Dear Councillors, it has been identified that you have a direct financial interest in item 13 of the Council agenda. Can you please complete the attached Disclosure of Interest form and return to myself. Nature: tickets as part of previous corporate sponsorship. Extent: Hopman Cup tickets. Enter number of tickets, corporate box, dollars, enter value.”*<sup>411</sup>
269. Appropriately, Ms Davidson declared a financial interest in connection with the tickets she had received earlier that year and excused herself from the meeting while the sponsorship was considered by the remaining council members.<sup>412</sup>
270. At her hearing, Ms Davidson had said she “*did not know why*” she would have declared that financial interest “*because we always viewed sponsorship in the old system as sponsorship where you’re either a table or a corporate box or otherwise and it was viewed accordingly*”.<sup>413</sup> Ms Davidson was reminded of Mr Ridgwell’s email advising those council members who had received tickets to the Hopman Cup that they would need to disclose a direct financial interest at the Council Meeting on 11 October 2016.
271. Ms Davidson could not recall why she did not disclose a financial interest when the Council considered a sponsorship application for the Hopman Cup on 6 June 2017. Ms Davidson was then shown the email exchange described above between Mr Yong and Mr Ridgwell on 10 October 2016, to which Ms Davidson had been copied.

272. Ms Davidson did not recall those emails. She was asked if the emails assisted her as to a reason why she did not disclose a financial interest in relation to the Hopman Cup when it was considered at the 2017 Council Meeting. She replied: *“No, it doesn’t. Obviously a corporate box and that was all part of that sponsorship, so yes”*.<sup>414</sup>
273. A question that requires resolution by the Inquiry is whether Ms Davidson’s decision not to disclose a financial interest at the Council Meeting on 6 June 2017 may have been due to Mr Ridgwell’s email the previous October. Ms Davidson was a recipient of Mr Ridgwell’s email and her non-disclosure of her financial interest in the Hopman Cup at the 2017 Council Meeting would be consistent with the advice contained in that email. It is possible that Ms Davidson, either from reading the email or having been advised by another council member, had formed a reasonable belief by 6 June 2017 she no longer had a financial interest with respect to any sponsorship applications by the Hopman Cup made after January 2017; that is, more than 12 months after she had received the tickets. If Ms Davidson had formed her belief in that way, the Inquiry considers that would explain her conduct and only limited criticism could be made of her.

#### Ms Lily Chen

274. Ms Chen also received tickets to attend the Hopman Cup in January 2016. Following Mr Ridgwell’s email, in which he advised Ms Chen and other council members of their direct financial interest in the matter,<sup>415</sup> Ms Chen appropriately disclosed a financial interest when the Hopman Cup was considered at the Council Meeting on 11 October 2016.
275. When sponsorship of the Hopman Cup was considered by the Council again in June 2017, Ms Chen did not disclose a financial interest and she voted on the item.<sup>416</sup>
276. Ms Chen was also shown the email exchange on 10 October 2016 between Mr Yong and Mr Ridgwell described above, into which Ms Chen had been copied.
277. However, Ms Chen did not recall that email exchange. When asked why she voted for the Hopman Cup sponsorship application in 2017, she said it was a *“mistake”*.<sup>417</sup>
278. A question that requires resolution by the Inquiry is whether Ms Chen’s *“mistake”* not to disclose a financial interest at the Council Meeting on 6 June 2017 may have been due to Mr Ridgwell’s email the previous October. Although Ms Chen could not recall Mr Ridgwell’s email at the time of her hearing, she was a recipient. Her non-disclosure of her financial interest in the Hopman Cup at the 2017 Council Meeting would be consistent with the advice contained in that email. It is possible that Ms Chen, either from reading the email or having been advised by another council member, had formed a reasonable belief by 6 June 2017 she no longer had a financial interest with respect to any sponsorship applications by the Hopman Cup made after January 2017; that is, more than 12 months after she had received the tickets. If Ms Chen had formed a belief in that way, the Inquiry considers that would explain her conduct and only limited criticism could be made of her.

### City of Perth's management of financial interests related to the Hopman Cup

279. In the period following the enactment of the *City of Perth Act 2016* with the consequential amendments to the gift disclosure requirements in the LG Act and subsequent legal advice the City had received, it became apparent to the City that these tickets to the Hopman Cup may have constituted gifts giving rise to financial interests for multiple council members.
280. In Mr Mileham's letter to Mr Peyton at the Department, under the heading "*Hopman Cup*", Mr Mileham identified Mr Yong, Mr Adamos, Ms Chen and Ms Davidson as council members who each had a "*closely associated person interest and a financial interest in this matter, each year until the end of their terms and for their full length as serving members, as they accepted ... gifts from the Hopman Cup exceeding \$200.00*".<sup>418</sup>
281. Despite these four council members having been identified as having these interests "*each year until the end of their terms and for their full length as serving members*", none of them disclosed a financial interest when sponsorship of the Hopman Cup was considered in 2017. All four council members participated in decision-making on the matter.
282. Along with a number of other identified sponsored events and other identified council members, the letter sought Ministerial approval for those members "*in certain instances to participate in discussion and decision making in relation to reports being presented to Committee and/or Council*" in relation to the Hopman Cup.<sup>419</sup>
283. The Department advised that a blanket exemption was not possible. Instead, the City would need to apply individually for exemptions where it became apparent that a matter was to be considered where the removal of council members impacted by financial interests would result in there being insufficient remaining council members to form a quorum of five council members.<sup>420</sup> There is no evidence before the Inquiry that such an exemption was ever sought or granted in respect of the Hopman Cup for matters arising in 2016 or 2017.
284. As the full Council, comprising nine members, was present at the Ordinary Council Meeting on 6 June 2017, the four identified council members could have disclosed financial interests and removed themselves from decision-making related to the Hopman Cup, and there would have been five remaining members to make the decision. There was therefore no need to obtain an exemption for the matter.
285. Only one council member voted against an amendment to reduce the amount of the recommended sponsorship, and the decision to support the sponsorship application in the reduced amount was unanimous.<sup>421</sup> It is therefore noted that, in this case, had the four council members disclosed financial interests and excused themselves from decision-making, the Council's decision may well have been unchanged. Although it is also noted that it was Ms Davidson (one of the four council members identified as having a financial interest) who successfully moved the motion to amend, which reduced the sponsorship amount by \$25,000.00.
286. However, it is a notable discrepancy that, as at 7 June 2016, the City had identified four council members as having financial interests in the Hopman Cup that would endure for each of their full terms.

It was explicitly flagged that the matter was likely to be considered again in the middle of 2017, as the City had sponsored the event for five consecutive years. When that time came on 6 June 2017, those financial interests were evidently not considered or addressed by the council members themselves or by the City's Governance unit or by the CEO. As a result, four council members appear to have participated in decision-making on a matter in which they each had, as identified by the City, a financial interest lasting for the duration of their terms.

#### Mr Mark Ridgwell

287. It is apparent that some or all of these four council members may have relied on an interpretation of Mr Ridgwell's email of 10 October 2016 and considered it to mean that they did not need to disclose the interest unless the gift had been received in the 12 months preceding the decision. Mr Ridgwell gave evidence that this was not the intention of his email, but he conceded it could have been read in that way.<sup>422</sup>
288. In giving evidence to the Inquiry, Mr Ridgwell also repeatedly stated his view that, while the Administration could certainly provide guidance and support to council members in managing their financial disclosure obligations, the responsibility for complete and accurate compliance necessarily lay with each individual council member.<sup>423</sup>
289. Mr Ridgwell also expressed a concern that if the Administration were to take on a role of policing council members in this regard, or always proactively managing conflicts and advising council members of their potential conflicts, it could set up a situation of inappropriate reliance where the Administration would be blamed in the event something was "*missed*".<sup>424</sup>

#### Mr Martin Mileham

290. Mr Mileham was also questioned about why these four council members did not disclose a financial interest in relation to the Hopman Cup at the Ordinary Council Meeting on 6 June 2017. Mr Mileham was unable to offer an explanation as to why this occurred and he accepted that, as the Administration was aware of it, assistance could have been given to the council members. Mr Mileham clarified that when he referred to the "*Administration*" he was referring to himself as the CEO and Governance.<sup>425</sup>
291. Although Mr Mileham was aware of these financial interests due to the contents of his letter dated 7 June 2016 to Mr Peyton,<sup>426</sup> the Inquiry does not consider it is appropriate to criticise him for not advising those council members of their financial interests at the Ordinary Council Meeting on 6 June 2017. The letter from Mr Mileham to Mr Peyton cited 49 financial interests involving all nine council members and referred to nine entities. It could not be expected that Mr Mileham would be able to recall each of those financial interests after the passage of a year.
292. However, Mr Mileham acknowledged that the system which existed at the City relied on manual processes and people's memories and a better approach would be some form of automation to identify when a council member had an interest in a matter.<sup>427</sup>
293. The situation reveals gaps in both knowledge and application that are indicative of the issues the City faced in properly managing the disclosure of tickets as gifts giving rise to financial interests from March 2016 onwards.

294. The Inquiry supports Mr Mileham's suggestion. By attaching to the agenda for a Council or committee meeting a list of prior declarations of interest made by council members during their current term relating to an item on the agenda, everyone who needed to be put on notice would be. Similarly, if the Administration had a system in place that could flag when a council member may have to declare an interest for the first time, then this could also be included in an agenda. Mr Ridgwell's evidence regarding the City's hub indicated this system may already have the necessary information to introduce this measure.<sup>428</sup> If these changes were implemented by way of an automated process, there would be less scope for the human errors that the Inquiry uncovered during its investigations.

### **Tickets given to council members in association with sponsored events: Perth International Arts Festival**

#### **Mr Jim Adamos**

295. Mr Adamos received two tickets, each for three shows, that formed part of Perth International Arts Festival (PIAF) in February 2016. At the direction of the City, he completed retrospective gift disclosure forms for those tickets on 28 March 2016. Mr Adamos took his wife to those events and disclosed this on the forms. The total estimated value of those tickets, as disclosed by Mr Adamos, was \$500.00.<sup>429</sup>
296. After that disclosure, the Council next considered sponsorship of PIAF on 13 December 2016, in relation to the 2017 PIAF. Mr Adamos appropriately declared a financial interest in the matter and removed himself from the meeting when the relevant item was being considered.<sup>430</sup> He agreed that the financial interest was in relation to the tickets he had received earlier that year. However, he could not recall how he came to understand that he would need to disclose the interest at that meeting and remove himself from decision-making on the matter.<sup>431</sup>
297. When the Council next considered sponsorship in relation to PIAF, on 1 August 2017, Mr Adamos was in attendance. However, this time, he did not declare a financial interest in relation to the matter, despite having made an unrelated disclosure of an impartiality interest at that same meeting. Mr Adamos participated in decision-making in relation to the PIAF sponsorship application.<sup>432</sup> Mr Adamos could not recall why he did not make a declaration when he had done so the preceding year.<sup>433</sup>
298. The question that requires resolution by the Inquiry is whether Mr Adamos's decision not to disclose a financial interest at the Council Meeting on 1 August 2017 may have been due to Mr Ridgwell's email the previous October that has been described earlier in this Section. Mr Adamos was a recipient of Mr Ridgwell's email and Mr Adamos's non-disclosure of a financial interest in relation to PIAF at the 2017 Council Meeting would be consistent with the advice contained in that email. It is possible that Mr Adamos, either from reading the email or having been advised by another council member, had formed a reasonable belief by 1 August 2017 he no longer had a financial interest with respect to any sponsorship applications by PIAF made after February 2017; namely, more than 12 months after he had received the tickets. If Mr Adamos had formed his belief in that way, the Inquiry considers that would explain his conduct and only limited criticism could be made of him.

## Findings

### Finding 2.2.4 – 1

#### Ms Lily Chen

The Inquiry makes the following findings:

- i. Ms Chen under-valued her tickets to the 2015 Perth Fashion Festival on three of her four gift declaration forms dated 27 March 2016. She may have done so intentionally so that their combined total value fell within the range of a notifiable gift under regulation 12(1) of the Conduct Regulations.
- ii. Ms Chen did not disclose a financial interest she may have had with the Perth Fashion Festival at the MSIE Committee meeting she attended on 26 July 2016, which considered a sponsorship application by the Perth Fashion Festival. If a financial interest existed, any such nondisclosure may have been intentional, rather than careless.
- iii. Ms Chen did not disclose a financial interest she may have had with the Perth Fashion Festival at the Council Meeting she attended on 9 August 2016, which considered a sponsorship application by the Perth Fashion Festival. If a financial interest existed, any such non-disclosure may have been intentional, rather than careless.
- iv. Ms Chen did not disclose an impartiality interest she may have had with the Perth Fashion Festival at the MSIE Committee meeting she attended on 26 July 2016, which considered a sponsorship application by the Perth Fashion Festival. If an impartiality interest existed, any such non-disclosure may have been intentional, rather than careless. In so doing, Ms Chen may have breached regulation 11(2) of the Conduct Regulations.
- v. Ms Chen did not disclose an impartiality interest she may have had with the Perth Fashion Festival at the Council Meeting she attended on 9 August 2016, which considered a sponsorship application by the Perth Fashion Festival. If an impartiality interest existed, any such non-disclosure may have been intentional, rather than careless. In so doing, Ms Chen may have breached regulation 11(2) of the Conduct Regulations.
- vi. Ms Chen did not disclose an impartiality interest she may have had with the Perth Fashion Festival at the Council Meeting she attended on 6 June 2017, which considered a sponsorship application by the Perth Fashion Festival. If an impartiality interest existed, any such non-disclosure may have been intentional, rather than careless. In so doing, Ms Chen may have breached regulation 11(2) of the Conduct Regulations.
- vii. Ms Chen did not disclose a financial interest she may have had in relation to the Hopman Cup when the matter was considered at a Council Meeting on 6 June 2017. Ms Chen participated in decision-making on the matter. However, any such non-disclosure would have been consistent with advice Ms Chen received in an email from Mr Ridgwell on 10 October 2016, which may therefore have been a reasonable excuse for such a non-disclosure.

### Finding 2.2.4 – 2

#### Ms Lisa Scaffidi

The Inquiry makes the following findings:

- i. Ms Scaffidi did not ensure that the actual value of the tickets she received to the 2015 Perth Fashion Festival was accurately and unambiguously declared on five of her gift declaration forms dated 23 March 2016.
- ii. Ms Scaffidi did not answer all relevant questions on seven gift declaration forms she signed and dated 23 March 2016.
- iii. Ms Scaffidi did not disclose a financial interest she may have had with the Perth Fashion Festival at the Council Meeting she attended on 9 August 2016, which considered a sponsorship application by the Perth Fashion Festival. If a financial interest existed, any such non-disclosure may have been intentional, rather than careless.
- iv. By ticking the box on each of her two gift declaration forms dated 11 August 2016, declaring that the information on the form was “*accurate*” and “*will not create a future conflict of interest*” for her in fulfilling her responsibilities as a council member, Ms Scaffidi may have made declarations that were incorrect.
- v. Ms Scaffidi may have accepted a prohibited gift from the Perth Fashion Festival by attending a function of the Perth Fashion Festival on 23 September 2016. In so doing, Ms Scaffidi may have breached regulation 12(2) of the Conduct Regulations.
- vi. On 14 November 2016, Ms Scaffidi attended a meeting with Perth Fashion Festival representatives and City officers in which she canvassed support for the sponsorship of a Perth Fashion Festival event. She had previously sent a message to Ms Battista, the then Acting Director, Economic Development and Activation, on or about 9 November 2016 which included a statement that the decision by the City’s Administration not to fund the event was “*not acceptable*”. By forwarding that message to Ms Battista, Ms Scaffidi may have breached regulation 10(1)(a) of the Conduct Regulations.

### Finding 2.2.4 - 3

#### Mr James Limnios

The Inquiry makes the following findings:

- i. Mr Limnios did not provide accurate estimated values for two tickets he had received to attend the 2015 Perth Fashion Festival when completing two gift declaration forms dated 30 March 2016.

### Finding 2.2.4 – 4

#### Ms Janet Davidson

The Inquiry makes the following findings:

- i. Ms Davidson did not provide accurate estimated values for five tickets she had received to attend the 2015 Perth Fashion Festival when completing a gift declaration form at or about the end of March 2016.
- ii. Ms Davidson did not provide an accurate estimated value for one ticket she had received to attend the 2016 Perth Fashion Festival Awards when completing a gift declaration form dated 22 March 2016.
- iii. Ms Davidson did not provide an accurate estimated value for one ticket she had received to attend the 2016 Perth Fashion Festival when completing a gift declaration form dated 23 September 2016.
- iv. By ticking the box on each of the above three gift declaration forms declaring that the information on the form was “*accurate*” and “*will not create a future conflict of interest*” for her in fulfilling her responsibilities as a council member, Ms Davidson may have made declarations that were incorrect.
- v. Ms Davidson did not disclose a financial interest she may have had with the Perth Fashion Festival at the MSIE Committee meeting she attended on 26 July 2016, which considered a sponsorship application by the Perth Fashion Festival. If a financial interest existed, Ms Davidson may have intentionally refrained from disclosing this interest so she could participate in the decision-making process and move an amendment for the recommended sponsorship amount to be increased.
- vi. Ms Davidson did not disclose a financial interest she may have had with the Perth Fashion Festival at the Council Meeting she attended on 9 August 2016, which considered a sponsorship application by the Perth Fashion Festival. If a financial interest existed, Ms Davidson may have intentionally refrained from disclosing this interest so that she could participate in the decision-making process and move an alternate motion increasing the recommended sponsorship amount.
- vii. Ms Davidson did not disclose a financial interest she may have had in relation to the Hopman Cup when the matter was considered at a Council Meeting on 6 June 2017. Ms Davidson participated in decision-making on the matter. However, any such non-disclosure would be consistent with advice Ms Davidson had received in an email from Mr Ridgwell on 10 October 2016, which may provide a reasonable excuse for such a non-disclosure.

### Finding 2.2.4 – 5

#### Mr Jim Adamos

The Inquiry makes the following findings:

- i. Mr Adamos did not provide accurate estimated values for two tickets he had received to attend the 2016 Perth Fashion Festival when completing two gift declaration forms dated 22 September 2016.
- ii. Mr Adamos may have accepted a prohibited gift from the Perth Fashion Festival by attending a function of the Perth Fashion Festival on 23 September 2016. In so doing, Mr Adamos may have breached regulation 12(2) of the Conduct Regulations.
- iii. Mr Adamos did not disclose a financial interest he may have had with the Perth Fashion Festival at the Council Meeting he attended on 6 June 2017, which considered a sponsorship application by the Perth Fashion Festival.
- iv. Mr Adamos did not disclose a financial interest he may have had in relation to the Hopman Cup when the matter was considered at a Council Meeting on 6 June 2017. Mr Adamos participated in decision-making on the matter. However, any such non-disclosure would be consistent with advice Mr Adamos had received in an email from Mr Ridgwell on 10 October 2016, which may provide a reasonable excuse for such a non-disclosure.

### Finding 2.2.4 – 6

#### Mr Martin Mileham

The Inquiry makes the following findings:

- i. Mr Mileham did not ensure that seven gift declaration forms signed by Ms Scaffidi on 23 March 2016 were fully completed before he signed them and forwarded them to the Governance unit.
- ii. Mr Mileham did not ensure that a gift declaration form signed by Ms Davidson at or about the end of March 2016 was correctly completed before he signed it and forwarded it to the Governance unit.

### Finding 2.2.4 – 7

#### Mr Keith Yong

The Inquiry makes the following findings:

- i. Mr Yong did not disclose a financial interest he may have had in relation to the Hopman Cup when the matter was considered at a Council Meeting on 6 June 2017. Mr Yong participated in decision-making on the matter. However, any such non-disclosure was consistent with advice Mr Yong had received in an email from Mr Ridgwell on 10 October 2016, which may provide a reasonable excuse for such a non-disclosure.

## Finding 2.2.4 – 8

### City of Perth

The Inquiry makes the following findings:

- i. By reason of the matters described above, from March 2016 there may have been repeated and sustained failures by council members to comply with their statutory obligations to declare gifts and declare financial interests in matters before Council and committee meetings.
- ii. The Inquiry considers, on the basis of the evidence before it, that the City's governance practices and systems in relation to the declaration of gifts and financial interests during the period of the Inquiry's Terms of Reference were not always adequate. The Inquiry has formed that view due to the following.
  - a. The apparent repeated and sustained failures by council members to comply with their statutory obligations.
  - b. Mr Mileham's failures to ensure that gift declaration forms were correctly completed.
  - c. Mr Ridgwell's advice to council members in his email of 10 October 2016.
  - d. The participation of Mr Adamos, Mr Yong, Ms Davidson and Ms Chen in decision-making on a sponsorship application for the Hopman Cup at the Council Meeting on 6 June 2017, despite:
    - the City identifying, as at 7 July 2016, that those council members would have a financial interest in any sponsorship application for the Hopman Cup, when that application came before Council in the future; and
    - each of those council members having previously declared a financial interest when a sponsorship application for the Hopman Cup was considered at the Council Meeting on 11 October 2016.
- iii. The above finding is made, because council members' non-disclosure of gifts and financial interests arising out of the receipt of free tickets was a serious risk to good governance at the City and the integrity of Council's decision-making.
- iv. While the Inquiry reiterates that it was ultimately the responsibility of council members to comply with their statutory obligations, that risk meant it was properly a matter of concern for the City's Administration. The City's Administration in particular, Mr Mileham and Mr Ridgwell, knew of this risk but did not always adequately mitigate against it.

## Endnotes

- 1 Document, Authorisation of Local Government Inquiry, signed Michael Connolly Acting Director General, 8 January 2018.
- 2 Transcript, A Battista, discovery Interview, 21 June 2018.
- 3 Grants and sponsorship, City of Perth website.
- 4 Report, Review of Governance and Financial Matters, Crowe, August 2019, p 96.
- 5 Policy, Council Policy Manual, Revision 137, 24 November 2016.
- 6 Minutes, Ordinary Council Meeting, 13 December 2016, p 126-131; Policy, Council Policy Manual, Revision 140, CP18.13, CP18.14, CP18.15; Minutes, Ordinary Council Meeting, 19 December 2017, p 15.
- 7 Policy, Council Policy Manual, Revision 152, CP18.13 and CP18.14.
- 8 Agenda, Marketing, Sponsorship and International Engagement Committee, 31 January 2017.
- 9 Minutes, City of Perth Ordinary Council Meeting, 13 December 2016, p 130-131.
- 10 Minutes, City of Perth Ordinary Council Meeting, 13 December 2016, p 129.
- 11 For example, Telstra Perth Fashion Festival 2016 – Impact Assessment: Attachment 13.6B to Agenda, Ordinary Council Meeting, 6 June 2017, p 197.
- 12 For example, Perth City Snapshot 2016, p 61, 70-71, 118-120.
- 13 Document, City of Perth, Response to Notice to Produce a Statement of Information, No. 016 of 2019, Budget and Actual Expenditure Figures – Sponsorships and Donations, 6 June 2019; Reports, City of Perth Annual Reports 2015/2016, p 43; 2016/2017, p 42; 2017/2018, p 36; Financial Report 2014/2015, p 26; Financial Report 2015/2016, p 43; Financial Report 2016/2017, p 42; Financial Report 2017/2018, p 17.
- 14 Reports, City of Perth Annual Reports 2015/2016, p 43; 2016/2017, p 42; 2017/2018, p 36.
- 15 Reports, City of Perth Annual Reports 2015/2016, p 43; 2016/2017, p 42; 2017/2018, p 36.
- 16 Email, L Chen to International Alliance Coordinator City of Perth, 3 August 2011.
- 17 Email, International Alliance Coordinator City of Perth to L Chen 24 August 2011.
- 18 Email, Governance Officer to L Chen, 22 November 2011.
- 19 Minutes, Marketing, Sponsorship and International Engagement Committee Meeting, 22 November 2011, p 26.
- 20 Minutes, Ordinary Council Meeting, 6 December 2011, p 137.
- 21 Report, Review of Governance and Financial Matters, Crowe, August 2019, p 97-98.
- 22 Minutes, Marketing, Sponsorship and International Engagement Committee Meeting, 10 November 2015, p 15.
- 23 Minutes, Ordinary Council Meeting, 24 November 2015, p 107.
- 24 Minutes, Marketing, Sponsorship and International Engagement Committee Meeting, 29 November 2016, p 2428.
- 25 Memo, A Battista, Director Economic Development and Activation to council members, 6 December 2016.
- 26 Minutes, Ordinary Council Meeting, 13 December 2016, p 4.
- 27 Minutes, Ordinary Council Meeting, 13 December 2016, p 141-142.
- 28 Minutes, Marketing, Sponsorship and International Engagement Committee Meeting, 7 November 2017, p 3, 1014.
- 29 Minutes, Ordinary Council Meeting, 21 November 2017, p 6 and 21-23.
- 30 Document, City of Perth, Response to Notice to Produce a Statement of Information, No. 016 of 2019, Budget and Actual Expenditure Figures – Sponsorships and Donations, Donations – General – 2016–17, Donations – General – 2017–18 and 2015–2017 Sponsorship Register – Provided by Ben Fitzpatrick, 6 June 2019; Reports, City of Perth Annual Reports 2015/2016, p 56; 2016/2017, p 68; Minutes, Ordinary Council Meeting, 24 November 2015, p 148; Minutes, Ordinary Council Meeting, 7 June 2016, p 33; Minutes, Ordinary Council Meeting, 22 November 2016, p 58; Minutes, Ordinary Council Meeting, 9 May 2017, p 9; and Minutes, Ordinary Council Meeting, 21 November 2017, p 22.
- 31 Minutes, Marketing, Sponsorship and International Engagement Committee meetings, 24 May 2016, and 26 April 2017.
- 32 Minutes, Ordinary Council Meetings, 7 June 2016 and 9 May 2017.
- 33 Minutes, Marketing, Sponsorship and International Engagement Committee meetings, 10 November 2015, and 8 November 2016; Minutes, Ordinary Council Meetings, 24 November 2015 and 22 November 2016.
- 34 Email, J McEvoy to L Scaffidi, 4 November 2014.
- 35 Transcript, J Limnios, public hearing, 25 September 2019, p 120.
- 36 Minutes, Marketing, Sponsorship and International Relations Committee Meeting, 4 November 2014, p 61.
- 37 Emails between J Limnios and A Battista, 5 and 6 November 2017.
- 38 Transcript, J Limnios, public hearing, 25 September 2019, p 126-127.
- 39 Minutes, Marketing, Sponsorship and International Engagement Committee meeting, 17 November 2017, p 14.
- 40 Letter, R Mianich A/CEO to HCWA, 8 February 2018.
- 41 Letter, Manager Business Support and Sponsorship City of Perth to Creative Director Open House Perth, 27 February 2017.
- 42 Email, L Scaffidi to four council members, 27 February 2017.
- 43 Emails between L Scaffidi and A Battista, 2 March 2017.
- 44 Emails, A Battista to M Ridgwell and B Moyser, 2 and 3 March 2017.
- 45 Emails, L Scaffidi and A Battista, 3 March 2017.
- 46 Emails, M Mileham and L Scaffidi, 3 March 2017.
- 47 Email, A Battista to L Scaffidi, 10 March 2017.

- 48 Minutes, Marketing, Sponsorship and International Engagement Committee meeting, 26 April 2017, p 3.
- 49 Minutes, Ordinary Council Meeting, 9 May 2017, p 12.
- 50 *Local Government Act 1995*, s 5.67.
- 51 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(1).
- 52 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(1).
- 53 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(1).
- 54 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(2).
- 55 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(3).
- 56 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(4).
- 57 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(5); *Local Government Act 1995*, s 5.94(b).
- 58 *Local Government Act 1995*, s 5.62(1)(ea)(i).
- 59 *Local Government Act 1995*, s 5.62(1)(ea)(iii).
- 60 *Local Government Act 1995*, s 5.62(1)(eb)(i).
- 61 *Local Government (Elections) Regulations 1997*, reg 30A(4); *Local Government (Administration) Regulations 1996*, reg 25.
- 62 Terms of Reference, Part A.3(iv).
- 63 Terms of Reference, Part A.3(ii).
- 64 Report, Public Sector Commission, Acquisition and use of hospitality resources by Healthway – Investigation report, January 2015.
- 65 Report, Public Sector Commission, Ticket use for sponsored or financially supported events – Review report, 17 February 2016.
- 66 Email with attachment, M Ridgwell to J Adamos, L Chen, J Green, R Harley, J Limnios, J Davidson, J McEvoy and K Yong, 9.04 pm 23 March 2016.
- 67 Personal communication, WhatsApp, the team group chat, J Davidson, L Scaffidi, J McEvoy and J Adamos, 12.06 pm 24 March 2016 – 12.36 pm 24 March 2016.
- 68 Personal communication, WhatsApp, the team group chat, L Scaffidi, 4.36 pm 22 October 2015.
- 69 Personal communication, WhatsApp, the team group chat, J Davidson, 12.06 pm 24 March 2016.
- 70 Personal communication, WhatsApp, the team group chat, L Scaffidi, 12.11 pm 24 March 2016.
- 71 Personal communication, WhatsApp, the team group chat, L Scaffidi, 12.29 pm 24 March 2016.
- 72 Personal communication, WhatsApp, the team group chat, J Adamos, 12.36 pm and 12.46 pm 24 March 2016.
- 73 Transcript, M Ridgwell, public hearing, 26 September 2019, p 57-59; Letter, M Mileham to B Peyton, 7 June 2016, p 1.
- 74 *City of Perth Act 2016*, s 35-36.
- 75 The transitional period was established by the *Local Government (Administration) Regulations 1996*, reg 25-26, reg 28A as amended by *Local Government (Administration) Amendment Regulations 2016*, reg 7-8; *Local Government (Rules of Conduct) Regulations 2007*, reg 13-15 as amended by *Local Government (Rules of Conduct) Amendment Regulations 2016*, reg 5-6.
- 76 Transcript, M Mileham, public hearing, 1 October 2019, p 64.
- 77 Transcript, K Yong, public hearing, 24 September 2019, p 7-8; Minutes, Special Council Meeting, 22 October 2015, p 10.
- 78 Transcript, K Yong, public hearing, 24 September 2019, p 13.
- 79 Form, Elected member gift declaration, K Yong, 24 March 2016.
- 80 Form, Elected member gift declaration, L Scaffidi, 23 March 2016. Ms Scaffidi also attended the same event and declared the estimated value of her ticket as \$40.00.
- 81 Form, Gift register – elected member declarations: September 2015, K Yong, 2 October 2015.
- 82 Minutes, Marketing, Sponsorship, International Engagement Committee meeting, 26 July 2016, p 2.
- 83 *Local Government Act 1995*, s 5.62(1)(eb)(i).
- 84 Minutes, Ordinary Council Meeting, 9 August 2016, p 5.
- 85 Transcript, K Yong, public hearing, 24 September 2019, p 24.
- 86 Transcript, K Yong, public hearing, 24 September 2019, p 32-33.
- 87 Email, K Yong to M Ridgwell, 11.04 am 10 October 2016, p 1-2.
- 88 Email, M Ridgwell to K Yong, 11.35 am 10 October 2016, p 1.
- 89 Transcript, L Chen, public hearing, 24 September 2019, p 64-65.
- 90 Transcript, L Chen, public hearing, 24 September 2019, p 69.
- 91 Transcript, L Chen, public hearing, 24 September 2019, p 71-72.
- 92 Transcript, L Chen, public hearing, 24 September 2019, p 73-74.
- 93 Transcript, L Chen, public hearing, 24 September 2019, p 74-75.
- 94 Transcript, L Chen, public hearing, 24 September 2019, p 75.
- 95 Form, Elected member gift declaration, L Chen, 27 March 2016.
- 96 Form, Elected member gift declaration, L Chen, 27 March 2016; Transcript, L Chen, public hearing, 24 September 2019, p 82.
- 97 Transcript, Ms Chen, public hearing, 24 September 2019, p 82, 84.
- 98 Form, Elected member gift declaration, L Chen, 27 March 2016.
- 99 Email, M Harvey-Hanrahan to A Smith, 16 February 2018; Minutes, MSIE Committee meeting, 26 July 2016, p 6.
- 100 Form, Elected member gift declaration, L Chen, 27 March 2016.
- 101 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.

## 2.2.4 Grants and sponsorship

- 102 Transcript, L Chen, public hearing, 24 September 2019, p 83.
- 103 Transcript, L Chen, public hearing, 24 September 2019, p 84.
- 104 Transcript, L Chen, public hearing, 24 September 2019, p 85.
- 105 Transcript, L Chen, public hearing, 24 September 2019, p 90.
- 106 Transcript, L Chen, public hearing, 24 September 2019, p 91.
- 107 Form, Elected member gift declaration, L Chen, 27 March 2016.
- 108 Transcript, L Chen, public hearing, 24 September 2019, p 88-89.
- 109 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(3).
- 110 Transcript, M Ridgwell, public hearing, 26 September 2019, p 59.
- 111 Transcript, L Chen, public hearing, 24 September 2019, p 88.
- 112 *Local Government Act 1995*, s 5.62(2).
- 113 Transcript, L Chen, public hearing, 24 September 2019, p 71-72.
- 114 Minutes, MSIE Committee meeting, 26 July 2016, p 2.
- 115 Transcript, L Chen, public hearing, 24 September 2019, p 92-93.
- 116 Transcript, L Chen, public hearing, 24 September 2019, p 93-95.
- 117 Transcript, L Chen, public hearing, 24 September 2019, p 94; Minutes, MSIE Committee meeting, 26 July 2016, p 2.
- 118 Transcript, L Chen, public hearing, 24 September 2019, p 94.
- 119 Transcript, L Chen, public hearing, 24 September 2019, p 94.
- 120 Transcript, L Chen, public hearing, 24 September 2019, p 96.
- 121 Minutes, Ordinary Council Meeting, 9 August 2016, p 2-4.
- 122 Transcript, L Chen, public hearing, 24 September 2019, p 99.
- 123 Audio recording, Ordinary Council Meeting, 9 August 2016, extract of recording for Item 277/16: Event sponsorship (partnership) – Telstra Perth Fashion Festival.
- 124 Transcript, L Chen, public hearing, 24 September 2019, p 100.
- 125 Transcript, L Chen, public hearing, 24 September 2019, p 100-101.
- 126 Briefing notes, Special Council Briefing Session, 9 August 2016; Presentation, M Ridgwell, Offer of tickets for elected members, 9 August 2016.
- 127 Briefing notes, Special Council Briefing Session, 9 August 2016, p 1-2.
- 128 Briefing notes, Special Council Briefing Session, 9 August 2016, p 4.
- 129 Briefing notes, Special Council Briefing Session, 9 August 2016, p 1-2.
- 130 Minutes, Ordinary Council Meeting, 9 August 2016, p 5.
- 131 Minutes, Ordinary Council Meeting, 6 June 2017, p 5-6.
- 132 Minutes, Ordinary Council Meeting, 6 June 2017, p 22.
- 133 Minutes, Ordinary Council Meeting, 6 June 2017, p 22-23.
- 134 Emails, K Yong and M Ridgwell, 10 October 2016, p 1-2.
- 135 Transcript, L Chen, public hearing, 24 September 2019, p 102-103, 105.
- 136 Transcript, L Chen, public hearing, 24 September 2019, p 100.
- 137 Transcript, L Scaffidi, public hearing, 25 September 2019, p 2-7.
- 138 *Local Government Act 1995*, s 5.62(1)(ea)(ii), s 5.62(1)(eb)(i).
- 139 Emails, between K Yong and M Ridgwell, 10 October 2016, p 1-2.
- 140 Transcript, L Scaffidi, public hearing, 25 September 2019, p 2-3; *Local Government Act 1995*, s 5.82(4).
- 141 Transcript, L Scaffidi, public hearing, 25 September 2019, p 5.
- 142 Transcript, L Scaffidi, public hearing, 25 September 2019, p 7; Transcript, Counsel for L Scaffidi, public hearing, 25 September 2019, p 74.
- 143 Minutes, Ordinary Council Meeting, 9 August 2016.
- 144 Transcript, L Scaffidi, public hearing, 25 September 2019, p 7.
- 145 Form, Elected member gift declaration, L Scaffidi, 23 March 2016; Form, Elected member gift declaration, L Scaffidi, 23 March 2016; Form, Elected member gift declaration, L Scaffidi, 23 March 2016; Form, Elected member gift declaration, L Scaffidi, 23 March 2016; Form, Elected member gift declaration, L Scaffidi, 23 March 2016; Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 146 Transcript, L Scaffidi, public hearing, 25 September 2019, p 21-22.
- 147 *Local Government Act 1995*, s 5.82(4).
- 148 *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222, p 43, [146].
- 149 Transcript, L Scaffidi, public hearing, 25 September 2019, p 27.
- 150 *Local Government Act 1995*, s 5.65(1).
- 151 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 152 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 153 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 154 Transcript, L Scaffidi, public hearing, 25 September 2019, p 77.

- 155 Transcript, L Scaffidi, public hearing, 25 September 2019, p 79.
- 156 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 157 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 158 Transcript, L Scaffidi, public hearing, 25 September 2019, p 77.
- 159 *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222, p 48, [165].
- 160 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 161 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 162 Transcript, L Scaffidi, public hearing, 25 September 2019, p 78.
- 163 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 164 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 165 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 166 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 167 Form, Elected member gift declaration, L Scaffidi, 23 March 2016.
- 168 *Local Government Act 1995*, s 5.62(1)(ea)(i), (ii): this section must also be read in conjunction with *Local Government Act 1995*, s 4.59(a), s 5.62(2) and *Local Government (Election) Regulations 1997*, reg 30A(4), 30B(1), 30C(1).
- 169 Personal communication, WhatsApp, the team group chat, L Scaffidi, 12.11 pm 24 March 2016; Personal communication, WhatsApp, the team group chat, L Scaffidi, 12.29 pm 24 March 2016.
- 170 Transcript, L Scaffidi, public hearing, 25 September 2019, p 26.
- 171 Minutes, Ordinary Council Meeting 9 August 2016, p 2.
- 172 Minutes, Ordinary Council Meeting 9 August 2016, p 15-18.
- 173 Minutes, Ordinary Council Meeting 9 August 2016, p 2-4.
- 174 Transcript, L Scaffidi, public hearing, 25 September 2019, p 30-31.
- 175 Minutes, Ordinary Council Meeting 9 August 2016, p 17.
- 176 Personal communication, WhatsApp, the team group chat, L Scaffidi, 12.11 pm 24 March 2016.
- 177 Briefing notes, Special Council Briefing Session, 9 August 2016; Presentation, M Ridgwell, Offer of tickets for elected members, 9 August 2016.
- 178 Transcript, L Scaffidi, public hearing, 25 September 2019, p 30.
- 179 Form, Elected member gift declaration, L Scaffidi, 11 August 2016.
- 180 Form, Fashion Council WA ticket allocation, undated.
- 181 Email, M Brennan to L Scaffidi, 6.11 pm 2 August 2016.
- 182 Transcript, L Scaffidi, public hearing, 25 September 2019, p 42-43.
- 183 Form, Fashion Council WA ticket allocation, undated.
- 184 Email, M Brennan to L Scaffidi, 6.11 pm 2 August 2016; Form, undated, Fashion Council WA ticket allocation.
- 185 Transcript, L Scaffidi, public hearing, 25 September 2019, p 37, 41.
- 186 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(2)(b).
- 187 Transcript, L Scaffidi, public hearing, 25 September 2019, p 37, 43-44.
- 188 Email, M Brennan to L Scaffidi, 6.11 pm 2 August 2016.
- 189 Form, Fashion Council WA ticket allocation, undated.
- 190 Email, A Purnat to M Brennan, 3.22 pm 10 August 2016; Email, A Purnat to M Brennan, 3.27 pm 10 August 2016.
- 191 Form, Elected member gift declaration, L Scaffidi, 10 February 2016.
- 192 Transcript, L Scaffidi, public hearing, 25 September 2019, p 77.
- 193 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(1).
- 194 Transcript, L Scaffidi, public hearing, 25 September 2019, p 44-45.
- 195 Minutes, Ordinary Council Meeting 6 June 2017, p 5-6.
- 196 Transcript, L Scaffidi, public hearing, 25 September 2019, p 45-46.
- 197 Transcript, L Scaffidi, public hearing, 25 September 2019, p 46-47.
- 198 Minutes, Ordinary Council Meeting 6 June 2017, p 5-6.
- 199 Audio recording, Ordinary Council Meeting 6 June 2017, 10 mins 54 secs-11 mins 22 secs.
- 200 Minutes, Ordinary Council Meeting 6 June 2017, p 20-23.
- 201 Transcript, L Scaffidi, public hearing, 25 September 2019, p 4.
- 202 Transcript, J Davidson, private hearing, 4 July 2019, p 16, 20.
- 203 Transcript, M Mileham, private hearing, 23 July 2019, p 50.
- 204 Transcript, J Davidson, public hearing, 27 September 2019, p 75.
- 205 Transcript, L Scaffidi, public hearing, 25 September 2019, p 7.
- 206 Email, A Battista to M Harvey-Hanrahan, 24 October 2016.
- 207 Transcript, A Battista, private hearing, 24 June 2019, p 41.
- 208 Email, A Battista to M Harvey-Hanrahan, 24 October 2016; Transcript, A Battista, private hearing, 24 June 2019, p 41.
- 209 Email, A Battista to M Harvey-Hanrahan, 24 October 2016.
- 210 Email, R Haythorpe to A Battista, 2 November 2016.

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- 211 Email, A Battista to R Haythorpe, 2.17 pm 10 November 2016.
- 212 Email, A Battista to A Purnat, 12.50 pm 10 November 2016.
- 213 Personal communication, WhatsApp, L Scaffidi to A Battista, 11.06 am on or about 9 November 2016.
- 214 Transcript, A Battista, private hearing, 24 June 2019, p 49.
- 215 Transcript, L Scaffidi, public hearing, 25 September 2019, p 61-64.
- 216 Transcript, A Battista, private hearing, p 49.
- 217 Email, M Tannock to A Battista, 10 November 2016.
- 218 Transcript, A Battista, private hearing, p 49.
- 219 Transcript, A Battista, private hearing, p 50, 53-54.
- 220 File note, M Ridgwell, 14 November 2016.
- 221 Transcript, L Scaffidi, public hearing, 25 September 2019, p 66.
- 222 Email, A Battista to M Harvey-Hanrahan, 24 October 2016.
- 223 Minutes, Ordinary Council Meeting 22 October 2015, p 10.
- 224 Minutes, Ordinary Council Meeting 24 October 2017, p 3.
- 225 Transcript, J Limnios, public hearing, 25 September 2019, p 83; *Local Government (Rules of Conduct) Regulations 2007*, reg 12(1).
- 226 Transcript, J Limnios, public hearing, 25 September 2019, p 84-85.
- 227 Form, Elected member gift declaration, Mr Limnios, 30 March 2016; Form, Elected member gift declaration, Mr Limnios, 30 March 2016.
- 228 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 229 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(1).
- 230 Transcript, J Limnios, public hearing, 25 September 2019, p 92.
- 231 Transcript, J Limnios, public hearing, 25 September 2019, p 103-109.
- 232 Personal communication, WhatsApp, the team group chat, 24 March 2016.
- 233 Briefing notes, Special Council Briefing Session, 9 August 2016; Presentation, M Ridgwell, Offer of tickets for elected members, 9 August 2016.
- 234 *Local Government Act 1995*, s 5.82(2)(a); *Local Government (Administration) Regulations 1996*, reg 25.
- 235 *Local Government Act 1995*, s 5.65(1).
- 236 Transcript, M Mileham, public hearing, 1 October 2019, p 64.
- 237 Transcript, J Limnios, public hearing, 25 September 2019, p 91.
- 238 Transcript, J Limnios, public hearing, 25 September 2019, p 92.
- 239 Transcript, J Limnios, public hearing, 25 September 2019, p 93.
- 240 Transcript, J Limnios, public hearing, 25 September 2019, p 94-96.
- 241 Transcript, J Davidson, public hearing, 27 September 2019, p 3.
- 242 Transcript, J Davidson, public hearing, 27 September 2019, p 7.
- 243 Transcript, J Davidson, public hearing, 27 September 2019, p 8-9.
- 244 Transcript, J Davidson, public hearing, 27 September 2019, p 10-11.
- 245 Email, M Ridgwell to J Adamos, L Chen, J Green, R Harley, J Limnios, J Davidson, J McEvoy and K Yong, 9.04 pm, 23 March 2016. It is noted Ms Scaffidi was not included in this email.
- 246 Personal communication, WhatsApp, the team group chat, J Davidson and L Scaffidi, 24 March 2016.
- 247 Transcript, J Davidson, public hearing, 27 September 2019, p 18-19.
- 248 Transcript, J Davidson, public hearing, 27 September 2019, p 19.
- 249 Form, Elected member gift declaration, J Davidson, September 2015 [sic].
- 250 Email, M Harvey-Hanrahan to A Smith, 16 February 2018.
- 251 Transcript, J Davidson, public hearing, 27 September 2019, p 23-25.
- 252 Transcript, J Davidson, public hearing, 27 September 2019, p 27.
- 253 Transcript, J Davidson, public hearing, 27 September 2019, p 20.
- 254 Form, Elected member gift declaration, J Davidson, 22 March 2016.
- 255 Transcript, J Davidson, public hearing, 27 September 2019, p 29.
- 256 Form, Elected member gift declaration, L Scaffidi, 10 February 2016.
- 257 Transcript, J Davidson, public hearing, 27 September 2019, p 29, 33.
- 258 Form, Elected member gift declaration, J Davidson, 23 September 2016.
- 259 Email, J Davidson to C Firth, 25 September 2016.
- 260 Email, A Purnat to C Firth, 27 September 2016.
- 261 Transcript, J Davidson, public hearing, 27 September 2019, p 34.
- 262 Form, Fashion Council WA ticket allocation, undated.
- 263 Transcript, J Davidson, public hearing, 27 September 2019, p 37.
- 264 Form, Elected member gift declaration, J Davidson, 23 September 2016, reverse side.
- 265 Transcript, M Ridgwell, public hearing, 26 September 2019, p 49.
- 266 *Local Government Act 1995*, s 5.62(1)(ea)(i), (ii).
- 267 Transcript, J Davidson, public hearing, 27 September 2019, p 37

- 268 Minutes, MSIE Committee meeting, 26 July 2016, p 2.
- 269 Transcript, J Davidson, public hearing, 27 September 2019, p 44-45.
- 270 Minutes, MSIE Committee meeting, 26 July 2016, p 14-16.
- 271 Briefing notes, Special Council Briefing Session, 9 August 2016; Presentation, M Ridgwell, Offer of tickets for elected members, 9 August 2016.
- 272 Minutes, Ordinary Council Meeting 9 August 2016, p 2-4.
- 273 Minutes, Ordinary Council Meeting 9 August 2016, p 15-18.
- 274 Transcript, J Davidson, public hearing, 27 September 2019, p 58-59.
- 275 Minutes, Ordinary Council Meeting 6 June 2017, p 5-6.
- 276 Minutes, Ordinary Council Meeting 6 June 2017, p 20-21.
- 277 Transcript, Ordinary Council Meeting 6 June 2017, p 4.
- 278 Transcript, Ordinary Council Meeting 6 June 2017, p 8.
- 279 Agenda, MSIE Committee meeting, 23 May 2017, attachment 8.2A.
- 280 Transcript, Ordinary Council Meeting 6 June 2017, p 3.
- 281 Agenda, MSIE Committee meeting, 23 May 2017, attachment 8.2A.
- 282 Minutes, MSIE Committee meeting, 26 July 2016, p 9-10.
- 283 Transcript, J Davidson, public hearing, 27 September 2019, p 43.
- 284 Audio recording, Ordinary Council Meeting 6 June 2017.
- 285 Transcript, J Davidson, public hearing, 27 September 2019, p 84.
- 286 Email, M Ridgwell to K Yong, 11.35 am 10 October 2016.
- 287 Transcript, J Davidson, public hearing, 27 September 2019, p 99.
- 288 Form, Elected member gift declaration, J Davidson, 23 September 2016; Form, Fashion Council WA ticket allocation, undated.
- 289 Transcript, J Davidson, public hearing, 27 September 2019, p 68.
- 290 Transcript, J Adamos, public hearing, 1 October 2019, p 9.
- 291 Email, M Ridgwell to K Yong, 11.35 am 10 October 2016.
- 292 Transcript, J Adamos, public hearing, 1 October 2019, p 13-14.
- 293 Transcript, J Adamos, public hearing, 1 October 2019, p 11-12; Personal communication, WhatsApp, the team group chat, 24 March 2016.
- 294 Email, J Adamos to C Firth, 8.53 pm 17 September 2016.
- 295 Emails, between J Adamos and C Firth, 20 September 2016.
- 296 Form, Elected member gift declaration, J Adamos, 22 September 2016.
- 297 Form, Elected member gift declaration, J Adamos, 22 September 2016.
- 298 Transcript, J Adamos, public hearing, 1 October 2019, p 16-17.
- 299 Transcript, J Adamos, public hearing, 1 October 2019, p 20.
- 300 Transcript, J Adamos, public hearing, 1 October 2019, p 6.
- 301 Form, Elected member gift declaration, Version 2, 9 March 2016.
- 302 Transcript, J Adamos, public hearing, 1 October 2019, p 20-21.
- 303 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(2)(b).
- 304 Minutes, Ordinary Council Meeting 6 June 2017, p 5-6.
- 305 Transcript, M Ridgwell, public hearing, 26 September 2019, p 43-44.
- 306 Transcript, M Ridgwell, public hearing, 26 September 2019, p 52.
- 307 Transcript, M Ridgwell, public hearing, 26 September 2019, p 53.
- 308 Transcript, M Ridgwell, public hearing, 26 September 2019, p 55.
- 309 Transcript, M Ridgwell, public hearing, 26 September 2019, p 63. Briefing notes, Special Council Briefing Session, 9 August 2016; Presentation, M Ridgwell, Offer of tickets for elected members, 9 August 2016.
- 310 Transcript, M Ridgwell, public hearing, 26 September 2019, p 66.
- 311 Minutes, Ordinary Council Meeting 9 August 2016, p 2-4.
- 312 Letter, Mr Mileham to Mr Peyton, 7 June 2016.
- 313 Transcript, M Ridgwell, public hearing, 26 September 2019, p 58.
- 314 *Local Government Act 1995*, s 5.69.
- 315 Letter, Mr Mileham to Mr Peyton, 7 June 2016, p 5.
- 316 Transcript, M Ridgwell, public hearing, 26 September 2019, p 71.
- 317 Transcript, M Ridgwell, public hearing, 26 September 2019, p 71-72.
- 318 Transcript, M Ridgwell, public hearing, 26 September 2019, p 75.
- 319 Transcript, M Ridgwell, public hearing, 26 September 2019, p 77.
- 320 Letter, Mr Mileham to Mr Peyton, 7 June 2016, p 2-6.
- 321 Email, K Yong to M Ridgwell, 11.04 am, 10 October 2016, p 1-2.
- 322 Transcript, M Ridgwell, public hearing, 26 September 2019, p 77-78.
- 323 Transcript, M Ridgwell, public hearing, 26 September 2019, p 77.

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- 324 Transcript, M Mileham, public hearing, 1 October 2019, p 60-63.
- 325 Transcript, M Mileham, public hearing, 1 October 2019, p 64-65.
- 326 Transcript, M Mileham, public hearing, 1 October 2019, p 65-67.
- 327 Transcript, M Mileham, public hearing, 1 October 2019, p 72.
- 328 Transcript, M Mileham, public hearing, 1 October 2019, p 72-73.
- 329 Transcript, M Mileham, public hearing, 1 October 2019, p 64, 67.
- 330 Transcript, M Mileham, public hearing, 1 October 2019, p 76.
- 331 Form, Elected member gift declaration, J Davidson, September 2015 [sic].
- 332 Transcript, M Mileham, public hearing, 1 October 2019, p 79-80.
- 333 Transcript, M Mileham, public hearing, 1 October 2019, p 84.
- 334 Transcript, M Mileham, public hearing, 1 October 2019, p 86.
- 335 Transcript, M Mileham, public hearing, 1 October 2019, p 88.
- 336 Transcript, M Mileham, public hearing, 1 October 2019, p 77.
- 337 *Local Government Act 1995*, s 5.89A.
- 338 *Local Government (Rules of Conduct) Regulations 2007*, reg 12(5); *Local Government Act 1995*, s 5.89A.
- 339 *Local Government Act 1995*, s 5.94(b).
- 340 Transcript, M Ridgwell, public hearing, 26 September 2019, p 49.
- 341 Transcript, M Mileham, public hearing, 1 October 2019, p 86.
- 342 Transcript, M Mileham, public hearing, 1 October 2019, p 77-78.
- 343 Transcript, J Davidson, public hearing, 27 September 2019, p 42.
- 344 Form, Elected member gift declaration, J Davidson, 30 March 2016; transcript, J Davidson, public hearing, 27 September 2019, p 90-91.
- 345 Form, Elected member gift declaration, J Davidson, 30 March 2016; transcript, J Davidson, public hearing, 27 September 2019, p 94.
- 346 Email, M Ridgwell to council members, 11.59 am 31 March 2016.
- 347 Transcript, J Davidson, public hearing, 27 September 2019, p 87.
- 348 Form, Elected member gift declaration, J Green, 23 March 2016.
- 349 Form, Elected member gift declaration, J Adamos, 31 March 2016.
- 350 Form, Elected member gift declaration, R Harley, 23 March 2016.
- 351 Transcript, J Davidson, public hearing, 27 September 2019, p 94.
- 352 Email, R Harley to J Davidson, 12.26 pm 31 March 2016.
- 353 Email, M Ridgwell to J Davidson, 1.22 pm 31 March 2016.
- 354 Email, J Davidson to M Ridgwell, 1.23 pm 31 March 2016.
- 355 Minutes, MSIE Committee meeting, 26 July 2016, p 1-2.
- 356 Minutes, MSIE Committee meeting, 26 July 2016, p 2. Transcript, J Davidson, public hearing, 27 September 2019, p 42.
- 357 Minutes, MSIE Committee meeting, 26 July 2016, p 16.
- 358 Minutes, Ordinary Council Meeting 9 August 2016.
- 359 Transcript, K Yong, public hearing, 24 September 2019, p 38.
- 360 Transcript, K Yong, public hearing, 24 September 2019, p 45.
- 361 Transcript, K Yong, public hearing, 24 September 2019, p 38-39; Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 362 Transcript, K Yong, public hearing, 24 September 2019, p 39; Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 363 Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 364 Transcript, K Yong, public hearing, 24 September 2019, p 39.
- 365 Transcript, K Yong, public hearing, 24 September 2019, p 52.
- 366 Transcript, K Yong, public hearing, 24 September 2019, p 40-43.
- 367 Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 368 Transcript, K Yong, public hearing, 24 September 2019, p 45.
- 369 Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 370 Transcript, K Yong, public hearing, 24 September 2019, p 40.
- 371 Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 372 Transcript, K Yong, public hearing, 24 September 2019, p 40.
- 373 Transcript, K Yong, public hearing, 24 September 2019, p 41.
- 374 Transcript, K Yong, public hearing, 24 September 2019, p 44.
- 375 Transcript, K Yong, public hearing, 24 September 2019, p 52-54.
- 376 Transcript, K Yong, public hearing, 24 September 2019, p 46.
- 377 Transcript, K Yong, public hearing, 24 September 2019, p 39; Form, Elected member gift declaration, K Yong, 24 March 2016; Form, Elected member gift declaration, K Yong, 24 March 2016.
- 378 Transcript, K Yong, public hearing, 24 September 2019, p 39; Minutes, Ordinary Council Meeting 11 October 2016, p 90.
- 379 Transcript, K Yong, public hearing, 24 September 2019, p 39; Minutes, Ordinary Council Meeting, 11 October 2016, p 90.

- 380 Email, M Ridgwell to council members, 10.47 am 10 October 2016.
- 381 Email, M Ridgwell to council members, 10.55 am 10 October 2016.
- 382 Transcript, K Yong, public hearing, 24 September 2019, p 39; Minutes, Council Meeting 11 October 2016, p 89.
- 383 Minutes, MSIE Committee meeting, 23 May 2017, p 1-6,
- 384 Minutes, Ordinary Council Meeting 6 June 2017, p 5-6, 20-21.
- 385 Transcript, K Yong, public hearing, 24 September 2019, p 47-49.
- 386 Transcript, K Yong, public hearing, 24 September 2019, p 48-49.
- 387 Transcript, K Yong, public hearing, 24 September 2019, p 58.
- 388 Transcript, K Yong, public hearing, 24 September 2019, p 59, 61.
- 389 Transcript, K Yong, public hearing, 24 September 2019, p 62.
- 390 Transcript, public hearing, J Adamos, 1 October 2019, p 28.
- 391 Form, Elected member gift declaration, J Adamos, 28 March 2016.
- 392 Transcript, public hearing, J Adamos, 1 October 2019, p 28-29.
- 393 Transcript, public hearing, J Adamos, 1 October 2019, p 29.
- 394 Transcript, public hearing, J Adamos, 1 October 2019, p 29.
- 395 Minutes, Ordinary Council Meeting 11 October 2016, p 90-96.
- 396 Transcript, public hearing, J Adamos, 1 October 2019, p 32-33; Email, M Ridgwell to council members, 10.47 am 10 October 2016.
- 397 Transcript, public hearing, J Adamos, 1 October 2019, p 32-33; Email, M Ridgwell to council members, 10.55 am 10 October 2016.
- 398 Transcript, public hearing, J Adamos, 1 October 2019, p 29; Minutes, Ordinary Council Meeting 11 October 2016, p 90.
- 399 Minutes, Ordinary Council Meeting 6 June 2017.
- 400 Transcript, public hearing, J Adamos, 1 October 2019, p 30; Minutes, Ordinary Council Meeting 6 June 2017. No council member declared a financial interest relating to the Hopman Cup at this meeting.
- 401 Transcript, public hearing, J Adamos, 1 October 2019, p 31.
- 402 Transcript, public hearing, J Adamos, 1 October 2019, p 31.
- 403 Transcript, public hearing, J Adamos, 1 October 2019, p 32-34.
- 404 Form, Elected member gift declaration, J Davidson, marked “received” 30 March 2016; Form, Elected member gift declaration, J Davidson, marked “received” 30 March 2016; Transcript, J Davidson, public hearing, 27 September 2019, p 95-96.
- 405 Form, Elected member gift declaration, J Davidson, marked “received” 30 March 2016; Form, Elected member gift declaration, J Davidson, marked “received” 30 March 2016; Transcript, J Davidson, public hearing, 27 September 2019, p 95-96.
- 406 Transcript, J Davidson, public hearing, 27 September 2019, p 95.
- 407 Transcript, J Davidson, public hearing, 27 September 2019, p 96.
- 408 Transcript, J Davidson, public hearing, 27 September 2019, p 96.
- 409 Minutes, Ordinary Council Meeting 11 October 2016, p 90-96.
- 410 Email, M Ridgwell to council members, 10.47 am 10 October 2016.
- 411 Email, M Ridgwell to council members, 10.55 am 10 October 2016.
- 412 Minutes, Ordinary Council Meeting, 11 October 2016, p 4.
- 413 Transcript, J Davidson, public hearing, 27 September 2019, p 97.
- 414 Transcript, J Davidson, public hearing, 27 September 2019, p 97-99.
- 415 Email, M Ridgwell to council members, 10.47 am 10 October 2016.
- 416 Minutes, Ordinary Council Meeting, 6 June 2017, p 5.
- 417 Transcript, public hearing, L Chen, 24 September 2019, p 105.
- 418 Letter, M Mileham to B Peyton, 7 June 2016, p 2.
- 419 Letter, M Mileham to B Peyton, 7 June 2016.
- 420 Letter, R Murphy to M Mileham, 30 June 2016.
- 421 Minutes, Ordinary Council Meeting, 6 June 2017, p 20-21.
- 422 Transcript, M Ridgwell, public hearing, 26 September 2019, p 75.
- 423 For example, Transcript, M Ridgwell, public hearing, 26 September 2019, p 52.
- 424 Transcript, M Ridgwell, public hearing, 26 September 2019, p 75.
- 425 Transcript, M Mileham, public hearing, 1 October 2019, p 93.
- 426 Letter, Mr Mileham to Mr Peyton, 7 June 2016, p 2.
- 427 Transcript, M Mileham, public hearing, 1 October 2019, p 94.
- 428 Transcript, M Ridgwell, public hearing, 26 September 2019, p 73.
- 429 Form, Elected member gift declaration, J Adamos, 28 March 2016.
- 430 Minutes, Ordinary Council Meeting, 13 December 2016, p 4, p 147-148.
- 431 Transcript, public hearing, J Adamos, 1 October 2019, p 26.
- 432 Minutes, Ordinary Council Meeting, 1 August 2017.
- 433 Transcript, public hearing, J Adamos, 1 October 2019, p 27.

# 2.3

## Administrative Leadership





## About this Part

**Strong administrative leadership ensures the integrity and reputation of a local government, and the efficient and effective delivery of services, facilities and programmes to the community.**

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The Administration is headed by a Chief Executive Officer (CEO), who has responsibility for the:

- management of the local government's resources, including people, physical assets and finances;
- delivery of services and programmes; and
- accountability of the decisions and actions of its workforce.

The CEO at the City of Perth (City) was assisted by an Executive Leadership Group, consisting of directors of individual directorates.

The CEO at the City led a workforce of between 700 to 760 employees during the Inquiry period. The CEO was assisted in this task by an Executive Leadership Group, consisting primarily of directors of individual directorates, by governance officers and by other employees of the City.

A CEO has a difficult role. A strong, capable CEO is needed to manage a large Council and its workforce. Where a Council is factionalised, and where council members interfere in the operations of the local government, there is an extra political dimension and layer of difficulty to the role of CEO. The CEO is responsible for keeping council members 'in line' and, if necessary, for reporting them to external oversight bodies such as the Corruption and Crime Commission.

This Part, Administrative Leadership, explores aspects of the Administration at the City. It commences with the termination of the employment of a CEO and the appointment of a new CEO, highlighting deficiencies in a system which relies on council members having sufficient capability to manage these processes.

This Part then examines a range of functions performed by the City: people management; financial management and planning; and procurement and contracting. It identifies weaknesses and shortcomings in the systems and processes, interference in the Administration by council members and poor conduct and possible misconduct by individual employees.

## 2.3.1 Chief Executive

The Chief Executive Officer (CEO) of a local government occupies a vital position. The role is essential to the delivery of services to the community. The CEO leads and manages the Administration and its performance.

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The CEO is accountable to, and managed by, a democratically elected Council, which is the employer of the CEO. The CEO supports the Council to provide good government to the local community.

The CEO is also directly accountable for functions provided under legislation. This includes specific responsibilities under the *Local Government Act 1995* (LG Act) and regulations as well as other legislation.<sup>1</sup> The CEO is also responsible for ensuring good government through his or her decisions and actions.

For the Administration, the CEO plays a crucial role in translating the Council's direction and decisions into actions, employing and leading staff, managing the financial resources and providing a safe workplace. The CEO is instrumental in setting the workplace culture.

### Relationships

The relationship between the CEO and Council is critical to a local government's success. Mutual understanding of the roles of each is the cornerstone of this relationship. A constructive, respectful and positive working relationship sets the tone for the whole organisation. Importantly, the relationship also relies on each having the ability to manage and resolve issues and conflicts as they arise.

The relationship between the respective City of Perth (City) CEOs and the City's Council (Council) is examined further in this Chapter and **Chapter 2.1.2 – Culture and governance**.

### Appointing a Chief Executive Officer

Appointing, managing and terminating a CEO is one of the single most important decisions a Council will make – it is a significant financial investment in one person to deliver on the future aspirations and directions of the local government.

The selection and performance management of a CEO requires council members to have specific capabilities in people management. As representatives of the community, elected to their roles, these may be skills and experiences they do not have.

Council members should understand the provisions of the LG Act and how they operate practically, when appointing, managing performance and terminating a CEO's employment. It is incumbent on Council to acquire the necessary skills and knowledge to perform the statutory functions imposed on it.

Council members are individually and collectively responsible, as the Council, for decisions related to the CEO. Decision-making related to people management should, among other things, be:

- free of nepotism, patronage or unlawful discrimination;
- fair; and
- transparent and capable of review.<sup>2</sup>

Information provided to council members to make their decisions, whether by other council members or the Administration, should be consistent with these principles. All council members should have access to the same information.

The decision-making of the Council in the appointment, performance management and termination of a CEO's employment is examined further in this Chapter.

### **Managing a Chief Executive Officer's performance**

The performance of a CEO should be managed appropriately and with regard to good people management principles.<sup>3</sup> CEOs should be told, and understand, how their performance will be measured. They should be given the opportunity to have input into the development of the measures, and know how and when their performance will be assessed. Measures of performance should enable objective assessment, be set in advance, provide sufficient time for the measure to be achieved and be readily understood by both the Council and the CEO. In setting appropriate performance criteria (or key performance indicators), a balance should be struck between measures that relate to service delivery outcomes, financial outcomes and leadership effectiveness.

Furthermore, the performance assessment process should be transparent and include input from relevant stakeholders, including council members and the City's senior managers. Strategies should be established to address performance concerns as well as support leadership developmental needs. Most of all, the performance process should facilitate and support a constructive, respectful and positive working relationship.

This Chapter provides insights into the Council's failure to follow proper process in the management of a CEO's performance at the City.

### **Terminating the employment of a Chief Executive Officer**

There are risks and potential conflicts in the many roles and functions performed by a CEO. This is particularly the case where a Council is factionalised, bringing an internal political dimension which a CEO must manage without becoming involved, or where council members attempt to 'empire build', by controlling the activities of the CEO, or usurping the CEO's role by interfering in the day-to-day running of the local government.

Disintegration in the relationship between Council and the CEO has critical consequences for the City, the Council and the CEO.

The employment relationship between the Council and CEO can end under certain conditions. Where a Council seeks to terminate the employment of a CEO, it should be procedurally fair to that CEO and the decision should be transparent and capable of review.

In the circumstances explored in this Chapter, a Council that seeks to terminate the employment of its CEO must comply with the provisions of the LG Act. When it fails to do so, the good government of the local government is not served. Reputational and industrial risks increase as a result of poor governance in terminating the employment of a CEO.

During the period of the Inquiry's Terms of Reference there were two CEOs – Mr Gary Stevenson and Mr Martin Mileham. A group of council members controlled the CEO Recruitment Committee and the CEO Performance Review Committee as well as holding the majority vote on Council. The Lord Mayor, Ms Lisa Scaffidi, was on that Committee, as was her ally, Councillor Ms Janet Davidson. Through these committees, they oversaw the recruitment of Mr Stevenson in 2012, his performance reviews, the termination of his employment, the appointment of Mr Mileham as an Acting CEO, his recruitment to the substantive position and his first performance review.

### Legislative framework

The role and functions of a local government CEO are set out in the LG Act and other legislation. In summary, a CEO:

- is employed by the Council, is performance managed by the Council, and can have his or her employment terminated by the Council;
- implements decisions of the Council, ensures that advice and information is available to Council, and liaises with the Lord Mayor;<sup>4</sup> and
- manages the day-to-day operations of the local government and employs the staff who work for the local government.

The LG Act provides the following in relation to the employment of a CEO:

#### ***“5.36. Local government employees***

*(1) A local government is to employ –*

*(a) a person to be the CEO of the local government;*

*...*

*(2) A person is not to be employed in the position of CEO unless the council –*

*(a) believes that the person is suitably qualified for the position; and*

*(b) is satisfied\* with the provisions of the proposed employment contract”.*

An absolute majority (\*) is required for sub-section (2)(b).

Regulation 18C of the *Local Government (Administration) Regulations 1996* (Administration Regulations) requires a Council to approve a process for the selection and appointment of a CEO before the position is advertised.

In relation to a CEO's performance assessment, section 5.38(1) of the LG Act states that "A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year". The review must be conducted at least once in relation to each year of the CEO's employment.<sup>5</sup> Regulation 18D of the Administration Regulations provides for the local government's duties in undertaking the performance review of a CEO:

*"A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review".*

In addition to these roles, the CEO is also the principal officer of a local government. He or she is responsible for reporting suspected serious misconduct to the Corruption and Crime Commission (CCC) or minor misconduct to the Public Sector Commissioner,<sup>6</sup> and the complaints officer for reporting complaints about council members to the Local Government Standards Panel (LGSP).<sup>a</sup>

Specifically, section 28 of the *Corruption, Crime and Misconduct Act 2003* states:<sup>b</sup>

***"28. Certain officers obliged to notify serious misconduct***

*(1) This section applies to the following persons –*

*...*

*(c) the principal officer of a notifying authority;*

*...*

*(2) Subject to subsections (4), (5) and (6), a person to whom this section applies must notify the Commission in writing of any matter –*

*(a) which that person suspects on reasonable grounds concerns or may concern serious misconduct".*

The principal officer of the City (a notifying authority) is the CEO.

<sup>a</sup> Unless another senior officer has been nominated as Complaints Officer by the Council: *Local Government Act 1995*, s 5.120.

<sup>b</sup> Note: section 45H of the *Corruption, Crime and Misconduct Act 2003* provides, in similar terms, for a report of misconduct to be made to the Public Sector Commissioner.

### Departmental guidelines

During the period of the Inquiry's Terms of Reference the Department of Local Government, Sport and Cultural Industries (Department) made available *"Local Government Operational Guideline – Number 10: Appointing a CEO"* (revised August 2012). This was designed to assist Councils in understanding their legislative obligations in relation to recruiting and appointing a CEO. They included guidance for council members in the following areas.

- The principles of merit and equity.
- The requirement for absolute confidentiality.
- Processes to be followed by a selection panel.
- Declarations to be made by selection panel members of any previous association with an applicant.
- Selection reports.
- Formal and final appointments to be made by the Council.

### Council Policy

The City also established Council Policy *"CP 12.6 Staff – Local Government Employees – Senior Employees"* which governed which employees could act in the position of CEO, and the process for filling the position on an acting basis.

### Trends in local government

Experience across Australia demonstrates that issues relating to the selection and appointment, remuneration, performance management and termination of employment of CEOs are not new to the local government sector. Contemporary research focuses on factors affecting CEOs in local government including workplace safety and wellness, appointment of CEOs and the roles and relationships between mayors and CEOs.<sup>7</sup> Investigative or statutory bodies have also examined matters related to CEOs on a number of occasions.<sup>8</sup>

One report of note was published by the Local Government Inspectorate of Victoria (Inspectorate) last year.<sup>9</sup> The Inspectorate conducted a review which highlighted a number of matters relevant to issues examined by this Inquiry and which are considered in this Chapter.

The review considered the *"existing arrangements between councils and CEOs, including the complete employment cycle of recruitment, performance management, tenure and separation"*.<sup>10</sup> In relation to role clarity, the Inspectorate observed that *"Often the role of council and CEO are misunderstood"*. The Council *"... are elected under the Local Government Act to undertake their duties in the best interests of the people in the municipality by providing the overall policy and strategic direction"*. While the CEO's role *"... is a unique and complex role given the political nature, service delivery and business imperatives"*.

The report notes that in respect of issues relating to employment contracts and the review process for CEOs:

*“The way in which both new and reappointed CEO contracts are negotiated, prepared and executed has at times been problematic, prompted in part by a misunderstanding by councillors of their roles and obligations in this process and/or limited experience or capability in human resource management.*

*Instances have occurred in which the proposed contract has not been subject to proper consultation with councillors; the proposed appointment and contract may not be subject to a proper report and recommendations to the council; or the council has not formally adopted or executed the contract. Each of these circumstances could pose an unintended financial risk for the council. The Inspectorate is aware of instances where CEO performance reviews have not been appropriately conducted or where review outcomes were not formally reported and adopted by the council. There was also many examples of a lack of capability among the employer in managing the CEO review process”.*

The report also makes critical observations on the “political risk for the role of CEO”:

*“One of the key issues across the sector was the political risk inherent in local government politics. It was commonly considered that a CEO is not fairly judged on their performance.*

...

*The ability for CEOs to separate themselves from electoral politics while remaining politically sensitive is the most common factor contributing to CEOs successfully doing their job. A key challenge for councils is to establish contractual and performance management systems that allow CEOs to achieve their objectives, to deal more effectively with challenges facing communities and contribute to more sustainable local governments. It is argued that CEOs performance is not the major determinant of success in the role; rather the capacity to engage councillors was identified as the most critical issue in gaining successful outcomes. The CEO must be policy oriented but not political. Without this balance there can be serious consequences. Several empirical studies have suggested that political disputes can be a significant cause of CEO turnover contributing to resignations prior to contract completion”.*

The Inquiry recognises the risks associated with the role of CEO in local government.

The events that transpired at the City are unfortunately not a unique situation, but evidence of a more endemic problem across the sector. Of particular note is the tension that can exist between the expectations of council members and those of a CEO. Ultimately though, each has responsibility to lead, be accountable for their own performance and fulfil the obligations entrusted to them by the community and under statute.

### **Evidence of Chair Commissioner, Mr Andrew Hammond**

Mr Andrew Hammond became a Commissioner of the City of Perth on 2 March 2018 and Chair Commissioner on 9 August 2019. He gave evidence to the Inquiry on 10 October 2019. In his evidence, Mr Hammond explained some of the issues and risks relating to the employment of a local government CEO.<sup>11</sup>

Mr Hammond commented on difficulties which can arise when a CEO is obliged to report a council member.

He said:

*“... a CEO has an obligation under law to report misconduct or serious misconduct, either to the Public Sector Commissioner or the Crime and Corruption Commission. He’s obliged to do that under the law. If he does that and he does that to a Councillor, that Councillor has every right to sit on that CEO’s Performance Appraisal and vote as to whether he gets a pay rise or if his contract’s renewed, etcetera. So it’s my opinion that that is a problem. As a past CEO, it is really firstly not fair on an elected Council to expect that they would have the necessary skills to be able to do such a thing as employing a CEO without assistance but secondly, some Councillors may come to the table with regards to decision-making on either the performance or appointment of a CEO, with other agendas in mind.”<sup>12</sup>*



A decision to appoint and obviously a decision to dismiss, or a decision to not renew a contract, the engagement or otherwise of a CEO is the most critical decision that a Council can make.



**Mr Andrew Hammond**  
Chair Commissioner

Mr Hammond said that a Council should be able to determine who they want as a CEO, but the process needs assistance:

*“At the moment, Councils can, at their discretion, procure services which are essentially consultants and the consultants, in my view, do a reasonably good job. However, Councillors also have the discretion not to do that and to actually run processes themselves. I think that there is the problem there.”<sup>13</sup>*

Mr Hammond gave some examples of the need for independent oversight:

*“Well I will give some examples of things that do happen that shouldn’t happen ... The first one is that Councillors that are in a confidential process, break that confidentiality and make phone calls to determine the efficacy or otherwise of applicants to a job, who obviously would wish their application to remain confidential. That happens on occasion. Issues such as basic meeting procedure in governance, like a committee can’t make a decision – certainly can’t make a decision on a CEO because a committee can’t be delegated powers of which an absolute majority is required. If the CEO isn’t there, has gone and perhaps there’s been some conflict, perhaps there’s not a lot of trust with staff, the Councillors won’t go to the staff and seek advice, they will have a go themselves. It’s those type of scenarios where problems happen. Other issues with Councillors are, in some cases actually calling a prospective applicant and having a chat with them prior to an interview and in some cases, of course, with applicants calling Councillors who they may know are on the panel, to seek their support. All of this is unethical behaviour. I don’t think it’s necessarily unlawful but it certainly can lead to not the right person being appointed to the role.”<sup>14</sup>*

The description by Mr Hammond of difficulties in the relationship between council members and CEO which can arise when a CEO is obliged to report possible misconduct by a council member, and the weaknesses in CEO selection processes run by council members, are issues which arose at the City, and are considered by the Inquiry in this Chapter.

## Termination of a Chief Executive Officer

### Introduction

1. On 6 September 2012, Mr Gary Stevenson was appointed by the City of Perth Council (Council) as the Chief Executive Officer (CEO) of the City of Perth (City). His employment as CEO was terminated by Council on 20 January 2016. On the same day, Mr Martin Mileham began acting in the position of CEO. Council accepted a recommendation to appoint Mr Mileham as CEO on 1 September 2016.
2. The committee and council processes which resulted in Mr Stevenson being replaced by Mr Mileham were driven by three council members. These were Lord Mayor Ms Lisa Scaffidi, Councillor Ms Janet Davidson and, initially, Deputy Lord Mayor Mr Rob Butler, and when he was not re-elected on 17 October 2015, Deputy Lord Mayor Mr James Limnios.
3. These council members formed, at different times, the CEO Recruitment Committee and the CEO Performance Review Committee. In these capacities they oversaw the recruitment of Mr Stevenson in 2012, his performance reviews, the termination of his employment, the appointment of Mr Mileham as an Acting CEO, his recruitment to the substantive position and then his performance reviews.
4. At times, these three council members appear to have confused which roles they were performing on which committees. At times, they may well have acted without the authorisation of the Council.
5. These council members were part of a “*Team*” which, until the election in October 2017, had a majority on the Council and controlled decision-making by the Council.
  - Ms Scaffidi was the acknowledged leader of the team.
  - The other members of that team were council members Mr Jim Adamos, Ms Lily Chen, Ms Davidson, Mr Limnios, Ms Judy McEvoy, and Mr Keith Yong.
6. Mr Limnios appears to have fallen out with Ms Scaffidi and other members of her team during 2016. When this occurred, he was no longer part of team communications.
7. Council members Dr Jemma Green and Mr Reece Harley were not part of Ms Scaffidi’s team and could be considered to be in opposition. Mr Harley and Mr Yong were elected as council members on 17 October 2013. Dr Green was elected as a council member in place of Mr Butler on 17 October 2015 and was relatively new to the role at the time Mr Stevenson’s employment was terminated.
8. Ms McEvoy and Mr Yong were not re-elected in October 2017.

9. The team communicated by WhatsApp. As Ms Scaffidi told her team:

**Ms Scaffidi**



*"We are a team  
All or nothing  
7 musketeers  
No new members  
No lone coffee dates ..."*<sup>15</sup>

10. The CEO of a local government is the person responsible for reporting allegations of misconduct and complaints to the Corruption and Crime Commission (CCC), to the Public Sector Commission, to the Local Government Standards Panel (LGSP) or to the Department of Local Government, Sport and Cultural Industries (Department).
11. The reporting obligations of a CEO may place the CEO in an unenviable position from time to time by obliging him or her to report the alleged or suspected improper behaviour of a council member who he or she must work closely with and who, as a member of Council, is responsible for the CEO's ongoing employment and may be in a position to influence or prejudice that employment.<sup>16</sup>

## Timeline

|      |              |   |
|------|--------------|---|
| 2012 | 6 September  | The Council appointed Mr Stevenson as Chief Executive Officer (CEO).  |
|      | 29 October   | Mr Stevenson commenced as CEO. No Key Performance Indicators (KPIs) had been set for him.   |
| 2013 | During April | Mr Geoff Blades of Lester Blades commenced a six-month performance review of Mr Stevenson (2013 Performance Review).  |
|      | 4 June       | Council established its CEO Performance Review Committee (Committee).   |
|      | 22 June      | Ms Davidson, Ms Scaffidi and Mr Butler were appointed as the inaugural members of the Committee.  |
|      | During June  | Mr Blades finalised the 2013 Performance Review process, reporting that multiple council members felt Mr Stevenson did not <i>"have their back"</i> and that he frequently mentioned the CCC.         |
|      | 4–10 October | Ms Scaffidi and Mr Martin Mileham then Director of Planning and Development at the City, travelled to New York and attended a conference. The hosting company paid for their fares and accommodation. |
| 2014 | 1 April      | Council received the results of the 2013 Performance Review.  |
|      | 15 July      | Mr Blades commenced Mr Stevenson's first annual performance review (2014 Performance Review).   |
|      | 2 October    | Mr Blades met Mr Stevenson to discuss the results of his 2014 Performance Review. Over the next few days, Mr Stevenson prepared and presented a written submission to Council.                        |
|      | 6 October    | Mr Blades and Mr Stevenson attended a <i>"heated"</i> meeting of the Committee.   |
|      | 28 October   | Council endorsed the revised performance review and a salary increase for Mr Stevenson.   |

|      |                      |   |
|------|----------------------|---|
| 2015 | 17 April             | The CCC began an investigation into Ms Scaffidi's gifts and travel.   |
|      | During June          | Ms Davidson, Committee chair, commenced Mr Stevenson's 2015 Performance Review.   |
|      | 11 June              | Mr Mileham retrospectively disclosed the fares and accommodation from the trip to New York in 2013.   |
|      | 26 August            | Mr Stevenson referred a <i>"Report on Gifted Travel"</i> to the CCC.  |
|      | 5 October            | The CCC issued a <i>"Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth"</i> .  |
|      | 17 October           | Local government elections were held and Dr Green was elected to Council. Mr Butler was not re-elected and Mr Limnios replaced him on the Committee.  |
|      | 22 October           | The Committee was reformed. Its members were Ms Scaffidi, Ms Davidson and Mr Limnios.   |
|      | 3 November           | Results of the 2015 Performance Review sent to Mr Stevenson.  |
|      | 30 November          | Mr Stevenson met with the Committee, having presented a submission setting out two options to <i>"move forward"</i> . Lawyers for Ms Scaffidi asked for documents Mr Stevenson sent to the CCC regarding the <i>"Report on Gifted Travel"</i> . |
|      | 2 December           | Mr Stevenson telephoned Ms Davidson and was told his <i>"Option 1"</i> regarding termination, <i>"was not being considered"</i> .   |
| 2016 | 24 December          | Ms Scaffidi commenced a leave of absence.   |
|      | 13 January           | Mr Stevenson called Ms Davidson to discuss his performance review. He assumed the next meeting would <i>"set that path of reconciliation and rebuild"</i> .   |
|      | 14 January           | Mr Stevenson provided Ms Scaffidi with his <i>"Report on Gifted Travel"</i> .<br>Ms Scaffidi emailed MDC Legal for advice about termination of his employment.  |
|      | 18 January           | Ms Scaffidi's leave of absence ended.   |
|      | 19 January           | The Committee recommended Council accept Mr Stevenson's <i>"Option 1"</i> .   |
|      | 20 January<br>8:30am | Mr Stevenson met with Ms Scaffidi, Ms Davidson and Mr Limnios and was told his employment would be terminated.  |
|      | 20 January<br>9:21am | A Special Council Meeting endorsed the Committee recommendations. Mr Stevenson's employment as CEO was terminated with immediate effect. Mr Mileham was appointed Acting CEO.   |

## Issues considered by the Inquiry

12. Consistent with A.1(i), A.3(ii), A.3(iii), A.3(v) and A.3(vi) of the Inquiry's Terms of Reference, the Inquiry has considered, with respect to Mr Stevenson:

- the quality of Mr Stevenson's performance reviews, and comments by council members about the CCC in the performance review surveys of 2013, 2014 and 2015;
- whether Mr Stevenson's employment was terminated, because he reported Ms Scaffidi to the CCC; and
- the circumstances in which Council was asked to consider terminating Mr Stevenson's employment at a Special Council Meeting on 20 January 2016.

## Investigation by the Inquiry

13. The Inquiry's Terms of Reference cover the period between 1 October 2015 and 1 March 2018, although it may report on earlier periods *"for the purpose of properly discharging its function"* and to place matters *"within a relevant context"*.<sup>17</sup>
14. On this basis, the Inquiry has considered some matters relating to the employment of Mr Stevenson which occurred before 1 October 2015.
15. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members involved in decisions relating to the termination of the employment of Mr Stevenson and the appointment of Mr Mileham: namely, Mr Adamos, Mr Butler, Ms Chen, Ms Davidson, Dr Green, Mr Harley, Mr Limnios, Ms McEvoy, Ms Scaffidi and Mr Yong.
- CEOs, Mr Stevenson and Mr Mileham.
- Mr Robert Mianich, Director, Corporate Services.
- Mr Mark Ridgwell, Manager, Governance.
- Ms Michelle Howells, Manager of Human Resources.<sup>c</sup>
- Mr Geoff Blades, Director of Lester Blades Pty Ltd (Lester Blades), an executive search company.

16. In the course of its investigations, the Inquiry heard evidence relating to the performance of Mr Frank Edwards, Mr Stevenson's predecessor as the CEO of the City. Mr Edwards ceased employment with the City in 2012. The Inquiry did not hear evidence from Mr Edwards and makes no findings in relation to his performance as CEO.

## Legislative background

### Council's responsibility for the Chief Executive Officer's employment

17. A local government must employ a CEO.<sup>18</sup> A person is not to be employed as a CEO unless Council believes he or she is suitably qualified and is satisfied with the provisions of his or her proposed contract of employment.<sup>19</sup> A CEO's contract of employment cannot be for a term longer than five years, but it can be terminated *"on the happening of an event specified in the contract"*.<sup>20</sup>

<sup>c</sup> During her private hearings, Ms Howells expressed concerns to the Inquiry about possible victimisation arising from the publication of her testimony. However, the Inquiry considers that her evidence is essential to the issues considered in this matter. Furthermore, the *Royal Commissions Act 1968* has several provisions which make it clear that any adverse action taken in relation to a person, because of evidence they have given to the Inquiry, is a serious offence with a penalty of five years imprisonment: *Royal Commissions Act 1968*, s 29.

18. A CEO's contract of employment is of no effect unless the contract specifies performance criteria for the purpose of reviewing the CEO's performance.<sup>21</sup> The CEO's performance must be reviewed at least once for every year of employment.<sup>22</sup> A local government must consider each review and either accept the review, with or without modification, or reject the review.<sup>23</sup>
19. The review of a CEO's performance is an important statutory function. It should not be tainted or influenced by improper considerations, such as the fact that the CEO has complied with his or her legal obligations by reporting a council member to the CCC or another body. It should take place, so far as is practicable, based on agreed objective criteria and not the personal opinions of council members.
20. Council is responsible for employing, reviewing the performance of and dismissing the CEO. When doing so, Council is to treat the CEO fairly and consistently.<sup>24</sup>

#### Role and responsibilities of the Chief Executive Officer

21. The CEO is, among other things, responsible for:
  - managing the day-to-day operations of the local government;
  - advising the Council on the local government's functions under the *Local Government Act 1995* (LG Act) and other laws;
  - ensuring that advice and information is available to Council, so informed decisions can be made;
  - causing Council decisions to be implemented; and
  - liaising with the Lord Mayor on the local government's affairs and the performance of the local government's functions.<sup>25</sup>
22. The relationship between the CEO and Council is crucial to the proper functioning of the local government. As Mr Andrew Hammond, the Chair Commissioner of the City, said in his evidence before the Inquiry:
 

*"A decision to appoint and obviously a decision to dismiss, or a decision to not renew a contract, the engagement or otherwise of a CEO is the most critical decision that a Council can make".*<sup>26</sup>
23. The CEO has specific responsibilities for handling complaints and allegations of misconduct. The *Corruption Crime and Misconduct Act 2003* (CCM Act) provides that where a CEO suspects on reasonable grounds that a matter concerns or may concern serious misconduct (including serious misconduct by council members), the CEO must notify that matter to the CCC in writing as soon as reasonably practicable after the CEO becomes aware of the matter.<sup>27</sup> A CEO's duty to notify the CCC is "*paramount*"—the CEO must notify the CCC even if that would contravene another Act or if the CEO is otherwise obliged to keep the matter confidential.<sup>28</sup> If the CEO fails to report suspected misconduct, the CCC may report that failure to the Council.<sup>29</sup> The CEO has the same duty to report suspected minor misconduct by an employee (but not a council member)<sup>30</sup> to the Public Sector Commissioner.<sup>31</sup>

24. The CEO is also designated by the LG Act as the complaints officer for the local government<sup>32</sup> and in that capacity is required to:
  - send complaints of “*minor breaches*” by council members to the LGSP, for the LGSP to address;<sup>33</sup>
  - provide the LGSP with anything that it requires to help the LGSP deal with a complaint against a council member;<sup>34</sup>
  - keep a register of all complaints in which the LGSP has made orders against a council member;<sup>35</sup> and
  - send complaints that a council member has committed an offence to the CEO of the Department.<sup>36</sup>
25. The CEO may also make complaints of minor breaches by council members to the LGSP.<sup>37</sup>
26. As a result, the statutory framework established by the CCM Act and the LG Act relies significantly on local government CEOs to report certain conduct to the appropriate authorities.
27. There are statutory protections for a CEO reporting matters to the CCC. Section 175 of the CCM Act provides that a person must not threaten to prejudice the safety or career of any person or do any act that is, or is likely to be, to the detriment of any person, because that person helped the CCC or the Public Sector Commissioner in the performance of functions under that Act. There are no equivalent protections for a CEO reporting matters to the Department or the LGSP.

## Evidence obtained by the Inquiry

### Employment of Mr Gary Stevenson

28. Mr Stevenson commenced as CEO of the City on 29 October 2012. He was contracted until 28 October 2017.
29. Mr Stevenson was recruited through a process run by Lester Blades. A CEO Recruitment Committee, consisting of Ms Scaffidi, Ms Davidson and Mr Butler, developed the position documentation and was involved, with Mr Blades, in interviewing shortlisted candidates.
30. The CEO Recruitment Committee recommended to Council that Mr Stevenson be appointed as the CEO on a five-year contract. Terms were negotiated and a contract of employment was put before Council at a Special Council Meeting on 6 September 2012, where it was endorsed.<sup>38</sup>
31. According to Mr Stevenson’s contract of employment, a review of his performance had to occur at least once for every year of employment. Mr Stevenson’s salary increases were tied to him achieving satisfactory performance.

32. Mr Stevenson's position description, which was annexed to his employment contract, provided that "*Key Performance Criteria will be agreed and included*" in his employment contract. Mr Stevenson's employment contract provided that the performance criteria for the purposes of reviewing his performance "*will be broadly based on*" the position description, annual plan and strategic plan outcomes, budget outcomes and the outcome of assessments for development needs/requirements.<sup>39</sup>
33. During his employment at the City, three performance reviews were conducted by the CEO Performance Review Committee:

**2013: A six-month review.<sup>40</sup>**

- Mr Blades of Lester Blades assisted the Council with this performance review.
- On 1 April 2014, Council received the performance review and determined an increase in total annual remuneration for Mr Stevenson.<sup>41</sup>

**2014: First annual performance review.**

- Mr Blades of Lester Blades assisted the Council with this review.
- On 28 October 2014, Council received the performance review and determined an increase in total annual remuneration for Mr Stevenson.<sup>42</sup>

**2015: Second annual performance review.**

- Ms Davidson, presiding member of the CEO Performance Review Committee, conducted this performance review.
- This performance review was considered by the CEO Performance Review Committee on 19 January 2016.
- On 20 January 2016, Council resolved to endorse the minutes/ recommendations of the CEO Performance Review Committee meeting.

34. In accordance with clause 8.5 of Mr Stevenson's contract, the City could terminate his employment for any reason. If it did, the City was required to pay Mr Stevenson the equivalent of 12 months salary.<sup>43, (d)</sup>
35. On 20 January 2016, Mr Stevenson's employment as CEO was terminated by Council.

**Chief Executive Officer Performance Review Committee**

36. On 4 June 2013, Council established the CEO Performance Review Committee. Its members were appointed on 22 October 2013. It consisted of the same members as Council's CEO Recruitment Committee – Ms Scaffidi, Ms Davidson and Mr Butler. Its terms of reference were to:
- undertake an annual review of the performance of the CEO;
  - establish annual performance objectives for the CEO; and
  - report the outcome of the various reviews.<sup>44</sup>

d In accordance with the contract of employment, increases in Mr Stevenson's total annual remunerations would occur "*subject to satisfactory performance*" at designated intervals: Contract of Employment, G Stevenson, 19 September 2012.

37. The City did not have policies or procedures in place to support these council members in meeting their obligations.
38. All three of Mr Stevenson's reviews were overseen by the CEO Performance Review Committee. Mr Limnios replaced Mr Butler as a member of this committee on 22 October 2015.

### Six-month performance review, 2013

39. In April 2013, Mr Blades of Lester Blades conducted a six-month review of Mr Stevenson's performance. Mr Blades created a survey for council members, directors and Mr Stevenson to complete.
40. The survey required respondents to rate, from "A" to "E",<sup>e</sup> and provide comments on Mr Stevenson's performance against 26 outcome/performance criteria.
41. The review was completed in June 2013. There were no key performance indicators (KPIs) in place. A note made by Mr Stevenson of the meeting of the CEO Employment Committee on 5 June 2013 indicates that it was agreed the Deputy Lord Mayor, Mr Butler, would prepare draft performance objectives.<sup>45</sup> Mr Butler had no previous experience in drafting or implementing KPIs. In his evidence before the Inquiry, Mr Butler had no recollection of what process was applied to drafting KPIs for Mr Stevenson.<sup>46</sup>

### Council members assess Mr Gary Stevenson's performance for the first time

42. The returned 2013 surveys contained positive and negative comments by council members. Mr Blades met with council members individually to understand their responses and collated the responses into an outcomes document. Many of the responses are not attributed to identified participants.<sup>47</sup>
43. In the outcome of the review, unidentified council members<sup>f</sup> were noted as commenting on Mr Stevenson's approach to the CCC and his relationship with council members:  
*"He is not 'watching our backs' (like previous CEO did) ... Why does the answer (so often) have to be the CCC or the Ombudsman or an external review, just deal with it!"*  
*"It is typical to mention the CCC in his answers or an external investigator. Just deal with and manage issues. Not every issue is a CCC issue, just been some dialogue and strategy. I don't feel comfortable to open up. I want the CEO to 'have my back'".<sup>48</sup>*

<sup>e</sup> CEO Performance Review Outcome of Survey 2013, Lester Blades. The survey scale: "A – Exceeding the requirements of this position outcome/performance criterion; B – Meeting the requirements of this position outcome/performance criterion; C – Meeting the requirements of this position outcome/performance criterion, but room for improvement; D – Below the requirements of this position outcome/performance criterion; E – Unable to make an assessment (this may be because you have not had sufficient exposure to the CEO in this area or it is simply too early to make a judgement); NR – No rating provided".

<sup>f</sup> In the public hearings, the Inquiry examined council members but were unable to attribute these comments.

44. Mr Limnios, in his survey, rated Mr Stevenson's overall performance as CEO as a "C" and made the following comment:
- "Personally He comes across very beauracratic [sic], lacks people skills. Whenever In instances I've shared concerns or issues where I was probably seeking guidance or assurance or expressing frustration his answers were not comforting, very typical or extreme ie mentioning CCC or external investigation etc for issues that weren't even at that level, and probably just needed some dialogue & strategy. Don't feel comfortable to open up to him at all. Frank was the total opposite a decent, supportive, strong CEO that had your BACK!"<sup>g</sup>*
45. During his meetings with council members to discuss their responses to the survey, Mr Blades summarised council members discussing Mr Stevenson's approach to the CCC in the following way:
- "... seemingly, Gary would say to Elected Members, 'You really shouldn't say or do that because that's something the CCC would be interested in', or 'You could get reported to the CCC for saying or doing that, we don't want to attract the attention of the CCC.' So Councillors relayed those kind of comments to me that Gary had said to them and clearly they were not happy about that".<sup>49</sup>*
46. The phrase "has my back" (or similar) typically means that a person is protecting or defending someone.
47. Given the importance of the relationship between the CEO and the Council, it was appropriate, to some extent, for council members to take into account Council's relationship with Mr Stevenson, including his communications with them, when reviewing his performance.
48. However, Mr Stevenson's performance (including his relationship with Council) could only be properly assessed if council members fully appreciated his responsibilities and obligations and properly considered how he had discharged those responsibilities and obligations.
49. The comments at paragraph 43-45 indicate that some council members did not accept or properly appreciate Mr Stevenson's responsibilities and obligations in relation to certain conduct matters under the CCM Act and the LG Act.
50. It was Mr Stevenson's role to ensure that advice and information was available to the Council on his and its statutory obligations, even if council members did not view that advice favourably. It was not his role to protect council members from the consequences of their actions, including any suspected misconduct. On the contrary, it was his statutory obligation to report suspected misconduct to the CCC and his role to make complaints to the LGSP if he saw fit.
51. For these reasons, the remarks at paragraph 43-45 do not demonstrate an adequate assessment of Mr Stevenson's performance. An assessment on that basis was unfair to him and contrary to section 5.40(c) of the LG Act.

<sup>g</sup> CEO Performance Review 2013, J Limnios. In Mr Limnios's survey, under "Outcome 6: Stakeholder Relationships" there is a handwritten note (which may be a note made by Mr Blades in a subsequent meeting between Mr Blades and Mr Limnios) that reads "priorities are different to councillors, he is cold, not looking after councillors, not got our backs, wants to report to Govt, CCC, Ombudsman". The Inquiry has been unable to determine the provenance of this handwriting and has not had regard to it.

### First annual performance review, 2014

52. Mr Stevenson's first annual performance review was conducted between 15 July 2014 and October 2014. Mr Blades was engaged to conduct it.
53. There were still no agreed KPIs in place. The City had no policies or procedures in place to assist committee members to develop them or assess against them.
54. It was the CEO Performance Review Committee's responsibility, under its terms of reference, to develop agreed KPIs with Mr Stevenson. Mr Stevenson told the Inquiry that he raised the need for KPIs at his six-month performance review, but nothing was done.<sup>h</sup> Ms Davidson, the presiding member of the CEO Performance Review Committee, accepted the Committee should have developed KPIs for Mr Stevenson, but she could not explain why this was not done.<sup>50</sup>
55. The Inquiry finds the CEO Performance Review Committee did not establish KPIs with Mr Stevenson for the 2014 assessment period.

### Council members assess Mr Gary Stevenson's performance

56. Mr Blades finalised the "CEO Performance Review September 2014" survey outcomes. The format was similar to that used for the six-month review. The rating scale was the same and the survey used the same criteria.<sup>51</sup>
57. Council members were mixed in their views of Mr Stevenson's performance. There were further negative comments regarding Mr Stevenson's approach to the CCC.
58. Ms Davidson made the following comment about Mr Stevenson's "Knowledge of legislative and corporate governance/compliance requirements":  
*"... Sometimes too quick to refer to CCC without handling internally first especially if a one off occasion".*<sup>52</sup>
59. Mr Blades again met with council members during this performance review process to understand their responses. In notes of a meeting between Mr Blades and Mr Limnios on 11 August 2014, Mr Blades recorded Mr Limnios as saying:  
*"not the friend of the councillors – created a 'them & us'  
need to be a friend of the city of perth  
propensity to refer want to refer matters to the CCC.  
would not employ him again.  
I am really not happy.  
our back is not covered  
I cannot depend upon him".*<sup>53</sup>
60. In the Inquiry's view, it was not appropriate for Mr Limnios and Ms Davidson to negatively assess Mr Stevenson's performance on the basis of his propensity to report matters to the CCC or his speed in reporting matters. It was not Mr Stevenson's role to be "the friend of the councillors" or to cover their backs.

<sup>h</sup> Transcript, G Stevenson, private hearing, 28 February 2019, p 6. That is consistent with Mr Stevenson's submission to the CEO Performance Review Committee in 2014, where he said "During negotiations for the appointment in 2012 and again during the 2013 Performance Review, I asked for these to be established. This has not occurred despite the Committee agreeing to do so in 2013".

That an incident of suspected misconduct might be a “one-off” should have no bearing on whether the matter should be reported to the CCC.

61. These remarks demonstrate a failure to appreciate the role and statutory obligations of the CEO and should not have been considered in the way they were in a proper assessment of Mr Stevenson’s performance.
62. In notes of a meeting between Mr Blades and Mr Butler on 20 August 2014, Mr Blades recorded Mr Butler as saying, “*don’t use the threat of the CCC*”.<sup>54</sup>
63. Ms Scaffidi did not personally complete a survey in 2014, but she met with Mr Blades to complete it. Mr Blades made notes of their meeting<sup>55</sup> and recorded Ms Scaffidi as saying:

*“don’t use the CCC as a veiled threat.  
we need to know he has our back”*.<sup>56</sup>
64. Mr Blades’s report under “*Summary of Findings*” stated:

*“EM’s [elected members] are concerned at the CEO’s use of the CCC as a ‘veiled threat’. We need to know that the CEO ‘has our backs’ and guides us respectfully”*.<sup>57</sup>
65. In her evidence to the Inquiry, Ms Scaffidi accepted these comments were hers and said she was speaking for other council members.<sup>58. (i)</sup> Ms Scaffidi did not take kindly to Mr Stevenson talking to her about the CCC and felt Mr Stevenson used the CCC as a veiled threat.<sup>59</sup>
66. Ms Scaffidi denied that she was bothered that Mr Stevenson would report matters to the CCC. Ms Scaffidi did not accept that, by making these comments during Mr Stevenson’s performance review, she was assessing his performance by reference to him pursuing governance matters.<sup>60</sup>
67. Ms Scaffidi gave evidence that council members were expressing to her that Mr Stevenson needed to have their backs “*often enough*” and in “*forums where we were together*”. According to Ms Scaffidi, council members used this phrase “*not because we were seeking any protection but because we were seeking governance guidance, which was one of the prerequisites he had championed as being a leader of at the time of his interview*”.<sup>61</sup> However, Ms Scaffidi’s evidence about the intentions of other council members who used the phrase “*have our backs*” is largely unreliable. The Inquiry accordingly places little weight on this evidence.
68. It is apparent that by making these remarks to Mr Blades, in the course of the 2014 performance assessment, Ms Scaffidi assessed Mr Stevenson’s performance by reference to his approach to the CCC. Ms Scaffidi and Mr Blades completed the survey for the purpose of reviewing the performance of Mr Stevenson. It had no other purpose. An obvious inference which arises is that anything Ms Scaffidi said to Mr Blades and which Mr Blades then recorded was related to the performance of Mr Stevenson in his role as CEO.

i However, Mr Limnios said the statement “*We need to know that the CEO has our backs and guides us respectfully*” were his words: Transcript, J Limnios, public hearing, 6 September 2019, p 19.

69. Mr Blades's report also stated under "Outcome 5 – Management of Change & Risk":
- "In several discussions with EM's mention was made of the CCC. EM's openly critical to GB [Geoff Blades] of the fact CEO raises this seemingly as a veiled threat and a way of resolving matters. Several EM's clearly very unhappy about this. EM's believe attempts should be made to resolve matters 'in-house' where possible".<sup>62</sup>*
70. It appears that this statement was a compilation of comments from several council members.<sup>j</sup> However, Ms Scaffidi accepted, when it was put to her, that this was her comment. Ms Scaffidi denied she or other council members wanted Mr Stevenson to resolve potential CCC matters "in-house". Ms Scaffidi also denied there was a link between references to the CCC and the statement "EM's believe attempts should be made to resolve matters 'in-house' where possible". Ms Scaffidi said her comments meant "we wanted him [Mr Stevenson] to tighten up on Gift Declarations and other declarations" and "ensure that the systems were better than they clearly were".<sup>63</sup> Again, Ms Scaffidi cannot give very reliable evidence about the intentions of other council members. The Inquiry gives little weight to this evidence.
71. Contrary to Ms Scaffidi's evidence, it appears that some council members preferred Mr Stevenson to resolve matters in-house and not report matters to the CCC. Ms Chen, at the time of the 2014 performance review, held the view that most things could be resolved in-house (except for "very serious matters" and "very serious conflicts of interest") and that attempts should be made to resolve matters in-house where possible.<sup>64</sup>
72. In her evidence to the Inquiry, Ms Chen appeared to refer to failures by council members to declare gifts or contributions to accommodation as matters that should be dealt with internally rather than reported to the CCC.<sup>65</sup> However, the failure by a council member to declare a gift or a contribution to travel in an annual return (as required by sections 5.78, 5.82 and 5.83 of the LG Act)<sup>k</sup> amounts to serious misconduct under the CCM Act and must be reported by the CEO to the CCC.<sup>l</sup>
73. As set out later in this Section, the Inquiry is not satisfied there was anything inappropriate in Mr Stevenson's discussions with council members regarding his and their obligations. In particular, the Inquiry is not satisfied that Mr Stevenson used the CCC as a threat in his discussions with council members.<sup>66</sup>

<sup>j</sup> The Inquiry notes Mr Harley's evidence that in September 2014, he was openly critical of Mr Stevenson raising the CCC and spoke about having a preference for attempts to be made to resolve matters in-house where possible: Transcript, R Harley, public hearing 4 September 2019, p 18. However, it appears that Mr Harley was instead referring to the 2015 performance review. When Mr Harley expanded on "his preference for attempts to be made to resolve matters in-house where possible", he said, "I believe I said the CCC thing is still real" and referred to Mr Stevenson's complaint to the LGSP. Those matters were raised by Mr Harley in his survey response during the 2015 performance review. Furthermore, Mr Stevenson only made the complaint to the LGSP on 13 July 2015, after the 2014 performance review was completed: Letter, R Murphy to G Stevenson, December 2015.

<sup>k</sup> Local Government Act 1995, s 5.78(1) was amended on 4 March 2016 (by the City of Perth Act 2016, Act No. 2 of 2016) to remove the need to disclose gifts and contributions to travel under sections 5.82 and 5.83 in the annual return.

<sup>l</sup> This is because giving false information relating to gifts and contributions to travel in an annual return is an offence punishable by two years imprisonment: Local Government Act 1995, s 5.89. Serious misconduct occurs if a "public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years imprisonment": Corruption, Crime and Misconduct Act 2003, s 3, 4(c).

74. The Inquiry considers that the evidence and comments mentioned above demonstrate that some council members either did not accept or did not properly appreciate Mr Stevenson's responsibilities and obligations. Those comments demonstrate they did not adequately assess Mr Stevenson's performance as CEO and were unfair to him, contrary to section 5.40(c) of the LG Act.

#### Outcome of 2014 performance review

75. On 2 October 2014, Mr Blades met with Mr Stevenson to discuss the results. Mr Blades noted that the council members' assessments of Mr Stevenson *"overall are very disappointing"*.<sup>67</sup>
76. In a written submission dated 5 October 2014, which he later presented to Council, Mr Stevenson outlined his concerns about the performance review in the following way:
- "The report is damning and is in my view perhaps defamatory. It appears to be founded almost on entirely subjective opinion and is not accompanied by objective evidence based assessment. If the report is intended to be the sole document arising from the 2014 Performance Review, it will grossly misrepresent my actual performance"*.<sup>68</sup>
77. The CEO Performance Review Committee met on 6 October 2014. Mr Stevenson and Mr Blades also attended.<sup>69</sup>
78. Mr Stevenson told the Inquiry that he made it clear to the Committee that the results of the survey were offensive to him. Mr Stevenson said the message he relayed was that it was not a fair or robust review, it did not reflect his broader role and broader performance and the comments of the councillors appeared to be subjective and *"perhaps not well informed"*.<sup>70</sup> Mr Stevenson noted that KPIs had not been established and recommended that he and the presiding member of the CEO Performance Review Committee prepare a draft performance agreement for the Committee to consider.<sup>71</sup>
79. In his evidence to the Inquiry, Mr Blades described the meeting as *"heated and stressful and pretty ugly"*. As a result of the meeting, Mr Blades formed the view that *"Gary would soon not with [sic] the CEO at the City of Perth"* and *"wasn't going to be there for the five year contract at that point. The relationship had broken down"*.<sup>72</sup>
80. The Committee received the performance review. After some consideration, a revised performance review was prepared. The revised review stated *"In accordance with his employment contract, a Performance Plan including objectives and measures will be developed and agreed within two months. This plan will form the basis of future performance reviews"*.<sup>73</sup>
81. The revised performance review was received by Council at its meeting on 28 October 2014 and a salary increase endorsed, both unanimously.<sup>74</sup>
82. By this time, Mr Stevenson had completed a second year as the City's CEO and another annual performance review was required.

### Quality of Mr Gary Stevenson's performance reviews: 2013, 2014

83. Ms Howells and Mr Blades gave evidence to the Inquiry on Mr Stevenson's 2013 and 2014 performance reviews.
84. Ms Howells informed the Inquiry she would expect a performance review to contain both qualitative and quantitative assessments, KPIs, key objectives and measurable elements. Ms Howells said that a good performance review contains KPIs or objectives that someone can be measured against, in addition to a list of competencies expected of the position.<sup>75</sup>
85. Ms Howells said that if any position in an organisation needed to have strong metrics against which performance can be measured it is that of the CEO, because the CEO is *"the leader of the organisation and the ultimate person accountable for delivering the strategy of the organisation"*.<sup>76</sup>
86. The 2013 and 2014 surveys set out expectations for six criteria (labelled *"Outcomes"*) against which Mr Stevenson's performance could be assessed. For example, the criterion *"Stakeholder Relationships"* in the 2013 and 2014 surveys stated:

#### ***"Outcome 6: Stakeholder Relationships"***

- *Stakeholder relationships have been developed built on trust and confidence*
- *The City's interests are promoted and represented in its relationships with the State and Commonwealth government agencies and local governments in the metropolitan area.*
- *The Lord Mayor and Councillors are assisted to ensure that the City's image in the city, country and internationally is consistent with its Vision and Strategic Objectives.*

*Note: Council sees this as a strategically important area for the City. Good quality stakeholder relationships are critical to the City successfully achieving its objectives. Stakeholders include the Council's Elected Members, the City's Directors, Managers and all staff, Federal and State Government Ministers, MP's, key members in the Federal and State bureaucracies, the Perth and WA business community, community groups within the City and ratepayers (where appropriate)".<sup>77</sup>*

87. Furthermore, the introduction to the 2013 survey suggested key documents which might be useful in reviewing Mr Stevenson's performance.
88. However, 19 out of the 25 criteria in the 2013 and 2014 surveys did not set out any expectations against which Mr Stevenson's performance could be measured.<sup>78</sup>
89. For example, the 2013 and 2014 surveys asked council members to assess Mr Stevenson's *"Strategic and business planning, including the ability to conceptualise and articulate a shared vision"* without any further detail or information.

90. Ms Howells said she would expect a performance review for a CEO to be more detailed and to assess the CEO's understanding of the organisation's goals and its five-year plans and the CEO's ability to articulate and address the organisation's challenges. Furthermore, as there were no quantitative measures against which Mr Stevenson's performance could be measured, Ms Howells considered the review was subjective and *"based on people's opinions, not facts"*. It meant the review did not allow for a fair assessment or an effective rating of Mr Stevenson's performance.<sup>79</sup>
91. Given that the 2014 survey was in the same terms as the 2013 survey,<sup>80</sup> Ms Howells's criticisms of the 2013 review apply equally to the 2014 review.
92. In his evidence before the Inquiry, Mr Blades agreed the outcomes in the 2013 survey, against which Mr Stevenson's performance was assessed, were too broad. There were no metrics which he could use in drafting the survey.
93. Mr Blades said that if there had been agreed KPIs between the Council and Mr Stevenson, he would have drafted the survey differently and *"would have reflected only the KPIs and nothing or little else"*, because that *"would be the right way to do it"*. Mr Blades agreed that if KPIs had been available, he may have been able to ask questions which elicited more objective responses.<sup>81</sup> Mr Blades said he *"made the best of the situation"* by drafting the survey so that Mr Stevenson's performance was rated against his position description.<sup>82</sup> The Inquiry accepts this evidence.
94. Mr Blades had serious concerns about the way some council members had assessed Mr Stevenson's performance. In the 2014 performance review, Mr Blades wrote under the heading *"Able to manage and work effectively with the Executive Director and Managers"*:
- "Some EMs have rated the CEO poorly against this competency though it should be noted that some by their own admission **do not actually know how well the CEO works with Executive Directors and Managers, they have still rated the CEO low**"*.<sup>83</sup>  
[emphasis added]
95. In a handwritten note made by Mr Blades during the 2014 performance review, Mr Blades was critical of some council members. He wrote:
- *Some EM's have rated you a D on all/almost all Outcome & competencies scores are invariably not supported with objective comments.*
  - *Your scores are in my view significantly impacted by:*
    - *Some EM's simply say they do not like you. Because of that they are simply not going to give you a good score or make a positive comment.*
    - *Some EM's actually don't understand what the CEO's job is. At least 2 clearly don't understand what their own job is.*
    - ...
    - *you are compared to Frank, they liked him – he did what they wanted him to do – whether that was right or not*.<sup>84, (m)</sup>
96. Mr Blades made similar comments in his evidence to the Inquiry.<sup>85</sup>

m It appears Mr Blades conveyed some or all of the contents of this note to Mr Stevenson in their meeting on 2 October 2014; Submission to CEO Performance Review Committee, 2014 CEO Performance Review, G Stevenson.

97. The Inquiry finds that the CEO Performance Review Committee failed to develop and set appropriate performance criteria for Mr Stevenson's performance to be assessed against in 2013 and 2014. This was the Committee's role under its terms of reference, and it should have been done at the commencement of Mr Stevenson's employment and following the conclusion of the 2013 performance review.
98. The Inquiry finds that this failure prejudiced Mr Blades's ability to carry out an effective review of Mr Stevenson's performance.
99. In relation to the 2013 and 2014 performance reviews, 19 of the 25 criteria contained no expectations against which Mr Stevenson's performance could be objectively measured, which in effect, invited council members to assess Mr Stevenson based on their subjective opinions. It increased the risk that council members would have regard to inappropriate considerations and would not pay proper regard to Mr Stevenson's functions and obligations.
100. The 2013 and 2014 performance reviews did not adequately assess Mr Stevenson's performance and were unfair to him, contrary to section 5.40(c) of the LG Act.
101. The Inquiry notes that there was no guidance for the Committee from the Department or Council about its function to agree annual performance objectives with the CEO, nor about conducting the performance assessment.

### Second annual performance review, 2015

102. In June 2015, Council decided not to use an external provider to conduct Mr Stevenson's next annual performance review. Instead, it was decided that Ms Davidson would conduct Mr Stevenson's performance review.<sup>86</sup> Although Mr Blades was independent, Ms Davidson felt she was an adequate substitute for Mr Blades and believed she had sufficient skills in the area to undertake the review herself.<sup>87</sup>
103. Mr Stevenson gave evidence to the Inquiry that he had agreed to this reluctantly. There was still no performance plan, nor any KPIs in place.<sup>88</sup> This was despite Mr Stevenson raising the lack of KPIs during his performance reviews in 2013 and again in 2014 and a plan to establish KPIs being an outcome of the 2014 performance review.
104. Mr Stevenson gave evidence that he had raised his KPIs with Ms Davidson after the 2014 performance agreement was completed and in early 2015 Ms Davidson had said words to the effect of "yes, I'll get to it".<sup>n</sup> Ms Davidson referred to an agreement between herself and Mr Stevenson to work on draft "Agreed KPI objectives and criteria" in an email to Ms Scaffidi and Mr Butler on 7 October 2014.<sup>89</sup> In her hearing before the Inquiry, Ms Davidson agreed it was important to have KPIs in place when conducting a review of a senior executive<sup>90</sup> and accepted that the Committee should have developed KPIs for Mr Stevenson. Nonetheless, Ms Davidson could not explain why this was not done.<sup>91</sup>

<sup>n</sup> Transcript, G Stevenson, private hearing, 28 February 2019, p 34. That is consistent with Mr Stevenson's submission to the CEO Performance Review Committee on the 2015 performance review where Mr Stevenson said "Despite my own endeavours to facilitate [the establishment of KPIs] in December 2014, January 2015, April 2015, May 2015 and June 2015, no action has been taken by the CEO Performance Review Committee to satisfy this contractual commitment": CEO Performance Review, G Stevenson, 30 November 2015.

105. The Inquiry finds that the CEO Performance Review Committee did not establish KPIs with Mr Stevenson for the 2015 assessment period.
106. Ms Davidson used the Lester Blades reviews as a guide and created her own survey. In June and August 2015, Ms Davidson sought comments from each council member and director.
107. Ms Davidson collated the responses and prepared a “*CEO Performance Review – 2015*” document for consideration. The final version was sent to Mr Stevenson on 3 November 2015.<sup>92</sup>
108. Again, for the third review, council members referred to Mr Stevenson’s propensity to talk to them about the CCC. Under the heading “*The quality of relationships with the Lord Mayor, Deputy Lord Mayor and Councillors*”, council members wrote:

**Ms Chen:** “*Not bad with me, not sure with others. But did not like threatened me once to refer to CCC*”.<sup>93</sup>

**Mr Harley:** “*He needs to have our back ... During a recent administrative matter he was threatening and unnecessarily dramatic. He seems to get a bit carried away at times. ‘The CCC’ thing is still real*”.<sup>94</sup>

**Ms Scaffidi:** “*We do not feel that Gary ‘has our back’ enough – if at all*”.<sup>95</sup>

109. Ms Chen gave evidence that she felt Mr Stevenson used the CCC as a threat, because “*he would say to us, if we ask him something in the future, whether, you know, I could do or someone else could do, he would say, ‘If someone does that, I would report them to CCC’*”. When Counsel Assisting put it to Ms Chen that it was not a threat but a statement of Mr Stevenson’s obligations, Ms Chen said “*Some people probably perceived that was a threat because never did – no CEO did before*”. Ms Chen gave evidence that Mr Stevenson did not mean to threaten council members, but that she felt threatened because of the way Mr Stevenson communicated. Ms Chen thought it was “*probably*” Mr Stevenson’s obligation and in his “*personal interest as a CEO*” to report matters to the CCC. Ms Chen agreed Mr Stevenson adhered to the City’s governance requirements except in relation to “*how he communicated*”.<sup>96</sup>
110. On her own evidence, Mr Stevenson did not threaten Ms Chen with the CCC. Rather, she felt threatened when Mr Stevenson raised his obligation to refer matters to the CCC.<sup>o</sup> That Ms Chen disliked Mr Stevenson doing so should not have been something she considered in assessing his performance.

<sup>o</sup> Whether Mr Stevenson made threats to council members in relation to the CCC is considered in further detail at paragraph 130-145 of this Section.

111. Mr Harley gave evidence that his comment about a *“recent administrative matter”* was about an incident where Mr Stevenson referred him to the LGSP in relation to his use of the City’s resources to print and send a newsletter to ratepayers. The LGSP found Mr Harley did not breach the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations).<sup>p</sup> Mr Harley believed the LGSP found there was no proper basis for the referral being made in the first place.<sup>97</sup>
112. However, Mr Harley agreed that it might be proper for a CEO to refer a complaint to the LGSP, even where the LGSP does not subsequently find the complaint to be made out. Mr Harley accepted it was the CEO’s responsibility to deal with complaints and report matters to the LGSP or other investigative bodies as he or she saw fit. Mr Harley also agreed that as the CEO, Mr Stevenson was better placed than him to assess matters and any referrals that needed to be made.<sup>98</sup> The Inquiry also notes that contrary to Mr Harley’s assertion, the LGSP did not find that Mr Stevenson’s referral was without a proper basis.
113. Ms Scaffidi admitted that her comment related to the CCC but also to *“a number of things in the context of the organisation”*. Ms Scaffidi said her comment *“was feedback from a number of Councillors”* who felt similarly. Ms Scaffidi denied that she meant Mr Stevenson was not protecting council members’ interests. However, when Counsel Assisting put to Ms Scaffidi that *“To have someone’s back is to protect them from harm, isn’t it?”*, Ms Scaffidi answered *“Well, protecting them from harm is also ensuring good governance”*.<sup>99</sup>
114. Ms Scaffidi stated it was *“Mr Stevenson and the Governance Team’s job to manage”* good governance and believed she used the phrase *“has our back”* *“in the context of [Mr Stevenson] helping us ensure that we were meeting our obligations adequately, systems being in place that weren’t in place and a more professional working relationship”*.<sup>100</sup>
115. The Inquiry accepts it was Mr Stevenson’s role to ensure that information and advice was available to council members on their obligations. However, it was not the CEO’s role to ensure that council members met their obligations or protect them from harm.
116. In Ms Davidson’s CEO performance appraisal response, when assessing Mr Stevenson’s *“Knowledge of legislative and corporate governance/compliance requirements”*, she said *“with regard to dealing with EMs, e.g., CCC, Fols [Freedom of Information requests] ... not well handled”*.<sup>101</sup>

<sup>p</sup> The Inquiry notes that the Panel found *“the Printer was made available for the use of councillors including Cr Harley”*, *“there was no policy document which prescribed the limits on an elected member’s use of the Printer”* and *“while councillors may have historically refrained from publishing their own newsletter and limiting their use of the Printer, it has not been established what the limits of such customs were or that Cr Harley was aware of such limits”*. That appears to have been critical to the Panel’s finding there was no breach of reg 8 by Mr Harley, because the Panel concluded *“while Cr Harley’s use of the Printer appears to have been excessive, that usage was not so excessive as take it beyond the implied authorisation given by the Council or the CEO by making the Printer available for the use of councillors”*; Reasons for Findings, LGSP, Complaint SP 41 of 2015.

117. In her evidence to the Inquiry, Ms Davidson said “*dealings with EMs*” in relation to the CCC was a reference to Mr Stevenson referring council members’ use of their travel entitlements to the CCC. Ms Davidson said Mr Stevenson discussed with her a trip she took to Melaka, Malaysia, which she had not declared on her annual return, and identified this as a matter for the CCC. Mr Stevenson suggested Ms Davidson amend her annual return to include this trip, but Ms Davidson did not agree this could be done. Mr Stevenson later reported this non-disclosure to the CCC and the Department.<sup>102</sup>
118. The fact that Ms Davidson disagreed with Mr Stevenson’s advice or believed that Mr Stevenson’s referrals to the CCC were not well-handled was not a proper basis for negatively assessing his performance. Mr Stevenson was required by law to report to the CCC any matter in which he reasonably suspected that a council member had failed to disclose a contribution to travel in their annual return.
119. For the reasons described above, some council members did not properly consider Mr Stevenson’s role and obligations as CEO when assessing his performance. These comments demonstrate that the assessment of Mr Stevenson’s performance was inadequate and unfair to Mr Stevenson, contrary to section 5.40(c) of the LG Act.

#### Quality of Mr Gary Stevenson’s performance review: 2015

120. The 2015 survey was unlike the 2013 and 2014 surveys designed by Mr Blades.<sup>103</sup> Unlike the 2013 and 2014 surveys, the 2015 survey did not set out any expectations against which Mr Stevenson’s performance could reasonably be assessed. Nor did it provide a rating scale or rating against each heading.<sup>104</sup> Unlike the 2013 survey, it did not suggest any key documents that may be useful in reviewing Mr Stevenson’s performance. The 2015 survey simply contained brief headings for respondents to provide comments on aspects of Mr Stevenson’s performance.<sup>105</sup>
121. Ms Howells gave evidence on the summary of the 2015 performance review and said none of the headings in the review were sufficient or helpful.<sup>106</sup> Ms Howells gave the example of the heading “*Handling of LGSR (Local Government Structural Reform)*”, which Ms Howells considered to be:
- “... asking, by the way this is written, for an opinion, not an assessment of capabilities, or ... a quantitative question regarding the expectations and the outcomes that were to be achieved by Mr Stevenson’s handling the Local Government Structural Reform”.*<sup>107</sup>
122. The responses received from council members and directors under this heading both praised and criticised Mr Stevenson’s performance and the amount of time he spent on local government reform. Most respondents provided little explanation of the basis for their views.<sup>108</sup>
123. Ms Howells considered what was collected through the surveys was “*subjective*”, “*verbatim comments*” and “*just a bunch of feedback that doesn’t actually provide anything that you can walk away with*”. In Ms Howells’s view, if the summary document was being used as a performance review it was “*grossly unfair because it’s in no way a review*”.<sup>109</sup>

124. Mr Harley, who completed the 2015 review survey, shared Ms Howells's view that the performance review process was entirely subjective:  
*"There were no objective measurements, so it wasn't a question of, has the City expanded its revenue or decreased its spending by X amount over X period, yes or no. The questions that we were asked to answer were all subjective, personal observations".*<sup>110</sup>
125. In her evidence before the Inquiry, Ms Davidson said, at the time of undertaking the performance review, *"we were looking for an open-ended comment"* and believed that was adequate. However, Ms Davidson accepted the review was not adequate, because it contained no ratings, no measures, no outcomes, no competencies and purely called for comment from the respondents.<sup>111</sup>
126. Ms Davidson accepted that KPIs were a fair measure of performance and would provide a degree of objectivity when reviewing a CEO's performance. She agreed that without KPIs, the process of reviewing performance becomes more difficult, less objective and less fair in terms of definitive measurement.<sup>112</sup>
127. The Inquiry's concerns around this approach are borne out by what appears under the criterion *"Developing and managing good working relationships with staff"*, where Ms Scaffidi commented, *"Not demonstrated. Directors I'm hearing unhappy but not able to speak up"*.<sup>113</sup> This comment does not appear to be consistent with directors' responses to that criterion in the performance survey. Of the four directors employed at the time of the 2015 performance review, two directors rated Mr Stevenson highly,<sup>114</sup> one director rated Mr Stevenson as *"OK"*<sup>115</sup> and the final director was critical of Mr Stevenson's performance in this respect.<sup>116</sup>
128. The Inquiry considers that its findings about the deficiencies in the 2013 and 2014 performance reviews at paragraph 97-101 apply with even greater force to the 2015 review. The 2015 review conducted by Ms Davidson was patently less robust than the 2013 and 2014 reviews. The lack of any clear expectations provided greater scope for council members to assess Mr Stevenson's performance based on their subjective opinions and using inappropriate considerations. It was not an adequate assessment of Mr Stevenson's performance and was unfair to him, contrary to section 5.40(c) of the LG Act.
129. The Inquiry also considers that, having determined to conduct the 2015 performance review process without professional independent guidance or assistance, the CEO Performance Review Committee would have benefited from guidance from the Department or the Council in 2015 about how to conduct a CEO performance review properly.

## Mr Gary Stevenson's approach

### Mr Gary Stevenson's leadership style

130. Mr Stevenson gave evidence to the Inquiry that:
- “... it was only a very small number of conversations that I had with Councillors about their obligations, my obligations for reporting to CCC, and that was more about counselling them on how to stay out of trouble, than it was a threat”.<sup>q</sup>*
131. Mr Stevenson considered that his approach to the CCC *“might be one of the things that were contributing to the view that I didn’t have their back, so to speak”*. He considered council members unfavourably compared the *“nature of the way the former CEO went about his business compared to mine”*.<sup>117</sup>
132. Mr Blades gave evidence to the Inquiry that *“what came out [of the Performance Review process was that] Elected Members did not like Gary’s style ... They didn’t like the way he communicated, they didn’t think he had a friendly, open, convivial style”*. In Mr Blades’s experience, Mr Stevenson and Mr Edwards were *“chalk and cheese”*. Mr Stevenson was *“conservative, very cautious in his communications, not one of the boys”*, whereas Mr Edwards was *“convivial, light-hearted, friendly, slap on the back kind of guy ... one of the boys”*.<sup>118</sup> Mr Blades also gave his opinion that Mr Edwards:
- “ran a very different ship to Gary Stevenson and frankly, I don’t think that would stand up to scrutiny in this day and age. I think Gary was tightening things up and things didn’t want to be tightened up”*.<sup>119</sup>
133. Mr Blades also gave his opinion, as an experienced recruiter of local government executives, that:
- “a wise Local Government CEO doesn’t become good friends with their Elected Member group ... Because one day they will be doing your Performance Review and/or one day they might be firing you and/or one day you might be reporting one of them to the CCC”*.<sup>120</sup>
134. It is clear the leadership style of Mr Stevenson differed from Mr Edwards, and not all council members adjusted to his different approach.<sup>121</sup> Although many of the council members agreed it was important for the City to have a CEO who was strong on governance,<sup>122</sup> they remained concerned about the way Mr Stevenson raised his reporting obligations with them.<sup>123</sup>
135. Mr Butler<sup>124</sup>, Ms Scaffidi<sup>125</sup> and Ms Chen<sup>126</sup> all told the Inquiry that Mr Stevenson had made threats in relation to the CCC. Mr Limnios agreed Mr Stevenson made veiled threats in relation to the CCC.<sup>127</sup>
136. From their evidence to the Inquiry, it appears the dissatisfaction of Ms Chen,<sup>128</sup> Mr Butler and Mr Limnios with Mr Stevenson’s approach to the CCC arose from his communication style and the differences between him and his predecessor, Mr Edwards.

q Transcript, G Stevenson, private hearing, 28 February 2019, p 14. The Inquiry notes this is broadly consistent with Mr Blades’s evidence as to what he was told by council members about Mr Stevenson’s conversation with them regarding the CCC: Paragraph 45 of this Section.

137. Mr Butler gave evidence of the “*totally different*” leadership style of Mr Stevenson compared to that of Mr Edwards:

*“Everybody thought Frank was terrific because he was everybody’s friend but when it came down to the really basics and the nitty-gritty of the Local Government Act and what should be done ... Frank wasn’t there but when Gary came in, Gary was Local Government Act focussed. In fact in the very first week that Gary Stevenson took over and at one of the meetings where one of the Councillors arced up a little bit, he said, ‘Look, that’s nearly a CCC thing.’ We had never heard that from Frank Edwards in 10 years, and I can tell you now, that at least three times a month we would hear from Gary the words CCC. That got up every Councillor’s nose because where he was coming from, it just wasn’t necessary ... So I think that put a lot of Councillors off-side to Gary Stevenson. So his role, focussed, straight down the line, no left, no right, and it was all purely Local Government Act.*

...

*[Mr Stevenson] was just totally focussed on Local Government, whereas Frank had a bit more flexibility about him, as long as you kept on the straight and narrow ... With Stevenson, it was a matter of, ‘Well, you can’t do that, I’ll have to report you to the CCC’ ”.*<sup>129</sup>

138. Mr Limnios gave evidence that he was used to Mr Edwards as CEO, “*who would very much be someone who would embrace us, would guide us, would help us understand and navigate the sensitivities through Administration and Elected Members and I didn’t feel that Gary was doing that*”.<sup>130</sup> Mr Limnios recalled a number of occasions where he had raised issues with Mr Stevenson:

*“and his only response seemed to be, in a very monotone voice, ‘Would you like me to send it to the CCC’ or he would say something else ... ‘Would you like me to call an external expert to do a full investigation of this particular matter’ ... I didn’t feel any connection or guidance from him and I didn’t think that every matter was a matter for the CCC”.*<sup>131</sup>

139. This evidence is consistent with negative comments made by Mr Limnios in the 2013,<sup>132</sup> 2014<sup>133</sup> and the 2015<sup>134</sup> performance reviews regarding Mr Stevenson’s leadership, his interactions with council members and the way he dealt with conduct issues compared to Mr Edwards.

140. Mr Harley,<sup>135</sup> Mr Adamos<sup>r</sup> and Ms McEvoy<sup>136</sup> each gave evidence that Mr Stevenson never threatened them in relation to the CCC. However, Mr Harley said that he felt Mr Stevenson was “*threatening and a bit dramatic*” when Mr Stevenson made the complaint to the LGSP. Mr Harley viewed this as an example of Mr Stevenson’s “*demeanour to kind of go 100 miles an hour at something*”.<sup>137</sup>

<sup>r</sup> Transcript, J Adamos, public hearing, 9 September 2019, p 3. Notably, Mr Adamos held that view despite Mr Stevenson telling him that he may need to report him to the CCC: Transcript, J Adamos, public hearing, 9 September 2019, p 2.

141. Having regard to all relevant evidence before it, the Inquiry is not satisfied there was anything inappropriate in Mr Stevenson's reporting to the CCC or his discussions with council members about his and their obligations. Rather, it appears council members were accustomed to and liked Mr Edwards's leadership style better and did not appreciate the manner in which Mr Stevenson raised certain conduct matters with them.
142. It is important that a CEO develop and maintain a good working relationship with Council and that Council have trust and confidence in its CEO. However, it is equally important for Council not to prevent its CEO from, or penalise the CEO for, exercising his or her statutory functions to report alleged or suspected misconduct or breaches of policy or legislation.
143. The content of Mr Stevenson's performance reviews leads the Inquiry to find that Mr Stevenson did not meet the Council's behavioural expectations of a CEO.
144. Apart from Ms Scaffidi<sup>138</sup> and Mr Harley<sup>139</sup>, it is unclear whether, and to what extent, council members considered these matters when they moved to terminate Mr Stevenson's employment. The lack of clarity arises, in part, because Mr Stevenson's performance was not adequately assessed against agreed KPIs and other objectively measurable performance outcomes.
145. Ensuring the CEO's performance is assessed against KPIs and other objectively measurable performance outcomes, using relevant and accurate information, is critical to holding the CEO accountable for his performance in the role and treating him fairly in any such assessment. It is also how the Council should be held accountable for the decisions it makes on the CEO's remuneration and employment.

#### **Mr Gary Stevenson's report to the Corruption and Crime Commission**

146. Between 4 and 10 October 2013, Ms Scaffidi and Mr Mileham, then Director of Planning and Development at the City, travelled to New York and attended a "*City Lab: Urban Solutions to Global Challenges*" conference put on by Bloomberg Philanthropies and the Aspen Institute.
147. The Aspen Institute paid for business class air fares and accommodation for Ms Scaffidi and Mr Mileham.
148. Ms Scaffidi did not disclose these contributions in her 2013/2014 annual return.<sup>140</sup> Mr Mileham disclosed them retrospectively on 11 June 2015.<sup>141</sup>
149. In March 2015, the Australian Federal Police referred some information to the CCC. The information related to Ms Scaffidi accepting an Olympic hospitality package from BHP Billiton Ltd in 2008.
150. On 17 April 2015, the CCC commenced an investigation into whether Ms Scaffidi had engaged in serious misconduct in relation to her acceptance and non-disclosure of gifts and travel contributions.

151. In July 2015, Mr Stevenson began an *“internal review of gifted travel”*.
152. On 26 August 2015, Mr Stevenson referred his *“Report on Gifted Travel”* to the CCC, as required by section 28 of the CCM Act.
153. In his covering letter, Mr Stevenson referred to discussions he had previously had with a CCC investigator. It is clear that his inquiries were known by the CCC and arose from the matters being investigated by the CCC at that time (Figure 2.13).<sup>142</sup>
154. Mr Stevenson’s report identified 12 matters, including three that related to council members and one relating to a director. Those matters were:
  - Ms Davidson, in relation to a contribution made to airfare and accommodation by the Melaka Historic City Council, when Ms Davidson attended a conference in Melaka, Malaysia in 2011/2012. The report stated this contribution had not been disclosed, but that it *“may be exempt (local government funded)”*.<sup>s</sup>
  - Mr Butler, in relation to a contribution made to airfare and accommodation by the Melaka Historic City Council, when Mr Butler attended a conference in Melaka, Malaysia in 2013/2014. The report stated this contribution had not been disclosed, but that it *“may be exempt (local government funded)”*.
  - Ms Scaffidi, in relation to a contribution made to flights and accommodation by Bloomberg Philanthropies, when attending a City Lab Event in New York in 2013/2014. The report stated this contribution had not been disclosed.
  - Mr Mileham, in relation to a contribution made to flights and accommodation by Bloomberg Philanthropies, when attending a City Lab Event in New York in 2013/2014. The report stated this contribution had been disclosed *“retrospectively”*.<sup>143</sup>
155. On 5 October 2015, the CCC issued its *“Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth”*. The report found that Ms Scaffidi had, in 2008 and 2009, engaged in serious misconduct in failing to disclose gifts and travel in relation to three instances of hospitality provided by different companies. The most serious of these involved an all-expenses paid trip to the Summer Olympic Games in Beijing.
156. The CCC report included a list of other travel taken by Ms Scaffidi for which she did not declare a contribution. This included the trip to New York.
157. On 6 October 2015, Ms Scaffidi sent a lengthy WhatsApp message to Mr Limnios, which opened with *“Dear Jim, Rob, Lily & Janet and James, Keith and Judy”*. Towards the end of the communication in a post-script, Ms Scaffidi wrote *“... there is a lot more about who referred me to the CCC which I’m very keen to share ...”*.<sup>144</sup> Ms Scaffidi sent an email, with the same content as the WhatsApp message, from her personal email account to the personal email accounts of Mr Adamos, Mr Butler, Ms Chen, Ms Davidson, Mr Limnios, Mr Yong and Ms McEvoy.<sup>145</sup>

<sup>s</sup> Council Members were not required to disclose financial contributions to travel if the contribution was made from *“local government funds”*: *Local Government Act 1995*, s 5.83(2)(a).

Chief Executive Officer

**CONFIDENTIAL**



26 August 2015

The Commissioner  
Corruption and Crime Commission  
PO BOX 7667, Cloisters Square  
PERTH WA 6850

Dear Commissioner

**RE: GIFTED TRAVEL**

Further to ongoing responses to the investigation into the Lord Mayor, Lisa Scaffidi's gifted travel by BHP Billiton in 2008 and as discussed with your investigator Mr Ben Smith several weeks ago, please find attached preliminary draft report on other gifted travel by officers/members of the City of Perth in the last few years.

I seek your advice regarding the circumstances outlined in each of the instances and whether or not their investigation may be warranted.

I appreciate that those instances pertaining to officers may be subject to jurisdiction of the Public Sector Commissioner but for the sake of completeness, the entire range of instances is included for your information.

I will await your further advice.

Yours sincerely

  
 GARY STEVENSON PSM  
 CHIEF EXECUTIVE OFFICER

cc: Ben Smith, CCC

Atts

*Council House*  
 27 St George's Terrace, Perth  
 GPO Box C126, Perth, Western Australia 6839  
 Telephone (08) 9461 3269 - Facsimile (08) 9461 3006  
 Web Site Address - <http://www.cityofperth.wa.gov.au>

Figure 2.13: Letter from Mr Gary Stevenson, Chief Executive Officer, City of Perth, to Commissioner, Crime and Corruption Commission, Gifted Travel, 26 August 2015.

158. The recipients told the Inquiry that either Ms Scaffidi did not tell them who had referred her to the CCC or that they could not recall Ms Scaffidi telling them.<sup>146</sup> However, Ms Scaffidi gave evidence that Mr Stevenson told her he had reported her to the CCC. Ms Scaffidi said this was before the CCC approached her and before 6 October 2015.<sup>147</sup>
159. On 10 and 11 October 2015, there were several email exchanges between Ms Scaffidi and Mr Stevenson. They centred around media articles in the weekend newspapers and a draft response to the media enquiries.
160. In one email exchange between Mr Stevenson and Ms Scaffidi they had the following conversation:
- Mr Stevenson:** *"It will be cumbersome to send the journalist a third version ..."*
- 
- Ms Scaffidi:** *"... Cumbersome v truthful".*
- 
- Mr Stevenson:** *"Nothing I have said is not truthful.  
The questions from the journalist were about any non-disclosed travel found by the internal review. I have answered those questions ..."*
- 
- Ms Scaffidi:** *"Didn't say that Gary  
I'd say it's more of a case of convenience!  
But I'm noting it all and all will be sorted soon".<sup>148</sup>*
161. Mr Stevenson gave evidence he was concerned by this email, because he had been told by a number of people, including the City's media advisor, that Ms Scaffidi had said she was intending to "roll" Mr Stevenson after the election, or had used words to that effect.<sup>149</sup>
162. Ms Scaffidi was asked whether she was planning to dismiss Mr Stevenson after the October 2015 election. She said, *"That was the conjecture and the answer is, no".<sup>150</sup>*
163. It is clear that by October 2015 the relationship between Mr Stevenson and Ms Scaffidi was deteriorating. According to Mr Stevenson, by this stage the relationship between he and Ms Scaffidi was "toxic" and "at a very, very low ebb".<sup>151</sup> Ms Scaffidi described it as "unpleasant".<sup>152</sup>
164. On 10 October 2015, in a separate email thread, Ms Scaffidi wrote to Mr Stevenson:
- "It would be most unfortunate for the City if the investigation was reopened because of the selective provision of information to the press or CCC.  
Please urgently provide us with details of this external review you have commissioned, including the authority to undertake the review, and outline when it commences and who is doing it please?"<sup>153</sup>*

165. The following day, 11 October 2015, Mr Stevenson replied saying:

*"In late August I referred the results of the internal review to the CCC as I am obliged to do under sec 28 of the Corruption Crime and Misconduct Act. I have not yet received a reply so I understand that the matter is under ongoing assessment by that authority. As such I am not at liberty to disclose details. It should be noted however that I discussed the potential non-disclosures with each of the relevant Officers and Elected Members some months ago and provided advice to them at that time".*<sup>154</sup>

166. In her evidence to the Inquiry, Ms Scaffidi recalled that Mr Stevenson discussed her accommodation and travel in New York with her some months before 11 October 2015, with Mr Mileham present.<sup>155</sup>

167. Ms Scaffidi replied to Mr Stevenson:

*"My lawyers advise there is nothing preventing you providing the Council immediately with the results of the internal review. Please do so immediately. In order for you to have referred it under s.28 of the CCM Act, I understand that you had to have reasonable grounds to suspect misconduct, otherwise the referral will be considered vexatious.*

*Please provide us immediately with the basis for the referral of the internal review and any advice you may have received on the matter.*

...

*I am instructing my lawyers to write in these terms to the CCC tomorrow, and obtain clarification on the publication of apparently preliminary findings".*<sup>156</sup>

168. Mr Stevenson replied:

*"This matter is in the hands of the CCC. I will seek advice from that authority as to your request for me to release details of potential non-disclosures identified in the review.*

*However, you should be aware of the potential non-disclosures by Elected Members identified in the review as we have discussed them previously.*

...

*These are complicated and difficult circumstances and it is my earnest advice to you and all others to respect due statutory processes, for the sake of those who will deserve natural justice and procedural fairness if their own actions are subject to judicial or other scrutiny in the future".*<sup>157</sup>

169. In the circumstances, Mr Stevenson's reply was entirely appropriate.

170. On 14 October 2015, the Department directed Mr Stevenson to provide it with copies of the documents he had referred to the CCC. Mr Stevenson did so.<sup>158</sup>

### October 2015 elections and the creation of a “Team” WhatsApp group

171. Local government ordinary elections were held on 17 October 2015. Ms Scaffidi was returned to office as Lord Mayor. Dr Green was elected to Council. Mr Butler was not re-elected.
172. On 22 October 2015, Ms Scaffidi created a team WhatsApp group consisting of Mr Limnios, Mr Yong, Ms McEvoy, Ms Davidson, Ms Chen and Mr Adamos.
173. Dr Green and Mr Harley were excluded.<sup>159</sup>
174. Ms Scaffidi’s first team WhatsApp group message read:

**Ms Scaffidi**



*“Hey everyone. This is for mass communication. Use instead of text for all of us”.<sup>160</sup>*

175. On 29 October 2015, Ms Scaffidi exchanged messages in the team chat with other council members. In one exchange she said, *“They are the left-wing opposition Green bloody Unionists at that”*.<sup>161</sup> In her evidence before the Inquiry, Ms Scaffidi agreed that this was a reference to Dr Green and Mr Harley.<sup>162</sup>
176. In another message, Ms Scaffidi wrote:

**Ms Scaffidi**



*“We are a team  
All or nothing  
7 musketeers  
No new members  
No lone coffee dates  
If you are part of a footy team  
does the new member invite you  
to coffee  
No you just hang around and  
watch the older guys and listen  
and learn for a while  
That’s how it is  
Really clocking off now”.<sup>163</sup>*

177. The establishment of the team WhatsApp chat group, and these messages, show that shortly after the 2015 elections there was a clear division between Mr Harley and Dr Green and the rest of Council, and that was something Ms Scaffidi was willing to perpetuate.

### Aftermath of the second annual performance review

178. On 22 October 2015, at a Special Council Meeting following the ordinary local government election, Mr Limnios was elected as Deputy Lord Mayor and the CEO Performance Review Committee was reformed.
179. There were five nominations for the Committee. A vote was taken and its membership was confirmed as Ms Scaffidi, Ms Davidson and Mr Limnios, with Dr Green as first deputy and Ms McEvoy as second deputy.<sup>164</sup> Its terms of reference were to:
- “1. Undertake an annual review of the performance of the Chief Executive Officer as required by Section 5.38 of the Local Government Act 1995;*
  - 2. Establish annual performance objectives for the Chief Executive Officer;*
  - 3. Report the outcome of the review referred to in part 1 above to Council.”<sup>165</sup>*
180. On 30 November 2015, as part of his 2015 performance review process, Mr Stevenson sent an email to Ms Davidson, attaching his submission to the CEO Performance Review Committee.<sup>166</sup> In responding to the comments in the review about his relationships with council members, Mr Stevenson wrote:
- “Reference to CCC is very concerning, and indicates that some still do not acknowledge the statutory obligations of a CEO.*
- The term ‘have our backs’ is mentioned frequently. It is apparent that the majority of EM’s have expectations of me that either I do not understand, or am not able to meet”.*
181. Later in his submission Mr Stevenson addressed the future and wrote:
- “I look back on 2014/15 as a year of great reform and achievement. Dedicated Capital City legislation, major organisation structure reform and long-awaited boundary expansion are all achievements that City of Perth has wanted and needed for many years. My role in achieving these outcomes was instrumental.*
- Yet from the 2015 Review, I conclude that there is an unavoidable reality that almost all Elected Members do not like my personality or my leadership and communications style. I conclude that I do not meet expectations of the majority of Elected Members. I conclude that this is consistent with the 2014 Review.*
- ...
- It is my view that there are just two options to move forward, as clearly it is not acceptable to allow this situation to continue.*
- Option 1 – Council Terminates my Employment Contract*
- Council could elect to terminate my contract of employment under Clause 8.5 (Termination by the City; Any Reason). It can do so for any reason and at any time by giving notice (any notice period at its choice up to three months). If Council elects to do so it is obliged to pay compensation to me of twelve months’ remuneration.*

Option 2 – Council and Myself Confirm Commitment to Ongoing Collaboration

*By jointly agreeing to commit to a mutually negotiated Performance Agreement (as is required by Contract) and by both parties accepting that they have a shared responsibility to make necessary improvements, the difficult situation could be turned around.*

*At this time due to my commitment to fully implementing structural and other organisational development initiatives and in consideration of my family commitments, I am not seeking alternative employment, hence I do not intend to terminate the Employment contract under clause 8.4 (Termination by Officer; Any Reason).*

*Council does not have the grounds to terminate the Employment Contract under Clause 8.2 (Termination by the City; Officers Default), and any attempt by Council to do so would be vigorously defended.*

*It is clearly my preference that Council opts for Option 2, and that all energy is focussed on ensuring a constructive outlook for 2016 which will see the bedding in of the new organisational structure, boundary changes in Crawley, the commencement of the Capital City Committee and many other positive milestones.*

*If this is also Council's preference, I propose that a Performance Agreement should be negotiated as a matter of priority and that discussion is facilitated to resolve the various issues of concern. This Agreement should articulate Council's strategic and operational priorities along with the objective and achievable performance measures that will be the basis of future performance reviews.*

*It should be understood and agreed however that fundamentally I cannot change my personality and that my leadership and communication style is not something that can be adjusted significantly or easily.*

*If however, it is Council's preference to terminate my Employment Contract in accordance with Clause 8.5 (Termination by City; Any Reason), then I will respect that decision and I will work constructively with Council to ensure that such transition can be implemented in a respectful and efficient manner that minimises impact on the organisation and maintains its reputation".<sup>167</sup>*

**Ms Lisa Scaffidi requests Mr Gary Stevenson's "Report on Gifted Travel"**

182. Also, on 30 November 2015, a lawyer from Squire Patton Boggs, acting on behalf of Ms Scaffidi, emailed Mr Stevenson regarding the "Report on Gifted Travel" he had provided to the CCC. Her lawyer wrote:

*"I refer to the below email to my client, advising that the results of an internal investigation were referred by you to the CCC. Please immediately provide us with a copy of that same information, together with any relevant correspondence between the City and the CCC, and in any event, by close of business today".<sup>168</sup>*

183. McLeods Barristers and Solicitors were engaged to act on behalf of the City. They corresponded with Squire Patton Boggs on the request.<sup>169</sup>

### Mr Gary Stevenson meets with the Chief Executive Officer Performance Review Committee

184. On 30 November 2015 and after providing the CEO Performance Review Committee with his submission, Mr Stevenson met with Ms Scaffidi, Ms Davidson and Mr Limnios to discuss the future. Mr Stevenson made a contemporaneous note of what was discussed.<sup>170</sup>
185. Mr Stevenson said that Mr Limnios told him that he needed to communicate like Mr Edwards did and relayed a story where Mr Limnios had complemented Mr Edwards on a pair of cufflinks. Mr Limnios said *“Now, that CEO within a week came down to my office and presented me with a pair of those cufflinks. That’s the sort of communication that we like”*. Mr Stevenson was *“shocked by that sort of comment”* during a CEO performance review.<sup>171</sup>
186. Mr Stevenson recorded that Ms Scaffidi advised him he was not accessible or responsive in briefings and was not socially networking.
187. Mr Stevenson recorded Mr Limnios raising *“the veilled [sic] threat of CCC”* and stating *“a lot of EM’s have pulled back and do business because of CCC threat”*. Mr Stevenson recorded Ms Scaffidi saying *“don’t feel you have our back”* after Mr Limnios’s remarks.<sup>172</sup>
188. Mr Limnios and Ms Scaffidi also spoke to Mr Stevenson about a lack of respect from staff to council members, by them not saying *“hello”* and not calling council members by their titles and the gift register not having been updated in three years and the *“staff dress code falling on deaf ears”*.
189. Mr Stevenson described this meeting as a *“barrage”*. He said he *“couldn’t get a word in”*, although *“Throughout I endeavoured to speak to my submission”*.<sup>173</sup>
190. Mr Stevenson did not think he had been given a fair and proper opportunity to respond to these concerns about his performance and thought the purpose of the meeting was *“to dress me down, in colloquial terms, and ... to leave me with no doubt that there was dissatisfaction with my performance”*.<sup>174</sup>
191. Ms Scaffidi did not recall this meeting. Ms Scaffidi said she had raised the staff dress code with Mr Stevenson in one-on-one meetings, but did not recall if she had raised it with Mr Stevenson on this occasion.<sup>175</sup>
192. Mr Limnios did not remember the meeting or whether he raised the example of the gift of cufflinks. When asked if Mr Edwards gave him a pair of cufflinks, Mr Limnios said that he thought he may have in the early stages of being elected, but he could not clearly remember.<sup>176</sup>
193. The Inquiry accepts the evidence of Mr Stevenson, who presented as a witness of truth and whose evidence was corroborated by his contemporaneous note.

194. It was inappropriate, for reasons previously described, for Mr Limnios to criticise Mr Stevenson for using “*veilled [sic] threats*” in relation to the CCC and for Ms Scaffidi to criticise Mr Stevenson for “*not having our back*”. Other matters raised by Mr Limnios and Ms Scaffidi during the meeting (for example, staff members greeting and addressing council members by their titles and dress standards at the City) were trivial issues which should not have been given the significance they got.
195. The Inquiry considers these comments by Mr Limnios and Ms Scaffidi demonstrated a failure to properly understand Mr Stevenson’s role as the CEO.

### Way forward

196. When Mr Stevenson left the meeting on 30 November 2015, he believed it was most likely the CEO Performance Review Committee would choose “*Option 1*” and terminate his contract,<sup>177</sup> notwithstanding his preference for “*Option 2*”.
197. On the evening of 30 November 2015, Mr Stevenson sent an email to Ms Davidson, as presiding member of the Committee, expressing his preference for “*Option 2*” to be pursued, although he did “*not hold high hopes for that option following ... discussion at our meeting this afternoon*”. Mr Stevenson asked Ms Davidson for a “*very quick process of decision making*” for personal reasons.
198. In the same email, Mr Stevenson also set out a comprehensive plan should “*Option 1*” be chosen. Mr Stevenson proposed that the CEO Performance Review Committee meet “*tomorrow*”, following which Ms Davidson would then advise him “*immediately after that meeting and I would then work constructively with you to prepare a confidential report for Council’s consideration*”. A confidential Special Council Meeting could be convened for 3 December 2015 “*to terminate my contract in accordance with Clause 8.5*”. Mr Stevenson would then go on leave and on his return, he would constructively contribute to a transition until the date of termination.<sup>178</sup>
199. On 2 December 2015, Mr Stevenson called Ms Davidson to discuss his 30 November 2015 email.<sup>179</sup> He made a note immediately after the telephone call.
200. In his note, Mr Stevenson recorded:

*“I called JD to discuss my email of 30/11 (Option 1)  
She advised that Option 1 was **not** being considered”.*<sup>180</sup> [emphasis added]
201. As he was told “*Option 1*” was not being considered, Mr Stevenson booked a trip overseas for family reasons.<sup>181</sup>
202. Ms Davidson could not recall this conversation.<sup>182</sup> Mr Stevenson recalled the details of his conversation without the benefit of his notes.<sup>183</sup> The Inquiry accepts Mr Stevenson’s evidence and finds that on 2 December 2015, Ms Davidson spoke to Mr Stevenson and told him “*Option 1 was not being considered*”.

203. It appears that, despite Ms Davidson's comment, as at 2 December 2015 the members of the CEO Performance Review Committee were considering "Option 1". By this stage, rumours had been circulating that Ms Scaffidi wanted to "roll" him, and their relationship had deteriorated.<sup>184</sup> It seems likely that the CEO Performance Review Committee would be considering the termination of his contract of employment, especially in light of the fact that it had first been suggested only two days previously, and because of what happened on 3 and 4 December 2015.
204. The following day, 3 December 2015, Ms Scaffidi emailed Ms Davidson and said:
- "I think we tell Gary at tomorrow's meeting that we will be getting legal advice on his proposed option 1. You will be speaking to a lawyer while he is on leave and will talk to Gary about that process when he returns from leave".*<sup>185</sup>
205. On 4 December 2015, Mr Stevenson met with the members of the CEO Performance Review Committee. There was discussion about the performance review being reported to Council, although Mr Stevenson said there was "no clarity about their position".<sup>186</sup> Neither Ms Scaffidi,<sup>187</sup> nor Ms Davidson could recall the meeting.<sup>188</sup> Mr Limnios could not remember if he had spoken to any council members before 15 January 2016 about Mr Stevenson moving on,<sup>189</sup> nor whether he had spoken to Mr Stevenson about "Option 1" before 19 January 2016.<sup>190</sup>
206. On the evidence before the Inquiry, and in light of what eventually transpired, the Inquiry accepts Mr Stevenson's evidence that there was "no clarity" from the CEO Performance Review Committee about their position at the meeting on 4 December 2015.
207. If as at 2 December 2015, Ms Davidson was considering terminating Mr Stevenson's employment, or knew that Mr Limnios and/or Ms Scaffidi was considering terminating Mr Stevenson's employment, then it would have been dishonest for Ms Davidson to tell Mr Stevenson that "Option 1" was not being considered. That conduct would not be consistent with regulations 3(1)(b) and 3(1)(g) of the Conduct Regulations.
208. From 11 December to 28 December 2015, Mr Stevenson was on leave.
209. Nothing occurred in relation to Mr Stevenson's potential termination while he was on leave and there is no evidence to suggest Mr Stevenson had changed his mind about pursuing "Option 2" during this period.
210. Messages in the team WhatsApp group chat indicate that on 14 December 2015 council members had a meeting and discussed Mr Stevenson, but there is no evidence before the Inquiry about what was discussed, other than Mr Harley saying he would be "happy to see the back of the bastard [Mr Stevenson]".<sup>191</sup>
211. While Mr Stevenson was on leave, legal advisors for Ms Scaffidi and the City continued to correspond regarding release of Mr Stevenson's "Report on Gifted Travel".

On 4 December 2015, Squire Patton Boggs wrote to McLeods Barristers and Solicitors and requested:

- “a) the results of the internal review by the City, which were provided to the [Corruption and Crime] Commission; and*
- b) any further correspondence between the City and the Commission in relation to this matter ...”*<sup>192</sup>

212. On 17 December 2015, McLeods Barristers and Solicitors wrote to Squire Patton Boggs, stating:

*“I have been advised the CEO was unable to obtain responses from the Corruption and Crime Commission and the Department of Local Government and Communities prior to going on leave ... he will be pursuing the matter on his return to work on 28 December 2015”*.<sup>193</sup>

213. From 24 December 2015 until 18 January 2016, Ms Scaffidi was on a leave of absence.<sup>194</sup>

#### Discussions about Heirisson Island

214. While Ms Scaffidi was on a leave of absence, Mr Stevenson was involved in attempting to resolve a situation on Heirisson Island in which an exclusion zone was required for pyrotechnics (fireworks) on Australia Day. There were a number of people camped on the island as a protest. Ms Scaffidi emailed Mr Stevenson on 9 January 2016 stating *“Heard nothing more re meetings & discussions you had on Heirisson Island. What’s the game plan please? Is clearance of the exclusion zone proposed soon?”*<sup>195</sup>

215. Mr Stevenson replied, setting out a summary of the situation and the City’s plan. He made the following point, *“Note however that for once it won’t be City of Perth doing it, it would be WA Police and DMP [Department of Mines and Petroleum]. Hence timing is not under our control”*.<sup>196</sup>

216. Ms Scaffidi appears to have used this situation as an opportunity to criticise Mr Stevenson. She replied at 11.15 am the following day, 10 January 2016, copying in Ms Davidson, Mr Limnios and Ms McEvoy. She said they all felt that:

*“In particular you are acting very much off your own views from your ongoing discussions and have only updated me when I seek an update. Rather, we should be simply decamping from particularly the fireworks exclusion zone which you indicated has full Police support anyway ...*

*Proceed asap with decamping of (at least) the fire exclusion zone & please refrain from doing any brokering on behalf of the State Govt”*.<sup>197</sup>

217. Ms Scaffidi seemed to have missed, or ignored, the point made by Mr Stevenson that *“it won’t be City of Perth doing it, it would be WA Police and DMP. Hence timing is not under our control”*.

218. At 12.13 pm, Mr Stevenson replied, inviting the recipients of the email to call him to discuss the matter if they would like to do so.<sup>198</sup>

219. In a WhatsApp message to Mr Limnios at 12.15 pm, Ms Scaffidi wrote:

**Ms Scaffidi**



*"Trying to strike us one at a time now. He is a snake  
He should do what we say  
not what he thinks".<sup>199</sup>*

220. Ms McEvoy responded to Mr Stevenson's email at 12.42 pm, referring to a previous discussion in which she had suggested to him, on the second day the camp had been on Heirisson island, to remove them within 48 hours or *"they will be there forever!! (That is maybe 3 months ago) ... Maybe you need to listen to EM's a bit more"*.<sup>200</sup>

221. Mr Stevenson responded at 1.02 pm, thanking Ms McEvoy, and reminding her the City had:

*"... conducted nine forced de-camping exercises, confiscated 122 tents and over 500 other items of camping equipment, closed the toilets and the carpark, spent over \$120,000 (manpower and other costs but not including WA Police), moved through three iterations of the camp, defended legal challenges in the SAT, the Magistrates Court and the Equal Opportunity Commission, tried to place homeless in State housing and yet the camp remains. More of the same is unlikely to achieve a different result as our powers are limited and we need a game-changer which I have been advocating for several months and will be pleased to discuss. But I will also be pleased to discuss any new ideas that can be tried.*

*However as I have previously stated we will secure the compound area for the Australia Day pyrotechnics within the next week and we have plans for further exercises on the other side of the island which is complicated by legal processes but we are working though [sic] them".<sup>201</sup>*

222. At 1.10 pm, 10 January 2016, eight minutes after Mr Stevenson's email, Ms Scaffidi sent a WhatsApp message to Mr Limnios, which read:

**Ms Scaffidi**



*"Sed [sic] his reply & justification  
'we need a game-changer which I  
have been advocating for several  
months ...'  
I have been advocating  
It's not up to him to advocate –  
that's the point he doesn't get".<sup>202</sup>*

At 1.44 pm, Mr Limnios replied:

**Mr Limnios**



*"The time is now close ...".*<sup>203</sup>

223. These email exchanges suggest that Ms Scaffidi, Ms McEvoy and Mr Limnios were looking for opportunities to criticise Mr Stevenson and misunderstood what he was telling them. It seems that by this date, 10 January 2016, there was a sustained level of dissatisfaction with Mr Stevenson's performance as CEO.

#### **Mr Gary Stevenson speaks to Ms Janet Davidson**

224. On 13 January 2016, Mr Stevenson called Ms Davidson to offer his assistance in drafting a revised version of his performance review to take to Council. At this stage, Mr Stevenson assumed *"option 2 was on the table and that that was being pursued"*. According to Mr Stevenson, Ms Davidson said something to the effect of *"leave it with me"*. Mr Stevenson assumed that their next meeting would *"set that path of reconciliation or rebuild"*.<sup>204</sup>
225. Ms Davidson could not recall the telephone conversation, but said *"I would not have proffered Option 1 or 2 in a telephone conversation ... It was not my call to do so"*.<sup>205</sup> Accordingly, and having regard to the evidence as a whole, the Inquiry finds that, as at 13 January 2016, the Council and Mr Stevenson had not agreed on *"Option 1"*.
226. From this date until Mr Stevenson was told on 20 January 2016 that his employment was terminated, there was no correspondence between Mr Stevenson and any council members concerning the potential termination of his employment.

#### **Whether Mr Gary Stevenson's employment was terminated because he reported Ms Lisa Scaffidi to the Corruption and Crime Commission**

227. On 14 January 2016, Mr Stevenson provided Ms Scaffidi with an envelope containing a copy of his *"Report on Gifted Travel"* and some related CCC correspondence.<sup>206</sup>
228. Mr Stevenson's report included information about a gift of travel to New York and accommodation which Ms Scaffidi had received in 2013 and had not disclosed.<sup>207</sup> The CCC report dated 5 October 2015 had made a general critical comment about her failure to disclose gifts, including this matter.
229. At 3.07 pm on 14 January 2016, Ms Scaffidi emailed Mr Mark Cox, a Director of the law firm MDC Legal, using her personal email address and copied the email to Ms Davidson's personal email address. Her email was about the termination of Mr Stevenson's employment. It said, *"we intend for termination to occur at 2pm Mon afternoon"*, and *"We need assurance ... that we can 'send him off' that afternoon"*.<sup>208</sup>

230. Mr Cox replied at 4.13 pm. He thanked Ms Scaffidi for her email and referred to a possible meeting on Monday at 9.00 am. Ms Scaffidi replied at 5.27 pm, confirming the City was the client and asking Mr Cox to send a retainer letter to Ms Davidson, as chair of the “*Employment Cte*”.<sup>209</sup> The retainer letter was sent to Ms Davidson and she became the contact person for following up payment.<sup>210</sup>
231. The Council or the CEO of the City was required to authorise the use of funds before Ms Scaffidi and Ms Davidson could engage solicitors and incur legal costs on the City’s behalf. There is no evidence before the Inquiry that authorisation was obtained. In doing so, Ms Scaffidi and Ms Davidson may have contravened regulation 8(b) of the Conduct Regulations.
232. At 5.37 pm that day, Ms Scaffidi emailed Mr Stevenson advising him she was “*in receipt this evening of the documents (various letters CCC/you from 2015)*”. Ms Scaffidi asked Mr Stevenson to explain “*Why have you sent this to me under private / confidential cover today with no explanatory note now, when it was requested for last year by my lawyers in writing and you refused to provide and confirmed so in writing?*”<sup>211</sup>
233. The evidence before the Inquiry indicates that the report was in an envelope marked “*private/confidential*” and was left by a member of Mr Stevenson’s staff in Ms Scaffidi’s office while she was not there. The exact time it was left is not known by the Inquiry, but it was before 5.37 pm.
234. It is not clear whether Ms Scaffidi sought advice from MDC Legal regarding the termination of Mr Stevenson’s contract of employment before or after she viewed the documents that Mr Stevenson had provided to her.
235. Ms Scaffidi was examined in detail on that issue, but her evidence was not clear. At first, Ms Scaffidi said she “*did not see the envelope on [her] desk until very late in the day*” and was “*fairly certain*” she had seen it after 5.00 pm, believing it to be after she had sent Mr Cox her 3.07 pm email. Ms Scaffidi said she would have emailed Mr Stevenson as soon as she saw it. However, Ms Scaffidi also said she was unsure whether or not she looked at the material before she corresponded with Mr Cox.<sup>212</sup>
236. In considering the sequence of events on 14 January 2016, it is possible that Ms Scaffidi received the documents from Mr Stevenson, in which he reported her (and Ms Davidson) to the CCC, read them, decided that Mr Stevenson’s employment should be terminated and then wrote to MDC Legal for advice on doing this. It was clear that when she wrote to MDC Legal, she already had a short timeframe for Mr Stevenson’s termination of employment in mind.
237. On that basis, it may have been that Mr Stevenson’s report to the CCC was the reason or the catalyst for Ms Scaffidi to arrange the termination of his employment.
238. However, because the sequence of events on 14 January 2016 remains unclear, the Inquiry is not prepared to make a finding about whether there was any connection between Ms Scaffidi reading the documents and her decision to take steps to terminate Mr Stevenson’s employment.

239. Mr Stevenson replied the following day to Ms Scaffidi's 5.37 pm email, stating that he had not been able to provide the documents while they were before the CCC. The matters had been subsequently referred to the Department and the Department had advised him while he was on leave that they had no objection to the documents being released. He then waited for Ms Scaffidi to return from her leave of absence and left the documents for her.<sup>213</sup>
240. Later, on 15 January 2016, Ms Scaffidi arranged a meeting with Ms Davidson, Mr Limnios and Ms McEvoy.<sup>214</sup> According to Ms Scaffidi, it was agreed at that meeting they would accept Mr Stevenson's offer of "Option 1", termination of his contract.<sup>215</sup>
241. Mr Limnios made a contemporaneous note of the meeting,<sup>216</sup> which recorded:
- "Elected members: agreed on option 1*
- ...
- Step 1 Sun. 17th Jan.*
- J.D. to email G.S. to meet with us Mon. 18th. Jan @ 2pm LM. Office.*
- 2) Advise [sic] to Gary of outcome of discn of EM's all agreed accept your option 1 offer effective immediately".<sup>217</sup>*
242. Ms Scaffidi told the Inquiry that, following the meeting on 15 January 2016, other council members were called and gave their agreement to proceed with "Option 1".<sup>218</sup>
243. On the evening of Sunday, 17 January 2016, Ms Davidson attempted to arrange a meeting with Mr Stevenson in the Lord Mayor's office for the next day, Monday 18 January 2016, "to complete our discussions from the previous meeting". Mr Stevenson said he had commitments at that time and could not meet, noting that less than 24 hours notice was being provided. Accordingly, the meeting was set for 8.30 am on 20 January 2016. Mr Stevenson said, "OK but I have a meeting that I chair commencing at 9.30 so will need to leave before that".<sup>219</sup> Mr Stevenson appeared to have no idea what was coming.
244. On 18 January 2016, Mr Limnios and Ms Scaffidi exchanged WhatsApp messages:

Mr Limnios



"Are we still needing to meet at 9,30 due to Gary comments

Ms Scaffidi



Definitely meeting required  
See you at my office  
Make no mistake this is not going to be easy

Mr Limnios

Ok

Ms Scaffidi

You saw his reply re 24 hours notice  
Since when was 24 hours notice a policy

Mr Limnios *Yes that shows he's listening ...*

Ms Scaffidi *It shows he knows you mean?*

Mr Limnios *He's listening to your office as he's prepared*

Ms Scaffidi *You mean as in bugging you think?*

Mr Limnios *Yes ...*

Ms Scaffidi *He's buying time  
Tell you its like slaying Satan*

Mr Limnios *In the end even he was slayed".<sup>220</sup>*

245. Also, on 18 January 2016, Ms Davidson emailed the Western Australian Local Government Association (WALGA) with a draft Council resolution:

*"Special Council Meeting*

*ITEM: CEO CONTRACT*

*That the Council:*

*1 Accepts Mr Gary Stevenson's offer (known as Option 1) that relates to 8.5 of the Employment Contract 'Termination by the City; Any Reason' and terminates his appointment as CEO immediately, Wednesday 20 January 2016.*

*2 Appoints Mr Martin Mileham as Acting CEO.*

*Look forward to your wise counsel.*

*Janet".<sup>221</sup>*

246. By reply email that day, an officer of WALGA provided advice to Ms Davidson on Mr Stevenson's contract of employment and the requirements and process for terminating Mr Stevenson's employment under clause 8.5(a) of the contract.<sup>222</sup>
247. Read together, the terms of Ms Scaffidi and Mr Limnios's WhatsApp messages and Ms Davidson's email correspondence with WALGA, demonstrate a clear purpose on the part of the members of the CEO Performance Review Committee to terminate Mr Stevenson's employment, and to do so without Mr Stevenson's agreement. Ms Davidson's email to WALGA sets out clearly the intention to immediately terminate Mr Stevenson's appointment as CEO. That they intended to do so without Mr Stevenson's agreement is borne out by Ms Scaffidi's description of what was planned as a "slaying" in her WhatsApp message.

248. On Tuesday 19 January 2016, Mr Stevenson called Ms Davidson and asked about the purpose of the meeting on 20 January 2016. From a contemporaneous note Mr Stevenson made of the conversation, it appears Ms Davidson told him it was to *“take it to the next step”*. He thought the *“next step was to prepare precis document for Committee and then prepare 2015/2016 Performance Agreement”*.<sup>223</sup> Mr Stevenson was still not aware *“Option 1”* was being considered.<sup>224</sup>
249. Also, that day, the CEO Performance Review Committee met. The minutes include the following resolutions:
- “3a) *Accepts the Option 1\* offer on 30 November 2015 by the CEO Mr Gary Stevenson that relates to 8.5 of the Employment Contract ‘Termination by the City; Any Reason’,*
- (\* Option 1 – Council Terminates my Employment Contract Council could elect to terminate my employment contract under clause 8.5 (Termination by the City; Any Reason).*
- ...
- 4 *Calls a Special Council Meeting on Wednesday 20 January 2016 at 9 30 am to consider the Minutes/recommendations of the CEO Performance Review Committee.*
- 5 *Recommends to the Special Council Meeting that Mr Martin Mileham be appointed as Acting CEO for the City of Perth following the negotiated settlement”*.<sup>225</sup>
250. The Inquiry notes that there had been discussion between Ms Scaffidi and her team members well before 14 January 2016, which suggested they were contemplating terminating Mr Stevenson’s employment. Ms Scaffidi had sent an email to Ms Davidson on 3 December 2015 about the need for Council to get legal advice about Mr Stevenson’s proposed *“Option 1”*.<sup>226</sup>
251. Ms Scaffidi denied she mobilised the CEO Performance Review Committee and Ms McEvoy, and later Council, to terminate Mr Stevenson’s employment, because he had reported her to the CCC.<sup>227</sup>
252. As already noted above, it is unclear whether Ms Scaffidi took steps to terminate Mr Stevenson’s employment after and because she received a copy of Mr Stevenson’s report to the CCC. Accordingly, the Inquiry makes no such findings.

### Termination of Mr Gary Stevenson's employment

253. At 8.30 am on Wednesday 20 January 2016, Mr Stevenson met with Ms Scaffidi, Ms Davidson and Mr Limnios in the Lord Mayor's office for around five to 10 minutes.<sup>228</sup> Mr Stevenson made a contemporaneous note of what occurred (Figure 2.14).<sup>229</sup>

20/1/16 LM DLM JD

Option 1 agreed by Councillors  
 Me to prepare step by step - No time  
 Special Council meeting. today 9.30  
 CEO committee met yesterday  
 Positive messages mutual  
 Deed of settlement - I refused to sign  
 Don't want anything bad for me or my  
 career and will not say anything  
 bad (JK "and you can write that down")

Figure 2.14: Contemporaneous note, Mr Gary Stevenson, 20 January 2016.

254. In his evidence before the Inquiry, Mr Stevenson said:

*"Yes, it was a meeting in the Lord Mayor's office. Councillor Davidson I believe said 'Right, let's get to it, Gary. Option Y and Z', something to that effect. Very little explanation. And obviously I wasn't anticipating that, so the rest of the meeting was a bit of a blur. But I know when that was said I was thinking back to the process that I had mapped out in my advice to the committee back in November, if they were to pursue option 1, then I could respect that decision and for the best interests of myself and the organisation a proper respectful transition could or should be managed. So that was in my mind immediately. By the time I got out to say, 'Well, I'm happy to work with you'. I didn't say happy, 'I'm prepared to work with you to manage transition', it dawned on me that they were actually talking about summary dismissal, walking me out of the building that day.*

*How did you feel about that? I was shattered.*

...

*They put a deed of settlement in front of me which I refused to sign, I was under no obligation to sign. And that was it.*

*Do you know how long that meeting took?--From memory that would've been five, 10 minutes thereabouts. There wasn't a lot of discussion".<sup>230</sup>*

255. Neither Mr Limnios, nor Ms Davidson could remember the meeting in any detail.<sup>231</sup> A note made by Mr Limnios does not assist in adding to the detail provided by Mr Stevenson.<sup>232</sup> When asked how Mr Stevenson appeared at the end of the meeting, Mr Limnios said *“I don’t think he was very happy but he was very professional”*.<sup>233</sup> Ms Davidson said Mr Stevenson was *“Fairly silent and giving no response”* when he left the meeting.<sup>234</sup>
256. Ms Scaffidi agreed that Mr Stevenson had no notice that his employment was to be terminated and described Mr Stevenson as *“Disappointed”* when he was told.<sup>235</sup>
257. Ms Davidson suggested to the Inquiry that *“Option 1”* was accepted before 20 January 2016 in an informal meeting with Mr Stevenson. Ms Davidson could not say when this occurred and there is no record of any such meeting.<sup>236</sup> Ms Davidson later accepted that the first time Mr Stevenson was told *“Option 1”* would be accepted was the meeting with the CEO Performance Review Committee members on 20 January 2016.<sup>237</sup>
258. On balance, the weight of evidence indicates Mr Stevenson was not advised his employment was being terminated until his meeting with the CEO Performance Review Committee on 20 January 2016 and the Inquiry so finds.

### Special Council Meeting

259. At 9.21 am on 20 January 2016, Ms Scaffidi declared a Special Meeting of Council open. The meeting lasted for 19 minutes.<sup>238</sup> The meeting was closed to the public. The CEO performance review was the only item on the agenda.

#### Documentation before the Special Council Meeting

260. The agenda and minutes of the 20 January 2016 Special Council Meeting describe the resolution passed at that meeting in the following terms:
- “That the Council endorses the Minutes/recommendations of the CEO Performance Review Committee held on Tuesday 19 January 2016”*.<sup>239</sup>
261. Although this resolution refers to the minutes of the CEO Performance Review Committee meeting held on Tuesday 19 January 2016, it does not appear that these minutes were provided to the council members at the meeting. Ms Scaffidi said the minutes were put before the meeting,<sup>240</sup> but the balance of the evidence before the Inquiry does not support this view. Mr Limnios,<sup>241</sup> Ms Davidson,<sup>242</sup> Mr Adamos,<sup>243</sup> Mr Yong,<sup>244</sup> Dr Green,<sup>245</sup> Mr Harley,<sup>246</sup> Ms Chen<sup>247</sup> and Ms McEvoy<sup>248</sup> could not recall receiving any documents other than an agenda.
262. Neither the agenda nor the minutes for the Special Council Meeting refer to any additional documents or record any discussion.
263. The Inquiry finds that, other than an agenda, no documents were provided to the council members at the Special Council Meeting of 20 January 2016.

### What was said at the Special Council Meeting, 20 January 2016

264. As there were no documents, other than the agenda, presented to the Special Council Meeting, the only way council members could have informed themselves on how to vote was to have regard to what they were told by the CEO Performance Review Committee members either in conversation before the Special Council Meeting or at the meeting.
265. The meetings of Council were not electronically recorded at this time. Consequently, there is now no accurate record of what occurred during that meeting.
266. The Inquiry also observes that the minute-taker for this meeting was not a member of the Governance Unit, who would normally prepare the agendas and minutes of Council. Furthermore, the Manager Governance was not informed or in attendance. The minute-taker was the Lord Mayor's personal assistant.<sup>249</sup> This was both undesirable and irregular.
267. The Inquiry is in the unsatisfactory position of having to rely on the recollections of those who attended the meeting, recalled some three years after the event.
268. Council members were asked what happened at the Special Council Meeting on 20 January 2016. The council members with the most comprehensive memories of the events were Mr Harley, Dr Green and Mr Adamos. Each provided their account in reasonable detail.
269. Mr Adamos<sup>250</sup>, Mr Harley<sup>251</sup> and Dr Green<sup>252</sup> told the Inquiry they were given a verbal summary in the meeting.
270. Mr Adamos recalled that Ms Scaffidi said that Council was either to extend Mr Stevenson's contract for five years or alternatively to pay him out. He also said Ms Scaffidi indicated that Mr Stevenson had offered these options.<sup>253</sup> He told the Inquiry he did not consider Mr Stevenson was resigning. This is inconsistent with his WhatsApp message at the time, where Mr Adamos wrote "*... the west says that we terminated him. I thought WE accepted his resignation*".<sup>254</sup> When shown the message, Mr Adamos agreed that, at 20 January 2016, he believed Council had accepted Mr Stevenson's resignation.<sup>255</sup>
271. Mr Harley said Ms Scaffidi called him on 19 January 2016 and told him the CEO Performance Review Committee and Mr Stevenson had agreed by mutual consent to end the contract and that the meeting of 20 January 2016 was to ratify that. He also said that, at the Special Council Meeting, Ms Davidson told the members Mr Stevenson had agreed by mutual consent that he would leave and be paid out in line with his contract.<sup>256</sup>
272. Dr Green said that she received a call from Ms Davidson inviting her to a Council Meeting to discuss performance issues with Mr Stevenson. According to her, Ms Davidson and Ms Scaffidi both spoke at the meeting, although she could not remember all of what each of them said. She did recall that between them, Ms Scaffidi and Ms Davidson said, in effect, that Mr Stevenson had offered to terminate his contract by mutual consent. Dr Green also said she understood from what she was told that Mr Stevenson was offering his resignation.<sup>257</sup>

273. Ms Chen said she was told at the meeting that Mr Stevenson had resigned, although her memory of the meeting was poor.<sup>258</sup>
274. Mr Yong could not recall the meeting well, but remembered Ms Scaffidi and Ms Davidson speaking.<sup>259</sup>
275. Mr Limnios did not recall the meeting in detail, but said he did not believe Mr Stevenson left the City by mutual consent.<sup>260</sup> He did not recall who spoke at the meeting.<sup>261</sup>
276. Ms Davidson told the Inquiry she believed that Mr Stevenson ceased employment by mutual consent due to “*Option 1*”.<sup>262</sup> Although Ms Davidson believed she spoke at the meeting, she was not sure. She did not recall if anyone else spoke.<sup>263</sup> However, when Ms Davidson was asked whether, if Council were told Mr Stevenson was leaving by mutual consent were they misled, she disagreed and said: “*Not misled. The information given to them was Option 1 had been offered by the CEO Gary Stevenson and that the termination was by mutual consent*”. She agreed that, had they been told he resigned, they would have been misled.<sup>264</sup>
277. Ms McEvoy said Mr Stevenson’s employment was terminated “*at his request, when he put up Option 1*”.<sup>265</sup> There is no evidence from Ms McEvoy as to who spoke at the meeting.
278. Ms Scaffidi could not recall the specifics of the meeting or what she said to Council.<sup>266</sup> She was initially insistent the City had accepted “*Option 1*”. Although she eventually conceded Mr Stevenson’s employment was terminated,<sup>267</sup> Ms Scaffidi maintained it was by mutual consent.<sup>268</sup>
279. In a team WhatsApp message at 2.26 pm on 20 January 2016, Ms Scaffidi wrote:

Ms Scaffidi



“No Jim

*Please be assured it is termination  
8.5 termination for any reason with  
mutual consent.*

*It’s not a sacking.*

*But you need not speak*”.<sup>269</sup>

280. Shortly afterwards, in response to a message from Ms Chen, which read “*Not resignation?*”, Ms Scaffidi replied at 2.27 pm:

Ms Scaffidi



“CLOSE IT DOWN

*LILY read what I just said to Jim*

*It’s a mutually agreed with consent  
termination effective immediately*

*Remember what **we** told you he  
offered it as Option 1*”.<sup>270</sup>

[emphasis added]

281. It is clear from these team WhatsApp group messages that, following on from the Special Council Meeting of 20 January 2016, Ms Scaffidi wanted her team (a majority of council) to believe Mr Stevenson's employment had been terminated by mutual consent and that that was something they had already been told.<sup>271</sup> Given that these messages were on the same day as the Special Council Meeting, a very strong inference arises that at that meeting the team were told the termination of Mr Stevenson's contract of employment was by mutual consent.
282. The Inquiry finds that Ms Scaffidi and Ms Davidson both spoke at the Special Council Meeting on 20 January 2016.<sup>272</sup>
283. The Inquiry also finds that, in addressing the meeting, Ms Scaffidi and Ms Davidson created an impression that Mr Stevenson was leaving the City by mutual agreement,<sup>273</sup> or by resigning.<sup>274</sup> By creating an impression that Mr Stevenson's leaving was by mutual consent, or resignation, an obvious inference arises that Ms Scaffidi and Ms Davidson were seeking to minimise any resistance to their wish to see Mr Stevenson gone.
284. The impression created was false, because the termination of Mr Stevenson's employment was not by mutual agreement and he did not resign. The evidence before the Inquiry is:
- On 30 November 2015, Mr Stevenson expressed his preference to the CEO Performance Review Committee to continue to work with the City ("*Option 2*"). He advised he was not seeking alternative employment and would not be exercising his right to terminate the employment. He repeated his preference for "*Option 2*" by email that day to Ms Davidson and, up to 20 January 2016, did not change his position.
  - The CEO Performance Review Committee and Council took none of the steps towards transition that Mr Stevenson suggested in his email to Ms Davidson dated 30 November 2015.<sup>275</sup>
  - Mr Stevenson was given no notice his employment was being terminated, contrary to his proposal to Ms Davidson in his email dated 30 November 2015.<sup>276</sup>
  - Ms McEvoy and Mr Limnios, who attended the meeting on 15 January 2016, considered it was not by mutual agreement.<sup>277</sup>
  - The first time Mr Stevenson was told his employment would be terminated was in the meeting with the CEO Performance Review Committee on 20 January 2016, where Mr Stevenson was shattered and disappointed.
  - In WhatsApp messages to Mr Limnios on 18 January 2016, Ms Scaffidi described what was occurring as "*like slaying Satan*" and said that Mr Stevenson was "*buying time*" and that meeting with Mr Stevenson was "*not going to be easy*".<sup>278</sup>
  - In a WhatsApp message following the Special Council Meeting, Ms McEvoy described what had happened as an "*excellent execution*".<sup>279</sup>
  - In further WhatsApp messages on 26 January 2016, Ms Scaffidi said: "*It is unity that enabled us to rid ourselves of GS*".<sup>280</sup>

285. None of the things said in these WhatsApp messages are consistent with Mr Stevenson's termination of employment being by mutual agreement or resignation.
286. Having regard to all the circumstances, and in Ms Scaffidi's case her WhatsApp communications, it is apparent, and must have been apparent to Ms Davidson and Ms Scaffidi, that Mr Stevenson's termination was not by mutual agreement.
287. At the Special Council Meeting on 20 January 2016, Council was asked to consider the CEO leaving his employment. This is one of the most important matters a Council can consider. Any council member voting on this was entitled to clear, relevant and factually correct information about the matter being considered, in order to properly inform and support their decision. They were also entitled to be afforded an opportunity to ask questions and seek information if they desired.
288. Although the outcome may not have been different, had Dr Green and Mr Harley been aware that Mr Stevenson did not want to leave the City, they may have asked for further information and perhaps questioned the decision.<sup>281</sup>
289. By creating the impression that Mr Stevenson was leaving the City by mutual agreement or by resigning, Ms Scaffidi and Ms Davidson misled Council. That was unethical, dishonest and lacking in integrity, contrary to regulation 3(1)(b) of the Conduct Regulations.
290. The Inquiry finds that Council made its decision to terminate Mr Stevenson's employment based on incomplete and inaccurate information. This was not good government.
291. The Inquiry also finds Council's resolution, contained in the minutes of the Special Council Meeting of 20 January 2016 and concerning the termination of Mr Stevenson, was incomplete and inaccurate. The resolution fails to transparently document the decision of Council in the official record.

#### **Discussion between Ms Michelle Howells and Ms Lisa Scaffidi following Mr Gary Stevenson's termination**

292. Ms Howells told the Inquiry that in the week following Mr Stevenson's departure, she had a conversation with Ms Scaffidi in her office to discuss the appointment of the new CEO and about how to manage that process. Ms Howells recalled the timing of this conversation *"because I was still feeling quite raw and upset about the whole thing"*. Ms Howells said Ms Scaffidi told her:
- "she was glad that he [Mr Stevenson] had gone, that they should have done that sooner, that he was an extremely annoying individual, always complaining to the CCC and threatening them with the CCC. He wasn't what they needed within the City".<sup>282</sup>*
293. Ms Howells said Ms Scaffidi was *"very willing to share"* her views about Mr Stevenson.

294. Ms Scaffidi recalled speaking to Ms Howells in her office about what had happened to Mr Stevenson, but did not recall who was present or the specifics of what was discussed.<sup>t</sup> Ms Scaffidi denied she would have said those things to Ms Howells, because *“I don’t believe I would have spoken like that to a Human Resources Manager”*.<sup>283</sup>
295. When giving evidence on this matter, Ms Howells presented as a witness trying to assist the Inquiry. Ms Howells answered questions in a candid and direct manner, despite expressing concerns about the personal consequences for her in giving her evidence. Ms Howells had a clear recollection of the timing and the circumstances giving rise to the discussion and of what Ms Scaffidi said to her.
296. By contrast, Ms Scaffidi was often argumentative and combative when giving evidence to the Inquiry, including in relation to Mr Stevenson’s termination. Ms Scaffidi frequently gave unresponsive answers to Counsel Assisting’s questions, which required questions to be repeated. That is despite Ms Scaffidi being reminded on many occasions about her role and obligations as a witness. Ms Scaffidi did not have a clear recollection of what she discussed with Ms Howells following Mr Stevenson’s departure.
297. For these reasons, the Inquiry prefers the evidence of Ms Howells to Ms Scaffidi on this matter. The Inquiry finds that Ms Scaffidi, in the week following Mr Stevenson’s departure, told Ms Howells that she was glad that Mr Stevenson had gone; that they should have done that sooner; that he was an extremely annoying individual, always complaining to the CCC and threatening them with the CCC; and that he was not what they needed within the City.
298. The Inquiry is satisfied that Mr Stevenson’s approach to the CCC was one of the reasons (but not the only reason) for Ms Scaffidi taking steps to bring about the termination of Mr Stevenson’s employment, given that Ms Scaffidi:
- felt strongly dissatisfied with Mr Stevenson’s approach to her about CCC matters from at least 2014;
  - commented on Mr Stevenson’s approach to the CCC in the meeting on 30 November 2015; and
  - made the comments set out in paragraph 297 within a week of Mr Stevenson’s termination.
299. The Inquiry notes that Mr Stevenson’s attitude to, and contact with, the CCC appears to be one of a number of reasons (including, for example, his handling of issues on Heirisson Island) as to why Ms Scaffidi was dissatisfied with Mr Stevenson. Nevertheless, it was improper for Ms Scaffidi to have regard to Mr Stevenson’s discharge of his statutory obligations in deciding to terminate his employment.

<sup>t</sup> Transcript, L Scaffidi, public hearing, 28 August 2019, p 18. The Inquiry notes Counsel Assisting put the details of this conversation to Ms Scaffidi on the basis that the conversation occurred *“on the day Mr Stevenson departed”* but Ms Howells’s evidence was the conversation took place *“The following week”* after Mr Stevenson’s departure.

### Mr Reece Harley's reason for terminating Mr Gary Stevenson's employment

300. At 10.56 am on 21 May 2016, Mr Limnios sent a text message to Mr Harley. The message included copied text messages sent by Mr Adamos and Ms Scaffidi in the team WhatsApp group:

Mr Limnios



*"14/12/2015, 6:10:02 PM:*

*Jim Adamos: Team*

*I am still VERY unsure of Reece's honesty in that meeting.*

*I really believe that he is in cahoots with Gary and he will contact Gary about what we discussed. I didn't believe him when he so vehemently bagged Gary when he said 'I'll be happy to see the back of the bastard'.*

*That doesn't sound like Reece language, he wouldn't speak like that. I think it was an act. Anyway for what it's worth remember how much of a politician he is.*

*Remember a coin has two sides.*



*14/12/2015, 6:11:34 PM:*

*Scaffidi Lisa*

*Hmmm*

*Possibility for sure".<sup>284</sup>*

301. Mr Harley replied to Mr Limnios's text message one minute later:

Mr Harley



*"FFS! I wanted Stevenson out as much as anyone for what he put me through last year. \$4k worth of legal expenses and all the worry for no reason. Adamos is a slimeball".<sup>285</sup>*

302. Mr Harley told the Inquiry that the message referred to Mr Stevenson making the complaint about Mr Harley to the LGSP in 2015. Mr Harley agreed that this incident “weighed heavily” on his mind when he voted the way he did at the Special Council Meeting on 20 January 2016. However, Mr Harley also said that he was very unhappy with Mr Stevenson’s performance for a range of reasons and denied that the LGSP complaint had greater weight for him than other factors.<sup>286</sup>
303. The Inquiry finds it was improper for Mr Harley’s decision to vote in favour of what he understood was a motion to end Mr Stevenson’s employment to be motivated, in part, by Mr Stevenson’s decision to make a complaint about him to the LGSP. However, the Inquiry considers Mr Harley’s conduct is significantly mitigated by his understanding that the CEO Performance Review Committee and Mr Stevenson had agreed by mutual consent for Mr Stevenson to leave his employment.<sup>287</sup>
304. The Inquiry accepts that it would have been difficult for Mr Harley and Ms Scaffidi, as with any other council member, to disregard matters about which they felt strongly and to put them to one side when making decisions on Mr Stevenson’s employment.
305. However, as council members voting on the exercise of Council’s statutory functions, they were obliged, as a matter of law, to consider only relevant matters when deciding whether to terminate Mr Stevenson’s employment.

## Findings

### Finding 2.3.1 – 1

The Inquiry makes the following findings:

- i. The 2013, 2014 and 2015 performance reviews did not adequately assess Mr Stevenson's performance, which was unfair to Mr Stevenson and contrary to section 5.40(c) of the LG Act. The reviews were inadequate and unfair, because:
  - Some council members<sup>u</sup> referred to Mr Stevenson's approach to the CCC as unsatisfactory and thereby demonstrated a continued lack of appreciation for Mr Stevenson's role as CEO and his statutory obligations to report certain conduct issues to the appropriate authorities.
  - There were no KPIs or agreed and objectively measurable outcomes against which Mr Stevenson's performance could be measured. It invited council members to assess Mr Stevenson's performance based on their subjective opinions and to have regard to inappropriate considerations.
- ii. The failure to adequately review Mr Stevenson's performance was a failure on the part of the Council to discharge one of its primary functions, namely, to properly hold the CEO responsible and accountable for his and the City's performance.
- iii. The CEO Performance Review Committee failed to establish annual performance objectives or KPIs for Mr Stevenson. The Inquiry considers that Ms Davidson, as Presiding Member of that Committee and as the person who had assumed the responsibility to work with Mr Stevenson to agree KPIs, was primarily responsible for this failure.
- iv. Ms Scaffidi and Ms Davidson did not obtain the CEO's or Council's authorisation before engaging solicitors and incurring legal costs on the City's behalf, which may have been contrary to regulation 8(b) of the Conduct Regulations.
- v. At the Special Council Meeting on 20 January 2016, Ms Scaffidi and Ms Davidson acted unethically by leading council members to believe Mr Stevenson's employment was being terminated by mutual agreement or by his resignation. It was also dishonest and lacking in integrity, contrary to regulation 3(1)(b) of the Conduct Regulations.
- vi. The Council decided to terminate Mr Stevenson's employment on 20 January 2016, based on incomplete and inaccurate information.

<sup>u</sup> That is, Mr Limnios in the 2013 and 2014 reviews, Mr Butler in the 2014 review, Ms Davidson and Ms Scaffidi in the 2014 and 2015 reviews, and Ms Chen and Mr Harley in the 2015 review. There were also comments in the 2013 review which the Inquiry was unable to attribute to any council member.

**Finding 2.3.1 – 1 (contd)**

- vii. Ms Scaffidi and Mr Harley considered Mr Stevenson’s approach to reporting certain conduct issues to the appropriate authorities, as he was required to do, when they voted to end Mr Stevenson’s employment. This was improper.
- viii. The Inquiry finds that Council’s resolution, contained in the minutes of the Special Council Meeting of 20 January 2016 and concerning the termination of Mr Stevenson, was incomplete, inaccurate and failed to transparently and properly document Council’s decision.

**Finding 2.3.1 – 2**

The Inquiry makes no finding that Ms Scaffidi acted to terminate Mr Stevenson’s employment because he reported her to the CCC.

## Appointment of a new Chief Executive Officer

### Introduction

1. On the morning of 20 January 2016, shortly after Mr Gary Stevenson was dismissed as Chief Executive Officer (CEO) of the City of Perth (City), Mr Martin Mileham was called into the Lord Mayor's office and asked to act in the position of CEO.
2. Despite some misgivings, Mr Mileham agreed.
3. After a little over six months acting in the position, he was the successful applicant for the substantive CEO position.
4. His appointment was endorsed by the City of Perth Council (Council) at a Special Council Meeting on 1 September 2016.
5. Mr Mileham's contract as CEO was signed on 21 September 2016 by him and Ms Lisa Scaffidi. He was appointed to the position from 3 October 2016 to 1 October 2021, subject to a six-month review.
6. The CEO Performance Review Committee met on 7 and 8 March 2017 to conduct his six-month review. At that meeting, Mr James Limnios argued that all of Council should be involved in the review process, but he was overruled by Ms Scaffidi and Ms Janet Davidson who voted in favour of a recommendation to Council *"That Council approves the satisfactory conclusion of the review period of six months for Martin Mileham, Chief Executive Officer"*.
7. On 14 March 2017, Council approved the satisfactory conclusion of Mr Mileham's review period.

### Legislative background

#### Council's responsibility for the Chief Executive Officer's employment

8. A local government must employ a CEO.<sup>288</sup> A person is not to be employed as a CEO unless Council believes he or she is suitably qualified and is satisfied with the provisions of the proposed contract of employment.<sup>289</sup> A CEO's contract of employment cannot be for a term of longer than five years, but can be terminated *"on the happening of an event specified in the contract"*.<sup>290</sup>
9. A CEO's contract of employment is of no effect unless the contract specifies performance criteria for the purpose of reviewing the CEO's performance.<sup>291</sup> The CEO's performance must be reviewed at least once in relation to every year of employment.<sup>292</sup> A local government must consider each review of the CEO's performance and either accept the review, with or without modification, or reject the review.<sup>293</sup>

10. The appointment of a CEO and the review of a CEO's performance are important statutory functions. The exercise of those functions should not be tainted or influenced by improper considerations, such as the fact that the CEO has complied with his or her legal obligations by reporting a council member to the Corruption and Crime Commission (CCC) or another body. These functions should be exercised, so far as is practicable, based on agreed objective criteria and not the personal opinions of council members.
11. In effect, Council is responsible for employing, reviewing the performance of and dismissing the CEO. In doing so, Council is to treat the CEO fairly and consistently.<sup>294</sup>

#### Role and specific responsibilities of the Chief Executive Officer

12. The CEO is, among other things, responsible for:
  - managing the day-to-day operations of the local government;<sup>295</sup>
  - advising the Council on the local government's functions under the *Local Government Act 1995* (LG Act) and other laws;<sup>296</sup>
  - ensuring that advice and information is available to Council, so that informed decisions can be made;<sup>297</sup>
  - causing Council decisions to be implemented;<sup>298</sup> and
  - liaising with the Lord Mayor on the local government's affairs and the performance of the local government's functions.<sup>299</sup>
13. Consequently, the position of CEO, like the position of Lord Mayor, is one of the most important positions in a local government. Furthermore, the relationships between the CEO, on the one hand, and Council and the Lord Mayor, on the other hand, are crucial to the proper functioning of the local government. As Mr Andrew Hammond, the Chair Commissioner of the City of Perth, said in his evidence to the Inquiry:<sup>300</sup>

*"A decision to appoint and obviously a decision to dismiss, or a decision to not renew a contract, the engagement or otherwise of a CEO is the most critical decision that a Council can make".*
14. The CEO has specific responsibilities in relation to handling complaints and allegations of misconduct. Where a CEO suspects on reasonable grounds that a matter concerns or may concern serious misconduct, including serious misconduct by council members, the CEO must notify that matter to the CCC in writing as soon as reasonably practicable after the CEO becomes aware of the matter.<sup>301</sup> A CEO's duty to notify the CCC is "*paramount*": the CEO must notify the CCC even if that may contravene another Act or if they are otherwise obliged to keep the matter confidential.<sup>302</sup>

15. The CEO is also designated by the LG Act as the complaints officer for the local government<sup>303</sup> and in that capacity is required to:
  - send complaints of “*minor breaches*” by council members to the Local Government Standards Panel (LGSP), for the LGSP to address;<sup>304</sup>
  - provide the LGSP with anything that it requires to help the LGSP deal with a complaint against a council member;<sup>305</sup>
  - keep a register of all complaints in which the LGSP has made orders against a council member;<sup>306</sup> and
  - send any complaints that a council member has committed an offence to the Director General of the Local Government, Sport and Cultural Industries (Department).<sup>307</sup>
16. As the complaints officer, the CEO may make a complaint of a “*minor breach*” by a council member to the LGSP.<sup>308</sup>
17. There are statutory protections for a CEO reporting matters to the CCC. Section 175 of the *Corruption, Crime and Misconduct Act 2003* provides that a person must not threaten to prejudice the safety or career of any person or do any act that is, or is likely to be, to the detriment of any person, because that person helped the CCC in the performance of its functions under that Act. There are no equivalent protections for a CEO reporting matters to the Department or the LGSP.
18. The reporting obligations and functions of a CEO may sometimes place the CEO in an unenviable position by obliging him or her to report the alleged or suspected improper behaviour of a council member:
  - with whom he or she must work closely; and
  - who, as a member of Council, is responsible for the CEO’s ongoing employment and may be in a position to influence or prejudice that employment.<sup>309</sup>

## Timeline

|      |                   |   |
|------|-------------------|---|
| 2016 | 20 January 9:21am | A Special Council Meeting endorsed the termination of Mr Stevenson's employment as CEO and the appointment of Mr Mileham as Acting CEO.   |
|      | 29 January        | The Acting CEO position was offered to Mr Mileham for six months with a possible extension up to 12 months in total.  |
|      | 7 June            | Council decided to recruit a CEO. The CEO Performance Review Committee membership formed the CEO Recruitment Committee (Committee), with the same members. Mr Mileham's appointment was extended.   |
|      | 23 and 24 June    | CEO position advertised. Applications closed on 22 July 2016.   |
|      | 22 July           | Mr Limnios sent a complaint to Mr Mileham alleging minor breaches of the LG Act by Ms Scaffidi, Ms Davidson and Ms Judy McEvoy.   |
|      | 25 July           | Mr Mileham advised Mr Limnios his complaint was being lodged with the LGSP.   |
|      | 26 July           | Ms Scaffidi called Mr Mileham. She criticised Mr Mileham's response to Mr Limnios's complaint and raised other matters of concern.  |
|      | 15 and 16 August  | The Committee interviewed six candidates for CEO, including Mr Mileham. Three candidates, including Mr Mileham, were selected for second-round interviews.  |
|      | 29 August         | Mr Mileham and another candidate each gave a second-round interview presentation to council members.  |
|      | 30 August         | The Manager, Human Resources sent a memorandum to the Committee and Mr Mark Ridgwell, setting out the checks and other tasks to be done in relation to Mr Mileham, and suggested the relevant Council Meeting take place on 6 September. The Committee met and recommended the appointment of Mr Mileham. |
|      | 1 September       | Council met and accepted the recommendation to appoint Mr Mileham as CEO.   |
|      | 21 September      | Mr Mileham's contract as CEO signed by him and Ms Scaffidi. He was appointed for a term of five years.  |
| 2017 | 3 October         | Mr Mileham commenced in the position from 3 October 2016, subject to a six-month review.  |
|      | 7 and 8 March     | The CEO Performance Review Committee met to conduct the six-month review. The Committee was split, but recommended Council approve the conclusion of Mr Mileham's six-month review period.  |
|      | 14 March          | Council approved the satisfactory conclusion of Mr Mileham's review period.   |

## Issues considered by the Inquiry

19. Consistent with A.1(i), A.3(ii), A.3(iii), A.3(v) and A.3(vi) of the Inquiry's Terms of Reference, the Inquiry has considered:

- whether Ms Scaffidi acted with integrity and treated Mr Mileham fairly during a telephone conversation on 26 July 2016;
- the circumstances in which Mr Mileham was recruited to be CEO;
- the circumstances in which Mr Mileham's appointment was endorsed;
- the terms of the contract of employment between Mr Mileham and the City and the circumstances in which Mr Mileham's contract of employment was executed; and
- the management of Mr Mileham's performance within the first six months of his appointment.

## Investigation by the Inquiry

20. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section:

- Council members involved in decisions concerning the appointment of Mr Mileham: namely, Mr Jim Adamos, Ms Lily Chen, Ms Davidson, Dr Jemma Green, Mr Reece Harley, Mr Limnios, Ms Judy McEvoy, Ms Scaffidi and Mr Keith Yong.
- Mr Mileham, CEO.
- Mr Robert Mianich, Director, Corporate Services.
- Mr Mark Ridgwell, Manager, Governance.
- Ms Michelle Howells, Manager, Human Resources.

## Evidence obtained by the Inquiry

### Appointment of Mr Martin Mileham as Acting Chief Executive Officer

21. On 19 January 2016, the CEO Performance Review Committee, made up of Ms Scaffidi, Ms Davidson and Mr Limnios, met and passed the following resolution:
 

*“5 Recommends to the Special Council Meeting that Mr Martin Mileham be appointed as Acting CEO for the City of Perth ...”*.<sup>310</sup>
22. The terms of reference for the CEO Performance Review Committee did not include a remit to do anything other than undertake and report on an annual review of the performance of the CEO and establish annual performance objectives.<sup>311</sup>
23. At a Special Council Meeting on 20 January 2016, Council unanimously resolved:
 

*“That the Council endorses the Minutes/recommendations of the CEO Performance Review Committee held on Tuesday 19 January 2016”*.<sup>312</sup>
24. The matter was dealt with as a confidential item and no details of any discussion are contained in the minutes.
25. After the Special Council Meeting, Mr Mileham was called to the office of Ms Scaffidi, where she asked him to act in the role of CEO. He accepted.
26. At his hearing before the Inquiry, Mr Mileham said he accepted the acting role as CEO subject to the condition that his acceptance would not contribute to the termination of the then CEO and on his understanding that if he refused, an external person would be appointed as Acting CEO. Mr Mileham said he discussed the matter with his wife and told her that taking the role would likely be a *“poisoned chalice”*.<sup>313</sup> Mr Mileham said that Mr Stevenson’s termination was *“the most concerning matter”* to him on the morning of 20 January 2016.<sup>314</sup>

### Recruitment process begins

27. On 28 January 2016, Mr Tony Brown, an officer of the Western Australian Local Government Association (WALGA), provided advice to Ms Scaffidi about, among other things, whether Mr Mileham could be appointed as permanent CEO or whether the City was compelled to advertise and interview in order to fill the position.<sup>315</sup>
28. Mr Brown informed Ms Scaffidi the Council was required to advertise the position state-wide, even if it was happy with the performance of the Acting CEO. He also advised that there was a requirement for the Council to approve a process to be used for the selection and appointment of a permanent CEO, before the position was advertised.
29. On 29 January 2016, a higher duties allowance was arranged for Mr Mileham for a period of six months and the Acting CEO position was offered to him with the possibility of an extension for a further period of up to 12 months in total.<sup>316</sup>
30. On 8 April 2016, Mr Harley wrote to Ms Scaffidi and council members, expressing a view that Mr Mileham was “*doing a fine job*” as Acting CEO. Mr Harley asked whether Mr Mileham’s term of acting could be extended to 12 months and whether the City could advertise the position.<sup>317</sup>
31. Mr Limnios replied, agreeing Mr Mileham was “*doing a great job*” and supporting an extension of Mr Mileham’s contract.<sup>318</sup>
32. At an Ordinary Council Meeting on 7 June 2016, Council unanimously endorsed a recommendation to undertake an internally managed recruitment process to recruit a CEO and “*transformed*” the CEO Performance Review Committee into the CEO Recruitment Committee, with the same membership.
33. At the same meeting, Mr Mileham’s appointment as Acting CEO was extended to 19 January 2017, or until the commencement of a new CEO.<sup>319</sup>
34. There was a meeting scheduled for the CEO Recruitment Committee on 8 June 2016 in the Lord Mayor’s office. At that meeting, and in subsequent discussions, a timetable for the advertising and recruitment process was agreed.<sup>320</sup>
35. The position of CEO was advertised on 23 and 24 June 2016.<sup>321</sup>
36. Applications closed on 22 July 2016. At 5:25 pm on the same day, Ms Howells emailed a list of the 53 applicants (which included Mr Mileham) to the members of the CEO Recruitment Committee, being Ms Scaffidi, Ms Davidson and Mr Limnios.<sup>322</sup>

### Did Ms Lisa Scaffidi act with integrity and treat Mr Martin Mileham fairly in a telephone conversation on 26 July 2016?

37. On 22 July 2016, Mr Limnios sent a complaint alleging minor breaches of the LG Act by Ms Scaffidi, Ms Davidson and Ms McEvoy to Mr Mileham.<sup>323</sup>
38. Mr Mileham sent Mr Limnios an email on 25 July 2016, advising him that his complaint, along with supporting materials, *“is now being lodged”* with the LGSP.<sup>324</sup>
39. On 26 July 2016, some days before interviews for the CEO position were to be held, Ms Scaffidi called Mr Mileham. The following day Mr Mileham wrote a file note of the conversation (Figure 2.15).<sup>325</sup>
40. Mr Mileham said Ms Scaffidi’s telephone call was initially *“In response to ‘LM concern’ re my lack of follow up in awarding key to the city to lone [Russian] balloonist”*.
41. Ms Scaffidi then raised a complaint Mr Limnios had lodged with the LGSP and said she agreed with Ms Davidson, who felt that Mr Mileham could have *“headed Limnios off at the pass”*.
42. The Inquiry has been unable to identify any other complaints made by Mr Limnios to the LGSP regarding Ms Davidson and/or Ms Scaffidi prior to 22 July 2016. The Inquiry therefore infers that the complaint to which Ms Scaffidi referred is the complaint described in paragraph 37.
43. Ms Scaffidi then said *“‘a strong CEO’ and ‘the next CEO’ will do this sort of thing & will keep me fully informed, eg who is commencing work and when, why etc (eg new manager in ED)”*.
44. Mr Mileham’s note also recorded that Ms Scaffidi said, *“This and issues like it are a test for you”*. Although he did not put this in quotes, Mr Mileham told the Inquiry he assumed Ms Scaffidi had said it (if he wrote it down).
45. The note also recorded that Ms Scaffidi said *“People are still ‘slouching about’ and not dressing well, i.e ‘your fault’ ”*. Mr Mileham said he drew an inference that Ms Scaffidi believed he was partly to blame, because people were not dressing well at the City.
46. The note also referred to an issue about meetings becoming less frequent and Mr Mileham wrote that Ms Scaffidi commented *“‘lack of communication’ disturbing”*.
47. Mr Mileham wrote *“At end of call I believed my application for CEO would not receive fair review & that my substantive role @ risk”*. Mr Mileham told the Inquiry that his immediate feeling at the time was his role as Director was at risk, because the telephone call was adversarial, in the sense that he *“did not back down, the Lord Mayor did not back down”*.
48. Mr Mileham advised the Inquiry at his hearing that he would have put words he heard Ms Scaffidi say directly in quotes, but also noted it was a *“pretty hastily drafted note”*.<sup>326</sup>

26/7 (recorded 27/7) / COP  
 0744 am 26.7 outgoing call mobile  
 In response to "LM concern" re my  
 lack of follow up in answering key  
 to the city to lone RTW balloonist.

↳ Comments made by LM included:

- 1) Cr Davidson feels & I agree that  
 you could have "headed Limnios  
 off at the pass" in respect to his  
 lodgement of a formal complaint to  
 the stats panel.
- 2) "A strong CEO" and "the next CEO"  
 will do this sort of thing & will  
 keep me fully informed, eg who  
 is commencing work and when, why  
 etc (eg new manager in EP)
- 3) This and issues like it are a test  
 for you.
- 4) People are still "stagnating  
 about" & not doing well, ie  
 "your fault"
- 5) I asked "what happened to  
 your message of thanks for support  
 & it never being forgotten"? if the  
 support still instinctively offered?  
 → No response was given.
- 6) LM when we "used to meet" once a  
 week (\*only stopped following A/CEO  
 1 week leave). Commented that "lack  
 of communication" disturbing. → (\*since  
 reestablished weekly only)
- 7) At end of call I believe my applic-  
 ation for CEO would not receive fair  
 review & that my substantive role @ risk

Figure 2.15: Conversation notes, Mr Martin Mileham with Ms Lisa Scaffidi, Lord Mayor, 26 July 2017.

49. At the time Mr Mileham had this conversation with Ms Scaffidi, he had applied for the position of CEO and was hoping to be appointed as the next CEO.
50. Mr Mileham believed the comment *“This and issues like it are a test for you”*, to mean his handling of the key to the City matter with the Russian balloonist was a test for him and *“believed that it may”* have been a test to see whether or not he could be CEO. When asked further questions about what *“issues”* he was referring to, Mr Mileham agreed it was a reference to what appeared before it, namely: *“‘A strong CEO’ and ‘the next CEO’ will do this sort of thing & will keep me [the Lord Mayor] fully informed, eg who is commencing work and when, why etc (eg new manager in ED)”* (Figure 2.15).<sup>327</sup>
51. Mr Mileham’s evidence in relation to the telephone conversation came across as sincere. His note was made the day after the conversation, and his evidence in relation to the conversation was largely consistent with its contents. Although Mr Mileham occasionally prevaricated, he recounted the conversation and his reaction to it in some detail.
52. By contrast, Ms Scaffidi did not recall the conversation at all, even after she made efforts to jog her memory by Googling some of its content after reading Inquiry transcript.<sup>328</sup> As she had no memory of the telephone call, Ms Scaffidi could not say whether it was adversarial.<sup>329</sup>
53. Ms Scaffidi had no memory of saying, but nonetheless denied saying, to Mr Mileham *“‘A strong CEO’ and ‘the next CEO’ will do this sort of thing and will keep me fully informed”* and *“this and issues like it are a test for you”*.<sup>330</sup>
54. Given that Ms Scaffidi had no memory of the telephone call and Mr Mileham’s note was detailed, made contemporaneously and consistent with his evidence under oath, the Inquiry accepts Mr Mileham’s note as being an accurate record of the conversation and Mr Mileham’s feelings at the end of the telephone call. The Inquiry accepts Mr Mileham’s evidence that the conversation was adversarial and that he believed Ms Scaffidi may have been testing him to see whether or not he could and should be the next CEO when she said *“this and issues like it are a test for you”*.
55. The Inquiry does not accept Ms Scaffidi’s denials in circumstances where she could not recall the conversation and there is no evidence before the Inquiry as to why Ms Scaffidi would not have said those things to Mr Mileham.
56. The Inquiry finds it was improper for Ms Scaffidi to say to Mr Mileham that *“‘a strong CEO’ and ‘the next CEO’ will do this sort of thing & will keep me fully informed”* and *“this and issues like it are a test for you”* when:
  - Mr Mileham was Acting CEO and had applied for the role of CEO;
  - Ms Scaffidi, by virtue of Ms Howells’s email on 22 July 2016, had been provided with the information that Mr Mileham had applied for the position; and
  - Ms Scaffidi was a member of the CEO Recruitment Committee.

57. Viewed in context, the Inquiry considers Ms Scaffidi's remarks to be an attempt to influence how Mr Mileham would perform his role as CEO (including his functions as the City's complaints officer) by creating the impression that Mr Mileham's application for the role of CEO and/or his ongoing employment may be prejudiced. That was an abuse of Ms Scaffidi's position.
58. It was particularly inappropriate for Ms Scaffidi, as one of the subjects of the complaint, to tell Mr Mileham that she agreed that he could have "*headed [Mr] Limnios off at the pass*" in relation to the latter's LGSP complaint: in other words, that Mr Mileham could have forestalled or prevented Mr Limnios's complaint to the LGSP.
59. Ms Scaffidi's conduct during the telephone call with Mr Mileham on 26 July 2016 was inconsistent with:
  - The principles affecting employment by local governments, under which:
    - employees are to be selected and promoted in accordance with the principles of merit and equity;<sup>331</sup>
    - no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage;<sup>332</sup> and
    - employees are to be treated fairly and consistently.<sup>333</sup>
  - The *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations), which required Ms Scaffidi to act with integrity<sup>334</sup> and to treat others with respect and fairness.<sup>335</sup>

### Selection process

60. On 3 August 2016, Mr Mianich, Director, Corporate Services raised concerns about the CEO recruitment process with Ms Scaffidi, sending her an email to that effect. He advised Ms Scaffidi to appoint a City officer to be present at the interviews and suggested Mr Ridgwell, Manager, Governance.<sup>336</sup>
61. Ms Scaffidi replied, "*happy to see such governance concerns and rigour*" and agreed to raise the matter with Ms Davidson, the Chair of the CEO Recruitment Committee.<sup>337</sup>
62. On 4 August 2016, Ms Howells drafted a memorandum to the committee members, updating them on the process and providing a summary of candidates.<sup>338</sup> Five candidates met part of the selection criteria and were identified as a "*maybe*", and seven, including Mr Mileham, were identified as a "*yes*" for an interview, because they met all of the selection criteria.<sup>339</sup>
63. On 9 August 2016, the committee met. Afterwards, Ms Howells wrote to the committee members. She confirmed first-round interviewees, including Mr Mileham, set out the process to be followed in the interviews and attached a list of draft questions.
64. Ms Howells noted that after the first-round of interviews, some candidates would be selected for a second-round interview, being a 15-minute presentation before the Council, followed by questions.

65. Ms Howells also noted a Special Council Meeting would be arranged by Mr Ridgwell for 1 September 2016 for Council to appoint the successful candidate.
66. At that time, the CEO's contract was in development "*in line with the WALGA/LGMA recommended contract template*" and Ms Howells offered to provide the committee members with a draft contract on 24 August 2016.<sup>340</sup>
67. On 15 and 16 August 2016, six candidates were interviewed by a panel, made up of CEO Recruitment Committee members, Ms Scaffidi, Ms Davidson and Mr Limnios. Mr Ridgwell attended as an observer. Mr Mileham was interviewed last.
68. Interview grids were completed by Mr Ridgwell, Mr Limnios and Ms Davidson and comprehensively set out the observations of each interviewer.<sup>341</sup> The Inquiry was unable to locate any interview grids completed by Ms Scaffidi, nor a grid completed by Mr Ridgwell during Mr Mileham's interview. Ms Davidson recorded her notes in shorthand.<sup>342</sup>
69. A "*CEO Recruitment Panel Shortlisting Report*", prepared by Ms Davidson and Mr Ridgwell, set out the first three preferences of each panel member. Mr Mileham was ranked first by each.<sup>343</sup>
70. Three candidates, including Mr Mileham, were selected for second-round interviews.<sup>344</sup> One of these candidates later withdrew from the process.
71. On a reading of the records of the first-round interviews, it is not possible to ascertain how Ms Scaffidi assessed the candidates.
72. On 23 August 2016, Mr Mileham sent an email to the Executive Leadership Group (ELG) requesting information to use as part of his preparation for his second-round interview. Mr Mileham wrote:

*"As part of my prep, I would appreciate it (if you wish) if you would provide me with your (repeat your) single most important operational imperative and your single most desired strategic objective for the 0 to 5 year horizon.*

*A few words on the (1) operational imperative and (2) strategic objective – as a statement of intent or target would be great".*<sup>345</sup>
73. The following day, Mr Mileham's Personal Assistant reminded the ELG to provide the information.<sup>346</sup>
74. Mr Mileham was shown his email dated 23 August 2016 and denied that he had asked the ELG for help for his interview. Mr Mileham thought it was appropriate to ask the ELG for information that he could use in his application and believed that task would be an appropriate use of their time.<sup>347</sup>
75. Mr Mileham could not recall if he had asked his Personal Assistant to follow up on his email. He could not comment on whether it was "*more likely than not*" that his Personal Assistant had followed up, because he had asked her to do so. Mr Mileham said that his Personal Assistant may have followed up on his email without him asking, because it may have been part of his Personal Assistant's "*action list*". On the basis of Mr Mileham's evidence, it is open to infer this action list would at least in part be a consequence, if not a direct result, of Mr Mileham's instructions.<sup>348</sup>

76. Ms Annaliese Battista gave evidence to the Inquiry about this email. She said Mr Mileham *“was very open about ... seeking our [the ELG’s] support for his interview process and asking us to dedicate a time to provide various things at various points in time, and as I said, this is one of a few such requests”*.<sup>349</sup>
77. On the basis of the evidence before it, the Inquiry is not satisfied that this email correspondence amounted to a direction from Mr Mileham to the ELG. However, the Inquiry considers that it was inappropriate for Mr Mileham to ask the ELG, who reported directly to him, to provide him with information to assist him in preparing for his interview. Mr Mileham cannot be criticised for using the knowledge and experience he gained in his employment with the City, including as Acting CEO, during the application process but it was not appropriate for him to request his subordinates carry out work for the purpose of assisting his preparation for his interview.<sup>v</sup>
78. On 29 August 2016, Mr Mileham and the other candidate gave their second-round presentation to council members and answered questions.<sup>350</sup>
79. Council members were asked about this process during their examinations by the Inquiry.
80. Ms Davidson, who was the chair of the CEO Recruitment Committee, confirmed that all council members were given an opportunity to attend the candidates’ presentation and ask unscripted questions. She said this was *“a convention within the City of Perth”*. She said that a grid was available to make notes, but it was not compulsory to fill it in.<sup>351</sup>
81. Ms Davidson agreed the process was not transparent, because there were no complete sets of interview grids for the presentations and no record of the discussions among council members after the presentations. However, she said the decision to select Mr Mileham was unanimous and it was in her view transparent to the people who attended.<sup>352</sup>
82. Dr Green recalled attending presentations by Mr Mileham and another candidate.<sup>353</sup> Dr Green said Mr Mileham’s presentation was more lively and productive and there were more questions asked of him than of the other candidate. Dr Green told the Inquiry that Ms Scaffidi led the discussion and afterwards expressed the view that both candidates were very good, but it *“made sense to stay with Mr Mileham rather than change the CEO position again”*.
83. Dr Green told the Inquiry she recalled a *“round up session”* prior to the appointment of Mr Mileham, where she suggested that it may be appropriate to pay Mr Mileham on a lower band and gradually increase his pay, because it was his first appointment as CEO. Ms Scaffidi replied that Mr Mileham should be on the highest salary band, because Perth is the capital city (of the State).<sup>354</sup>
84. Other council members had varying memories of the session. Most agreed that both candidates were good, but that Mr Mileham was chosen by consensus.

<sup>v</sup> That is notwithstanding Mr Mileham’s evidence that he expected *“a few words, not a treatise or a very great deal of work”* in response to his request: Transcript, M Mileham, public hearing, 28 August 2019.

85. On a reading of the documentation concerning the second-round interviews, there are a number of failings. It is not possible to determine who assessed the candidates, an attendance list was not kept. Nor can an assessment be made of how the candidates' presentations were rated. Only one interview grid for each candidate was completed in full and there are no other notes which allow a comprehensive comparison between the applicants to be undertaken.<sup>355</sup> On a reading of the records, it is unclear whether, following their presentations, any questions were asked of the candidates. Any questions which were asked were not recorded, and nor were any answers.
86. Many of the council members had incomplete or no meaningful memory of the second-round interview process. Ms Chen said she did not attend<sup>356</sup> the presentations and some other council members also had no memory of attending.<sup>357</sup> As the evidence before the Inquiry demonstrates, there is now no meaningful and objective way in which the remaining candidate's performance in the second-round interview can be compared to Mr Mileham's.
87. As a result of these deficiencies, it is not possible to identify, let alone assess, the conclusions reached by the council members about the respective merits of the applicants. Nor is it possible to draw a comparison between them, or to assess the decision to prefer Mr Mileham over the other candidate. It is, therefore, very difficult to assess whether the appointment of Mr Mileham was a meritorious one.
88. By way of example, the other candidate interviewed during the second-round interviews had 15 years of experience working for local governments in Western Australia, including nine years as the CEO of two local governments.<sup>358</sup> By contrast, Mr Mileham's only experience in local government was less than four years as the City's Director, Planning and Development and less than a year as the City's Acting CEO. He had no other experience as a CEO.<sup>w</sup>
89. Given the significant external and internal challenges faced by the City at that time, the Inquiry is of the view that local government experience, particularly as a CEO, was an important factor for the Council to consider. Given the lack of documentation, the Inquiry cannot now reliably ascertain what, if any, weight or consideration was given by council members to that factor.
90. The City's then Procedure "*PR0007 – Recruitment and Selection Procedure*", required that:
- "All recruitment decisions are made on the basis of equity, merit and procedural fairness.*
- *Recruitment and selection processes are open, competitive and free of bias, unlawful discrimination, nepotism or patronage.*
  - *Decisions are transparent and capable of review".<sup>359</sup>*

w Application, CEO City of Perth, M Mileham, undated. Mr Mileham gave evidence that he was Vice President of Operations in Dubai for a multi-national company that "was in effect CEO" and "was a director and founder of my own company which again was, in effect, in my view, not altogether different from being a CEO": Transcript, M Mileham, private hearing, 22 July 2019, p 23.

91. The principles set out in section 5.40(a) of the LG Act require employees to be “selected and promoted in accordance with the principles of merit and equity”.
92. The recruitment process leading to the appointment of Mr Mileham was not transparent. The decision to select Mr Mileham is not capable of proper review. It is, therefore, difficult to determine whether the decision to select Mr Mileham was based on the principles of merit and equity.

### Appointment of Mr Martin Mileham

93. On 30 August 2016, Ms Howells sent a memorandum to Ms Scaffidi, Ms Davidson, Mr Limnios and Mr Ridgwell. She confirmed that Council had decided Mr Mileham was the preferred candidate and set out the checks and other tasks to be done. She stated she would have a recommendation paper to the CEO Recruitment Committee on Thursday 1 September 2016 and noted:  
*“Due to the need for reference checks and the negotiation with Mr Mileham on his contract which needs to commence it is recommended by the Manager Governance that a special council meeting be held on Tuesday 6 September.”*<sup>360</sup>
94. Ms Howells attached a recommendation for a CEO contract, based on a WALGA template.
95. On 30 August 2016, the CEO Recruitment Committee met. Ms Scaffidi, Ms Davidson, Mr Limnios, Ms Howells and Mr Ridgwell attended.
96. The meeting passed the following motion:  
*“That Council, in accordance with Section 5.36 of the Local Government Act 1995, BY ABSOLUTE MAJORITY DECISION, appoints Mr Mileham to the position of Chief Executive Officer for a period of five years, under the contract of employment for a Chief Executive officer.”*<sup>361</sup>
97. However, this was not the motion put to Council at its Special Council Meeting to appoint the CEO.
98. Despite the suggestion by Ms Howells that the Special Council Meeting be postponed to 6 September 2016, that meeting was scheduled for 1 September 2016. This meant the administration staff did not have enough time to complete the proposed tasks, including the reference checks, before the meeting.<sup>362</sup>
99. Ms Scaffidi<sup>363</sup> and Ms Davidson<sup>364</sup> were asked about this in their examinations and agreed there were sound reasons to allow the administration staff to complete the tasks described by Ms Howells, particularly in relation to the contract of employment and salary. Although Ms Davidson believed they needed to complete the tasks, neither she nor Ms Scaffidi could say why more time was not allowed for that to occur.

100. The minutes of the Special Council Meeting on 1 September 2016 record:

*“The Council agreed that there would be no discussion on Confidential Item 334/16 [appointment of Chief Executive Officer] therefore it was not deemed necessary to close the meeting (as detailed 333/16)”[matters for which the meeting may be closed].<sup>365</sup>*

101. Confidential schedule 1 to the meeting minutes contained a report summarising the recruitment process and setting out some of the proposed details for the contract of employment.

102. The officers report stated:

*“That Council, in accordance with Section 5.36 of the Local Government Act 1995, and subject to the satisfactory completion of reference checks, by an Absolute Majority Decision, appoints Mr Martin Mileham to the position of Chief Executive Officer and approves the CEO Recruitment Committee to negotiate the terms of the Contract provisions with Mr Martin Mileham”.<sup>366</sup>*

103. The report did not include a draft contract, but stated:

*“CONTRACT PROVISIONS:*

- *Five (5) year term;*
- *Six (6) month review period;*
- *Remuneration package breakdown:*
  - *Cash: \$310,000*
  - *Car allowance: \$25,000*
  - *Superannuation: \$29,450*
- *Total Remuneration total package: \$364,450*
- *WALGA/LGMA CEO contract model base document”.<sup>367</sup>*

104. The council members at the meeting voted in favour of motions that Council:

- “1. in accordance with section 5.36 of the Local Government Act 1995, by an absolute majority accepts the CEO Recruitment Committee’s recommendation to appoint the preferred candidate as detailed in Confidential Schedule 1 to the position of Chief Executive Officer for a period of five years under the contract of employment for a Chief Executive Officer;*
- 2. subject to the completion of satisfactory reference checks approves the CEO Recruitment Committee to negotiate the terms of the Contract provisions”.*

105. Mr Mileham attended the Special Council Meeting, but believes he left the room while the motion to appoint him as CEO was voted on.<sup>368</sup> The minutes record he left the room for one minute between 5.04 pm and 5.05 pm.<sup>369</sup>

### Mr Martin Mileham's appointment as Chief Executive Officer

106. One question which arises on these facts is whether Mr Mileham was ever validly employed by the City.
107. The power and responsibility to employ a CEO, and to do so properly, rests with the Council. A person is not to be employed in the position of CEO unless the Council:
  - “believes that the person is suitably qualified for the position”<sup>370</sup>, which requires a simple majority of Council<sup>371</sup>; and
  - “is satisfied with the provisions of the proposed employment contract”, which requires an absolute majority of Council<sup>372</sup> and cannot be delegated to a committee.<sup>373</sup>
108. In requiring Council to be “satisfied with the provisions of the proposed employment contract”, the LG Act requires Council to be satisfied with the stipulated provisions of the proposed contract between the prospective CEO and the Council and vote on it.
109. Council was never asked to vote on the proposed contract of employment for Mr Mileham.
110. When Mr Stevenson was appointed, the proposed contract of employment was presented to Council and the following motion was moved and carried:

*“in accordance with section 5.36 of the Local Government Act 1995 BY AN ABSOLUTE MAJORITY DECISION, appoints Mr Gary Stevenson to the position of Chief Executive Officer for a period of five years, under the contract of employment detailed in Schedule 2 with a total annual remuneration package valued at \$327,034.”*<sup>374</sup>
111. While human resources staff, Mr Ridgwell and Mr Mianich, may have checked the terms of Mr Mileham's contract, it was not their responsibility to settle the final contract. It is a statutory function of Council to ensure that it is satisfied with the stipulated provisions of the proposed contract of employment for its CEO. If they are not so satisfied, the person is not to be employed as CEO.
112. As long as the contract of employment between Mr Mileham and the City was subject to negotiation, Council could not have been satisfied with the provisions, because they had not been stipulated for consideration and the Council could not, therefore, be satisfied with them.
113. To employ a CEO in these circumstances contradicts the prohibition in section 5.36(2)(b) of the LG Act. Mr Mileham should not have been employed by the City as CEO without the provisions of the proposed contract being stipulated and Council being satisfied with them. For him to be employed contrary to the prohibition is an untenable position. The Inquiry finds there was a significant failure by Council in employing Mr Mileham where the prohibition was so clear. There was no basis on which Council could be satisfied of the provisions of the contract. The matter on which the Council was required to exercise its mind and be satisfied did not exist in a form which would allow that satisfaction to be formed.

114. Not only had the provisions of Mr Mileham's contract not been stipulated, his references had not been checked before Council was asked to endorse his appointment.<sup>375</sup>
115. In addition to the terms of Mr Mileham's employment contract, Council was advised that reference checks were outstanding at the time they voted to appoint Mr Mileham. Although no criticism is levelled at council members for voting in favour of the appointment of Mr Mileham based on their various beliefs regarding his qualification for the position,<sup>376</sup> it would have been better had those checks been completed before Council was asked to vote. They would have informed the exercise of the discretion.
116. Ms Howells had asked for the Special Council Meeting to occur on 6 September 2016 to allow a reference check to occur and the terms of the contract to be negotiated.<sup>377</sup> The explanations offered by the members of the CEO Recruitment Committee as to why the Special Council Meeting was held on 1 September 2016 and not 6 September 2016, do not provide any logical, plausible or convincing explanation for why a delay of five days could not be allowed.<sup>378</sup> The failure to allow sufficient time for the provisions to be stipulated and the reference checks to be made was always going to result in a non-compliant and ill informed decision.
117. The failure to allow enough time for these things to happen is even more unsatisfactory given that each of the members of the CEO Recruitment Committee agreed it was important for the reference checks to be completed, and the contract terms negotiated, before Council was asked to vote on Mr Mileham's appointment.<sup>379</sup>

#### **Mr Martin Mileham's contract of employment**

118. On 16 September 2016, the CEO Recruitment Committee met and Ms Scaffidi, Ms Davidson and Mr Mileham were present. Mr Limnios was absent. It was resolved that specified key performance indicators (KPIs) would be applied to Mr Mileham's contract of employment.<sup>380</sup>
119. There is no reference to contract negotiations in the minutes of the committee meeting.
120. Council met on 20 September 2016. Mr Mileham attended. Neither Mr Mileham's contract of employment, nor his KPIs were presented to that meeting.<sup>381</sup>
121. Mr Mileham's contract was signed on the following day, 21 September 2016.<sup>382</sup> The contract provided for remuneration above the maximum determined by the Salaries and Allowances Tribunal and allowed under the LG Act.
122. Although the Council had authorised the CEO Recruitment Committee to negotiate the terms of the contract on 1 September 2016, the Inquiry has not been able to discern from the evidence available to it how the contract came to be negotiated.
123. Mr Mileham did not recall discussing the content of the contract with Ms Scaffidi. Nor did he recall a great deal about the negotiation of its terms. His best recollection was that the contract was in a form presented to him by Ms Howells. He did not recall requesting any changes to it.<sup>383</sup>

124. Ms Howells said that she had no input into the employment contract between Mr Mileham and the City. She just produced the contract based on information provided by the CEO Recruitment Committee. She recalled a meeting with the committee, where a decision was made to pay Mr Mileham at the top of the pay scale, but she did not recall being asked about whether he could be paid above the advertised range. Ms Howells did not know if someone could be paid above the cap of the Salaries and Allowances Tribunal salary band.<sup>384</sup>
125. Mr Ridgwell said he had no input into establishing the terms of Mr Mileham's contract or his salary. As Ms Howells was relatively new to her role, he offered support for Ms Howells in the process. Mr Ridgwell said he could not recall being asked for advice by any member of the CEO Recruitment Committee during the appointment process.<sup>385</sup>
126. Mr Limnios had no recollection of being involved in any negotiations himself. He said that in September 2016 the terms of the contract with Mr Mileham were to be negotiated by Ms Scaffidi and Ms Davidson.<sup>386</sup> According to him, they were the "*prime*" people involved in the negotiation.<sup>387</sup>
127. Ms Davidson could not recall whether she, Ms Scaffidi, or another council member negotiated the terms and conditions of the contract with Mr Mileham. At first, she said that the person responsible for determining what was offered to Mr Mileham was the "*Director of Corporate Services and human resource management*", but she later accepted that Council was responsible.<sup>388</sup>
128. Ms Scaffidi told the Inquiry she did not settle the terms of the contract with Mr Mileham, although she agreed that she would have read the contract.<sup>389</sup>

#### Circumstances in which Mr Martin Mileham's contract was executed

129. Mr Mileham's contract of employment was dated 21 September 2016.
130. The contract was for a period of five years, from 3 October 2016 until 1 October 2021. It had a review period, effectively a probation period, of six months.
131. The signing page states:  
*"THE COMMON SEAL of the City of Perth was affixed by authority of a resolution of the Council in the presence of:  
The Rt Hon the Lord Mayor".*<sup>390</sup>
132. Ms Scaffidi signed, but the common seal was not affixed and there was no corresponding resolution of the Council (Figure 2.16).
133. Mr Mileham signed, and a witness also signed. The signatures were not dated.
134. Section 9.49A of the LG Act sets out how documents should be lawfully executed by a local government. Mr Mileham's contract was not executed in a way which complied with this section.

COP Imaged Record - 27/10/2016

**EMPLOYMENT CONTRACT**

Signing page

**EXECUTED** by the parties

THE **COMMON SEAL** of the City of Perth  
was affixed by authority of a resolution of the  
Council in the presence of -

*Lisa M. Scaffidi*  
The Rt Hon the Lord Mayor

LISA-M. SCAFFIDI  
Name  
(print)

**Signed** by Employee  
in the presence of -

*M. Mileham*  
Employee  
M. MILEHAM.  
Name  
(print)

*Gail R. Wicking*  
Witness  
GAIL R. WICKING  
Name  
(print)

Figure 2.16: City of Perth Employment Contract, Mr Martin Mileham, p 12 of 16, 21 September 2016.

135. The contract between the City and Mr Mileham was not duly executed, because Ms Scaffidi was not authorised to sign the contract of employment on behalf of the City.<sup>391</sup> In these circumstances the common seal of the City should have been affixed.<sup>392</sup> However, the common seal was not affixed, and could not be affixed in circumstances where there was no authority from Council to do so.<sup>393</sup>
136. Ms Scaffidi agreed Mr Mileham's contract was not put to a resolution by Council, as was required by section 5.36(2)(b) of the LG Act. She also agreed that the contract was not properly executed and that, as a result, Mr Mileham was not properly appointed.<sup>394</sup>
137. Ms Scaffidi signed the contract, which indicated on its face that the common seal was affixed by authority of a resolution of Council, knowing that it was not. She agreed she was responsible for ensuring that such a resolution was passed.<sup>395</sup>
138. The Inquiry finds it was irresponsible of Ms Scaffidi to purport to execute Mr Mileham's contract of employment in the manner she did. In the absence of Ms Scaffidi being authorised to sign the document on behalf of the City, the whole of Council should have been given the opportunity to authorise the affixing of the common seal. By failing to do this, the City failed to comply with section 9.49A of the LG Act.

#### Mr Martin Mileham's remuneration

139. The advertised salary package for the CEO position was in the range of \$247,896.00 to \$375,774.00 per annum.<sup>396</sup> This was the range for a CEO Band 1 determined by the Salaries and Allowances Tribunal.<sup>397</sup>
140. Mr Mileham's contract provided for a total annual remuneration package of \$379,950.00 per annum.<sup>398</sup>
141. Mr Mileham said he discussed his contract with the Manager of Human Resources, who compiled his contract, but he did not discuss the "*dollar value*" of his contract with any council member. While he discussed KPIs with the council members, he did not discuss his salary with them. He said he did not negotiate the salary. He said he accepted what was offered.<sup>399</sup>
142. The Inquiry has been unable to determine on the evidence and the available materials how the final remuneration figure offered to Mr Mileham was decided. It was the responsibility of the Council.
143. According to the City's records, during the 2016/2017 financial year, Mr Mileham was paid \$315,461.00.<sup>400</sup> He also received \$29,968.78 in superannuation contributions<sup>401</sup> and \$17,672.00 in a reportable fringe benefits amount.<sup>402</sup> In addition, Mr Mileham used the option of the City providing him with a motor vehicle for work and private use under his contract of employment. The "*private benefit value*" estimated was up to \$2,757.00.<sup>x</sup> These amounts totalled \$365,858.78. In the 2017/2018 financial year, Mr Mileham was paid \$310,000.00.<sup>403</sup> He also received \$29,449.94 in superannuation contributions<sup>404</sup> and \$15,709.50 in a reportable fringe benefits amount.<sup>405</sup> The "*private benefit value*" estimated is up to \$1,919.00.<sup>406</sup> This totalled \$357,078.44.

x WA Government Gazette, Salaries and Allowances Tribunal, 12 April 2016 Determination for Local Government CEOs and Elected Members, 21 April 2016. The private benefit value for a motor vehicle is defined in Part 5 of the determination; Table, CEO car – operational budget and actual 2015/2016 to 2017/2018.

144. Mr Mileham did not take up the non-compulsory superannuation option, which would have seen him receive an additional \$15,000.00 in superannuation.<sup>407</sup>
145. The final agreed total annual remuneration package of \$379,950.00 offered to Mr Mileham was above the allowable Salaries and Allowances Tribunal bandwidth, which stipulated a maximum of \$375,774.00.
146. However, this is not what Mr Mileham was actually paid. In the 2016/2017 financial year this totalled \$365,858.78. In the 2017/2018 financial year it was \$357,078.44.
147. Section 5.39(7) of the LG Act states that a CEO is to be “*paid or provided with*” remuneration as determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975*, section 7A. Although Mr Mileham was offered a total remuneration package of more than the (permissible) maximum amount, it was never “*paid or provided*” to him. For this reason, there was no breach of the Act.
148. Regulation 18F of the *Local Government (Administration) Regulations 1996* provides the remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position under section 5.36(4) of the LG Act. Although the amount offered to Mr Mileham was in excess of the advertised amount, Mr Mileham was not paid more than the maximum of the advertised total annual remuneration range. Consequently, there was no breach of this regulation.

#### **Chief Executive Officer six-month performance review**

149. Mr Mileham’s six-month review period was due to expire on 3 April 2017.
150. The process adopted for managing Mr Mileham’s review period was not in keeping with the requirements of clause 4.3 of his contract of employment.
151. Clause 4 of Mr Mileham’s contract dealt with its review period. Clause 4.3 provided that, within four weeks of the commencement date, the “*City of Perth Council*” and the employee must discuss and agree the KPIs for the first six months, the measures which the KPIs will be assessed against and how the review of the KPIs will be conducted.<sup>408</sup> Clause 4.2 provided that satisfactory completion of the review period<sup>409</sup> would be determined on the employee’s performance against the KPIs. No mechanism was specified.
152. The Inquiry considers that a reference to “*the City of Perth Council*” in Mr Mileham’s contract of employment is a reference to the Council and does not include a committee.
153. On 16 September 2016, during a CEO Recruitment Committee meeting attended by Ms Scaffidi and Ms Davidson, KPIs were settled and applied to Mr Mileham’s contract. Mr Mileham attended the meeting and was a party to the discussions.<sup>410</sup> No recommendation was made to place the KPIs before Council.
154. Mr Mileham’s contract of employment was made on 21 September 2016, after his KPIs had been determined by the CEO Recruitment Committee.<sup>411</sup>

155. Council was not asked to discuss and agree on the KPIs. There were no measures against which the KPIs would be assessed. There was no agreement on how the review of the KPIs would be conducted. This was in breach of clause 4.3 of the contract of employment.

#### Confirmation of Chief Executive Officer Performance Review Committee minutes

156. The CEO Performance Review Committee met on 7 March 2017. Mr Mileham and Mr Ridgwell were also present.<sup>412</sup>
157. At that meeting, the minutes of the CEO Performance Review Committee meetings on 28 October 2014 and 19 January 2016 were confirmed.
158. The LG Act requires that the minutes of a meeting of a committee are to be submitted to the next ordinary meeting of the committee for confirmation.<sup>413</sup>
159. The 28 October 2014 minutes should have been confirmed at the 19 January 2016 meeting. At their hearings before the Inquiry, Ms Scaffidi,<sup>414</sup> Mr Limnios<sup>415</sup> and Ms Davidson<sup>416</sup> agreed.
160. The Inquiry finds the members of the CEO Performance Review Committee should have confirmed the minutes from 28 October 2014 at the meeting of 19 January 2016 and did not. The failure to do so was in breach of section 5.22(2) of the LG Act.
161. In addition, Mr Mileham's contract of employment was put before the CEO Performance Review Committee as part of its papers for the meeting.<sup>417</sup> There appears from the minutes of that meeting to have been no discussion of the terms of that contract.

#### Performance review process

162. The Inquiry notes there was no guidance for council members on how to make an assessment of the performance of the CEO.
163. On 7 March 2017, Mr Mileham completed a self-assessment for his probationary period.<sup>418</sup> Ms Scaffidi, Ms Davidson and Mr Limnios each completed a "*probation period review*" for him.<sup>419</sup> The review was conducted against the established KPIs.
164. The KPIs which were recommended for Mr Mileham are in stark contrast with the criteria used to assess Mr Stevenson's performance. They include objective matters, which can be measured, and specify time frames, within which achievements should and could occur. A variety of weighted competencies were established in the areas of governance, organisational development, stakeholder management, strategic planning, protocol and public relations.

165. However, some of the “*measures*” to assess Mr Mileham’s performance do not appear to have been appropriate for the CEO of a large, sophisticated organisation. For example, the measures used to assess Mr Mileham’s performance for:
- “*Stakeholder Management*” were:
    - “*1:1 meetings with EM’s*” to occur within “*6 weeks*” of 1 October 2016;
    - “*Ongoing 1:1 [council members] or preferred arrangement as agreed*” to occur “*Ongoing*” from 1 October 2016; and
    - “*Feedback from EM’s and CEO*” to occur “*At 6 month review*”.
  - “*Public Relations*” included ensuring “*Information on CoP’s [City’s] website is correct and up to date*”.<sup>420</sup>
166. At the CEO Performance Review Committee meeting on 7 March 2017, Mr Limnios had not had the opportunity to conduct “*individual feedback*” and the meeting was adjourned to the following day.<sup>421</sup>
167. At the CEO Performance Review Committee meeting on 8 March 2017, completed probation period review forms were tabled by Ms Davidson,<sup>422</sup> Ms Scaffidi<sup>423</sup> and Mr Limnios.<sup>424</sup>
168. At that meeting Mr Limnios expressed concerns about Mr Mileham’s performance review and advocated for Council to be consulted and involved in providing feedback on Mr Mileham’s performance.<sup>425</sup> He said he felt “*railroaded*” at the meeting and felt like the processes of the CEO Recruitment Committee and CEO Performance Review Committee had been dominated by Ms Scaffidi and Ms Davidson from “*day dot*”. Mr Limnios said he was reminded by Ms Scaffidi and Ms Davidson that he did not have experience in the sub-committee.<sup>426</sup> Neither Ms Scaffidi nor Ms Davidson shared his concerns and his vote against a motion to approve the CEO’s performance was in the minority.<sup>427</sup>
169. Ms Scaffidi<sup>428</sup> and Ms Davidson<sup>429</sup> found Mr Mileham had satisfied every one of his KPIs, while Mr Limnios found Mr Mileham had satisfied none of them.<sup>430</sup> Given that Mr Mileham’s KPIs contained objective measures and clear timeframes for when those measures had to be achieved, that mixed and contradictory set of results is difficult to understand.
170. In this context, the Inquiry notes that during 2016 there appears to have been a falling out between Mr Limnios and Ms Scaffidi and her team. Mr Limnios gave evidence that “*I wouldn’t allow the Lord Mayor to push me around and I don’t think she liked it either, that I would stand my ground, and that was why. So she turned on me and so did her friends*”,<sup>431</sup> namely, Ms Davidson, Ms McEvoy, Mr Adamos and Mr Yong.

171. At an Ordinary Council Meeting on 17 May 2016, Ms Davidson moved a motion of no confidence in Mr Limnios as Deputy Lord Mayor. Ms Scaffidi and her team members (except Ms Chen) voted in favour. Mr Limnios made complaints about Ms Scaffidi's and Ms Davidson's conduct in relation to the motion to the LGSP.
172. Mr Limnios then appears to have aligned himself with Dr Green and Mr Harley.
173. On 9 March 2017, Dr Green asked Ms Davidson for details as to why the approach taken with respect to Mr Mileham was different from that undertaken for Mr Stevenson and why it was different from the process used by the City for its performance reviews.<sup>432</sup>
174. On 10 March 2017, Dr Green asked Ms Davidson to respond to her assertion that there were "*material deficiencies with the process*", which needed to be rectified before a decision of Council was made on Mr Mileham's probation.<sup>433</sup> Dr Green suggested an out of session Council Meeting to review the proper process before the 4 April 2017 meeting was held.<sup>434</sup> She received no response.<sup>435</sup>
175. On the morning of 14 March 2017, before a Council Meeting on the same day, Mr Harley raised a number of concerns with Ms Davidson about the process. Mr Harley pointed out to Ms Davidson and Ms Scaffidi and the remainder of Council that the process did not comply with clause 4 of the contract of employment.<sup>436</sup> He was right.
176. As explained at paragraph 151-155, the City had breached clause 4.3 of Mr Mileham's contract of employment by not having Council discuss and agree the KPIs for the first six months, the measures against which each KPI would be assessed and how the review would be conducted.
177. Ms Davidson and Ms Scaffidi, who developed and applied the KPIs to Mr Mileham's contract,<sup>437</sup> contributed to the City's contractual breach, exposing the City to an unnecessary risk of litigation.
178. The Inquiry also notes that Mr Mileham's March 2017 performance review was not an annual review, it was a six-month probationary review. The terms of reference of the CEO Performance Review Committee make it clear that it should establish annual performance objectives for the CEO and report on them to Council. They also provide for the committee to undertake an annual review of the CEO. The committee's terms of reference do not provide any guidance as to how to manage the performance of a CEO within a probationary period.<sup>438</sup> There was no other guidance provided for council members on this subject.
179. Consequently, the committee was unsupported in its work. As Ms Scaffidi said "*It's a shame the City didn't have a template or a process there*".<sup>439</sup>

### Council Meeting of 14 March 2017

180. An Ordinary Council Meeting was held on 14 March 2017. All council members attended, as did Mr Mileham, Mr Ridgwell, the directors and a number of City employees.<sup>440</sup>
181. The meeting considered an item *“Confidential 13.20 CEO Probation Review”*.
182. A report from Mr Mianich was tabled as a confidential item and included all of the information that had been before the CEO Performance Review Committee on 7 and 8 March 2017.
183. Three completed key performance assessment sheets were put before Council. They were from Ms Scaffidi,<sup>441</sup> Ms Davidson<sup>442</sup> and Mr Limnios.<sup>443</sup> There was considerable variation between the assessments. Ms Scaffidi and Ms Davidson generally gave Mr Mileham positive assessments. Mr Limnios’s assessments were generally negative.
184. For example, Mr Limnios commented that Mr Mileham’s most important achievement was *“Surviving the environment surrounding the Lord Mayor, publicity issues, public perception of the City”* and that he needed to develop *“people skills, putting effort to understand the various personalities. Not being so defensive, reducing the perception of aggression when feeling under pressure or challenged”*.<sup>444</sup>
185. Ms Scaffidi and Ms Davidson gave Mr Mileham an overall rating of *“satisfactory”*. Mr Limnios gave an overall rating of *“... not yet satisfactory – further review needed”*.<sup>445</sup>
186. As the item was a confidential one, there is no record of any Council debate about this CEO Probation Review.
187. In the face of what Dr Green believed were *“wildly differing views”* on whether Mr Mileham had met his KPIs,<sup>446</sup> Dr Green moved a motion to refer the matter back to committee, but it was not carried. It was not recorded in the Council minutes.
188. The Council’s minutes of this meeting record a motion by Mr Harley to amend the motion in the following terms:  
*“That Council notes the initial probationary review period and extends the probationary period for up to a further six months to allow for the satisfactory completion of all KPIs”*.<sup>447</sup>
189. However, the motion was defeated. Mr Limnios, Dr Green and Mr Harley were in the minority.
190. The primary motion was put and carried, namely, *“That Council approves the satisfactory conclusion of the review period of 6 months for Martin Mileham, Chief Executive Officer”*.<sup>448</sup>

## Findings

### Finding 2.3.1 – 3

The Inquiry makes the following findings:

- i. On 26 July 2016, Ms Scaffidi spoke to Mr Mileham and attempted to influence how he would perform the role of CEO by creating an impression that Mr Mileham's application for the position of CEO and/or his ongoing employment may be prejudiced. This was an abuse of her position as Lord Mayor and was inconsistent with regulation 3(1)(b) and 3(1)(g) of the Conduct Regulations. It was also inconsistent with several overarching employment principles (set out at paragraph 59).
- ii. On 23 August 2016, Mr Mileham emailed the ELG, asking them to provide information to assist him in his preparation for his second-round interview. That was inappropriate.
- iii. The recruitment process to recruit a CEO in 2016 was not transparent and capable of review. There was a lack of records relating to Ms Scaffidi's assessment of candidates at the first-round of interviews in the CEO selection process, and of documentation of the second-round presentations to the Council. This was contrary to the requirements of the City's then Procedure "*PR0007 – Recruitment and Selection Procedure*".<sup>449</sup> It is, therefore, difficult to determine whether the decision to select Mr Mileham was based on the principles of merit and equity as required by section 5.40(a) of the LG Act.
- iv. The stipulated provisions of Mr Mileham's proposed contract of employment were not provided to the Council for an absolute majority decision and consequently the City did not comply with the requirements of section 5.36(2)(b) of the LG Act.
- v. Although Ms Scaffidi was not authorised by Council to sign Mr Mileham's contract of employment, she signed it and failed to ensure the contract was put before Council so it could authorise the affixing of the common seal in accordance with section 9.49A of the LG Act.
- vi. Clause 4.3 of Mr Mileham's contract of employment provided that the KPIs must be discussed and agreed between the City of Perth Council and the employee. Contrary to this, Mr Mileham's KPIs were agreed only between Mr Mileham and two members of the CEO Performance Review Committee, Ms Scaffidi and Ms Davidson.

## Endnotes

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- 29 *Corruption, Crime and Misconduct Act 2003*, s 31.
- 30 *Corruption, Crime and Misconduct Act 2003*, s 3 (definition, “minor misconduct”).
- 31 *Corruption, Crime and Misconduct Act 2003*, s 45H.
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- 42 Agenda, Ordinary Council Meeting, 28 October 2014; Minutes, Ordinary Council Meeting, 28 October 2014.
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- 130 Transcript, J Limnios, public hearing, 6 September 2019, p 13.
- 131 Transcript, J Limnios, public hearing, 6 September 2019, p 13-14.
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- 136 Transcript, J McEvoy, public hearing, 11 September 2019, p 91.
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- 176 Transcript, J Limnios, Public hearing, 6 September 2019, p 38-41.
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- 254 Transcript, J Adamos, public hearing, 9 September 2019, p 6-7; Personal communication, WhatsApp, the team group chat, J Adamos, 1.45 pm 20 January 2016.
- 255 Transcript, J Adamos, public hearing, 9 September 2019, p 10.
- 256 Transcript, R Harley, public hearing, 4 September 2019, p 25.
- 257 Transcript, J Green, public hearing, 2 September 2019, p 8-11.

- 258 Transcript, L Chen, public hearing, 27 August 2019, p 30.
- 259 Transcript, K Yong, public hearing, 27 August 2019, p 64.
- 260 Transcript, J Limnios, public hearing, 6 September 2019, p 57.
- 261 Transcript, J Limnios, public hearing, 6 September 2019, p 52.
- 262 Transcript, J Davidson, public hearing, 10 September 2019, p 29.
- 263 Transcript, J Davidson, public hearing, 10 September 2019, p 53.
- 264 Transcript, J Davidson, public hearing, 10 September 2019, p 58.
- 265 Transcript, J McEvoy, public hearing, 12 September 2019, p 4.
- 266 Transcript, L Scaffidi, public hearing, 28 August 2019, p 15.
- 267 Transcript, L Scaffidi, public hearing, 28 August 2019, p 2.
- 268 Transcript, L Scaffidi, public hearing, 12 September 2019, p 89-90.
- 269 Personal communication, WhatsApp, the team group chat, L Scaffidi, 2.26 pm 20 January 2016.
- 270 Personal communication, WhatsApp, the team group chat, 2.27 pm 20 January 2016.
- 271 Personal communication, WhatsApp, the team group chat, various, 20 January 2016.
- 272 Transcript, J Adamos, public hearing, 9 September 2019, p 6-7; Personal communication, WhatsApp, the team group chat, J Adamos, 20 January 2016; Transcript, R Harley, public hearing, 4 September 2019, p 25; Transcript, K Yong, public hearing, 27 August 2019, p 64; Transcript, J Green, public hearing, 2 September 2019, p 9-10.
- 273 Transcript, R Harley, public hearing, 4 September 2019, p 25; Transcript, J Green, public hearing, 2 September 2019, p 9.
- 274 Personal communication, WhatsApp, the team group chat, J Adamos, 20 January 2016; Transcript, L Chen, public hearing, 27 August 2019, p 30; Transcript, J Green, public hearing, 2 September 2019, p 9.
- 275 Email, G Stevenson to J Davidson, 7.32 pm 30 November 2015.
- 276 Email, G Stevenson to J Davidson, 7.32 pm 30 November 2015.
- 277 Transcript, J McEvoy, public hearing, 12 September 2019, p 29-30; Transcript, J Limnios, public hearing, 6 September 2019, p 57-58.
- 278 Personal communication, WhatsApp, the team group chat, J Limnios and L Scaffidi, 7.39 am to 7.54 am 18 January 2016.
- 279 Personal communication, WhatsApp, the team group chat, J McEvoy, 1.39 pm 20 January 2016; Transcript, J McEvoy, public hearing, 12 September 2019, p 29.
- 280 Personal communication, WhatsApp, the team group chat, L Scaffidi, 7.33 am 26 January 2016.
- 281 Transcript, J Green, public hearing, 2 September 2019, p 11-12; Transcript, R Harley, public hearing, 4 September 2019, p 32.
- 282 Transcript, M Howells, private hearing, 20 June 2019, p 28-29.
- 283 Transcript, L Scaffidi, public hearing, 28 August 2019, p 18, 19.
- 284 Personal communication, J Limnios to R Harley, 10.56 am 21 May 2016. Original – Personal communication, WhatsApp, the team group chat, J Adamos, 6.10 pm 14 December 2015; Personal communication, WhatsApp, the team group chat, L Scaffidi, 6.10 pm 14 December 2015.
- 285 Personal communication, R Harley to J Limnios, 10.57 am 21 May 2016.
- 286 Transcript, R Harley, public hearing, 4 September 2019, p 30-32.
- 287 Paragraph 272 of this Section.
- 288 *Local Government Act 1995*, s 5.36(1).
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- 290 *Local Government Act 1995*, s 5.39(2)(b), 5.39(6).
- 291 *Local Government Act 1995*, s 5.39(3)(b).
- 292 *Local Government Act 1995*, s 5.38.
- 293 *Local Government (Administration) Regulations 1996*, reg 18D.
- 294 *Local Government Act 1995*, s 5.40(c).
- 295 *Local Government Act 1995*, s 5.41(d).
- 296 *Local Government Act 1995*, s 5.41(a).
- 297 *Local Government Act 1995*, s 5.41(b).
- 298 *Local Government Act 1995*, s 5.41(c).
- 299 *Local Government Act 1995*, s 5.41(e).
- 300 Transcript, A Hammond, public hearing, 10 October 2019, p 18.
- 301 *Corruption, Crime and Misconduct Act 2003*, s 28.
- 302 *Corruption, Crime and Misconduct Act 2003*, s 29.
- 303 *Local Government Act 1995*, s 5.120(2).
- 304 *Local Government Act 1995*, s 5.107(3), 5.108(2).
- 305 *Local Government Act 1995*, s 5.107(3), 5.110(3).
- 306 *Local Government Act 1995*, s 5.107(3), 5.121.
- 307 *Local Government Act 1995*, s 5.115.
- 308 *Local Government Act 1995*, s 5.115.

- 309 Transcript, A Hammond, public hearing, 10 October 2019, p 19.
- 310 Minutes, CEO Performance Review Committee Meeting, 19 January 2016, p 2-3; Notes of minutes of CEO Performance Review Committee, A Smith, 19 January 2016.
- 311 Minutes, CEO Performance Review Committee Meeting, 22 October 2015.
- 312 Minutes, Special Council Meeting, 20 January 2016.
- 313 Transcript, M Mileham, public hearing, 28 August 2019, p 73; Transcript, M Mileham, private hearing, 23 July 2019, p 91.
- 314 Transcript, M Mileham, public hearing, 28 August 2019, p 74.
- 315 Email, T Brown to L Scaffidi, 8.47 am 28 January 2016.
- 316 Letter, L Scaffidi to M Mileham, 29 January 2016.
- 317 Email, R Harley to L Scaffidi, 12.46 pm 8 April 2016.
- 318 Email, J Limnios to R Harley, 3.12 pm 8 April 2016.
- 319 Minutes, Ordinary Council Meeting, 7 June 2016, p 71.
- 320 Email, M Howells to L Scaffidi, 5.55 pm 8 June 2016; Email, A Testar to M Howells, 3.19 pm 13 June 2016.
- 321 Notice, Australian Financial Review, 24 June 2016, p 5.
- 322 Email, M Howells to L Scaffidi, 5.25 pm 22 July 2016.
- 323 Email, J Limnios to M Mileham, 1.42 pm 22 July 2016; Email, J Limnios to M Mileham, 1.48 pm, 22 July 2016.
- 324 Email, M Mileham to J Limnios, 3.43 am 25 July 2016.
- 325 Handwritten note, M Mileham, 27 July 2016.
- 326 Transcript, M Mileham, public hearing, 28 August 2019, p 75-81.
- 327 Handwritten note, M Mileham, 27 July 2016; Transcript, M Mileham, public hearing, 28 August 2019, p 78.
- 328 Transcript, L Scaffidi, public hearing, 13 September 2019, p 42-44.
- 329 Transcript, L Scaffidi, public hearing, 17 September 2019, p 14.
- 330 Transcript, L Scaffidi, public hearing, 13 September 2019, p 45-46.
- 331 *Local Government Act 1995*, s 5.40(a).
- 332 *Local Government Act 1995*, s 5.40(b).
- 333 *Local Government Act 1995*, s 5.40(c).
- 334 *Local Government (Rules of Conduct) Regulations 2007*, r 3(1)(b).
- 335 *Local Government (Rules of Conduct) Regulations 2007*, r 3(1)(g).
- 336 Email, R Mianich to L Scaffidi, 8.01 am 3 August 2016.
- 337 Email, L Scaffidi to R Mianich, 8.15 am 3 August 2016.
- 338 Memorandum, M Howells to CEO Recruitment Committee, 4 August 2016.
- 339 List of Applications Received.
- 340 Email, M Howells to L Scaffidi, 6.24 pm 9 August 2016.
- 341 Interview grids, various authors, 15 and 16 August 2016.
- 342 Interview grid, J Davidson, 15 and 16 August 2016.
- 343 Report, CEO Recruitment Panel Shortlisting, City of Perth; Summary of shortlisted candidates.
- 344 Email, A Testar to L Scaffidi, 2.39 pm 16 August 2016.
- 345 Email, M Mileham to the ELG, 1.50 pm 23 June 2016.
- 346 Email, A Sunderland to the ELG, 2.50 pm 24 August 2016.
- 347 Transcript, M Mileham, public hearing, 28 August 2019, p 82-83.
- 348 Transcript, M Mileham, public hearing, 28 August 2019, p 82-84.
- 349 Transcript, A Battista, private hearing, 25 June 2019, p 48.
- 350 Interview Schedule, CEO, City of Perth.
- 351 Transcript, J Davidson, public hearing, 11 September 2019, p 22-31.
- 352 Transcript, J Davidson, public hearing, 11 September 2019, p 25-26.
- 353 Transcript, J Green, public hearing, 2 September 2019, p 12-19.
- 354 Transcript, J Green, public hearing, 2 September 2019, p 19.
- 355 Interview grid, R Harley, 29 August 2016.
- 356 Transcript, L Chen, public hearing, 27 August 2019, p 38.
- 357 Transcript, K Yong, public hearing, 28 August 2019, p 38; Transcript, J McEvoy, public hearing, 12 September 2019, p 4-5.
- 358 Application, CEO City of Perth, 21 July 2016.
- 359 Procedure, City of Perth, PR0007, Recruitment and Selection, 20 May 2013.
- 360 Memorandum, M Howells to CEO Recruitment Committee members and M Ridgwell, 30 August 2016.
- 361 Minutes, CEO Recruitment Committee Meeting, 30 August 2016.
- 362 Email, M Howells to A Testar, 10.53 am 9 January 2017; Transcript, M Howells, private hearing, 22 August 2019, p 39.
- 363 Transcript, L Scaffidi, public hearing, 17 September 2019, p 17.
- 364 Transcript, J Davidson, public hearing, 11 September 2019, p 34, 45.

- 365 Minutes, Special Council Meeting, 1 September 2016.
- 366 Minutes, Special Council Meeting, 1 September 2016, Confidential schedule.
- 367 Minutes, Special Council Meeting, 1 September 2016, Confidential schedule.
- 368 Transcript, M Mileham, public hearing, 29 August 2019, p 5.
- 369 Minutes, Special Council Meeting, 1 September 2016.
- 370 *Local Government Act 1995*, s 5.36(2)(a).
- 371 *Local Government Act 1995*, s 5.20.
- 372 *Local Government Act 1995*, s 5.36(2)(b).
- 373 *Local Government Act 1995*, s 5.17(1)(a)(i).
- 374 Minutes, Special Council Meeting, 6 September 2012; Minutes, Special Council Meeting, Minute Book, 6 September 2012, Schedule 1.
- 375 Agenda, Special Council Meeting, 1 September 2016; Minutes, Special Council Meeting, 1 September 2016, Confidential schedule.
- 376 Transcript, J Limnios, public hearing, 5 September 2019, p 24; Transcript, J Adamos, public hearing, 9 September 2019, p 22; Transcript, J Green, public hearing, 2 September 2019, p 28; Transcript, K Yong, public hearing, 28 August 2019, p 40; Transcript, J McEvoy, public hearing, 11 September 2019, p 67.
- 377 Email, M Howells to L Scaffidi, 6.36 pm 29 August 2016.
- 378 Transcript, L Scaffidi, public hearing, 17 September 2019, p 17; Transcript, J Davidson, public hearing, 11 September 2019, p 44-46; Transcript, J Limnios, public hearing, 5 September 2019, p 22-23; Transcript, M Ridgwell, private hearing, 26 August 2019, p 10-11.
- 379 Transcript, L Scaffidi, public hearing, 17 September 2019, p 17; Transcript, J Davidson, public hearing, 11 September 2019, p 34; Transcript, J Limnios, public hearing, 5 September 2019, p 5, 24.
- 380 Minutes, CEO Recruitment Committee Meeting, 16 September 2016, Confidential schedule 1.
- 381 Minutes, Ordinary Council Meeting, 20 September 2016.
- 382 Contract of employment, The City of Perth and M Mileham, 21 September 2016.
- 383 Transcript, M Mileham, public hearing, 29 August 2019, p 2, 4, 10.
- 384 Transcript, M Howells, private hearing, 22 August 2019, p 2-4.
- 385 Transcript, M Ridgwell, private hearing, 25 July 2019, p 21-23.
- 386 Transcript, J Limnios, public hearing, 6 September 2019, p 72.
- 387 Transcript, J Limnios, public hearing, 5 September 2019, p 7.
- 388 Transcript, J Davidson, public hearing, 11 September 2019, p 35-36.
- 389 Transcript, L Scaffidi, public hearing, 17 September 2019, p 28-29.
- 390 Contract of employment, The City of Perth and M Mileham, 21 September 2016.
- 391 *Local Government Act 1995*, s 9.49A(1)(b), s 9.49A(4); CP 10.9 City of Perth Common Seal and Document Signing Authority, Council Policy Manual, Version 2, June 2014.
- 392 *Local Government Act 1995*, s 9.49A(1)(a).
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- 394 Transcript, L Scaffidi, public hearing, 17 September 2019, p 31-34.
- 395 Transcript, L Scaffidi, public hearing, 17 September 2019, p 35.
- 396 Notice, Australian Financial Review, 24 June 2016, p 5.
- 397 Western Australian Government Gazette, 21 April 2016, p 1237; Western Australian Government Gazette, 21 April 2016, p 1227.
- 398 Contract of employment, The City of Perth and M Mileham, 21 September 2016, Schedule A.
- 399 Transcript, M Mileham, public hearing, 29 August 2019, p 10.
- 400 PAYG payment summary, M Mileham, Year ending 30 June 2017.
- 401 Table, City of Perth payments to M Mileham 2016/2017.
- 402 PAYG payment summary, M Mileham, Year ending 30 June 2017; Table, City of Perth FBT April 2016/March 2017: Motor vehicles – large sedans.
- 403 PAYG payment summary, M Mileham, Year ending 30 June 2018.
- 404 Table, City of Perth payments to M Mileham 2017/2018.
- 405 Table, City of Perth FBT April 2017/March 2018: Motor vehicles – large sedans.
- 406 Table, CEO car – operational budget and actual 2015/2016 to 2017/2018.
- 407 Contract of employment, The City of Perth and M Mileham, 21 September 2016, Schedule A.
- 408 Contract of employment, The City of Perth and M Mileham, 21 September 2016.
- 409 A period of six months from the date of commencement.
- 410 Minutes, CEO Recruitment Committee Meeting, 16 September 2016.
- 411 Contract of employment, The City of Perth and M Mileham, 21 September 2016.
- 412 Minutes, CEO Performance Review Committee Meeting, 7 and 8 March 2017.
- 413 *Local Government Act 1995*, s 5.22(2).
- 414 Transcript, L Scaffidi, public hearing, 28 August 2019, p 30-31.
- 415 Transcript, J Limnios, public hearing, 5 September 2019, p 33.
- 416 Transcript, J Davidson, public hearing, 10 September 2019.

- 417 Minutes, CEO Performance Review Committee Meeting, 7 and 8 March 2017, Memorandum – Confidential Attachment 6.1A, 7 March 2017.
- 418 Minutes, CEO Performance Review Committee Meeting, 7 and 8 March 2017.
- 419 Minutes, Ordinary Council Meeting, Confidential item – Probation period review, J Limnios, J Davidson and L Scaffidi, 14 March 2017.
- 420 Minutes, Ordinary Council Meeting, Confidential item – Probation period review, J Davidson, 14 March 2017.
- 421 Minutes, CEO Performance Review Committee Meeting, 7 and 8 March 2017; Transcript, J Limnios, public hearing, 5 September 2019, p 33.
- 422 Minutes, CEO Performance Review Committee Meeting, Confidential Attachment 13.20B, Probation period review, J Davidson, 7 March 2017.
- 423 Minutes, CEO Performance Review Committee Meeting, Confidential Attachment 13.20B, Probation period review, L Scaffidi, 7 March 2017.
- 424 Minutes, CEO Performance Review Committee Meeting, Confidential Attachment 13.20B, Probation period review, J Limnios, 7 March 2017.
- 425 Minutes, CEO Performance Review Committee Meeting, 7 and 8 March 2017.
- 426 Transcript, J Limnios, public hearing, 5 September 2019, p 35.
- 427 Minutes, CEO Performance Review Committee Meeting, 7 and 8 March 2017; Transcript, L Scaffidi, public hearing, 17 September 2019, p 48; Transcript, J Davidson, public hearing, 11 September 2019, p 61.
- 428 Probation Period Review, L Scaffidi, 7 March 2017.
- 429 Probation Period Review, J Davidson, 7 March 2017.
- 430 Probation Period Review, J Limnios, 7 March 2017.
- 431 Transcript, J Limnios, public hearing, 5 September 2019, p 73.
- 432 Email, J Green to M Ridgwell and others, 7.00 pm 9 March 2017.
- 433 Email, J Green to J Davidson, 2.12 pm 10 March 2017.
- 434 Email, J Green to J Davidson, 2.12 pm 10 March 2017.
- 435 Transcript, J Davidson, public hearing, 11 September 2019, p 56, 58; Transcript, J Green, public hearing, 2 September 2019, p 34.
- 436 Email, R Harley to J Davidson, 9.21 am 14 March 2017.
- 437 Minutes, CEO Performance Review Committee Meeting, 16 September 2016.
- 438 Minutes, Special Council Meeting, 22 October 2015, Schedule 2, CEO Performance Review Committee, terms of reference.
- 439 Transcript, L Scaffidi, public hearing, 17 September 2019, p 43.
- 440 Minutes, Ordinary Council Meeting, 14 March 2017.
- 441 CEO Probation Period Review, L Scaffidi, 7 March 2017.
- 442 CEO Probation Period Review, J Davidson, 7 March 2017.
- 443 CEO Probation Period Review, J Limnios, 7 March 2017.
- 444 CEO Probation Period Review, J Limnios, 7 March 2017.
- 445 Minutes, Ordinary Council Meeting, 14 March 2017.
- 446 Email, J Green to M Mileham, 10.10 am 15 March 2017.
- 447 Minutes, Ordinary Council Meeting, 14 March 2017.
- 448 Minutes, Ordinary Council Meeting, 14 March 2017.
- 449 Procedure, City of Perth, PR0007, Recruitment and Selection, 20 May 2013.

## 2.3.2 People management

The purpose of this Chapter is to examine elements of the people management practices at the City of Perth (City) during the period of the Inquiry's Terms of Reference, 1 October 2015 to 1 March 2018.

The City has a workforce of more than 700 employees that provide services and facilities to residents, businesses, workers and visitors. Costing more than \$70 million annually, the work of employees is supported by volunteers, labour hire employees and external contractors.

The Chief Executive Officer (CEO) is responsible for employment matters at the City. The City's CEO was supported by the Executive Leadership Group (ELG), comprising five directors. At the suspension of the City of Perth Council (Council) on 2 March 2018, the City's organisational structure had five directorates and 30 business units (Figure 2.17).

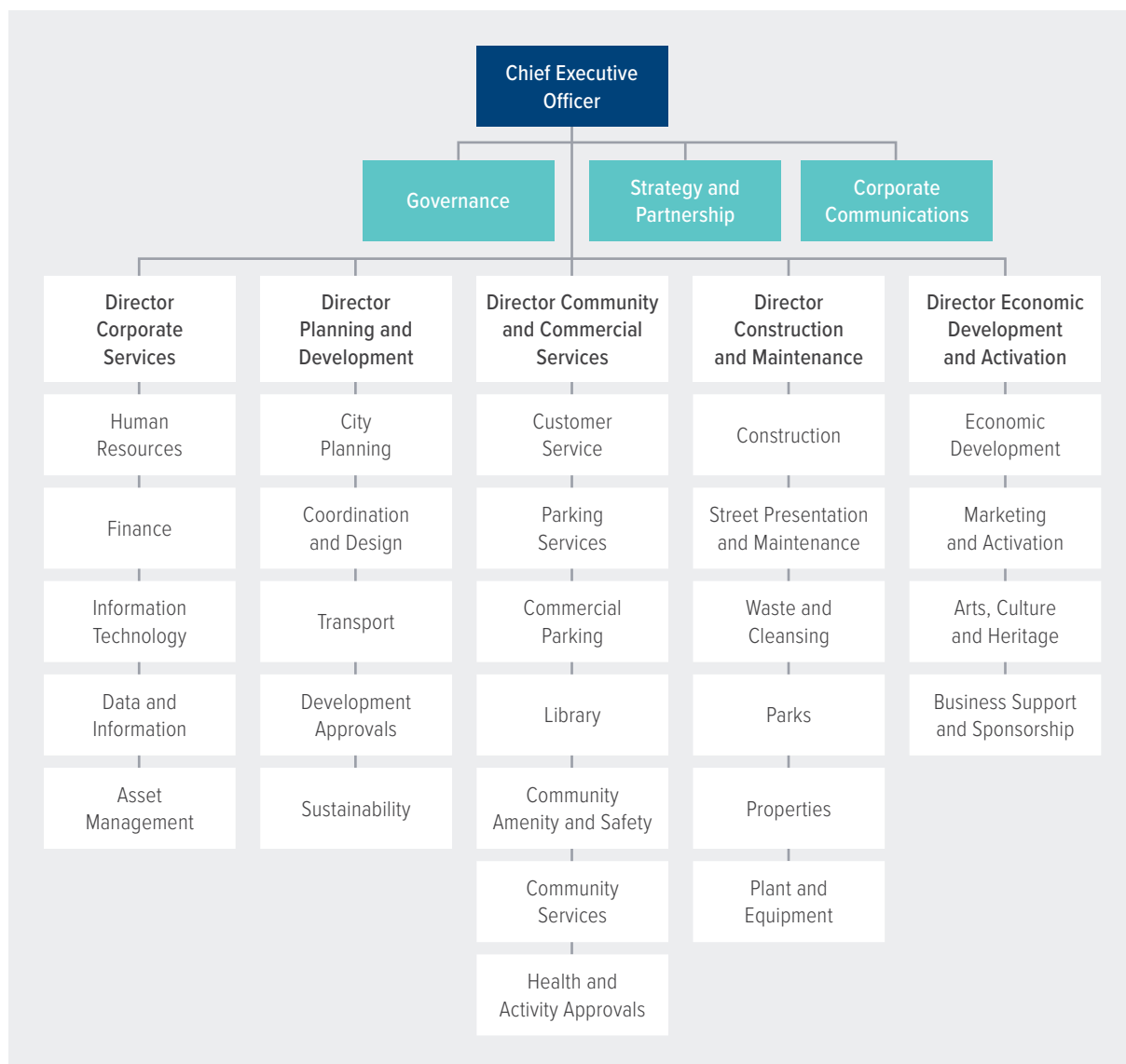


Figure 2.17: City of Perth organisational chart as at 5 June 2018.

Employees bring to the City knowledge, expertise, abilities, skill sets and experience that are an invaluable asset into the future. Every employee goes through a series of stages from the day they apply for a job through to the day they leave. Each interaction, whether it be with leaders or colleagues, shapes their behaviours and performance.



One of the City's greatest assets and possibly often the neglected asset is the people themselves.



Mr Murray Jorgensen  
CEO

Mr Murray Jorgensen, CEO, told the Inquiry on 10 October 2019, that *“the very vast majority of those are outstanding, dedicated individuals and professionals that have been trying to do the right thing in a very difficult environment”*. A view the Inquiry does not dispute.

## Values

Expectations in terms of performance and standards of behaviour are articulated through the City's values. The City's values were set out in Council Policy *“CP10.1 – Code of Conduct”*. They applied to council members and employees:

|                                 |  |
|---------------------------------|--|
| <b>1. Trust and Respect</b>     | <ul style="list-style-type: none"> <li>• Be honest</li> <li>• Keep your promises</li> <li>• Respect others</li> <li>• Be fair</li> <li>• Support each other</li> <li>• Appreciate each other's contributions</li> <li>• Recognise that we are all different</li> <li>• Share information and communicate openly</li> </ul> |
| <b>2. Strive for excellence</b> | <ul style="list-style-type: none"> <li>• Do your best</li> <li>• Be enthusiastic</li> <li>• Be outcome-focussed</li> <li>• Take ownership (be accountable and responsible)</li> <li>• Take pride</li> </ul>  |
| <b>3. Be Creative</b>           | <ul style="list-style-type: none"> <li>• Look for new ways</li> <li>• Think laterally</li> <li>• Seek opportunities</li> <li>• Be flexible and adaptive</li> <li>• Be receptive to ideas and feedback</li> </ul>   |

The Code of Conduct also articulated three ethical principles which govern how the City operates – “Justice”, “Respect for Persons” and “Responsible Care”.

### Good people governance

Good people governance<sup>1</sup> in local government is achieved when:

- Integrity in decision-making occurs.
- Interests are transparently disclosed and managed.
- Decisions are transparent and capable of review.
- Decisions are procedurally fair.
- Processes and decisions are free of nepotism, patronage or unlawful discrimination.
- Employees are selected and promoted on the basis of merit and equity.
- Employees are suitably qualified for their roles.
- Council members do not become involved in people management matters, unless specifically authorised by Council or the CEO.
- Most importantly, people are treated fairly and consistently.

Good people governance also includes sound policies, procedures and practices.

The ‘3 lines of defence’ model<sup>a</sup> assists an organisation achieve clarity regarding risks and controls and helps improve the effectiveness of governing systems. People management practices can be addressed using this model. In doing so, the overall governance of an organisation can be strengthened.

In the first line of defence, policies and procedures support the establishment of sound governance practices. They ensure legislative compliance and demonstrate best practice people management. Capability development, including training on the procedures, ensures that City employees act in an appropriate way when undertaking human resource related activities.

People risks are identified by the organisation through risk management. Risk management can assist with the identification, assessment and monitoring of risks related to the workforce, including those connected with people and processes, the business activity and the human resources function. This is the second line of defence.

Audits and reviews provide the final line of defence. These can provide advice to leaders about compliance levels and areas for improvement. They also have the ability to detect areas of misconduct within those processes. At a more serious level, this line of defence can include external audits or reviews where the performance of the organisation may be exposed publicly. Reputation and confidence in the organisation can be affected.

<sup>a</sup> A ‘3 lines of defence’ model: The first line of defence – functions that own and manage risk; the second line of defence – functions that oversee or specialise in risk management, compliance; and the third line of defence – functions that provide independent assurance, above “all interna” audit. Refer to Chapter 2.3.3 – Financial management and planning of this Report.

In this context, the Inquiry primarily examined activities at the first line of defence. The adequacy of the second and third lines of defence are dealt with elsewhere within this Report.<sup>2</sup> Process and decisions relating to the City's selection and recruitment, performance management, complaint handling and separations including disciplinary processes were specifically examined by the Inquiry, including instances of involvement by council members.

## Investigations by the Inquiry

The Inquiry's Terms of Reference specifically provides for it to consider, inquire into and report on:

*“(i) whether there was improper or undue influence by any member, as defined by section 1.4 of the Act (member) of the Council of the City of Perth in administrative tasks, such as recruitment, employee management and grants administration”.*<sup>3</sup>

The Inquiry received a considerable amount of information about human resources decisions and practices at the City. Some matters have been investigated by the Inquiry and were subject to private and/or public hearings. The Inquiry examined people management decisions by both the Council and the CEO.

The Inquiry has received information about human resources issues at the City by interviews, private hearings and submissions from current and former employees. Complaint records and reports of the City were also considered by the Inquiry. This included allegations about the following situations:

### Selection and recruitment

- Participation by council members on recruitment panels for the selection of directors and managers.
- Potential interference by council members in recruitment processes, by questioning why a specific applicant was not shortlisted for interview and requesting that another person be interviewed.
- Potential interference by council members advocating, for reasons not related to the merits of applicants, for the appointment of a different applicant to a position instead of the applicant recommended by a recruitment panel.
- Potential appointment by managers of ‘favourites’ to either temporary or permanent positions, unrelated to the merit of the applicant.
- Inclusion of an officer working for an external organisation on a recruitment panel to choose a person for a position which would be responsible for managing funding to the same external organisation.

### Performance management

- Abuse of position by an Acting CEO who amended a report to award an unwarranted pay increase to a manager (who reported to that person in that person's director role).
- Potential interference by a council member in performance management and disciplinary action by the City for alleged serious misconduct by an employee.

### Termination

- Immediate termination, without warning, of employees at meetings, with the employee then being escorted from the City's premises.
- Failure to provide employees with procedural fairness – an explanation of the reasons for the dismissal and an opportunity to respond to them.
- Use of deeds of settlement to circumvent potential unfair dismissal claims.
- Use of deeds of settlement to end employment with an employee (that is, resignation), where there may be a suspicion of or evidence of serious misconduct, rather than termination.
- Dismissal of employees just prior to the conclusion of the employee's probationary period, where the employee may not be eligible to make an unfair dismissal claim.
- Use of workers' compensation processes to manage employee performance and facilitate the end of employment with the City. Thereby shifting the costs from the City's employee costs to the workers' compensation system and the insurer.

### Payments

- Termination payments not consistent with the relevant Award or contract provisions, including a situation where an acting level was paid out on termination or additional weeks paid where it was not required.
- Contract of employment conditions may not have been in accordance with legislative requirements.

### Complaints and grievances

- Adequacy of the investigation process for suspected misconduct by employees in a procurement/tender processes.

### Matters examined by the Inquiry

The Inquiry was unable to examine and report on every allegation made to it. Instead, a selection of human resource matters was examined covering the principal people management practices at the City. Some matters were the subject of preliminary investigations but, for resource reasons, were not the subject of hearings.

The Inquiry also engaged Crowe who, in their *"Review of Governance and Financial Matters"*, conducted a review of two elements of people governance, including an audit of a sample of termination payments and a review of workers' compensation.

In relation to termination payments, Crowe found:

*“Based on our sampled review of four termination payments, we found two instances of payment beyond the entitlements prescribed by the employment contract. The City was unable to supply documentary evidence to explain the nature of the amounts in question”.<sup>4</sup>*

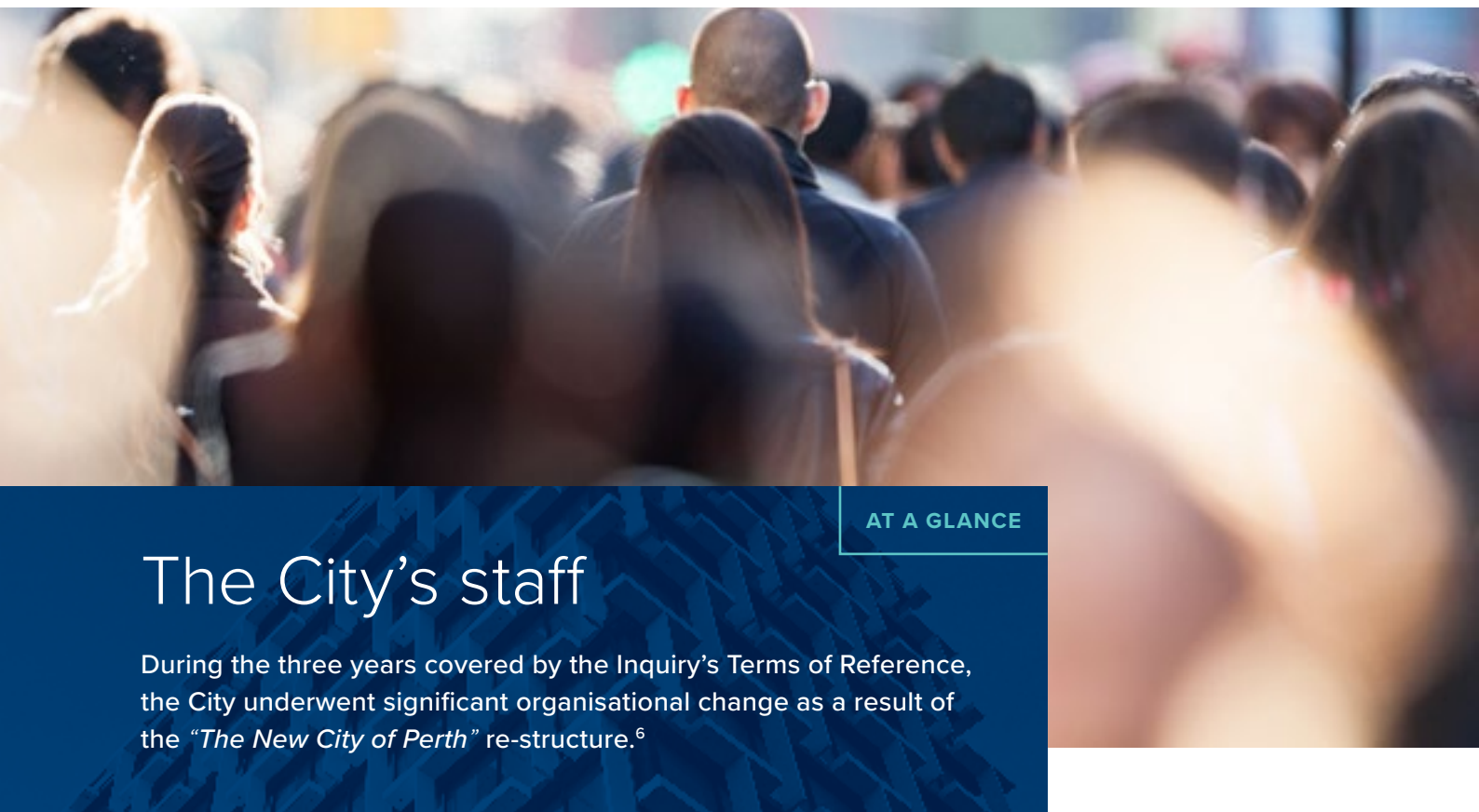
In relation to an examination of workers’ compensation related information, Crowe found:

*“From our analysis, we make the following factual observations:*

- There has been an upward trend of workers compensation claims, peaking in 2017 financial year;*
- The City’s claims consistently approached the maximum contribution levels;*
- A change in insurer in 2018 financial year appears to have caused a decrease in premiums; and*
- Claims financial data has not been accurately maintained by the City”.<sup>5</sup>*

Matters subject to full examination by the Inquiry include:

- Termination of a CEO (**Chapter 2.3.1: Chief Executive**).
- Appointment of a new CEO (**Chapter 2.3.1: Chief Executive**).
- Probation of directors (this **Chapter 2.3.2: People management**).
- Recruitment of a new Director, Economic Development and Activation (this **Chapter 2.3.2: People management**).
- Performance management and termination of employment of an employee (this **Chapter 2.3.2: People management**).
- The resignations of two employees under settlement deeds following an investigation into a tender process for civil construction works (**Chapter 2.3.4: Procurement and contracting**).
- The employment by the City of the Executive Director of Perth Public Art Foundation, who, although funded by the City, took direction from the external organisation (**Chapter 2.3.3: Financial management and planning**, Section: *Perth Public Art Foundation and the 2016 CowParade*).
- Shortcomings in an investigation coordinated by Human Resources into an allegation of serious misconduct by a City employee in relation to a tender process (**Chapter 2.3.4: Procurement and contracting**, Section: *The award of irrigation tender 031-17/18 to Western Irrigation Pty Ltd*).
- Direction of an employee, by a council member, during the course of that employee’s duties (**Chapter 2.2.2: Decision-making**, Section: *Inclusion of the Grand Central Hotel, 379 Wellington Street, Perth on the City of Perth Heritage List*).



## AT A GLANCE

# The City's staff

During the three years covered by the Inquiry's Terms of Reference, the City underwent significant organisational change as a result of the "*The New City of Perth*" re-structure.<sup>6</sup>

## Employee facts and figures

Changes in the workforce during this time were characterised by an increase in staff numbers (also known as full-time equivalents or FTEs), an increasing turnover rate of people, higher employee costs and a culture of dysfunction and inefficiency. The City's employee costs are further examined in **Chapter 2.3.3 – Financial management and planning**.

### 3%

Increase in staff numbers



|           |     |        |
|-----------|-----|--------|
| 2015/2016 | 743 | 3.2% ▲ |
| 2016/2017 | 752 | 1.2% ▲ |
| 2017/2018 | 765 | 1.7% ▲ |

### \$7.4m

Increase in employee costs\*



|           |              |         |
|-----------|--------------|---------|
| 2015/2016 | \$69,579,000 | 4.4% ▲  |
| 2016/2017 | \$77,866,000 | 11.9% ▲ |
| 2017/2018 | \$76,990,000 | 1.1% ▼  |

### \$6,995

Increase in the average cost per employee



|           |           |         |
|-----------|-----------|---------|
| 2015/2016 | \$93,646  | 1.2% ▲  |
| 2016/2017 | \$103,545 | 10.6% ▲ |
| 2017/2018 | \$100,641 | 2.8% ▼  |

### 7%

Decline in employee costs per 1,000 City residents



|             |             |        |
|-------------|-------------|--------|
| 2015/2016   | \$3,016,649 | 4.5% ▼ |
| 2016/2017** | \$2,895,400 | 4.0% ▼ |
| 2017/2018   | \$2,816,020 | 2.7% ▼ |

\* Includes costs capitalised.

\*\* The *City of Perth Act 2016* can into effect growing the boundaries and number of residents in the City.

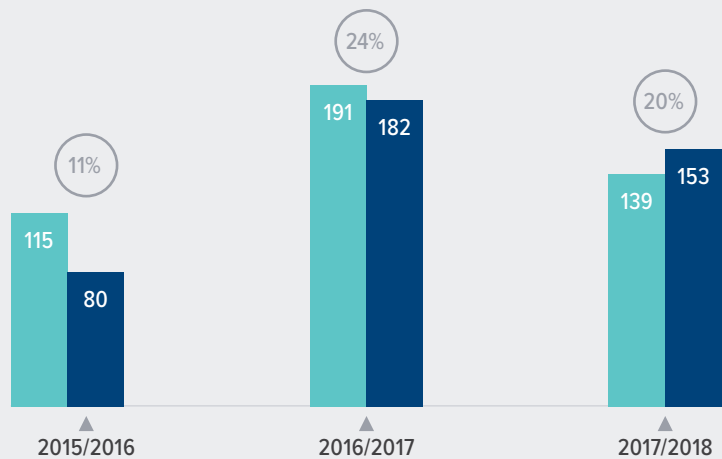
## Changes in the workforce

 **445**  
Employee arrivals

 **415**  
Employee departures

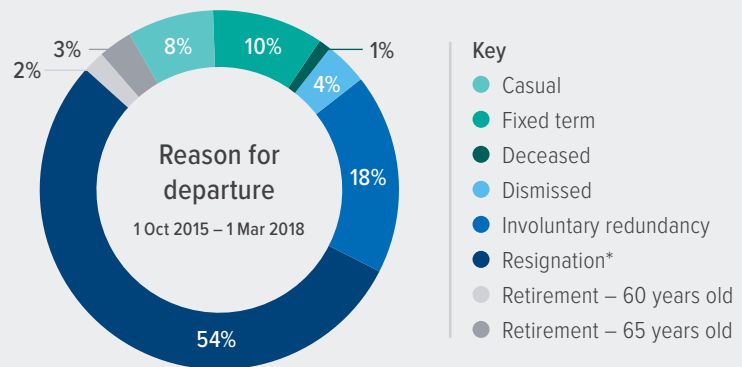
## Key

-  Casual
-  Fixed term
-  Turnover rate



How could I recommend the City as a place to work for anyone when I see so many of my ... co-workers in tears on a regular basis.

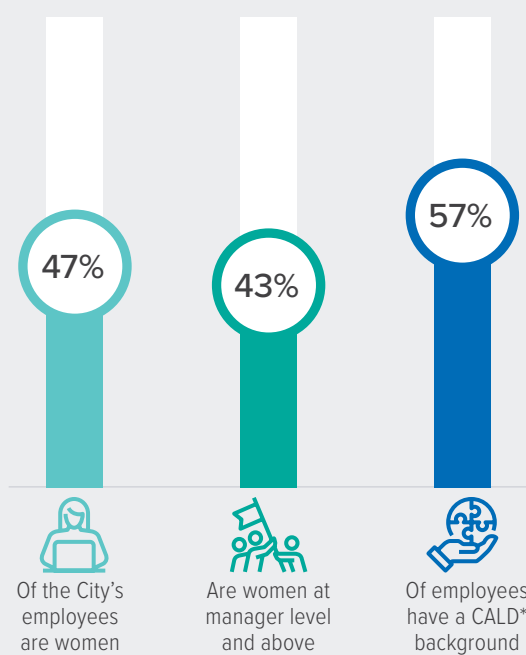
City employee (2017)



\* Includes those employees who elected to accept a voluntary redundancy arising from the organisational restructure during that period.

## Diversity

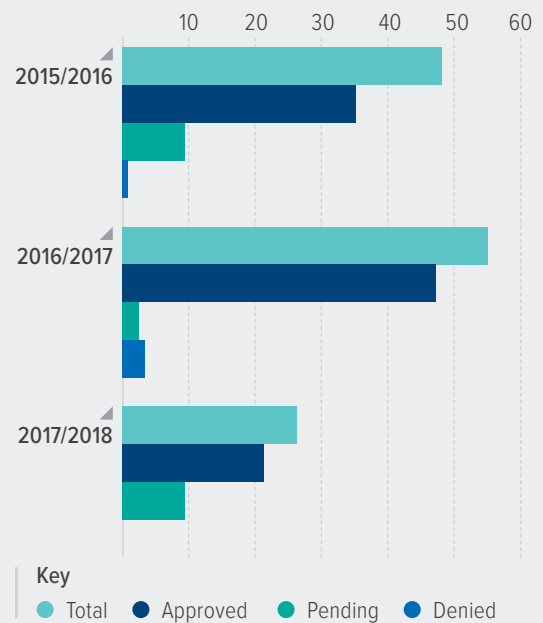
As at 30 June 2018



## Health and safety

2015/2016 – 2017/2018

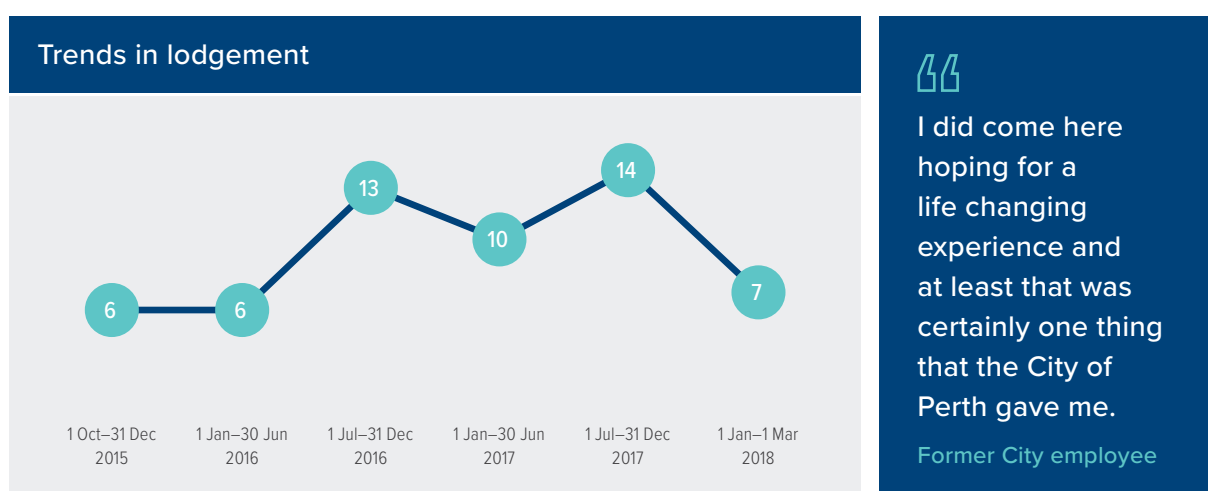
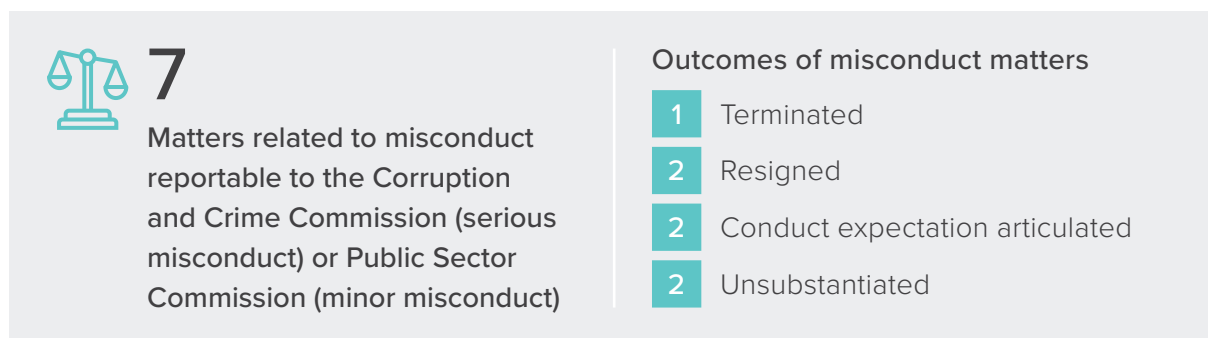
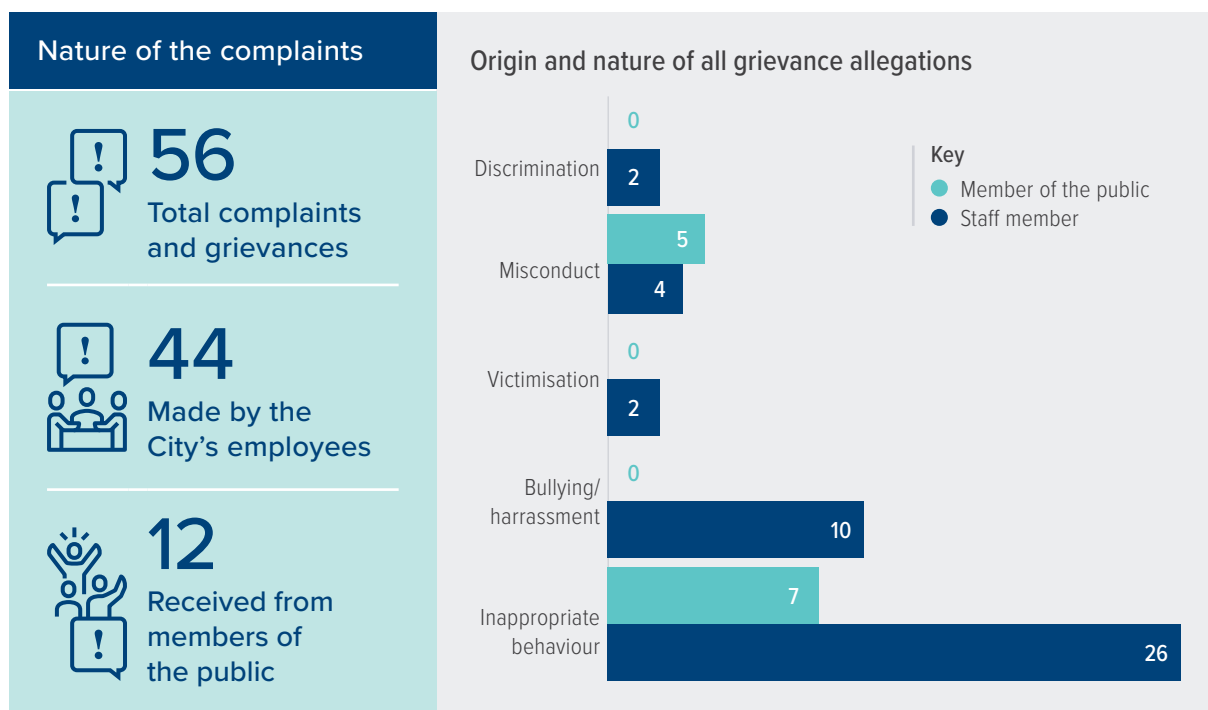
## Compensation claims



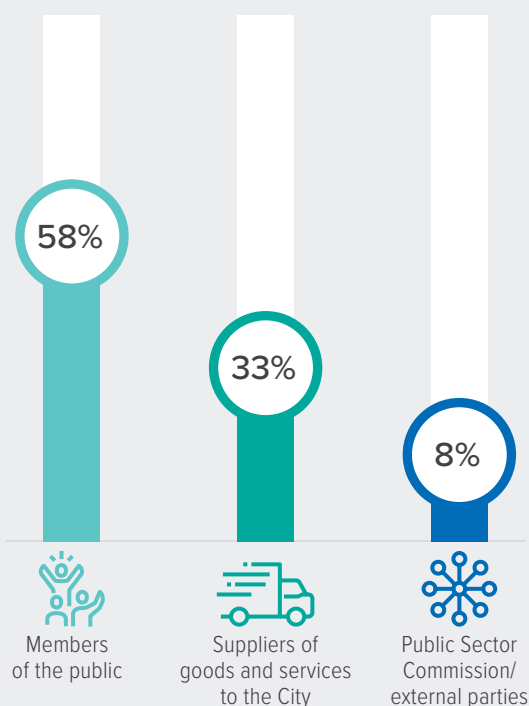
\* Culturally and linguistically diverse.

## Complaints and grievances

The City provided the Inquiry with an “*Issue Register*”,<sup>7</sup> maintained by the Human Resources Unit, which listed 56 formal complaints and grievances lodged for the period 1 October 2015 to 1 March 2018.



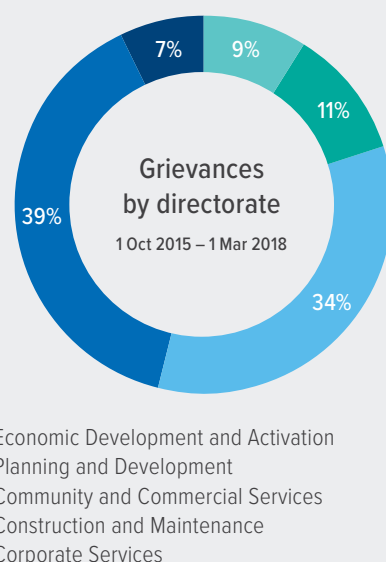
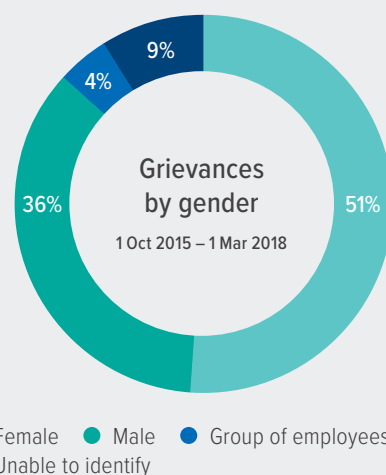
## Source of complaints by external parties



## Outcomes of investigation

- 2 Terminated
- 1 Resigned
- 4 Conduct expectation articulated
- 3 Caution letter to employee
- 2 Not substantiated

## Profile of employee lodged complaints



**Most complaints by employees were made against another staff member, rather than a supervisor or manager.**

There were some complaints and grievances made by employees against a supervisor or manager, but the Issue Register did not record any that were substantiated. In one instance, several employees made complaints of bullying against the same manager.



**Two matters in the Issue Register related to allegations of discrimination contrary to the *Equal Opportunity Act 1984*.**

These were referred to the Equal Opportunity Commission by the complainant. One matter was resolved by agreement between the parties with the Commission's assistance, while the second was dismissed by the Commission.

## Trends in employment at the City

### Organisational change



In 2015, the then CEO, Mr Gary Stevenson, initiated a significant organisational and structural change programme called '*The New City of Perth*', which was endorsed by the Council (Figure 2.18). It included an increase in the number of directorates from four to five by the creation of the Economic Development and Activation Directorate, with consequential reductions in other directorates. Business units also grew from 20 to 30.

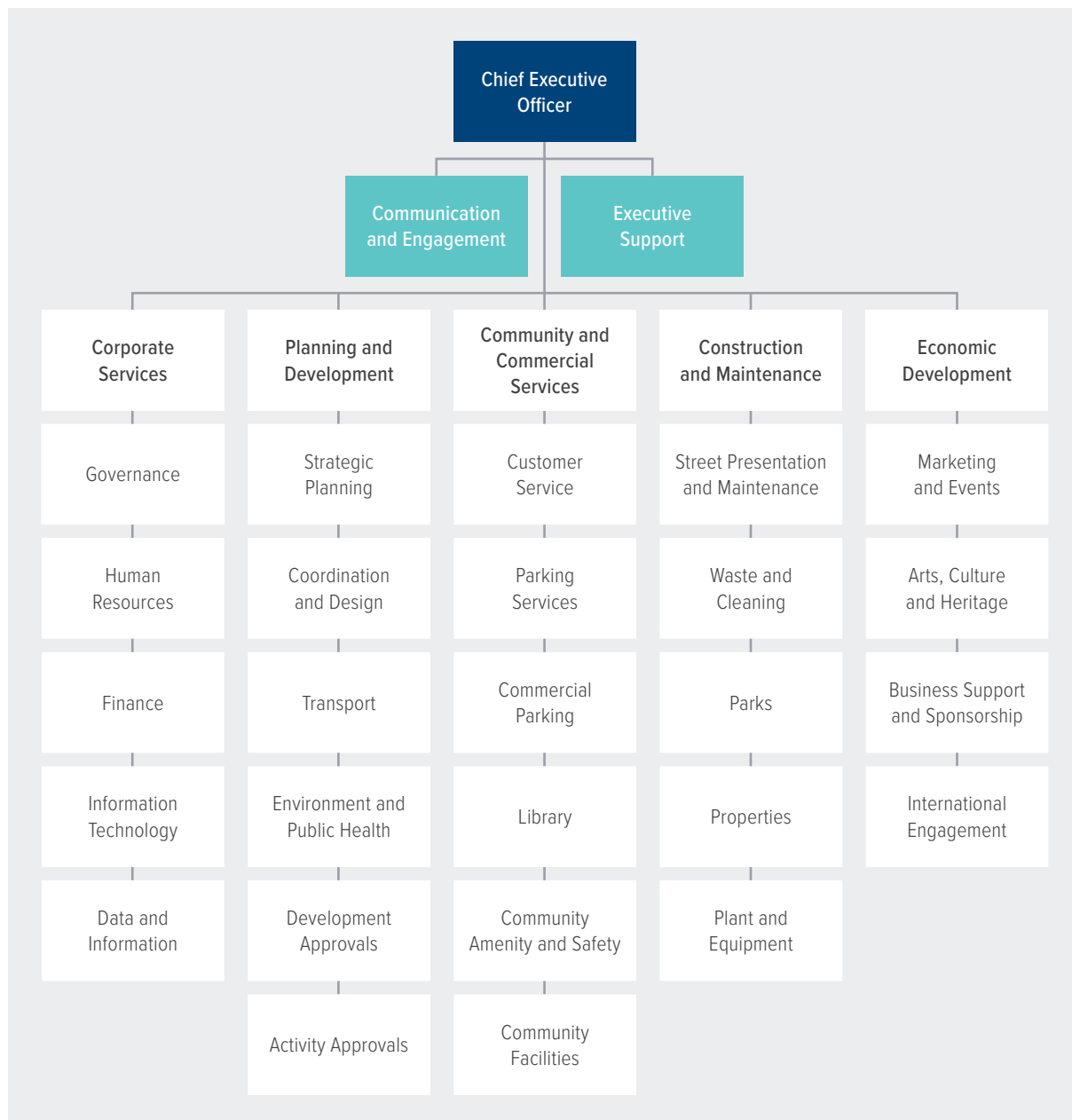


Figure 2.18: City of Perth organisational chart, '*The New City of Perth*', 1 July 2015.



During the period in which the new structure was being implemented, Mr Stevenson's employment was terminated by Council and he was replaced by Mr Martin Mileham as Acting CEO on 20 January 2016. The organisational change programme continued under Mr Mileham's leadership. This change programme had a significant impact on the City. It created instability (Figure 2.19).<sup>8</sup>

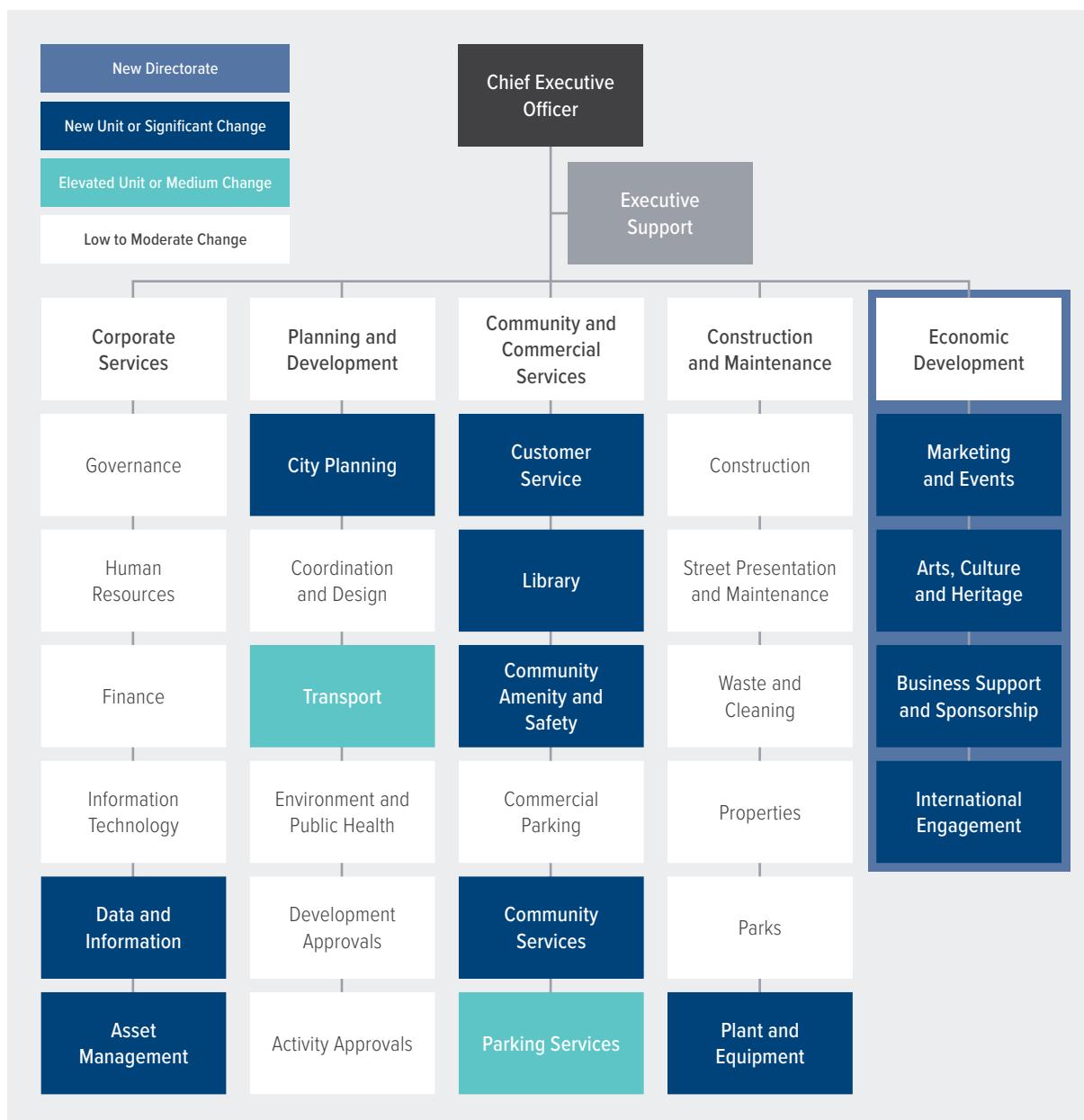
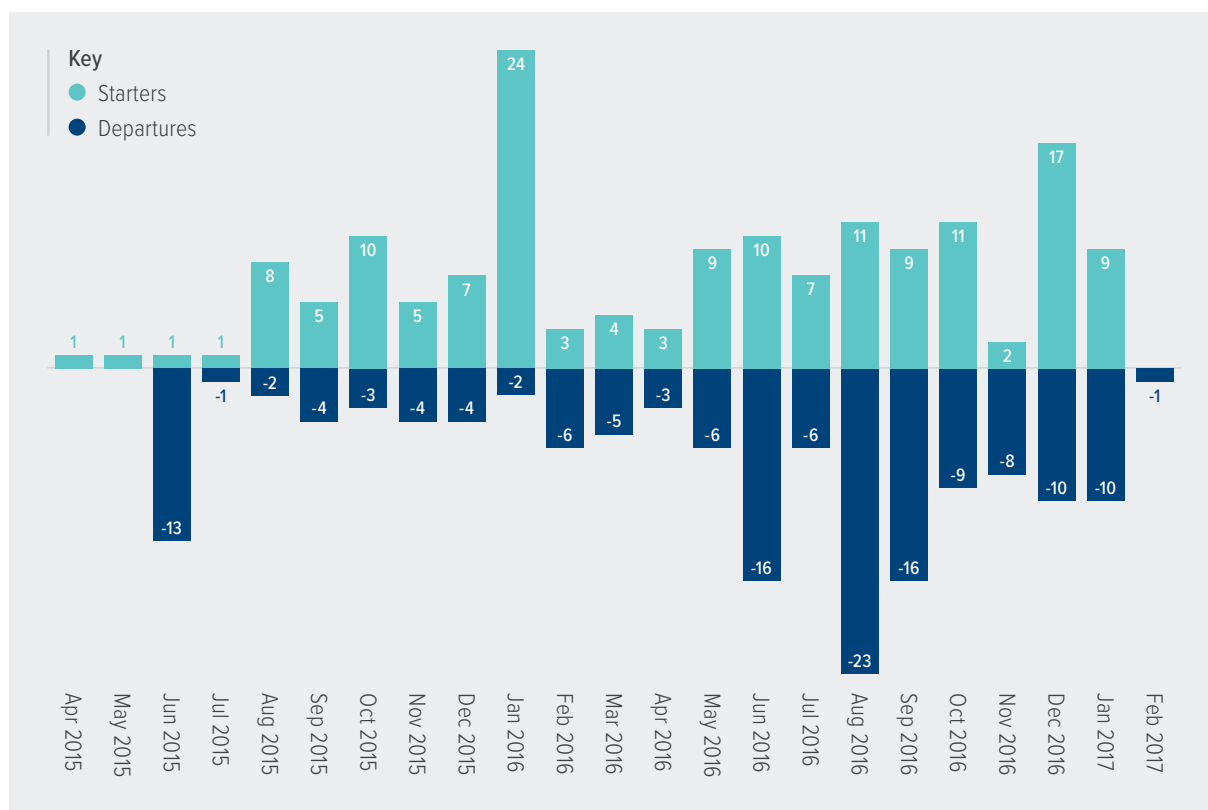


Figure 2.19: City of Perth organisational chart, levels of change since 'The New City of Perth', Deloitte Report, 6 June 2017.

According to Deloitte, in the “*City of Perth Organisational Capability and Compliance Assessment Report*” (Deloitte Report), “*The new structure and the approach to its implementation has led to additional complexity, and increased silos between business units and directorates*”. Furthermore, there was duplication of roles and responsibilities between business units, potentially increasing complexity and costs, while reducing productivity.<sup>9</sup>

The associated restructure led to a significant turnover in the City’s workforce with the departure of 152 employees and appointment of 158 new permanent and fixed term employees between April 2015 and February 2017. Deloitte graphed the monthly changes (Figure 2.20).



**Figure 2.20:** City of Perth monthly staff departures and new starters between April 2015 to February 2017, Deloitte Report, 6 June 2017.

Deloitte concluded that “*These organisational changes have increased the risk of non-compliance, loss of organisational knowledge with staff leaving and new staff joining the organisation, often from outside of the local government sector*”.

Deloitte found that this was compounded by the new staff receiving insufficient induction on the City’s policies and procedures which “*led to a reliance on existing employees to educate new starters about the City’s ways of working, such as the navigation and application of legislative obligations, policies and procedures, systems and execution of daily activities*”.

Deloitte noted, *“This change has introduced new diversity of expertise and talent but risks diluting organisational understanding of public service operations, with a number of managers new to local government”*.<sup>10</sup>

In relation to implementation of the new organisational structure, Deloitte found:

*“The restructure was implemented independently within business units, with managers responsible for designing their own structure based on an allocated headcount. The new structure and the approach to its implementation has led to additional complexity, and increased silos between business units and directorates.*

...

*Managers have indicated that there is some duplication of roles and responsibilities between business units, potentially increasing complexity and costs, while reducing productivity”*.<sup>11</sup>

### Organisational culture

The Deloitte Report also made observations and findings related to strategy; people and organisation; process; and governance. Several organisational culture surveys were also conducted during the period of the Inquiry’s Terms of Reference, and demonstrated deteriorating trends in the employment environment at the City. The Australasian Local Government Performance Excellence Program reports also provided valuable insights into the performance of the City in comparison with other local governments around Australia and New Zealand.

*So, what is culture?* As indicated at the commencement of this Volume, culture is *“the shared values and beliefs that guide how members of that organisation approach their work and interact with each other”*.<sup>12</sup> It is expressed and evidenced through the *“behaviours, customs and practices”* that are collectively displayed. The custodians of organisational culture are the leaders, employees, the community and other stakeholders, who all have a role in shaping it.<sup>13</sup>

Behaviours attributed to individuals and groups within the City determine the collective culture, including an individual’s ability to identify, understand, escalate and act. The culture of the Administration is explored through the employee’s experience.

In 2015, 2016 and 2017 organisational employee surveys were conducted. Catalyse was commissioned to undertake this work.


The most recent, the 2017 Catalyse survey, provided observations against 10 areas relating to the City's culture.<sup>14</sup> Specific employee feedback within that survey provides further insights into the culture at the time. Most notable were the following:

#### **Team spirit**


Employees feel that the culture of the City has deteriorated, with trust, staff morale and positive engagement decreasing across the organisation.

 Culture within – respecting all, regardless of position.

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 The City of Perth will have to spend a lot of time regaining the trust of their workforce ... During our restructure, and still now, we had to deal with a manager who has shown very little regard for others' experience, opinion and knowledge.<sup>15</sup>

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 There needs to be a strong overhaul of culture – break down silos between teams & work on improving relationships between both directorates and individual teams.

#### **Policies, systems and processes**


Respondents suggest that certain processes and policies are complicated, unnecessary and distract from main objectives.

 Refine and improve internal workings across departments; ensure strategies and position roles are aligned and communicated for effective cross-departmental collaboration.

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 Document effective, simple, transparent policies & procedures that are easy to locate and ensure everyone receives structured, job specific training. Not only does this assist the leaders to performance manage their teams it also ensures the employee feels empowered because they have the skills, tools and knowledge.

---

 The City needs to focus on process improvement and role/activity clarity so that all employees are clear on their roles and the roles of other employees and units.


#### **Communication across the organisation**

Inter-departmental communication is a concern. At present, departments do not appear to communicate or collaborate positively leading to a 'siloed' environment where teams are distanced from each other, they do not work together and they are unclear about each other's roles and functions.

 Communication across different teams, sometimes the left hand doesn't know what the right hand is doing.


### Professionally managed organisation

There is a perception that certain management roles are not being carried out professionally or with the necessary expertise to manage their teams. In addition, respondents feel that more needs to be done to address work-place bullying at management level and to encourage a less hierarchical management system.


-  I personally have witnessed and experienced bullying on numerous occasions from Management. The support from HR is poor, so no one has anywhere to go. People come to work feeling victimised, and not good enough for their role.

### Job security

Long-term casual employees feel insecure about their current positions at the City while salaried staff feel uncertain about their future prospects due to recent restructuring and redundancies. Respondents would like more to be done to assure them of their current positions at the City and to assist them to feel more valued as employees.

-  Staff morale, it is very low after all the redundancies, and the use of temporary staff to full [sic] the positions that were made redundant.

-  Make all employees feel secure. Recent redundancies left me uncertain of my job security.

-  Do not feel as secure in this job as I did 4 or 5 years ago. This is due to management change.

### Top-down communication

Employees perceive that there is a lack of effective communication between the leadership and general staff. Respondents want open channels and clear, concise and relevant messages that provide useful knowledge and information. Respondents also want greater opportunities for open dialogue with their superiors, allowing staff to be honest without fear of retribution.

-  To have a clear direction and communication from top down

### Training and development

Respondents desire a commitment to the training and development of staff and management. The creation of a learning culture is sought to motivate staff, provide career development opportunities through the acquisition of new or improved skills and knowledge, and increase cross pollination of ideas via attendance at courses and conferences.

- ☞ Training on collaboration. The organisation assumes staff know how to collaborate. In general they do not know how to collaborate across units

### ELG provides inspirational leadership

Employees want an inspiring leadership group who they aspire to emulate. Qualities of such leaders include honesty, integrity, leading by example and adherence to the morals, values and ethos that they espouse.

- ☞ The City needs to focus on getting the ELG members to communicate with each other better and act as better role models for the organisation as a whole. Their behaviour dictates the behaviour of everyone below them in the organisation.

- ☞ Directors also need to be accessible and not to promote a culture of fear.

### Silos/competition between business units

Silos continue to be seen as a challenge to effective and collaborative work practices. Respondents want a more cooperative and inclusive work environment that aims to produce the best possible outcomes for all stakeholders.

- ☞ Breaking the silo, as was promised. Finding the 'silo' culture is worse than previous 2 years.

### Feeling appreciated and respected at work

Employees want to feel that they are appreciated and respected. The ability and want of respondents to take pride in their work is being impacted by the perception of a poor organisational culture that has allowed bullying, harassment and micro-management free reign.

- ☞ Be nice if the employees were still valued and respected.

- ☞ To appreciate, empower and encourage employees that quietly work hard to inspire them to help the City be a strong, happy and vibrant team.

As is evident from this survey, leadership is a key to setting not only the direction of the organisation, but also the values and behaviours. Establishing and maintaining a strong, ethical and accountable culture where the organisation's values are lived and modelled is essential to the organisation's success in achieving its legislative and strategic outcomes.

The Administration's culture is evident through this survey. It showed an organisation with significant challenges across a number of areas including people management. This affected all levels of the City. The culture appears characterised by a lack of trust, insecurity and fear. However, despite this, the results show a clear appetite by employees to improve and better the City's culture.

### Workforce planning

Deloitte further found that *"The City is limited in its ability to make informed decisions on workforce management"*.<sup>16</sup> Specifically, deficiencies related to accurate and stable estimates of the City's workforce establishment, reporting workforce information, the structure of the position hierarchy and development of key workforce indicators. This ultimately affects the quality of decision-making, both by the Administration and Council, on people-related matters.

As explored in **Chapter 2.3.3 – Financial management and planning** of this Report, the City's workforce planning was not adequate or integrated. This was also observed by Deloitte in its Report in 2017. ACIL Allen Consulting specifically stated that one of the City's Workforce Plans was *"of limited value as a planning document"*.<sup>17</sup> The plan should have articulated the desired organisational culture, the organisational structure and the recruitment and retention strategy to support a productive and inclusive workforce.<sup>18</sup>

### Role of the human resources function

The role of the human resources function has also been subject to a number of external reviews in recent years. Deloitte, and Tower Human Capital Group, both commented on aspects of the function and its value to managers and leaders at the City.

Deloitte, in 2017, commented on the information provided by the City's human resources function to other business units:

*"Human Resources is currently unable to support business unit managers with timely data to optimise the workforce. The process for reporting workforce information is manual and time intensive, collating data and information from a number of sources ... Issues with the accuracy of the data provided have been identified by the ELG leading to a lack of trust and reducing the likelihood of use to support decision making at a senior level"*.<sup>19</sup>

In 2018, Tower Human Capital Group was engaged by the City of Perth Commissioners to conduct a *"Performance Analysis, Assessment and Review of the HR function"*. The report found the following in relation to the overall performance of the function:

*"HR is not broken; It is seen to be performing at an Average level in difficult circumstances. However, a more strategic, planned and disciplined approach to its own planning and execution is required as is greater interface and transparency"*.<sup>20</sup>

Given the number of problematic matters raised in this Report, the capability and capacity of the business unit to support the City's leaders and managers with people management practices requires ongoing attention.

### Legislation, policy and procedures

The City is established as a body corporate by the *Local Government Act 1995* (LG Act).

Employees of a local government fall into three categories under the LG Act:

- the CEO;
- senior employees; and
- other employees.

At the City, directors were designated as “*senior employees*” for the period of the Inquiry’s Terms of Reference. Until 19 December 2017, when the policy was changed, three managers were also designated as senior employees.

In relation to employment and termination of employment, different provisions apply under the LG Act:

- A CEO is appointed by the Council pursuant to section 5.36 of the LG Act.
- Senior employees are appointed and terminated by the CEO, but the Council has what amounts to a power of veto.

Section 5.37(2) of the LG Act states:

*“The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in s 5.39(1a) [applying to an employee acting in a position], and the council may accept or reject the CEO’s recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so”.*

The CEO is responsible for employing and dismissing other employees. In accordance with section 5.41 of the LG Act, one of the CEO’s functions is to:

*“(g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees)”.*

Section 5.36(3) of the LG Act states:

*“(3) A person is not to be employed by a local government in any other position unless the CEO –*

- (a) believes that the person is suitably qualified for the position; and*
- (b) is satisfied with the proposed arrangements relating to the person’s employment”.*

Section 5.39 of the LG Act requires that the employment of a person who is a CEO or senior employee must be governed by a written contract.

Section 5.40 of the LG Act prescribes the principles which apply to a local government in respect of its employees:

*“(a) employees are to be selected and promoted in accordance with the principles of merit and equity; and*

*(b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and*

*(c) employees are to be treated fairly and consistently; and*

*(d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or on any other ground; and*

*(e) employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and*

*(f) such other principles, not inconsistent with this Division, as may be prescribed”.*

### Relationship between council members and employees

The relationship between council members and employees is regulated by law.

Regulation 9(1) of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations) states:

*“A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task”.*

Regulation 10(1) states:

- “(1) A person who is a council member must not –*
- (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person’s capacity as a local government employee; or*
  - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person’s capacity as a local government employee”.*

In the Inquiry’s view council members had the right to ask questions of, and about, the administration of the City, but any attempt to direct an employee in relation to human resources matters, or influence an employee by means of threat or reward, even if implied, may be a breach of the Conduct Regulations.

Sections 5.36 to 5.41 of the LG Act are explicit in that the Council appoints a CEO, but the CEO is then responsible for employing and dismissing other employees. The Council has the power to accept or reject the CEO’s recommendation about the employment or dismissal of a senior employee, but that is the limit of its role. Council members have no lawful authority to interfere in recruitment, probation, termination, or any other human resources matter.

Involvement by council members of the City in human resources matters suggest that during the period of the Inquiry’s Terms of Reference the City failed in its obligations to ensure that:

- employees should be *“selected and promoted in accordance with the principles of merit and equity”*;
- no power should *“be exercised on the basis of nepotism and patronage”*; and
- *“employees are to be treated fairly and consistently”*.<sup>21</sup>

### **Additional payments**

Regulation 19A of the *Local Government (Administration) Regulations 1996* prescribes limits on payments made to an employee in addition to their contract or award.

Section 5.50 of the LG Act requires a local government to prepare a policy in relation to payments made to employees in addition to a contract or award. The Council Policy Manual had a policy which set out the circumstances in which the CEO could agree to make a severance payment of up to 26 weeks pay.<sup>22</sup> The policy stated that in some circumstances severance payments must be approved by the Council. In accordance with section 5.50(2) of the LG Act, the policy also allowed the Council to decide to pay an additional amount as a severance payment, within a limit. Public notice was to be given of such a payment.

### **Fair Work Act 2009 (Commonwealth) and dismissals**

The Commonwealth *Fair Work Act 2009* (Fair Work Act) provided the terms and conditions of employment and set out the rights and responsibilities of employees and the City in relation to employment.

In addition to establishing terms and conditions of employment by way of Industrial Agreements, the Fair Work Act established the framework for a City employee to make an unfair dismissal application to the Fair Work Commission if the employee had completed the minimum employment period of six months and earned less than the high income threshold, or an enterprise agreement applied to that employee's employment.

An unfair dismissal occurs where the Fair Work Commission finds that the:

- employee was dismissed;
- dismissal was harsh, unjust or unreasonable; and
- dismissal was not a case of genuine redundancy.

Section 387 of the Fair Work Act states:

*"In considering whether it is satisfied that a dismissal was harsh, unjust or unreasonable, the FWC must take into account:*

- (a) whether there was a valid reason for the dismissal related to the person's capacity or conduct (including its effect on the safety and welfare of other employees); and*
- (b) whether the person was notified of that reason; and*
- (c) whether the person was given an opportunity to respond to any reason related to the capacity or conduct of the person; and*
- (d) any unreasonable refusal by the employer to allow the person to have a support person present to assist at any discussions relating to dismissal; and*
- (e) if the dismissal related to unsatisfactory performance by the person – whether the person had been warned about that unsatisfactory performance before the dismissal; and*
- (f) the degree to which the size of the employer's enterprise would be likely to impact on the procedures followed in effecting the dismissal; and*
- (g) the degree to which the absence of dedicated human resource management specialists or expertise in the enterprise would be likely to impact on the procedures followed in effecting the dismissal; and*
- (h) any other matters that the FWC considers relevant".*

A standard probationary period of six months, which corresponds to the minimum employment period specified by the Fair Work Act, was included in the City's employment contracts. If an employee was dismissed just before the end of their probation, then the ability of the employee to make an unfair dismissal application to the Fair Work Commission was limited.

The Inquiry notes that the City appeared to use as a business practice a 'deed of settlement' when dismissing or separating with an employee. This may have prevented employees from contesting a dismissal through the Fair Work Commission. As there was limited evidence in the City's documents regarding an understanding and assessment of the risks prior to the City entering into such a deed, it is difficult for the Inquiry to understand the City's motivations in termination matters.

Although most employment matters at the City fell within the jurisdiction of the Fair Work Commission, in some cases employees have been able to make claims to the Western Australian Industrial Relations Commission in respect of allegations that they had been:

- harshly, oppressively or unfairly dismissed from employment; and/or
- denied a benefit by their employer, not being a benefit under an award or order, to which the employee was entitled under their contract of service.

The City was also required to ensure that employment conditions provided by an employment contract or industrial agreement were not less than the minimum employment entitlements provided by the National Employment Standards.

#### **Policies and procedures**

At the relevant time, the City had human resource procedures, including for recruitment and selection; performance management and development; disciplinary action and grievances. The Inquiry notes that these may not have always been sufficient, or in line with the City's policies. Some were revoked, but not replaced during the period of the Inquiry's Terms of Reference.

The City also had two policy manuals, the Organisational Policy Manual (OP)<sup>23</sup> and the Council Policy Manual (CP).<sup>24</sup> These contained policies which affected human resources, including those below.

- Decision-making framework – OP[1].
- Equal Employment Opportunity – OP[4].
- Prevention and management of workplace bullying – OP[6].
- Code of conduct – CP10.1.
- Payments under section 5.50 of the LG Act (severance payments) – CP12.4.
- Senior Employees – CP12.6.

## Recruitment procedure

The City's recruitment procedure for the relevant period, "PR0007 – Recruitment and Selection", contained the following principles:

- *"The City has a best practice approach towards recruitment and selection, with an aim to recruit for talent and choose the best person for the position by allowing flexibility within the process."*
- *All recruitment decisions are made on the basis of equity, merit and procedural fairness.*
- *Recruitment and selection processes are open, competitive and free of bias, unlawful discrimination, nepotism or patronage.*
- *Decisions are transparent and capable of review.*
- *A proper assessment matches an applicant's skills, knowledge, abilities and talents, with the work-related requirements of the job and the outcomes sought by the City, which may include diversity.*
- *Those responsible for recruitment decisions are aware of and trained in the City's Recruitment and Selection process.*
- *The Chief Executive Officer, or an appropriate responsible officer, is responsible for employment decisions at the City of Perth and he/she will be:*
  - *Satisfied that the City's Recruitment and Selection Principles have been met;*
  - *Satisfied that the preferred applicant is suitable for the position;*
  - *Satisfied with the proposed arrangements relating to the person's employment".<sup>25</sup>*

To support the implementation of the recruitment procedure, during the period of the Inquiry's Terms of Reference, the City had a "Recruitment and Selection Manual" to guide selection panel members through the recruitment and selection process.

This manual specified the documentation a selection panel should prepare to support their assessment of each candidate against the work-related requirements and their recommendation of an applicant for appointment to the position. The documentation included an interview grid and a recruitment assessment form which were to be "used as evidence to demonstrate that the recruitment and selection process was conducted in accordance with the City's recruitment and selection processes and Equal Employment Opportunity legislation".<sup>26</sup>

### Disciplinary matters and procedural fairness

The City had “*Disciplinary Guidance Notes*”<sup>27</sup> to provide managers and employees with a model process for the management of unsatisfactory work performance, behaviour or conduct. The guidance notes distinguished between serious misconduct which must be reported to the Corruption and Crime Commission; minor misconduct which must be reported to the Public Sector Commission; and performance, behaviour or conduct issues which were not misconduct and could be dealt with internally.

These principles were reinforced in the City’s “*Organisational Policy Manual*”,<sup>28</sup> which required a decision maker to follow due process and to observe the principles of procedural fairness (also known as natural justice) “*to ensure that a person who might be adversely affected by a decision is given a ‘fair hearing’ both before a decision is made and after*”.

Three principles of procedural fairness were specified:

- a. *The person who might be affected by a decision must be provided with sufficient information for the person to be able to participate meaningfully in the decision making process. This includes any statutory or other decision review or objection processes.*
- b. *The person who might be affected by a decision must be given a reasonable opportunity to respond to issues relevant to a decision and the decision maker must genuinely consider the person’s submission in making the decision.*
- c. *The decision maker must act impartially and in an unprejudiced manner when considering the matter. Bias is a lack of impartiality and may be in favour of or against the affected person. It may arise from an actual or perceived conflict of interest or the failure to apply due process”.*

### Record-keeping

Good record-keeping promotes and demonstrates accountable and transparent decision-making by a local government. Local governments are custodians of government records. The City’s records are a government record.<sup>b</sup>

Human resource records relate to an important function of a local government – the management of its largest resource, its people. These records relate to areas including the selection and recruitment of the CEO, senior employees and other employees, performance management, learning and development, grievances and complaints, occupational safety, health and workers’ compensation and separation.

<sup>b</sup> *State Records Act 2000*, s 3. That is “a record created or received by a government organisation or a government organisation employee in the course of the work for the organisation”.

The Inquiry has, at times during the investigation process, experienced difficulties in locating human resource related records from the City. The Inquiry observed the following in relation to human resource decisions:

- Records were not always stored or recorded within the City's official record-keeping system, including recruitment decisions which were maintained in a third party system.<sup>c</sup>
- Records were kept on local or network drives (for example, I:drive), rather than in the official record-keeping system, including records related to grievances, complaints and terminations.
- Records were kept in hard copy files in a person's office and were not connected to the official record-keeping system.
- Records were not held or retained by the City as a record as defined by the *State Records Act 2000*.
- Records on decisions, including supporting documentation, were not always complete.

Given the important nature of these matters, documents related to these matters should have been kept in the official record-keeping system and the records should have been complete.

The City's "*Record Keeping Plan*" (2017) (Plan), presented to the State Records Commission in accordance with Section 28 of the *State Records Act 2000*, set out the matters about which records were to be created by the City and how it was to keep its records. The Plan documented the record-keeping programme within the City, including information regarding the organisation's record-keeping system(s), disposal arrangements, policies, practices and processes. It is the primary means of providing evidence of compliance with the *State Records Act 2000* and the implementation of best practice record-keeping within the City.

The legal requirements for record-keeping under the *State Records Act 2000*, and the City's compliance with these, are described elsewhere in this Report. However, one of the areas where good records are important is in relation to human resources matters, particularly recruitment processes and decisions, terminations, and how complaints and grievances are addressed.

Part "OP[1] Decision Making Framework", of the City's "*Organisational Policy Manual*" at the relevant time, reinforced the importance of record-keeping. Section 2.3.2 stated:

*"Decision makers must create and maintain records detailing the information and issues that were taken into account in a decision making process and why, the weight given to the evidence, the information considered irrelevant and why, and the reasons for the decision made."*

*Effective record keeping evidences that the decision maker has fulfilled their decision making obligations and ensures that the decision making process can be reconstructed if the decision becomes the subject of a review or objection process".<sup>29</sup>*

<sup>c</sup> Third party is BigRedSky eRecruitment, Thomson Reuters HR Solutions.

Part “OP[10] Record Keeping” of the “*Organisational Policy Manual*” set out details of the record-keeping regulatory requirements and the roles and responsibilities of employees at various levels.

The State Records Office of Western Australia (SRO) is established under the *State Records Act 2000*. The SRO has issued a General Disposal Authority to guide local governments in disposal of their records.<sup>30</sup>

The SRO General Disposal Authority required that recruitment records (other than for a CEO) be retained for only one year after the action is completed. However, section 92.1 of the Authority required the City to keep personal data on a Personal File for each permanent, temporary and contract employee. Those records must be retained for 75 years after the date of birth of the employee, or seven years after the date of retirement or death. Only then can they be destroyed.

It appears to the Inquiry that human resource records were at times not maintained in accordance with either the General Disposal Authority issued by the SRO or the City’s policies. This was often caused by City employees not ensuring records were in the official record-keeping system. Retaining records within an official system ensures that records are transparent and capable of review. This results in decisions made being able to be justified, open and transparent. Record-keeping systems ensure that government records are able to be appropriately retained or disposed of according to the SRO General Disposal Authority under the Plan.

## Probation of directors

### Introduction

1. This Section is about the proposed termination of the employment of a senior employee, Mr Michael Carter, during his probationary period, by the then Acting Chief Executive Officer (CEO), Mr Martin Mileham.
2. The *Local Government Act 1995* (LG Act), empowers a local government authority to employ a person to be the CEO of the local government and such other persons as the council believes are necessary to enable the functions of the council to be performed. A council is also able to designate employees or a class of persons to be senior employees.<sup>31</sup> The CEO is responsible for the employment, management, supervision, direction and dismissal of other employees, with any proposal to employ or dismiss a senior employee to be referred to the council, which can accept or reject the proposal.<sup>32</sup>
3. In addition to the LG Act, the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations) contain regulations entitled “*Prohibition against involvement in administration*” and “*Relations with local government employees*”, which prohibit council members from undertaking administration tasks or attempting to direct or to influence a local government employee to do so.<sup>33</sup>

### Timeline

|      |              |   |
|------|--------------|---|
| 2015 | During May   | The positions of Director, Economic Development and Activation (DEDA), Director, Community and Commercial Services (DCCS) and Director, Construction and Maintenance (DCM), were advertised nationally. Applications closed on 12 June 2015.  |
|      | 11 August    | Council accepted recommendations to appoint Mr Carter as DEDA, Ms Rebecca Moore as DCCS and Mr Paul Crosetta as DCM.  |
|      | 21 September | Mr Carter commenced as DEDA with a five-year term. The contract required a performance agreement to be developed within three months of his commencement but this did not occur.  |
| 2016 | 20 January   | Mr Mileham was appointed as Acting CEO, following the termination of employment of Mr Gary Stevenson. Mr Mileham did not receive a handover and was not able to discuss the performance of the Directors with Mr Stevenson.   |
|      | 10 February  | Ms Lisa Scaffidi, Lord Mayor, sent Mr Carter eight emails between 7.42 am and 9.36 am expressing her displeasure at how Mr Carter had handled an issue relating to a Tourism Industry Exchange event. Ms Scaffidi also emailed Mr Mileham and copied him in on the emails with Mr Carter. |
|      | 23 February  | Mr Mileham held a Council Briefing Session. Mr Reece Harley and Dr Jemma Green were not present for the full session. A Council Meeting was held later that day but Mr Carter’s employment was not raised.  |

|      |             |  |
|------|-------------|--|
| 2016 | 24 February | <p>Mr Mileham emailed Mr Harley and Dr Green and informed them he would not be extending Mr Carter's contract past the probationary period "<i>due to performance issues</i>".</p> <p>Mr Mileham and Ms Michelle Howells, Manager, Human Resources, conducted probationary review meetings for DEDA, DCCS and DCM.</p> <ul style="list-style-type: none"> <li>• Mr Carter was told that his employment was terminated "<i>due to performance concerns</i>", without completing the six-month probationary period, effective 26 February 2016. He had not undergone any performance management previously and was not given notice this would be raised at the probationary review meeting.</li> <li>• Ms Moore was advised that her six-month probationary period would be extended for a further six months due to concerns regarding her "<i>conduct and performance</i>".</li> <li>• Mr Crosetta was advised that he had satisfactorily completed the six-month probationary period.</li> </ul> |
|      | 26 February | <p>Deed of Settlement signed by Mr Carter. He submitted a resignation letter dated 1 February 2016 (with "<i>last working day</i>" 26 February 2016). The Deed included a provision to pay Mr Carter a Settlement Sum in excess of \$5,000.00.</p>   |

## Issues considered by the Inquiry

4. In investigating the termination of Mr Carter's employment during his probationary period, the Inquiry has considered:

- the events leading to Mr Carter's dismissal;
- whether Mr Mileham was required to put the proposed termination of Mr Carter to the City of Perth Council (Council);
- the termination payment authorised by Mr Mileham for payment to Mr Carter; and
- the treatment of Mr Carter.

## Terms of Reference

5. Part A.3 of the Inquiry's Terms of Reference requires the Inquiry Panel to inquire into and report on whether:

- there was improper or undue influence by any member, as defined by section 1.4 of the LG Act, of the Council in administrative tasks, such as recruitment, employee management and grants administration;<sup>34</sup>
- the relationships between the Council, members, the CEO and other employees of the City of Perth (City) and the effect of those relationships on the performance of the City's functions and obligations;<sup>35</sup>
- governance practices;<sup>36</sup> and
- the adequacy and competency of Council decision-making.<sup>37</sup>

## Investigation by the Inquiry

### Witnesses

6. The Inquiry held private hearings involving a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section.

- Council members Ms Lisa Scaffidi, Mr Jim Adamos, Ms Lily Chen, Ms Janet Davidson, Dr Jemma Green, Mr Reece Harley, Mr James Limnios, Ms Judy McEvoy and Mr Keith Yong.
- Mr Mileham, CEO.
- Mr Carter, Director, Economic Development and Activation (DEDA), from 21 September 2015 to 26 February 2016.
- Ms Michelle Howells, Manager, Human Resources, from 21 July 2014 to 3 February 2017.
- Ms Annaliese Battista, DEDA from 5 July 2017 to 22 June 2018. Ms Battista joined the City on 20 October 2015 as the Manager Communications and Engagement, then worked as the Manager, Marketing and Communications from 23 February 2016 and acted as the DEDA from 16 May 2016 until her permanent appointment.
- Ms Kelly Pember, Human Resource Business Partner from 9 February 2015 to 17 November 2017 and the then Acting Manager, Human Resources from 6 February 2017 to 17 November 2017.

7. Ms McEvoy and Mr Yong were not re-elected as councillors in October 2017. Dr Green was elected as a councillor in October 2015.

## Evidence obtained by the Inquiry

### Employment and termination of Mr Michael Carter

8. The Council Policy Manual, “CP12.6 – Staff – Local Government Employees – Senior Employees”, in force at this time, designated all directors as senior employees for the purposes of section 5.37(1) of the LG Act.<sup>38</sup> The designated senior employee position of DEDA was advertised nationally in May 2015. Applications closed on 12 June 2015. The DEDA position was one of three director positions advertised at this time. The other two were the Director, Community and Commercial Services (DCCS) and Director, Construction and Maintenance (DCM).<sup>39</sup>
9. Mr Carter was the preferred candidate unanimously recommended to fill the role of DEDA by the selection panel, consisting of Ms Scaffidi, CEO Mr Gary Stevenson, and an external member, Mr John Poulson.<sup>40</sup> Ms Scaffidi had been invited to participate as a selection panel member by Mr Stevenson.<sup>41</sup> At the Council Meeting on 11 August 2015 the Council voted to accept Mr Stevenson’s recommendation to appoint Mr Carter to the DEDA position. The Council also accepted Mr Stevenson’s recommendation to appoint Ms Rebecca Moore to the DCCS role and Mr Paul Crosetta to the DCM position.<sup>42</sup>
10. All three successful applicants were external candidates and each signed five-year contracts of employment with the City, subject to the satisfactory completion of a qualifying period of six months from the date of commencement.
11. On 20 January 2016, Mr Mileham was appointed as Acting CEO, following the termination of Mr Stevenson’s contract of employment by the Council.
12. On 24 February 2016, Mr Mileham and Ms Howells, Manager, Human Resources, conducted probationary review meetings with the three new directors. Mr Carter was informed that his employment would be terminated by the City and was given a letter to that effect.<sup>43</sup> He was presented with a deed of settlement (Deed) and asked to sign it.<sup>44</sup> Ms Moore was told that her qualifying period under her contract of employment would be extended for a further six months.<sup>45</sup> Mr Crosetta was confirmed as having successfully completed his qualifying period.<sup>46</sup>
13. On 26 February 2016, Mr Carter signed the Deed and provided the City with a letter of resignation dated 1 February 2016.<sup>47</sup>
14. In the course of inquiring into Mr Carter’s termination, the Inquiry compared Mr Mileham’s decision to terminate Mr Carter’s employment with his decision to extend Ms Moore’s probationary period. The Inquiry makes no findings as to Ms Moore’s conduct or capacity as an employee in this Section.

### Events leading to the termination of Mr Michael Carter's employment

15. Mr Carter signed a contract of employment with the City, appointing him to the position of DEDA for a term of five years, commencing on 21 September 2015 and concluding on 25 September 2020.<sup>48</sup>
16. Mr Carter's contract of employment required the development of a performance agreement within three months of him commencing employment. This did not occur.
17. On 20 January 2016, Council terminated Mr Stevenson's employment as CEO. Mr Mileham was formally offered the role of Acting CEO for a minimum period of six months from 20 January 2016. Mr Mileham did not have the opportunity to have any handover with Mr Stevenson or discuss the directors' performance with Mr Stevenson after Mr Stevenson's employment ended.<sup>49</sup>
18. On 10 February 2016, Ms Scaffidi sent Mr Carter eight emails between 7.42 am and 9.36 am in relation to a number of matters to do with a "*Tourism Industry Exchange*" event, including a complaint she had received from Mr Bradley Woods of the Australian Hotels Association that he had not been invited to speak at the event.<sup>50</sup> In her emails, Ms Scaffidi expressed displeasure about the way Mr Carter had dealt with Mr Woods. She also exchanged emails with Mr Mileham and copied him into those emails she sent to Mr Carter.<sup>51</sup> Mr Mileham understood from these emails that Ms Scaffidi was annoyed with Mr Carter.<sup>52</sup>
19. On 19 February 2016, Ms Howells sent Mr Mileham an email entitled "*Confidential: Points for Martin*" containing the message, "*For your meeting this afternoon*".<sup>53</sup> Attached to the email was a summary of meetings she had with Mr Mileham around Mr Carter and Ms Moore. The attachment contained a number of points under the heading "*Issues*" such as: "*Organisation riddled with cancer*" and "*Performance issues with DEDA and DCC*". Under the heading "*Mitigating actions*" it read, "*Termination of DEDA contract – ongoing risk to organisation of individual failing to deliver will impact performance and staff morale*". Under the heading "*Timing*" it read, "*23/02 inform Council of changes to directors in confidential briefing at agenda briefing*" as well as "*24/02 Inform DEDA Wednesday pm of decision not to continue contract ...*".<sup>54</sup>
20. A Council Briefing Session was held on 23 February 2016. The notes of that meeting record that Mr Mileham, Ms Scaffidi, Mr Adamos, Ms Chen, Ms Davidson, Mr Limnios, Ms McEvoy, Mr Yong and Dr Green attended, as well as a number of the City's officers. Mr Harley was not recorded as attending and Dr Green departed the meeting at 4.50 pm. The meeting concluded at 5.15 pm.<sup>55</sup> Mr Mileham advised the council members present of his intention to do various things, including acting on contract matters. Mr Mileham recalled that someone, he cannot remember who, said to him "*Councillor Green wasn't here, you'd better tell her*".<sup>56</sup>

21. Mr Mileham sent separate emails to Dr Green and Mr Harley on the following day, 24 February 2016, at 11.46 am and 11.48 am respectively, stating *“as you were unavailable last evening at the latter portion of the Council Briefing Session ...”* he was unable to inform them that he had made decisions, including that he would *“not be extending DEDA Michael Carter’s contract past the 6 month probationary period, due to performance issues”*.<sup>57</sup>
22. Mr Mileham had the opportunity to personally brief both Dr Green and Mr Harley at the Council Meeting held later on 23 February 2016. They are both recorded in the Minutes of that Council Meeting as being present. The meeting is recorded as commencing at 6.01 pm and concluding at 6.08 pm.<sup>58</sup> Mr Mileham also had the opportunity to submit to this Council Meeting his proposed actions for the employment contracts of the three directors as a late agenda item. However, the Minutes record no late agenda items.
23. On 24 February 2016, Mr Carter was called to a meeting with Mr Mileham and Ms Howells. At this meeting, he was advised that his employment would be terminated. Mr Mileham provided Mr Carter with a letter of that date which stated, among other things, *“due to performance concerns”* he had not successfully completed his qualifying period and *“the City will be terminating your employment in accordance with the termination provisions of your employment contract effective Friday 26 February 2016”*.<sup>59</sup> Mr Carter was presented with the Deed, which he was asked to sign. Mr Carter was asked about this meeting at his private hearing before the Inquiry:

*“Did Mr Mileham give you much feedback on your work in the role, once you became CEO?---Not at all, which is why I was completely gobsmacked or exasperated – flabbergasted I should say is probably the word, when I had my probationary review appointment.*

...

*I was not given an opportunity to express my concerns, I was not given an opportunity to explain what I had done over the last five and a bit months, because this was now coming up to the six month probationary period, and I was completely flabbergasted because I had no inkling that there was concern about my performance, whatsoever ”*.<sup>60</sup>
24. At 12.57 pm on 24 February 2016, Mr Mileham emailed Ms Scaffidi and all councillors to advise that he had implemented decisions, including that *“I have not extended DEDA Michael Carter’s contract past the 6 month probation period, due to performance issues”*. The email also stated, *“given a 6 month probationary period is a term of his contract, there is limited risk of an adverse outcome for the City, should he challenge my decision”*.<sup>61</sup>
25. On 26 February 2016, Mr Carter signed the Deed and provided the City with a letter of resignation dated 1 February 2016.<sup>62</sup>

### Whether Mr Martin Mileham was required to put the proposed termination of Mr Michael Carter to Council

26. Section 5.37(2) of the LG Act requires the CEO to inform the Council of each proposal to employ or dismiss a senior employee (except where a person is acting in the role for a term not exceeding one year and does not have a written contract for the position in which the person is acting). Council may accept or reject the recommendation. If it rejects the recommendation, the Council must inform the CEO of the reason for doing so.<sup>63</sup>
27. A council is empowered to make decisions only at meetings, by simple majority, or another kind of majority set out under the LG Act.<sup>64</sup> It follows that a decision to dismiss a senior employee is to be taken to a council meeting as a recommendation.
28. Mr Carter's contract of employment provided that, during an initial qualifying period of six months, either party could "*terminate employment*" by providing one month's written notice to the other party.<sup>65</sup>
29. The Inquiry considers that a decision by the City to terminate a senior employee's employment, amounts to a decision to "*dismiss*" within the meaning of section 5.37(2) of the LG Act.
30. Mr Mileham said that he advised the council members present at the Council Briefing Session on 23 February 2016 of his intended actions in relation to Mr Carter, although this is not recorded in the corresponding notes.<sup>66</sup> He later advised Dr Green and Mr Harley, who were not present when he informed the other council members, of his intentions by separate emails the following day at 11.46 am,<sup>67</sup> and 11.48 am,<sup>68</sup> respectively.
31. Mr Mileham did not take his proposal to terminate the employment of Mr Carter to a Council Meeting as a recommendation.<sup>69</sup>
32. In *Robert Whooley & Shire of Denmark* [2019] WASCA 28, the Western Australian Industrial Appeal Court held a CEO will have no power to dismiss a senior employee unless Council is informed of the decision and has accepted the CEO's recommendation:
 

*"The only power conferred on the CEO to dismiss an employee is the power conferred by s 5.41(g). That power is expressly subject to s 5.37(2) in relation to senior employees. The CEO has no power to dismiss a senior employee unless the CEO has informed the council of the proposal to dismiss the senior employee and the council has accepted the CEO's recommendation. The CEO did not inform the council of his proposal to dismiss Mr Whooley and the council did not accept a recommendation of the CEO to dismiss Mr Whooley. Therefore, the CEO had no power to dismiss Mr Whooley".*<sup>70</sup>
33. This judgement is relevant to the dismissal of Mr Carter, because there is no evidence to suggest that the decision to dismiss Mr Carter was taken to a Council Meeting and Mr Mileham gave evidence that he did not do so.<sup>71</sup> Furthermore, there is no evidence that the Council accepted a recommendation to terminate Mr Carter's employment. The Inquiry has not been able to locate any Council minutes which deal with the matter.

34. Accordingly, the Inquiry considers that, contrary to section 5.37(2) of the LG Act, Mr Mileham did not present his proposal to terminate Mr Carter's employment to a Council Meeting, and Council did not accept his recommendation, before he met with Mr Carter on 24 February 2016.
35. The failure to comply with section 5.37(2) of the LG Act is telling in two respects. Section 5.37(2) not only requires the CEO to act in a certain way, it also provides Council with an associated function. By requiring Council to accept or reject a CEO's recommendation, and provide reasons if it rejects a recommendation, section 5.37(2) clearly requires Council to consider the reasons for any recommendation before making that decision.
36. What is concerning is that both the CEO and the majority of council members lacked a proper understanding of the role of Council under section 5.37(2) of the LG Act.
37. Mr Mileham's view was that his decision to dismiss Mr Carter did not need to go to Council.<sup>72</sup>
38. Ms Scaffidi considered it was not for her to "*hire or fire*" a Director.<sup>73</sup> Mr Adamos,<sup>74</sup> Ms Chen<sup>75</sup> and Ms Davidson<sup>76</sup> did not believe it was a matter for Council. Dr Green said she did not think it would be raised at Council, given it related to a probation period.<sup>77</sup> Ms McEvoy was not sure whether it was a matter that would go to Council.<sup>78</sup> Mr Limnios was not asked about this issue.
39. Only Mr Yong<sup>79</sup> and Mr Harley<sup>80</sup> were aware of Council's functions in relation to the termination of senior employees.

#### Payment to Mr Michael Carter authorised by Mr Martin Mileham

##### Legislative and policy framework

40. Section 5.50(1) of the LG Act requires that a local government is to prepare a policy to deal with payments made to employees who are finishing their employment, setting out the circumstances in which the local government will pay an employee an amount in addition to their contractual or award entitlements. The policy should also deal with the manner of assessment of any such additional amount. The local government is to give public notice of the policy.<sup>81</sup>
41. Section 5.50(2) of the LG Act allows a local government to make a payment to an employee whose employment is finishing, which is in excess of any additional amount set out in the policy, required under sub-section (1) and adopted by the local government. However, if such a payment is made, "*local public notice*" of it must be given.<sup>82</sup> That requires a notice to be published in a newspaper circulating in the City and on public notice boards at the City's offices and its library.<sup>83</sup>
42. Section 5.50(3) of the LG Act requires that the value of a payment under the section is not to exceed such amount as is prescribed or provided for by the *Local Government (Administration) Regulations 1996* (Administration Regulations). Regulation 19A of the Administration Regulations prescribes the amounts which payments under section 5.50(1) or (2) of the LG Act must not exceed.

43. At the time of the termination of Mr Carter's employment, an additional payment was not to exceed \$5,000.00 unless certain conditions were met. The Administration Regulations allowed for an additional payment of not more than the person's annual remuneration to be paid if the person was accepting voluntary severance by resigning and was not a CEO or a senior employee.<sup>d</sup>
44. The policy prepared by the City is contained in CP12.4 of the Council Policy Manual and titled "*Payments Under Section 5.50 of the Local Government Act 1995*" (Policy). The Policy sets out the circumstances for severance payments, which are:
- Settlement of Legislative Action;
  - Recommendation by an Industrial Commissioner;
  - Illness or Impairment;
  - Order by a Court or Industrial Tribunal; or
  - Redundancy.<sup>84</sup>
45. The Policy also provides that nothing prevents the Council from deciding that an employee who is leaving may be paid an additional amount, provided the total value of additional payments to the employee does not exceed the value of the person's final annual remuneration. If the Council decides to make such a payment, "*local public notice*" of the payment must be given.<sup>85</sup>

#### Deed which was signed

46. Mr Carter and Mr Mileham signed the Deed on 26 February 2016. It included a provision to pay Mr Carter entitlements of five weeks pay in lieu of notice, annual leave (accrued and unused), time in lieu and an additional settlement sum equivalent to 10 weeks salary (Settlement Sum).<sup>86</sup> The value of the Settlement Sum was in excess of \$5,000.00.

#### Compliance with the Policy and legislative framework

47. When Mr Carter was paid the Settlement Sum, it was an amount additional to his entitlements (Additional Amount).
48. Mr Carter was not entitled to the Additional Amount under the Policy. The circumstances of his departure from the City were not contemplated by its terms.<sup>87</sup> As such, when Mr Carter was paid the Additional Amount, he was paid more than any additional amount allowed under the Policy. The Additional Amount could only have been paid under the Policy if Council had resolved to pay Mr Carter the higher additional amount, and public notice of the payment was given, but it was not.<sup>88</sup> Mr Mileham authorised the payment of the Additional Amount, on advice from the Human Resources Unit,<sup>89</sup> but without Council approval.

<sup>d</sup> Regulation 19A(1)(a) of the *Local Government (Administration) Regulations 1996* (Administration Regulations) has since been amended and reg 19A(1)(a)(ii) has been repealed. The Administration Regulations do not now stipulate that the person is not to be a CEO or a senior employee under a contract of employment.

49. Under section 5.50(2) of the LG Act, the Additional Amount could only have been paid if local public notice was given. Mr Mileham could not remember any public notice being given of the payment.<sup>90</sup> The City has no record of any such notice being placed.<sup>91</sup> Accordingly, the Inquiry finds the City paid Mr Carter the Additional Amount without giving public notice.
50. The Inquiry also finds the City paid Mr Carter an Additional Amount in excess of \$5,000.00. Mr Carter's employment was governed by a written contract for a period of five years and Mr Carter was designated as a senior employee.<sup>92</sup> Mr Carter did not accept voluntary severance.
51. Accordingly, even if a local public notice had been given, any payment in addition to Mr Carter's entitlements could not exceed \$5,000.00 under the LG Act, when read in conjunction with the Administration Regulations.<sup>93</sup> The payment made to Mr Carter under the Deed, in the form of the Additional Amount, was in excess of this limit.<sup>94</sup>
52. Mr Mileham agreed that the value of the payment should not exceed \$5,000.00.<sup>95</sup>
53. Mr Mileham accepted responsibility for signing the Deed on behalf of the City.<sup>96</sup>
54. The Inquiry finds that, through the conduct of Mr Mileham who signed the Deed, the City breached section 5.50(2) of the LG Act.
55. The Inquiry also finds that, through the conduct of Mr Mileham who signed the Deed, the City breached section 5.50(3) of the LG Act.

#### **Treatment of Mr Michael Carter in comparison to Ms Rebecca Moore**

56. Section 5.40 of the LG Act sets out a number of principles to be applied to the employees of local governments. Among them, is a requirement for employees to be treated fairly and consistently.<sup>97</sup>
57. Ms Moore's five year contract of employment as DCCS commenced on 7 September 2015 and was subject to the satisfactory completion of a qualifying period of six months from the date of commencement.<sup>98</sup> Mr Carter's contract as DEDA was in similar terms.<sup>99</sup>
58. Ms Moore's contract of employment, like Mr Carter's, required the development of a performance agreement within three months of commencing employment.<sup>100</sup> This did not happen for either employee.
59. In the lead up to their separate meetings with Mr Mileham on 24 February 2016, Ms Howells made general remarks about the performance of both Mr Carter and Ms Moore. She said both had exhibited performance issues, in the form of skill and capability gaps. Mr Carter had not yet produced any results. Ms Moore had produced results at the cost of people. The retention of both of them presented a risk to the business.<sup>101</sup> Mr Carter was the inaugural Director of his directorate.

60. Up to 24 February 2016, the City had no recorded complaints about either Ms Moore's or Mr Carter's conduct.
61. As the Director, Planning and Development, prior to being appointed Acting CEO, Mr Mileham was aware that Ms Moore had issues relating to teamwork, that her method of dealing with people was aggressive and that others described her as a bully.<sup>102</sup> He also formed his own view that Mr Carter was a bully.<sup>103</sup>
62. At her probationary review meeting on 24 February 2016 with Mr Mileham and Ms Howells, Ms Moore was told that her qualifying period under her contract of employment would be extended for a further six months due to concerns regarding her *"conduct and performance"*. Ms Moore was given a letter of the same date signed by Mr Mileham, confirming her unsuccessful completion of the qualifying period and the six month extension. The letter set out a number of behavioural matters as areas of concern but did not include specific examples of the alleged behaviour.<sup>104</sup> Ms Moore told the Inquiry, Mr Mileham did not speak to her about the specifics or provide examples.<sup>105</sup>
63. At his probationary review meeting with Mr Mileham and Ms Howells on 24 February 2016, Mr Carter was told there were concerns about his performance and the City was terminating his employment.<sup>106</sup> Mr Mileham went through some points from a script Ms Howells had prepared.<sup>107</sup> Mr Carter tried to explain that he had had to recruit an entire team and that it was unfair to have expected more of him in such a short period of time. Although Mr Mileham said Mr Carter was given an opportunity to respond to what he said in the meeting, Mr Carter and Ms Howells said Mr Carter was not.<sup>108</sup> Mr Mileham and Mr Carter recall it was a short meeting.<sup>109</sup> The Inquiry accepts Mr Carter and Ms Howells's evidence on this point. Ms Howells gave evidence that the decision to terminate Mr Carter's employment had been made prior to the meeting and the purpose of the meeting was to inform Mr Carter of this decision – *"it was not a meeting to have a discussion to see if there was evidence or information provided to change that"*.<sup>110</sup>
64. Mr Carter was handed the Deed and asked to sign it.<sup>111</sup> Up until his meeting with Mr Mileham on 24 February 2016, Mr Carter thought he was doing a solid job and was performing to task.<sup>112</sup> As Acting CEO, Mr Mileham had not raised any concerns with Mr Carter about his performance and Ms Howells had not engaged in any performance management processes with him.<sup>113</sup>
65. The Inquiry finds Mr Carter and Ms Moore were treated differently by the City, through the actions of Mr Mileham.
66. Mr Mileham agreed. He said Mr Carter and Ms Moore were treated differently, because what had come to his attention about Ms Moore at the time was more anecdotal than specific. Mr Mileham said he treated them differently because different matters had come to his attention.<sup>114</sup> With respect to Ms Moore, there were issues around teamwork and human relationships and her method of dealing with people. In Mr Carter's case, Mr Mileham believed he was aggressive, was not a good team member and he was not satisfied with the direction of Mr Carter's directorate.<sup>115</sup>
67. In contrast, Ms Howells said there were concerns with Mr Carter's ability to produce results whereas the concerns around Ms Moore's performance centred around her conduct.<sup>116</sup>

68. With respect to their assertive conduct, it appears that there was not a great deal separating Ms Moore and Mr Carter. They had each been described as a bully and aggressive.<sup>117</sup>
69. One of the key reasons Mr Mileham gave for terminating Mr Carter's employment was because he considered him a bully. This was something to which Mr Mileham said he gave a great deal of weight.<sup>118</sup> The City had a zero-tolerance policy on bullying in place.<sup>119</sup> However, it does not appear to have been given the same weight by Mr Mileham in relation to Ms Moore.
70. The letter Ms Moore was given during her meeting with Mr Mileham on 24 February 2016, set out a number of specific areas of concern regarding Ms Moore's conduct and performance. This included a lack of confidence in Ms Moore's *"ability to demonstrate conduct consistent with a senior officer position"*, and *"Diminished trust and confidence as a City of Perth Senior Executive"*. The letter also included feedback from council members relating to their concerns about *"a lack of maturity and professionalism that is expected at a Senior Executive level"*.<sup>120</sup>
71. Mr Carter's letter mentions nothing other than unspecified *"performance concerns"*. He was not given any written particulars about what the concerns were in his meeting with Mr Mileham on 24 February 2016.<sup>121</sup>
72. Ms Moore was given the opportunity to answer the matters raised with her,<sup>122</sup> and her contract was extended for an additional six months, during which she was invited to demonstrate behavioural improvements.<sup>123</sup>
73. Mr Carter's contract was not extended, and he was not given the opportunity to demonstrate improvement. Giving Mr Carter five and a half months of a probation period was not giving him time to improve. Mr Carter was never advised he needed to improve, as no one responsible for managing his performance told him his performance was lacking.<sup>124</sup>
74. The Inquiry finds Mr Carter was not given any notice that he was to be spoken to about his performance before the meeting with Mr Mileham on 24 February 2016. Mr Mileham could not recall whether Mr Carter was given such notice.<sup>125</sup> In circumstances where Mr Mileham has no real recollection, the Inquiry accepts Mr Carter's account.
75. As Mr Carter was not provided with written details of any concerns about his performance, was not afforded the opportunity to respond and to put his version of events, and was not given any time to improve his allegedly poor performance, the Inquiry finds Mr Carter was treated unfairly.
76. As Ms Moore's probationary period was extended, whereas Mr Carter's employment was terminated, Mr Carter was treated less favourably to Ms Moore in circumstances that did not warrant such differential treatment.
77. Section 5.40(c) of the LG Act required the City to treat employees fairly and consistently.<sup>126</sup>

## Findings

### Finding 2.3.2 – 1

The Inquiry makes the following findings:

- i. Contrary to section 5.37(2) of the LG Act, Mr Mileham did not present his proposal to terminate Mr Carter's employment to a Council Meeting, and Council did not accept his recommendation, before he met with Mr Carter on 24 February 2016 and told Mr Carter the City would be terminating his employment.
- ii. On 26 February 2016, the City breached section 5.50(2) of the LG Act by failing to give public notice of an additional payment.
- iii. On 26 February 2016, Mr Mileham failed to comply with Council Policy CP 12.4 sub-section (3) by authorising the payment of the Additional Amount without Council approval.
- iv. On 26 February 2016, the City breached section 5.50(3) of the LG Act by making an additional payment of more than \$5,000.00.
- v. By treating Mr Carter in the way he did, Mr Mileham failed to treat Mr Carter fairly and consistently. This was contrary to section 5.40(c) of the LG Act.

## Recruitment of a new Director, Economic Development and Activation

### Introduction

1. The purpose of this Section is to examine the two recruitment processes undertaken by the City of Perth (City) during 2016 and 2017 to select and appoint a person to the position of Director, Economic Development and Activation (DEDA), following the termination of Mr Michael Carter in February 2016.

### Timeline

|      |           |   |
|------|-----------|---|
| 2016 | 11 March  | The Director, Economic Development and Activation (DEDA) position was advertised. Applications closed on 1 April 2016.  |
|      | 16 May    | Ms Annaliese Battista was appointed as Acting DEDA.   |
|      | 19 May    | By this time the short list for the DEDA position had been reduced to three people (Ms Jodi Cant, Ms Battista and Mr Charles Gunningham). This was the first recruitment process for the DEDA position.   |
|      | 9 June    | Ms Lisa Scaffidi, Lord Mayor, provided confidential information about the recruitment process for the DEDA position to Ms Battista.   |
|      | 28 June   | Ms Scaffidi requested copies of the confidential applications for the DEDA position, that is, those of Ms Cant, Mr Gunningham and Ms Battista.  |
|      | June      | By late June 2016 Ms Cant had been endorsed as the preferred candidate by the recruitment panel, chaired by Mr Martin Mileham, Acting CEO.  |
|      | 30 June   | Ms Scaffidi and Ms Cant met in the Lord Mayor's office.   |
|      | 11 July   | Ms Scaffidi sent an email to Mr Mileham expressing a preference for Ms Battista to be appointed to the DEDA position.   |
|      | 19 July   | Ms Cant attended a Council Briefing Session with members of the Council.  |
|      | 22 July   | Ms Janet Davidson and Ms Judy McEvoy, council members, requested a copy of "other CV's" (Curriculum Vitae), including Ms Battista's CV, in order to make a considered decision.   |
|      | 12 August | By this date Mr Mileham had formed the view that it was unlikely that the recommendation to appoint Ms Cant to the DEDA position would receive the support of Council. He advised Council that the City would not proceed with the appointment process. |
|      | October   | Mr Mileham and Ms Battista spoke about Ms Battista being appointed to the DEDA position, with Mr Mileham raising issues of loyalty and trust.   |

|      |               |   |
|------|---------------|---|
| 2017 | 7 February    | Mr Mileham made an offer to appoint Ms Battista to the DEDA position.   |
|      | March         | Advice sought about the legality of Ms Battista being appointed to the DEDA position (provided by Barristers and Solicitors, McLeods on 23 March 2017 and Jackson McDonald on 24 March 2017).   |
|      | 15 April      | The DEDA position was re-advertised, with applications closing on 5 May 2017. This was the second recruitment process for the DEDA position. The recruitment panel, chaired by Mr Mileham, recommended the appointment of Ms Battista.  |
|      | 24 May        | Ms Scaffidi spoke with an applicant for the DEDA position, advising the applicant that she would not be interviewed for the position.   |
|      | 24 and 31 May | Ms Scaffidi requested a long list of candidates for the DEDA position from Mr Mileham on 24 May 2017, and a short list on 31 May 2017. Also on 31 May 2017, Ms Scaffidi suggested to Mr Mileham that Mr Todd Gogol should be interviewed for the DEDA position.   |
|      | 4 July        | Mr Mileham, pursuant to section 5.37(2) of the <i>Local Government Act 1995</i> (LG Act), made a recommendation to Council to appoint Ms Battista to the DEDA position (effective 5 July 2017). The recommendation was unanimously accepted by Council. By this time Ms Battista had been acting in the DEDA position for a period exceeding 12 months. |

## Issues considered by the Inquiry

2. Consistent with A.3(ii), A.3(iii) and A.3(v) of its Terms of Reference, the Inquiry considered the following issues with respect to the selection of the DEDA and the appointment of Ms Annaliese Battista:

- Whether Ms Lisa Scaffidi breached confidentiality by telling Ms Battista a late application had been received from Mr Charles Gunningham in the first-round of recruitment for the DEDA position (first-round process).
- Whether council members became inappropriately involved in that first-round process.
- Whether there was a breach of s 5.39(1a)(a), namely, an employee acting as a senior employee without a contract.
- Whether Mr Martin Mileham should have removed himself from the second-round of recruitment for the DEDA position (second-round process) and whether the process was biased in favour of Ms Battista.
- Whether Ms Scaffidi breached confidentiality in speaking to a potential candidate on 24 May 2017.

## Investigation by the Inquiry

### Witnesses

3. The Inquiry held private hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section.

- Council members Ms Scaffidi, Mr Jim Adamos, Ms Lily Chen, Ms Janet Davidson, Dr Jemma Green, Mr Reece Harley, Mr James Limnios, Ms Judy McEvoy, and Mr Keith Yong.
- Mr Mileham, Chief Executive Officer (CEO).
- Ms Battista, the DEDA from 5 July 2017 to 22 June 2018. Ms Battista joined the City on 20 October 2015 as the Manager, Communications and Engagement. She became the Manager, Marketing and Communications on 23 February 2016. She acted as the DEDA from 16 May 2016 until her permanent appointment.
- Mr Mark Ridgwell, Manager, Governance.
- Ms Michelle Howells, Manager, Human Resources from 21 July 2014 to 3 February 2017.
- Ms Kelly Pember, Human Resource Business Partner from 9 February 2015 and Acting Manager Human Resources from 6 February 2017 to 17 November 2017.
- Ms Jodi Cant, the external applicant for the 2016 recruitment process for the DEDA position.
- Ms Wendy Earl, the external applicant for the 2017 recruitment process for the DEDA position and a former employee of the City.

### Legislative background

4. Part 5, Division 4 of the *Local Government Act* (LG Act) sets out various provisions dealing with local government employees. Section 5.36 provides that a local government has the function of employing a CEO and other employees. The CEO is responsible for the employment, management, supervision, direction and dismissal of other employees employed by the local government.<sup>127</sup>
5. Section 5.36(3) provides that a person is not to be employed by a local government in any other position unless the CEO believes that the person is suitably qualified for the position<sup>128</sup> and is satisfied with the proposed arrangements relating to the person's employment.<sup>129</sup>

6. However, section 5.37(2) of the LG Act provides conditions for the CEO's power to employ or dismiss designated "*senior employees*". During the period of the Inquiry's Terms of Reference, the holder of the position of DEDA was designated by the City as a senior employee.<sup>130</sup> Section 5.37(2) requires the CEO to inform the Council of each proposal to employ or dismiss a senior employee<sup>e</sup> and Council may accept or reject the CEO's recommendation. If it rejects the CEO's recommendation, Council must inform the CEO of the reasons for doing so. The CEO is to ensure information is available to the Council to enable Council to make an informed decision on the CEO's recommendation.<sup>131</sup>
7. Council is empowered to make decisions only at meetings, by simple majority, or another kind of majority set out under the LG Act.<sup>132</sup> It follows that a proposal by the CEO to employ a senior employee is to be taken to a Council Meeting as a recommendation for the Council to formally accept or reject.
8. The LG Act, read as a whole, therefore clearly differentiates between the roles of the Council and the CEO in relation to the employment of a senior employee. The CEO is responsible for employing a senior employee, being satisfied that any potential senior employee is suitably qualified for the role, putting a recommendation to Council at a Council Meeting and providing Council with information to enable it to make an informed decision. Council must consider and then accept or reject the CEO's recommendation.
9. That differentiation is consistent with the intention of the LG Act to clearly define the roles of the "*key players*" within a local government. In doing so, Parliament intended to promote efficient administration within local governments and avoid conflicts caused by uncertainty, including conflict between council members and employees caused by council members becoming involved in administrative matters that should be handled by staff.<sup>133</sup>
10. It is entirely a matter for the CEO whether a recommendation to Council is made and who the CEO proposes to employ as a senior employee. Council and council members (including the Lord Mayor) have no role to play in the employment of a senior employee unless and until the CEO makes a recommendation to Council in a meeting.
11. It is not appropriate for the Council or council members to direct or influence, or attempt to direct or influence, any such recommendation or a CEO's decision in relation to the employment of a senior employee until that meeting.<sup>134</sup>
12. While the Lord Mayor is to liaise with the CEO on the City's affairs and the performance of its functions,<sup>135</sup> that does not mean the Lord Mayor may become involved in day-to-day matters of the City's Administration.

<sup>e</sup> Except where a person is acting in the role for a term not exceeding one year and does not have a written contract for the position in which the person is acting.

13. The Lord Mayor, outside his or her role at Council Meetings, has no role to play in the employment, management, supervision, direction and dismissal of the City's employees. That is exclusively the function of the CEO.<sup>136</sup> As Ms Scaffidi said of the role of Lord Mayor, *"there needs to be that separation between the Administration and the strategic undertakings of the Council"*.<sup>137</sup>
14. Furthermore, Council can only accept or reject a CEO's recommendation related to a senior employee. It cannot, for example, amend the CEO's recommendation and propose that the local government employ another person as a senior employee. As a consequence, only information that might assist Council in deciding whether to accept or reject the CEO's recommendation is pertinent to its decision.
15. Section 5.39(1a)(a) of the LG Act allows for an employee to act in the role of a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting. In the case of an acting or temporary position, a contract under section 5.39(2)(a) cannot be for a term exceeding one year.

## Evidence obtained by the Inquiry

### First-round process of selecting a Director, Economic Development and Activation

16. After Mr Carter's termination in late February 2016, the City began the recruitment process to replace him. Mr Gary Dunne became the Acting DEDA in the interim.<sup>138</sup> The DEDA position was advertised nationally on 11 March 2016, with a salary package of \$256,230.00.<sup>139</sup> Applications closed on 1 April 2016.
17. On 12 April 2016, Mr Mileham, the Acting CEO, emailed Ms Pember stating, *"can you pls arrange for the LM to have access to Big Red Sky so she may look at the applications and CV's in confidence?"*<sup>140</sup>
18. On 14 April 2016, Ms Pember printed copies of the curriculum vitae (CV) and provided them to Ms Scaffidi.<sup>141</sup> There is no evidence Ms Scaffidi was provided with applications at the same time.
19. In late April 2016, Ms Scaffidi expressed a desire to have a role in recruitment for the DEDA position. This request was consistent with the practice which had developed under former CEOs, where council members had participated in the recruitment of senior employees.<sup>142</sup> However, Mr Mileham did not believe it was appropriate. He so informed Ms Scaffidi.<sup>143</sup>
20. Mr Mileham asked Mr Ridgwell to obtain legal advice from the City's legal advisor, Mr Neil Douglas of McLeods Barristers and Solicitors (McLeods), on the appropriateness of a council member participating on a recruitment panel. Mr Ridgwell emailed Mr Douglas on 26 April 2016 asking for advice.<sup>144</sup>

21. Three days later, Mr Douglas provided his advice. It was to the effect that although under the LG Act *“the CEO may authorise a Council member to participate in a recruitment selection process for a City employee”*, any decision to do so must be made by reference to the separation of powers under the LG Act and also by reference to the best practice principles applying to the City’s recruitment of employees. Mr Douglas’s letter also noted that it would be unusual, if not rare, for a council member’s participation in a recruitment process to be consistent with those principles.<sup>145</sup>
22. By letter dated 14 May 2016, Mr Gunningham wrote to Ms Howells expressing a desire to apply for the position and said *“it was good to see you again last week and discuss the advertised position”* of the DEDA.<sup>146</sup> He enclosed his CV. Mr Gunningham’s application was received some six weeks after the closing date of 1 April 2016.
23. After obtaining advice from a governance officer, Ms Howells approached Mr Mileham and advised that Mr Gunningham should be spoken to about the DEDA role.<sup>147</sup> Mr Mileham accepted the *“good advice and actions of the HR department under the jurisdiction and direction of Director of Corporate Services”* and agreed to the late acceptance of Mr Gunningham’s application. Mr Mileham made no written record of the decision. Mr Gunningham was added to the interview short list.<sup>148</sup>
24. On 16 May 2016, Ms Battista replaced Mr Dunne as Acting DEDA.<sup>149</sup>
25. On 30 May 2016, Ms Howells emailed Mr Mileham to confirm the short list of Ms Battista, Ms Cant and Mr Gunningham.<sup>150</sup>

#### **Ms Jodi Cant selected as the preferred candidate**

26. On 21 June 2016, Ms Battista was interviewed by the recruitment panel consisting of Mr Mileham, as the chair, Mr Robert Mianich, Director, Corporate Services, and Ms Suzette Breddel, a human resources consultant. Ms Cant and Mr Gunningham were interviewed on 23 June 2016.<sup>151</sup> In late June 2016, the recruitment panel endorsed Ms Cant as the preferred candidate.<sup>152</sup> Mr Mileham considered Ms Cant to be *“exceptional”*,<sup>153</sup> while Ms Battista was considered not to be director material at that time.<sup>154</sup>
27. On 28 June 2016, Ms Scaffidi emailed Mr Mileham. She wrote, *“I am keen for you to set up a coffee meeting”*. Ms Scaffidi also asked she be provided with Ms Cant’s *“application and Charlie G and Annaliese’s as well”*.<sup>155</sup> Mr Mileham responded advising he had already suggested to Ms Cant that she meet with Ms Scaffidi on a one-on-one basis. Mr Mileham was *“keen”* to introduce Ms Scaffidi to Ms Cant, because he foresaw *“a very close working relationship developing between the Lord Mayor and the Economic Development Directorate”*.<sup>156</sup> He suggested Ms Scaffidi wait until after her *“chat”* to receive the documents she had requested. Mr Mileham wrote *“The risks are that a quasi-interview, including Cr Davidson and visibility of the respective applications could provide ground to a protest, under the provisions of the Act. An informal one-on-one presents no such issues”*.<sup>157</sup>

28. On 30 June 2016, Ms Scaffidi and Ms Cant met. Mr Mileham escorted Ms Cant to and from the Lord Mayor's office.<sup>158</sup> Ms Cant told the Inquiry that she recalled the meeting being *"like a meet and greet"*, with the discussion being about her vision for the DEDA role and the Lord Mayor's vision for the City.<sup>159</sup> In effect, it was a quasi-interview.<sup>160</sup>
29. On 11 July 2016 at 1.47 pm, Mr Mileham emailed his assistant and asked for her to set up a meeting *"with the LM to discuss and agree way forward for appointment of DEDA"*.<sup>161</sup>
30. Later that afternoon, at 4.48 pm, Ms Scaffidi emailed Mr Mileham about a meeting and wrote, among other things *"I've been giving this some considered thought as you have too, no doubt, and I have to say I think Annaliese has created the stability which is really the priority right now"*. Ms Scaffidi went on to state that she was *"mulling on"* whether Ms Cant would be satisfied *"with much of the day-to-day & the overall manner with which we operate in a smaller arena than she is used to and of course the nature of how Council operates"*.<sup>162</sup> Ms Scaffidi also asked whether he proposed presenting Ms Cant to council members and whether he was going to tell Ms Cant she was the preferred candidate.<sup>163</sup> She noted the past process had been to present the *"reasons for the preferred candidate"* to council members before offering the role.<sup>164</sup>
31. Ms Scaffidi forwarded her email at 4.49 pm to members of her alliance: Ms Davidson, Ms McEvoy, Mr Adamos and Mr Yong, with the comment *"Fyi only"*.<sup>165</sup> When questioned by the Inquiry, Ms Scaffidi said she excluded Mr Limnios, Mr Harley and Dr Green, because *"it might have not been clear they strongly preferred Annaliese [Battista], but yes, they would close me down"*. She agreed it was inappropriate to withhold the information from them.<sup>166</sup>
32. Later, at 5.11 pm, Mr Mileham responded to Ms Scaffidi and requested a meeting the following day. Mr Mileham wrote, *"FYI the panel was unanimous in recommending Jodi as the best candidate. That said, as a designated employee a recommendation (to appoint DEDA) must come to Council for a 'yes or no' decision"*. Mr Mileham continued, *"I (and the panel) are convinced that Jodi is the best selection of those interviewed, however I will not put forward a recommendation that would be refused at Council. I am also unconvinced stability is the main requirement, in fact the opposite to some degree ..."*.<sup>167</sup>
33. Ms Scaffidi responded at 5.18 pm. She wrote *"Didn't state stability as main req! Like everything MM [Martin Mileham] its complex. You know I was not 'thrilled with the panel' also. Talk later"*.<sup>168</sup>

### Council Briefing Session on 19 July 2016

34. Mr Mileham invited Ms Cant to a City of Perth Council (Council) Briefing Session with council members, which she attended on 19 July 2016. Ms Cant was introduced as an applicant for the DEDA position. She then answered questions from the council members present.<sup>169</sup> Mr Mileham told the Inquiry the intention in holding this session was to test the *"temperature of the room"* and seek feedback from those council members.<sup>170</sup> There were no notes taken at this session.<sup>171</sup>

35. Council members and Administration staff present at the Council Briefing Session had varying recollections of what occurred, but most recall the council members present showing strong support for Ms Battista to be appointed to the DEDA position in preference to Ms Cant.
36. Ms Davidson attended the Council Briefing Session. She formed the view Ms Cant was not suitable for the role:

*“She was a fairly forthright person. She knew what she was doing and I think with some of the things that she had mentioned, not too sure whether she was the fit for that particular portfolio.”*<sup>172</sup>
37. Ms Davidson’s evidence to the Inquiry was that while Ms Cant’s application and CV satisfied the City’s requirements, she made the above mentioned assessment of Ms Cant during the Council Briefing Session – subjectively and in around 15 minutes. Ms Davidson remembered council members present wanted to know what other candidates were involved. Ms Davidson said she thought there was *“reasonable consensus that Elected Members, as I say, were comfortable with Annaliese Battista in the role”*. Ms Davidson recalled Mr Mileham telling the council members that if Ms Cant was not endorsed, he would recommend the City go back to the market, rather than appoint Ms Battista.<sup>173</sup>
38. Mr Harley acknowledged Ms Cant was an impressive candidate who fulfilled the selection criteria, had previous executive experience and the recruitment panel assessed her as the most suitable candidate. Mr Harley recalled some of the questions to Mr Mileham, including some from himself, about whether Ms Battista was a short-listed candidate and, why she was not the recommended candidate. In the Council Briefing Session, Mr Harley provided feedback to the effect that Ms Battista had performed well in the acting role.<sup>174</sup>
39. Mr Adamos believed the purpose of the Briefing Session was to get input from council members. In his view, due to the amount of turmoil the City was experiencing and the fact that Ms Battista apparently had a good rapport with the staff, it would be the *“path of least resistance”* to prefer Ms Battista even if Ms Cant was very strong. Mr Adamos went on to say he did not know if Ms Battista would be a better candidate, but because she worked well with the team *“that was a matter that could be continued, rather than start fresh”*. He said this was something he could not assess with Ms Cant.<sup>175</sup>
40. Dr Green told the Inquiry that the council members at the Briefing Session were very vocal about the fact they thought Ms Battista was doing an excellent job and that she should be the appointee. Dr Green considered the Briefing Session to be a forum in which Mr Mileham made a recommendation to appoint Ms Cant, which she considered Council had rejected. In her view, it was clear the majority of Council and *“probably everyone”*, with the exception of herself, preferred Ms Battista and they maintained that view up until the point when she was permanently appointed.<sup>176</sup>

41. Mr Yong's recollection was poor. He recalled the meeting included a number of directors as well as Ms Cant. He could not remember speaking about Ms Battista.<sup>177</sup> He believed an agreement was reached between the CEO, Human Resources and Ms Scaffidi to not appoint Ms Cant.<sup>178</sup>
42. Ms Chen had limited recollection of Ms Cant or the process, but said it would be inappropriate for Ms Battista to have been appointed simply because she was more likeable.<sup>179</sup>
43. According to Ms McEvoy, she said words to the effect of "*we need to look at her [Ms Battista] as well*".<sup>180</sup>
44. Mr Limnios was not present at the Briefing Session.<sup>181</sup>
45. Ms Scaffidi told the Inquiry she did not find Ms Cant to be unacceptable and thought she was professional and over-qualified. Ms Scaffidi said that she expressed this view during the Briefing Session, saying Ms Cant was "*over-qualified for the role*" and "*not likely to stay*".<sup>182</sup> Ms Scaffidi was concerned Ms Cant was not going to be a "*long term sure thing*" as the role was "*very repetitive and it's low level*" compared to Ms Cant's previous role.<sup>183</sup>
46. Contrary to Ms Scaffidi's email at paragraph 30 and her views at paragraph 45, Ms Cant told the Inquiry that she did not have concerns that she would not be stimulated by the role and did not have any misgivings about how the City operated. She did not have concerns that the DEDA position would have a smaller remit than her job at the time, because "*To me it looked like it had a broader remit*". Ms Cant gave evidence that she could not remember Ms Scaffidi, in their meeting on 30 June 2016, or any council members, in the Briefing Session on 19 July 2016, raising any of those concerns with her. Ms Cant believed that she would have remembered if those matters had been raised, because she was "*quite excited by the [DEDA] opportunity*".<sup>184</sup>
47. Mr Ridgwell also attended the Briefing Session on 19 July 2016. He was disappointed to observe the council members make unprofessional comments in relation to Ms Cant, whom he considered was a "*very high quality candidate*". Mr Ridgwell heard Ms Scaffidi say to him, and potentially to Ms Davidson and Ms McEvoy, that the council members did not like her appearance, and that Ms Cant was not "*a candidate that we would see fit to do this role*". Mr Ridgwell also heard Ms Scaffidi say words to the effect that "*Jodi Cant would not be fit for the role, she doesn't present well in the context of looks*". Mr Ridgwell heard other councillors agree in general terms with Ms Scaffidi. He did not hear anyone express an independent view.<sup>185</sup>

### Events after the Council Briefing Session

48. At 4.03 pm on 22 July 2016, Mr Mileham emailed Ms Scaffidi and council members to provide Ms Cant's work history and added he was unable to provide them with the names of all candidates and Ms Battista's CV. Mr Mileham then wrote *"if a recommendation is to go forward"* it would be at the Council Meeting in around *"two weeks' time"* and that he would *"follow up with each Elected Member next week to gain feedback in order to finalise this matter"*.<sup>186</sup>
49. Several minutes later, at 4.08 pm, Dr Green replied to Mr Mileham and stated, *"as indicated in the briefing session ... I have no objections to your pursuing of appointing Jodi"*. Dr Green also asked why he had indicated that in the event Ms Cant was not endorsed he would go back to market rather than appoint Ms Battista.<sup>187</sup>
50. At 4.11 pm, Ms Davidson replied to Mr Mileham copying in the other council members. Ms Davidson offered to sign a confidentiality agreement in the event she was permitted to view *"other CV's"*. Ms Davidson indicated she could not make a considered response *"without undertaking a comparison and necessary due diligence"*.<sup>188</sup>
51. Ms McEvoy responded to Ms Davidson's email at 4.19 pm and copied in Mr Mileham and the other council members. In her email, Ms McEvoy said, *"I agree with Cr Davidson – we also requested Analies's [sic] CV why has it not been received?"*<sup>189</sup>
52. Seeking information about Ms Battista may well have been a predictable response from council members, Mr Mileham having asked them to assess Ms Cant's suitability at the Council Briefing Session on 19 July 2016.
53. However, it was not for Ms Davidson or Ms McEvoy to compare Ms Cant to the other applicants. That was the role of the CEO and the recruitment panel. By requesting Ms Battista's CV, Ms Davidson and Ms McEvoy sought information that was not relevant to their role as council members in the appointment of a senior employee. In doing so, they overstepped their role.
54. At 4.39 pm, in his response to Ms Davidson's email, Mr Mileham reminded the council members of the process he was following. Mr Mileham stated the preferred candidate had been proposed on merit and the process was not to compare candidates and choose, but for Council to give a *"yes' or 'no' answer"* to a recommendation to appoint. Mr Mileham also reminded council members that they could not consider, recommend or appoint another candidate and to do that would be a potential breach of the LG Act. He wrote he was happy to provide any information that was permissible and relevant.<sup>190</sup>
55. Mr Mileham answered an email from Dr Green at 6.25 pm and explained that the Administration could not offer Council another choice once a no vote was received.<sup>191</sup>

### Concluding the first-round process

56. Almost a month after the Council Briefing Session attended by Ms Cant, Mr Mileham formed the view that it was unlikely a recommendation to appoint Ms Cant would receive unanimous Council support.
57. Several reasons led him to this view. The first reason arose from comments made to Mr Mileham by Mr Harley, who said “*you won’t get it*”, words to the effect that Ms Davidson was “*running interference*” and that “*The Lord Mayor doesn’t want her, she won’t get the votes*”. The second came from Mr Mileham’s observations of the demeanour of the council members during the Briefing Session and the questions that were being asked. The third was the hesitancy displayed by Ms Davidson, which “*sent alarm bells*”, because he had come to understand Ms Davidson as “*virtually a proxy for the Lord Mayor*”. He considered if Ms Davidson was asking the questions which she was in her emails, then it was likely Ms McEvoy and others may go along with her. He knew that the “*three [Ms Scaffidi, Ms Davidson and Ms McEvoy] would likely have issues*”.
58. Mr Mileham said he was concerned that if he were to put a recommendation to Council it would be voted down five/four or higher and this would be a very poor start for a designated employee in such a pivotal role.<sup>192</sup> Mr Mileham expressed his concerns to Mr Ridgwell, who advised Mr Mileham he should take the recommendation to Council for them to decide, because a unanimous vote was not necessary.<sup>193</sup>
59. Mr Mileham instead advised the council members by email that the recruitment process would not be proceeding and the DEDA position would be filled by an acting arrangement until the appointment of the CEO was finalised by the Council.<sup>194</sup>

### Mr Martin Mileham’s appointment as Chief Executive Officer and discussions with Ms Annaliese Battista

60. At a Special Council Meeting on 1 September 2016, Mr Mileham was confirmed in the CEO role. His five-year contract commenced on 3 October 2016, with his appointment subject to successful completion of a six-month probationary period.
61. On 12 October 2016, Ms Battista emailed Mr Mileham and asked him to consider appointing her directly to the DEDA role when he returned from a trip to Darwin.<sup>195</sup> Mr Mileham replied to the effect that he “*eagerly*” looked forward to discussing it on his return.<sup>196</sup>
62. On 18 October 2016, Ms Battista emailed Mr Mileham. She referred to their “*frank discussion*” that day and said “*I had not understood trust was an issue for you. I believe I am worthy of your trust and I will work to rebuild it*”. She provided a “*pitch*” to be appointed to the role of director but offered him “*100% support*” whether or not she was appointed.<sup>197</sup>

63. On 7 December 2016, Ms Battista met with Ms Earl. Ms Battista advised Ms Earl that she (Ms Battista) was going to be appointed as DEDA in February 2017. Ms Battista asked Ms Earl if she was willing to come back as an “*executive manager*”.<sup>198</sup>
64. Mr Mileham emailed Ms Battista on 7 February 2017, referring to “*predominately verbal*” discussions with her about her appointment as DEDA. Mr Mileham went on to state he had suspended the DEDA recruitment process, because of “*unfavourable political and organisational conditions*” that had the potential to be extremely difficult for the new incumbent to manage. He then made Ms Battista an offer in the following way:

*“Following the suspension of the DEDA recruitment process and in subsequent discussion with you I agreed that, subject to your performance in the period to the completion of my own probationary period (i.e. up to the end of March 2017) and subject to my own formal and ‘unconditional’ appointment, I would recommend to Council your appointment to the role of DEDA, for an unspecified contract term. As you know and as we discussed, the role is a for a so-called designated employee and must be approved by Council.*

*Core to my offer to you was that you were ‘100% loyal’ (my words) to the ELG and to the office of the CEO and in effect that you at all times exhibited the values and behaviours we had agreed to in the ELG, i.e. our own code of conduct.*

*I would however appreciate the opportunity to further discuss the above with you with a view to formalising an agreed position between us, in writing, given the need for mutual clarity, particularly in the context of recent changes in the management of the Human Resources unit”.<sup>199</sup>*

65. Ms Battista understood this to be an implied threat, so that if she did not support Mr Mileham it would prejudice her ability to be appointed as Director.<sup>200</sup>
66. Mr Mileham acknowledged to the Inquiry that at the time he made the offer, he made it conditional upon her performance up until he had finished his probationary period, his own formal and unconditional appointment and contingent upon Ms Battista being 100 per cent loyal to him. Mr Mileham agreed that offering Ms Battista the DEDA role, with conditions, before it had been advertised was an inappropriate management decision and an error of judgement.<sup>201</sup> He also said that he had agreed with Ms Scaffidi that it was a possibility that Ms Battista would be appointed and this discussion had occurred before the DEDA role was advertised for a second time.<sup>202</sup>

#### Efforts to move ahead with re-advertising the position

67. Ms Pember, now acting as Manager, Human Resources, emailed Mr Mianich on 10 February 2017, and asked him to follow up on the DEDA recruitment with Mr Mileham. She also advised Ms Battista’s higher duties entitlement was going to expire on 30 March 2017.<sup>203</sup>

68. On 13 February 2017, Ms Battista emailed Ms Pember regarding the appointment of another staff member to her substantive role of Manager, Marketing Communications and Engagement *“should I be appointed permanently to the DEDA role”*. Ms Battista wrote that Mr Mileham had clarified that his intention to *“appoint me to the DEDA role is now dependent on his ‘unconditional’ appointment to the CEO role at the end of March”*. In asking for advice Ms Battista remarked *“I appreciate this is rather ‘untidy’ ”*.<sup>204</sup>
69. On 17 March 2017, Mr Ridgwell met with Mr Douglas of McLeods and asked for advice on the recruitment process for the DEDA.<sup>205</sup>
70. On 23 March 2017, McLeods provided advice to the effect that if the City were to appoint Ms Battista directly to the role then any legal challenge would have a reasonable prospect of succeeding. McLeods further advised that Ms Battista should cease as Acting DEDA (on higher duties) no later than 12 months after she commenced.<sup>206</sup>
71. Mr Mileham met with Ms Battista and Ms Pember on 23 March 2017. Mr Mileham informed Ms Battista that she had met the set targets and that he would like to make a recommendation to Council to conclude the prior recruitment process and appoint her as DEDA.<sup>207</sup> Ms Pember told the Inquiry:

*“To have a conversation of that nature, a conversational discussion around someone’s appointment with the individual sitting in the room and to ask me to seek – what I had thought was asking me to seek legal advice around whether that was possible, I didn’t feel that was appropriate to have that discussion with Annaliese in the room”*.<sup>208</sup>
72. Ms Pember sought legal advice from Jackson McDonald, another legal firm used by the City, who responded on 24 March 2017 and concurred with McLeods’s advice.<sup>209</sup>
73. Ms Pember emailed Mr Mileham on 27 March 2017, copying in Mr Ridgwell and Mr Mianich. She attached a confidential memorandum and the legal advices received from Jackson McDonald and McLeod’s. The memorandum compared the option of commencing a new recruitment process and re-advertising the DEDA position and the alternative option of appointing Ms Battista to the position. Ms Pember recommended concluding the prior recruitment process and re-advertising the position.<sup>210</sup>
74. Mr Mileham responded to Ms Pember on 27 March 2017 at 3.37 pm, noting his preferred approach was to conclude the recruitment process and instead make a recommendation to Council to appoint Ms Battista, subject to it being *“legal”*. Mr Mileham noted the lawyers’ advice, and Ms Pember’s advice, had been that his preferred approach was *“less prudent”* than terminating the recruitment process and re-advertising.<sup>211</sup>

75. Mr Mileham told the Inquiry that despite the advice of Ms Pember, Mr Ridgwell and two legal firms, he desired to appoint Ms Battista directly to the role of DEDA. He believed this to be the easiest and least problematic approach for the City.<sup>212</sup> At the end of March 2017, Ms Battista was also performing her duties satisfactorily, which was one of the conditions required by Mr Mileham.<sup>213</sup>
76. Ms Pember replied to Mr Mileham's email on 30 March 2017, noting the consensus was that the position should be re-advertised. She referred to a meeting scheduled for 5 April 2017 with Mr Mileham, Mr Mianich and Ms Battista to discuss the matter. She confirmed Ms Battista would have been acting in the DEDA role for 12 months as at 16 May 2017 (six weeks away). Ms Pember also wrote that she believed dispensation would be available to have Ms Battista act in the role for a period in excess of a year if the City could demonstrate the recruitment process was taking place.<sup>214</sup>
77. In April 2017, the position description for the DEDA role was produced.<sup>215</sup> On 2 April 2017, Dr Green emailed Mr Mileham and asked for an update on the DEDA position.<sup>216</sup> In reply, Mr Mileham told Dr Green he would likely inform Council in mid-May.<sup>217</sup>
78. Ms Pember emailed Mr Mileham on 11 April 2017. She said that further to a discussion with Mr Mianich she would prepare a file note confirming the close of the prior DEDA recruitment and that the City would be readvertising the position. Ms Pember asked Mr Mileham to inform Ms Cant, as a courtesy, and asked him whether he would consider putting Ms Cant straight on to a short list if she applied again as *"I anticipate we will do this for Annaliese Battista"*.<sup>218</sup>
79. Ms Pember sent a further email to Mr Mileham later that day and asked him to sign-off on the DEDA advertisement.<sup>219</sup>
80. On 13 April 2017, Ms Pember informed Ms Cant by letter that the City had closed the 2016 DEDA recruitment process and commenced a new recruitment process with the position to be advertised on 15 April 2017.<sup>220</sup>

#### Second-round process for Director, Economic Development and Activation selection

81. Applications for the re-advertised DEDA role closed on 5 May 2017.<sup>221</sup>
82. The second recruitment panel consisted of Mr Mileham as the chairperson, Ms Noelene Jennings, an external member, and Ms Pember.<sup>222</sup>
83. At 5.30 am on 24 May 2017, Ms Scaffidi emailed Mr Mileham asking for the long list of applicants and the name of the third-party interviewer.<sup>223</sup>
84. Ms Pember emailed Mr Mileham at 8.29 am on 24 May 2017, attaching a short list of applicants for the DEDA role for him to share with Ms Scaffidi. She also advised that Ms Jennings was a potential external recruitment panel member.<sup>224</sup> At 1.36 pm, Mr Mileham emailed Ms Scaffidi a list of applicants and a list of potential third-party interviewers with the comment, *"FYI. I favour Noelene Jennings as a panellist"*. Ms Scaffidi replied at 1.39 pm, *"Great suggestion!"* Ms Scaffidi then forwarded Mr Mileham's email to Ms Davidson at 2.00 pm.<sup>225</sup>

85. Ms Earl was an applicant for the second DEDA process. She told the Inquiry Ms Scaffidi called her on 24 May 2017 and advised she would not be interviewed, as Mr Mileham did not want someone who had previously worked at the City and that he wanted Ms Battista for the role. Ms Earl said Ms Scaffidi asked her not to say anything.<sup>226</sup>
86. On 31 May 2017, Ms Scaffidi and Mr Mileham exchanged emails in relation to the short list for the DEDA role and the composition of the recruitment panel.<sup>227</sup> In response to a request from Ms Scaffidi,<sup>228</sup> Mr Mileham asked Ms Pember to confidentially provide the short list to Ms Scaffidi.<sup>229</sup> Ms Scaffidi later suggested the City interview Mr Todd Gogol.<sup>230</sup>
87. The recruitment panel were unanimous in deciding Ms Battista was the best candidate for the position.<sup>231</sup>
88. On 29 June 2017, Mr Mileham provided the council members with confidential information in a report recommending the appointment of Ms Battista.<sup>232</sup> The report set out the details of the recruitment panel, identifying the third-party panel member, the process which had been followed and Ms Battista's details. The report noted that only Ms Battista had taken part in the second-round interview and that she had performed "*strongly*".<sup>233</sup>

#### Council's decision to accept Mr Martin Mileham's recommendation to appoint Ms Annaliese Battista

89. On 4 July 2017, in accordance with section 5.37(2) of the LG Act, Mr Mileham recommended Ms Battista's appointment to Council.<sup>234</sup>
90. Earlier in the day, Dr Green and Mr Mileham exchanged emails concerning the short list of applicants for the DEDA position. Dr Green asked for written information "*as per what we received last time? Why are we not getting a briefing as per last time? E.g. the scoring matrix of the candidates*".<sup>235</sup> To this Mr Mileham responded that the previous process was "*compromised*", and he had "*elected to conduct [the second] process in a more confidential manner*".<sup>236</sup>
91. On the evening on 4 July 2017, Council unanimously voted to accept the CEO's recommendation to appoint Ms Battista to the DEDA position.<sup>237</sup>
92. Mr Yong voted for Ms Battista for two reasons. The first was his subjective assessment of her performance as the Acting DEDA. Secondly, Mr Yong felt his group, including Ms Scaffidi, had persuaded him to vote to appoint Ms Battista. Mr Yong agreed it was not a good decision to endorse Ms Battista in those circumstances.<sup>238</sup>
93. Ms Chen voted in support of Ms Battista after reading the report for the Council Meeting and did not request further information on the recommendation or other candidates.<sup>239</sup>
94. Dr Green voted in favour of Ms Battista, because she was the only option they were presented with and she felt that she was doing an excellent job. She also felt the other council members thought Ms Battista was doing a good job.<sup>240</sup>

95. Mr Harley endorsed Ms Battista on Mr Mileham's recommendation, as it was clear to him that she had been performing well in the role as Acting DEDA.<sup>241</sup>
96. Ms McEvoy voted for Ms Battista, because she knew her, and she had done a good job as the Acting DEDA.<sup>242</sup>
97. Ms Davidson voted for Ms Battista due to the work she had completed in the directorate. This was so, notwithstanding her view that Ms Cant was a better candidate.<sup>243</sup>
98. Mr Adamos voted in favour of Ms Battista, after considering the recommendation from Mr Mileham.<sup>244</sup>
99. Mr Limnios voted for Ms Battista, having advocated for her appointment.<sup>245</sup>
100. When asked about her vote, Ms Scaffidi had no memory of casting it.<sup>246</sup>

## Analysis

### Whether during the first recruitment process Ms Lisa Scaffidi breached confidence in telling Ms Annaliese Battista the City had accepted the late application of Mr Charles Gunningham

101. When applications closed for the first-round of the DEDA recruitment process on 1 April 2016,<sup>247</sup> Mr Gunningham had not applied.
102. Ms Howells told the Inquiry Mr Gunningham was put forward by Mr Limnios and that the Lord Mayor was also aware of him. Some six weeks after the closing date, Mr Gunningham submitted his application to Ms Howells who, after consulting with a Governance officer, suggested to Mr Mileham that Mr Gunningham's application be accepted as he seemed like a strong candidate. Mr Mileham agreed, and Mr Gunningham was added to the interview short list.<sup>248</sup>
103. In a note dated 9 June 2016, written to herself at a private email address, Ms Battista wrote:  
*"Advice received from the Lord Mayor at 1.00pm re: DEDA position – MH advocated for and received late application from Charlie Gunningham, who is now shortlisted".*<sup>249</sup>
104. Ms Scaffidi could not recall speaking to Ms Battista about the matter. When questioned by Counsel Assisting, Ms Scaffidi said:  
*"I don't recall a conversation with Ms Battista, I recall – I think it was Councillor Limnios, alerting us to an application from Mr Gunningham and whether that was on email or via discussions, that is how I recall it.  
Is that where you received your information about Mr Gunningham? – I believe it was through Councillor Limnios, yes".*<sup>250</sup>

105. Ms Scaffidi was then asked whether, after she spoke to Mr Limnios, she spoke to Ms Battista about Mr Gunningham:

*“After you spoke to Councillor Limnios about that, did you speak to Ms Battista? ---Councillor Limnios, I believe sent an email about it ... I think that was in the prereading I was given for the last private hearings.*

*About Charles Gunningham?---Yes, and I don’t believe I had any need to discuss it with Annaliese Battista”.*<sup>251</sup>
106. Ms Scaffidi was asked if she told Ms Battista that *“Michelle Howells advocated for and received a late application from Charles Gunningham”* and said she did not *“recall that at all”*.<sup>252</sup>
107. In June 2016, Ms Battista spoke to Mr Ridgwell about Mr Gunningham’s late application and asserted Mr Limnios may have had something to do with it.<sup>253</sup>
108. Mr Ridgwell investigated the matter and recorded his observations and the details of his investigation in a note dated 17 June 2016. Mr Ridgwell considered the allegation that Mr Gunningham had been invited to apply after the close of applications and that Mr Limnios may have played some part in this occurring.<sup>254</sup> He did not make any enquiries about how Ms Battista found out.<sup>255</sup> After speaking to Mr Mianich, Ms Pember, Ms Howells and Mr Mileham, Mr Ridgwell concluded there had been no influence or contact from Mr Limnios. He recommended greater procedural documentation be recorded for applications received after the closing date.<sup>256</sup>
109. Although the details of the conversation were unclear to her when questioned by Counsel Assisting, Ms Battista said *“I do recall being annoyed at the thought that that process was open to influence because obviously I was part of the process by that stage”*.<sup>257</sup> This adds some plausibility to the content of her note. Ms Battista had applied for the position, she heard a late application was received, the Lord Mayor told her about it, and she recorded what she was told, because she was annoyed. The note stands as a contemporaneous record of remarks the Lord Mayor made to Ms Battista at 1.00 pm, 9 June 2016 and the Inquiry accepts its content. In the absence of either Ms Battista or Ms Scaffidi recalling a conversation between them on 9 June 2016, the best evidence available to the Inquiry is Ms Battista’s 3.45 pm note, apparently made two and three-quarter hours after the conversation took place.
110. Putting the note to one side, the balance of evidence supports the facts which Ms Battista asserts Ms Scaffidi relayed to her:
  - Ms Howells was the one who took advice from governance as to whether the application could be received, and had Mr Gunningham added as an applicant – in this sense advocating for and receiving his application;<sup>258</sup>
  - Mr Gunningham’s application was late;<sup>259</sup> and
  - Mr Gunningham was short listed.<sup>260</sup>

111. These three events had all occurred before 9 June 2016.<sup>261</sup> This adds to the weight to be given to the note.
112. Accepting the content of Ms Battista's note in the circumstances set out above, the Inquiry finds Ms Scaffidi spoke to Ms Battista at 1.00 pm on 9 June 2016 and told her Ms Howells had advocated for and received a late application from Mr Gunningham who was short-listed. The information that Mr Gunningham had applied, that his application was late, and that he had been added to the short list, was information concerning the details of an ongoing recruitment process to recruit a DEDA. As such, the information was confidential information. In providing the information she did to Ms Battista, the Lord Mayor passed on confidential information, breaching confidence. Ms Battista was an applicant who had also been short listed,<sup>262</sup> and she should not have been given the information Ms Scaffidi gave to her.

### **Whether council members became inappropriately involved in the first-round recruitment process**

#### **Events before the 19 July 2016 Council Briefing Session**

113. Ms Scaffidi involved herself in the first-round recruitment process by asking for details of the recruitment process, requesting and meeting Ms Cant prior to the 19 July 2016 Briefing Session,<sup>263</sup> providing comments to Mr Mileham about both Ms Battista and Ms Cant,<sup>264</sup> and requesting the applications of Ms Cant, Mr Gunningham and Ms Battista.<sup>265</sup>

#### **Meeting Ms Jodi Cant**

114. The Inquiry finds that, in meeting with Ms Cant on 30 June 2016, Ms Scaffidi became involved in the day-to-day administration of the City, overstepping her role as Lord Mayor. The Inquiry further finds that, in arranging the meeting for Ms Scaffidi,<sup>266</sup> knowing she had no role in the process,<sup>267</sup> Mr Mileham allowed Ms Scaffidi to overstep her role as Lord Mayor. The important distinction between Lord Mayor and the Administration was not maintained.
115. Ms Scaffidi was keen for Mr Mileham to set up the meeting,<sup>268</sup> and recognised that asking to see a potential appointee was interfering.<sup>269</sup> Mr Mileham said he organised the meeting, because of the nature of the working relationship which he foresaw between the DEDA and the Lord Mayor.<sup>270</sup>
116. The Inquiry considers Mr Mileham authorised Ms Scaffidi to meet with Ms Cant one-on-one. However, the Inquiry is not satisfied that Mr Mileham authorised Ms Scaffidi to interview Ms Cant. The meeting was not intended to be an interview.<sup>271</sup> Ms Scaffidi knew that.<sup>272</sup> According to Mr Mileham, he had made it clear to Ms Scaffidi that the one-on-one was not to be an interview of Ms Cant and that it should not happen.<sup>273</sup> Ms Scaffidi was not a member of the recruitment panel and she had no other role in the recruitment process at this point.

117. According to Mr Mileham:

*“... It was a process that I wanted to step through to introduce [Ms Cant] to the Lord Mayor because I believed it was a very important role and that it was important that that introduction was made. The Lord Mayor wanted [to] meet the person that I was likely to recommend”.*<sup>274</sup>

118. The meeting, however, went beyond a mere introduction. Ms Scaffidi conducted a quasi-interview that she had no place conducting and, in doing so, became involved in the day-to-day administration of the City. Even though she was invited to participate in the one-on-one, she should have declined. Ms Scaffidi accepted this.<sup>275</sup>
119. In arranging for Ms Scaffidi to meet with Ms Cant and himself,<sup>276</sup> Mr Mileham facilitated what then became a quasi-interview.<sup>277</sup> Mr Mileham had already turned his mind to the risk that this would occur if more than one councillor met with Ms Cant,<sup>278</sup> and should have known the same risk would arise if he and the Lord Mayor met with her. The “meet and greet”<sup>279</sup> or “informal one-on-one”<sup>280</sup> allowed Ms Scaffidi to form a view as to Ms Cant’s suitability for the role.<sup>281</sup>
120. Having met with Ms Cant and formed a view as to her suitability for the role, Ms Scaffidi was in a position to influence, or be perceived to influence, Mr Mileham’s decision about who he would recommend to Council. As Mr Mileham said, *“it was a very positive meeting, and I felt the Lord Mayor would be supportive of a recommendation. I felt that, she didn’t say that”.*<sup>282</sup>
121. In meeting with Ms Cant at the stage she did, Ms Scaffidi was also in a position to influence the decision of Council about whether to accept or reject a recommendation from the CEO to appoint Ms Cant to the position. Although the Inquiry does not find that Ms Scaffidi did influence Council in this way, the point is that she should not have been allowed to be in that position.

#### **Request for the applications of Ms Jodi Cant, Mr Charles Gunningham and Ms Annaliese Battista**

122. The Inquiry finds Ms Scaffidi overstepped her role and involved herself in the day-to-day operations of the Administration when she requested the applications of Ms Cant, Mr Gunningham and Ms Battista in her email of 2.17 pm on 28 June 2016.<sup>283</sup> By requesting these materials, she was inserting herself into a process which she, as Lord Mayor, had no proper role in. The material was confidential. Ms Scaffidi had no entitlement to it and should not have asked for it. In doing so, Ms Scaffidi interfered in the day-to-day operations of the Administration, and the Inquiry accepts her concession that she did.<sup>284</sup>

123. Mr Mileham had allowed Ms Scaffidi to overstep her role by agreeing to arrange for her to meet Ms Cant. Ms Scaffidi then asked for further information in the form of applications.<sup>285</sup> This was a foreseeable outcome of agreeing to arrange the meeting between himself, Ms Cant and Ms Scaffidi. It follows that, for the same reasons as Mr Mileham allowed Ms Scaffidi to overstep her role by arranging the meeting with Ms Cant, he was similarly involved in her overstepping her role when she made a request for the applications of Ms Cant, Mr Gunningham and Ms Battista. The Inquiry notes Mr Mileham did not deny her request. He instead asked her to wait for the documentation until after her “chat”.<sup>286</sup> He did so knowing she had no role in the process.<sup>287</sup>

#### Expressing views to Mr Martin Mileham about Ms Jodi Cant and Ms Annaliese Battista

124. The Inquiry finds Ms Scaffidi interfered in the day-to-day operations of the Administration when she provided Mr Mileham with her views on Ms Cant and Ms Battista in her 4.48 pm email on 11 July 2016.
125. By interfering in this way, Ms Scaffidi overstepped her role as Lord Mayor. This is something Mr Mileham allowed.
126. By allowing Ms Scaffidi to meet Ms Cant,<sup>288</sup> Mr Mileham allowed her to form an impression about whether Ms Cant was a suitable candidate.<sup>289</sup> This put her in a position where she could (or might be perceived to be able to) influence Mr Mileham’s decision-making about whether he would or would not recommend Ms Cant to Council.
127. By email at 4.48 pm on 11 July 2016, Ms Scaffidi wrote:
- “... I’ve been giving this some considered thought as you have too, no doubt, and I have to say I think Annaliese has created the stability which is really the priority right now.*
- The other issue which I’m really mulling on is how Jodi will be satisfied with much of the day-to-day & the overall manner with which we operate in a smaller area (remit) than she is used to and of course the nature of how Council operates (meeting processes – agendas etc.) ...”*<sup>290</sup>
128. Providing Mr Mileham with her views in this way had the potential to influence Mr Mileham’s thinking about candidates he had a duty to assess objectively – as part of his role in making a recommendation to Council.
129. Ms Scaffidi gave evidence to the effect that her comments about “*stability versus the over-qualification*” drew a comparison and, as such, contributed to the pressure applied to Mr Mileham.<sup>291</sup> Ms Scaffidi accepted that, in providing Mr Mileham with her opinion in relation to the two candidates, and in contributing to the pressure on Mr Mileham, she interfered in the day-to-day administration of the City.<sup>292</sup>

130. Knowing Ms Scaffidi had no role in the recruitment process,<sup>293</sup> Mr Mileham permitted Ms Scaffidi to become involved. It was the CEO's role to determine who to recommend to Council. The Inquiry considers that, once the recruitment panel had made its selection, there was no room for an individual council member to become involved until the whole of Council was asked to consider the CEO's recommendation. Although drawing a comparison between Ms Cant and Ms Battista could be seen as a foreseeable outcome of her meeting with Ms Cant, the Inquiry does not consider that it was part of any task which Ms Scaffidi had been authorised to undertake. It went beyond her liaising with Mr Mileham about the City's affairs and performance of its functions. Ms Scaffidi became directly involved in the day-to-day operations of the Administration, blurring the important distinction between the role of the Lord Mayor and that of the CEO.

### 19 July 2016 Council Briefing Session

131. In a very real and practical sense, the Council Briefing Session on 19 July 2016 provided council members with the opportunity to prematurely and inappropriately involve themselves in decision-making on the appointment of the DEDA. Council members shared their views on Ms Cant, and were able to propose and discuss alternatives together, despite their role being properly limited to accepting or rejecting a recommended candidate.<sup>294</sup>
132. Ms Cant's attendance at the 19 July 2016 Council Briefing Session was approached as if it were an interview, notwithstanding that a recruitment panel had already chosen Ms Cant as the preferred and most suitable candidate for the position.
133. The amount of time afforded to Ms Cant in the Council Briefing Session was relatively short. Ms Davidson's estimate of the assessment was that it took 15 minutes.<sup>295</sup>
134. Although several council members believed Ms Cant was an impressive candidate,<sup>296</sup> most preferred Ms Battista.<sup>297</sup> This was despite Mr Mileham not asking them to consider her for the position at all.
135. During the Briefing Session, Ms Scaffidi is said to have made a number of statements directed towards Ms Cant's appearance.
136. Mr Ridgwell was sure that he heard Ms Scaffidi speak about Ms Cant's appearance in a derogatory way. Mr Ridgwell presented as a witness of truth and, although he did not have a complete recollection, he had a clear recall of certain remarks, their context, and the effect of those remarks by Ms Scaffidi about Ms Cant.
137. Ms Scaffidi did not agree that she made a derogatory comment about Ms Cant or said that she *"does not present well in the context of looks"*. She said if she did make those remarks it would be wrong, because it was not relevant to Ms Cant's qualification for the role.<sup>298</sup> She also agreed it would be inappropriate.

138. Overall, Mr Ridgwell impressed as an earnest and credible witness, who answered the questions asked of him directly. In contrast, Ms Scaffidi often avoided questions put to her and was repeatedly unresponsive to questioning. For this reason, and those set out at paragraph 136, the Inquiry prefers the evidence of Mr Ridgwell about what he heard Ms Scaffidi say during the Council Briefing Session about Ms Cant on 19 July 2016.
139. On balance, the Inquiry finds the Council Briefing Session on 19 July 2016 was a forum in which council members were prematurely participating in the decision-making process concerning the potential appointment of Ms Cant (and others) as the DEDA. The Inquiry finds that, in the Briefing Session, Ms Scaffidi said “*she [Ms Cant] would not be fit for the role ... she doesn’t present well in the context of looks*”, and made another derogatory remark about her appearance.<sup>299</sup> Ms Scaffidi also used words to the effect that “*I don’t think much of her dress sense*”.<sup>300</sup> The Inquiry finds these statements by Ms Scaffidi reveal she had regard to Ms Cant’s appearance in a context where she was assessing Ms Cant’s suitability for the role of DEDA. In having regard to Ms Cant’s appearance in assessing her suitability for the DEDA, Ms Scaffidi took into account an irrelevant consideration, which was inappropriate. Making a derogatory remark about Ms Cant in a decision-making forum involving other councillors was also inappropriate.

## Events after the Council Briefing Session

### Requesting information about applicants

140. The Inquiry does not consider that Mr Mileham ever authorised Ms Scaffidi to undertake a task that could contribute to the second-round process.<sup>301</sup> He and Ms Scaffidi simply exchanged information. What they did though, went beyond liaising with each other on the affairs of the City and its functions,<sup>302</sup> and blurred the distinction between the role of the Lord Mayor and that of the Administration.
141. By an email sent at 5.31 am on 24 May 2017, Ms Scaffidi requested the long list of candidates for the second-round process.<sup>303</sup> In doing so, Ms Scaffidi involved herself in the second recruitment process and interfered with the day-to-day operations of the Administration. Ms Scaffidi agreed.<sup>304</sup> The Inquiry finds this went beyond liaising with Mr Mileham about the City’s affairs and its functions and Ms Scaffidi overstepped her role as Lord Mayor. Mr Mileham, for his part, discussed it with her<sup>305</sup> and provided the long list to her, knowing it could raise issues, including confidentiality issues.<sup>306</sup> In the context of their discussions, Mr Mileham involved Ms Scaffidi in the second-round process without her having any formal or proper role in it. In doing so, the distinction between the role of the Lord Mayor and that of the Administration became blurred and allowed Ms Scaffidi to overstep her role.<sup>f</sup>

g The Inquiry does not consider that by providing Ms Scaffidi with the long list for the second-round process Mr Mileham authorised Ms Scaffidi to undertake a task that could contribute to the administration of the local government. Ms Scaffidi had no formal or proper role in the recruitment process.

142. By an email sent at 9.15 am on 31 May 2017, Ms Scaffidi requested the short list for the second-round process. Ms Scaffidi agreed that in making a request such as this that she had interfered in the day-to-day operations of the Administration<sup>307</sup> and the Inquiry so finds. On 24 May 2017, Mr Mileham provided Ms Scaffidi with a short list of candidates and so allowed her to be involved in the second-round process. He did so, aware that there may be issues with granting the request,<sup>308</sup> and his actions enabled Ms Scaffidi to overstep her role as Lord Mayor.

#### Suggesting Mr Todd Gogol for interview

143. On 31 May 2017, after the second-round process was already underway, Ms Scaffidi and Mr Mileham exchanged emails in relation to the short list for the DEDA role and the composition of the recruitment panel.<sup>309</sup> At 12.35 pm, Mr Mileham forwarded an email he had received from Ms Scaffidi on to Mr Ridgwell and Ms Pember and asked Ms Pember to confidentially provide the short list to Ms Scaffidi.<sup>310</sup> Ms Pember complied at 2.33 pm.<sup>311</sup> At 2.45 pm, Ms Scaffidi forwarded Ms Pember's email and the short list to Ms Davidson. At 2.47 pm, Ms Scaffidi emailed Mr Mileham and wrote *"thought we agreed Todd Gogol was worth an interview?"*<sup>312</sup> Mr Mileham responded to Ms Scaffidi *"may be worth a revisit"*.<sup>313</sup>
144. Mr Mileham's evidence about these emails was that by providing Ms Scaffidi with a long list, it could raise concerns about a breach of confidentiality, and it might also lead to council members lobbying for particular candidates.<sup>314</sup> The same could be said for a short list. That a council member who received a list of candidates may lobby for a particular candidate, is apparent from a reading of Ms Scaffidi's email in reply.<sup>315</sup>
145. With respect to the email sent by her at 2.47 pm on 31 May 2017, Ms Scaffidi accepted that, by suggesting Mr Gogol for an interview, she was interfering in the day-to-day administration of the City and it was inappropriate for her to do so.<sup>316</sup> The Inquiry so finds and also finds that, in doing so, Ms Scaffidi overstepped her role as the Lord Mayor.
146. When Mr Mileham provided Ms Scaffidi with the long list<sup>317</sup> and arranged for her to receive the short list<sup>318</sup> for the second-round process, he passed on information which was properly intended for members of a recruitment panel or officers of the Administration with a role in that process.
147. Even though both Mr Mileham and Ms Scaffidi expected Ms Scaffidi would have a reasonably close working relationship with the DEDA,<sup>319</sup> the Inquiry considers her involvement in the second-round recruitment process, in the way in which it occurred, was inappropriate.
148. What happened, went beyond the ordinary liaison legally required and expected between a CEO and a Lord Mayor, and blurred the distinction which should have been maintained between the role of one and the other.

149. By providing Ms Scaffidi with both the long list and the short list, Mr Mileham impliedly invited Ms Scaffidi to comment on the suitability of candidates for interview.<sup>320</sup> This was done in circumstances where Mr Mileham appreciated that it could give rise to lobbying for candidates.<sup>321</sup> Irrespective of whether Mr Mileham paid any attention to Ms Scaffidi's views about candidates, the fact that he provided the lists meant that he enabled her to overstep her role as Lord Mayor. .

**Whether there was a breach of the *Local Government Act 1995* in allowing Ms Annaliese Battista to act as Director, Economic Development and Activation for more than 12 months**

150. Ms Battista's substantive role was Manager, Communication and Engagement, and she was employed under a standard five-year contract of employment.<sup>322</sup> Ms Battista's term of acting in the DEDA role commenced on 19 May 2016.<sup>323</sup> Ms Battista was appointed to the DEDA position on 4 July 2017 on a five-year fixed term contract.<sup>324</sup>
151. Throughout this period, Mr Mileham signed higher duties forms authorising Ms Battista to be paid for performing higher duties, from 13 May 2016 to 13 August 2016,<sup>325</sup> 1 August 2016 to 30 September 2016,<sup>326</sup> 1 October 2016 to 31 March 2017,<sup>327</sup> 1 April 2017 to 31 May 2017<sup>328</sup> and 1 June 2017 to 31 July 2017.<sup>329</sup> This covered a cumulative period of greater than 12 months.
152. At all material times, Ms Battista's employment was covered by her contract of employment as a Manager Communication and Engagement, which was made on 23 September 2015. On 11 May 2016, Mr Mileham offered Ms Battista the temporary position of Acting DEDA, commencing on 16 May 2016. The letter containing the offer noted that *"in accepting this offer, you will receive higher duties whilst acting in this position. The full terms and conditions of your employment remain the same as outlined in your current contract"*.<sup>330</sup>
153. The letter of offer also stated that *"The duration of this acting appointment will be in line with the recruitment of the Director Economic Development and Activation"*.
154. Ms Battista signed the letter of offer on 19 May 2016.<sup>331</sup>
155. The Inquiry considers the letter of offer for the temporary position of Acting DEDA and Ms Battista's Manager's contract should be read together and set out the terms of Ms Battista's contract for the temporary position of Acting DEDA.
156. However, the Inquiry does not consider that this contract had an expiry date, something required by section 5.39(3)(a) of the LG Act. The contract term being *"in line with the recruitment"*, is not a period that has the required certainty about it. Its end date is far from clear.<sup>332</sup> It does not specify whether the contract ends when the recruitment panel determines who is the preferred candidate, or when Council accepts a recommendation to appoint someone, or when someone commences in the position. In this sense, the event triggering the expiry of the contract is unascertainable and what is specified in the contract is not an expiry date.<sup>333</sup>

157. Without an expiry date, the contract for the temporary position of Acting DEDA was of no effect,<sup>334</sup> and Ms Battista's employment fell to be covered by her Manager's contract. In those circumstances, Ms Battista was still entitled to be paid a higher duties allowance while performing the duties of the DEDA.<sup>335</sup> However, without a contract for the position in which she was acting, she was not permitted to act in the position of DEDA for more than one year.
158. Ms Pember suggested to Mr Mileham that a dispensation to allow for Ms Battista to act beyond 12 months would be reasonable and fair. However, in her evidence before the Inquiry, Ms Pember said she could not recall where the idea had come from, and she did not know if the LG Act permitted any such thing.<sup>336</sup> Mr Mileham relied on her advice, as he was entitled to do. However, as CEO, Mr Mileham remained responsible for authorising the payment.<sup>337</sup>
159. The Inquiry finds that, in the absence of an effective contract for the position of Acting DEDA, by authorising Ms Battista to continue to act in the DEDA position beyond 12 months, Mr Mileham caused the City to breach section 5.39(1a)(a) of the LG Act. Ms Battista should not have been allowed to act in the DEDA position, or have been paid higher duties, for more than 12 months.<sup>338</sup>
160. Mr Mileham agreed he should not have authorised the payment on 15 May 2017 in the absence of a written contract with respect to Ms Battista acting in the role,<sup>339</sup> and the Inquiry so finds. The Inquiry also finds Mr Mileham should not have authorised the payment he did on 23 March 2017, as it extended Ms Battista's higher duties to 31 May 2017,<sup>340</sup> beyond the allowable 12-month period.

#### Whether the second-round process was tainted by apprehended bias

161. Mr Mileham agreed that he expressed strong views to the effect that he wanted to appoint Ms Battista directly to the DEDA role.<sup>341</sup> In his view, it was the easiest and least problematic thing to do, and he wanted to conduct a process that was least disruptive to the City.<sup>342</sup> He offered to recommend Ms Battista be appointed on certain conditions, including a condition that she be "100% loyal" to the Executive Leadership Group and the office of the CEO. He repeatedly conveyed to City officers his preference for Ms Battista to be appointed directly to the role and to Ms Battista herself on 7 February 2017,<sup>343</sup> in a meeting between Ms Pember, Ms Battista and himself on 23 March 2017<sup>344</sup> and by email to Ms Pember, Mr Ridgwell and Mr Mianich on 27 March 2017.<sup>345</sup> He did so in the face of external legal<sup>346</sup> and internal<sup>347</sup> advice to the effect that the position should be re-advertised.
162. Notwithstanding his opinion of Ms Battista, Mr Mileham denied that he was biased in her favour. He also denied that he was on the recruitment panel so he could secure her appointment to the position. He disagreed with the proposition that it looked like he sat on the recruitment panel so he could appoint Ms Battista. Mr Mileham also disagreed with the proposition that, because of his strong views about Ms Battista, he brought a perception of bias to the recruitment panel. When it was put to him that he could have appointed someone else to the panel, Mr Mileham agreed that he could have, and that he chose not to do so.<sup>348</sup>

163. It is difficult to accept Mr Mileham's evidence on this topic. Although he had no recollection of the details of many of the events surrounding Ms Battista's appointment, he was quick to disagree with propositions that may have cast him in a negative light. By way of example, when he was initially asked whether he ever said to Ms Battista, orally or in writing, that subject to her performance in the period to the completion of his own probationary period, he would offer to recommend her appointment to Council, Mr Mileham said:
- "I didn't have – no, I don't believe because we hadn't yet run a recruitment process so any discussion like that, if it had occurred, discussion on the appointment to the position would have been subject to the provision that the recruitment process ran its course. That I'm certain of".*<sup>349</sup>
164. Mr Mileham was asked whether he ever made an offer to Ms Battista to recommend her to Council if she was 100 per cent loyal to the office of the CEO, and he said "No". He agreed it would be inappropriate to do either of those things.<sup>350</sup> When shown his "offer"<sup>351</sup> to Ms Battista, he had no memory of writing it or sending it, but stated that he would not do it again.
165. When asked why he would not do it again, Mr Mileham said:
- "Because of the line of questioning now, that it would appear that it looks like a preconceived plot to have her appointed and it was certainly not in my mind at that time ...".*<sup>352</sup>
166. On balance, the Inquiry finds Mr Mileham's evidence about whether or not he was biased towards Ms Battista unconvincing. The Inquiry instead finds Mr Mileham consistently expressed a preference to directly appoint Ms Battista to the position of DEDA, in the period leading up to the second-round recruitment process and at least from 7 February 2017.<sup>353</sup> Furthermore, he chose to be the chair of the recruitment panel in circumstances where he could have chosen someone else to take his place.<sup>354</sup>
167. The Inquiry considers that a fair-minded observer, having knowledge of all of the relevant facts, might reasonably come to the view that Mr Mileham might not bring an impartial mind to the second-round recruitment process. On that basis, it could properly be said that Mr Mileham had an apprehended bias and should not have participated in that process.<sup>355</sup>
168. The recruitment panel's decision to recommend Ms Battista for the role was unanimous and the Inquiry is not critical of the recruitment panel's decision-making. However, Mr Mileham risked the decision-making being tainted by his apprehended bias. This risk should and could have been avoided by Mr Mileham stepping away from the recruitment process. In failing to do so, he acted in a way which called into question the City's Recruitment and Selection procedure, which stated that *"Recruitment and selection processes are open, competitive and free of bias, unlawful discrimination, nepotism or patronage"*.<sup>356</sup>

### Whether Ms Lisa Scaffidi breached confidence by speaking to Ms Wendy Earl in May 2017

169. Ms Earl told the Inquiry that, on 24 May 2017, Ms Scaffidi called her, telling her the call was confidential. Ms Earl said Ms Scaffidi told her she would not be invited for an interview for the position of DEDA, because the CEO did not want someone who had previously worked at the City and that he wanted Ms Battista for the role. Ms Scaffidi asked Ms Earl not to tell anyone anything.<sup>357</sup>
170. Although Ms Scaffidi could not recall specifically speaking to Ms Earl on 24 May 2017, she said Ms Earl may have contacted her or they could have met face-to-face.<sup>358</sup> Ms Scaffidi said she told Ms Earl that it was made clear that Mr Mileham wanted “*new blood*” or words to that effect and she may have said the CEO did not want anyone who had previously worked at the City.<sup>359</sup> Ms Earl had previously worked for the City. In circumstances where Ms Scaffidi acknowledged speaking to Ms Earl, but could not recall all of the details, and Ms Earl recalls similar and additional detail, the Inquiry accepts and prefers the evidence of Ms Earl, particularly in its additional detail.
171. Accordingly, the Inquiry accepts that a conversation between Ms Earl and Ms Scaffidi occurred on 24 May 2017 and that Ms Scaffidi told Ms Earl she would not be invited for interview for the role of DEDA, because the CEO did not want someone who had worked at the City before and wanted to appoint Ms Battista.
172. The Inquiry finds the information Ms Scaffidi conveyed to Ms Earl was confidential information, because it related to the ongoing selection of a DEDA. By providing this information to Ms Earl, Ms Scaffidi passed on confidential information and, in so doing, breached the City’s confidence.

## Findings

### Finding 2.3.2 – 2

The Inquiry makes the following findings:

- i. On 9 June 2016, Ms Scaffidi provided confidential information about the recruitment process for the DEDA position to Ms Battista, who had applied for the role.
- ii. Ms Scaffidi overstepped her role as Lord Mayor and interfered in the day-to-day administration of the City in the two recruitment processes for the position of DEDA by:
  - requesting copies of the confidential applications of Ms Cant, Mr Gunningham and Ms Battista on 28 June 2016;
  - conducting a quasi-interview with Ms Cant, the recruitment panel's preferred candidate for the position, on 30 June 2016;
  - providing Mr Mileham with her views on the suitability of Ms Cant and Ms Battista for the position on 11 July 2016;
  - requesting a long list of candidates from Mr Mileham on 24 May 2017;
  - requesting a short list of candidates from Mr Mileham on 31 May 2017; and
  - suggesting to Mr Mileham that the City interview Mr Gogol for the position on 31 May 2017.
- iii. Mr Mileham enabled Ms Scaffidi to overstep her role as Lord Mayor in the two recruitment processes for the position of DEDA by:
  - allowing Ms Scaffidi to meet Ms Cant on 30 June 2016;
  - discussing the recruitment process with Ms Scaffidi and providing her with a long list of candidates on 24 May 2017; and
  - directing Ms Pember to provide Ms Scaffidi with a short list of candidates on 31 May 2017.
- iv. On 19 July 2016, during the Council Briefing Session, Ms Scaffidi acted inappropriately by making a derogatory remark about Ms Cant and assessing Ms Cant's suitability for the role of DEDA with reference to her personal appearance.
- v. On 22 July 2016, Ms Davidson went beyond her role as a council member and interfered in the day-to-day administration of the City when she requested the CVs of candidates for the DEDA position.
- vi. On 22 July 2016, Ms McEvoy went beyond her role as a council member and interfered in the day-to-day administration of the City when she supported Ms Davidson's request as above and requested Ms Battista's CV.

### Finding 2.3.2 – 2 (contd)

- vii. From 18 May 2017 until 5 July 2017, the City, through the conduct of Mr Mileham, breached section 5.39(1a)(a) of the LG Act, by allowing Ms Battista to act in the position of Acting DEDA for a period exceeding 12 months.
- viii. Between 11 August 2016 and 5 July 2016, Mr Mileham had apprehended bias in favour of Ms Battista in the recruitment process to recruit a DEDA.
- ix. On 24 May 2017, Ms Scaffidi provided confidential information about the City's recruitment process for the DEDA position to a third party.

## Performance management and termination of employment of an employee

### Introduction

1. On 4 November 2013, Mr Diranjan (Dillon) Fernando was employed by the City of Perth (City) as Catering Supervisor. Among other things, he was responsible for managing the operational side of the catering and the dining room of the City for civic events and for City of Perth Council (Council) functions, which involved civic or ambassadorial type functions as well as Council dinners and lunches. Mr Fernando was employed in the Economic Development and Activation Directorate.<sup>360</sup>
2. In 2016 and 2017, concerns were raised about Mr Fernando's performance and behaviour and Ms Lisa Scaffidi became involved in the City's management of Mr Fernando's employment, which was exclusively the role of the City's Administration.
3. On 23 November 2017, Mr Fernando was dismissed from his employment with immediate effect for serious misconduct. Following an application to the Fair Work Commission, the parties agreed to rescind the dismissal and allow Mr Fernando to resign as of 23 November 2017.

### Timeline

|      |               |   |
|------|---------------|---|
| 2013 | 4 November    | Mr Dillon Fernando was employed by the City as Catering Supervisor.   |
|      |               |   |
| 2016 | 2016 and 2017 | Concerns were raised about the performance and behaviour of Mr Fernando.  |
|      | 1 February    | Mr Michael Carter was terminated as Director, Economic Development and Activation (DEDA) effective 26 February 2016.  |
|      | 24 February   | Ms Annaliese Battista, as Manager, Marketing and Communications, assumed responsibility for the Marketing and Events Unit. Mr Fernando was a member of that unit. |
|      | 19 April      | Ms Battista met with Mr Fernando to discuss accumulation of excessive flexi-time and working overtime without prior approval.                                     |
|      | 21 April      | Ms Scaffidi, Lord Mayor, by email to Ms Battista, attested to the "valued" performance of Mr Fernando as Catering Supervisor.                                     |
|      | 16 May        | Ms Battista was appointed as Acting DEDA.   |
|      | 1 September   | Mr Martin Mileham was appointed as Chief Executive Officer (CEO).   |

|      |              |   |
|------|--------------|---|
| 2017 | Mid-2017     | The City addressed concerns relating to irregularities with some contracts managed by Mr Fernando.  |
|      | 5 July       | Ms Battista was appointed as the DEDA.  |
|      | 7 September  | Ms Scaffidi undertook not to perform the powers or duties of Lord Mayor pending a Court of Appeal decision.   |
|      | 22 September | Ms Battista put eight allegations of serious misconduct in relation to catering processes to Mr Fernando in a letter dated 22 September 2017. Mr Fernando prepared a response to that letter, with the assistance of Ms Scaffidi.   |
|      | 5 October    | Mr Fernando's response to the letter of 22 September 2017 was sent to Ms Battista.  |
|      | 14 November  | Ms Battista advised Mr Fernando by letter that she would be recommending his dismissal for serious misconduct.  |
|      | 23 November  | Mr Mileham, CEO, terminated Mr Fernando's employment for serious misconduct on 23 November 2017. However, after a review by the Fair Work Commission the dismissal of Mr Fernando was rescinded, allowing Mr Fernando to resign from his position as Catering Supervisor, as of 23 November 2017. |

### Issues considered by the Inquiry

4. Consistent with A.3(i), A.3(iii) and A.3(v) of its Terms of Reference, the Inquiry has considered the following issues in relation to Mr Fernando's resignation:
  - whether Ms Scaffidi attempted to exert any influence over those charged with managing Mr Fernando's performance; and
  - whether Ms Scaffidi placed her personal interests or those of Mr Fernando above those of the City when she assisted Mr Fernando to respond to allegations of misconduct.
  
5. Although this matter concerns the performance management and eventual resignation of Mr Fernando, it is not necessary for the Inquiry to make any findings about Mr Fernando's performance or conduct as an employee and it makes no findings on these matters.

## Investigation by the Inquiry

### Witnesses

6. The Inquiry held private hearings with a number of people in the course of investigating this matter. The positions given below are the positions held at the time of the events described in this Section.

- Council members Ms Scaffidi, Mr Jim Adamos, Ms Lily Chen, Ms Janet Davidson, Dr Jemma Green, Mr Reece Harley, Mr James Limnios, Ms Judy McEvoy and Mr Keith Yong.
- Mr Martin Mileham, Chief Executive Officer (CEO).
- Mr Michael Carter, Director, Economic Development and Activation (DEDA), from 21 September 2015 to 26 February 2016.
- Ms Michelle Howells, Manager, Human Resources, from 21 July 2014 to 3 February 2017.
- Ms Annaliese Battista, DEDA from 5 July 2017 to 22 June 2018. Ms Battista joined the City on 20 October 2015 as the Manager, Communications and Engagement. She was the Manager, Marketing and Communications from 23 February 2016 and acted as the DEDA from 16 May 2016 until her permanent appointment.
- Ms Kelly Pember, Human Resource Business Partner from 9 February 2015 to 17 November 2017 and the then Acting Manager, Human Resources from 6 February 2017 to 17 November 2017.

7. Mr Fernando did not give evidence to the Inquiry. This is because the Inquiry was concerned with and examined the City's processes in relation to Mr Fernando's employment. The Inquiry did not investigate, and deliberately makes no findings in relation to, Mr Fernando's conduct or performance as an employee.
8. Ms McEvoy and Mr Yong were not re-elected as councillors in the Local Government Ordinary Elections in October 2017. Dr Green was elected as a councillor in October 2015.

## Evidence obtained by the Inquiry

### Performance management

9. Mr Carter commenced as the inaugural DEDA on 21 September 2015. At that time, Mr Fernando reported to Ms Louise Scott, then Manager, Marketing, Communications and Events, who in turn, reported to Mr Carter.<sup>361</sup>
10. On 21 December 2015, Mr Carter, Ms Scott and Mr Fernando met. Mr Fernando's alleged inappropriate behaviour was discussed. This was considered to be a repeat of earlier similar behaviour and contrary to Council Policy "CP10.1 – Code of Conduct". Mr Fernando denied the allegations both during the meeting and in a subsequent email exchange with Ms Scott and Mr Carter.<sup>362</sup>
11. In subsequent weeks, Mr Carter followed up with Mr Fernando several times to ensure Mr Fernando understood the severity of the situation.
12. Mr Carter gave evidence that in early 2016 he informed Mr Stevenson, CEO, of his concerns with Mr Fernando's performance and also mentioned to Ms Scaffidi that he may "need to let Dillon go if he doesn't shape up". Mr Carter told the Inquiry:
 

*"It was just, I was there in the room, we had a meeting concluding and I said 'Look I might just need to let you know'. She seemed concerned about that, like, 'Well, Dillon's very good, he knows exactly what I like to order. It would be a shame, you better look into that. You better think about that seriously' and I said 'Well, at the end [of the] day this guy is not acting in accordance – in the manner that he should so, we would need to let him go'. I had no further discussion with the Lord Mayor on that".*<sup>363</sup>
13. Ms Scaffidi did not recall this conversation but denied she would have said those words because that is not how she speaks. Ms Scaffidi accepted, if she had said those words, it would have been unreasonable and interfered with the day-to-day operations of the City's Administration.<sup>364</sup>
14. Mr Carter presented as a candid witness attempting to assist the Inquiry. By contrast, Ms Scaffidi was often combative, frequently gave unresponsive answers to Counsel Assisting's questions and required questions to be repeated. When giving evidence on her alleged conversation with Mr Carter, Ms Scaffidi could only speculate on what she would not have said.
15. Given Mr Carter had a good recollection of the conversation and Ms Scaffidi had no recollection, the Inquiry prefers Mr Carter's evidence on this issue and finds that in early 2016, Ms Scaffidi said to Mr Carter words to the effect "Dillon's very good, he knows exactly what I like to order. It would be a shame, you better look into that. You better think about that seriously" when Mr Carter had said to her that he may need to terminate Mr Fernando's employment "if he (Mr Fernando) doesn't shape up".

16. On 14 January 2016, Mr Carter briefly met with Mr Fernando and advised him he would need to move his desk from the Lord Mayor's office on level 11 down to level 2, where the civic events team was located.<sup>365</sup> Mr Carter later confirmed his direction in an email to Mr Fernando.<sup>366</sup> Mr Fernando responded to the email, writing that he would like to remain on level 11 and that *"Even the LM and council members are in favour of me been located in [sic] Level 11"*.<sup>367</sup> Mr Fernando apparently raised the issue with Ms Scaffidi, who expressed her concern to Mr Carter.<sup>368</sup>
17. Mr Fernando complied with Mr Carter's direction for a short while, before moving himself back up to level 11.<sup>369</sup>
18. Mr Carter found the level of involvement by Ms Scaffidi in his dealings with an employee under his supervision *"extremely unusual"* given that Mr Fernando was in a *"fairly junior"* role in the City.<sup>370</sup>
19. Mr Carter left the City on 26 February 2016 and Mr Gary Dunne became the Acting DEDA until he left the City on 12 May 2016. Mr Carter's employment with the City ended abruptly and there is no evidence that Mr Fernando's performance was the subject of any kind of handover.
20. Ms Battista commenced employment with the City on 20 October 2015 in the role of Manager, Communications and Engagement. On 24 February 2016, Ms Battista's position was changed to Manager, Marketing and Communications and, among other responsibilities, she assumed responsibility for the Marketing and Events Unit. This unit, included catering and civic services, in which Mr Fernando was a team member.<sup>371</sup>
21. In her new role, Ms Battista *"very quickly established"* that Mr Fernando had had *"some performance and conduct issues of concern"*. Ms Battista found Mr Fernando was quite difficult to manage and he did not accept direction very well. Ms Battista also noticed that Mr Fernando had significant contact with council members, from whom he would take direction, with these directions often differing to those given by herself or his supervisor in civic services, Ms Lauren Fancote. Mr Fernando would often accommodate special requests from council members to cook things a certain way or to provide a certain style of meal, or an additional dessert.<sup>372</sup> One such request was made by Ms Scaffidi on 13 May 2016 for Mr Fernando to arrange a birthday cake for Ms McEvoy.<sup>373</sup>
22. During April 2016, an issue arose where Mr Fernando was availing himself of what Ms Battista believed to be excessive flexi-time and working overtime without seeking prior approval.<sup>374</sup> On the morning of 19 April 2016, Ms Battista met with Mr Fernando to discuss these matters and later that same day confirmed their discussion by email at 3.41 pm.<sup>375</sup> Mr Fernando forwarded this email to Ms Scaffidi at 4.53 pm that same afternoon with the message *"hello Lord mayor. Please see attached"*.<sup>376</sup>

23. The following day, on 20 April 2016, Ms Battista and Ms Pember, Human Resource Business Partner, had a meeting with Mr Fernando regarding his overtime claim. This meeting was held on the same day as a Council dinner.<sup>377</sup> Later that same day, at 7.30 pm, following the Council dinner, Ms Scaffidi emailed Mr Fernando, copying in Ms Battista, Mr Mileham the Acting CEO, and council members Ms Davidson and Ms McEvoy, saying that four separate people commented about “*all aspects of the food, beverage and service*” and thanked Mr Fernando for his commitment in this regard.<sup>378</sup>
24. At 9.26 pm that evening, Ms Battista responded to Ms Scaffidi stating that she appreciated the feedback and that the catering team consistently delivered at a high standard. Ms Battista advised Ms Scaffidi that the Administration was “*working through some serious HR issues with regards to Dillon’s behaviour and conduct including three recent written complaints from external service providers*” and that she would aim to resolve the matters in the City’s favour for all concerned.<sup>379</sup>
25. Ms Scaffidi responded to Ms Battista’s email on 21 April 2016 at 6.39 am and copied in Mr Mileham. Ms Scaffidi wrote:

*“Goodmorning*

*I appreciate you sharing this information with me. I hope you will allow me to provide some context on Dillon as I have got to know him very well & regard him highly.*

*Dillon works so hard (many could take a leaf out of his book) and is so committed to providing the best he can in his area for the Crs [councillors] and for the City.*

*Without knowing the exact details my guess would be the external service providers are food providers and possibly even our caterer?*

*No doubt Dillon has pushed them to provide the best possible service and they have baulked.*

*Reality is [the caterer is] very inconsistent.*

*Recently I was invited to the Stirling dining room and they have a in house Chef as well as a person in Dillon’s role. When you think about the amount of money we pay an outside caterer we ourselves could probably employ a chef who would provide fresher and better food.*

*Being Sri Lankan Dillon is very polite and very tuned into a high level of service.*

*His expectations may occasionally put pressure on others to deliver. That is all I will say on the matter for now as I would appreciate a full overview when we meet.*

*His role is a very difficult role to fill given the odd and long hours. There are so many events like citizenship last night and yet early starts with other events on level 11, as early as 930 some mornings.*

*I know I speak for all the Crs when we say how much we value him.*

*Talk more in [sic] this later.”<sup>380</sup>*

26. Ms Scaffidi accepted that by sending this email, she was becoming involved in the day-to-day management of the City's Administration and that it was wrong. However, Ms Scaffidi gave evidence that it was appropriate for her to send the email, because she felt that Mr Fernando was being victimised by Ms Nicola Brandon and Ms Battista. Ms Scaffidi said she believed what Mr Fernando told her about the *"three written complaints from external service providers"* and that Ms Battista was soliciting external complaints to try to terminate his employment. Ms Scaffidi did not know that Ms Battista and Human Resources were attempting to discipline Mr Fernando because of his behaviour and conduct. According to Ms Scaffidi, Ms Battista did not tell Ms Scaffidi that Mr Fernando was being performance managed and Ms Scaffidi was not privy to the procedures followed in the performance management of an employee.<sup>381</sup>
27. Ms Battista gave evidence that Ms Scaffidi's *"guess"* that the written complaints came from businesses providing food to the City and the City's caterer was incorrect, although Ms Battista said she believed one of the contractors had contacted her by email.<sup>382</sup> Ms Battista also said that Ms Scaffidi's assumption that *"Dillon has pushed them to provide the best possible service and they have baulked"* was incorrect.<sup>383</sup>
28. Ms Battista forwarded Ms Scaffidi's email to Ms Pember at 8.50 am on 21 April 2016. Ms Pember replied that she would ensure *"all information is captured"* on Mr Fernando's employee relations file. In the subsequent email exchange, at 10.13 am Ms Battista acknowledged Ms Pember's email and said *"you can likely infer where this is headed and I want to make sure I manage it effectively, so will keep you advised"* and that she would send her all correspondence. At 10.16 am, Ms Pember replied stating *"it is a very difficult matter to navigate through given the level of involvement and must feel like a minefield for you"*.<sup>384</sup>
29. Ms Battista sent another email to Ms Pember, on 26 April 2016, advising, among other things:

*"On a separate issue, but so it is noted, following the meeting between Dillon, yourself and myself on 20 April, Dillon made separate verbal complaints about me to the Lord Mayor, Deputy Lord Mayor, Councillor Davidson and Councillor McEvoy about the meeting (all of whom subsequently contacted me to follow-up and to whom I explained the circumstances). In our meeting on Wednesday, 27 April 2016, I advised Dillon this was highly inappropriate"*.<sup>385</sup>
30. Mr Mileham recalled that on more than one occasion, Ms Scaffidi told him that she believed Mr Fernando was doing a good job in the catering role. Mr Mileham recalled that during April 2016, Ms Scaffidi spoke to him about her concerns that Mr Fernando was being unfairly treated and he assured her that was not so.<sup>386</sup> Mr Mileham did not think this contact was appropriate and agreed Ms Scaffidi made it difficult for him to assert himself with respect to Mr Fernando, because she would argue with him. Mr Mileham characterised this argument as debate.<sup>387</sup>

31. Ms Battista was appointed to the role of Acting DEDA on 16 May 2016, following the departure of Mr Dunne. Ms Brandon acted in her role as Manager, Marketing and Communications, with management oversight of Mr Fernando.<sup>388</sup> As Acting DEDA, Ms Battista worked closely with Ms Brandon to manage Mr Fernando, because it was “quite time and labour intensive” and it appeared that it was stressful for Ms Brandon.<sup>389</sup>
32. Ms Brandon engaged with Mr Fernando through weekly meetings about his performance, which included using his desk on level 2, as Mr Fernando had a propensity to be absent from his desk and to spend most of his time on level 11 where the Lord Mayor’s office was located, as well as levels 9 and 10. Level 10 was where the Councillors and the Deputy Lord Mayor had their offices and the dining room was located on level 9. All three levels had restricted access.<sup>390</sup>
33. When Ms Battista became aware of issues, including Mr Fernando’s frequent absences from his desk on level 2, his tendency to be late or miss meetings with Ms Brandon and his failure to answer his telephone when Ms Brandon tried to call him, Ms Battista insisted Mr Fernando used his desk on level 2 and sit there when he was not engaged in catering duties. However, according to Ms Battista, Mr Fernando “*did absolutely everything he could to evade his desk on level 2*”.<sup>391</sup>
34. On 3 October 2016, Mr Mileham commenced as the permanent CEO.<sup>392</sup>
35. In late November 2016, the performance and conduct of Mr Fernando was still unsatisfactory.<sup>393</sup> On 17 November 2016, Mr Fernando emailed Ms Scaffidi writing, “*can I please have 5 minutes of your valuable time to inform you a certain matter which is bothering me immensely at present. I thought it is gone but it has come back again. Extremely sorry for any inconvenience. thanks*”.<sup>394</sup> Ms Scaffidi responded, “*call me but I can’t talk for long*”.<sup>395</sup>
36. On 23 November 2016, Ms Battista sent an email to Ms Brandon with a copy to Ms Pember, advising that she had attended the Audit and Risk Committee and Council Meetings the previous night. Ms Battista wrote:

*“Two Elected Members approached me separately and confidentially to broach the subject of Dillon (one with a third Councillor present).*

*He has been conveying details of his recent interactions with you and I to Elected Members and from what I can gather, appealing to them for support. The Elected Members enjoy excellent service from Dillon and they in turn are very supportive of him.*

*This is concerning on a number of levels. Firstly, Dillon should not be sharing HR issues with Elected Members. We have been clear with him about this. Secondly, Elected Members are potentially in breach of the Act by interfering in operational matters such as staff management (I will deal with this separately as is appropriate). Can you please counsel Dillon about this as part of your meeting?”*<sup>396</sup>

37. On 6 December 2016, Ms Brandon and Ms Pember met with Mr Fernando to discuss ongoing concerns with his behaviour and failure to follow reasonable instructions. The following day, Ms Brandon summarised the matters discussed in writing and Mr Fernando was invited to respond to the matters raised by 13 December 2016. Among the matters raised, was the approach to Ms Battista by the council members on 23 November 2016. Ms Brandon reminded Mr Fernando he had been previously instructed not to discuss his human resources matters with the council members and she reiterated that such discussions *“will not be tolerated and must stop immediately”*.<sup>397</sup> Mr Fernando formally responded to allegations in an undated letter denying all allegations.<sup>398</sup>
38. A follow-up meeting with Mr Fernando was delayed until 19 January 2017. Ms Brandon summarised the discussion in a letter to him dated 24 January 2017, confirming the City was instigating an eight-week performance improvement plan with set and specific expectations consistent with his role requirements and the City’s policies and procedures. Mr Fernando was advised that if his performance was deemed to be unsatisfactory during this period his ongoing employment with the City could be impacted.<sup>399</sup>

#### **Disciplinary matters – contract issue and termination of Mr Dillon Fernando**

39. Matters with Mr Fernando escalated around mid-2017, when the City decided to act in relation to certain irregularities with some of the contracts managed by Mr Fernando.
40. On 4 September 2017, the State Administrative Tribunal (SAT) made an order that Ms Scaffidi be disqualified from holding office as a member of Council for 18 months, commencing at midnight on Thursday, 7 September 2017. That order was stayed by the Western Australian Court of Appeal on 7 September 2017. The order of the SAT was ultimately set aside and the matter was remitted to the SAT for consideration of new orders.<sup>400</sup>
41. At that time, Ms Scaffidi did not return to work and provided the Court of Appeal with an undertaking that she would not:  
*“... perform any of the powers or duties conferred upon her as Lord Mayor by the Local Government Act 1995 (WA) and the City of Perth Act 2016 (WA) until the determination of this appeal and the appeal in CACV 57 of 2017”*.<sup>401</sup>
42. After a preliminary investigation, Ms Battista, who had recently been appointed permanently as the DEDA, put eight allegations of serious misconduct in relation to catering processes to Mr Fernando in a letter dated 22 September 2017.<sup>402</sup> Mr Fernando was advised that, in view of the serious nature of the allegations, he would be stood down on full pay while the City investigated the matters further and he was invited to respond to the allegations. He was further advised that the City had reported the matter to the Corruption and Crime Commission.

Ms Battista also wrote that the matter was strictly confidential and:

*“Additionally you are not to approach or contact any of the City’s employees or elected members, either directly or indirectly about the matters under investigation”.*<sup>403</sup>

43. After being advised of the allegations, Mr Fernando contacted Ms Scaffidi by telephone. Ms Scaffidi told the Inquiry that Mr Fernando, during this call, was hard to understand, because he was emotional and *“tripped over his words”*. Ms Scaffidi said she asked him to explain, and Mr Fernando told her that he had been given some questions to answer and he was upset. Ms Scaffidi discussed the allegations with him and then asked him to send the questions to her email. She then went through them with him and was *“writing down what he’s telling me verbatim”*.<sup>404</sup>
44. Ms Scaffidi then sent this document to Mr Fernando, which she told the Inquiry was verbatim. Ms Scaffidi said she then told him, *“you’ve just got to be very sure that you put them in good grammatical English”*. Ms Scaffidi then sent the answers to Mr Fernando, which she said were verbatim and she did not *“embellish, add or change in any way what he had said to me”*.<sup>405</sup> Ms Scaffidi later conceded, after being shown the document, that perhaps it was not wholly verbatim and perhaps she corrected the English, although she maintained that it was *“pretty solid to the discussion that was had”*.<sup>9</sup>
45. Ms Scaffidi did not agree that she had a conflict of interest when she assisted Mr Fernando in drafting his response. She said she was not aware she had a conflict of interest at the time. Ms Scaffidi did not agree that she should not have helped Mr Fernando but agreed, in hindsight, that the best way for her to have helped Mr Fernando would have been to refer him to someone else.<sup>406</sup>
46. On 5 October 2017, the document Ms Scaffidi produced for Mr Fernando was sent to Ms Battista as his response to the allegations against him.<sup>407</sup>
47. After investigating Mr Fernando’s response and finding seven of eight allegations substantiated, Ms Battista formally advised Mr Fernando, by letter on 14 November 2017, that she would be recommending his dismissal from his employment for serious misconduct. Mr Mileham, CEO, terminated Mr Fernando’s employment by the City for serious misconduct with immediate effect on 23 November 2017.<sup>408</sup>

### Aftermath

48. In a letter to Mr Mileham dated 23 December 2017, Ms Battista wrote about Ms Scaffidi’s defence of Mr Fernando and what she saw as the *“prevention”* of her ability to *“appropriately discipline, performance manage and ultimately terminate his employment”*, despite strong evidence that he was engaging in alleged minor and serious misconduct over more than three years.

<sup>9</sup> Transcript, L Scaffidi, private hearing, 31 July 2019, p 20-23. Ms Scaffidi conceded that instead of *“as per Q3 above”* she may have interpreted Mr Fernando’s answer: Transcript, L Scaffidi, private hearing, 31 July 2019, p 23.

49. Ms Battista stated that in *“the absence of this interference”* she was able to fully investigate Mr Fernando’s conduct and terminate his employment on 23 November 2017.<sup>409</sup>
50. Mr Fernando made an unfair dismissal claim to the Fair Work Commission and after a review, the parties agreed to rescind the dismissal and allow Mr Fernando to resign as of 23 November 2017.<sup>410</sup>

## Analysis

### Ms Lisa Scaffidi’s interference in Mr Dillon Fernando’s employment

51. The Inquiry finds, that in her discussion with Mr Carter in early 2016 and by sending her email on 21 April 2016 to Ms Battista, Ms Scaffidi attempted to direct the Administration and those responsible for managing Mr Fernando’s employment and overstepped her role as Lord Mayor. In doing so, Ms Scaffidi contravened regulation 10(1)(a) of the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations), which prohibited a council member from attempting to direct a City employee to do or not do anything in their capacity as an employee.
52. Irrespective of how Ms Scaffidi felt about Mr Fernando’s performance as an employee or the way the Administration was dealing with him<sup>411</sup>, it was not the role of a Lord Mayor to become involved in, or attempt to direct, the management of an employee.<sup>412</sup>
53. The Inquiry notes that when Ms Scaffidi intervened through her email of 21 April 2016, she relied on what Mr Fernando had told her, made erroneous assumptions about the allegations of misconduct against Mr Fernando and was not aware of the disciplinary processes being carried out by the City. This is consistent with Ms Battista’s evidence before the Inquiry, where she gave her opinion that council members *“didn’t have either the knowledge or the ability to make informed decisions or judgments about any employee other than the CEO because they simply didn’t have the exposure”*.<sup>413</sup>
54. Ms Battista and Ms Pember gave evidence that Mr Fernando’s communications with Ms Scaffidi and other council members made managing Mr Fernando’s employment more difficult.
55. Ms Battista observed *“there was usually a correlation between some form of counselling or disciplinary measure and contact from Elected Members”*. Ms Battista’s experience was that a day or two after Mr Fernando was counselled or disciplined in respect of his performance as an employee, Ms Battista was contacted by council members and told that Mr Fernando *“was an outstanding employee, an exemplary employee”*. Ms Battista gave evidence that this contact from council members made it more difficult for her to do her job.<sup>414</sup>

56. Ms Pember gave evidence in relation to Ms Scaffidi's email of 21 April 2016 and said:

*"... receiving emails of that nature from the Lord Mayor implies and makes Dylan believe or which he did believe that he is doing absolutely nothing wrong, that this process is a witch hunt, that he is performing exceptionally well, he has had the greatest review and appraisal that he could ever seek from the Lord Mayor and that our conduct as his manager, as the director, as a HR representative is targeted, is unfair, is bullying. It gives him that sense that we are targeting him unfairly which makes managing a process of that nature very difficult.*

*MS OLDFIELD: More difficult?---More difficult, that's right, because he has an inflated view of his work and he is almost protected in a way from this kind of process.*

*So he is protected or he perceives that he's protected?---He perceives or believes that he is protected. When you have the Lord Mayor and Councillors in very favourable of your performance and we receive emails of that nature and obviously you can see how the Lord Mayor has written to Annaliese around her feelings around Dylan it makes that management of a process very difficult for all parties including Dylan".<sup>415</sup>*

#### Preparation of a response to allegations of serious misconduct

57. Part 3 of the Council Policy "CP10.1 – Code of Conduct" deals with conflict and disclosure of interests. At the relevant time, clause 3.1 specifically dealt with conflicts of interest and provided that members and employees must ensure there was no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties and functions.<sup>416</sup>
58. Ms Scaffidi and Mr Fernando were work friends.<sup>417</sup> The Inquiry has numerous emails between Ms Scaffidi and Mr Fernando, which demonstrate there was a personal friendship between them.<sup>418</sup> Ms Scaffidi and Mr Fernando were in direct contact<sup>419</sup> and Ms Scaffidi would often make herself available to Mr Fernando if he said he needed her attention.<sup>420</sup>
59. Whether Ms Scaffidi contributed to the substance of Mr Fernando's response to the City or not, by agreeing to assist Mr Fernando in the way she did, she had, at the very least, a potential, if not actual, conflict of interest between her personal interest in her friendship with Mr Fernando and her responsibility as Lord Mayor to act in the best interests of the City.

## Findings

### Finding 2.3.2 – 3

The Inquiry makes the following findings:

- i. In her discussion with Mr Carter in early 2016 and by sending her email to Ms Battista at 6:39 am on 21 April 2016, Ms Scaffidi attempted to direct the Administration and those responsible for managing Mr Fernando's performance. In so doing, Ms Scaffidi overstepped her role as Lord Mayor and may have breached regulation 10(1)(a) of the Conduct Regulations.
- ii. Between 21 September 2017 and 6 October 2017, Ms Scaffidi had a potential, if not actual, conflict of interest when she assisted Mr Fernando to prepare a response to allegations of misconduct.

## Endnotes

- 1 *Local Government Act 1995*, s 5.36(3), s 5.40, Division 6; *Local Government (Rules of Conduct) Regulations 2007*.
- 2 Chapter 2.3.3 – Financial management and planning; Chapter 2.4.1 – Events leading to the suspension of the Council.
- 3 Terms of Reference, A.3(i).
- 4 Report, Crowe, Review of Governance and Financial Matters, August 2019, p 63-65.
- 5 Report, Crowe, Review of Governance and Financial Matters, August 2019, p 140-142.
- 6 Report, City of Perth, Annual Report 2017/2018, p 67. Average cost per employee is calculated by dividing the “Employee Costs (including costs capitalised)” by the “Number of Employees (including full-time, part-time and casuals)”; Employee costs per 1,000 City residents is calculated by the “Employee Costs (including costs capitalised)” being divided by “Estimated Residential Population” and then dividing by 1,000. There was a 16 per cent increase in residents in 2016/2017 following the boundary changes resulting from the City of Perth Act 2016. Reports, PwC and Local Government Professionals Australia, Australian Local Government Performance Excellence Program – City of Perth – FY 2016, 28 February 2017, p 12; FY 2017, 15 December 2017, p 11; FY 2018, 13 December 2018, p 11; Reports, PwC and Local Government Professionals Australia, Australian Local Government Performance Excellence Program – City of Perth – FY 2016, 28 February 2017, p 12; FY 2017, 15 December 2017, p 11; FY 2018, 13 December 2018, p 11: ‘Changes in the workforce’ arrivals and departures. Reports, PwC and Local Government Professionals Australia, Australian Local Government Performance Excellence Program – City of Perth – FY 2018, 13 December 2018, p 11: ‘Diversity’; Document, City of Perth, Equal employment opportunity survey 2018, May 2018: ‘Diversity’. Document, City of Perth, Workers’ compensation claims register for 2015/2016, 2016/2017 and 2017/2018, 18 July 2019: ‘Health and Safety’. Report, Tower Human Capital Group, Performance Analysis, Assessment and Review of the HR function, December 2018, p 96.
- 7 Document, City of Perth, Issue Register – Grievances for the period of 1 October 2015 – 1 March 2018, updated 15 April 2019.
- 8 Report, Deloitte, City of Perth Organisational Capability and Compliance Assessment, 6 June 2017, p 38.
- 9 Report, Deloitte, City of Perth Organisational Capability and Compliance Assessment, 6 June 2017, p 38.
- 10 Report, Deloitte, City of Perth Organisational Capability and Compliance Assessment, 6 June 2017, p 33-34.
- 11 Report, Deloitte, City of Perth Organisational Capability and Compliance Assessment, 6 June 2017, p 36-38.
- 12 Report, State Services Authority Victoria, Organisational Culture, 2013, p 5, 9; Chapter 2.1.2 – Culture and governance.
- 13 Report, State Services Authority Victoria, Organisational Culture, 2013, p 17-26.
- 14 Report, CULTYR, Employee Scorecard 2017, 4 September 2017, p 17.
- 15 Report, CULTYR, Employee Scorecard 2017, 4 September 2017, p 17.
- 16 Report, Deloitte, City of Perth Organisational Capability and Compliance Assessment, 6 June 2017, p 37.
- 17 Report, ACIL Allen, City of Perth Financial Review, May 2019.
- 18 Guidelines, Department, Integrated Planning and Reporting Framework and Guidelines, October 2010.
- 19 Report, Deloitte, City of Perth Organisational Capability and Compliance Assessment, 6 June 2017, p 37.
- 20 Report, Tower Human Capital Group, Performance Analysis, Assessment and Review of the HR function, December 2018, p 7.
- 21 *Local Government Act 1995*, s 5.40.
- 22 Policy, City of Perth Council Policy Manual, CP12.4 Payments under s 5.50 of the *Local Government Act 1995*, 2 August 2017.
- 23 Policy, City of Perth Organisational Policy Manual, 13 June 2017.
- 24 Policy, City of Perth Council Policy Manual, 2 August 2017.
- 25 Procedure, City of Perth, PR0007, Recruitment and Selection, 17 May 2013, p 1-2.
- 26 Document, Recruitment and Selection Manual, p 13.
- 27 Procedure, City of Perth, PR0439, Disciplinary Guidance Notes, 23 February 2003.
- 28 Policy, City of Perth Organisational Policy Manual, OP[1], Decision making framework, s 2.3, 13 June 2017, p 13.
- 29 Policy, City of Perth Organisational Policy Manual, 19 December 2016, p 14.
- 30 Document, State Records Office, General Disposal Authority for Local Government Records: DA 2015-001, June 2016, p 157.
- 31 *Local Government Act 1995*, s 5.37(1).
- 32 *Local Government Act 1995*, s 5.37(2).
- 33 *Local Government (Rules of Conduct) Regulations 2007*, reg 9 and 10.
- 34 Terms of Reference, A.3(i).
- 35 Terms of Reference, A.3(iii).
- 36 Terms of Reference, A.3(v).
- 37 Terms of Reference, A.3(vi).
- 38 *Local Government Act 1995*, s 5.37(1); Policy, City of Perth Council Policy Manual, CP12.6, Staff – Local Government Employees – Senior Employees.
- 39 Minutes, Ordinary Council Meeting, confidential items, 11 August 2015.
- 40 Transcript, M Howells, private hearing, 20 June 2019, p 9-10.
- 41 Email, G Stevenson to Lord Mayor and councillors, 8.58 am 20 July 2015.
- 42 Minutes, Ordinary Council Meeting, 11 August 2015.
- 43 Letter, M Mileham to M Carter, 24 February 2016; Transcript, M Mileham, private hearing, 23 July 2019, p 15.

- 44 Transcript, M Carter, private hearing, 19 June 2019, p 44; Transcript, M Howells, private hearing, 20 June 2019, p 51, 57; Settlement Deed, The City of Perth and M Carter, executed 26 February 2016.
- 45 Letter, M Mileham to R Moore, 24 February 2016.
- 46 Email, M Mileham to Lord Mayor and councillors, 12.57 pm 24 February 2016.
- 47 Transcript, M Howells, private hearing, 20 June 2019, p 61; Letter, M Carter to M Mileham, 1 February 2016; Email, M Carter to M Howells, 7.14 am 26 February 2016.
- 48 Contract of Employment, The City of Perth and M Carter, 11 August 2015.
- 49 Transcript, M Mileham, private hearing, 22 July 2019, p 68-69.
- 50 Emails, L Scaffidi to M Carter, 10 February 2016.
- 51 Emails, L Scaffidi to M Mileham, 10 February 2016.
- 52 Transcript, M Mileham, private hearing, 22 July 2019, p 64.
- 53 Email, M Howells to M Mileham, 12.07 pm 19 February 2016.
- 54 Document, email attachment, Points for Martin, 19 February 2016.
- 55 Briefing Notes, Special Council Briefing Session, 23 February 2016.
- 56 Transcript, M Mileham, private hearing, 23 July 2019, p 38-39.
- 57 Email, M Mileham to J Green, 11.46 am 24 February 2016; Email, M Mileham to R Harley, 24 February 2016.
- 58 Minutes, Ordinary Council Meeting, 23 February 2016.
- 59 Transcript, M Carter, private hearing, 19 June 2019, p 44-45; Letter, M Mileham to M Carter, 24 February 2016.
- 60 Transcript, M Carter, private hearing, 19 June 2019, p 44; Transcript, M Howells, private hearing, 20 June 2019, p 51, 57.
- 61 Email, M Mileham to Lord Mayor and Councillors, 12.57 pm 24 February 2016.
- 62 Transcript, M Howells, private hearing, 20 June 2019, p 61; Letter, M Carter to M Mileham, 1 February 2016; Email, M Carter to M Howells, 7.14 am 26 February 2016.
- 63 *Local Government Act 1995*, s 5.37(2).
- 64 *Local Government Act 1995*, s 5.20.
- 65 Contract of Employment, The City of Perth and M Carter, 11 August 2015, clause 5.1, p 2.
- 66 Briefing Notes, Special Council Briefing Session, 23 February 2016; Transcript, M Mileham, 23 July 2019, p 38-40.
- 67 Email, M Mileham to J Green, 11.46 am, 24 February 2016.
- 68 Email, M Mileham to R Harley, 11.48 am, 24 February 2016.
- 69 Transcript, M Mileham, private hearing, 23 July 2019, p 38.
- 70 *Robert Whooley & Shire of Denmark* [2019] WASCA 28, per Buss, Le Miere and Murphy JJ [28].
- 71 Transcript, M Mileham, private hearing, 23 July 2019, p 38.
- 72 Transcript, M Mileham, private hearing, 23 July 2019, p 38.
- 73 Transcript, L Scaffidi, private hearing, 10 July 2019, p 51.
- 74 Transcript, J Adamos, private hearing, 2 July 2019, p 86.
- 75 Transcript, L Chen, private hearing, 1 July 2019, p 13.
- 76 Transcript, J Davidson, private hearing, 4 July 2019, p 91.
- 77 Transcript, J Green, private hearing, 8 July 2019 p 32.
- 78 Transcript, J McEvoy, private hearing, 16 July 2019, p 43.
- 79 Transcript, Y Yong, private hearing, 3 July 2019, p 76.
- 80 Transcript, R Harley, private hearing, 5 July 2019, p 19-20.
- 81 *Local Government Act 1995*, s 5.50(1).
- 82 *Local Government Act 1995*, s 5.50(2).
- 83 *Local Government Act 1995* s 1.4, 1.7, 5.50(2).
- 84 Policy, City of Perth Council Policy Manual, CP12.4, Payments under s 5.50 of the *Local Government Act 1995*.
- 85 Policy, City of Perth Council Policy Manual, CP12.4, Payments under s 5.50 of the *Local Government Act 1995*.
- 86 Settlement Deed, The City of Perth and M Carter, executed 26 February 2016.
- 87 Policy, City of Perth Council Policy Manual, CP12.4, Payments under s 5.50 of the *Local Government Act 1995*; *Local Government Act 1995* s 1.4, 1.7, 5.50(2).
- 88 Policy, City of Perth Council Policy Manual, CP12.4(3), Payments under s 5.50 of the *Local Government Act 1995*, Other Circumstances.
- 89 Transcript, M Mileham, private hearing, 23 July 2019, p 23, 27; Transcript, M Howells, private hearing, 20 June 2019, p 58.
- 90 Transcript, M Mileham, private hearing, 23 July 2019, p 28.
- 91 Email, L Howe to A Corke, 18 February 2020; Email, A Corke to L Howe, 20 February 2020.
- 92 Contract of Employment, The City of Perth and M Carter, 11 August 2015; Policy, City of Perth Council Policy Manual, CP12.6, Staff – Local Government Employees – Senior Employees.
- 93 *Local Government Act 1995*, s 5.50(1), 5.50(3) and *Local Government (Administration) Regulations 1996*, reg 19A(1)(b).
- 94 Settlement Deed, The City of Perth and M Carter, executed 26 February 2016, p 4.

- 95 Mr Mileham was taken to the legislation and asked to assume reg 19A(1)(a) of the *Local Government (Administration) Regulations 1996* did not apply: Transcript, M Mileham, private hearing, 23 July 2019, p 32, 36.
- 96 Transcript, M Mileham, private hearing, 23 July 2019, p 23, 27-28; Transcript, M Howells, private hearing, 20 June 2019, p 57-58.
- 97 *Local Government Act 1995*, s 5.40(c).
- 98 Contract of Employment, The City of Perth and R Moore, 11 August 2015.
- 99 Contract of Employment, The City of Perth and M Carter, 11 August 2015.
- 100 Contract of Employment, The City of Perth and R Moore, 11 August 2015, cl 12.1; Contract of Employment, The City of Perth and M Carter, 11 August 2015, cl 12.1.
- 101 Transcript, M Howells, private hearing, 20 June 2019, p 45.
- 102 Transcript, M Mileham, private hearing, 22 July 2019, p 62; Transcript, M Mileham, private hearing, 23 July 2019, p 8.
- 103 Transcript, M Mileham, private hearing, 23 July 2019, p 8.
- 104 Letter, M Mileham to R Moore, 24 February 2016.
- 105 Transcript, R Moore, private hearing, 20 August 2019, p 7.
- 106 Transcript, M Carter, private hearing, 19 June 2019, p 44.
- 107 Transcript, M Howells, private hearing, 20 June 2019, p 52, 57; Script for M Mileham from M Howells, undated.
- 108 Transcript, M Mileham, private hearing, 22 July 2019, p 61; Transcript, M Howells, private hearing, 20 June 2019, p 51, 57; Transcript, M Carter, private hearing, 19 June 2019, p 44.
- 109 Transcript, M Carter, private hearing, 19 June 2019, p 44; Transcript, M Mileham, private hearing, 22 July 2019, p 61.
- 110 Transcript, M Howells, private hearing, 20 June 2019, p 52-53.
- 111 Transcript, M Carter, private hearing, 19 June 2019, p 44; Transcript, M Howells, private hearing, 20 June 2019, p 51, 57; Settlement Deed, The City of Perth and M Carter, executed 26 February 2016.
- 112 Transcript, M Carter, private hearing, 19 June 2019, p 44.
- 113 Transcript, M Mileham, private hearing, 23 July 2019, p 20; Transcript, M Howells, private hearing, 20 June 2019, p 23; Transcript, M Carter, private hearing, 19 June 2019, p 44.
- 114 Transcript, M Mileham, private hearing, 23 July 2019, p 22.
- 115 Transcript, M Mileham, private hearing, 22 July 2019, p 69.
- 116 Transcript, M Howells, private hearing, 20 June 2019, p 46.
- 117 Transcript, M Mileham, private hearing, 22 July 2019, p 69; Transcript, M Mileham, private hearing, 23 July 2019, p 3, 8; Transcript, M Howells, private hearing, 20 June 2019, p 46.
- 118 Transcript, M Mileham, private hearing, 23 July 2019, p 8, 11.
- 119 Organisational Policy Manual, City of Perth, OP[6], Prevention and Management of Workplace Bullying; Prevention and Management of Workplace Bullying, City of Perth; Transcript, M Mileham, private hearing, 23 July 2019, p 8.
- 120 Letter, M Mileham to R Moore, 24 February 2016, p 10.
- 121 Letter, M Mileham to M Carter, 24 February 2016; Transcript, M Carter, private hearing, 19 June 2019, p 45-46; Script for M Mileham from M Howells, undated; Transcript, M Howells, 20 June 2019, p 50-52.
- 122 Letter, R Moore to M Mileham, 29 February 2016.
- 123 Letter, M Mileham to R Moore, 24 February 2016, p 1.
- 124 Transcript, M Carter, private hearing, 19 June 2019, p 44-46.
- 125 Transcript, M Mileham, private hearing, 23 July 2019, p 20-21.
- 126 *Local Government Act*, s 5.40(c).
- 127 *Local Government Act 1995*, s 5.41(g).
- 128 *Local Government Act 1995*, s 5.36(3)(a).
- 129 *Local Government Act 1995*, s 5.36(3)(b).
- 130 *Local Government Act 1995*, s 5.37(1); Policy, City of Perth Council Policy Manual, CP12.6, Staff – Local Government Employees – Senior Employees.
- 131 *Local Government Act 1995*, s 5.41(b), 5.92(1).
- 132 *Local Government Act 1995*, s 5.20(1).
- 133 Western Australia, Parliamentary Debates, Legislative Assembly, 31 August 1995 (Hon. P Omodei MLA, Minister for Local Government).
- 134 *Local Government (Rules of Conduct) Regulations 2007* r 10(1).
- 135 *City of Perth Act 2016*, s 10(1)(g); *Local Government Act 1995*, s 2.8(1)(f), 5.41(e).
- 136 *Local Government Act 1995*, s 2.7(1), 2.8(1)(f), 5.41(e), 5.41(g).
- 137 Transcript, L Scaffidi, private hearing, 10 July 2019, p 54.
- 138 Email, M Mileham to councillors, 12.57 pm 24 February 2016.
- 139 Director, Economic Development & Activation, Advertisement, March 2016; File note, M Ridgwell, Director Economic Development and Activation Timeline, 17 June 2016.
- 140 Email, M Mileham to K Pember, 1.47 pm 12 April 2016.
- 141 Transcript, K Pember, private hearing, 14 June 2019, p 28; File note, M Ridgwell, 17 June 2016.
- 142 Transcript, M Howells, private hearing, 20 June 2019, p 63.

- 143 Transcript, M Mileham, private hearing, 23 July 2019, p 42.
- 144 Email, M Ridgwell to N Douglas, 3.18 pm 29 April 2016.
- 145 Letter, N Douglas to M Mileham, 29 April 2016.
- 146 Letter, C Gunningham to M Howells, 14 May 2016.
- 147 Transcript, M Howells, private hearing, 20 June 2019, p 67.
- 148 Transcript, M Mileham, private hearing, 23 July 2019, p 46
- 149 Memorandum, K Pember, 24 March 2017; Transcript, A Battista, private hearing, 24 June 2019, p 67.
- 150 Email, M Howells to M Mileham, 5.10 pm 30 May 2016.
- 151 DEDA Interview Ranking, City of Perth, 19.3211.
- 152 Transcript, M Mileham, private hearing, 23 July 2019, p 42
- 153 Transcript, M Mileham, private hearing, 23 July 2019, p 49.
- 154 Transcript, M Mileham, private hearing, 23 July 2019, p 77.
- 155 Email, L Scaffidi to M Mileham, 2.17 pm 28 June 2016.
- 156 Transcript, M Mileham, private hearing, 23 July 2019, p 55-56.
- 157 Email, M Mileham to L Scaffidi, 3.06 pm 28 June 2016.
- 158 Transcript, J Cant, private hearing, 19 June 2019, p 11; Calendar Entry, M Howells, 1.00 pm 30 June 2016.
- 159 Transcript, J Cant, private hearing, 19 June 2019, p 9.
- 160 Transcript, L Scaffidi, private hearing, 10 July 2019, p 76.
- 161 Email, M Mileham to A Sunderland, 1.47 pm 11 July 2016.
- 162 Email, L Scaffidi to M Mileham, 4.48 pm 11 July 2016.
- 163 Email, L Scaffidi to J Davidson and others, 4.49 pm 11 July 2016, p 2.
- 164 Email, L Scaffidi to M Mileham, 4.48 pm 11 July 2016.
- 165 Email, L Scaffidi to J Davidson, 4.49 pm 11 July 2016.
- 166 Transcript, L Scaffidi, private hearing, 10 July 2019, p 81.
- 167 Email, M Mileham to L Scaffidi, 5.11 pm 11 July 2016.
- 168 Email, L Scaffidi to M Mileham, 5.18 pm 11 July 2016.
- 169 Transcript, J Cant, private hearing, 19 June 2019, p 12; Addendum to Council Briefing Session, 19 July 2016.
- 170 Transcript, M Mileham, private hearing, 23 July 2019, p 68, 69, 74.
- 171 Briefing Notes, Special Council Meeting, 19 July 2016.
- 172 Transcript, J Davidson, private hearing, 4 July 2019, p 95.
- 173 Transcript, J Davidson, private hearing, 4 July 2019, p 96-97.
- 174 Transcript, R Harley, private hearing, 22 August 2019, p 26-27.
- 175 Transcript, J Adamos, private hearing, 2 July 2019, p 92- 93.
- 176 Transcript, J Green, private hearing, 8 July 2019, p 43-44.
- 177 Transcript, K Yong, private hearing, 3 July 2019, p 77.
- 178 Transcript, K Yong, private hearing, 3 July 2019, p 80.
- 179 Transcript, L Chen, private hearing, 23 July 2019, p 25.
- 180 Transcript, J McEvoy, private hearing, 16 July 2019, p 35.
- 181 Briefing Notes, Special Council Briefing Session, 19 July 2016; Transcript, J Limnios, private hearing, 1 August 2019, p 20.
- 182 Transcript, L Scaffidi, private hearing, 10 July 2019, p 85, 115; Transcript, L Scaffidi, private hearing, 31 July 2019, p 4.
- 183 Transcript, L Scaffidi, private hearing, 10 July 2019, p 87.
- 184 Transcript, J Cant, private hearing, 19 June 2019, p 8, 15-16.
- 185 Transcript, M Ridgwell, private hearing, 25 July 2019, p 35-36, 40-41.
- 186 Email, M Mileham to councillors, 4.03 pm 22 July 2016.
- 187 Email, J Green to M Mileham, 4.08 pm 22 July 2016.
- 188 Email, J Davidson to M Mileham, 4.11 pm 22 July 2016.
- 189 Email, J McEvoy to J Davidson, 4.19 pm 22 July 2016.
- 190 Email, M Mileham to J Davidson, 4.39 pm 22 July 2016.
- 191 Email, M Mileham to J Green, 6.25 pm 22 July 2016.
- 192 Transcript, M Mileham, private hearing, 23 July 2019, p 49-50.
- 193 Transcript, M Ridgwell, private hearing, 25 July 2019, p 41-42.
- 194 Email, M Mileham to Lord Mayor and councillors, 5.28 pm 12 August 2016, p 2.
- 195 Email, A Battista to M Mileham, 2.16 pm 12 October 2016.
- 196 Email, M Mileham to A Battista, 1.37 pm, 12 October 2016.
- 197 Email, A Battista to M Mileham, 9.12 pm 18 October 2016, p 1.
- 198 Complaint Form, Department of Local Government and Communities, W Earl, 29 June 2017, p 3.
- 199 Email, M Mileham to A Battista, 12.12 pm 7 February 2017.
- 200 Transcript, A Battista, private hearing, 28 June 2019, p 52.

### 2.3.2 People management

- 201 Transcript, M Mileham, private hearing, 29 July 2019, p 22-23.
- 202 Transcript, M Mileham, private hearing, 29 July 2019, p 24-25.
- 203 Email, K Pember to R Mianich, 12.19 am 10 February 2017.
- 204 Email, A Battista to K Pember, 2.13 pm 13 February 2017.
- 205 Letter, N Douglas to M Ridgwell, 23 March 2017.
- 206 Letter, N Douglas to M Ridgwell, 23 March 2017, p 3.
- 207 Memorandum, K Pember, 24 March 2017.
- 208 Transcript, K Pember, private hearing, 14 June 2019, p 66-67.
- 209 Email, S Walker to K Pember, 10.03 am 24 March 2017.
- 210 Memorandum, K Pember, 24 March 2017.
- 211 Email, M Mileham to K Pember, 3.37 pm 27 March 2017; Transcript, M Mileham, private hearing, 29 July 2019, p 47-49.
- 212 Transcript, M Mileham, private hearing, 29 July 2019, p 51.
- 213 Transcript, M Mileham, private hearing, 29 July 2019, p 64, 65.
- 214 Email, K Pember to M Mileham, 11.03 am 30 March 2017.
- 215 Position Description, Director Economic Development & Activation, April 2017.
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## 2.3.3 Financial management and planning

A local government plans and manages significant programmes and finances on behalf of its community. This carries with it a serious responsibility to properly manage them. They must sustainably and holistically plan for its future. Finances which are used to provide services and facilities to the community must be responsibly managed.

The governance of the City of Perth (City) during the period of the Inquiry's Terms of Reference, 1 October 2015 to 1 March 2018, consisted of the systems and processes by which it operated. Important among these were the financial management and planning processes.

This Section of the Report examines the nature of the City's integrated planning and reporting framework, the City's financial position, and its financial management practices. In addition, a partnership arrangement involving significant funding between the City and a not-for-profit organisation, the Perth Public Art Foundation, is examined. Weaknesses in systems, capability and processes are identified as well as how these are being, and can be, addressed.

### Financial management and integrated planning and reporting

#### Introduction

1. Local governments manage substantial finances to enable them to provide a wide range of public services and maintain considerable public infrastructure.
2. In order to finance their activities, councils are granted certain powers to raise funds. These are raised mainly by levying municipal rates or through other activities, including commercial enterprises. Councils also receive grant funding from the Federal and State Governments. They are also able to levy fees and charges for services.
3. Councils are required to undertake certain planning and reporting functions. This ensures they responsibly manage resources and are accountable to the public. They are often required to consult with the public while exercising these functions.
4. To deliver services efficiently and effectively, local governments must be prudent users of public funds. Local governments must be transparent and accountable, while striking a balance between community expectations and the practical limitations of revenue and expenditure.
5. Local governments require effective processes and procedures to facilitate efficient financial management. This is critical to the overall operations of a local government and for the protection of assets used for the delivery of sustainable services.

6. In achieving this goal, local governments should embrace sound principles of good governance by ensuring the sustainability of their long-term financial performance and position. The responsibility for good governance, including proper control and operation of the local government's affairs, the allocation of resources and determination of policies, rests with Council.

### Financial processes of the City of Perth

7. During the period 1 October 2015 to 1 March 2018, the *Local Government Act 1995* (LG Act) and associated regulations provided a framework for strategic and corporate planning, reporting and the management of the finances of the City of Perth (City). The framework has largely remained unchanged.
8. The City of Perth Council (Council) was ultimately responsible for governing the City's affairs, including by overseeing the allocation of its finances and resources.<sup>1</sup>
9. The Chief Executive Officer (CEO) is responsible, among other things, for:
  - ensuring advice and information relating to the City's functions is available to the Council to enable it to make informed decisions;<sup>2</sup>
  - ensuring proper accounts and records of the transactions and affairs of the City are kept;<sup>3</sup> and
  - undertaking regular (at least once every four financial years) reviews of the appropriateness and effectiveness of the financial management systems and procedures of the City and reporting on those reviews to the Council.<sup>(a)</sup>
10. Several sub-committees of the Council, each made up of three council members, provided recommendations to the Council on financial matters. Local governments are required by law to have an audit committee. The *Local Government (Audit) Regulations 1996* prescribe their minimum functions.<sup>4</sup>
11. Throughout the year, reports were prepared by administrative staff of the City to enable the Council to make financial decisions. These included reviewing the City's finances to ensure it was adhering to its annual budget.
12. Expenditure was monitored against the budget on a monthly basis by the Council's Finance and Administration Committee and the Council. The budget, as a whole, was reviewed in the first quarter of each calendar year.<sup>5</sup>
13. During the period of the Inquiry's Terms of Reference, the City had a Finance unit of approximately 30 people headed by a manager and overseen by the Director, Corporate Services. In addition, each of the City's four other directorates had a directorate accountant. Some individual business units, particularly City of Perth Parking (CPP), had its own accounting staff. There were approximately 10 senior financial staff members outside the Finance section.<sup>6</sup>

a *Local Government (Financial Management) Regulations 1996*, reg 5(2)(c). On 26 June 2018, the regulation was amended to provide for a review to occur not less than once in every three years.

### Financial planning by the City

14. For each financial year within the period of the Inquiry's Terms of Reference, the City prepared a 10-year Long Term Financial Plan to set priorities in accordance with financial resources and to measure and ensure the financial sustainability of the City.
15. It was intended that each Long Term Financial Plan would be aligned to the Corporate Business Plan and other plans, including the Asset Management Plan and the Workforce Plan, as part of the City's integrated planning and reporting processes.
16. The Department of Local Government, Sport and Cultural Industries (Department) issued guidelines for integrated planning and reporting for use by local governments.<sup>7</sup>
17. A Corporate Business Plan was produced each year and was intended to be an implementation plan for services, projects and investments for the following four years.
18. The Corporate Business Plan was to set out the local government's priorities, govern its internal business planning, and develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning. It was to be reviewed every 12 months.<sup>8</sup>
19. The LG Act requires each local government to prepare and adopt an Annual Budget. The City's Annual Budgets were based on the projected costing of the first year of the Corporate Business Plan, with an opportunity to review during a mid-year budget review process. Part 6 of the LG Act provides for the financial management of local governments. It requires that a local government prepare an Annual Budget for the following financial year,<sup>9</sup> reviews that budget and prepares an annual financial report for the preceding financial year.<sup>10</sup>
20. Following the setting of the Annual Budget, in accordance with regulation 33A of the *Local Government (Financial Management) Regulations 1996* (Financial Management Regulations), a review of it is undertaken between 1 January and 31 March. During this review, a local government is to review the first six-months performance of the financial year, consider the financial position at the date of review and review the outcomes for the end of that financial year that are forecast in the budget.<sup>11</sup>
21. A Financial Report is to be prepared in accordance with section 6.4 of the LG Act for the end of the financial year. The Financial Report is to contain the local government's actual financial year performance and is audited by the Auditor General.
22. The Annual Budget and Financial Report are also to include a local government's intentions in relation to rates.
23. Rates are collected by local governments from ratepayers to enable revenue to be raised to fund the services and facilities provided to residents and visitors.<sup>12</sup> There are three legislative provisions relevant to the statutory requirements around financial management and rate setting by Councils.

Section 6.2(2) of the LG Act provides for the budget to be set annually by the Council. Regulation 22(1)(d) of the Financial Management Regulations requires the budget to include a “rate setting statement” showing details of:

- “(i) the revenue and expenditure that have been taken into account to determine the budget deficiency; and*
- (ii) the total amount of the general rates to be imposed; and*
- (iii) any deficit or surplus remaining after the imposition of the general rates”.<sup>13</sup>*

24. The Annual Budget is to contain the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.<sup>14</sup> Rate revenue is generated to cover the deficiency in funds within the budget.<sup>15</sup>
25. A rate setting statement of a local government details this deficiency and provides information on compliance with the provisions contained in section 6.34 of the LG Act. For the 2015/2016 financial year, it provides that:

- “Unless the Minister otherwise approves, the amount shown in the annual budget as being the amount it is estimated will be yielded by the general rate is not to –*
- (a) be more than 110% of the amount of the budget deficiency; or*
  - (b) be less than 90% of the amount of the budget deficiency”.<sup>16</sup>*

26. The contents of a rate setting statement are set out in regulation 22(d) of the Financial Management Regulations.

### Issues considered by the Inquiry

27. Consistent with A.1(i), A.1(ii) and A.3(v) of its Terms of Reference, the Inquiry considered aspects of the City’s strategic planning, governance and financial management, including whether:

- the financial plans, governance, structures and processes used by the City were appropriate for its financial management;
- the City complied with the relevant legislative provisions;
- the City’s Integrated Planning and Report Framework operated effectively;
- the City’s sources of revenue and expenditure were appropriately monitored and recorded; and
- the CPP, the City’s parking business was managed appropriately.

## Investigation by the Inquiry

### Witnesses

28. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this Section. The positions given below for council members and employees are the positions they held at the time of the events described in this Section:

- Mr Martin Mileham, CEO from 20 January 2016 to 29 October 2018;
- Mr Murray Jorgensen, CEO since 27 November 2018;
- Mr Robert Mianich, Director, Corporate Services from 7 November 2005 to 30 June 2019;
- Mr Andrew Hammond, Commissioner, City of Perth since 2 March 2018 and Chair Commissioner, City of Perth since 9 August 2019;
- Mr John Nicolaou, Executive Director, ACIL Allen Consulting; and
- Mr Dan Richards, Manager, Finance from 3 March 2015 to 13 February 2019.

29. Mr Jorgensen and Mr Hammond did not occupy roles at the City during the period of the Inquiry's Terms of Reference. However, the City's financial management and governance processes, practices and systems at the commencement of their respective tenures were the same as those which existed during the Inquiry's Terms of Reference. Their evidence on financial matters was, to a large degree, consistent with other evidence before the Inquiry.
30. The Inquiry commissioned two independent expert reports from ACIL Allen Consulting (ACIL Allen) and Crowe (formerly Crowe Horwath) on financial matters affecting the City. These were:
- ACIL Allen, *"City of Perth Financial Review"* (ACIL Allen Report).
  - Crowe, *"Review of Governance and Financial Matters"* (Crowe Report).
31. ACIL Allen examined the:
- adequacy of the City's strategic planning, financial planning and management business models;
  - City's financial position and the underlying drivers of its financial position over time;
  - City's parking business, CPP; and
  - City's rates model for residential and commercial properties, and the degree to which there was any cross-subsidisation and any subsidisation arising from the parking business.<sup>17</sup>
32. The study period for this report was from FY 2012 to FY 2018. Mr Nicolaou, Executive Director, ACIL Allen, gave evidence to the Inquiry on the report and its findings in a public hearing on 7 October 2019.

33. Crowe in their report on governance and financial management practices examined:
  - the appropriateness of the City's governance practices for budgeting and financial reporting, and the oversight by Council and the Administration;
  - the maturity, appropriateness and effectiveness of the City's internal audit programme; and
  - the City's financial budgeting and expenditure practices to identify areas of risk.<sup>18</sup>
34. Crowe also examined and reviewed specific issues and projects relating to a number of areas, including procurement and contracting, grants, sponsorships and donations, termination payments and workers' compensation expenditure. Some of the matters examined by Crowe were investigated further by the Inquiry and are considered elsewhere in this report.
35. This Section will also note trends within the City's financial management in earlier years, back to the financial year 2011/2012 (FY 2012),<sup>b</sup> for the purpose of providing context and identifying long-term trends.

### Evidence obtained by the Inquiry

36. The City is one of the wealthiest local governments in the State. Its revenue generation is second only to the City of Stirling, while its annual expenditure was the third largest behind the City of Stirling and City of Rockingham.<sup>19</sup>
37. The City's revenue was annually in excess of \$200 million during the three financial years under the Inquiry's Terms of Reference (FY 2016 to FY 2018). The City is unique compared to other local governments in Western Australia and Australia, because it operates a significant off-street parking business which provides the City with significant, untied revenue. The City also spent significant funds on resources to deliver its services and programmes, with staffing costs being the most significant.
38. At an administrative level, the Inquiry heard and obtained evidence that the City's systems were insufficient to effectively manage its information and data. Obtaining available, accurate and timely information was a challenge, and the siloed nature of the culture contributed and may have even prevented information sharing and good business decisions.<sup>c</sup>
39. In examining financial aspects of the City, it is important to understand its composition. In FY 2018, the estimated population of the City was 27,432 residents. The City's resident population is forecast to grow to 50,000 by 2050, representing an additional 25,800 residents in 16,000 dwellings over the next 34 years. Each workday, the City attracts around 205,750 workers and visitors to the central-business district and over 25,000 to the University of Western Australia and Queen Elizabeth II Medical Centre. In FY 2018, the City had an estimated workforce population of 147,474 people.<sup>20</sup>

<sup>b</sup> Note, financial years may be referred to by the second year of the period. For example, financial year 2016/2017 is referred to as financial year 2017 or FY 2017.

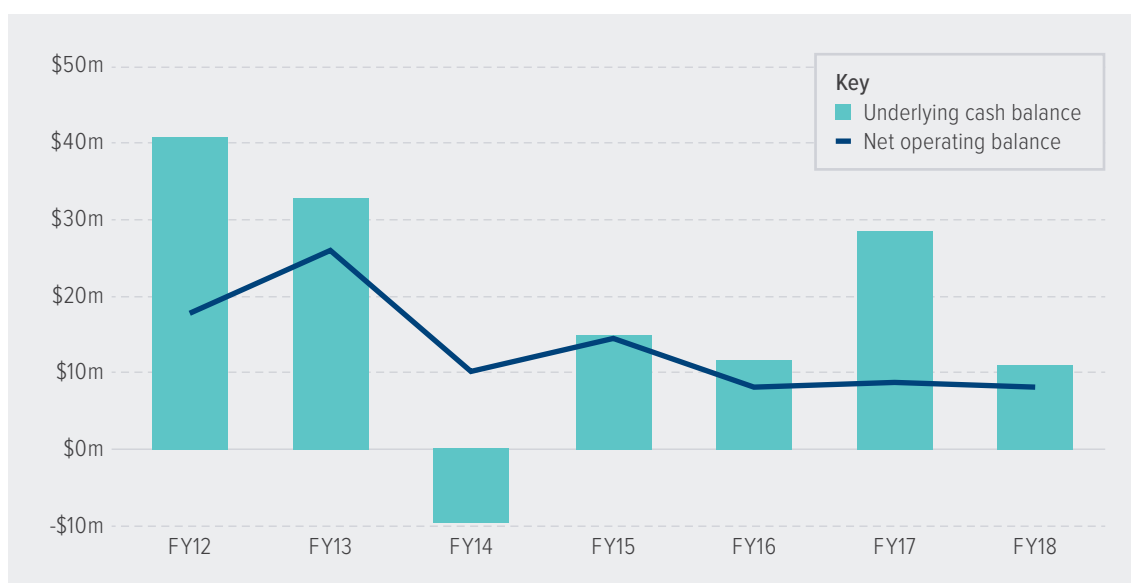
<sup>c</sup> Paragraph 154, 217-233 and 256 of this Section.

40. The City also exists in a wider economic environment, and is affected by Western Australian, national and global trends. Given factors such as the global financial crisis and the end of Western Australia's resources boom, it is no surprise that some sources of income for the City reduced. The following factors are relevant over the period FY 2015 to FY 2018, when compared to previous years. These are sourced from Council budget briefings for FY 2017<sup>21</sup> and FY 2018<sup>22</sup> and were as follows:

- unemployment was rising;
- the Consumer Price Index (CPI) remained low;
- the office vacancy rate in the City had increased;
- property values would continue to fall; and
- the State Government was transferring costs to the City and the City was paying more taxes and levies to the State.

### Financial position

41. The City's operating position reflects its ability to fund its day-to-day operations, including the services it provides. The City's overall financial position deteriorated over the study period (FY 2012 to FY 2018), both in terms of the nett operating balance<sup>d</sup> and the underlying cash balance<sup>e</sup> (Figure 2.21).<sup>23</sup>



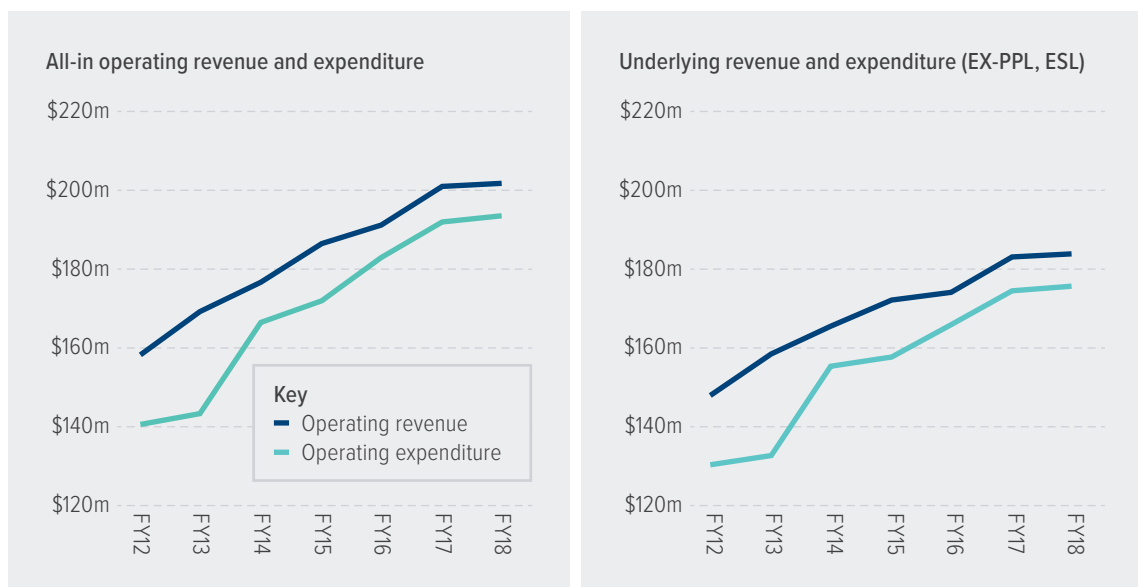
**Figure 2.21:** City of Perth nett operating balance versus underlying cash balance (\$ million).

42. Between FY 2012 and FY 2018, the nett operating balance fell from a high of \$26.1 million in FY 2013 to a low of \$8.2 million by FY 2018. The deterioration in the City's operating position came despite growth in total operating revenue from \$169.2 million to \$201.9 million over the period (+\$32.8 million), with operating expenditure growing from \$143.2 million to \$193.8 million (+\$50.7 million). The City's gross operating margin on own-source revenue shrunk from 12 per cent in FY 2012 to 4.4 per cent in FY 2018.

<sup>d</sup> Net operating balance is calculated as revenue from transactions less expenses from transactions.

<sup>e</sup> Underlying cash balance reflects cash outlays versus cash receipts.

43. On an underlying cash balance basis, the City's surpluses narrowed, particularly compared to the first two years of the study period. According to ACIL Allen's calculations (Figure 2.21),<sup>24</sup> the City's underlying cash balance for FY 2018 was \$11.1 million, its lowest cash surplus over the study period.<sup>f</sup>
44. The City's operating position also included the collection and pass through of two State Government taxes: the Perth Parking Levy and the Emergency Services Levy. The Perth Parking Levy is used by the State Government to fund transportation services, including the CAT bus service and other things. This levy was increased during the period FY 2012 to FY 2018, from \$9.9 million to \$17.7 million per year.<sup>25</sup>
45. Mr Nicolaou gave evidence that removing the Perth Parking Levy and Emergency Services Levy from the City's revenue and expenditure yields the same operating position, but provides a more accurate picture of the City's underlying revenue and expenditure performance as the City has no control over the levies.<sup>26</sup>
46. By removing the impact of the levies, over the past seven years the City's operating revenue has increased by 17 per cent (\$25.2 million), while its operating expenditure has increased by 33 per cent (\$43.1 million) (Figure 2.22).<sup>27</sup>



**Figure 2.22:** City of Perth revenue and expenditure, all-in versus underlying (\$ million).

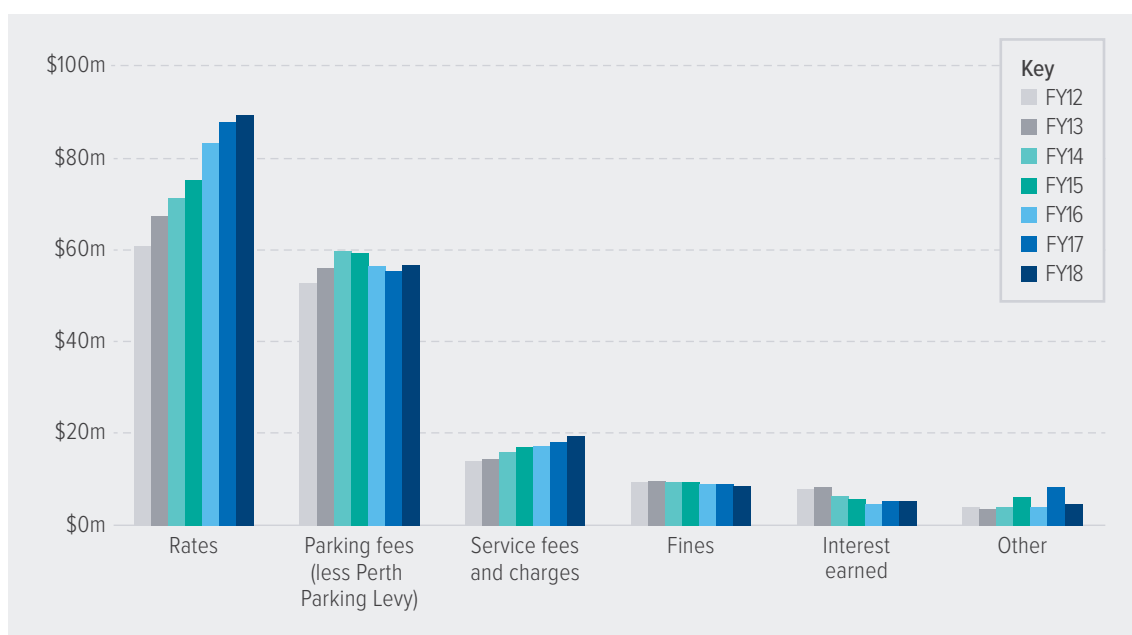
47. During the period FY 2012 to FY 2018, including the State Government levies, the City's operating revenue increased from \$158.4 million to \$201.9 million. An increase of \$43.5 million. Absent the levies, revenue increased from \$148.1 million to \$183.9 million.

<sup>f</sup> This excludes the deficit in FY 2014, when the City made a cash contribution to the State Government for the Perth City Link project.

48. The City's underlying revenue growth of 3.7 per cent per annum is 2.2 percentage points greater than the Perth CPI over the same period. It also came as property asset prices had generally fallen back to pre-resources boom levels after peaking between 2012 and 2014. According to ACIL Allen, that suggests *"there has been an increase in 'revenue effort' by the City, meaning it has sought to increase its revenue base by taking actions to increase its capture of activity in its local area"*.<sup>28</sup>
49. During this period the City's operating expenditure increased from \$140.6 million to \$193.8 million. An increase of \$53.2 million. This means that expenditure grew more than revenue during this six-year period. This can be partly explained by a \$7.8 million increase in the Perth Parking Levy paid to the State Government. However, there have also been considerable increases in direct staff expenditure and in contract labour expenditure by the City during this period.

### Revenue

50. The City collects revenue from a number of different sources. In FY 2012 to FY 2018, the largest sources of revenue for the City were property rates, parking fees, and service fees and charges collected or imposed by the City<sup>g</sup> (Figure 2.23).<sup>h</sup>



**Figure 2.23:** City of Perth overall revenue trends by revenue line, (\$ million).

51. During the study period, the City's revenue increase was largely driven by the growth in rates revenue (Figure 2.23), which was the largest revenue source and had increased at a faster rate than any other revenue source. The underlying revenue growth from parking fees was largely unchanged once the impact of the Perth Parking Levy was removed.

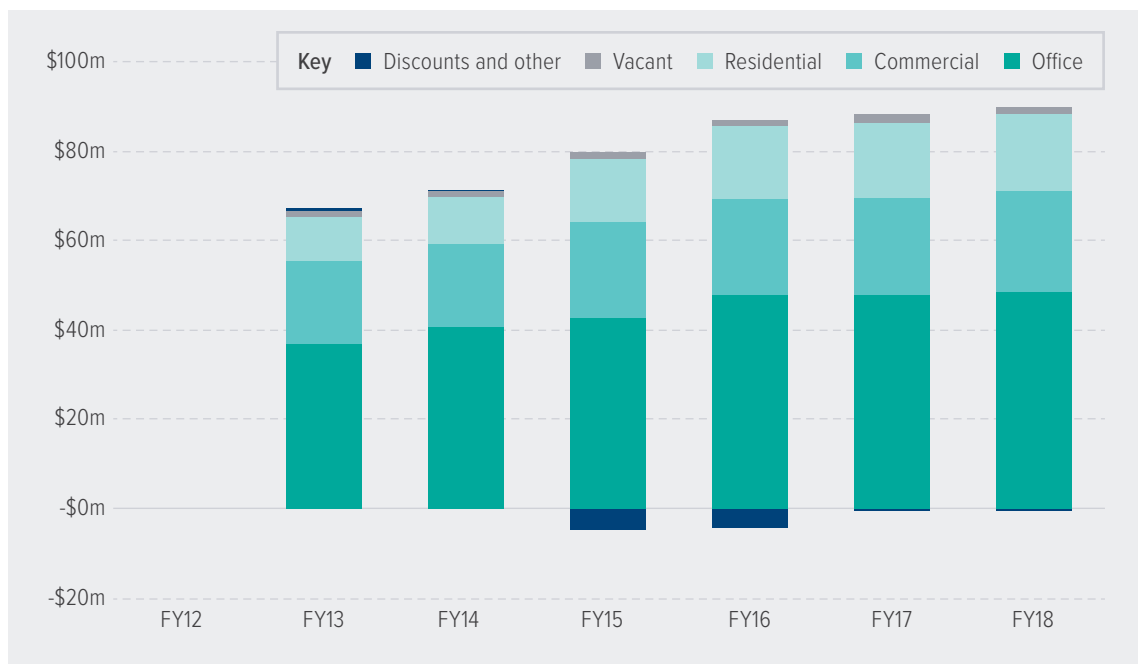
g Including fees charged by the City for municipal services (including waste collection, on-street parking, a library and information search services) and for licencing regulated activities (including fees for building permits and outdoor dining).

h The City also earned revenue from other sources, including: fines for failures to comply with regulations; interest earned on financial reserves; renting out City-owned premises; providing non-municipal services (including a childcare centre, a rest centre and a podiatry business); and providing parking services to the Town of Victoria Park.

52. Of the remaining categories of revenue (Figure 2.23), service fees and charges provided almost \$20 million per year. It rose steadily between FY 2012 and FY 2018. Fines were the source of approximately \$10 million of revenue per year to the City.<sup>29</sup>
53. The City's revenue from rates and parking fees were examined further by the Inquiry.

### Rates

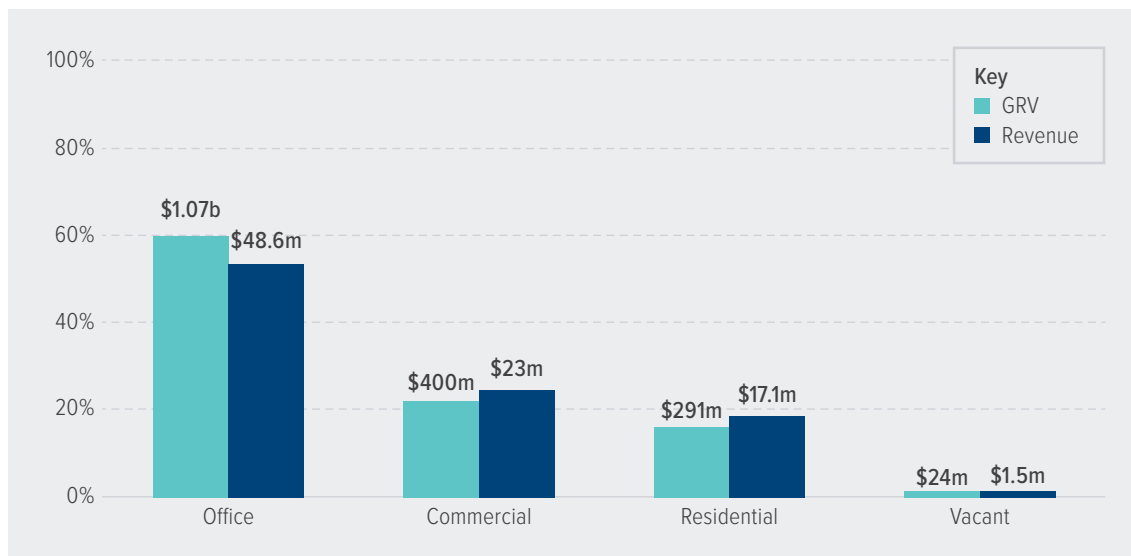
54. Property rates were and are the main source of revenue for the City.
55. Revenue from rates has risen markedly during the period FY 2012 to FY 2018 despite the increase in the office vacancy rate and a fall in property prices. Rates revenue rose from \$60.8 million in 2012 to \$89.5 million in FY 2018,<sup>30</sup> an average increase of 6.7 per cent per annum (Figure 2.24).<sup>31</sup>



**Figure 2.24:** City of Perth rates revenue trends, by land use category (\$ million).

56. Revenue from rates increased at a greater rate than any other source of income.
57. Rates are divided by the City into four categories of land use: residential; commercial; office and vacant land. This is known as differential rate setting.<sup>32</sup>

58. Office properties made up the largest proportion of total rates revenue, being \$48 million in FY 2018. Commercial properties generated \$23 million, while residential properties were \$18 million and vacant land was \$2 million (Figure 2.25).<sup>33</sup>



**Figure 2.25:** City of Perth rates revenue vs Gross Rateable Value, by land use category, FY 2018.

59. There was a strong shift in the composition of the City's rates base towards residential properties over the study period, with residential property rates increasing from \$9.7 million to \$17.1 million (+76.8 per cent). Between FY 2014 and FY 2018, the City's rates on residential properties increased by 38.0 per cent, against revenue growth of 63.1 per cent.<sup>34</sup>
60. Rates are based on Gross Rateable Value (GRV). Each category of property has a different GRV applied and therefore ratepayers owning different categories of properties pay different levels of rates. Using the GRV and revenue collections for each category of property, an indication of the "revenue effort" can be calculated.
61. Residential had the highest revenue effort for the City, with revenue representing 6.2 per cent of GRV, compared to 5.8 per cent for commercial use and 4.5 per cent for office (Figure 2.25).<sup>35</sup>
62. The City's differential rating has resulted in a cross-subsidisation of the City's rate base. That is, rates from residential and commercial properties effectively subsidised rates from office properties.
63. Mr Nicolaou gave evidence that:
- "... the composition of the rates base has noticeably shifted towards residential properties with a greater proportion of total revenue from rates now derived from residential properties versus the other categories".<sup>36</sup>*
64. ACIL Allen estimated that a "general rate" required to generate the same revenue the City raised from its differential rates in FY 2018 would be 4.94446 cents in the dollar. At this rate, office ratepayers would have paid an additional \$4.6 million in rates in FY 2018, while residential and commercial ratepayers would have paid \$2.3 million less each.<sup>37</sup>

65. The City provided information to the Inquiry on the rates revenue generated through the City's rate setting statement and associated spend. This data was used to calculate the City's percentage of budget deficiency and the percentage of rates revenue raised above the budget deficiency with no specified purpose.
66. While the City's rate setting in the budget process was within the parameters set by the LG Act,<sup>38</sup> for FY 2016 to FY 2018 there had been additional effort made through this process to generate funds above the budget deficiency, for which no specified purpose was identified (Table 2.14). During this time, the City potentially generated funds from ratepayers which were between 5.6 and 9.2 per cent more than was needed.

**Table 2.14: Comparison of City rates raised (Rate Setting Statement) with no specified purpose in FY 2014 to FY 2018.**

| Financial Year | Adopted Annual Budget: Rates revenue (Rate Setting Statement) <sup>39</sup> | Budget deficiency before general rates <sup>i</sup> | Adopted Annual Budget: Closing position <sup>40</sup> | Percentage of budget deficiency <sup>j</sup> | Percentage of rates revenue raised above the budget deficiency with no specified purpose <sup>k</sup> |
|----------------|---|---|---|--|---|
| FY 2018        | \$89,256,330.00   | \$84,512,867.00                                     | \$4,743,463.00  | 105.6%                                       | 5.6%  |
| FY 2017        | \$85,143,608.00   | \$78,112,566.00                                     | \$7,031,042.00  | 109.0%                                       | 9.0%  |
| FY 2016        | \$82,692,368.00   | \$75,750,030.00                                     | \$6,942,338.00  | 109.2%                                       | 9.2%  |
| FY 2015        | \$76,236,923.00   | \$75,690,505.00                                     | \$546,418.00  | 100.7%                                       | 0.7%  |
| FY 2014        | \$72,452,121.00   | \$70,987,300.00                                     | \$1,464,821.00  | 102.1%                                       | 2.1%  |

67. A balanced picture of the City's revenue generation can be seen when the end of financial year performance is also examined.
68. Table 2.15 shows the closing financial position of the City for the same financial years. The City, in every year, underspent its budget commitments generated through rates revenue by between 22.6 per cent to 45.6 per cent.

**Table 2.15: Percentage of rates revenue not required in financial years FY 2014 to FY 2018.**

| Financial Year | Budget deficiency before general rates <sup>l</sup> | Financial report: Closing position <sup>41</sup> | Percentage of rates revenue raised in excess of budget deficiency <sup>m</sup> |
|----------------|---|--|--|
| FY 2018        | \$84,512,867.00                                     | \$28,442,491.00                                  | 33.7%  |
| FY 2017        | \$78,112,566.00                                     | \$35,585,696.00                                  | 45.6%  |
| FY 2016        | \$75,750,030.00                                     | \$21,140,731.00                                  | 27.9%  |
| FY 2015        | \$75,690,505.00                                     | \$18,198,783.00                                  | 24.0%  |
| FY 2014        | \$70,987,300.00                                     | \$16,073,145.00                                  | 22.6%  |

i This is calculated by taking the figure in the column titled 'Adopted Annual Budget: Rates revenue (Rate setting statement)' and subtracting the figure in the column titled 'Adopted Annual Budget: Closing position'.

j This is calculated by taking the figure in the column titled 'Adopted Annual Budget: Rates revenue (Rate setting statement)' divided by the figure in the column titled 'Budget deficiency before general rates'.

k This is calculated by taking the figure in the column titled 'Adopted Annual Budget: Closing position' divided by the figure in the column titled 'Budget deficiency before general rates'.

l Sourced from Table 2.14 of this Section.

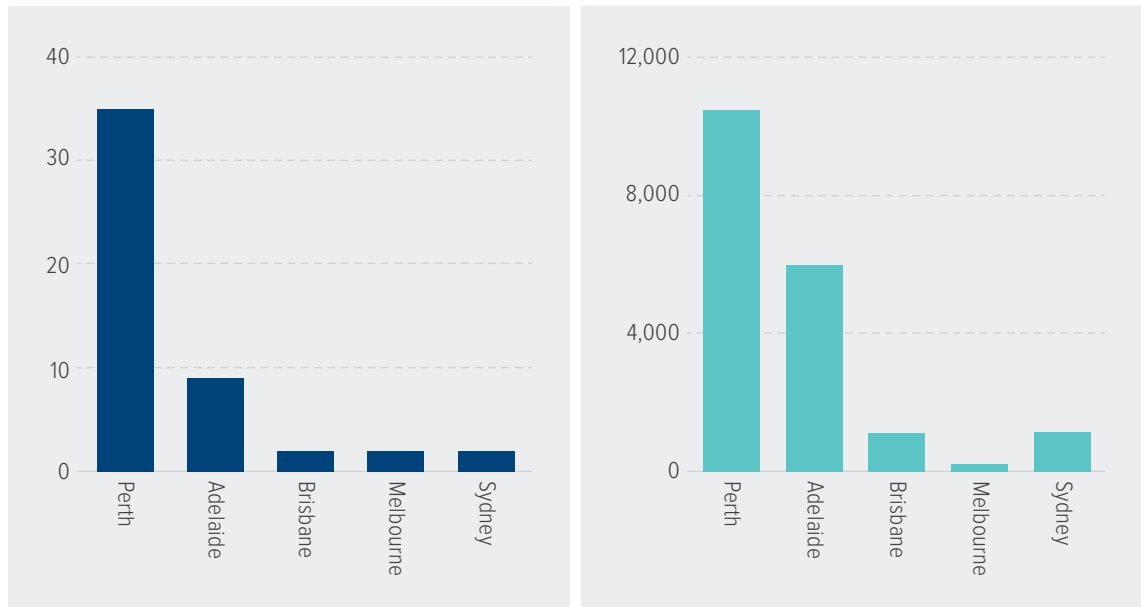
m This is calculated by taking the figure in the column titled 'Financial Report: Closing position' divided by the figure in the column titled 'Budget deficiency before general rates'.

69. The City advised the Inquiry that this underspend was caused in all years by “a large number of CAPEX [Capital Expenditure] projects with significant budget underspending at the end of the financial year”.<sup>42</sup> The Inquiry has considered the difficulties in the City’s capital expenditure in another Section of this Report.<sup>43</sup>
70. Mr Richards, Manager, Finance, gave evidence that the City “tolerated” instances where amounts budgeted to be spent on capital works were not spent:
- “... in my time at the City, there were a couple of times when we spent only roughly 50 per cent of our capital budget, so it was certainly tolerated. Personally, I don’t think that’s good enough.*
- What do you mean by that?---When you set the rates for the year, you’re effectively raising money to execute capital projects. So if you’re only executing 50 per cent of your capital projects, then the question becomes, are you over-rating?”.*
71. He further explained:
- “What happens to that under-spend is it goes into reserve so those reserves are used to fund future years but there’s a level of reserves that’s – if you consistently under-spend, you’re just going to build the reserves up to a level which you never really spend.*
- ...
- I think in very simplistic terms, if you’re raising revenue based on executing a capital program and you’re consistently not delivering that capital program, then you have to start thinking about how you’re setting your rates or how you’re setting your capital program, whether you are being over-optimistic in what you can achieve”.*<sup>44</sup>
72. Based on the information in Table 2.14 and Table 2.15, it is likely that the same outcomes and services could have been delivered by the City in each of the financial years, without the additional revenue effort through rates. The significant percentage of the underspend in each year, which was related to capital work projects, was the main contributing cause to the underspend.<sup>45</sup>

### City of Perth Parking

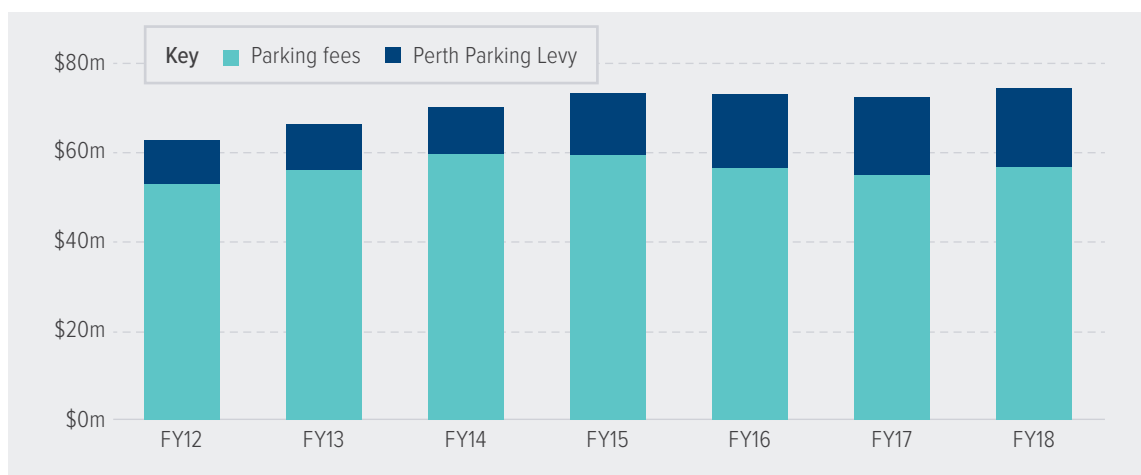
73. Parking fees were the second most significant source of revenue for the City. This revenue was primarily sourced through the City’s parking business, CPP. In 2018, this generated \$73.8 million in revenue, but \$17.7 million of this was paid as the Perth Parking Levy to the State Government.
74. CPP began operating commercially in the 1990s and during the period of the Inquiry’s Terms of Reference operated as a unit in the City’s Community and Commercial Services Directorate. CPP’s main responsibilities are on-street parking technology, revenue management, off-street parking facilities, financial control, operations and customer service.

75. The City operates 35 parking sites, with 10,500 parking bays under its management.<sup>46</sup> This is far more than any other capital city in Australia, none of which have more than nine carparks (Figure 2.26). Mr Nicolaou commented that the City “*has the most significant non-rates related business*” out of all capital city local governments in Australia.<sup>47</sup>



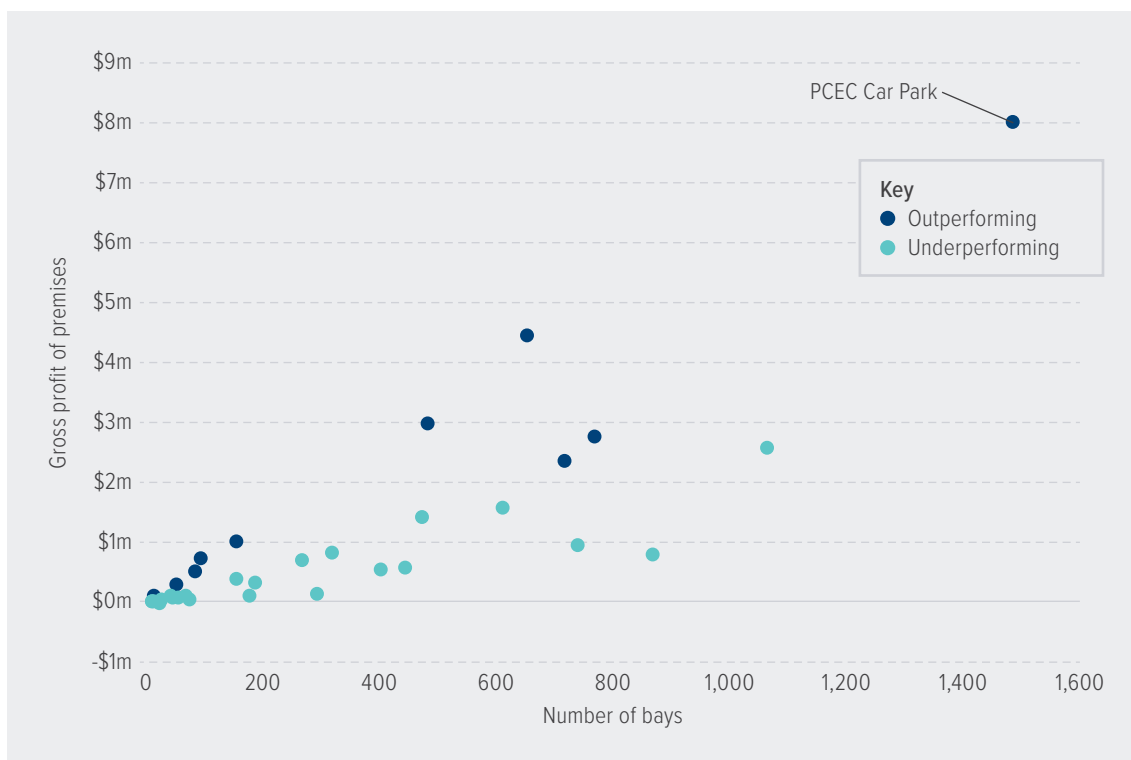
**Figure 2.26:** Capital City Local Government parking undertakings, number of premises (1st chart) and bays (2nd chart).

76. Although total parking revenue increased slightly over the period FY 2012 to FY 2018, because of the increase in the Perth Parking Levy, ACIL Allen found that the parking revenue received by the City had remained relatively steady since FY 2012 and decreased by 3.5 per cent since FY 2015 (Figure 2.27), before a slight increase in FY 2018.<sup>48</sup>



**Figure 2.27:** City of Perth parking revenue, parking fees vs Perth Parking Levy (\$ million).

77. ACIL Allen analysed the gross profit performance of various City-owned carparks (Figure 2.28). There was considerable variation between carparks, with the most successful, the Perth Convention and Exhibition Centre (PCEC) carpark, earning \$11.5 million in FY 2018. Two parking premises made a loss.<sup>49</sup>



**Figure 2.28:** Performance of City of Perth Parking portfolio in FY 2018, gross profit vs number of bays (\$ million) (performance benchmark is average gross profit per bay).

78. In FY 2018, the average level of gross profit per parking bay was \$3,128.00<sup>n</sup>. Of the City's 33 active premises, just 10 achieved this average level of performance, and accounted for a total of 68 per cent of the gross profit from the entire CPP off-street premises.<sup>50</sup>
79. ACIL Allen concluded:
- "... the CPP undertaking generated \$202.6 million of free cash for the City over the five year period where data was available. This accounted for approximately 21 per cent of the City's total free cash generated from operating activities between 2013–14 and 2017–18".<sup>51</sup>*
80. Mr Nicolaou was asked about the term "free cash flow" at his hearing and said:
- "So what we tried to calculate here was the gross profit of the City of Perth Parking business prior to all the internal recharges and the like. So it's really the amount of money that business makes available to the City of Perth for whatever strategic priorities there are at the time. So it's a significant cash flow generator for the City, generating what we estimate to be \$202.6 million of free cash flow".<sup>52</sup>*

<sup>n</sup> This figure is before internal City charges, but includes the Perth Parking Levy and Emergency Services Levy where applicable.

81. ACIL Allen considered it likely the availability of “free cash flow” generated by CPP played a role in the City’s high level of costs over the study period.<sup>53</sup>
82. Mr Mianich gave evidence that CPP “has acted largely as a cash cow for the Council to expend significant moneys on capital for the benefit of ratepayers that has largely been funded by the surplus cash flows out of the Parking business”.<sup>54</sup>
83. Mr Mileham told the Inquiry:
- “The parking business I believe when I took over [as CEO], was predominantly a P&L [profit and loss] business ... the parking business was run year to year to generate good margins, for want of a better term”.<sup>55</sup>*
84. However, Mr Mileham said, “I wouldn’t call [the CPP] a cash cow, I would call it a legitimate generator of revenue” and noted the role of the Perth Parking Levy in funding public transport services.
85. Mr Hammond indicated to the Inquiry that there was a “reliance upon parking revenue to fund the overall operations of sustainability of the City”. Mr Hammond described this reliance as:
- “a long-term cultural issue. It’s been prevailing for many, many, many years and that was, if you like, the sacred cow of revenue was the parking business, so don’t touch it because that’s keeping us afloat”.<sup>56</sup>*

#### Commercial enterprises – major trading undertaking

86. The LG Act provides that local governments may undertake commercial enterprises if certain conditions are met.
87. Section 3.59(1) of the LG Act defines such a commercial business or enterprise as a “trading undertaking” and this includes “an activity carried on by a local government with a view to producing profit”.
88. A “major trading undertaking” for a metropolitan local government is defined as being \$5 million or more by regulation 9 of the *Local Government (Functions and General) Regulations 1996* (Functions and General Regulations).
89. Where a local government commences or continues<sup>57</sup> to operate a “major trading undertaking” it must prepare a business plan. A local government that carries on a “major trading undertaking”, must prepare a business plan.<sup>58</sup> The LG Act provides for the Council decision to operate the undertaking, the content of the business plan and its availability to the public. The business plan must include, among other things, an overall assessment and details of the undertaking and the undertaking’s expected financial effect on the local government.<sup>59</sup>

90. A local government can only continue carrying on a major trading undertaking if it has complied with the requirements to prepare a plan.
91. Given the evidence of Mr Mianich, Mr Mileham and Mr Hammond,<sup>o</sup> along with the financial data analysed by ACIL Allen, it is apparent that the City has continued to operate CPP *“with a view to producing profit”*. The Inquiry is satisfied the CPP was a *“major trading undertaking”* within the meaning of the LG Act.
92. As the CPP was a *“major trading undertaking”*, it was required to have a business plan. Mr Mileham gave evidence that *“a due diligence process which looked top to bottom at the CPP”* asking *“what is that business and what are its costs, what are its revenue ... had never, in my view, been done or certainly hadn’t been done in the last 15-odd years”*.<sup>60</sup>
93. Mr Mileham was of the view that whether or not a business plan was a statutory requirement, the CPP needed a business plan and a strategy going forward.<sup>61</sup>
94. It appears that a business plan was not prepared, because the City considered the requirement to prepare a business plan would not apply to the CPP, as it was operating before the enactment of the LG Act.<sup>62</sup> This was not the case as transitional provisions of the LG Act applied.<sup>63</sup>
95. The City’s *“Organisational Capability and Compliance Assessment Report”* prepared by Deloitte in June 2017 (Deloitte Report), identified that the City had been in breach of the requirement to prepare a business plan for the CPP since 1997. The Deloitte Report stated that *“The City’s staff are intending to address this compliance issue via the development of a CPP business plan”*.<sup>64</sup>
96. During the Inquiry’s Terms of Reference period, the City did not have a business plan in accordance with the LG Act and regulations.
97. Each calendar year a local government is required to carry out an audit of its compliance with statutory requirements under the LG Act and regulations. The statutory Compliance Audit Return (Return) is considered annually by the Audit Committee and adopted by Council, before the CEO and the Lord Mayor certify it and submit it to the Department.<sup>p</sup>
98. There were four Returns submitted by the City to the Department that relate to the Inquiry’s Terms of Reference period. The disclosures for the section *“Commercial Enterprises for Local Government”* were examined by the Inquiry. The Return required the City to respond to the question *“Has the local government prepared a business plan for each major trading undertaking ...”*.<sup>65, (q)</sup>
99. In 2015 and 2016, the City submitted a response of *“N/A”* and that they had *“No major trading undertakings in 2015”*. The Return was signed by the CEO, Mr Mileham and the Lord Mayor, Ms Lisa Scaffidi, on 26 March 2016.

<sup>o</sup> Paragraphs 87-90 of this Section.

<sup>p</sup> *Local Government (Audit) Regulations 1996*, reg 14, 15(2), 16. The audit covers the period 1 January to 31 December with the Compliance Audit Return to be submitted to the Department by 31 March each year.

<sup>q</sup> The question in the Compliance Audit Return refers to ‘s 3.59(2)(a)(b)(c)’ and ‘F&G Reg 7, 9’.

100. In 2017, the City submitted their response also as “N/A”. However, it stated:
- “A draft report was prepared in 2017 in relation to a business plan for City of Perth Parking, however, this report was not endorsed by Council in 2017. This business plan is in response to a finding from the Organisational Capability and Compliance Assessment completed by Deloitte and reported to Council in June 2017”.<sup>66</sup>*
101. The return was signed by the CEO, Mr Mileham, and the Chair Commissioner, City of Perth, Mr Eric Lumsden, on 27 March 2018.
102. The Inquiry obtained documents that indicated the CPP business plan was delayed in being presented to Council in 2017 by the CEO and this was because of “*political uncertainty*”.<sup>67</sup> Mr Mileham was asked about the lack of a business plan for the parking business, as required by the LG Act. It was put to him that a business plan had been prepared at one stage but he had withdrawn it from a Council agenda in October 2017. He said he had no recollection of doing that but if he had it would have been because he was not satisfied with the report. Mr Mileham denied that he had withdrawn the report because it was a Council election month and there were political reasons not to put the report before Council.<sup>68</sup>
103. The certified 2018 Return<sup>69</sup> stated the City had prepared a business plan for CPP in 2018.
104. The City’s Commissioners, at their 28 March 2018 meeting, qualified their adoption of the 2018 Return, noting, “*The City of Perth car parking operations **are not covered by a duly approved and Council endorsed business plan** as is required by Section 3.59 of the Local Government Act 1995*”.<sup>70</sup> [emphasis added]
105. The Inquiry finds that the City did not correctly answer Question 1 under the heading “*Commercial Enterprises for Local Government*” in its certified 2015 Return, 2016 Return and 2017 Return to the Department. The City should have answered ‘No’ on each of these Returns, as there was no business plan established and approved by Council for CPP in the 2015, 2016 and 2017 calendar years, as required by the LG Act and regulations.
106. In July 2018, the City developed and presented a draft business plan for the CPP to the Commissioners. That business plan was not endorsed by the Commissioners, because it did not address all aspects of the CPP business, including the current and future nett financial impacts on the City, strategic and operational risks, and the application of competitive neutrality principles.<sup>71</sup>

107. ACIL Allen noted that the draft business plan failed “to address many material aspects of the CPP business and its future”, including:

*“no consideration of the cost to serve, and so no consideration of the profitability and future risks to profitability of the CPP undertaking;*

*no forward capital works plan;*

*no statement of impact on the broader City’s finances, and the City-wide risks associated with over or underperformance of the undertaking”.*

108. Furthermore, it did not “address the requirements of the Act, as it [did] not provide consideration of risk, costs, competitive neutrality or impact on the City’s overall finances (except for revenue)”.<sup>72</sup> This is consistent with the evidence of Mr Hammond, who told the Inquiry:

*“The Business Plan that was submitted had estimated yearly revenue, gross revenue and that was it. So that is not a representation of the financial implications of the plan, it was a representation, according to the officer involved, that there was insufficient financial data in which to effectively prepare the financial income and expenditure for that Business Unit”.*

109. Mr Hammond explained he was a “strong advocate” for putting a business plan in place for CPP:

*“... not only for compliance but because that trading entity provided, from memory, 35 to 40 per cent of the City’s revenue, it was a considerable risk to the Council if we didn’t know what the nett proceeds were of that Business Unit after effectively taking into account organisational overheads that had been allocated”.*<sup>73</sup>

110. Mr Mianich candidly told the Inquiry:

*“I accept that I thought at the time it was probably, as I said, a bit light-on on particular financial projections but having said that, it was, I would hasten to add, largely being done for legislative compliance reasons rather than business planning reasons”.*<sup>74</sup>

111. It is almost incomprehensible that a business function which collected a substantial proportion of the City’s revenue had no business plan for more than 20 years. This is irrespective of whether the City was required by law to prepare such a plan. The Inquiry considers the failure to have a business plan for the CPP for such a long time to be a clear failure of good governance and sound financial management practices.

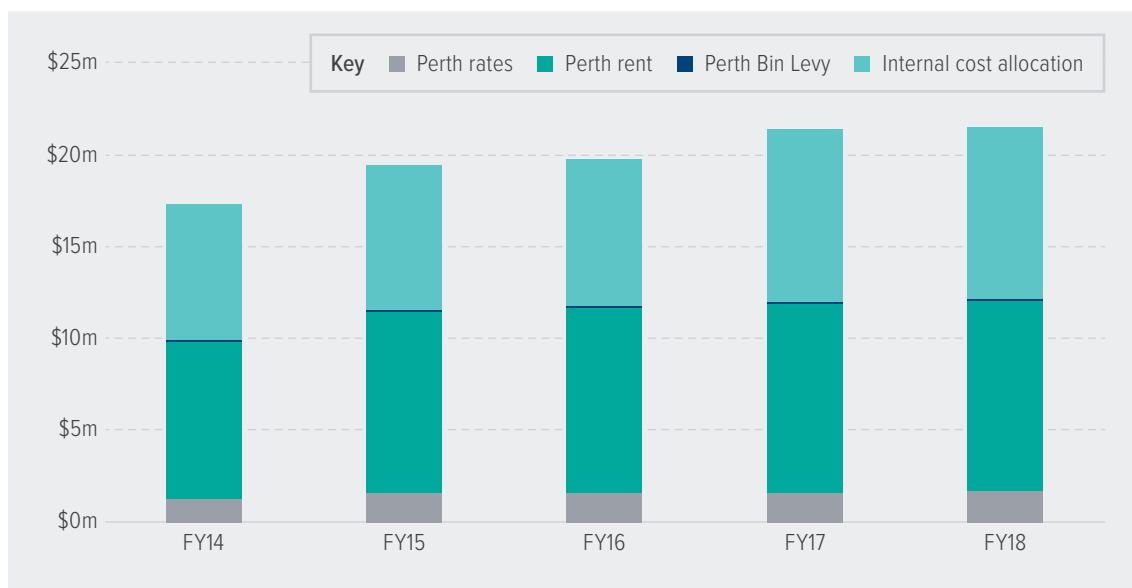
112. It is also concerning that when a business plan was finally prepared, it did not address material aspects of the business and was done largely to comply with legislative requirements and not for any strategic or business planning. It was a business plan in name only, paying lip-service to an obviously important financial imperative.

### Competitive neutrality

113. As established, the CPP was and is a significant commercial business for the City and a major trading undertaking. This business also competes in a market where there are other private providers of the same service. By virtue of the statutory status of a local government, the City and its CPP business enjoyed and enjoys a competitive advantage, because there is no requirement to pay some of the same taxes and charges as a private business. The ACIL Allen Report explained that in 1995, as part of the National Competition Process, all State and Territory governments undertook to ensure that publicly owned businesses did not enjoy such a competitive advantage.<sup>75</sup> This is called the National Tax Equivalence Regime (NTER).
114. Mr Nicolaou was asked about this concept at his hearing:
- “How is it enforceable?---It’s enforceable by the Commonwealth State agreements at the time and I think National Competition Policy is etched in the operations of any public corporation now.*
- So essentially the idea is to level the playing field?---Essentially.*
- And you saw no evidence that the City had taken into consideration this competitive neutrality concept?---No, we weren’t able to observe any recognition or accounting of that implicit advantage that the parking business receives.*
- Should it have been?---It should. It’s a significant business, given the size of its cash flow generation and it does operate in a competitive market and with those competitors required to pay tax, as any organisation would.”<sup>76</sup>*
115. The ACIL Allen Report further states:
- “... the City was unable to produce any documentary evidence that suggested it was familiar with the NTER or had an appropriate policy surrounding application of NTER principles. It may be that the internal rates and rents applied to the CPP business are simply mechanisms to transfer revenue from the CPP business to other aspects of the City’s operation. In addition, the City is not explicitly accounting for the largest of the NTER-related competitive neutrality concerns in its financial system, being company income tax. This puts the City’s parking businesses in a position of advantage over private sector providers.”<sup>77</sup>*
116. In short, there was nothing to indicate to ACIL Allen that the City considered competitive neutrality concerns or principles in operating the CPP. According to ACIL Allen, this put the City in a position of advantage over private sector parking businesses. These businesses are subject to company income tax, land tax on any premises they own, and they pay rates to the City either directly on properties owned or indirectly through lease arrangements.<sup>78</sup>

### Internal costs attributed to City of Perth Parking

117. ACIL Allen found that the CPP seemed to have a high level of internal costs allocated to it (Figure 2.29<sup>79</sup>). The City's internal costs are allocated to business units using activity-based costing approach.



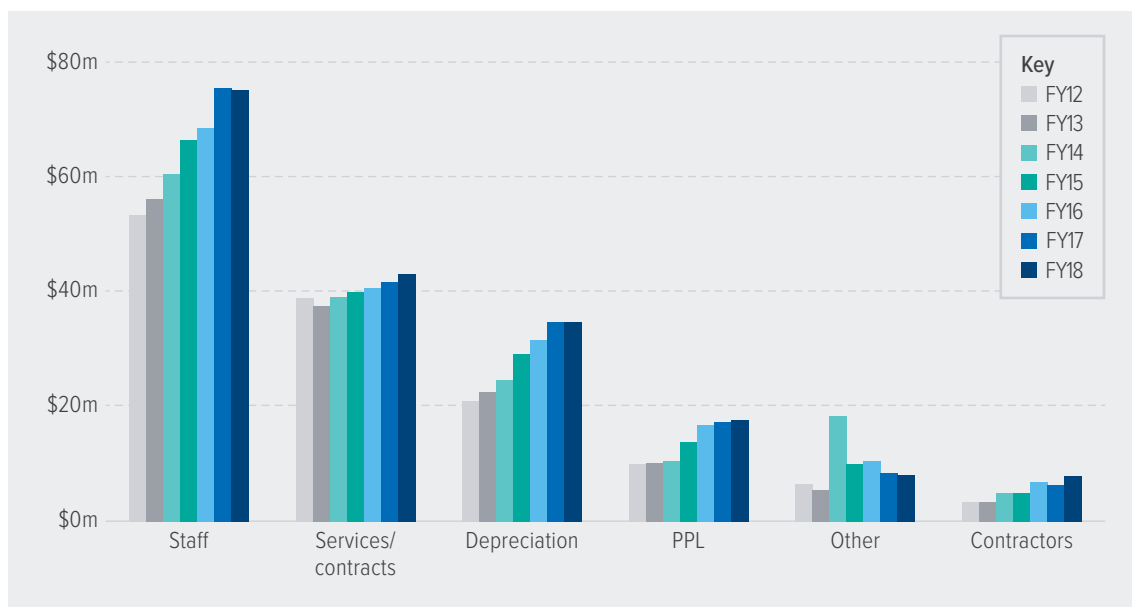
**Figure 2.29:** City of Perth Parking indirect costs between FY 2014 and FY 2018.

118. Mr Nicolaou said:
- “... there has been an increase in indirect cost allocation to the City of Perth Parking business at a time when the business itself has been broadly flat in terms of its overall performance. So what we see here and the trends are showing in aggregate, that internal expenditure allocations increased by \$4.3 million from \$17.3 million in 2013/14, to \$21.6 million in 2017/18, an increase of 25 per cent.”<sup>80</sup>*
119. Further, ACIL Allen found that increases in indirect cost allocations occurred when the direct expenditure by the CPP was broadly unchanged.<sup>81</sup>
120. In his evidence before the Inquiry Mr Mianich gave his view that “*in terms of materiality*”, the increase in indirect cost allocations was “*neither here nor there really*”, because “*It’s \$4 million in a business that’s turning over 70*”.<sup>82</sup> Given the evidence in the preceding paragraphs and the other evidence before the Inquiry, the Inquiry does not accept that view.
121. Mr Nicolaou explained:
- “Typically businesses would use an activity based cost model [to allocate internal costs]. Good practice dictates that, where you allocate based on an agreed methodology, internal costs to different businesses based on an agreed approach, whether it be the size of the business, the floor space in a building, it could be a variety of different factors that help you understand what internal costs should be allocated to a different business line ... broadly speaking, they should be allocated in a way that reflects their use.”<sup>83</sup>*

122. ACIL Allen requested, but the City's staff were unable to provide, a policy document which outlined the rationale and methodology for allocating expenditure between the City's business units.<sup>84</sup> This was despite internal cost allocations being a significant part of the City's financial framework, with the City's expense allocations averaging 58 per cent of its total expenditure over ACIL Allen's study period.<sup>85</sup> Given the size of the City, Mr Nicolaou was surprised that the City's methodology for allocating costs was not available.<sup>86</sup>
123. ACIL Allen formed the view that the absence of any documents explaining the basis for the City's internal cost allocations "*suggest the City's approach to [activity based costing] is not based on sound principles, and appears to be instead used as a tool to undertake cost-shifting across the organisation*".<sup>87</sup> Mr Nicolaou explained without a sound methodology to allocate internal costs, there is a risk that internal costs could be used to hide underperforming businesses within an organisation.<sup>88</sup>
124. In his evidence before the Inquiry, Mr Mianich denied that overheads may have been allocated to the CPP to improve the financial position of other directorates. Mr Mianich thought there were "*probably some logical reasons why that cost allocation has increased*" and provided hypotheses as to why allocations from other Units may have increased. However, other than to hypothesise, Mr Mianich was unable to provide a properly detailed explanation for why indirect cost allocations to the CPP were appropriate.<sup>89</sup>
125. According to Mr Mianich, there was "*quite comprehensive documentation going back a number of years as to the basis of how you would allocate overheads*". He indicated that the document was "*largely followed*" by the Finance unit responsible for allocating overheads. Mr Mianich gave the example of Mr Neil Jackson, a Capital Accountant with the City, as someone who would have definitely be aware of that document.<sup>90</sup> However, it is apparent from the ACIL Allen Report that Mr Jackson was not aware of it.<sup>91</sup>
126. It is concerning that at least one member of the City's Finance unit who should have been aware of this document, was not aware of it.
127. Based on the evidence before it, the Inquiry is not satisfied that the City had appropriate methodology and rationale for allocating internal costs. The Inquiry considers there is a risk that the allocation of costs to the CPP may have been disproportionate and hid the underperformance of other business units within the City.

## Expenditure

128. As a local government, the City has a range of services it is required to provide by law. These include waste collection, maintenance of public areas and parks, on-street parking services, building and food service activity approvals and application of other regulations, such as signage. In addition, the City provides a range of other services and conducts a number of additional activities, which are more in keeping with its role and ambition as a 'capital city' local government – including hosting and administering significant events, economic development and promotion activities, international engagement, sustainability and support for businesses.
129. The City organises itself in a range of directorates and business units, which have undergone a number of changes over the years. In addition, the City undertakes a large-scale and complex cost allocation exercise across each of its business units.
130. Overall, the City's total operating expenditure increased from \$140.6 million in FY 2012 to \$193.8 million in FY 2018, with annual average growth of 5.6 per cent over the study period.
131. Expenditure growth has been driven almost entirely by four expenditure groups (Figure 2.30) – staff expenditure (up \$22 million), depreciation expenses (up \$13.6 million), the Perth Parking Levy (up \$7.8 million) and contract labour expenditure (up \$3.2 million) over the study period.

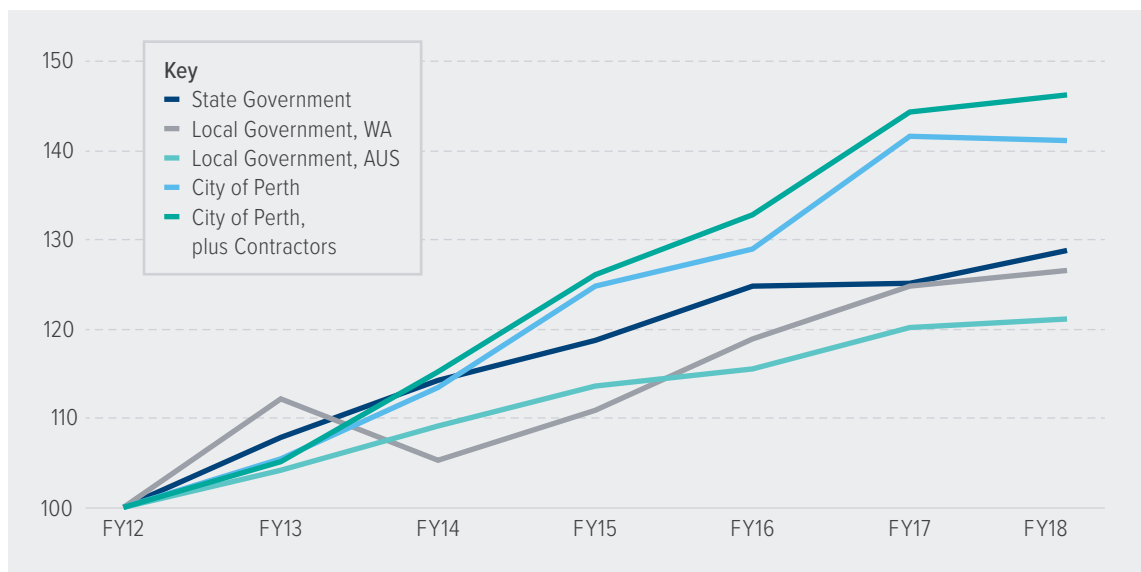


**Figure 2.30: City of Perth's annual operating expenditure, by category, expenses >\$5 million (FY 2018), \$ million, FY 2012 to FY 2018.**

132. Other costs also increased during the period of the Inquiry's Terms of Reference. The City's use of professional services contracts doubled and the City's expenditure on external legal advice increased, with total expenditure on legal fees averaging \$525,000.00 per annum.<sup>92</sup>
133. Staff and contract labour were the largest expenditure categories for the City and this has been examined further by the Inquiry.

### Staff and contract labour

134. Staff costs were the largest expense for the City.
135. These costs accounted for 41 per cent of expenditure between FY 2012 and FY 2018, growing from \$53.4 million to \$75.4 million, an increase of \$22 million.<sup>93</sup> At the same time, contract labour expenditure (namely, the City's expenditure on contractors and labour hire) also grew from \$3.5 million to \$7.7 million between FY 2012 and FY 2018, an increase of 124 per cent. Contract labour hire is often used by organisations to supplement an existing workforce in order to deliver services.
136. When combined, staff and contract labour costs together accounted for 47 per cent of the City's total expenditure (excluding the State Government levies) in FY 2018.<sup>94</sup> These costs grew from \$56.8 million to \$83.1 million between FY 2012 and FY 2018, an increase of 46 per cent.
137. ACIL Allen found the City's labour expenditure increased at a faster rate than publicly available benchmarks over the study period.<sup>95</sup> It rose 13.5 per cent faster than the State Government's direct employment costs, 15.6 per cent faster than other Western Australian local governments and 20.7 per cent faster than the local government labour expenditure at a national level (Figure 2.31). If the City had contained labour costs to the average local government labour expenditure benchmark for Western Australia, employment costs would have been \$40.4 million lower over the study period, and \$11.3 million lower in FY 2018 alone.



**Figure 2.31:** City of Perth labour expenditure index, versus overall Local and State Government benchmarks, Index; FY12=100.

138. ACIL Allen specifically noted there was strong growth in the City's expenditure on contractors and labour hire *"despite the City's expenditure on direct staff costs increasing at rates well in excess of a range of public sector staffing benchmarks"*.<sup>96</sup>

139. Mr Mianich and Mr Mileham noted that ACIL Allen’s data on staff costs would have included approximately \$7 million in termination payments, including payments to employees arising out of the 2015 restructure.<sup>97</sup> Mr Mianich gave evidence that termination payments were always excluded from analysis that was presented to Council on staff costs, because Mr Mianich felt it was *“a little misleading to present staff cost numbers ... without excluding, there were one-off termination costs”*.<sup>98</sup>
140. The Inquiry does not agree it was appropriate for these costs to be excluded. Costs arising from the termination of employees were legitimate employee costs to the City that should have been reported to Council, even if in Mr Mianich’s view that might have *“biased the data to higher cost”*.<sup>99</sup>
141. ACIL Allen acknowledged that its data on staff costs included redundancy payments arising out of restructures. That inclusion, along with the City’s lack of long-term records of its numbers of employees and contractors, made it challenging for ACIL Allen to track the *“underlying growth”* in the City’s employment costs.<sup>100</sup>
142. The Inquiry has been unable to verify Mr Mianich’s and Mr Mileham’s evidence on the approximate quantum of those payments. However, even if that evidence is accepted and the data adjusted, the City’s labour costs nevertheless increased by \$19.3 million over the study period. Further, it is clear from the ACIL Allen Report that the City’s labour costs were growing *before* the restructure was implemented in FY 2015 (Figure 2.30 and Figure 2.31). Each of the City’s five directorates increased their direct staffing costs over the study period.<sup>101 r</sup>
143. Mr Mileham and Mr Mianich both gave evidence that to control staff expenditure, the practice was implemented where any requests for additional staff had to be approved by the Executive Leadership Group (ELG) and the CEO.<sup>102</sup> However, Mr Mianich conceded that, based on ACIL Allen’s data, this was not effective in reducing the City’s staff costs.<sup>103</sup>

### Overall financial performance assessment

144. One of the principal findings made by ACIL Allen was that the City’s operational performance was deteriorating each year in the study period, with progressively narrower operating surpluses recorded on account of strong growth in expenditure and more modest growth in own-source revenue.
145. However, ACIL Allen noted that the City remained in a very strong financial position overall. According to its 2018 Annual Report, and a detailed balance sheet made available, the City held some \$114 million in cash or liquid financial assets and had a fixed asset base of in excess of \$1.1 billion, with no material liabilities carried against them. In addition, its taxing powers provided a certain revenue stream of close to \$90 million per annum, regardless of any other supplies or services it elected to provide.

r Note that the Economic Development and Activation Directorate was created following the 2015 restructure and its employment costs prior to FY 2015 were zero.

146. ACIL Allen summarised:

*“However, the City’s financial position is not guaranteed, nor should a strong balance sheet preclude it from ensuring it provides the most efficient and effective services (with an efficient revenue raising framework) for its residents and businesses”.*<sup>104</sup>

### Financial governance

147. Financial governance and reporting are important to a local government. It assists Council, its committees, the CEO and the City’s management to manage the strategic and operational decisions of the local government.

148. Crowe observed in their report:

*“... the City’s financial management is characterised by a transaction-based approach focussing on statutory compliance rather than an effective corporate services function providing valuable financial inputs into strategic decision-making”.*<sup>105</sup>

149. Good financial governance depends on having good information on which to base decisions. This information must record the true costs of the functions and activities of the organisation, in order to assess its performance.

150. Without this information, inefficiencies can be covered up. Business units could be underperforming and create a risk for the organisation, which is not identified.

151. In a situation like that of the City, where there is a source of “free cash flow” generated by CPP, there may not have been a need to focus closely on expenditure. Therefore costs, especially staff costs, may have grown to an unsustainable level without being properly examined.

152. In this regard, Mr Nicolaou said:

*“... what we observed through the whole study was that expenditure had been growing at a much faster rate than revenue, own source revenue of the City of Perth, and that had been going on over the entirety of that assessment period, and that’s unsustainable longer term, but when you have a business that generates so much cash flow, it can mask any of these emerging pressures that can occur from a financial point of view and that’s what we observed there and why maybe – we weren’t able to test this specifically with staff or the like – maybe why there wasn’t that sharp focus on expenditure control during that assessment period”.*<sup>106</sup>

153. What was and is needed, both in relation to revenue and expenditure, is a single view of the organisation from a financial governance point of view.

154. In commenting on the organisational structure, Mr Nicolaou said:

*“... 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, which was surprising and 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”.*<sup>107</sup>

155. This view was consistent with the evidence of Mr Mianich, who considered CPP did not engage with and wanted to be independent of the City's Finance unit. That led to tensions between the CPP's financial staff and the Finance unit, particularly when the latter wanted to extract financial data from CPP.<sup>108</sup>

### Key performance indicators

156. Use of key performance indicators (KPIs) assist Councils and CEOs in monitoring and improving service delivery by organisations. Effectiveness and efficiency indicators are the most common types of indicators. Financial indicators form part of a local government's accountability and good government.
157. KPIs enable sound judgements to be made about the performance of the local government. These judgements are made by ratepayers, council members, residents, the CEO and Administration as well as Federal and State Government. KPIs can also assist when making policy decisions affecting their constituents.<sup>109</sup>
158. In Western Australia, the legislation specifies seven indicators of financial performance which councils must include in their financial reports, namely: current ratio; asset consumption ratio; asset renewal funding ratio; asset sustainability ratio; debt service cover ratio; operating surplus ratio and own source revenue coverage ratio.<sup>110</sup>
159. Mr Nicolaou indicated that the City needs to have a good understanding of its cost base. The *"fact that there was not some adequate or any KPIs associated with, from a financial point of view, the cost of the business, that was a concern from our perspective"*. He added:
- "There certainly didn't seem to be the focus on expenditure or an expenditure control as part of good financial management, from our observations. There were KPIs that were put in place, they were KPIs that are required of Local Governments such as the City of Perth, so they are following what they have been tasked to do but one of the gaps that we observed in the range of KPIs that are used by the City is that none of them really tackle one of the key issues faced by any organisation, which is cost control".<sup>111</sup>*
160. ACIL Allen also considered the financial KPIs used by the City and compared them to those used by similar local governments in other states. Mr Nicolaou gave evidence that it was good practice for government bodies to have efficiency KPIs but *"there was no focused efficiency indicator that they deploy to measure how efficient the City of Perth is in delivering its services to the community"*.<sup>112</sup> That was of concern to ACIL Allen.
161. Mr Mileham gave evidence there was not enough focus on efficiency in the City's KPIs.<sup>113</sup> Mr Mianich thought the City *"could have possibly explored additional KPIs in relation to expenditure, expenditure level and growth"*.<sup>114</sup>
162. When combined with the 2017/2018 audit findings of the Auditor General<sup>s</sup> and the evidence by Mr Nicolaou, the Inquiry finds that the City was not able to report consistently on its statutory financial ratios. In addition, the lack of other KPIs meant that services were not appropriately monitored for performance and financial implications.

<sup>s</sup> Paragraphs 211-214 of this Section.

### Financial management reviews

163. The legislation places obligations on CEOs to ensure that reviews of key aspects of financial governance occur as a means of providing assurance over the systems and processes. The CEO is required to undertake a review of the appropriateness and effectiveness of the City's financial management systems and procedures<sup>115</sup> and a review of the appropriateness and effectiveness of the City's systems and procedures in relation to risk management, internal control and legislative compliance.<sup>116</sup> The CEO is required to report to the Council's audit committee on the results.
164. The Inquiry sought records from the City in relation to the CEO's compliance with regulation 5(2)(c) of the Financial Management Regulations. In a response to a Notice to Produce a Statement of Information, the City advised that no reviews complying with this regulation were conducted during the period of the Inquiry's Terms of Reference.<sup>117</sup> There is nothing in the City's records management system to indicate that a review had been conducted.<sup>118</sup>
165. Mr Mileham was shown, during his public hearing, regulation 5(2)(c) of the Financial Management Regulations. He was asked whether he had ever, during his time as CEO, undertaken a review of the appropriateness and effectiveness of the financial management systems and procedures of the local government. Mr Mileham gave evidence that *"I don't think I hit the timeframe"* but referred to the Deloitte Report produced during his time as CEO as a review that made recommendations in relation to the City's financial management systems.<sup>119</sup>
166. The Deloitte Report considered the City's compliance with legislation, the extent to which the City delivered rigour and transparency in its decision-making controls and risk management and whether the City had the right capabilities to deliver the best value for stakeholders. In assessing the City's capabilities Deloitte conducted a *"diagnostic assessment"* of the City's Finance function, which defined the level of *"capability maturity"* in Finance and identified measures to increase Finance's capability.<sup>120</sup>
167. Consequently, the Inquiry considers that the Deloitte Report did review the appropriateness and effectiveness of the City's financial management systems and procedures. However, it appears from Council minutes the Deloitte Report was not commissioned or presented to Council for the purpose of complying with regulation 5(2)(c) of the Financial Management Regulations.<sup>121</sup> That is a failure of governance.
168. It was Mr Mileham's statutory responsibility to undertake this review and report the results of the review to Council. Notwithstanding that, Mr Mianich, as the Director responsible for Governance and Finance since 2005, should have ensured Mr Mileham was aware of that responsibility.

### Integrated Planning and Reporting Framework

169. Legislative changes in 2011, introduced a requirement for all local governments to develop and adopt a *"plan for the future"* by the preparation of an Integrated Planning and Reporting Framework (IPR Framework) for establishing local priorities and linking this information to operational functions.<sup>122</sup>

The core components of the IPR Framework are:

- Strategic Community Plan;
- Corporate Business Plan;
- Informing strategies;
- Long Term Financial Plan;
- Asset Management Plan;
- Workforce Plan;
- Issue or Area Specific Plans; and
- Annual Budget.

170. The IPR Framework is cyclical, commencing with the development of the Strategic Community Plan, which includes the community's long-term and medium-term aspirations. The medium-term priorities form the front end of the Corporate Business Plan, with the desired work programme being developed and costed.
171. The *Local Government (Administration) Regulations 1996* require a Council to consider a Strategic Community Plan and Corporate Business Plan, or modifications of such a plan, submitted to it and it is to determine whether or not to adopt the plan or the modifications. An absolute majority is required.<sup>123</sup>
172. An outline of the City of Perth IPR Framework is contained in the “*City of Perth Annual Report 2017/18*” (Figure 2.32).<sup>124</sup>



Figure 2.32: City of Perth Integrated Planning and Reporting Framework.

173. ACIL Allen reported that there was “*Limited integration*” of the City’s IPR Framework’s planning documents. In commenting on this, Mr Nicolaou said while the planning documents “*ticked the boxes in terms of its requirements under the Act*”:
- “... there just didn’t seem to be the integration of those planning documents between the very high level, the 10 year plans, right down to the annual budgets and then the documents that sit under that. So without those linkages, and those linkages ultimately come together through financial forecasting, without that then they have limited value as a tool to govern the performance of the City of Perth.”*<sup>125</sup>
174. ACIL Allen also indicated that it was unclear whether it was “*an effective tool to guide decisions by the City*”.<sup>126</sup>
175. Mr Nicolaou also said:
- “We weren’t able to observe any long-term financial forecasting that had the application or the detail necessary to link to long-term plans of the City of Perth from a strategic point of view. So if you have a strategic planning document that has some very good messages around visionary – very good visionary components to it but without the way to execute that plan and without the funding allocated to the actions to do that, then you’re not going to see the success come through in terms of the outcomes.”*<sup>127</sup>
176. Crowe summarised the problem in the following way:
- “Other reviews undertaken by consultants identified that the Strategic Community Plan and the supporting Corporate Business Plan do not effectively capture the organisation’s strategy. The Strategic Community Plan lacks a clear and complete articulation of the City’s strategic choices, priorities and targets. A decision was previously taken to exclude “business as usual” activities from the Strategic Community Plan and the Corporate Business Plan. Consequently, the documents do not explicitly define the contribution of all business units to the organisation’s strategic priorities, nor define and prioritise specific objectives for each business unit. The integration and linkage between the Strategic Community Plan, Corporate Business Plan and business unit level strategies is not explicitly articulated.”*<sup>128</sup>
177. Mr Mileham gave evidence the City “*had come from a very low base*” in relation to its IPR Framework and “*had more work to do to integrate all the planning documents*”. Mr Mileham compared the City’s progress on the IPR Framework to a half-built jigsaw puzzle.<sup>129</sup>
178. Mr Mianich accepted that the integration of planning documents “*was an area that the City needed to do more work in*” and was still a work in progress. Mr Mianich did not agree that the City’s IPR Framework had limited value as a tool to govern the City’s performance.<sup>130</sup>

179. The Inquiry finds, based on the observations made in this Section on the City's plans, that there was insufficient integration of the City's strategic and planning documents during the period of the Inquiry's Terms of Reference. Planning documents lacked the necessary level of detail to articulate fully, cost adequately and ensure accountabilities for the strategies and deliverables within the plans. The Inquiry considers that it is likely that this failure made it more difficult for the City's leadership (that is, managers, directors and the CEO) to make decisions, and impaired the Administration's ability to provide good government for the City.

## Planning

### Strategic Community Plan

180. The Strategic Community Plan is the Council's principal strategy and planning document. The Strategic Community Plan is developed through community engagement and must set out the vision, aspirations and objectives of the community in the City for at least a ten-year period. In making the Strategic Community Plan the City was to have regard to, among other things, the capacity of its current resources and the anticipated capacity of its future resources.<sup>131</sup> It is the guiding document for the remainder of the IPR Framework.
181. The Deloitte Report found the Strategic Community Plan and the Corporate Business Plan did not effectively capture the City's strategy, for three reasons:
- *"Business as usual"* activities were excluded from the plans. This meant that they did not explicitly define the contribution of all business units to the City's strategic priorities and did not define and prioritise specific objectives for each business unit. Business units in the Community and Commercial Services Directorate, for example, independently developed strategies to fulfil their operational requirements, but these strategies were not expressly aligned to the Strategic Community Plan.
  - Most business units did not have specific targets included in the Strategic Community Plan and Corporate Business Plan. As a result, managers within the City tended to view both plans as too broad, not directly actionable or irrelevant.
  - The Strategic Community Plan, Corporate Business Plan and business unit strategies were not integrated. Business unit strategies were developed in isolation with limited or no collaboration with other business units within the City. The City's strategies did not resolve trade-offs or conflict between competing priorities of different business units.
182. Deloitte concluded, as a consequence, that as at June 2017 the City's planning and strategy documents did not provide the clarity needed for leaders to make business decisions within the City. In the absence of a clearly defined organisational strategy, the City could not effectively prioritise and manage its portfolio of services and investments.<sup>132</sup>

### Corporate Business Plan

183. The City's Corporate Business Plan is a planning document that, consistent with its Strategic Community Plan, sets out the City's priorities for dealing with the community's objectives and aspirations. It governs the City's internal business planning by expressing the City's priorities by reference to operations within the capacity of the its resources. The Corporate Business Plan must develop and integrate the City's Workforce Plan, Long Term Financial Plan and the Asset Management Plan.<sup>133</sup> The Corporate Business Plan is to cover at least a four-year period and must be reviewed every year.<sup>134</sup>
184. Crowe examined the City's Corporate Business Plan and observed:
- "Whilst the way each local government lays out its Corporate Business Plan is highly discretionary, we found the City's Corporate Business Plan is devoid of key information, which does not enable ratepayers to understand how the City will fund its future commitments.*
- Whilst there is an overall financial forecast in the Long Term Financial Plan for each financial year, what is missing in the Corporate Business Plan is the analysis of cost for each strategy or enabling initiative. It appears this information was not included in the Corporate Business Plan because:*
- 1. The lack of appropriate overhead allocation model;*
  - 2. Immature asset management; and*
  - 3. Inadequate input into the formulation of the Corporate Business Plan by relevant stakeholders.*
- Moreover, the Corporate Business Plan lacks detail about the workforce plan".*<sup>135</sup>
185. The Crowe Report commented that its analysis of the 2015 and 2016 Corporate Business Plan revealed that these plans "... did not have key performance indicators that enabled Council and the community to monitor progress and impact". Crowe specifically referenced the Elizabeth Quay Project and observed that:
- "... the Corporate Business Plan should contain the requisite information elements in sufficient degree of granularity at one place, as required by the Department of Local Government and Communities' (as it was known) Integrated Planning and Reporting Framework Guidelines (September 2016), to enable the readers to appreciate the financial implications of the City's plans.*
- We consider the quality of the Corporate Business Plan is not commensurate with an operation of the scale and scope of the City, and not fully aligned to the intent of the requirements of the Integrated Planning and Reporting Framework".*<sup>136</sup>

186. Mr Mianich was responsible for the financial components of the Corporate Business Plan. Mr Mianich gave evidence to the Inquiry that there was no need to include financial data in the Corporate Business Plan, because that was not required by legislation, financial information was contained in the City's Long Term Financial Plan and the Corporate Business Plans of other local governments did not contain financial information.<sup>137</sup>
187. The Inquiry has not been greatly assisted by Mr Mianich's evidence on this issue. Even if it may not have been strictly necessary for the Corporate Business Plan to include financial data in order to comply with regulatory requirements, this does not mean that the Corporate Business Plan was appropriate or amounted to best practice given the scale and scope of the City's operations.

### Long Term Financial Plan

188. The Long Term Financial Plan is a key element of the IPR Framework that enables local governments to set priorities, based on their resourcing capabilities, for the delivery of Strategic Community Plan priorities.
189. The Long Term Financial Plan should include *"robust forecast budgets for four years accompanying the Corporate Business Plan"* to enable the development of annual budgets aligned with the local government's strategic objectives. It should also allow financial issues and their longer-term impacts to be identified early and highlight linkages between specific plans and strategies.<sup>138</sup>
190. ACIL Allen, however, found the Long Term Financial Plan:
- "... is of limited value as a planning document. It is a high level statement of the 10 year financial projections for the City, which is based on a series of high level assumptions that are not adequately reported in the Plan. The Long Term Financial Plan does not adequately articulate the business need to support these projections through more detailed projections of the City's revenue and expenditure projections by key business unit or Directorate. The Plan also does not provide any link to the City's other planning documents, particularly the Corporate Business Plan."*<sup>139</sup>
191. Crowe also noted that *"the City does not have the ability to accurately forecast and manage capital plan [sic] beyond the short-term"*. The City had a *"financial planning horizon"* of two years, but the Corporate Business Plan and Long Term Financial Plan required the City to plan, among other things, its anticipated capital expenditure four years and 10 years in advance.
192. Crowe considered that the City was limited in its ability to plan capital expenditure, because of its limitations in relation to project management and asset management. Furthermore, Crowe observed that the City's weaknesses in asset management *"reduce[ed] the City's ability to perform long term strategic asset planning with any degree of accuracy"*.<sup>140</sup>

193. Crowe noted that a key risk for the City arising out of its inability to accurately forecast its capital expenditure was the inadequate analysis, design or delivery of capital initiatives, which could result in additional expenses or time delays.
194. In this respect, Crowe noted in relation to one year's Long Term Financial Plan that there was no reference to the City's proposed implementation of an Integrated Parking Management System equating to \$17 million over two years.<sup>141</sup> In total, there were additional material adjustments of approximately \$45 million.<sup>t</sup>
195. The result of such adjustments, when combined with other errors,<sup>142</sup> was that the City's reserves fell to \$27 million from \$60 million and its cash fell from \$80 million to \$45 million. Crowe indicated that the *"magnitude of corrections is significant"*. The City would be at risk of experiencing liquidity issues if these issues were not properly managed. Crowe considered this was an example of how *"the consequences of inadequate financial planning could be high for an organisation of the scale, scope and complexity such as the City"*.<sup>143</sup>
196. This was consistent with the evidence of Mr Jorgensen, who told the Inquiry that the City's IPR Framework documents did not have *"reliable, long-term financial projections ... that were robust"*.<sup>144</sup>
197. In his evidence before the Inquiry, Mr Mianich agreed these adjustments to the Long Term Financial Plan were material and significant, but denied they were errors, on the basis that the Long Term Financial Plan was an *"iterative document"* to which changes were regularly made. Mr Mianich *"totally"* disagreed that these adjustments represented a failure of the City's processes and systems.<sup>145</sup>

### Workforce Plan

198. The City's Workforce Plan outlines the required resources, capabilities and competencies the City requires to deliver the objectives and initiatives in the Corporate Business Plan. It should also articulate the desired organisational culture, the organisational structure; and recruitment and retention strategy to support a productive and inclusive workforce.<sup>146</sup>
199. ACIL Allen found that one of the City's Workforce Plans was:
- "... of limited value as a planning document. It is a high level statement of projected workforce requirements by Directorate over the period between 2017 to 2021, but it does not adequately articulate the business need over this period; nor does it provide any link to the City's budget or Corporate Business Plan"*.<sup>147</sup>

<sup>t</sup> Report, Crowe, Review of Governance and Financial Matters, August 2019. This included *"Additional Core Systems costs of \$13.5 million (over four years); Increased costs of Perth Convention Centre Carpark subsidence works by \$5 million to \$25 million; Increased costs of IPMS by \$6 million to \$17.7 million"*; and expenditure of \$6.5 million in FY 2019 and \$10.5 million in FY 2020. Email, D Richards to R Mianich, 4.42 pm, 7 September 2018.

### Asset Management Plan

200. The Asset Management Plan provides guidance on the management of the City's assets from a "whole of life" cycle, including the services that will need to be provided, to inform the City's financial sustainability and service levels.
201. ACIL Allen found the City's Asset Management Plan:

*"... is of limited value as a planning document. There is very little detail presented in the Plan to allow for an adequate assessment of the City's maintenance requirements or future capital requirements. Significantly, the Corporate Asset Management Plan does not provide any link to the City's other planning documents, particularly the Long Term Financial Plan, Corporate Business Plan or Strategic Community Plan".*<sup>148</sup>
202. Mr Mianich conceded there was insufficient integration between the Asset Management Plan and the Long Term Financial Plan and the City had not previously invested appropriate resources into asset management. However, Mr Mianich gave evidence that this was an area in which the City had significantly improved since the restructure in 2015.<sup>149</sup>
203. The City's Commissioners, at their 28 March 2018 meeting, noted *the City "does not have the functional or integrated asset management strategy that carries the level of financial detail necessary to accurately inform its medium and long term financial planning functions"*.<sup>150</sup>

### Annual Budget

204. The Annual Budget is an annual detailed financial plan covering all aspects of a Council's operations and should reflect the resources generated by way of revenue and the resources consumed by way of expenditure. It is also the basis for the setting of rates and other fees and charges. The Annual Budget is guided by the Corporate Business Plan. Each year, an annual review is also undertaken as required by the LG Act.
205. Crowe outlined the City's annual budgeting approach:

*"The City has a decentralised budgeting process whereby the individual Directorates and Business Units develop their own budget estimates within the guidelines established by Finance".*

*"The responsibility of assessing the current operations in relation to priorities within the Strategic Community Plan and Corporate Business Plan rests with the Directors and Business Unit Managers".*

*"Operational budget estimates are limited by Council through the adopted budget parameters".*<sup>151</sup>
206. Consistent with other observations about the limitations of a siloed approach, a decentralised budgeting process is patently unsuitable for a large local government like the City.

## Reporting

### Financial Report

207. The Council prepares a Financial Report for the end of the financial year.
208. According to the Department, *“Financial Reporting is primarily aimed at external users for the purposes of accountability”*. The primary benefits are described by the Department in the following way:
- “The primary benefits of financial reporting are:*
- it makes the council accountable to the community for its financial management of local government operations; and*
  - it provides the community and other interested parties with access to information about the current financial status of the council and its operational performance for the period in question.*
- The purpose of financial reporting, or the preparation of annual financial statements, is to communicate information about the financial position and operating results of a council to those who need to know or have an interest in council operations”.*<sup>152</sup>
209. The Financial Report is to include: a Statement of Financial Position; Statement of Comprehensive Income by nature or type and by programme; Statement of Changes in Equity and Statement of Cash Flows; a Rate Setting Statement and *“seven financial ratios required under section 50(1) of the Local Government (Financial Management) Regulations 1996”*.<sup>153</sup>
210. The City’s Financial Report from 2017/2018 is audited by the State’s Auditor General.<sup>154</sup>
211. The Auditor General audited the City’s financial report for the year ending 30 June 2018. As the period 1 July 2017 to 1 March 2018 is within the period of the Inquiry’s Terms of Reference, the results of the audit are relevant. Importantly, the Auditor General found:
- In relation to the City’s financial ratios, “there were instances where the existing ratio calculations were not consistent with the information contained therein [in the Financial Report] or reporting requirements”. A moderate finding was made, meaning it was of sufficient concern to warrant action being taken by the entity as soon as practicable. Accordingly, the Auditor General recommended that “Ratios should be reported consistently and in accordance with the Local Government (Financial Management) Regulations 1996”.*
  - The “City’s accounting records, supporting schedules, documents, and other files (including a finalised trial balance and draft financial statements) were not finalised and were not in a position for audit commencement”. In short, they were not ready for auditing by 30 September 2018. A moderate finding was also made. The Auditor General recommended a “more rigorous process be implemented that incorporates accepted timelines, collaboration from all stakeholders and finalised reconciliations and supporting schedules to enable an efficient and effective reporting and auditing process”.*<sup>155</sup>

212. Financial ratios are designed to provide users of annual financial reports with a clearer interpretation of the performance and financial results of a local government and a comparison of trends over a number of years.<sup>156</sup> Timely and accurate data and information is essential to being transparent and accountable for the City's performance. Errors and inconsistencies in key performance measures can mean that councils, the Department and the ratepayers and residents may not have accurate information to assess the City's performance and participate in discussions related to financial matters.
213. The unavailability of the City's accounting records for audit by the Auditor General in accordance with its statutory obligations<sup>157</sup> suggests that the City's systems, processes and people did not have the capability to meet legislative obligations and support strategic level performance monitoring. The City acknowledged the *"trial balance was not finalised as at 30th September"*.<sup>158</sup> If a local government is unable to comply with the timeframe for the provision of the documents to audit, then an application may be made to the Minister for Local Government for an extension of time. There is no evidence before the Inquiry that the City applied to the Minister for an extension of time.<sup>159</sup>

### Management reporting

214. Compliance with statutory requirements should not be an end in itself. The purpose of financial management, planning and reporting requirements under the LG Act is to ensure that a local government manages its finances and operations strategically and effectively. This will not happen if reporting or strategic requirements are completed merely to comply with relevant legislation and not to help plan for the future of the City.
215. There is evidence before the Inquiry of the City's inability to extract workforce data in a timely manner as well as the fact that the City did not have the capability to provide the CEO, Directors and Managers with accurate financial and other management information in a timely manner.

### Workforce data

216. Access to accurate workforce information is essential to managing the City's costs and planning for the future.
217. Determining the financial impact of the workforce staff has also been a challenge for the Inquiry. Mr Nicolaou, at his hearing, commented on the difficulty in obtaining workforce information from the City. He said the City had no accurate record of how many people were working for it or had worked for it at any time in the past. He said:

*"We weren't able to get a good record of head count movements over that period of time ...*

*...*

*There was just no common single point of truth or single source of truth with respect to their HR from a FTE point of view, full time equivalent job point of view, so we had difficulty in getting that data".<sup>160</sup>*

218. Mr Nicolaou was asked if he thought this was unusual. He said:
- “It was unusual because head count, full-time equivalent numbers, it’s a pretty key input into any budget setting and it’s an important indicator of the efficiency or otherwise of how an organisation’s running because it’s the key input into any activity that the City undertakes.”*<sup>161</sup>
219. ACIL Allen concluded:
- “This lack of centralised HR management information, and lack of management information/targets, are likely to be contributing to the substantial growth in the City’s direct employment and contractor costs.”*<sup>162</sup>
220. This is consistent with the Deloitte Report, where Deloitte found:
- “Finance and HR [Human Resources] systems are not configured to provide an integrated view of workforce data. Generation of workforce reports is a manual, time consuming process with inputs from a mix of systems-based data and information provided by individual business unit managers.*
- Furthermore, the ELG [Executive Leadership Group] reported discrepancies in the data provided in the HR monthly report and indicated they were reluctant to rely on it to make decisions given the inaccurate information.”*<sup>163</sup>
221. Deloitte concluded the lack of timely human resource information inhibited the City from making informed decisions about workforce resourcing.
222. Mr Jorgensen, CEO, gave evidence that he experienced difficulties obtaining accurate information on the number of staff at the City. When Mr Jorgensen commenced at the City, he asked how many staff there were on the payroll:
- “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”.*
223. Mr Jorgensen said that the problem was that there were *“Two disparate systems that didn’t accurately talk to each other”*. *“It seemed that the numbers in the financial systems did not correlate to the numbers in the human resource management system”*.<sup>164</sup>
224. This is consistent with the evidence of Mr Mianich who explained that employees were paid through the City’s payroll system, but the data for contractors engaged by the City (to replace employees that had resigned) was in the City’s finance system. The City’s payroll system might show there were 730 employees in any given fortnight, whereas *“the total actual working number”* was 760.

225. According to Mr Mianich, *“it was very 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”*, which meant *“it was very, very difficult to get an instantaneous number on the exact number of head count, if you like, that was present in the building at an instant in time”*. It would take days to provide the accurate number of staff working at the City. Mr Mianich did not agree that this was a problem or an unsatisfactory outcome, but agreed *“It was far from ideal”*.<sup>165</sup>
226. Mr Nicolaou gave evidence that there did not appear to be any financial or governance controls to restrain or monitor the City’s growth in staff and labour costs. The ELG, the CEO and the Director of Corporate Services were, in Mr Nicolaou’s view, responsible for ensuring those controls were in place. If the City, for example, had KPIs regarding its expenditure on employee and contract labour, that *“could at least create some triggers to challenge any growth over and above an adequate benchmark”*.<sup>166</sup>

### Financial data

227. The Deloitte Report found, as at June 2017, *“Management reporting is inconsistent and does not provide the executive leadership with the information required to make effective decisions”*. From interviews with 33 senior management staff and governance, finance and procurement specialists, the quality of management information available to directors and managers was consistently reported to be poor. Directors and managers raised concerns with Deloitte about the scope, format, accuracy and timeliness of regular budget reporting.
228. The Deloitte Report identified that the City’s Finance unit *“faced challenges providing consistent and useful reporting, due to the lack of standardised, automated reports, the complex structure of the City’s chart of accounts, and the insufficient integration across the City’s various information systems”*. Ultimately, the report found:
- “Unnecessary effort is spent on compiling data and reconciling differences, rather than using reports to draw insight. The lack of reliable and efficient management reporting impacts the City’s ability to maintain oversight of operations and make informed and timely decisions”*.<sup>167</sup>
229. The Deloitte Report’s findings are consistent with the evidence of Mr Jorgensen, who provided the Inquiry with a *“spaghetti diagram”* showing the complexity and interdependency of multiple systems within the City and the large number of manual interventions by staff required to move data from one system to another.<sup>168</sup>
230. This is also consistent with the results of a *“Strategic Financial Management Review”* conducted in February 2019, which found that poor integration and data transfer arrangements between the City’s *“confusing mix of financial related technology”* meant that *“much time is spent manually handling the same data multiple times to complete reports”*.<sup>169</sup>

231. Mr Mileham gave evidence that as Director Planning and Development, he found that financial information was difficult to obtain. Given that Mr Mileham commenced as Director Planning and Development in September 2012 and continued in that role until January 2016, the Inquiry infers that the difficulties experienced in obtaining financial information had existed for some time and at least prior to his appointment as CEO in January 2016.
232. Mr Mileham told the Inquiry that at the time he became CEO, the City's model of financial management meant:
- "... 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".<sup>170</sup>*
233. Further, as CEO, Mr Mileham found that management reporting was not sufficient.<sup>171</sup> Mr Mileham's evidence was consistent with the evidence of:
- Mr Hammond, who said *"the ability for Councillors, and indeed the CEO to obtain accurate, timely, and informative financial data was just not there"*,<sup>172</sup> and
  - Mr Jorgensen, who observed when he joined the City that the centralised finance system was not delivering what the City's directorates required.<sup>173</sup>
234. To overcome the difficulties experienced by directorates in obtaining financial information, during Mr Mileham's tenure as CEO *"Directorate Accountants"* were employed within each directorate, separate from the City's Finance unit, to assist directors in analysing and extracting financial information in a form that would be useful to them.<sup>174</sup>
235. Mr Mianich gave evidence that this model was fundamentally flawed.<sup>175</sup> According to Mr Mianich, it was intended that directorate accountants would report to the Manager, Finance and the relevant director, but when the structure was 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, 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".<sup>176</sup>*
236. Mr Mileham's view was that the directorate accountant model *"improved visibility for the Directors, or was intended to"*. However, this arrangement was *"certainly not intended to be a long-term solution"*.<sup>177</sup>

237. Mr Mianich gave evidence to the Inquiry that at the time he resigned from his employment at the City in June 2019, there were a number of initiatives in progress to improve the City's capability in relation to human resources, finance and information technology. He said they were undertaken under his oversight as Director.
238. Even if that is accepted, it is clear from the evidence that the difficulties obtaining accurate, useful and timely financial information had existed for a number of years.<sup>u</sup> At the time of his resignation, Mr Mianich had been Director Corporate Services and had overseen human resources, finance and information technology at the City for the previous 14 years.
239. The Inquiry finds that Mr Mianich, should have done more at an earlier stage to ensure human resources and financial information and data was accurate, useful and timely.

#### Internal audit

240. Internal audit provides independent, objective assurance and consulting to add value and improve business operations. It is a key element of good corporate governance in organisations and improves both financial and non-financial management and accountability. Core internal audit activities incorporate corporate governance, ethics, and fraud risks and controls.<sup>178</sup>
241. Crowe examined the internal audit framework of the City. The City has an in-sourced internal audit function comprised of two staff members.
242. A '3 lines of defence' model<sup>179</sup> is most commonly referenced when describing the mechanisms in place to provide assurance to the Council, CEO, executive and stakeholders.<sup>180</sup>
- The 1st line of defence is where the risk originates. It is also where controls are implemented for managing the risks as well as having in place mechanisms to demonstrate controls are working effectively.
  - The 2nd line of defence monitors, reviews and tests effectiveness of 1st line control and management of risks.
  - The 3rd line of defence is independent assurance. Internal audit is a key component as well as external audit, including agencies such as the Office of the Auditor General.
243. Crowe found that:
- "The City's internal audit function is not responsive to the organisational challenges and provides limited support in strengthening governance, risk and control. Internal audit has primarily focused on compliance testing of controls and reported exceptions to management".*

<sup>u</sup> For example, the evidence of Mr Mileham that the City's chartered accounts which were complex and "had been built up ad hoc over many years" and which were "fundamentally redesigned": Transcript, M Mileham, public hearing, 9 October 2019, p 64.

244. Internal audit functions are well positioned to share insights with the Audit Committee and executive. By reporting on themes and trends (rather than only on the findings of individual audits), internal audit can use the outcomes of audit activity to provide strategic organisational and systemic perspectives.

245. Crowe found that was not the case at the City, where:

*“Internal audit findings do not consistently embody a root cause analysis nor themes-based reporting that links the outcomes of internal audit activities. Internal audit reports are static in nature, focussing on instances of non-compliance and lack any strategic perspective”.*

Further, they note:

*“Without conducting a root cause analysis and themes-based reporting, the underlying or systemic issues may not be identified. By focussing on the symptom rather than the causal factor, that is, addressing the issue at the superficial level only, the effects of such risk may be recur in the future”.*<sup>181</sup>

246. Internal audit reports were found lacking in key elements. The City’s internal audit reports did not clearly articulate the risks the internal audit activities were meant to address.

247. Crowe noted that leading practice suggests that, as a minimum, each internal audit issue identified should be reported addressing five information elements:

- Criteria – These are the standards or measures used in making an evaluation.
- Condition – The factual evidence found during the examination. This may be non-compliance with established law, regulation and management practice; or deficiency in the control structure.
- Cause – The reasons for difference between expected (criteria) and actual condition.
- Consequence – The risk or exposure the organisation experienced because the condition is not consistent with the criteria.
- Corrective Action – Recommended action to correct existing conditions or improve operations.

248. Crowe commented:

*“We found the City’s internal audit report structure does not consistently feature all of these elements.*

*There is limited analysis, if any, on the ‘Cause’ of the identified issue. Additionally, the ‘Criteria’ is not visible for the reader to understand the object against which the ‘Condition’ has been evaluated”.*

249. The City's internal auditor advised this had been an oversight. However, Crowe commented:

*"We found this deficiency to be extraordinary because risk-based reporting is a rudimentary capability reasonably expected to exist in any professional Internal Audit function.*

*Considering the City's complex business arrangements and governance challenges, the City's Internal Audit function should have a rigorous process for capturing the risks, focussing internal audit activities and clearly reporting on those risks".<sup>182</sup>*

250. Furthermore, there were numerous elements of a good internal audit programme<sup>v</sup> missing at the City. The City did not have a strategic internal audit plan or an assurance map and its audit function was not independently assessed against the International Professional Practices Framework.<sup>183</sup>

251. The Inquiry finds that the City should have adopted better practice in auditing, established a strategic internal audit plan and prepared an assurance map.

252. The resourcing of the City's internal audit unit, comprising of two staff, was examined. Crowe commented:

*"We found that the quantum of hours assigned to in-house Internal Audit activities annually (approximately 3000 hours) appears to be excessive considering the compliance nature of the program and the quality of the reports produced".<sup>184</sup>*

253. Deficiencies in the internal audit capability in terms of its model, capability, planning and processes have resulted in a less than robust 3rd line of defence for the City.

254. The Inquiry finds that the City's internal audit function was not sufficient for a local government of this size and complexity in business operations. The audit programme was limited to compliance audits. Audit reports did not reflect the risks of the audit and did not provide for better practice audit report structure and content elements. The capability of the audit function was limited with an excessive number of hours taken to perform compliance audits. The audit function had not been independently audited against best practice audit standards.

#### **Evidence given by Mr Murray Jorgensen and Mr Andrew Hammond**

255. Mr Jorgensen and Mr Hammond gave evidence to the Inquiry in public hearings held on 9 and 10 October 2019.
256. Both Mr Jorgensen and Mr Hammond have had considerable experience in a variety of local governments in Western Australia. Both took office at the City only after the end of the period covered by the Inquiry's Terms of Reference. Both inherited and dealt with financial management issues from the period covered by the Terms of Reference.

<sup>v</sup> The standards applied to Internal Audit are the 'International Standards for the Professional Practice of Internal Auditing' contained in the 'International Professional Practices Framework' issued by the Institute of Internal Auditors ("IIA"). Standard 2000 – Managing the Internal Audit Activity – of the International Standards for the Professional Practice of Internal Auditing.

### Mr Murray Jorgensen

257. Mr Jorgensen provided a statement to the Inquiry, in which he set out his observations about the City at the time he commenced there, and the actions taken and proposed.

258. During his examination, Mr Jorgensen was asked:

*“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.”<sup>185</sup>*

259. Mr Jorgensen provided a newly developed corporate governance framework as an attachment to his statement. In his examination, he described the integrated planning model contained in that document.

260. He said:

*“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.*

...

*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.*

...

*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.*

*... 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.*

...

*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".<sup>186</sup>*

261. He said that this Model was being developed and would be completed by April 2020 as part of the City's Corporate Recovery and Implementation Plan.

262. He gave an example of the problems this caused:

*"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... So the confidence level in the manual reporting certainly wasn't high at the Commissioner or at my level".<sup>w</sup>*

<sup>w</sup> Transcript, M Jorgensen, public hearing, 9 October 2019, p 118-119. When giving evidence before the Inquiry, Mr Mianich rejected the proposition that this error had the potential to expose the City to reputational risk or reflected poorly on the City because "I would say not many people, if any, would be reading the cash flow statement of a Council for a month" and "They possibly wouldn't have even noted it". Transcript, R Mianich, public hearing, 9 October 2019, p 16-17. The Inquiry does not accept this evidence. A \$110 million error in the City's financial reports had the obvious potential to reflect poorly on the City and/or damage the City's reputation, even if that risk did not eventuate at the time.

263. Mr Jorgensen said that currently the directorate accountants are being brought into one team and the information into one repository *“The field experience, if you want to call it, is being centralised to ensure that the system actually delivers what the field needs”*.
264. Mr Jorgensen agreed that the previous system of independent accountants in each directorate created a problem that information which was relevant to more than one directorate would not necessarily be shared, and corporate knowledge about how to do certain things was also not shared.
265. He said that as a result of the changes the staff in the Finance directorates felt they were *“making progress and getting the City better and reinvigorated”*.
266. Mr Jorgensen was asked how he thought the finance system got to the state of *“a spaghetti system of different financial systems in different directorates”*. He said he thought it had probably been a series of incremental decisions, each on its own not important. He said *“previously Directorates and teams could buy things and effectively bolt it on”* to the system. He said, *“I genuinely don’t understand the thinking but it would be fair to say that, I’m just surprised it didn’t receive higher priority”*.<sup>187</sup>
267. When asked on his reaction to the *“spaghetti diagram”* Mr Jorgensen said:  
*“On one hand, I suppose it would have been almost disbelief but then on the other hand it was, well, that now explains a lot. Despite the confusion that it created, it was at least comforting to know we understood the extent of the problem and now we have got a Financial Transformation and an Information Transformation Program to address this, and one of the reasons I said yesterday it may take up to three years to solve it, although I’m confident we will break the back of it by the end of this financial year, it is a very complex and difficult thing to turn around overnight”*.
268. He said that the Financial Transformation Plan is expected to have the following impact on the City’s ability to deliver services:  
*“Initially it will be our ability to extract and interpret quality realtime data. So hopefully the first benefit would be better decisions based on better data. The second thing is, there should be definitely efficiency savings without the need for all of those manual interventions. As the systems are reformed, there should be a serious ability to, over time, reduce the number of staff involved in the collation of that information. Then the third benefit I would see would be the minimisation of risk. I used yesterday the example of missing brackets on a manual document around a figure of \$55 million which extrapolated to \$110 million error in some statements. Hopefully that would be minimised in the future which is a risk to the City”*.<sup>188</sup>

269. Mr Jorgensen commented on the culture of directorates when he commenced at the City. In relation to the members of the Executive, he said:

*"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.*

*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".*

270. Finally, Mr Jorgensen said:

*"Probably one final point is that 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".<sup>189</sup>*

#### Mr Andrew Hammond

271. Mr Hammond, Chair Commissioner, City of Perth provided a statement to the Inquiry, in which he set out his observations about the City at the time he commenced there, and actions taken and proposed.
272. When asked about how members of a local government serve the community, he said:
- "The members of the government serve the community, firstly by effectively utilising the system that has been put in place with integrated strategic planning. The legislation and the regulations, and also the pertinent guidelines that have been issued by the Department of Local Government, provide for a system where a Council's role is to extract and distil the vision for their community, and that vision for the community, being a Strategic Community Plan, should encapsulate the aspirations that help to serve the community's vision, and should also be clear on the objectives that should be reached in order to achieve those aspirations or move towards those aspirations. It is the role then of the Chief Executive Officer to establish a Corporate Business Plan that is capable of applying the resources and the logistics necessary to achieve the objectives of the Strategic Community Plan that has been, if you like, sponsored by the Council".*

273. He spoke about the role of the CEO:

*“... I think the term CEO in the context of strategic planning means the organisation. So it’s the role of the CEO obviously to foster, to mentor, to establish the necessary human resource to be able to effectively execute the Corporate Business Plan. That obviously includes the Executive, which should be working as one with the Chief Executive, it includes the management group but it also includes all staff”.*<sup>190</sup>

274. Mr Hammond was asked about accessing key financial information at the City:

*“Was it difficult to obtain financial data to explain the big picture?---Yes.*

*When you commenced on 2 March 2018?---Yes, absolutely.*

*Can you tell me why?---Well, on 2 March 2018 I didn’t know – it’s become apparent since then that the reporting and the financial accounting systems were less than good and the way that the accounting system was, I guess, not interconnected effectively with other programs around the place, and also we did find out that there was not actually an enterprise approach to accounting and each division had its own accountant, and in some cases, as we understand it, actually its own accounting records.*

*...*

*However, it would be fair to say that the ability for Councillors, and indeed the CEO to obtain accurate, timely, and informative financial data was just not there”.*

275. He explained that the CEO had engaged a Strategic Director of Finance:

*“... because there was an inability to, I think obtain an acknowledgment from the staff involved as to the importance of an Integrated Strategic Planning Framework and the need for documents like the Corporate Business Plan to be fully populated with financial projections and also a need for team-based plans that could give Council and the Executive the opportunity to almost forensically understand what each team was up to and what their activities were likely to be for the next three to five years”.*<sup>191</sup>

## Findings

### Finding 2.3.3 – 1

The Inquiry makes the following findings:

- i. The financial management of the City was adversely affected by a ‘siloed’ structure in which, in addition to a financial section within Corporate Services, each directorate and some units had their own accountants and financial staff who operated independently. This led to a lack of information sharing, good record-keeping and centralised control of finances.
- ii. The financial surplus of revenue over expenditure of the City decreased during the period, although revenue still exceeded expenditure, primarily due to the revenue from CPP.
- iii. The costs of staff and contract labour was the largest expenditure by the City and grew in excess of the Consumer Price Index and expenditure by other local governments during the period 2012 to 2018.
- iv. The City failed to keep an accurate record of the number of people it employed, either as employed staff or as workers on contract.
- v. The City was not able to report consistently on its statutory financial ratios. In addition, the lack of other KPIs meant that services were not appropriately monitored for performance and financial implications.
- vi. The City’s KPIs did not include a measure of financial efficiency.
- vii. The City did not have a business plan for CPP, contrary to section 3.59 of the LG Act. Given the City’s reliance on revenue collected by the CPP, that was a significant failure.
- viii. The City provided inaccurate information to the Department in its 2015, 2016 and 2017 Returns in relation to its failure to prepare a business plan for CPP.
- ix. The City did not comply with the principles of competitive neutrality, because it did not ensure that CPP did not enjoy a competitive advantage based on its public ownership.
- x. The internal costs allocated to the parking business have not been properly recorded or justified. It is possible that other costs, not truly attributable to the parking business, may have been allocated to it.
- xi. There was insufficient integration of the City’s strategic and planning documents. Planning documents also lacked the necessary level of detail to fully articulate, adequately cost and ensure accountabilities for the strategies and deliverables within the plans.

## Finding 2.3.3 – 1 (contd)

- xii. The City did not have appropriate systems and governance in place to manage and monitor its financial performance.
  - Information that should have been available to monitor the operations of the City, including staffing numbers, was not readily available.
  - There was limited maturity in the financial performance measures that would have allowed closer monitoring of the City's financial performance by the Council and the CEO.
  - The financial system and practices meant that timely and accurate information was not available.
  - The planning documents under the IPR Framework were not integrated. The Corporate Business Plan and other supporting documents did not demonstrate a strategic or long-term focus. They were hampered by the shortcomings in the financial management systems and practices stemming from a short-term and transactional data focus.
- xiii. Mr Mianich should have done more at a much earlier stage to ensure that human resource and financial information and data was accurate and available in a timely manner to managers, Directors, the ELG and Council.
- xiv. The City's internal audit function was not sufficient for a local government of the City's size and complexity in business operations.
  - The audit programme was limited to compliance audits. Audit reports did not reflect the risks of the audit and did not provide for better practice audit report structure and content elements.
  - The capability of the audit function was limited, with excessive hours taken to undertake compliance-based audits.
  - The City should have adopted better practice in auditing, established a strategic internal audit plan and prepared an assurance map.
- xv. The audit function had not been independently audited against best practice audit standards.
- xvi. Mr Mianich, as Director, Corporate Services, should have done more to ensure Mr Mileham was aware of his obligation to undertake a review of the City's financial management systems and report to Council as required by regulation 5(2)(c) of the Financial Management Regulations.
- xvii. Deficiencies in the City's financial management and human resource systems and practices meant that appropriate information may not have been available for Council and its Committees as well as the Administration.
- xviii. As CEO, Mr Mileham was responsible for ensuring information was available to the Council so that informed decisions could be made. The Inquiry notes that the deficiencies in the City's financial management and human resource systems and practices pre-dated his appointment as CEO.



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## Perth Public Art Foundation and the 2016 CowParade

### Introduction

1. This Section concerns the City of Perth's (City) relationship with the Perth Public Art Foundation (Foundation) and the hosting of an event called the CowParade in late 2016 by the City and the Foundation.
2. The Foundation is a not-for-profit charitable incorporated association established, initially as the City of Perth Art Foundation, by the City in 1996.
3. By clause 6.1 of its Constitution, the Foundation is:

*"dedicated to developing partnership and fundraising activities to stimulate the commissioning of quality public artworks and support artistic collaboration for the benefit of the people of Perth, Western Australia, ensuring a healthy creative dimension to the City of Perth".<sup>192</sup>*

4. Between the middle of 2015 and 30 June 2018, the Foundation was wholly funded by the City pursuant to a document called a "*Funding Agreement*"<sup>193</sup>, but referred to by the Foundation and the City as a "*principal partnership agreement*" (Foundation Funding Agreement).<sup>194</sup>
5. The CowParade is an international public art project owned by a company headquartered in the United States of America called CowParade Holdings Corporation (CPHC). The project involves life-sized cow sculptures being painted or otherwise decorated and placed in various locations around the city. CowParade was staged in Perth, with the involvement of both the City and the Foundation, in October to December 2016.

6. To stage the CowParade, the City struck two agreements: one with CPHC, which the Inquiry will call the CowParade Holdings Corporation Agreement (CPHC Agreement),<sup>195</sup> and one with the Foundation, which the Inquiry will call the Perth Public Art Foundation CowParade Agreement (Foundation CP Agreement).<sup>196</sup>

## Timeline

|      |                 |   |
|------|-----------------|---|
| 2015 | 9 June          | Council approved a principal partnership sponsorship with the Foundation for a period of three years, from 11 June 2015 to 10 June 2018.        |
|      |                 |   |
| 2016 | During April    | Funding Agreement between City and Perth Public Art Foundation Inc was signed.  |
|      | 13 June         | CowParade Perth Event Agreement and Licence between the City and CowParade Holdings Corporation was signed.                                     |
|      | 22 June         | The Foundation provided a Letter to the City attaching Partnership Package and Conditions.  |
|      | 29 June         | The 2016 CowParade – Perth budget was prepared by the Foundation.   |
|      | 27 July         | Program/Project Funding Agreement for Funding of CowParade 2016 between the City and the Foundation was signed.                                 |
|      | 31 Oct – 11 Dec | CowParade was staged in Perth.  |
|      | 15 December     | Letter from the Foundation to the City, attaching the Funding Agreement signed in April 2016, referred to as 'Principal Partnership Agreement'. |

## Issues identified

7. In considering the City's relationship with the Foundation and the hosting of the CowParade, the Inquiry was guided by its Terms of Reference. In particular, clauses A.1, A.3(i), A.3(iii) and A.3(iv), concerning good government, grants administration, relationships and sponsorships.

8. More specifically, the Inquiry focussed on the:

- nature of the relationship between the City and the Foundation, including in respect of the Foundation's Executive Director, who is, at the time of writing, a City employee "seconded" to the Foundation; and
- City's application of its sponsorship and procurement policies to the Foundation Funding Agreement, the CPHC Agreement and the Foundation CP Agreement.

## Investigation by the Inquiry

### Witnesses

9. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this Section. In considering the issues identified, the Inquiry reviewed more than 2,000 pages of documentary material and examined four witnesses. The positions given below for council employees are the positions they held at the time of the events described in this Section:

- Ms Nicola Brandon was the Acting Manager of Marketing and Communications for the relevant period. Ms Brandon was intimately involved in the CowParade project, including in relation to the CPHC Agreement and the Foundation CP Agreement. While Ms Brandon's recollection was incomplete at times, that is not unusual given the time which had elapsed since the events which were the subject of her evidence. Ms Brandon was a truthful witness.
- Mr Nathan Giles was the Executive Director of the Foundation and an employee of the City. Mr Giles is not on the governing board of the Foundation. Mr Giles gave evidence about the nature of his relationship with the City and the nature of the relationship between the Foundation and the City.
- Ms Emma Landers was the Manager of Community Facilities during her involvement in the preparation of the Foundation Funding Agreement. As with Ms Brandon, Ms Landers presented as a truthful witness, although her recollection was incomplete at times, also likely owing to the passage of time.
- Ms Annaliese Battista was the Director of Economic Development and Activation. Ms Battista had limited relevant involvement with the Foundation and the CowParade. However, her evidence was helpful to clarify, to a degree, certain matters arising from the evidence of Ms Brandon.

## Evidence obtained by the Inquiry

### Foundation Funding Agreement

10. Before the Foundation Funding Agreement was drafted and executed, the relationship between the City and the Foundation was governed by a memorandum of understanding (MOU). However, the arrangements contemplated by that document were unsatisfactory,<sup>197</sup> and it lapsed at the end of its term in the middle of 2015.
11. Just before it did, on 9 June 2015, the Council approved a "*principal partnership sponsorship*" with the Foundation for a period of three years, from 11 June 2015 to 10 June 2018, and authorised the Chief Executive Officer (CEO) to enter into a formal funding agreement between the City and the Foundation to "*clarify respective roles and responsibilities*".<sup>198</sup>

12. The Foundation Funding Agreement is the agreement which was ultimately entered into by the City to formalise this arrangement. It took some time to finalise and appears to have been finally executed on or about 15 December 2016.<sup>199</sup> Its effect was back-dated to align with the cessation of the MOU some 18 months earlier.<sup>200</sup>
13. In effect, the Foundation Funding Agreement provided for the complete funding of the Foundation – other than ad hoc project funding such as the CowParade – by the City. The funding under that agreement was \$529,936.00, comprising \$429,036.00 in salary and benefits paid directly by the City to Mr Giles, \$148,900.00 for the Foundation’s general administrative costs and \$15,000.00 for costs associated with the strategic development of the Foundation. The City also committed to providing approximately \$30,000.00 of in-kind funding for office accommodation, information technology and the like.<sup>201</sup>
14. On its face, the City’s sponsorship policy should have been applied to the Foundation Funding Agreement, because it set up, to adopt the language of the policy, a “*partnership sponsorship*”.<sup>202</sup> However, it appears on the evidence before the Inquiry, that the City never considered whether or how the City’s sponsorship policy applied to the Foundation Funding Agreement, or vice versa.
15. Ms Landers, who was involved in the preparation of the Foundation Funding Agreement between July 2015 and January 2016,<sup>203</sup> agreed that the City’s sponsorship policy, in the form in which it existed at the time, appeared to cover agreements like the Foundation Funding Agreement. Ms Landers also agreed, that if the application of the sponsorship policy been considered at the time, it would have raised a red flag for her.<sup>204</sup>
16. That red flag was that the policy expressly prohibited the City from using arts and cultural sponsorships and grants to meet organisational operating costs.<sup>205</sup> Had that policy been applied, the Foundation Funding Agreement – which as described above, funds “*only*” organisational operating costs – could not have been approved.
17. Consequently, during the period of the Inquiry’s Terms of Reference, the City advanced over \$500,000.00 in funding to the Foundation, not only in the absence of any policy governing that expenditure, but also contrary to a policy which did exist. While that is not beyond the power of the Council, it was irregular and it was not good government.
18. For transparency and accountability reasons, the City’s commitment to expenditure in the Foundation Funding Agreement should have been reviewed against an existing policy governing the expenditure. If Council formed the view that an appropriate policy did not exist, a policy should have been prepared and adopted before the decision to commit over \$500,000.00 in funding was made.
19. In addition, during the period of the Inquiry’s Terms of Reference, the City took no steps to audit the payments made to the Foundation under the Foundation Funding Agreement. Given the sums advanced to the Foundation, this is surprising and, in view of that fact and the absence of any governing policy controlling the expenditure, it is concerning. Fortunately, an audit undertaken by a consultant engaged by the Inquiry identified no material irregularities.<sup>206</sup> However, expenditure of this type and level should form part of the City’s internal audit processes.

### City's employment of the Foundation's Executive Director

20. One of the *"roles and responsibilities"*, which was to be clarified by the Foundation Funding Agreement, was the employment by the City of the Executive Director of the Foundation, Mr Giles.
21. However, in practice, this was not clarified by the Foundation Funding Agreement.
22. As Mr Giles told the Inquiry, while he is *"an ordinary employee of the City"*, *"There's confusion around my role and my employment and that still reigns"*.<sup>207</sup>
23. That confusion is not new. In a document entitled *"Notes on Agreement between City of Perth and Perth Public Art Foundation"* dated on or about 1 December 2015, Dr Duncan McKay, who was at the time the City's Public Art Program Co-ordinator, wrote:
 

*"As we know there are a range of complications and conundrums based around the employment arrangements for [Mr Giles] including:*

  - Being a City employee but answerable to an independent governing board.*
  - Being in direct contact with and answerable to elected members of the City of Perth (patron, board members), rather than being limited to reporting through restricted lines of communication as other employees are.*
  - Being an employee of the City of Perth, but able to operate beyond the scope of the City's code of conduct with respect to external communications.*
  - Being on the payroll of a local government, but working within an independent organisation that is not bound by the Local Government Act"*.<sup>208</sup>
24. At the relevant time, Mr Giles was employed by, and his salary was paid by, the City. He reported to and took direction from the governing board of the Foundation.<sup>209</sup> He did not report to anyone within the City, including the CEO.<sup>210</sup> He was not bound by the City's procurement policy.<sup>211</sup> He was not inducted into the City's Code of Conduct. He was not permitted to access the City's content management system. He considered that he was not permitted to speak to other staff at the City, other than in respect of the Foundation's business. He had direct contact with those members of the Council who were on the governing board of the Foundation, including Ms Scaffidi, the Lord Mayor, who was the Foundation's Patron. He was not subject to the *"CEO Inbox"* protocol implemented by the CEO at the time, Mr Martin Mileham.<sup>212</sup>
25. The confusion around Mr Giles's unique role is reflected in the description given to his position in the Foundation Funding Agreement as a *"secondment"*, and the confusion about that term was evident in internal City correspondence at the time the Foundation Funding Agreement was prepared.<sup>213</sup> It seems that, despite that term not accurately describing Mr Giles's position at the City, it was nonetheless adopted for the purposes of the Foundation Funding Agreement.

26. It is unacceptable for the City, which is responsible for the expenditure of public funds, to have employed Mr Giles without ensuring the proper and clear delineation of his role, responsibilities and reporting obligations. It presented a real, if not realised, risk to the City that Mr Giles was not inducted into the City's Code of Conduct and was not accountable to anyone within the City, despite being an employee.<sup>x</sup>
27. The Inquiry understands that the Foundation's payroll and Mr Giles's employment were to be transferred from the City to the Foundation effective from 1 January 2020.<sup>214</sup> The costs associated with this process were to be met by the City and the City endorsed the approach *"to improve governance and transparency in the implementation of the"* Foundation Funding Agreement.<sup>215</sup>

#### CowParade Holdings Corporation Agreement

28. The City and the Foundation brought the CowParade to Perth in late 2016. Within the City, it was managed by Ms Brandon (marketing) and her colleague Ms Tabitha McMullan (art). Mr Giles was heavily involved for the Foundation.
29. The decision to stage the CowParade did not go before the Council, because it was considered an activation within the ordinary budget of the City's Economic Development and Activation Directorate.<sup>216</sup> The concept was, however, presented to the Lord Mayor, and to the Council, with the latter presentation likely occurring at a Council Briefing Session at which minutes were not taken.<sup>217</sup>
30. The CPHC Agreement was signed by Ms Battista, pursuant to her delegated authority to commit City funds as a Director of the City,<sup>218</sup> on 15 June 2016.
31. The CPHC Agreement contains some unusual clauses. For example, the applicable law and dispute resolution clause requires disputes between the City and CPHC to be referred to arbitration before a single arbitrator in Hartford, Connecticut, United States of America, and the law governing the agreement was to be the law of the State of Connecticut.<sup>219</sup> No one at the City appears to have noticed that clause, or considered it an unusual thing for the City to have agreed to be bound by. Neither Ms Brandon nor Ms Battista could recall sending the CPHC Agreement to lawyers for advice before its execution, although Ms Brandon said she referred it to someone called Con, who Ms Brandon said was *"a senior accountant in our Finance division"*.<sup>220</sup> Had a dispute arisen between the City and CPHC, this clause would likely, from the City's perspective if not CPHC's, have made the efficient and cost-effective resolution of that dispute difficult. The Inquiry recommends the City not agree to such foreign jurisdiction clauses in the future.
32. In respect of the procurement exercise conducted by the City to engage CPHC, Ms Brandon said she thought CPHC would have been a sole supplier.<sup>221</sup> Given the nature of the project and that CPHC owned the exclusive rights to the CowParade, the Inquiry agrees and so finds.

x By clause 4(6) of the Foundation Funding Agreement, Mr Giles is subject to a level of direction from the CEO. However, he has not received a direction of that type: Transcript, N Giles, private hearing, 2 October 2019, p 13.

33. Ms Brandon could not recall whether the City's sole supplier procedure was followed when CPHC was engaged, although she thought it would have been. In addition, Ms Brandon said she would have sought advice about it from Ms Battista, at least in a meeting and possibly in writing.<sup>222</sup>
34. Ms Battista told the Inquiry that CPHC would have been a sole supplier and that she would expect the paperwork in respect of that to have been completed.<sup>223</sup> However, she had no recollection of being involved and could not recall Ms Brandon raising it with her, although she believed Ms Brandon would have done so.<sup>224</sup>
35. As best the Inquiry can determine, there is no record of the CPHC Agreement being subject to the City's sole supplier procedure. Neither Ms Brandon nor Ms Battista could explain why, if the procedure was followed, it was not recorded in the City's systems, although Ms Brandon speculated that it might not have been filed.<sup>225</sup>
36. In the event, the Inquiry is unable to determine whether, in respect of this procurement exercise, the sole supplier procedure was followed but not documented, or whether it was simply not followed. The Inquiry accepts, as Ms Brandon observed,<sup>226</sup> there was no reason not to follow the sole supplier procedure, since CPHC was self-evidently the sole supplier of the CowParade. Either way, the process adopted appears to have been deficient either in its application or documentation.

#### Perth Public Art Foundation CowParade Agreement

37. Alongside the CPHC Agreement, which was executed to bring the CowParade to Perth, the City also executed the Foundation CP Agreement.<sup>227</sup> That agreement, a copy of which could not be located in the City's records but which was produced by Mr Giles at the Inquiry's request, was executed by Mr Giles for the Foundation and Ms Brandon for the City, on 27 July 2016. The contract price was \$221,210.00, pursuant to a budget prepared for the City by the Foundation.<sup>228</sup>
38. The Foundation CP Agreement was, in effect, an agreement by which the City funded the Foundation as a service provider to deliver components of the CowParade project. It is an unusual document, with a number of odd features.
39. First, it is purportedly executed for the City by Ms Brandon who, at the time, held the role of Acting Manager, Marketing and Communications. In that role, Ms Brandon's authority to commit funds on behalf of the City was capped at \$100,000.00. Therefore, on the face of the executed copy produced to the Inquiry by Mr Giles, the document was not properly executed by the City pursuant to section 9.49A of the *Local Government Act 1995* (LG Act), which raises questions about its enforceability.

40. In evidence given on 3 October 2019, Ms Brandon could not explain how she thought she could execute the document in July 2016, although she speculated that she would have been acting on advice and would have sought approval from Ms Battista and Mr Mileham. However, while she said she could recall getting approval, she could not recall seeking that advice or having a conversation with Ms Battista or Mr Mileham about it.<sup>229</sup> In an affidavit filed on 19 December 2019 in support of an application to inspect certain documents held by the Inquiry, Ms Brandon stated, among other things, that:
- She recalled that a few days after signing the Foundation CP Agreement she had a conversation with Ms Battista and Ms Battista told her she did not have the authority to sign the Foundation CP Agreement.<sup>230</sup> This is not consistent with Ms Brandon's evidence to the Inquiry on 3 October 2019 that Ms Battista approved her signing the agreement.
  - The version of the Foundation CP Agreement that she had signed was returned to Ms Battista.<sup>231</sup>
  - For this reason, she believed that the version of the Foundation CP Agreement shown to her during her examination was not the final version of the Foundation CP Agreement.
  - She believed that there was another version of the Foundation CP Agreement that would contain a different signature.<sup>232</sup>
41. Having received this additional evidence from Ms Brandon the Inquiry conducted further searches of the City's records. No alternative or additional version of the Foundation CP Agreement was located, nor was any record of a written exchange between Ms Battista and Ms Brandon about the execution of the agreement.
42. Furthermore, Ms Battista had no recollection of Ms Brandon ever raising the issue. Ms Battista said the first time she heard of the issue was when it was raised with her during the course of her private examination before the Inquiry, and that until that time she had never seen a signed copy of the Foundation CP Agreement. Ms Battista denied any suggestion that she would have, in those circumstances, told Ms Brandon that Ms Brandon could, in any event, execute the document. As Ms Battista explained, *"the simple solution in that case is my delegated authority was \$250,000, so I would have signed it"*.<sup>233</sup>
43. In the face of Ms Battista's evidence, the changing nature of Ms Brandon's evidence, and the absence of contemporaneous documentary records, Ms Brandon's recollections must be doubted. What is clear is that Ms Brandon signed a copy of the Foundation CP Agreement, the signed copy entered Mr Giles's custody, he produced it to the Inquiry at the Inquiry's request because the City had no record of it, and no other version of the agreement has been located. It is, therefore, more likely than not that Ms Brandon executed the Foundation CP Agreement without obtaining advice from Ms Battista. Ms Brandon, through her counsel, accepted this at a hearing before the Inquiry on 19 December 2019.<sup>234</sup>

44. The most plausible explanation for Ms Brandon signing the agreement is that she was either unaware of, or overlooked when reviewing the Foundation CP Agreement, the fact that the contract sum exceeded her authority. However, there is no evidence of any improper motive by Ms Brandon; the Foundation CP Agreement was uncontroversial, and as Ms Battista explained, had the issue been raised with her she would, after taking advice, have executed the agreement, because it was *“quite a straightforward transaction”*.<sup>235</sup>
45. The second unusual feature about the Foundation CP Agreement is that it incorporates, by reference, the City’s payment to the Foundation of a service fee calculated at, in effect and subject to some exclusions, 10 per cent of the underlying contract price.
46. This fee is set out in the budgets prepared by the Foundation for the project. In the original budget, for example, issued to Ms Brandon for the City on 22 June 2016,<sup>236</sup> the service fee is set at \$16,670.00, being 7.5 per cent of the contract price of \$221,210.00.<sup>237</sup>
47. Mr Giles, Ms Brandon and Ms Battista were asked about this fee.
48. When asked what the service fee was, Mr Giles explained:

*“As I sort of referred to earlier, one of the long-term aims of the Perth Public Art Foundation is greater financial independence from the City of Perth and so with that, the board decided that a fee – no, the board didn’t decide that, that was actually built into the project concept presented to the City of Perth which they agreed that there would be a fee that we would take for doing this on behalf of the City”*.<sup>238</sup>
49. Mr Giles said the sum as charged in respect of the CowParade project was discussed with people at the City, including with Ms Brandon. He agreed that the sum reflected the Foundation’s profit margin.<sup>239</sup>
50. Ms Brandon explained that it was *“agreed that [the fee] would be paid for the time, I suppose, as a supplier to manage and deliver the whole art part of the project”*.<sup>240</sup> Ms Brandon accepted that she would have been involved in agreeing the fee, although she said her colleague, Ms McMullan and her Director, Ms Battista, would also have been involved.<sup>241</sup>
51. Ms Brandon’s evidence was that to her recollection, as at the date of the Foundation CP Agreement, she was unaware of the details of the Foundation Funding Agreement. Ms Brandon said she could not recall whether anyone raised with her the appropriateness of paying the Foundation’s service fee in circumstances where the City was already meeting the Foundation’s operational expenses under the Foundation Funding Agreement. In addition, she could not recall challenging it herself, although she said she may have done.<sup>242</sup>

52. Ms Battista could not recall any discussion about the fee, but volunteered that it was not unusual for contractors to charge the City a service fee. However, Ms Battista also observed that it was unusual for a fee of that type to be charged by the Foundation, given the City had executed the Foundation Funding Agreement. Ultimately, Ms Battista thought that charging the fee was not unreasonable given the City was, in engaging the Foundation to manage the CowParade, asking it to do “*something over and above*” what was required by the Foundation Funding Agreement.<sup>243</sup>
53. In the course of its investigations, the Inquiry engaged a consultant to advise on, among other things, the Foundation’s service fee. The consultant reached the view that, on the materials available to it, the fee was “*a duplication of management expense that was otherwise met from the [Foundation Funding Agreement]*”, that “*there was no adequate explanation of the basis or [sic] the 10% service fee*”, and that the charging of the fee was in those circumstances “*double-dipping*”.<sup>244</sup>
54. While the Foundation’s commercial motivation for charging the fee is understandable and a move towards independence from the City is a desirable move, it was inappropriate for the City to agree to pay a service fee to the Foundation in circumstances where, through a combination of the Foundation Funding Agreement and the Foundation CP Agreement, the City was already meeting all of the Foundation’s direct and operational expenses for managing the CowParade.
55. The Inquiry recommends that any contracts similar to the Foundation CP Agreement which are contemplated between the City and the Foundation be carefully scrutinised and that any service fee, if levied, is carefully considered to determine whether it is appropriate for the City to engage the Foundation on those terms. It may, for example, be that the level of funding given to the Foundation by the City is reduced in future so that the City does not meet all of the Foundation’s expenses. If that occurs, payment of a service fee might be appropriate.
56. The third unusual feature of the Foundation CP Agreement is that, like the CPHC Agreement, it was either executed without regard to the City’s procurement policies or, if it was executed in compliance with those policies, as the evidence of Ms Brandon and Ms Battista suggests it would have been, that process was not documented.
57. As with the CPHC Agreement, the Inquiry has not been able to locate any record of the City complying with its purchasing policies, including its sole supplier procedure, in respect of the Foundation CP Agreement. As with the CPHC Agreement, neither Ms Brandon nor Ms Battista could explain why that is the case.<sup>245</sup>

### Fundraising and return of funds to the City

58. A final matter commented on in this Section is the remittal to the City by the Foundation of \$115,000.00 in funds raised by the Foundation during the course of the CowParade.
59. The return of those funds raises two questions.
60. The first is whether the Foundation may permissibly remit funds to the City in this way. In that respect, clause 6.3 of the Foundation's Constitution provides, in part, that *"the property and income of the Foundation shall be applied solely towards the promotion of the Objects and Purposes in accordance with the Strategic Plan"*.<sup>246</sup>
61. The Foundation's *"Objects and Purposes"* are set out in clause 6. On the face of that clause, remittal of monies to the City may not be within its power. While this is not the place for a detailed analysis of charities law, if the Foundation wishes to remit funds of this type to the City in the future, it should take appropriate advice about whether that remittal is supported by the Foundation's *"Objects and Purposes"*.
62. The second question is whether it is appropriate for the City to accept the remittance of monies in these circumstances. As the consultancy engaged by the Inquiry observed in its report, the City is vulnerable to the risk of a conflict, actual or perceived, if there were a circumstance that involved the City exercising discretionary powers in favour of a third party that had contributed to the Foundation. That position of conflict may extend to the Foundation itself if the Foundation financially and otherwise separates itself from the City, as it is in the process of doing.
63. Aligned to that concern is the risk that, in accepting funds remitted by the Foundation, the City exposes itself to potential allegations that third parties are, through donations to the Foundation, indirectly *"buying"* the support of Council or council members.
64. There is no evidence before the Inquiry of this having happened, and Mr Giles explained that the CowParade was and is the only project in which funds were remitted by the Foundation to the City in this way.<sup>247</sup> However, the practice does pose a risk to the City's independence. Absent cogent reasons for its continuation, the Inquiry recommends the practice cease. The Inquiry also recommends the implementation of proper safeguards.

## Findings

### Finding 2.3.3 – 2

The Inquiry makes the following findings:

- i. The Foundation's Executive Director was, during the period of the Inquiry's Terms of Reference, an employee of the City:
  - who reported, not to someone within the City, but to the governing board of the Foundation; and
  - in respect of whom City policies (for example, the City's Code of Conduct and procurement policy and others) were not enforced.
- ii. The City did not apply its sponsorship policy to the Foundation Funding Agreement, notwithstanding that the policy expressly accommodated funding "*principal partnerships*".
- iii. Had the City applied the sponsorship policy to the Foundation Funding Agreement, that agreement would not have satisfied the requirements of the policy as the policy prohibited grants or sponsorships for operational expenditure.
- iv. During the period of the Inquiry's Terms of Reference, the City provided over \$500,000.00 in funding to the Foundation under the Foundation Funding Agreement, in circumstances where that funding was not governed by a City policy.
- v. On the evidence before the Inquiry, the City's record-keeping was, in respect of the Foundation and the CowParade, inadequate in that:
  - the City could not produce to the Inquiry an executed copy of the Foundation CP Agreement; and
  - if the City's procurement policies were applied to the Foundation CP Agreement and the CPHC Agreement, the application of those policies was not documented.
- vi. Ms Brandon, possibly because she was unaware of the limits on her delegated authority or because she overlooked the fact that the contract sum was greater than her delegated authority, acted beyond her delegated authority to commit City funds by purporting to execute the Foundation CP Agreement on behalf of the City.
- vii. On its face, the Foundation CP Agreement was not properly executed by the City pursuant to section 9.49A of the LG Act, raising questions about its enforceability.
- viii. Notwithstanding the findings above:
  - there is no evidence to suggest Ms Brandon was motivated to sign the Foundation CP Agreement by any improper motive or for any improper purpose; and
  - the Foundation CP Agreement was (other than in respect of the payment of a service fee to the Foundation) uncontroversial and would have been executed by Ms Battista had she been asked to do so.

### Finding 2.3.3 – 2 (contd)

- ix. It was inappropriate for the City to agree to pay a service fee to the Foundation in circumstances where the City was already meeting all of the Foundation's direct and operational expenses for managing the CowParade.
- x. The practice of the Foundation remitting funds raised by it to the City placed the City in a position of real or perceived conflict between its duties as a local government regulator or decision-maker and its interest in receiving that funding.
- xi. There is no evidence that the City undertook activities to acquit or audit the funding provided to the Foundation under the Foundation Funding Agreement.

## Endnotes

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- 3 *Local Government Act 1995*, s 5.41(h), 6.5.
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- 5 *Local Government (Financial Management) Regulations 1996*, reg 33A.
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- 76 Transcript, J Nicolaou, public hearing, 7 October 2019, p 23.
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- 79 Report, ACIL Allen, City of Perth Financial Review, May 2019.
- 80 Transcript, J Nicolaou, public hearing, 7 October 2019, p 13.
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- 128 Report, Crowe, Review of Governance and Financial Matters, August 2019.
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- 172 Transcript, A Hammond, public hearing, 10 October 2019, p 29-30.
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## 2.3.4 Procurement and contracting

The purpose of this Chapter is to consider the procurement processes of the City of Perth (City) during the period covered by the Inquiry's Terms of Reference, 1 October 2015 to 1 March 2018.

With responsibility for the management of community infrastructure and assets worth more than \$1 billion, the City spends more than 40 per cent of its annual budget on procurement of goods and services.<sup>a</sup>

The types of goods and services vary from the small, such as minor maintenance or office supplies, to multi-million-dollar construction or maintenance contracts.

Once the market has been approached, these external goods and services are generally provided under contract, an agreement between the supplier and the City about what is to be provided and how much will be paid.

City employees have considerable authority vested in them, as public officers of a local government, to source suppliers, manage contracts and authorise payment for goods and services. They are responsible and accountable for the public money they commit and expend on behalf of the City. These officers range from the Chief Executive Officer (CEO) and senior officers to administrative staff in individual work units. For some activities, there are limits on an individual employee's authority to authorise expenditure of the City's funds.

The community expects that City employees will perform their duties with integrity and impartiality and will act in the community's interest, rather than their own. When funds belonging to the City are misappropriated or a "loss" is suffered by the City, for their own or a contractor's gain, there is significant cause for concern. Other than the financial loss, outcomes such as the loss in public confidence, reduced competition from suppliers, and the possibility that the goods and services may not meet the public's needs are equally damaging to a local government. Expressed succinctly:

*"When procurement is corrupted by private interests and not directed by the public good, trust in governments is eroded".<sup>2</sup>*

Local governments generally are exposed to high risks of fraud and corruption, because of the large volume of goods and services they procure and because of the high degree of devolved decision-making. It is important that the City, and local governments generally, understand these risks and actively manage them with appropriate controls.



**\$50m**

Spent per year on  
procurement, buying  
external goods  
and services.<sup>1</sup>

<sup>a</sup> Website, Department of Local Government, Sport and Cultural Industries, My Council; Percentage calculated using the categories of material and contracts; other expenses; utilities.

The “3 lines of defence” model raised in **Chapter 2.3.3 – Financial management and planning** provides a sound basis for the control of procurement and misconduct risks.

Allegations of misconduct or corruption associated with procurement at the City are a serious matter and must be investigated effectively. If corruption or misconduct is found, it should be dealt with appropriately and not just “*brushed under the carpet*”.

The case studies examined in this Chapter explore fundamental aspects of the City’s procurement culture and governance. Key matters arising from these case studies relate to the assessment of quotes or tenders, internal governance controls, ethical culture and leadership behaviours as well as investigation processes in responding to complaints by external parties.

### Procurement policies and procedures

The City has policies, rules and processes to ensure the procurement of good and services complies with the requirements of the *Local Government Act 1995* (LG Act) and its regulations, and to protect the integrity of the process.

There are rules and guidance in place that assist City employees when procuring goods and services. These are articulated in City of Perth Council (Council) Policy “CP9.7 – Purchasing”.

- For all goods and services over \$5,000.00, a written quote must be obtained. For those over \$150,000.00, unless there is a tender exemption, a formal “*Request for Tender*” process must be conducted. A tender process can also be used for purchases under \$150,000.00, if the City wishes.<sup>3</sup>
- For evaluating quotes and tenders, criteria are used. For tenders these must be written criteria. These are of two types, compliance criteria and selection criteria. The criteria for selecting a quote or tender are usually related to “*value for money*”, although this does not necessarily mean the cheapest.
- Quotes or tenders received are evaluated against the criteria, usually by an evaluation panel made up of City employees. The panel completes a recommendation report about which quote or tender best meets the criteria. This report goes to an officer with the relevant delegation for endorsement and then to the Council for approval.<sup>4</sup>
- In a situation where the service a supplier provides is unique, and there is only one supplier, a Sole Supplier Justification and Approval process is used<sup>5</sup> and the tender or quotation is not publicly advertised.

Evidence given to the Inquiry suggests that historically the procurement process was decentralised, and each directorate conducted its own procurement. Witnesses to the Inquiry have advised that this caused a number of problems for the City, including a failure to benefit from economies of scale. The Inquiry notes that the City is developing a centralised procurement process.

### External assistance for procurement by local governments

External assistance is available to local governments to assist them to procure goods and services more efficiently:

- *State Government Common Use Arrangements:* Common Use Agreements are a whole-of-government common buying arrangement awarded to suppliers for the provision of specific goods or services commonly used within government. It is administered by the State Government's Department of Finance and no fees are charged. Local governments can use the government rates from suppliers for certain agreements.
- *Western Australia Local Government Association (WALGA) Preferred Supplier Program:* WALGA delivers a range of products and services by using the collective buying arrangement of its local government members through commercial negotiations. WALGA is constituted under section 9.58 of the LG Act, but is not a government agency. Suppliers to the programme pay an administration fee and/or an appropriate contract management rebate to WALGA as part of a direct commercial arrangement with WALGA.<sup>6</sup> Local governments can use the Preferred Supplier Program instead of tendering.<sup>b</sup>

### City's procurement model

Mr Murray Jorgensen, CEO of the City, appeared before the inquiry and was asked about the City's procurement strategy. He explained that decentralisation of procurement was one of the weaknesses he had noted and the City was developing a centralised procurement system, but in the meantime:

*"... all key or major purchases or acquisitions will go through the WALGA Tendering Service, the independent 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".<sup>7</sup>*

### Conflicts of interest

Procurement processes must be conducted fairly, so that all potential suppliers have an equal opportunity, without the interests of City employees who are evaluating tenders and quotes, and/or making decisions on them, affecting the result. Employees should avoid any conflicts between their own interests and the interests of the City and its community.

Personal or professional interests which might affect an official duty are known as "*conflicts of interest*". A conflict of interest could exist because a person evaluating a tender has a friendship or family relationship with a supplier, or they are both members of the same association or there is another connection. In the worst cases, a person evaluating a tender could own or have a financial interest in a tendering company, or there could be gifts or a bribe given, or another form of corruption involved.

<sup>b</sup> *Local Government (Functions and General) Regulations 1996*, reg 11(2) states that "a tender does not have to be invited if ... the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program".

A conflict of interest does not prevent a person from being involved in the procurement process, but it must be declared and managed. This is to ensure that the process is fair, and is seen to be fair. The City, like other levels of government in Western Australia, has policies and processes to deal with conflicts of interest. However, to work successfully they rely on individual employees and suppliers being honest about their interests and declaring them.

The City's procurement procedures contain a "*Declaration of confidentiality and interest form*", which is required to be completed by each panel member. The form combines two governance concepts that should be dealt with separately within the procurement process. This would allow for panel members to clearly articulate any interests relevant to the process.

### Code of Conduct

The City's Code of Conduct applies to council members and employees of the City.

The City revised its Code of Conduct in 2017. Both the earlier and later versions contained the following statement relating to conflicts of interest:

Council members and City employees "*must ensure there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their public duties and functions*".<sup>8</sup>

The Code of Conduct includes details of how this principle should be applied.

### Statement of Business Ethics

The City publishes a Statement of Business Ethics on its website. It "*provides guidance for all sectors of the community when conducting business with the City of Perth*".

The statement explains what suppliers should expect in dealing with City officers. In relation to conflicts of interest it states:

*"All City employees, Elected Members, Committee members, contractors and business partners must disclose any actual, perceived or potential conflicts of interest. The City extends this requirement to all sectors of the community undertaking business with the City".<sup>9</sup>*

## Investigation by the Inquiry

The Inquiry has investigated a number of specific procurement exercises undertaken by the City during the Inquiry's Terms of Reference period, between 1 October 2015 and 1 March 2018. Five of these are separately considered in this Chapter.

These relate to:

- A tender for irrigation services.
- A request for a quotation for culture and values training and the engagement of a company.
- A tender for the construction of the Railway Street and Market Street Shared Path Extension.
- The engagement of a company to provide leadership, coaching and other services.
- The refurbishment of the ground floor at Council House.

## Witnesses

In addition to these investigations, the following witnesses who are, or were, employees of the City gave evidence at Inquiry hearings about procurement processes generally:

- Mr Jorgensen, CEO since 27 November 2018.
- Mr Robert Mianich, Director Corporate Services from 7 November 2005 to 30 June 2019.
- Mr Daniel Richards, Finance Manager from 3 March 2015 to 13 February 2019.
- Mr Ramzi Ibrahim, Senior Contracts Officer with the Construction and Maintenance Directorate.

## Legislative background

The following legislative provisions are relevant to matters considered within this Chapter.

### **Local Government Act 1995**

- Section 3.57 states, “A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services”.
- Section 5.43 limits delegation by the Council to the CEO of the power to accept a tender which exceeds an amount determined by the local government.

### **Local Government (Functions and General) Regulations 1996**

- Regulation 11A requires a purchasing policy be implemented for contracts expected to be worth \$150,000.00 or less.
- Regulation 11 specifies that, with certain exceptions, tenders must be publicly invited for contracts worth more than \$150,000.00.
- Regulation 14(2a) requires that written criteria be determined before tenders are invited.
- Regulations 18(4) and 18(4a) state that complying tenders are:
 

*“... to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.*

*To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender”.*

### City procurement policy

During the period of the Inquiry's Terms of Reference, the City had a "decentralised" procurement model. This meant that some directorates were able to operate their own procurement processes with limited oversight by a central specialist team. Many aspects of procurement were undertaken by project officers in different directorates. Sometimes these people had limited relevant experience, training or skills in procurement, contract management or project management.

City employees purchasing goods and services were required to comply with the City's procurement policy and procedures.

### Purchasing Policy

The purchasing policy was set out in the *Council Policy Manual* at "CP9.7 – Purchasing".

Section 1 of the policy related to *Ethics and Integrity* and included the following statement:

*"All officers and employees of the City shall observe the highest standards of ethics and integrity in undertaking purchasing activities and act in an honest and professional manner that supports the standing of the City."*

*The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:*

- *all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the City's policies, procedures, Code of Conduct and Statement of Business Ethics;*
- *full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;*
- *purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;*
- *all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and to provide a clear audit trail;*
- *any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and*
- *information provided to the City by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation".*

Section 4 of the policy related to “*Purchasing Limits*”. It set out the dollar limits for quotation and tender expenditure for the procurement of goods and services by different levels of officers (Table 2.16).

**Table 2.16: City quotation and tender thresholds for the procurement of goods and services<sup>10</sup>.**

|   |  |
|---|--|
| <p><b>Up to \$5,000</b><br/>Category A</p>      | <p>Purchase directly from a supplier using a Purchasing or Corporate Credit Card issued by the City, or obtain at least one (1) verbal or written quotation from a suitable supplier, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government Common Use Arrangement (CUA); or</li> <li>• from the open market.</li> </ul> <p>The continuous use of single suppliers is to be routinely tested to ensure that the City is receiving best value for money at a competitive market price and adequately distributing market share.</p>   |
| <p><b>\$5,001 – \$50,000</b><br/>Category B</p> | <p>Obtain a minimum of three written quotations from suppliers using a brief outlining the specific requirement, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>Notes:</p> <ol style="list-style-type: none"> <li>1. This category excludes quotations where the City is entering into a contract for services that are of an on-going nature and exceed one (1) year duration. Contracts with a duration of more than one (1) year are to be by Category C – Formal Quotation.</li> <li>2. Consultancy services must be by formal quotation unless at the discretion of the Finance Unit (Contracts Administrator) it is deemed services are of low risk and complexity.</li> </ol> |

|   |  |
|---|--|
| <p><b>\$50,001 – \$150,000</b><br/>Category C</p> | <p>A formal quotation process is to be coordinated through the Finance Unit (Contracts Administrator) under the following guideline:</p> <p>Obtain at least three (3) written quotations from suppliers by formal invitation under a Request for Quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre- determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the City; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>Requests for quotation from a pre-qualified panel of suppliers (whether administered by the City, through the WALGA preferred supply program or State Government CUA) are not required to be invited using a Request for Quotation form, however at least three written quotes are still required to be obtained.</p> |
| <p><b>\$150,001 and above</b><br/>Category D</p>  | <p>Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 4.9 of this Policy, conduct a public Request for Tender process in accordance with Part 4 of the <i>Local Government (Functions and General) Regulations 1996</i>, this policy and the City's tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.</p>  |

Section 4.10 of the Purchasing Policy states:

***“Sole Source of Supply***

*Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. Once determined, the justification must be endorsed by the Chief Executive Officer in accordance with the applicable Corporate Procedure, prior to a contract being entered into. From time to time, the City may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists”.*

Section 7 of the Purchasing Policy states:

***“Authorisation of expenditure***

*Acceptance of tenders and quotations and the authorisation of expenditure is to comply with the City’s purchasing requirements, associated policies and procedures and within the relevant delegation or limit of authority.*

...

*The confirmation of any purchase after the completion of a quotation/tender process must be authorised by an officer to whom authority to incur a liability has been delegated ensuring that sufficient funds have been provided for in the City’s annual budget”.*<sup>11</sup>

The delegated expenditure limits authorised by the Council<sup>12</sup> were as follows:

|                                |   |
|--------------------------------|---|
| <b>Chief Executive Officer</b> | <ul style="list-style-type: none"> <li>• Unlimited dollar value.</li> <li>• Commitment period is specifically resolved by Council or in any other case, no greater than a 5-year period.</li> </ul> |
| <b>Director</b>                | <ul style="list-style-type: none"> <li>• Value less than \$250,000 per year.</li> <li>• Commitment is no greater than 3-year period.</li> </ul>   |
| <b>Manager</b>                 | <ul style="list-style-type: none"> <li>• Value less than \$100,000 per year.</li> <li>• Commitment is no greater than 3-year period.</li> </ul>   |

## Procurement risks

Procurement is a necessary activity, but it is also a high-risk activity because of the large sums of money which may be involved. The risk of fraud and thefts in procurement has been a common theme in reports by the Corruption and Crime Commission (CCC)<sup>13</sup> and other audit or investigative agencies within Western Australia and in other jurisdictions. These reports highlight the vulnerabilities within the governance systems, policy and practices of local governments which led to misconduct.<sup>14</sup>

According to the Auditor General for Western Australia:

*“Good procurement practices centred around the principles of probity, accountability and transparency are key to managing procurement risks and the delivery of good outcomes for ratepayers. When procurement processes are not followed, or local governments are seen not to be acting in the best interests of their communities, they face reputational damage and expose themselves to the risk of fraud and misconduct. Unfortunately, there are numerous recent reports from integrity agencies which highlight the very real consequences when procurement activities in the public sector are not managed effectively.”<sup>15</sup>*

Corruption or misconduct risks arise from a combination of factors. Shortcomings in governance processes together with individual behaviours condoned by the culture of an organisation can combine to create serious misconduct risks.

### Procurement corruption by City employees

The City, like other government organisations with significant funds and insufficient internal controls, has a history of corrupt conduct by employees. Two City officers have been sentenced to imprisonment for offences relating to procurement since 2014. The prosecutions arose from investigations by the CCC. Also arising from these investigations, several contractors to the City have been prosecuted and convicted.

In May 2014, a former Senior Project Officer at the City pleaded guilty to two counts of corruption. She had provided a plumbing contractor to the City with confidential information about a quote from a tender document prepared by another company. The plumber then submitted a lower quote and gained the contract. The officer also admitted allowing the same contractor to add \$5,000.00 to a quote for another job without an explanation. She was sentenced to 12 months imprisonment, suspended for 12 months.<sup>16</sup>

In June 2018, a former Facilities Manager for the City was found guilty of acting corruptly, seeking a bribe and providing false and misleading evidence to the CCC. The officer had used his position to give preferential treatment in awarding work worth almost \$350,000.00 to an electrical contractor. This was done by manipulating invoices to keep them under \$5,000.00 so that the officer could authorise them himself. In return he was paid by the contractor. The officer was sentenced to 22 months imprisonment and the contractor to 21 months, suspended for two years.<sup>17</sup>

As highlighted in this Chapter, procurement misconduct continues to be a significant risk for the City.

### Local government risk factors

Corruption risks vary with the procurement methods used and the different stages of the procurement process. Factors which may increase the risks in procurement by local governments when compared to other government organisations include:

- An increasing shift towards outsourcing, to private companies and individuals, of services provided by local governments. For example, the contract labour costs for the City increased from \$3.5 million to \$7.7 million between 2012 and 2018, an increase of 120 per cent.<sup>18</sup>
- Close relationships are often formed by local government employees with people in the private sector, through local community and business engagement activities.
- Often council members, and sometimes employees, have external private business interests.
- Close contact between employees and local businesses may mean that gifts, in the form of discounts, tickets, lunches or attendances at events may be offered and difficult to refuse.
- Smaller local governments may not have enough employees to ensure the separation of the functions of conducting tenders, organising contracts, and making payments.
- Local governments may not have sufficient resources themselves to properly investigate allegations and complaints made to them, especially if the allegation is against a senior officer.

### Investigations by the Inquiry

The Inquiry has investigated five separate procurement exercises by the City. These are described in detail in this Chapter. Some of the risks identified by the Inquiry arising from these investigations are as follows:

#### Investigation 1: Tender for irrigation services

A City employee from the Parks Unit was involved in a tender for irrigation services to the City. The Inquiry found:

- The City's procedure for evaluating tenders was not followed.
- The employee, who was the project officer for the tender and a member of the tender evaluation panel, had an undeclared actual conflict of interest in that he had several ties with the Managing Director of the successful tendering company.
- The qualifications required by the tender specification were not properly assessed, with the result that the successful tenderer should have been disqualified.
- The comparative price analysis of the tender submissions was manipulated by the employee. This inflated the prices in the tender submitted by a competing company.
- A complaint by an unsuccessful tenderer about the tender process, and a subsequent allegation referred by the CCC, were not properly dealt with by the City. The allegation referred was not investigated, most shortcomings in the tender were not identified and the City provided the CCC with a misleading response. As a result, steps were not taken to ensure that the issues with the tender process were identified and prevented from recurring.

### Investigation 2: Request for a quotation for culture and values training and the engagement of a company

- The City's CEO requested and accepted tickets to a sports event from the owner of a company who had approached the City about providing services, and who later successfully quoted for to provide services to the City.
- In doing this, the CEO contravened the City's Code of Conduct. He did not accurately declare the gift.
- Although there was a maximum budget limit for the services, the cost of the services to be provided and whether they represented value for money were not used as criteria for evaluating the quotes. This meant that other quotes, which may have represented better value for money, were not successful.

### Investigation 3: Tender for the construction of the Railway Street and Market Street Shared Path Extension

- The circumstances of the tender, and the handling of a complaint made about that tender, revealed systemic flaws in the City's processes.
- The tender evaluation process was susceptible to manipulation, because the City's procedures were not consistently followed and one panel member may have had a disproportionate level of influence over the other members of the panel.
- A lack of appropriate training created risks relating to confidentiality of information and conflicts of interest.
- The City's approach to a complaint by an unsuccessful tenderer was inadequate and inappropriate.
- After the matter was referred to the City by the CCC, an investigation found that there were grounds to suspect misconduct by two employees. Both were permitted to resign. The terms of the resignations agreed by the City were inappropriate.

### Investigation 4: Engagement of a company to provide leadership, coaching and other services

- Numerous City officers, from the CEO down, failed to follow proper procurement processes in relation to the engagement of the company.
- The procurement was poorly managed and allowed sole supplier exemptions to be used when they should not have been. The market was not tested to see whether there were other suitable suppliers.
- The scope of work expanded as the services were being provided, but there was a failure by the City to monitor costs or to stick to the limits agreed about what would be provided and what it would cost. City officers attempted to retrospectively justify the engagement of the company using flawed reasoning.
- The City's leadership failed to take responsibility for the poorly managed procurement.

### Investigation 5: Council House ground floor refurbishment

- The City undertook a project to refurbish the ground floor of Council House, a heritage listed building. The City failed to obtain development approval, heritage advice, or a building permit before starting work.
- The project was released to tender before it was adequately planned or scoped. It appears that the officers responsible for the project were under some pressure to complete it before the end of the financial year, so that costs were not carried forward.
- The officers were not appropriately qualified or trained for the role or supported by senior staff. There were failures of training, leadership and communication.

### Risks identified in Inquiry investigations

The Inquiry's investigations highlighted some key misconduct risks inherent in the City's procurement policies and procedures during the relevant period. Without understanding such risks, it is difficult to identify and assess the controls to mitigate or eliminate that risk. The risks were in the following areas:

#### Sourcing suppliers<sup>19</sup>

- Conflicts of interest may not be declared by panel members, other relevant employees, and tenderers. Sometimes panel members may not properly understand what should be declared, or they may intentionally choose not to declare conflicts of interests.
- The sole supplier process can be misused to avoid a fair and competitive quotation or tender process.

#### Internal controls

- If an evaluation panel has only one member with technical expertise, he or she are able to mislead the panel about technical aspects of the work required and the tenders received.
- There was a lack of information or training for panel members and other officers in the process about how to properly evaluate tenders.
- While the City had established procurement policies and procedures, they were not effective in preventing and detecting misconduct. The controls were ineffective.

#### Ethical culture and leadership

- Difficulties can arise when employees accept gifts.
- Procedures for panels to manage conflicts of interest were unclear.
- Difficulties can arise where there are prior personal or professional relationships between an employee and a supplier or potential supplier to the City.
- When senior officers and managers do not act in a way that shows their commitment to integrity in procurement, then procedures are not followed.

### Complaints and investigations

- Complaints by unsuccessful tenderers, and allegations referred from the CCC about tender processes, may not be properly and thoroughly investigated and addressed. This may be because:
  - internal investigations are inadequately conducted;
  - the instructions to an external investigator may exclude crucial issues or scope; and
  - the findings of an investigation are not properly conveyed to a complainant or the CCC.
- There was a lack of training and information for officers asked to manage and/or investigate misconduct complaints.

### Risks identified by the Corruption and Crime Commission

On 4 February 2015, the CCC published a *“Report on Misconduct Risk in Local Government Procurement”*. The types of risks in procurement identified by the CCC included *“situations in which:*

- *one person is able to be involved in various stages of organising contracts and authorising payments, that is, there is no separation of duties;*
- *supervisors do not check tender and payment processes, and work actually done on contracts, with a view to preventing misconduct;*
- *audits are not carried out, or are superficial or ineffective, in relation to use of purchasing cards and contract administration;*
- *inadequate training is provided and/or the policies and procedures on purchasing are not provided to employees or enforced;*
- *records are inadequate, particularly in relation to documenting decisions, and the reasons for those decisions, about tenders and contracts;*
- *conflicts of interest are not declared by employees or recorded, for example, when contracts are awarded to family members, friends or associates;*
- *employees do not declare secondary employment or private business interests;*
- *receipt of gifts is permitted or gift registers are not used;*
- *a clear code of conduct is not brought to the attention of employees on a regular basis;*
- *allegations about misconduct made to the local government are not dealt with appropriately; and*
- *local governments do not report possible misconduct to the Commission”.*<sup>20</sup>

### Auditor General's reports

The Auditor General has, in 2018 and 2019, published three reports which highlight weaknesses relevant to the City's procurement practices.

In October 2018, the Auditor General published *"Local Government Procurement"* in which the procurement practices of eight local governments were audited, it did not include the City. The Auditor General found:

- *"While all LGs [local governments] had procurement policies and procedures, they are not always effectively and consistently used.*
- *LGs need better procurement oversight and controls.*
- *Procurement decisions and conflict of interest considerations need to be better documented".*<sup>21</sup>

In March 2019, the Auditor General published *"Management of Supplier Master Files"* arising from the audit of 10 agencies, including the City. The report indicated that *"an independent review of master file updates was undertaken only on a 'spot check' basis and was limited to checking supplier bank details"*.

A finding was made that *"12 supplier records were created or amended by employees who were not authorised to do so".*<sup>22</sup> The City responded to the finding indicating *"that the amendments made to 12 supplier records by employees who were not authorised to do so, were minor administration changes to the supplier file and did not impact the core supplier details"*.<sup>23</sup>

In August 2019, the Auditor General published *"Fraud Prevention in Local Government"* arising from an audit of five local governments, not including the City. Although the report was primarily focused on fraud prevention, several recommendations it made are relevant to fraud prevention in procurement. It recommended that local governments should:

- *"assess fraud risks across their business*
- *ensure that all conflicts of interest are recorded, assessed and appropriate management plans are in place*
- *have policies and procedures in place to verify the identity and integrity of employees and suppliers*
- *document clear internal processes and systems to report any potential fraud".*<sup>24</sup>

## Improvements to the City's procurement process

### Deloitte report

Deloitte was commissioned by the City to undertake an independent “*Organisational Capability and Compliance Assessment*”. Its report is dated 6 June 2017 and was received by the Council on that date. The report assessed a wide range of governance related matters, including procurement. In its report Deloitte said that it conducted interviews with:

*“... staff involved in contracting and procurement from across the organisation. The existing procurement process was documented based on these interviews, along with pain points and issues. A gap analysis compared the existing process to leading practices as defined by Deloitte’s standard procurement process definition”.<sup>25</sup>*

Deloitte also analysed the City’s procurement data in the course of a “*spend opportunity assessment*”. It found that the following issues “*are constraining the value that the City is delivering through its procurement activities*”:

- *Process execution is inconsistent with insufficient governance and transparency to drive compliance*
- *There is limited evidence of category management, reducing the potential to achieve economies of scale*
- *There is no formal framework for procurement collaboration across business units, meaning similar procurements can be duplicated*
- *There is no consistent and rigorous market testing to ensure that purchases are achieving best value”.*

Deloitte concluded:

*“By optimising procurement spend through improved sourcing practices, consolidation of contracts and improved contract compliance, the City has the opportunity to reduce total operational spend by 2% – 6%. Such a saving would result in an approximate savings range of \$2 million – \$5 million per annum”.<sup>26</sup>*

### City procurement strategy

Following the Deloitte’s review, the City reviewed its procurement model and in late 2018 a procurement strategy report was prepared. The report stated:

*“The City currently operates a decentralised procurement system with many aspects of the procurement cycle undertaken by project officers with limited and varying procurement skills ...”.*

*“Under the current structure the City experiences:*

- Duplication of contracts and tasks and a lack of consultation between directorates for common procurement activities which are lost opportunities for the City.*
- Inability to leverage corporate spend resulting in diminishing the true capacity of cost savings for the City.*
- Money is wasted with commercial decisions being made in isolation from the City and only undertaken at officer or business unit level.*
- Existing processes and systems represents a barrier to realising the full potential that procurement can deliver the City and hinders compliance to strategy and governance processes.*
- A lack of alignment between procurement staff capabilities and processes resulting in poor coordination of information and best practice sharing.*
- Uneven and inconsistent supplier performance management across the City.*
- Contracts signed with suppliers address the needs of directorates and not necessarily the City as a whole, despite [being] actually entered with the City as a collective organisation”.<sup>27</sup>*

The report proposed that the City adopt a centralised procurement model. It said:

*“Centralised procurement will accommodate the purchasing requirements for the whole City enabling the organisation to leverage its total spend. This should allow the City to negotiate the best price and conditions from suppliers by offering them a commitment to buy in larger volumes rather than adhoc purchases.*

*...*

*A centralised team will drive standardisation and uniform processes to categories enabling the City to leverage spend for market competitive service and pricing in tactical purchases. This will reduce the time staff spend continually seeking quotations and enable them to purchase from an internally managed catalogue.*

*...*

*The proposed structure is centralised but enables tactical purchases to the individual business units. At the core of a proposed model is a centralised team of strategic policy makers, contract managers, and sourcing professionals who develop the framework for procurement activities. This team identifies the strategic categories that would benefit from a centralised approach leveraging the entire spend of the City. The specialists will own the sourcing and undertake procurement and negotiation of supplier contracts to ensure operational efficiency. The business owners and end users of the goods or services will be the procurement category specialist’s customers who provide critical input into the development of the specifications or scope of work. Project Managers across projects will still deliver the projects and project management activities however, supported by the procurement category specialists”.<sup>28</sup>*

### Evidence of Mr Murray Jorgensen

Mr Jorgensen became CEO of the City in November 2018. He provided the procurement strategy report to the Inquiry and gave evidence on 9 October 2019. He was asked about the decentralised model of procurement and gave the following evidence:

*“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.*

*Are you able to amplify the reasons why you didn’t have that confidence?---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.*

*Is it the lower priced one?---The lower priced one but the process didn’t lead you to the lowest priced one”.*

Mr Jorgensen confirmed that a centralised procurement system was being developed as recommended in the Procurement Strategy report.



I just think there’s significant opportunities for savings and better procurement and ultimately better delivery of services.



**Mr Murray Jorgensen**  
CEO

## Award of irrigation tender 031-17/18 to Western Irrigation Pty Ltd

### Introduction

1. The City of Perth (City) Parks Unit manages parklands, road reserves, street trees, public places, mall horticultural presentations, boutique gardens and landscape maintenance and construction.<sup>29</sup>
2. In 2017 and 2018, the City awarded a tender to Western Irrigation Pty Ltd (Western Irrigation) for a contract for the maintenance of irrigation bores, pumps and associated works (Irrigation Contract). It is the award of that tender, and the circumstance surrounding it, that is the subject of this matter.

### Timeline

|      |              |   |
|------|--------------|---|
| 2017 | 16 August    | The City advertised Tender 031-17/18 for irrigation services.   |
|      | 31 August    | Tender process closed. Four tenders had been received.  |
|      | 12 September | Mr Blake Humble, Co-ordinator, Parks Operations, and tender evaluation panel member, obtained approval to seek clarification from the tenderers about costs provided in their tenders.  |
|      | 21 September | The evaluation panel made a recommendation to Mr Martin Mileham, the Chief Executive Officer, to award the contract to Western Irrigation Pty Ltd.  |
|      | 13 October   | The City awarded the contract to Western Irrigation.  |
|      | 17 November  | Solicitors for Hydroquip, an unsuccessful tenderer, wrote to Mr Mileham making a complaint about the tender.  |
|      | 27 November  | Mr Humble completed a “ <i>General Disclosure of Interest</i> ” form declaring he had been voted Vice Chairperson of Irrigation Australia (WA Region). Mr Andrew Ogden of Western Irrigation Pty Ltd was the General Secretary to the same body.  |
| 2018 | 10 January   | The Corruption and Crime Commission (CCC) wrote to Mr Mileham referring an allegation for action. It alleged that Mr Humble “... <i>used his position for a benefit by favouring a contractor</i> ...” The City contracted Stantons International (Stantons) to conduct a probity review on the tender process. |
|      | 6 June       | The City advised the CCC that it had conducted a “ <i>twofold investigation process</i> ” and “ <i>The findings of the investigation did not substantiate the allegation against Mr Humble. There was no supporting evidence to indicate that Mr Humble received a personal benefit</i> ...”.                   |
|      | 19 July      | Stantons provided its final report to the City.   |
|      | 20 August    | Mr Mark Ridgwell, Manager, Governance wrote to Hydroquip in terms similar to the City’s letter to the CCC.  |

### Issues considered by the Inquiry

3. Consistent with A.1(i) and A.3(v) of its Terms of Reference, the Inquiry's investigations into the award of the tender to Western Irrigation raised a number of issues for consideration.
4. The request for Tender, RFT 031-17/18 (Tender), was awarded to Western Irrigation on the recommendation of an evaluation panel comprising Mr Blake Humble, Mr Simon Pascoe and Mr Myles Bovell. The contract was awarded on 13 October 2017.
5. The award of the Tender to Western Irrigation occurred in circumstances, which were investigated by the Inquiry. Central to that investigation was the role played by Mr Humble in the assessment of tender submissions and the ultimate award of the Tender to Western Irrigation.
6. The award resulted in complaints by an unsuccessful tenderer, Acemark Investments Pty Ltd as trustee for the McFadden Trust trading as Hydroquip Pumps (Hydroquip), which was made by letter to the City dated 17 November 2017 (Complaints).
7. Hydroquip also complained in similar terms to the Corruption and Crime Commission (CCC), resulting in a referral by the CCC to the City for action.
8. The referral by the CCC contained an allegation that Mr Humble had used his position for a benefit by favouring a contractor during the tender process.
9. A critical issue for the Inquiry was whether the City took the Complaints seriously, investigated them properly, and responded to Hydroquip and the CCC appropriately.

### Investigation by the Inquiry

10. The circumstances in which the Tender was awarded to Western Irrigation, and the circumstances in which the City responded to the CCC referral, are factually complex. Reflecting that complexity was the amount of material considered by the Inquiry and the amount of investigative work required.
11. The Inquiry interrogated thousands of pages of material for the purposes of reaching its views in respect of the Tender and the CCC referral. In addition to reviewing that material, the Inquiry also engaged an independent consultant to assist the Inquiry. The Inquiry also conducted examinations of 10 witnesses over several days, in both public and private hearings.

## Witnesses

12. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this matter. The positions given below for employees are the positions they held at the time of the events described in this Section. The Inquiry heard from each of the evaluation panel members for the Tender, including:
  - Mr Pascoe, Irrigation Supervisor at the City; and
  - Mr Bovell, Co-ordinator of Parks Projects at the City.
13. Mr Humble, Co-ordinator, Parks Operations at the City was also examined. Mr Humble was the project officer for the Tender. He was involved in the evaluation panel and gave evidence regarding his involvement in the tender processes for the Tender, his role with Irrigation Australia Limited, his relationship with Western Irrigation and its Managing Director, Mr Andrew Ogden, and his understanding of his obligations at the City.
14. Mr Humble did not present as a convincing witness, because, in the Inquiry's view:
  - his answers were often evasive and vacillating – Mr Humble's initially unequivocal responses would often change if presented with contrary material;
  - he attempted to determine the reason for the line of questioning<sup>30</sup> for the apparent purpose of tailoring his responses;
  - several times he claimed to be "*confused*", even when asked simple questions, if it seemed likely that his conduct was being, or was about to be, called into question; and
  - if faced with evidence from which adverse inferences could be drawn, and it seemed as though his explanations were not being accepted, Mr Humble would often change tack and either claim to be confused or say he did not or could not remember something, despite it being about something he had previously been able to remember.
15. The Inquiry heard twice from Mr Martin Copeman, Manager, Parks with the City. During Mr Copeman's private hearing he was careful, considered and measured when giving his evidence. That evidence was consistent with Mr Humble being afforded a large amount of trust and autonomy, particularly in relation to the tender evaluation process for the Tender. While Mr Copeman generally presented as a witness of truth, he was also combative and defensive when publicly examined on material that cast his conduct in an unfavourable light.<sup>c</sup> Aspects of his evidence are considered later in this Section. Mr Copeman was unable to persuasively explain why, during the evaluation period for the Tender, he wrote to Mr Humble to say, among other things, it would be "*a hard sell to get Western [Irrigation] on board*".<sup>31</sup>

c Mr Copeman's comments that counsel could "*make that assumption*": Transcript, M Copeman, public hearing, 15 August 2019, p 15, 17, 18.

16. Before joining the City, Mr Copeman and Mr Humble worked together at the City of Subiaco for approximately 10 years.<sup>32</sup> During that period, the City of Subiaco had engaged Elliotts Irrigation, to whom Western Irrigation subcontracted for irrigation works.
17. In view of these matters, Mr Copeman's evidence, particularly insofar as it touches on his engagement with Mr Humble, is treated with a degree of caution where it cannot be independently corroborated.
18. The Inquiry also heard on three occasions from Ms Barbara Moyser, Senior Employee Relations Adviser with the City. Ms Moyser facilitated the City's actions and response to the CCC referral. Ms Moyser had a poor recollection of events and often needed to refresh her memory by reference to documents. Any independent recollection that she did have would, at times, be inconsistent with the contemporaneous documentary evidence before the Inquiry. Ms Moyser was often unable to explain these inconsistencies or why she had taken certain steps. As a consequence of her poor recollection and the inconsistency between her recollection and the documents, Ms Moyser's evidence was often very confusing. Her evidence is not preferred in the absence of corroboration.
19. Mr Mark Ridgwell, Manager, Governance with the City, gave evidence about receiving the Complaints and the referral from the CCC. Mr Ridgwell's evidence was generally clear and cogent, although at times assisted by his contemporaneous notes.
20. Other witnesses were also examined, including Mr Andrew Ogden, the Managing Director of Western Irrigation.

### Evidence obtained by the Inquiry

#### Evaluation and award of the Tender

21. The Tender was advertised on 16 August 2017, with tenders to be submitted by 31 August 2017. It invited tenders for the maintenance of irrigation bores, pumps and associated works throughout the City for a period of one year, with options to extend for two further one-year periods.<sup>33</sup>
22. City of Perth Procedure "PR0660 – Evaluation Panels for Assessing Tenders, Expressions of Interest and Quotations" (PR0660) governed evaluation panels for assessing tenders, expressions of interest and quotations. However, as noted at paragraph 28-36:
  - parts of PR0660 were not followed during the tender process for the Tender, sometimes with material consequences; and
  - even if PR0660 had been followed, there was still scope for error and manipulation of the process.

23. The evaluation panel comprised Mr Humble, Mr Pascoe and Mr Bovell. Mr Humble had an actual conflict of interest, which was not disclosed to the other panel members. This is considered at paragraph 37-45.
24. Prior to recommending the award of the Tender, the evaluation panel failed to properly assess whether Western Irrigation met all of the qualifications required by the specifications. This is considered at paragraph 46-54. When this was raised by Hydroquip as an issue, the response by Mr Humble and the City was inadequate.
25. Mr Humble had carriage of the comparative price analysis of the tender submissions.
26. As described at paragraph 86, Mr Humble inflated Hydroquip's tendered fees and rates, without proper justification, when preparing the analysis. The analysis had a determinative effect on the award of the Tender, because it negatively affected the evaluation score Hydroquip would otherwise have received had the inflation not occurred. The Inquiry finds that Mr Humble's manipulation of the analysis may have been done to favour Western Irrigation in the tender process.
27. The award of the Tender to Western Irrigation on 13 October 2017 is an example of the City failing to provide good government, due to failings in its procurement and contracting processes and its failings in dealing properly with Complaints made about those processes.

**PR0660 was not followed and would, in any event, be ineffective in preventing error and manipulation**

28. There are a number of different versions of PR0660, which applied during the Inquiry's Terms of Reference. The version that was last edited on 9 February 2017 applied to the Tender. The most recent version of PR0660, which applied to a later tender, no longer provides guidance on a number of matters that were addressed by the earlier version.<sup>34</sup> It is unclear how those matters are to now be addressed.<sup>35</sup>
29. Despite an apparent awareness that there was a document governing the conduct of evaluation panels, none of the panel members were familiar with all aspects of the procedure to be followed.<sup>36</sup>
30. Contrary to the procedure set out in PR0660,<sup>37</sup> the evaluation panel did not meet to establish the selection criteria and recommend the weighting of each criteria.<sup>38</sup> Instead, the content of the Tender, including the selection criteria, was prepared by Mr Humble.
31. During the evaluation, the qualifications of a tenderer were evaluated as part of the selection criteria, even though the qualifications should have been assessed as part of the compliance criteria.<sup>39</sup> This resulted in a subjective assessment, which benefited Western Irrigation. Had the qualifications been treated as a compliance criterion, Western Irrigation's bid for the Tender, unless an amendment to the bid was permitted, would have been excluded from consideration.


32. The Inquiry finds that if panel members had greater input into the criteria against which a tender submission is evaluated, there is likely to be a clearer understanding by those members of how each criterion is to be assessed.
33. PR0660 required the evaluation panel members to meet to jointly deliberate on and arrive at a consensus decision. There is insufficient evidence before the Inquiry to allow it to make a finding about whether a meeting involving all the panel members took place, because:
- Mr Bovell did not recall attending meetings in relation to the Tender, but attributed his lack of recollection to the passage of time;<sup>d</sup>
  - Mr Pascoe did not recall meeting as a panel and was of the view that a meeting had not taken place;<sup>40</sup> and
  - Mr Humble recalled a meeting with all the panel members having taken place in accordance with a calendar appointment on his phone.<sup>41</sup>
34. If an evaluation panel does not meet to consider the tender submissions, it undermines the purpose of the evaluation panel and precludes a consensus decision from being reached, as required by PR0660. Furthermore, as a probity review of the Tender conducted by Stantons International (Stantons) observed, the use of “average” rather than “consensus” scoring, which becomes necessary in the absence of a meeting to agree a consensus score, can lead to the possibility of a manipulated result, with members giving unjustifiably high or low scores to influence the average.<sup>42</sup>
35. The probity review carried out by Stantons identified other inconsistencies between the process that should have been adopted by the evaluation panel and the process that was adopted by the panel.<sup>43</sup>
36. The probity review found that, even if it was followed, the process set out by PR0660 did not negate the risk of the evaluation process being the subject of error or manipulation. In relation to the Tender, it is apparent the process was the subject of at least error, if not manipulation. This is particularly so in the context of the comparative price analysis, which was a risk identified in Stantons’s final report, but apparently overlooked or ignored by the City in its response to Hydroquip and the CCC.<sup>44</sup>

d Transcript, M Bovell, private hearing, 15 May 2019, p 73, in relation to whether he attended a meeting to agree the selection criteria.

### Mr Humble had an undeclared conflict of interest

37. The project officer is ordinarily the person responsible for preparing the request for tender documentation.<sup>45</sup> Mr Humble was the project officer who was responsible for the preparation of the request for tender and the evaluation process for the Tender (Figure 2.33).<sup>46</sup>
38. At the time of the Tender process, from August to October 2017, Mr Humble and Mr Ogden had a number of connections, including:
  - since at least February 2016, Mr Humble and Mr Ogden had been involved with the Executive of Irrigation Australia WA Region<sup>47</sup> and Mr Humble later became the Vice Chairperson from 21 November 2017;<sup>48</sup>
  - Mr Ogden was the current National Chairman of Irrigation Australia and Secretary of Irrigation Australia WA Region, roles he held since at least 2016;<sup>49</sup>
  - Mr Ogden, in his capacity as the Managing Director of Western Irrigation, had dealt with Mr Humble at the City and, previously, at the City of Subiaco;<sup>50</sup>
  - in or about March 2016, Mr Ogden agreed to be a referee for Mr Humble, when Mr Humble applied for the role of Manager, Operations and Environment Services at the City of Subiaco;<sup>51</sup> and
  - Mr Ogden was again a referee for Mr Humble when Mr Humble applied for the role of Co-ordinator, Parks Operations with the City and, according to the City's notes of Mr Ogden's reference, was an enthusiastic supporter of Mr Humble.<sup>52</sup>
39. Mr Ogden told the Inquiry that he was not aware that Mr Humble had been the Vice Chairperson of Irrigation Australia WA Region.<sup>53</sup> Similarly, Mr Humble gave the impression that he had only limited dealings with Mr Ogden.<sup>54</sup> However, minutes of meetings of Irrigation Australia WA Region<sup>55</sup> and emails exchanged between Mr Humble and Mr Ogden throughout 2016 and 2017, in their capacities as members of Irrigation Australia WA Region,<sup>56</sup> indicate that Mr Ogden and Mr Humble were well known to, and corresponded with, each other over a number of years.
40. In these circumstances, the Inquiry finds that in giving evidence to the Inquiry Mr Ogden and Mr Humble sought to downplay their relationship with each other.


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**City of Perth**

## General Disclosure of Interest

**Part 5, Div. 6, Sub-Div. 1 Disclosure of financial interests in matters affecting local government decisions**  
**Local Government Act 1995**

It is the responsibility of each Employee to consider if a Conflict of Interest exists prior to participation in a decision making process. This includes providing advice or reports that may influence a decision. It is the individual's responsibility to make a declaration.

|   |   |               |            |
|---|---|---------------|------------|
| <b>Name:</b>  | Blake Humble  |               |            |
| <b>Position Title:</b>  | Coordinator Parks Operations  |               |            |
| <b>Matter Details<br/>(i.e. Council Report, Tender)</b>   | Irrigation related works (Bore and Pump Maintenance, Irrigation Installations, Irrigation Central Control)  |               |            |
| <b>Nature of Interest:</b> You have an interest that must be declared if you or a closely associated person to you (refer overleaf for definition) has a direct or indirect financial interest or a proximity interest in the matter (s.5.60).  |   |               |            |
| <input type="checkbox"/> <b>Direct Financial Interest</b> (s.5.60A)<br>A financial interest exists if it is reasonable to expect that the matter, if dealt with by the local government or its employee, in a particular way, will result in a financial gain, loss, benefit or detriment for the person.   |   |               |            |
| <input type="checkbox"/> <b>Indirect Financial Interest</b> (s.5.61 and s.5.63)<br>An indirect financial interest exists if you, or a person with whom you are closely associated, has a financial relationship with a person requiring a decision. There is no requirement to establish a financial gain, loss, benefit or detriment in this instance. The mere existence of the financial relationship and the requirement for a decision is sufficient for an indirect financial interest to exist.  |   |               |            |
| <input type="checkbox"/> <b>Proximity Interest</b> (s.5.60B)<br>A proximity interest exists if a local government decision relates to: <ul style="list-style-type: none"> <li>A development proposal or the development, management or maintenance of land or facilities on land that adjoins a person's property.</li> <li>Changes to a planning scheme or zoning or uses of land that adjoins a person's property.</li> </ul> A person's property includes land owned by or in which the person has any estate or interest. It may have an adjoining boundary with or is directly across a thoroughfare from the land for which a decision is required. |   |               |            |
| <input checked="" type="checkbox"/> <b>Impartiality Interest</b> (Admin.Reg.34C, Rules of Conduct Reg.11 and Code of Conduct)<br>An impartiality interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person and includes an interest arising from kinship, friendship or membership.   |   |               |            |
| <b>Detail the Nature of Interest:</b><br>Clearly state to enable others to clearly understand what the nature of your interest is   | Vice Chairperson of Irrigation Australia (WA Region) Voted in 21/11/2017 (Voluntary Role)   |               |            |
| <b>Extent of Interest:</b><br>The extent of interest includes the value and amount of the interest.   | Two City of Perth irrigation related contracts (Irrigation Central Control Management System, Irrigation Bore and Pump Maintenance Services) are currently out to tender. It is likely that the below mentioned contractors would submit tenders for the above-mentioned works.<br><br>The Secretary of Irrigation Australia (WA Region) is Andrew Ogden, a Director of Western Irrigation (current City of Perth contractor), Horizon West Landscape and Irrigation are Irrigation Australia members and City of Perth contractors, Total Eden General Manager, Bruce Scatterfield is a member of the Board of Directors for Irrigation Australia. |               |            |
| <b>Officer Signature:</b>   |    | <b>Dated:</b> | 06/09/2018 |

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Version 2

Figure 2.33: General disclosure of interest, Mr Blake Humble, irrigation-related works, 6 September 2018.

41. Mr Ogden and Mr Humble both accepted in their respective hearings that they had a professional relationship with each other.<sup>57</sup> However, Western Irrigation's tender submission did not disclose that relationship, despite the requirement to disclose any relationship, professional, commercial or personal, with City personnel involved in the request for tender process.<sup>58</sup>
42. Similarly, Mr Humble did not refer to, acknowledge or declare that relationship when he completed the declaration of confidentiality and interest form prior to engaging in the tender evaluation process for the Tender (Figure 2.34).<sup>59</sup>
43. Irrespective of whether these were oversights, which given the circumstances described above is unlikely, the fact that it was not identified is consistent with the casual approach to conflicts of interest within the City.
44. Mr Ogden and Mr Humble deny that there was any benefit provided to Mr Humble as a result of his relationship with Mr Ogden.<sup>60</sup>
45. However, as described below, the manner in which Mr Humble conducted the tender process for the Tender was to the benefit of Western Irrigation. Furthermore, as described at paragraph 160, it appears from the manner in which Mr Humble dealt with the contract extension form for the contract, that his decision-making in relation to matters impacting Western Irrigation was, at the very least, affected by bias.

#### Evaluation panel failed to properly assess the requirements of the Tender

46. Mr Humble prepared the request for the Tender by reviewing the specifications in the previous contract for the same works, which he used as a base.<sup>61</sup>
47. Clause 1.14 and Schedule B of this request concerned the compliance criteria. The qualitative selection criteria was described in clause 1.15 and was the subject of a Qualitative Selection Criteria form attached to the Form of Tender.<sup>62</sup>
48. The members of the evaluation panel were aware of the difference between the compliance criteria and the selection criteria.<sup>63</sup> The panel members understood that nonconforming submissions, which did not meet with the compliance criteria, were not to be further assessed by the panel.<sup>64, (e)</sup> In other words, a response which did not conform to the compliance criteria was ineligible for award.
49. Compliance with the Conditions of Contract was a matter to be assessed as part of the compliance criteria. Clause 3 provided that the contractor *"requires the following qualifications as a minimum to fulfil the requirements of this specification"*.<sup>65</sup>
50. Mr Bovell<sup>66</sup> and Mr Pascoe<sup>67</sup> gave evidence that the qualification in clause 3.2, which required the tenderer to hold a valid commercial diving licence, needed to be assessed as part of the compliance criteria. Mr Humble considered that the qualification in clause 3.2 needed to be assessed as part of the selection criteria.<sup>68</sup>

e This is consistent with Ms Boros's evidence, given in the context of a later tender, that tenderers who do not meet the compliance criteria will have their tender removed from consideration: Transcript, G Boros, private hearing, 13 May 2019, p 23.

**Evaluation Panel – Assessment of Tenders, Expressions of Interest and Formal Quotations**

**DECLARATION OF CONFIDENTIALITY AND INTEREST FORM**


*Please read and complete the following form*


**Tender Number: 152-16/17**

**Tender Title: Ozone Reserve Groundwater Filtration System**

I Blake Humble hereby declare that:

- a) I have no financial interest in any of the Tenderers that have submitted a bid for the above named Tender, and that should the situation change, I shall inform the City's Manager Contract Management immediately, in writing.
- b) I have no conflict of interest, real or potential, in this Tender evaluation. Should any of the Tenderers be personally known to me, I shall declare such knowledge to the other members of the Tender Evaluation Panel prior to the evaluation process.
- c) I agree to keep all information relating to the Tender evaluation process confidential and will not disclose details of any tender to any other tenderer.
- d) I shall keep the results of the Tender evaluation process confidential. No indication of the likely recommendation will be discussed, disclosed or allowed to be disclosed without the approval of the Chief Executive Officer.
- e) I understand that the my undertaking at c) and d) above does not apply to disclosing confidential information:
  - (i) if required under a binding order of a government agency or any procedure for discovery in any proceedings;
  - (ii) if required under any law or administrative guideline, directive, request or policy having the force of law; or
  - (iii) which is in the public domain.
- f) I will conduct my evaluation of all tender submissions free of bias and only on the basis of the material being presented.
- g) I shall return all Tenders and Tender documents to the Project Officer at the completion of the Tender evaluation process.

**SIGNATURE:**  **DATE:** 06/06/2017

**WITNESS:**  **DATE:** 06/06/2017

If you have any queries in relation to this document, please contact the Manager Contract Management prior to the Tender Evaluation Panel Meeting.

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**Figure 2.34:** Declaration of confidentiality and interest form, Mr Blake Humble, Ozone Reserve Groundwater Filtration System, 6 June 2017.

51. In any event, it appears as though the evaluation panel proceeded on the basis that the qualifications were to be assessed as part of the selection criteria (consistently with Mr Humble's construction of the clause), instead of the compliance criteria.
52. As a result, the non-compliant tenders were not excluded from consideration and the score sheets refer to the qualifications in the context of assessing the selection criteria.<sup>69</sup>
53. The Inquiry finds that the procedure for assessing compliance with tender requirements at the City was unclear, poorly communicated to evaluation panel members and not subject to appropriate checks and balances.
54. As a result of the erroneous approach adopted by the evaluation panel, tender submissions that should have been excluded from consideration, including Western Irrigation's submission, were evaluated.

**Western Irrigation did not hold a commercial diving licence as required by the specifications**

55. Clause 3 of the specifications for the Tender set out the qualifications required by the contractor, including holding a suitable driller's licence from the Australia Drilling Industry Association (clause 3.1) and holding a "*valid commercial diving licence*" for the purposes of works at some of the sites (clause 3.2).<sup>70</sup>
56. Commercial diving, also known as occupational diving, is a label given to certain occupationally oriented diving and is the subject of regulation in Western Australia by the *Occupational Safety and Health Regulations 1996* (OSH Regulations), which in turn requires compliance with AS/NZS 2299: Occupational diving operations – Standard operational practice.
57. Shorn of detail, AS/NZS 2299.1:2015, clause 2.2(a) and regulation 3.29(2)(a) of the OSH Regulations, require divers doing construction diving work to be certified as occupational divers, and at the time of the Tender, commercial divers.<sup>71</sup> As the terms suggest, those qualifications are different to, and more rigorous than, recreational open water diving qualifications.
58. In order to carry out some of the work contemplated by the Tender, a diver performing the work required would need to be qualified in accordance with the OSH Regulations and AS/NZS 2299 – namely, as a commercial (now occupational) diver.
59. Hydroquip's tender stated that Hydroquip had qualified commercial divers on staff.<sup>72</sup> It is clear that, according to their tender, Hydroquip's divers' qualifications complied with clause 3.2 (and the OSH Regulations).

60. Western Irrigation's tender stated that *"As per clause 3.2 Western Irrigation has a Drillers Licence and staff who hold a Diving Licence"* and that *"Certified divers are employed for relevant maintenance diving activities – these include Jason Williams, David Arnold and Bruce Porges"*.<sup>73</sup> The Inquiry finds that by this statement Western Irrigation intended the City to conclude that its divers were appropriately qualified, as required by clause 3.2 of the tender specification.
61. In April 2018, in the course of the Stantons's review, a Works Manager at Western Irrigation was asked by Mr Copeman whether the diving work carried out for the City by Western Irrigation was conducted by personnel with commercial (now occupational) dive level qualifications. The Works Manager admitted that it was not. He said *"it was completed by personnel with dive qualifications assessed under Western Australia's current OS&H Legislation and Regulations as appropriate to the maintenance task at hand"*.
62. Given the way in which the qualification as a commercial diver dovetails with the requirements of the OSH Regulations described above, it is difficult to understand the distinction made by the Works Manager.
63. In any event, as Mr Ogden and Mr Humble accepted in examinations before the Inquiry, Western Irrigation's qualifications did not comply with the requirement described in clause 3.2.<sup>74</sup> This was also the finding of the probity review conducted by Stantons.<sup>75</sup> It was also a fact borne out by the open water diving licences for Messrs Williams, Arnold and Porges, ultimately supplied to the City by Western Irrigation after the contract was awarded.<sup>76</sup>
64. During the tender evaluation for the Tender, Mr Pascoe asked Mr Humble whether Western Irrigation was providing commercial divers as part of their submission. Mr Humble satisfied him that Western Irrigation had the appropriate licence.<sup>77</sup> In relation to this issue:
  - Mr Pascoe's memory of the conversation was unclear, in that he was not able to provide details of what exactly had been said in relation to the issue or how Mr Humble had proposed to resolve his question; and
  - Mr Humble denied saying anything to any of the evaluation panel members about a commercial diving licence.<sup>78</sup>
65. While the Inquiry finds that the conversation between Mr Pascoe and Mr Humble happened, there is insufficient evidence to find that Mr Humble deliberately misled Mr Pascoe as to Western Irrigation's qualifications.
66. Neither Mr Humble nor any of the other panel members sought copies of diving licences or otherwise sought to ensure the requirement in clause 3.2 was satisfied prior to the award of the tender.<sup>79, (f)</sup> This failure to verify the qualifications of tenderers allowed the tender to be awarded to a tenderer which did not meet the requirements for its award.

<sup>f</sup> Mr Bovell does not recall whether he considered if each tenderer satisfied the requirement: Transcript, M Bovell, private hearing, 15 May 2019, p 74; Mr Pascoe's evidence is that he was satisfied by Mr Humble that Western Irrigation held the correct type of licence: Transcript, S Pascoe, private hearing, 16 May 2019, p 19-20.

67. After the award of the Tender, the nature of Western Irrigation's diving qualifications was raised as an issue with Mr Humble by Mr Anthony McFadden from Hydroquip.<sup>80</sup> These communications with Hydroquip prompted a conversation between Mr Humble and Mr Ogden about Western Irrigation's diving licences.<sup>81</sup> However:
- before the Inquiry Mr Humble said that he did not ask Mr Ogden whether he had commercial divers, but when asked why not he said that he was confused and he could not recall;<sup>82</sup> and
  - Mr Humble advised Hydroquip that *"In terms of the diving component, the three highest rated tenderers fulfilled the tender requirements"*.<sup>83</sup>
68. Mr Humble's evidence on this issue was evasive. He conflated issues and his stated position was often unable to withstand scrutiny and changed as he became aware of other objective facts and documents before the Inquiry.<sup>84</sup>
69. The Inquiry finds that:
- Mr Humble was either reckless to whether Western Irrigation complied with the requirements of clause 3.2, or ignorant of the compliance requirements; and
  - after having made enquiries into the matter, which failed to confirm that Western Irrigation had the required type of diving licence, Mr Humble then reported to the City and Hydroquip that Western Irrigation had the required type of diving licence.
70. Western Irrigation's failure to comply with the qualifications required by clause 3 should have been assessed as part of the compliance criteria. Consequently, it should have been removed from consideration for the Tender.<sup>85</sup> As a result, Mr Humble's conduct had a material effect on the outcome of the tender process, and this was to the benefit of Western Irrigation.

#### Methodology used for the comparative price analysis

71. Schedule A to the Tender included several schedules of rates, which were to be populated by the tenderers. Relevantly:
- Clause 5.5 – *"Programmed Maintenance Work Service"* included sub-clause 5.5.1.1, which required the contractor to provide a lump sum service charge for each site/installation. Schedule A3-1 – *"Pump Servicing"*, which forms part of Schedule A3 – *"Programmed Maintenance Work Bore and Pump Servicing"*, is the schedule relating to this work.<sup>86</sup>
  - Clause 7 – *"Non-programmed Maintenance Work"* referred to the service charge for non-programmed maintenance work on an unlisted pump unit. Schedule A4 – *"Non-scheduled Bore and Pump Servicing (Ad-hoc Service)"* is the schedule relating to this work.<sup>87</sup>
  - The rates set out in Schedule A4 do not apply to the programmed maintenance work service (being the works contemplated in clause 5.5).<sup>88</sup>

72. In reviewing the schedules of rates submitted by each tenderer, a cross-section of typical works (or “scenarios”) was selected and a comparison of those costs was undertaken. The comparative price analysis, based on the scenario modelling, was attached to the Record of Delegated Authority Decision.<sup>89</sup>
73. The scenarios for the comparative price analysis were prepared by Mr Humble in consultation with Mr Pascoe.<sup>90</sup> The scenarios used were the items highlighted in green in the price analysis spreadsheet.<sup>91</sup> Although scenario modelling was commonly used at the City, there was no City procedure containing the methodology for the analysis.<sup>92</sup>
74. The “Pump Servicing” section of the comparative price analysis picked up the prices set out in Schedule A3-1, as submitted by All Pumps and Waterboring (All Pumps), Total Eden Pty Ltd (Total Eden) and Western Irrigation.<sup>93</sup> In this section, each line item for Hydroquip was \$680.00 more than what had been listed in the Schedule A3-1 submitted by Hydroquip as part of its tender.<sup>94</sup> Mr Humble’s explanation for this referred to the clarifications he had sought and is described below at paragraph 77-84.
75. Price was then factored into the evaluation by giving each tender a weighted score for price, where the cheapest tender received the highest score and the percentage difference in price was reflected in the percentage difference in the scores for price.<sup>95</sup>
76. There was no discretion exercised as to the scores given to tenderers for price, as the weighted price was automatically calculated by reference to the percentage difference as against the cheapest tender.<sup>96</sup>

#### Clarifications sought regarding the tendered fees and rates

77. On 12 September 2017, Mr Humble obtained approval from Mr Ramzi Ibrahim, Senior Contracts Officer, Construction and Maintenance, to seek clarification from the tenderers regarding the costs provided in their tenders for servicing of pumps and the development of bores.<sup>97</sup> Clarification was sought by Mr Humble from the tenderers in the terms approved by Mr Ibrahim.<sup>98</sup>
78. In response to the request for clarification, Mr McFadden (from Hydroquip) wrote:  
*“Yes I can confirm that the pricing includes all aspects or [sic] the tender specifications, our pricing has remained consistent and there was a small increase from 2012. If you require any further information feel free to call me on [redacted]”.*<sup>99</sup>
79. All Pumps confirmed its pricing on 29 September 2017, after the panel’s recommendation was made to Mr Martin Mileham on 21 September 2017 but before the contract was awarded on 13 October 2017.<sup>100</sup> Under examination, Mr Humble repeatedly stated that All Pumps did not respond to the request for clarification. Otherwise, he could not confirm whether this was followed up or explain, if it had not been followed up, only that it had not been.<sup>101</sup>

80. Total Eden confirmed that its tender pricing allowed *“for pump servicing and bore development as detailed in the tender specification”*.<sup>102</sup>
81. Western Irrigation provided a response that, in relation to one bullet point, was expressly predicated on an (immaterial for present purposes) assumption.<sup>103</sup> Mr Humble considered the assumption to be *“standard industry practice”*.<sup>104</sup>
82. Mr Humble sent a further email seeking clarification from Hydroquip.<sup>105</sup> Relevantly:
- Hydroquip was the only tenderer that was asked for further clarification.<sup>106</sup> Mr Humble was not able to cogently explain to the Inquiry what aspect of Hydroquip’s response needed further clarification;<sup>107</sup>
  - Mr Humble’s apparent inaction in relation to All Pumps’s non-responsiveness is even more inexplicable in light of the further clarification sought from Hydroquip; and
  - Mr Humble framed his question to Hydroquip using a line item from Schedule A3-1, which was not part of the scenario modelling, and made the request for clarification confusing.<sup>108</sup>
83. There is no written record of any input from Mr Ibrahim into the further request and Mr Humble did not recall seeking any such input.<sup>109</sup>
84. Mr Pascoe was not aware that clarification had been sought about the tendered fees and rates.<sup>110, (g)</sup> Mr Copeman was also unaware that further clarification was sought. When asked in examinations, neither Mr Pascoe nor Mr Copeman considered Hydroquip’s initial response to the request for clarification to be unclear.<sup>111</sup>

#### **Comparative price analysis improperly resulted in Hydroquip’s tender being less competitive**

85. The probity review by Stantons found that *“the price analysis was primarily conducted by Mr Humble who sought guidance from Mr Pascoe when developing the assumptions required to convert the pricing schedules into an [estimate of contract value] for each Tenderer”*.<sup>112</sup>
86. On receipt of the further clarification from Hydroquip, Mr Humble added the service charge specified in Schedule A4 (being \$680.00) to each of the lump sum figures provided by Hydroquip in Schedule A3-1.<sup>113</sup> He said he did so based on his interpretation of Hydroquip’s response. These additions had the effect of inflating each of those line items by \$680.00, which in turn significantly inflated the overall price for Hydroquip in Mr Humble’s price analysis.

g Mr Bovell could not recall whether clarification had been sought: Transcript, M Bovell, private hearing, 15 May 2019, p 79.

87. Mr Humble did not provide a clear or satisfactory explanation about why he had formed the view that the service charge from Schedule A4 in Hydroquip’s tender submission should be applied to the lump sum service fees nominated in Schedule A3-1.<sup>114</sup> Indeed, his explanations:

- contradicted his earlier evidence about the pricing schedules in the Tender, specifically his understanding that the rates in Schedule A4 did not apply to the programmed maintenance work service (being the works contemplated in clause 5.5 and Schedule A3-1);<sup>115</sup>
- were not supported by what was said by Hydroquip in its response to the request for further clarification; and
- were difficult to accept, especially as the service charge in All Pumps’s submission was not treated in the same way<sup>116, (h)</sup> and given that the absence of a service charge in Total Eden’s and Western Irrigation’s submissions were not questioned.<sup>117</sup>

88. Mr Pascoe was not aware that, and was not able to explain why, Hydroquip’s prices in the pricing analysis failed to match the prices that Hydroquip had submitted in Schedule A3-1 of its tender submission.<sup>118, (i)</sup>

89. Mr Copeman gave evidence that he did not review the price analysis in detail.<sup>119</sup>

90. However, the reliability of Mr Copeman’s evidence on this point is doubtful given an email exchange between Mr Copeman and Mr Humble on 19 September 2017, during the evaluation period for the Tender, where Mr Copeman asserted that on his reading of Mr Humble’s (draft) recommendation and Mr Humble’s qualitative price analysis of the tenders, “... by my reading Hydroquip come out in front of Westerns ...”.<sup>120</sup> In light of this contemporaneous evidence, the Inquiry finds that Mr Copeman was aware of the comparative price analysis conducted by Mr Humble and that he discussed that with Mr Humble on or just before 19 September 2017.

91. Later in this same email exchange with Mr Humble, Mr Copeman also observed:

*“The .1 difference between Western and Hydro and hydro being a cheaper outcome is going to be a hard sell to get Western on board. If Hydro challenge I can’t see the defence. Trust me I want to so let’s meet and discuss.”*<sup>121</sup>

92. When questioned about this observation, Mr Copeman’s demeanour as a witness changed significantly. His answers became noticeably defensive. At times he responded to questions with statements like “You can make that assumption if you want”<sup>122</sup> when the questions were being asked simply to have Mr Copeman explain, in his language and with the benefit of hindsight, his email.

h While his rationale was difficult to follow, Mr Humble’s position was that he did not inflate All Pumps’s fees by reference to its service charge, because All Pumps did not respond to his request for clarification.

i Mr Bovell had no meaningful recollection of the price analysis: Transcript, M Bovell, private hearing, 15 May 2019, p 81-82.

93. Mr Copeman's evidence as to whether the "*.1 difference between Western and Hydro*" was a reference to the .1 difference between the final evaluation scores given to those tenderers was perplexing. Mr Copeman initially said that it was "*quite possibly*" a reference to that, before saying "*Sorry, I can't say for sure*" followed by, when pressed, "*Yes, that's reasonable to assume*".<sup>123</sup> Mr Copeman's answers are difficult to accept. The reference to the "*.1 difference between Western and Hydro*" could only have been a reference to the difference in their scoring. It is not clear why Mr Copeman vacillated on this point.
94. While Mr Copeman accepted the language used in his email conveyed the impression that he wanted Western Irrigation "*on board*", he denied that was in fact his intention. When asked why he used the language he did in his email, Mr Copeman said he did not now know.<sup>124</sup>
95. The Inquiry finds that:
  - Mr Humble acted alone when he populated the prices in the comparative price analysis;
  - Hydroquip's response did not support the interpretation adopted by Mr Humble; and
  - there was no proper basis for Mr Humble's actions in inflating Hydroquip's tendered fees in Schedule A3-1.
96. While the Inquiry finds the emails sent by Mr Copeman to Mr Humble on 19 September 2017, and his responses to questions about those emails, suspect, there is at present insufficient evidence to support a finding to the appropriate standard that Mr Copeman was complicit in, or had knowledge of, any wrongdoing by Mr Humble.
97. However, and having regard to Mr Humble's unclear and unsatisfactory evidence on the matter, the Inquiry finds that for the purposes of the comparative price analysis conducted by him, Mr Humble manipulated the prices submitted by Hydroquip causing Hydroquip's tender to be less competitive and may have done so with the intention of giving an advantage to Western Irrigation.
98. The manipulation of the comparative price analysis, the failure to identify and rectify it, and the failure to disregard the Western Irrigation tender on the basis that it was non-compliant, resulted in Western Irrigation obtaining the award of the Tender when it clearly should not have done so.

### City failed to properly address the complaint by Hydroquip

99. On about 17 November 2017, Hydroquip’s solicitors sent a letter to Mr Mileham in his capacity as the Chief Executive Officer (CEO) of the City.<sup>125</sup> While addressed to Mr Mileham, the front page of the letter indicates that it was sent to Mr Ridgwell by email, who recollects receiving it.<sup>126</sup> Among other things, the letter explained that the author had, at the same time as complaining to the City, also complained to the CCC.
100. The City did not act, in a substantive way, on this letter. When asked why this was so, Mr Ridgwell explained he had undertaken training with, among other agencies, the CCC and that *“one of the findings out of that is to wait for instruction in respect to a CCC matter so that you don’t interfere with any investigation that they may take”*.<sup>127</sup>
101. Mr Ridgwell also explained that after receipt of the letter he called Hydroquip’s solicitors to explain that position to them. He could not, however, recall whether the solicitors responded positively, negatively or ambivalently to that explanation.
102. In the absence of competing evidence, the Inquiry accepts this evidence and the rationale behind it.
103. In any event, two months later, on about 10 January 2018, the CCC wrote to Mr Mileham with a referral for action in accordance with section 33(1)(c) of the *Corruption, Crime and Misconduct Act 2003*.<sup>128</sup> Attached to this CCC referral was a letter from Hydroquip’s solicitors to the CCC, which was in materially the same terms as the letter from Hydroquip’s solicitors to the City.
104. The CCC referral contained the following allegation:

*“It is alleged that Blake HUMBLE (Coordinator of Parks Operations, City of Perth) used his position for a benefit by favouring a contractor during the procurement process for City of Perth tender 031-17/18 – Maintenance of Irrigation Bores, Pumps and Associated Works”.*
105. Ms Moyser became involved because the CCC referral contained an allegation about an employee at the City,<sup>129</sup> and at the time the CCC referral was received Mr Ridgwell had a heavy workload and was about to go on leave.<sup>130</sup> Ms Moyser and Mr Ridgwell discussed the process the City would need to undertake to investigate the allegation.<sup>131</sup>
106. The City chose only to interrogate the allegation particularised in the CCC referral, rather than the broader Complaints. Ms Moyser explained she understood the City had to focus on the allegation in the CCC referral,<sup>132</sup> which was an understanding she said she got from Mr Ridgwell.<sup>133</sup> Mr Ridgwell confirmed that where an allegation was raised with the City by an agency like the CCC, it was the City’s practice to only consider that particularised allegation.<sup>134</sup> It was decided to engage Stantons to undertake that consideration.

### Probity review was an inappropriate way of addressing the Corruption and Crime Commission referral

107. The engagement of Stantons came about by Ms Moyser being instructed by Mr Ridgwell<sup>135</sup> to engage the firm and to arrange a probity audit of the tender evaluation process for the Tender.<sup>136</sup> While that much is apparent, what Stantons received by way of a brief, and how the firm's engagement was scoped, is not as clear as it could be.
108. On the one hand for instance, in an email from Mr Wade Dunstan of Stantons to Ms Moyser on 21 March 2018, Mr Dunstan expressly stated that the scope of the review to be conducted by Stantons *"does not include an investigation into [the claims that] Mr Humble gained some form of personal benefit as a result of Western Irrigation being awarded the contract"*.<sup>137</sup> As Ms Moyser accepted in her hearing, that is an omission of the matters central to the allegation in the CCC referral.
109. However, and on the other hand, in a quote with costings for the proposed work, emailed from Mr Dunstan to Ms Moyser on 23 January 2018, it was suggested that Stantons would *"Review and test/explore, where considered appropriate, the claims made in the complaint to the CCC"*. The description suggests, as Ms Moyser accepted at her hearing,<sup>138</sup> that matters central to the CCC referral, including the Complaints, would be considered and tested by Stantons. Similarly, the final report prepared by Stantons indicated that it was within its scope of works to draw a conclusion about *"the allegation of misconduct by the CCC"*.<sup>139</sup>
110. Ms Moyser told the Inquiry that the precise scope of what Stantons was engaged to do was not clearly defined at the outset.<sup>140</sup> This confusion appears to be borne out in an email from Mr Dunstan to Ms Moyser dated 4 July 2018, where Mr Dunstan notes in relation to the report that:

*"Overall, I think there are quite a few items where there is a misunderstanding about what probity entails and the level of scrutiny a probity audit applies to a tender process"*.<sup>141</sup>
111. The Inquiry finds that the engagement of Stantons by the City was not undertaken in a clear, precise or methodical way. This then resulted in confusion about what was or was not within its scope of work. As described below, that confusion may be a primary, and perhaps the sole, reason why draft versions of the report prepared by Stantons underwent quite radical and somewhat perplexing changes during the review process.
112. Nonetheless, while the precise scope of Stantons's engagement was and remains unclear, what is clear is that Stantons was briefed to consider whether the tender evaluation process had adhered to the relevant procedure.<sup>142</sup> Ms Moyser's view, maintained throughout her hearing, is that this was the primary focus of the exercise.

113. It is not possible to construe either the CCC referral or the Complaints as a general complaint about the procedure followed in the tender process. Ms Moyser could not clearly explain the decision to focus only on the tender process, rather than the allegation of serious misconduct by Mr Humble in the CCC referral. She was not able to say whether it was a conscious decision of the City to limit the review in that way.<sup>143</sup>
114. Mr Ridgwell explained that he was not involved in a hands-on way in the review conducted by Stantons. It was a matter, he said, left largely to Ms Moyser. He did, however, agree that it was an expectation of his, at the time of the City's receipt of the CCC referral, that the allegation in it would be investigated and a view reached on whether it could be substantiated. He also agreed that it was not an intention or expectation of his that the review would simply be a review of the City's tender processes for general probity reasons.<sup>144</sup>
115. The limitations of the probity review carried out and finally reported on by Stantons highlights the inappropriateness of the audit being used to investigate the allegations made against Mr Humble.
116. Stantons was not qualified to evaluate the ratings which had been provided as part of the tender process.<sup>145</sup> Accordingly, Mr David Watson who is involved with an organisation called Shenton Aquatics was engaged to assist.
117. Shenton Aquatics and Mr Watson were recommended to Ms Moyser by Stantons in February 2018.<sup>146</sup> It is not clear how or by whom they were engaged (that is, whether by the City or Stantons) as there was no letter of engagement. However, emails show Ms Moyser and Mr Watson began communicating about the Tender in March 2018,<sup>147</sup> with Mr Watson providing a draft report to Ms Moyser on 5 April 2018,<sup>148</sup> implying the engagement was by with the City. Publicly available information describes Mr Watson's employment as the "Commercial Pool Division Manager" with Shenton Aquatics, a role he appears to have held for 23 years.
118. The most precise articulation of what Shenton Aquatics was engaged to do is set out in the opening words to Mr Watson's report: "*I conducted a technical review of tender number 031-17/18 in response to a formal complaint lodged through the CCC*".<sup>149</sup> Stantons described Shenton Aquatics contribution in similar terms in its final report, observing that an "*independent technical review has been undertaken by an appropriately qualified independent expert, Shenton Aquatics, and the observations of Shenton Aquatics' review have been considered as part of this probity audit*".
119. The limitations of Mr Watson's report are described in paragraph 121.
120. Stantons's scope, as set out in its final report, did not include a detailed review of Hydroquip's claims. Stantons was not briefed to investigate Mr Humble's involvement in the matter or determine whether he had manipulated the tender process.<sup>150</sup> Stantons did not carry out full-ranging investigative interviews.

121. The reliance on the review by Shenton Aquatics is concerning, because:
- Mr David Watson, who prepared the report by Shenton Aquatics, noted he “*may have bias in [his] views*” due to his association with Total Eden;<sup>151</sup> and
  - there was no proper justification on why Mr Watson’s views and evaluation should be regarded as the gold standard for the tender (particularly given his disclosure about potential bias).<sup>152</sup>
122. Given these limitations, Stanton’s stated intention to “*draw a conclusion regarding the allegation of misconduct by the CCC*”<sup>153</sup> was limited to considering whether the tender process, as adopted by the evaluation panel, precluded the allegations from being true. This is consistent with Ms Moyser’s understanding of the purpose of seeking the probity audit from Stanton.<sup>154</sup>
123. In other words, Stanton was not engaged to investigate, and therefore did not report on, the allegation made in the CCC referral. The probity review may have discerned whether the allegations could have been made out, but would not determine whether the allegations were, in fact, made out. The usefulness of the probity review to the proper investigation of the allegations was at best tangential.
124. The Inquiry finds that the way in which the City engaged Stanton, and the method by which it was briefed, lacked rigour,<sup>155</sup> with the result that the allegation referred by the CCC was unlikely to be properly addressed.

#### Findings of the probity review and the City’s response to the findings

125. It is clear from the following findings by Stanton in its final report on its probity review that the tender process did not preclude the allegation against Mr Humble from being true:
- Mr Humble failed to identify the minimum competencies in clause 3 of the specifications for tender as compliance criteria, the minimum competencies were not assessed properly and the evaluation panel failed to identify that Western Irrigation did not provide adequate evidence regarding its diving qualifications, all of which was conclusively material to the overall outcome of the Tender;
  - the evaluation panel’s approach to scoring was not entirely supportable, which was possibly material to the overall outcome;
  - the evaluation panel averaged its scores to determine a weighted score, instead of reaching a consensus, which exposed the process to the possibility of manipulation, by which a small change to the scores could cause a different party to be the preferred contractor;
  - the audit could not conclusively determine that the conversion mechanisms and/or input assumptions for the pricing evaluation were not manipulated to contrive a particular outcome; and
  - only requiring one individual (the project officer, which in this case was Mr Humble) to validate the accuracy of the price assessment exposed the City to a risk of error or manipulation, which was potentially material and could not be dismissed as immaterial.

126. In its report, Stantons noted there was *“little evidence to support the notion that Mr Humble, or any individual, manipulated the process to contrive a particular outcome”*.<sup>156</sup> Nonetheless:
- the probity review identified there was scope for the process to have been manipulated to contrive a particular outcome;
  - it is not surprising that *“little evidence”* was found, when the issue of whether there was, in fact, such manipulation was not investigated by Stantons; and
  - the basis for, and the appropriateness of, this statement is unclear given the nature of the probity review and the report as a whole.
127. As noted, reversing Mr Humble’s changes to Hydroquip’s prices would have resulted in Hydroquip being the preferred contractor based on the scores.
128. Despite Stantons having identified that the tender process involved a risk that the price assessment might be the subject of error or manipulation:
- Stantons did not consider whether the evaluation panel, or Mr Humble, had manipulated or incorrectly carried out the price assessment;<sup>157</sup> and
  - the City did not take any further action to determine whether the outcome was, in fact, contrived or biased.<sup>158</sup>

#### City’s responses to the Corruption and Crime Commission and Hydroquip were misleading

129. The CCC referral requested that the City provide its report, advising of the outcome, to the CCC pursuant to section 40 of the *Corruption, Crime and Misconduct Act 2003*.
130. Although Stantons did not find that Mr Humble received a personal benefit, Stantons did not investigate whether Mr Humble gained some form of personal benefit as a result of Western Irrigation being awarded the contract. Nor did it conduct a detailed review of Hydroquip’s claims.<sup>159</sup>
131. Stantons did not conclusively find either that there was bias or that there was no bias.<sup>160</sup> That said, a key finding of Shenton Aquatics was that there was *“some evidence of human bias from tender evaluation panels notes; however, unlikely sufficient to derail the process”*.<sup>161</sup>
132. On 6 June 2018, the City wrote to the CCC (Figure 2.35) and advised the City had conducted a *“twofold investigation process”* and that:
- “The findings of the investigation did not substantiate the allegation against Mr Humble. There was no supporting evidence to indicate that Mr Humble received a personal benefit from being involved in the process nor was any bias established”*.<sup>162</sup>

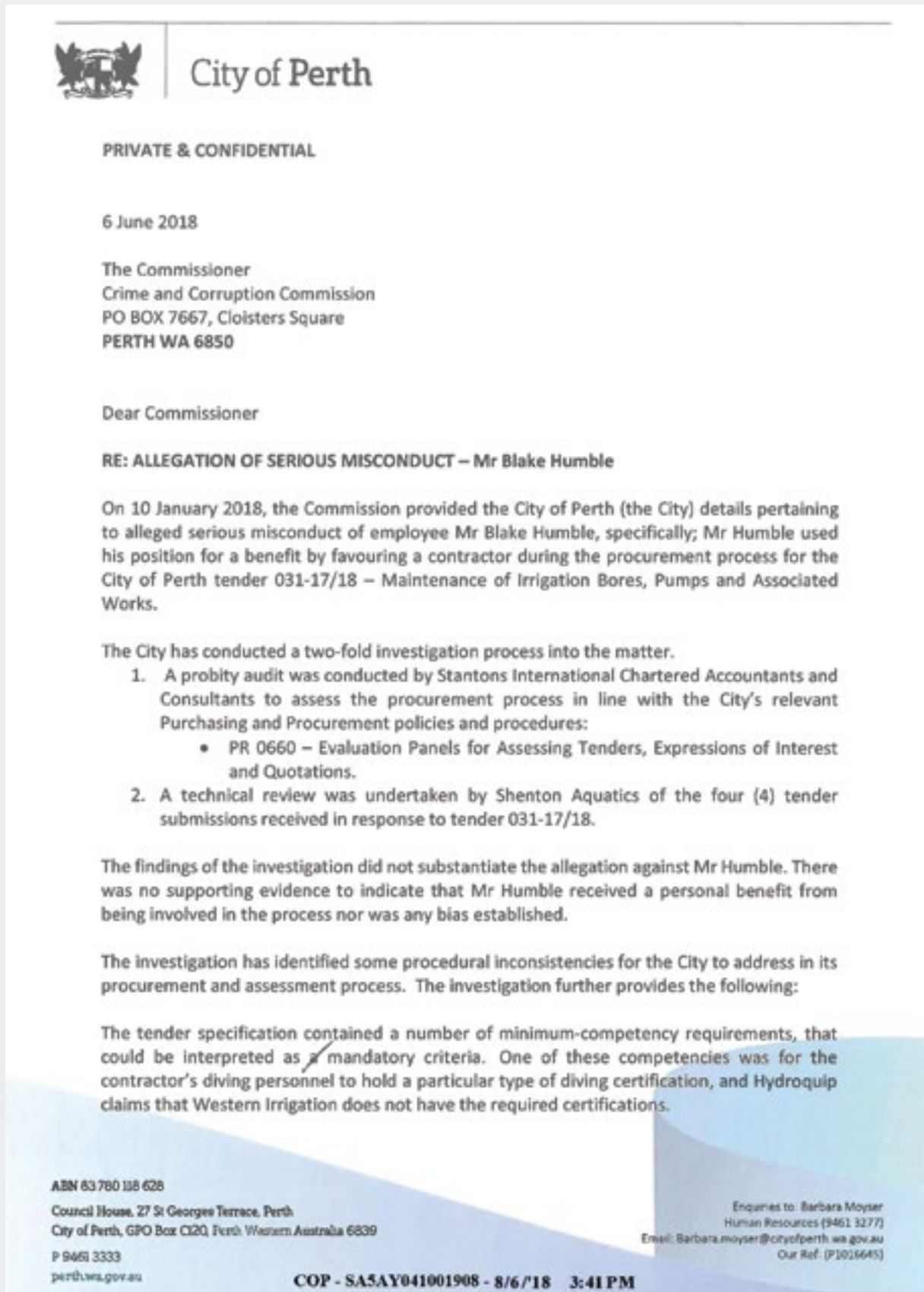


Figure 2.35: Letter from Mr Martin Mileham, Chief Executive Officer, City of Perth, to the Commissioner, Corruption and Crime Commission, 6 June 2018.

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As part of the probity review, evidence of these competencies by Western Irrigation in their submission could not be located.

The technical review identified that whilst specific evidence was not provided, it was not unreasonable for the evaluation panel to rely on the information that was provided as being sufficient; "certificated divers arte employed for relevant maintenance diving activities".

The implication from the submission is that the divers are suitably qualified and hold suitable license classes. Whilst it would seem reasonable for the evaluation panel to request further clarification it was not unreasonable that they did not.

Please contact the undersigned should you have any further query.

Yours sincerely



Martin Mileham  
CHIEF EXECUTIVE OFFICER

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133. Ms Moyser, who was involved in the preparation of a draft of the letter, accepted that the letter to the CCC *“tells half the story”* and *“creates a wrong impression”*.<sup>163</sup>
134. Mr Ridgwell accepted, in view of the observations and findings in Stantons’s final report, the response was misleading, although not deliberately so. Mr Ridgwell’s explanation was that the disconnect between the Stantons’s final report and the City’s letter to the CCC was due to his workload at the time and because he did not give the matter his full attention. Mr Ridgwell also agreed on the basis of the City’s response to the CCC, the CCC would inevitably reach the (erroneous) view that the allegation it referred to the City for investigation had not been substantiated.<sup>164</sup>
135. Mr Ridgwell also wrote to Hydroquip on 20 August 2018 in terms similar to those in which the City wrote to the CCC. Mr Ridgwell accepted that, as with the response to the CCC, the letter to Hydroquip was misleading. He also accepted that Mr McFadden, the principal of Hydroquip, would probably be quite upset and annoyed to find out, during the course of the Inquiry, the misleading nature of that letter and the deficiencies in the City’s *“investigation”* of the CCC referral and the Complaints.
136. Given the nature of Stantons’s probity review and its conclusions, there was no basis for the City to have responded to the CCC, or Mr McFadden on behalf of Hydroquip, in the terms in which it did.

#### City’s changes to Stantons’s draft reports

137. The final report prepared by Stantons, on which the City’s response to the CCC was based, was not the only version of that document. Rather, as best the Inquiry can determine, at least eight draft versions of the document were prepared.
138. The first version received by the City is version 1.3, which was received by Ms Moyser from Mr Dunstan by email dated 6 April 2018. Mr Dunstan describes this version in his email as a *“preliminary draft”*.<sup>165</sup> It was shown to both Ms Moyser and Mr Ridgwell in the course of their examinations. Only Ms Moyser recalled seeing the document.
139. The preliminary draft is, in critical respects, strikingly different to the final report.
140. The most significant difference between version 1.3 and the final version of the report is the inclusion in version 1.3, missing from the final report, of a section of the document headed *“Observations Regarding the Misconduct Allegations”*.
141. As that heading suggests, this section contained Stantons’s observations on the misconduct allegations made against Mr Humble in the Complaints.
142. A number of the *“Observations”*, which were subsequently removed by Ms Moyser, are worth noting, including the following:

*“However, given the evidence suggesting the evaluation process was flawed and the outcome may be erroneous, the City may wish to consider referring the matter to the CCC to investigate the possibility of an undisclosed relationship/ arrangement between Mr Humble and Western Irrigation”.*

*“... it remains a possibility that Mr Humble has an additional relationship or arrangement with Western Irrigation that he chose not to disclose, for the specific purpose of perpetrating misconduct in order to gain a personal benefit. Based on our review, the greatest exposure to the possibility of misconduct would have been through Mr Humble’s control over the development of LSFE [Lump Sum Fee Estimate] for each tenderer”.*

*“... it is possible that after the conduct of the qualitative scoring, Mr Humble could have observed the weighted qualitative scores for each Tenderer, and subsequently contrived the fee estimates to ensure a particular outcome was derived. On this basis, the City may wish to consider referring the matter to the CCC to investigate the possibility of an undisclosed conflict of interest existing between Mr Humble and Western Irrigation. However, in our opinion, it is unlikely that such a situation has transpired”.*

Stantons provided observations to support this conclusion.

*“It is possible that bias was introduced into the evaluation process, however it is unclear whether any bias, if introduced, had a material effect on the outcome of the evaluation process”.*

*“In summary, we cannot conclusively dismiss the notion that individual bias played a role in the outcome of this tender process. However, if there was bias present, we are unable to determine whether it had a material effect on the process”.*

143. Both Mr Ridgwell and Ms Moyser were, in the course of their hearings, taken to these passages in the preliminary draft.

144. Mr Ridgwell said:

- he had not seen them before;
- that they were serious matters;
- that it was a considerably more concerning version of the report than the final report;
- that he was surprised and disappointed that these matters were not in the final report;
- that they were matters that he would send to the CCC;
- that he would not have written to the CCC or to Mr McFadden in the terms he did had he known of them; and
- regardless of whether or not they were matters within Stantons’s scope of works they were matters that should have remained in the final report.<sup>166</sup>

145. Ms Moyser also agreed that these matters were serious, that they were central to the allegation the subject of the CCC referral and that they were matters the City took seriously and would want investigated so the City could respond to the CCC in an informed and appropriate way.

146. Notwithstanding this, Ms Moyser gave evidence that she thought she removed the entire section headed “*Observations on the misconduct allegations*” from the draft report.
147. Ms Moyser said that she did not think she was instructed to delete the material by Mr Ridgwell or anyone else. She also agreed that it was unlikely that Stantons, the authors of the preliminary report, would suggest those deletions to her.
148. Ms Moyser said that the intention was to move the material to an appendix, or elsewhere in the report. She was unable to explain why she thought this material should be moved to an appendix.<sup>167</sup> Furthermore, Ms Moyser accepted that in both the marked-up version of the draft report, in which the observations were deleted, and in the final report, the observations were not in an appendix. She was unable to explain why this was the case if the observations were intended to form part of the report.
149. Ms Moyser did not think she questioned the absence of the observations from the final report and had no recollection of doing anything with the observations – for example, referring them to the CCC or for further investigation, following their removal from the draft report, notwithstanding their seriousness. When examined, Ms Moyser accepted she should have taken those steps.<sup>168</sup> Why she failed to do so at the time is both puzzling and concerning.
150. The changes made to the preliminary draft are perplexing, particularly as Stantons’s observations are central to the CCC referral. No cogent explanation for those changes, and the complete absence of the observations from the final version of the report, has been provided by any witness, including Ms Moyser.
151. Notwithstanding this, there is no evidence that Ms Moyser or anyone else set out deliberately to contrive the result of the review and report conducted and issued by Stantons. When that possibility was suggested to Ms Moyser in the course of her examination, it was denied.<sup>169</sup>
152. The most plausible explanation for the changes, consistent with the absence of misconduct, may be that Ms Moyser simply had little understanding of the process in which she was engaged. Without intending any disrespect, Ms Moyser was not the appropriate person for the task. She had not been trained in the process. It was not her usual role. She was quite reliant on others, including Stantons and Mr Ridgwell, for her understanding of what a probity review involved or what a proper interrogation of the CCC referral would require. As Mr Ridgwell accepted, a governance-led investigation, similar to that which occurred with the engagement of INVision in relation to the Railway Street and Market Street Shared Path Extension Tender, also considered in this Chapter, is the appropriate way to conduct an investigation of this type.<sup>170</sup>
153. The inappropriate resourcing of the matter, coupled with the failure of Mr Ridgwell as Manager, Governance to properly oversee and review the work conducted by Stantons and Ms Moyser, which failure arose at least in part due to Mr Ridgwell’s significant workload at the time,<sup>171</sup> resulted in a process that was dysfunctional and unsuited to its purpose.

154. The Inquiry finds, in relation to the review of the Tender, that the City was hampered by poor resourcing, a lack of proper oversight, and systemic failures of process, aptitude and governance.

#### Action taken by the City following the probity review into the Tender

155. For the reasons already described, the City's response to the CCC referral, by engaging Stantons to undertake a probity review, was inappropriate and resulted in a misleading response to the CCC. The only action which appears to be specifically attributable to the Complaints and the CCC referral is the City's decision to re-tender the Irrigation Contract, instead of exercising its option to extend it.<sup>172</sup> It may also be the case that the City's experience with this CCC referral led to what Mr Ridgwell described as a recent push towards centralising procurement practices within the City, a matter for which he had been agitating for some time.<sup>173</sup>
156. Otherwise, and broadly speaking, the City did not specifically address the issues that were raised by Hydroquip and the CCC referral and appears to have proceeded on an assumption that steps the City was already taking, or intending to take, would be sufficient to resolve the issues identified.<sup>174</sup> In particular, the City did not:
- provide further training to staff, despite the failings identified; and
  - take any action against Mr Humble (disciplinary or otherwise), although Mr Humble does appear to have been prompted to make a declaration of interest during the evaluation period for a later tender in respect of his relationship with Mr Ogden.
157. As a result, the City did not implement any safeguards to avoid the risk of error and manipulation that was of concern in this tender process, from affecting the process for a subsequent re-tender.

#### Decision to re-tender the Irrigation Contract

158. Mr Copeman was instructed by Mr Ridgwell to advise Western Irrigation that the City was not going to extend the existing contract, but that Western Irrigation was welcome to make a submission for the new tender.<sup>175</sup>
159. Mr Humble was not aware that a decision had been made not to extend the contract.
160. A contract extension form was prepared, by Mr Humble, with some administrative assistance, for the Irrigation Contract,<sup>176</sup> where:
- The form recommended the extension of the contract and included favourable comments regarding the performance of Western Irrigation.
  - The contract spend in less than one year was already more than half of the estimate over three years (which is not made clear on the form).<sup>j</sup> The form provides that *"requests to extend contracts that have significantly exceeded the original contract value should be reviewed carefully"*, Mr Humble was not clear on the process to be followed where there was significant overspend.

j Transcript, B Humble, private hearing, 17 May 2019, p 80-82; the estimated annual cost for the works in 2017/2018 was \$66,168.00 and the total whole of life cost for the three-year contract was circa \$200,000.00, however, the form was completed on the basis that the future demand for products is consistent with or related to the original scope of works (despite the significant overspend that would result).

- The form asserted that it is “*anticipated that due to the specialist nature of bore and pump works, an alternative contractor with a cheaper price would not be available with the Perth market*”. Mr Humble did not know what that comment was based on and conceded that it was inaccurate.
- Mr Humble was not able to provide a compelling reason as to why the contract was recommended for extension in the circumstances.<sup>177</sup>

161. As described in paragraph 37-45, Mr Humble had a conflict of interest in relation to the Irrigation Contract. The Inquiry infers, from the manner in which he dealt with the option to extend the Irrigation Contract, that Mr Humble’s decision-making in relation to Western Irrigation was affected by bias.

#### City did not provide further training to staff

162. The Inquiry heard evidence that City employees do not receive information or training with respect to evaluating tenders as part of an evaluation panel.<sup>178</sup>

163. Ms Moyser and Mr Ridgwell prepared a draft of the letter to the CCC, which included the following paragraph:

*“The information provided by the Probity Auditor has been referred to the City of Perth Procurement and Contract Management specialists to further review lessons learnt and provide further training to City of Perth staff.”*<sup>179</sup>

164. The final version of the letter to the CCC did not include this paragraph,<sup>180</sup> and as a matter of fact the evaluation panel members had not been, as at the date of their examinations before this Inquiry, provided with further training.<sup>181</sup>

#### No action was taken in relation to Mr Blake Humble

165. Mr Humble’s conduct was never properly investigated, notwithstanding the specificity of the allegations made against him. The employees at the City involved in actioning the CCC referral could not explain why this had not been done. When asked about this, Mr Ridgwell said he had no recollection of discussing the appropriateness of involving Mr Humble in the re-tender. However, when it was put to him that, if he had been asked, was it likely he would say “*He’s been cleared by the Stanton’s report so its okay*”, he agreed.<sup>182</sup>

166. No disciplinary action was taken against Mr Humble.<sup>183</sup> Presumably, this was because the City did not take steps directed towards determining, and was therefore unable to determine, whether Mr Humble had engaged in misconduct.

## Findings

### Finding 2.3.4 – 1

In respect of the Tender, the Inquiry makes the following findings:

- i. The City's procedure for evaluating tenders was not followed.
- ii. Mr Humble had an undeclared actual conflict of interest, in that he had several ties with the Managing Director of Western Irrigation, Mr Ogden.
- iii. The diving qualifications required by the tender specification were not properly assessed as part of the compliance criteria, or at all, with the result that the Tender was awarded to Western Irrigation, which should have been disqualified from consideration for not holding the required qualifications.
- iv. The comparative price analysis of the tender submissions was manipulated by Mr Humble, in circumstances where the analysis inflated a competing bid, contributing to the award of the tender to Western Irrigation.
- v. Even if the City's procedures had been followed, there were insufficient checks and balances to avoid risks associated with the tender process being subject to error or manipulation.

### Finding 2.3.4 – 2

In respect of the CCC referral of an allegation of serious misconduct the Inquiry makes the following findings:

- i. The probity review of the tender process, which was commissioned by the City in response to the CCC referral, was not an appropriate way to address it.
- ii. The City failed to investigate the specific allegation identified by the CCC.
- iii. Despite it having been attached to the CCC referral, the City did not consider or investigate the Complaints.
- iv. The City responded to the CCC before the probity auditors it had engaged had finally reported to the City.
- v. The City was involved in making significant changes to drafts of the report, which materially altered the content and tone of the report, in circumstances where no reasonable explanation for those changes has been proffered.
- vi. The City's response to the CCC was inaccurate and misleading.
- vii. As a result of the City's actions, and inaction, steps were not taken to ensure that the issues with the Tender process were identified and prevented from recurring.

**Finding 2.3.4 – 3**

Generally, the Inquiry makes the following findings:

- i. As at the date of the Tender, the City's procurement and contracting processes, and the way in which the City dealt with complaints and allegations against City employees, was inconsistent with good government.
- ii. The City's procurement and contracting processes resulted in the unjustified award of a tender to Western Irrigation.

## Request for quotation 057-17/18 and the engagement of Bartlett Workplace Training Pty Ltd

### Introduction

1. The Inquiry investigated a number of procurement and contracting matters, one of which was the engagement of Bartlett Workplace Training Pty Ltd (Bartlett Workplace).
2. Bartlett Workplace was a company engaged by the City of Perth (City) in 2017 to provide culture and values training, and related services, to the City. Its principal was, and still is, Mr Glen Bartlett who was, relevantly, and still is, also the Chairman of the Melbourne Football Club. In essence, Bartlett Workplace was engaged to improve relations between and among the members of the Executive Leadership Group and City of Perth Council (Council).

### Timeline

|      |              |   |
|------|--------------|---|
| 2016 | 7 July       | Mr Bartlett of Bartlett Workplace emailed Mr Martin Mileham, Chief Executive Officer (CEO) about what services Bartlett Workplace could offer the City.   |
|      | 25 July      | Mr Bartlett and Mr Mileham met (on or around this date).  |
|      | September    | Mr Bartlett contacted Mr Mileham with additional information.   |
| 2017 | 19 April     | Bartlett Workplace sent Mr Mileham a proposal for a “ <i>Workplace 360 review</i> ”. Mr Mileham and Mr Bartlett met at the Crown Towers in Perth.   |
|      | 20 April     | Mr Mileham sent Mr Bartlett a text message stating:<br>“ <i>Glen great to talk, many thx for your time. I am in Melbourne Sat to Tues so if there is an opportunity to see Richmond vs Melbourne at the ‘G’ that would be great also</i> ”. |
|      | 24 April     | While in Melbourne on leave, Mr Mileham attended the Richmond versus Melbourne Australian Football League match with a family friend.   |
|      | 28 April     | Mr Mileham declared a gift from “ <i>Glen Bartlett (Bartlett Workplace)</i> ” of “ <i>Ticket to Richmond vs Melb @ MCG + 2 drinks</i> ”.  |
|      | 4 May        | Mr Mileham asked Mr Mark Ridgwell to get additional quotes based on the Bartlett Workplace Proposal.  |
|      | 21 September | Mr Mileham approved a formal quotation request form for a Cultures and Values Framework.  |
|      | 18 October   | An evaluation panel comprising employees met to consider quotes from three companies, including Bartlett Workplace.   |
|      | 6 November   | Mr Bartlett was advised that his “ <i>submission to undertake the culture and values framework services was successful</i> ”.   |

## Issues considered by the Inquiry

3. Consistent with A.3(v) of its Terms of Reference, the Inquiry identified two issues for its consideration:

- whether Bartlett Workplace was engaged in November 2017 following a proper and transparent procurement process, or whether it was a favoured supplier and the assessment made of other suppliers was merely “*window dressing*”; and
- whether the Chief Executive Officer (CEO), Mr Mileham made a false declaration in respect of a gift he received from Mr Bartlett in April 2017, namely, tickets to a football match and associated hospitality.

## Investigation by the Inquiry

### Witnesses

4. The Inquiry interviewed, and held private hearings, involving a number of people in the course of investigating this matter. The positions given below for employees are the positions they held at the time of the events described in this Section. The Inquiry also considered a large number of relevant documents. The principal witnesses were Mr Mileham and Mr Bartlett.
5. Mr Mileham was examined on his relationship with Mr Bartlett and the gift declaration he made in April 2017. Mr Mileham’s recollection was generally poor. He could not recall how many times he met with Mr Bartlett before Bartlett Workplace was awarded the contract for the Services and his evidence about the circumstances of the gift, he received from Mr Bartlett changed in the telling. Mr Mileham’s evidence is treated with caution.
6. Mr Bartlett is a Director of Bartlett Workplace. He gave evidence from Victoria by video link. Mr Bartlett was somewhat guarded, but presented as a witness of truth.
7. The Inquiry also heard from people who were City employees at the relevant time, Mr Mark Ridgwell, Ms Barbara Moyser, Senior Employee Relations Adviser, and Ms Kelly Pember, Acting Manager, Human Resources. Aspects of their evidence are considered below.

## Evidence obtained by the Inquiry

### Mr Glen Bartlett contacts Mr Martin Mileham, they meet, and Bartlett Workplace pitches for work

8. There was no pre-existing personal or professional relationship between Mr Mileham and Mr Bartlett before Mr Bartlett contacted Mr Mileham in mid-2016 to, in effect, pitch for work with the City.<sup>184</sup>
9. However, they shared a connection to the East Perth Football Club (EPFC). Mr Mileham was and is a Director of EPFC's Board of Management and Mr Bartlett, who is a life member, was a former player and captain.
10. As best the Inquiry can determine, their dealings before Bartlett Workplace was awarded the contract for the Services were limited and appear to have been as follows:
  - In July 2016, Mr Bartlett learned of Mr Mileham's appointment as Acting CEO and made contact with him for business development reasons.<sup>185</sup> They met on about 25 July 2016.<sup>186</sup>
  - The meeting was, to Mr Bartlett's recollection, a "*standard*" introductory meeting. Mr Bartlett did not immediately recall the nature or subject of discussions, although he was later reminded that it led to some discussions with the Western Australian Local Government Association regarding the Association's preferred supplier scheme arrangements.<sup>187</sup>
  - In September 2016, after Mr Mileham was appointed substantively as CEO, Mr Bartlett again got in touch with him with information arising from their July discussions.<sup>188</sup> Mr Mileham circulated that information internally,<sup>189</sup> advising Ms Michelle Howells (Manager, Human Resources) and Mr Robert Mianich (Director, Corporate Services) that Mr Bartlett was an ex-member of the EPFC, and that Mr Mileham was on the Board. Mr Mileham said he did this so "*they are aware that I have a connection or potential connection or there may be a perception of a connection*", recognising that his connection was, or might have been seen to be, a conflict of interest.<sup>190</sup>
  - On 19 April 2017, Mr Mileham and Mr Bartlett met again, this time at the Crown Towers in Perth, possibly in the Crystal Club,<sup>191</sup> rather than at Council House. On the day of, and in the lead up to, their meeting, Bartlett Workplace sent a proposal for a "*Workplace 360 review*" to Mr Mileham<sup>192</sup> (Proposal).
  - Mr Bartlett was initially unable to recall what was discussed at that meeting or why it took place,<sup>k</sup> but accepted that something had prompted Bartlett Workplace to send the Proposal.<sup>193</sup> Mr Mileham said he might have discussed City business at the meeting, but that it was "*mainly about football*".<sup>194</sup>
  - In mid-April 2017, Mr Mileham was also gifted by or through Mr Bartlett, two tickets to a football game at the Melbourne Cricket Ground for the ANZAC Day eve game.<sup>195</sup> The receipt of those tickets, and Mr Mileham's declaration in respect of them, is dealt with in some detail below.

<sup>k</sup> Email, B Limmer to G Bartlett, M Mileham and A Sunderland, 10.38 am 13 April 2017; note: Mr Bartlett had no recollection of discussions about Mr Mileham's key performance indicators at these meetings: Transcript, G Bartlett, private hearing, 8 May 2019, p 15.

11. The Proposal was a lengthy document, but of note is that it was replete with references to a “*One Team*” approach and the four core scopes of work contained in it were priced, cumulatively, at \$40,000.00.<sup>196, (I)</sup>
12. Two days after the Proposal was provided, on Friday, 21 April 2017, Mr Mileham emailed Mr Bartlett to thank him (presumably for the Proposal) and indicated he would reply after ANZAC Day, once he had had a “*chat*” with the Lord Mayor.<sup>197</sup>

#### Mr Martin Mileham declares a gift

13. Mr Mileham spent the long weekend of 22-25 April 2017 in Melbourne, returning to the City on 26 April 2017. As 25 April 2017, ANZAC Day, was a Tuesday, Mr Mileham took annual leave from the City for Monday 24 April 2017. He booked the leave on 13 April 2017.<sup>198</sup>
14. While in Melbourne, among other things, Mr Mileham attended the ANZAC Day eve Australian Football League match between Richmond and Melbourne with a family friend. His tickets to the event were provided by Mr Bartlett. The match was, in Mr Mileham’s words, a big game, a “*marquee game*”, attended by 84,000 people.<sup>199</sup>
15. Mr Mileham said the tickets were offered to him. When pressed, he conceded that it was possible he may have requested the tickets, but that it was unlikely.<sup>200</sup> Mr Bartlett said the tickets were requested, and provided the Inquiry with a text message from Mr Mileham reflecting that request.
16. That text message was sent at 3.59 pm (presumably Victorian time) on 20 April 2017. It states:

Mr Mileham


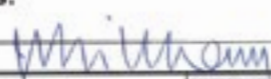
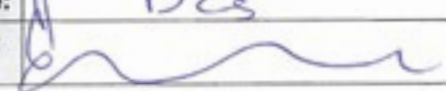


*“Glen great to talk, many thx for your time. I am in Melbourne Sat to Tues so if there is an opportunity to see Richmond vs Melbourne at the ‘G’ that would be great also. Regards Martin Mileham”.*<sup>201</sup>

17. Two tickets were provided, as requested. The tickets included pre-match dinner and drinks at a function room at the Melbourne Cricket Ground, during which speeches were made, and seats near to the function room from where Mr Mileham and his guest could watch the match.
18. Mr Bartlett informed the Inquiry that the value of the tickets was \$220.00 each, or \$440.00 in total.<sup>202</sup>
19. Section 5.82 of the *Local Government Act 1995* (LG Act) required Mr Mileham to disclose any gifts that he received valued over \$200.00, including a description of the gift and the estimated value of the gift at the time it was made. Furthermore, the City’s Code of Conduct prohibited Mr Mileham from accepting a gift valued at \$300.00 or more from a person who was seeking to undertake commercial dealings with the City.<sup>203</sup>

I Note: the fifth scope of works, online compliance training, was priced per employee.

20. Mr Mileham was examined on his understanding of the rules about the receipt and declaration of gifts. His evidence demonstrated that he understood those rules, including the prohibition against accepting certain gifts (which alone or in aggregate are valued at more than \$300.00) and the requirements for full and proper disclosure of any gifts received. He said that if he received two tickets to an event he would have declared both of them.<sup>204</sup>
21. However, despite having this understanding, Mr Mileham's declaration of the gift he received was deficient.
22. On 28 April 2017, Mr Mileham declared the gift. On the declaration form (Figure 2.36) he stated that the gift was from "*Glen Bartlett (Bartlett Workplace)*" and that the person who would benefit from the acceptance of the gift was "*Self*". He described the gift as "*Ticket to Richmond vs Melb @ MCG + 2 drinks*".<sup>205</sup> That description is misleading in two respects.
23. First, he received two tickets, not one as the description suggests. When pressed, Mr Mileham agreed that he should have declared two tickets.<sup>206</sup>
24. Secondly, the description does not accurately disclose the true nature of the gift he received, being tickets not only to the football game but also pre-game dinner (of multiple courses), drinks and entertainment (in the form of speeches) in a function room. Mr Mileham accepted he should have more clearly declared the nature of the gift received. Notwithstanding this concession, he was evasive and refused to accept that the description he gave suggested a general admission ticket to the football match plus two beers from the bar.<sup>207</sup>
25. In declaring the gift, Mr Mileham was also required to state its value. That could be the actual value or an estimated value. Mr Mileham chose to estimate the value, notwithstanding that he could have obtained the actual value from Mr Bartlett or the Melbourne Football Club. He accepted that had he sought the actual value he would have discovered it was a prohibited gift.<sup>208</sup>
26. The value he estimated was \$100.00. Mr Mileham conceded that value was estimated based on one ticket, not two. However, when pressed as to whether he stood by that estimate, or considered it reasonable for one ticket, Mr Mileham was again evasive and seemingly unwilling, for some time, to answer the question directly. Eventually, Mr Mileham said that he still considered \$100.00 to be a reasonable estimate for a single ticket, and accepted that on that premise he should have valued two tickets at "*a couple of hundred bucks*".<sup>209</sup>

| CITY of PERTH  |   | Gift Declaration  |  |  |          |
|--|---|---|--|---|----------|
| Local Government Act 1995<br>Local Government (Administration) Regulations 1996 Reg 348/34F<br>Council Policy 10.1 Code of Conduct |   | Governance Use Only<br>Online <input type="checkbox"/><br>(Over \$200)  |  | TRIM REF: 9099817   |          |
| <b>Definition of Gift</b>  |   | <p>gift means any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel.</p> <p>Offers of money, gift vouchers, shares and discounts on products are to be refused.<br/>Gifts are not to be accepted without prior approval.</p> |  |   |          |
| <b>GIFT DETAILS</b>  | <b>Gift Offered by:</b>   | Name of entity:   | GLEN BARTLETT (BARTLETT NORIKAWA)  |   |          |
|  |   | Name of person: entity representative or individual   | GLEN BARTLETT.   |   |          |
|  |   | Contact Details:  | 03 9603 5000   |   |          |
|  | Nature of relationship with the City:   | NONE AS YET.  |  |   |          |
|  | Are they likely to be subject of a future decision of the City?   | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>   |  |   |          |
|  | Date gift was offered:  | 20.4.17   |  |   |          |
|  | Describe the Gift<br><small>Sufficient for verification of gift value. Attach invitation or agenda if hospitality or event.</small>                             | TICKET TO RICHMOND VS MELB @ MCG + 2 DRINKS   |  |   |          |
|  | Gift Value:   | \$ 100  | Actual Value <input type="checkbox"/> OR Estimated Value <input checked="" type="checkbox"/> |   |          |
|  | Less than \$50 (refer to next page) \$50 to \$300 (notifiable) Greater than \$300 (prohibited)  |   |  |   |          |
|  | Is this the first gift you have been offered by this person / entity:   | YES <input type="checkbox"/> NO <input type="checkbox"/>  |  |   |          |
| Who will benefit from the acceptance of the gift?  | SELF  |   |  |   |          |
| Submit Completed Declarations to the Governance Unit within 10-days of acceptance of the Gift.                                     |   |   |  |   |          |
| <b>DECLARATION</b>   | Name:   | Martin Mileham  |  |   |          |
|  | Position Title:   | CEO   |  |   |          |
|  | <input checked="" type="checkbox"/> Propose to Accept Gift  | I declare this information is accurate and that acceptance of the gift is not in conflict with the Code of Conduct or Local Government Act 1995 and will not create a future conflict of interest for me in fulfilling my position responsibilities.  |  |   |          |
|  | <input type="checkbox"/> Relinquish to City   | Reason/s:   |  |   |          |
| SIGNATURE:   |    |   |  | Date:   | 28/4/17  |
| <b>Verification (Governance)</b>   | Value Accurate:   | YES <input type="checkbox"/> NO <input type="checkbox"/>  | Sufficient Description:  | YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>                 |          |
|  | Risks / Issues  | Cat E - Gift of Influence - Hospitality   |  |   |          |
|  | Position:   | Gov Coordinator   | Initials:  | SM  | Date:    |
| Delegated Authority 1.3.3 DECISION on Proposed Acceptance of Gift  |   |   |  |   |          |
| <input checked="" type="checkbox"/> Approve Gift Acceptance  | I have assessed the details of the declaration to be accurate and unlikely to cause a probity risk for the City of Perth or the officer making the declaration. |   |  |   |          |
| <input type="checkbox"/> Refuse Gift Acceptance  | Reason/s:   |   |  |   |          |
| <input type="checkbox"/> Transfer Gift to City   | Reason/s:   |   |  |   |          |
| Position Title:  | DCS   |   |  |   |          |
| SIGNATURE:   |    |   |  | Date:   | 2-5-2017 |
| CEO / Director   |   |   |  |   |          |

Version 4 - 21 November 2016

Figure 2.36: City of Perth Gift declaration, Mr Martin Mileham, Bartlett Workplace, 28 April 2017.

27. Mr Mileham's evidence that he considered, at the date of his declaration, that a value of \$100.00 was a reasonable estimate of the value of the gift he received, is difficult to accept. He received two tickets, not one. He is on the board of the EPFC. He has attended other events where similar (though not the same) hospitality was offered and the value of the ticket to the event was \$250.00. He was aware of the requirement in the City's Code of Conduct to take into account, when considering the value of a gift, the cost of the hospitality provided. He knew that Mr Bartlett wanted to provide commercial services to the City and had provided a written proposal. As the CEO at the time he was aware of the need to lead by example.<sup>210</sup>
28. Having regard to these matters, and despite Mr Mileham's denial of the proposition, the Inquiry finds that as at the date of making the declaration Mr Mileham knew that the tickets were valued at more than \$100.00, knew that they were likely to be of such a value as to be a prohibited gift and inaccurately completed the gift declaration.
29. A final matter is the significance of the capacity in which the gift was received. In the course of his evidence Mr Mileham suggested that, before declaring the gift, he considered whether he needed to declare it in the first place. He suggested, at first, that he received the gift in his capacity as a member of the board of the EPFC and, for that reason, did not need to declare it. However, he later accepted (on two occasions) that he received the gift in his capacity as CEO of the City.<sup>211</sup>
30. Sometime after giving this evidence Mr Mileham sought to produce further documents in evidence on this question and to re-open the issue of whether he accepted the gift in his capacity as CEO of the City.<sup>212</sup> The Inquiry admitted the additional documents.<sup>213</sup>
31. The capacity in which Mr Mileham accepted the gift is irrelevant for three reasons:
  - First, it is the fact of the acceptance, in whatever capacity, that triggered his obligations under the LG Act. The LG Act required each gift received by a person to be declared.<sup>214</sup> There is no exception, as there is in respect of declaring contributions to travel,<sup>215</sup> which exempt gifts received by a person in the ordinary course of another occupation of the person which is not related to his or her duties as an employee of the City.
  - Secondly, under the City's Code of Conduct, Mr Mileham was prohibited from accepting the gift, whether that gift was offered to him in his capacity as CEO of the City or in some other capacity.
  - Thirdly, Mr Mileham took steps to declare the gift. Having made that decision, it was incumbent on him in the proper discharge of his duties as an employee and CEO to ensure the declaration was fulsome and accurate. The capacity in which he received the gift does not bear on that obligation.

### City seeks quotes for the Services

32. On 4 May 2017, slightly over a week after returning to the City, Mr Mileham asked Mr Ridgwell to get some additional quotes based on the Proposal.<sup>216</sup> Mr Mileham's email records indicate that he had given the Proposal to Mr Ridgwell and that they had discussed it including a "360 values" component because that was one of Mr Mileham's draft key performance indicators.
33. Mr Mileham did not tell Mr Ridgwell he had received a gift from Mr Bartlett.<sup>217</sup> Mr Ridgwell's evidence was that it was something he should have been told about and that it would not have been appropriate to use Bartlett Workplace, if Mr Mileham had accepted (or requested, as was the case) a prohibited gift from Mr Bartlett.
34. Mr Ridgwell explained why:
 

*"Because of the very nature of having to work so closely with the CEO in respect to this. It's a critical element. Your CEO is the lynchpin between the Elected Members and if he was excluded from the process of – if we were to use his firm, it just wouldn't be appropriate. So yes, this is a process that requires absolutely a CEO to be present but you can't exclude him from the process so it's actually the firm that needs to be excluded".*<sup>218</sup>
35. This is broadly consistent with the City's Code of Conduct, which required Mr Mileham to ensure there was "... no actual or perceived conflict of interest between [his] personal interests and the impartial fulfilment of [his] public duties and functions".<sup>219</sup>
36. In the event, a City of Perth Formal Quotation Request Form for a Cultures and Values Framework, Quotation No 057-17/18 (Form) was prepared, which was approved for market by Mr Mianich and Mr Mileham on 18 and 21 September 2017, respectively.<sup>220</sup>
37. The Form had been prepared by Ms Sarina Cuttone, Human Resources Advisor, presumably in the period between May and September 2017, and set out that the closing date would be 28 September 2017 (although this appears to have been extended to 10 October 2017). Mr Ridgwell explained that while Mr Mileham had asked him to obtain additional quotes, he deferred this matter to Ms Cuttone to manage the quotation process.<sup>221</sup>
38. As part of that process, on 30 August 2017, Ms Cuttone contacted Mr Bartlett advising that she was required to adopt the City's procurement process given the value of the work.<sup>222</sup> She said she hoped Mr Bartlett was still interested in being considered for the work. He replied that he was.<sup>223</sup>
39. An Addendum to the Form was issued on 29 September 2017.<sup>224</sup>

40. The Form, read with the Addendum:

- stated that the budget amount was for \$40,000.00 (which is the amount quoted by Mr Bartlett in the Proposal) and referred to a schedule of rates. Mr Ridgwell did not know how that sum was reached;<sup>225</sup>
- indicated that the evaluation panel would comprise Mr Ridgwell, Ms Francesca Pandolfino and Ms Moyser. Mr Ridgwell could not recall who asked him to be on the panel, though he thought it was most likely Ms Cuttone, and he did not know how the panel composition was determined;<sup>226</sup>
- was replete with references to “*One Team*”, which Mr Ridgwell accepted suggested the Form and Addendum were based on the Proposal from Mr Bartlett;<sup>227</sup> and
- set out the following qualitative criteria, with weightings:
  - company profile: 10 per cent;
  - resume, detailing qualifications and experience of the facilitators and persons performing the work: 50 per cent;
  - workplace consulting experience with Executive teams: 35 per cent; and
  - have nominated referees: five per cent.

41. The second and third criteria, totalling 85 per cent, both relate to qualifications and experience.

#### Quotes are assessed by the evaluation panel

42. By 10 October 2017, the City had received quotes from Maitland Consulting, Jackson McDonald and Bartlett Workplace. On about 18 October 2017, the evaluation panel met to consider the proposals.

43. Although only required to provide two referees, Jackson McDonald’s submission included a third, Ms Moyser.<sup>228</sup>

44. On 18 October 2017, Ms Moyser signed, as required of all members of the evaluation panel, the City’s Declaration of Confidentiality and Interest Form. She declared that she had no conflict of interest, real or potential, in the evaluation and that if any bidders were personally known to her, she would declare that to the other panel members before the evaluation process.<sup>229</sup>

45. Ms Moyser told the Inquiry she was familiar with Jackson McDonald and had used them for legal work.<sup>230</sup> That is unsurprising, as Jackson McDonald were one of the law firms used from time to time by the City (including, for example, by Mr Ridgwell in relation to Project Percy, as described elsewhere in this Report). That Ms Moyser was listed as a referee for Jackson McDonald was not, of itself, a conflict of interest. Furthermore, although it was not tested in the hearing, the Inquiry infers from its broad understanding of the relationship the City had with its various lawyers, that the panel members would have been aware that Ms Moyser (and Mr Ridgwell) was familiar with and had used Jackson McDonald as lawyers in the past.

46. Ms Moyser prepared an evaluation panel score sheet<sup>231</sup> which preferred Bartlett Workplace. She also produced notes to the Inquiry about her assessment of the quotation.<sup>232</sup> After the meeting her notes were provided to Mr Ridgwell, as the panel leader, for him to undertake the weighting process.<sup>233</sup> Mr Ridgwell could not recall doing this, but accepted he may have.<sup>234</sup>
47. Ms Moyser's notes record the members of the panel, the purpose of the workshop, the selection criteria and estimates of costs.

Those estimates are:

- Maitland Consulting – \$10,000.00;
- Jackson McDonald – \$30,000.00; and
- Bartlett Workplace – \$30,000.00.

It is unclear on what basis Ms Moyser had arrived at those figures, given the Bartlett Workplace submission totalled over \$35,000.00,<sup>235</sup> and Jackson McDonald was about \$33,000.00.<sup>236</sup>

48. Ms Moyser was not made aware, at the time of making this assessment, that Bartlett Workplace had previously sent the Proposal, although in evidence she said she did not think it would have made any difference to her role on the evaluation panel.<sup>237</sup> Her evidence was that cost was not a factor.<sup>238</sup>
49. On about 19 October 2017, each of the evaluation panel members signed a document titled *“Qualitative Selection Criteria Evaluation Matrix”* (Matrix).<sup>239</sup> This contained four qualitative selection criteria: Capacity, Qualifications, Experience and References which broadly resemble those included in the original Form.
50. However, for reasons no witness was able to explain, the weightings of each criteria had changed so that in the Matrix each was now 25 per cent:
- *“Capacity”*: 25 per cent – previously *“Company profile”*: 10 per cent;
  - *“Qualifications”*: 25 per cent – previously *“Resume, detailing qualifications and experience of the facilitators and persons performing the work”*: 50 per cent;
  - *“Experience”*: 25 per cent – previously, *“Workplace consulting experience with Executive teams”*: 35 per cent; and
  - *“References”*: 25 per cent – previously, *“Have nominated referees”*: five per cent.
51. The Matrix ranked each of the respondents based on their total score. Bartlett Workplace was ranked one, with a total score of “3”. Maitland Consulting was ranked two, with a score, also, of “3”. Jackson McDonald was ranked three, with a score of “2.6”.

52. Mr Ridgwell explained why Bartlett Workplace was ranked above Maitland Consulting in circumstances where they had both received scores of three:

*“The discussions that we had through the meeting was, when it’s shared score it’s what we still believe to be the most appropriate firm. So as an example, there’s pros and cons to each of these firms in actually being applicable. So I think there are notes that support, that say that Maitland weren’t as strong in the context of legal services”.*<sup>240</sup>

53. Having undertaken this process, and having ranked Bartlett Workplace as the preferred bidder, the City then sought additional information from Bartlett Workplace. It sought that information about two matters. First, additional costs for travel and accommodation, and secondly, *“who was facilitating the session and what personnel did key duties”*.<sup>241</sup>
54. Given the weight that was originally attributed to the *“qualifications and experience of the facilitators”* criterion (50 per cent), it seems odd to seek confirmation about who the facilitator(s) would be *after* Bartlett Workplace had been ranked first. Mr Ridgwell explained that while the evaluation panel was impressed with the qualifications of those presented in Bartlett Workplace’s quote, he *“wanted to be really sure that we were going to get people ... of high quality”*. In effect, he wanted to avoid any risk of a bait and switch.<sup>242</sup>
55. As to the cost of travel to Perth, the evaluation panel members were of the view that the pricing aspect of the quotes was not a matter that required assessment by them. It was not one of the qualitative criteria, although they did have some regard to it. Mr Ridgwell accepted price, as a component of value for money, was implicit in all bidding assessments.<sup>243</sup>
56. Ultimately, Bartlett Workplace’s bid, when the cost of attendance in Perth was added to their initial quote, came in at \$37,500.00 plus the Goods and Services Tax (GST). That is about 3.8 times more expensive than the bid from Maitland Consulting, the second-ranked bidder. When asked about this, Mr Ridgwell explained that the evaluation panel took the view that Maitland Consulting’s price reflected that Maitland Consulting did not really understand the true cost of the services that would need to be provided under the contract. No one appears to have contacted Maitland Consulting to confirm whether that was the case.<sup>244</sup>
57. Mr Ridgwell accepted that if *“value for money”* had been an express criteria for evaluation, it is possible that Maitland Consulting may have been awarded the contract.<sup>245</sup> Mr Ridgwell also accepted that by setting the budget for the scope of works at \$40,000.00, the City had effectively excluded from consideration any disadvantage to Bartlett Workplace as a result of being the highest priced bidder.<sup>246</sup>
58. In effect, setting the budget at that level meant that a quote that came in close, but under budget, was preferred to a quote that came in significantly over or significantly under. Furthermore, value for money considerations in this quotation process were diminished by the fact that the cost of the works was not an express evaluation criteria. That approach is, the Inquiry finds, somewhat at odds with the City’s then current purchasing policy, which provided that value for money was an overriding consideration in the assessment of all bids for work with the City.

**Was the procurement process set up to appoint Bartlett Workplace as a “*fait accompli*?”**

59. The work undertaken by Bartlett Workplace ultimately<sup>247</sup> totalled over \$77,000.00.<sup>248</sup>
60. In the examinations of Mr Ridgwell and Mr Mileham it was put to them that the Form and the Addendum were prepared in such a way as to make the appointment of Bartlett Workplace a “*fait accompli*”.
61. Mr Ridgwell explained that he thought what had happened with the preparation of the Form and the Addendum, was that Ms Cuttone had, consistent with Mr Mileham’s request to Mr Ridgwell on 4 May 2017, “*done up a scope of works and has copied what was in a quotation from a provider [the Proposal] and is using terminology that should really have been removed*”.<sup>249</sup>
62. Mr Ridgwell said that there were no inferences or expectations that the City was going to use any one of the providers. Mr Ridgwell confirmed that during his time on the evaluation panel no one expressed an expectation that any one provider would be used. Mr Ridgwell said he had no (relevant) engagement with Mr Mileham during that period.<sup>250</sup>
63. Mr Mileham said he had no involvement in the quotation process, other than signing off on the Form, and that while he hoped Bartlett Workplace would be considered for appointment given their capacity, he did not take steps or direct Mr Ridgwell to undertake a process that would result in Bartlett Workplace being appointed. He denied setting up the procurement system as a “*fait accompli*” for Bartlett Workplace.<sup>251</sup>
64. The Inquiry accepts the evidence of Mr Mileham and Mr Ridgwell.
65. While there are similarities between the Form and the Proposal, those similarities are likely to be explained as a result of a “*short cut*” taken by the author of the Form.<sup>252</sup> That a shortcut of that type may have been taken is not surprising given Mr Mileham’s request to Mr Ridgwell, on 4 May 2017, that additional quotes be sought on the basis of the Proposal.
66. Furthermore, there is no evidence to suggest that Mr Ridgwell, Ms Moyser, Ms Pandolfino or Ms Cuttone were instructed to set up, or were otherwise complicit in, a process by which Bartlett Workplace would inevitably be appointed. Indeed, Mr Ridgwell, who the Inquiry finds is an honest and reliable witness, denied that proposition.<sup>253</sup>
67. There is no evidence before the Inquiry that the approach adopted by the evaluation panel, not to use value for money as an express criterion, was informed by improper or corrupt motives. While it is, as the Inquiry finds above, somewhat inconsistent with the City’s purchasing policy, and should not be followed in the future, there is no evidence that the approach was directed by anyone within the City for the purpose of appointing Bartlett Workplace.

## Findings

### Finding 2.3.4 – 4

As observed throughout this Section, the Inquiry makes the following findings:

- i. The procurement process, while not without its deficiencies, was not mere “*window dressing*”.<sup>m</sup>
- ii. Mr Mileham contravened the City’s Code of Conduct when he requested and then accepted football tickets from Mr Bartlett.
- iii. Mr Mileham did not accurately declare the gift he received from Mr Bartlett.

<sup>m</sup> The Inquiry notes that, as a consequence of recent amendments to the *Local Government Act 1995*, a Chief Executive Officer of a local government is now prohibited from exercising a delegated power (which may include authorising expenditure of the local government’s funds) in relation to a matter that affects the financial interests of a person who has given the Chief Executive Officer a gift: *Local Government Act 1995*, s 5.60, s 5.62(1)(ec), s 5.71. However, as at April 2017, the provisions of the *Local Government Act 1995* did not prohibit Mr Mileham from being involved in the procurement process.

## Tender for the Railway Street and Market Street Shared Path Extension

### Introduction

1. This Section is about the request for tender process for civil construction works associated with the Railway Street and Market Street Shared Path Extension (RSMS Works), and the poor “*investigation*” conducted by the City of Perth (City) into allegations of, among other things, serious misconduct by City employees. The allegations were made by an unsuccessful tenderer.
2. By request for Tender 071-11/12, issued on 11 January 2016, the City established a panel of contractors to undertake civil works relating to street enhancement, drainage and other associated works. Only City panel contractors were invited to tender for the RSMS Works.
3. Platinum Plant and Equipment Hire Pty Ltd (Platinum) and BOS Surveying Pty Ltd trading as BOS Civil (BOS Civil) both submitted tenders in response to the request. BOS Civil’s tender was cheaper than Platinum’s.
4. On the purported basis that discrepancies between the bids meant that the City could not have confidence in them, the City did not award this tender. Rather, the City decided to recall and re-issue the request for tender, so that quantities for the schedule of items could be included. Platinum and BOS Civil both submitted revised tenders. Platinum’s revised tender was successful and it was awarded the contract for the RSMS Works on about 16 March 2016.<sup>254</sup>
5. Following the close of the tender, BOS Civil lodged a complaint with the City on 8 June 2016, expressing concerns about disclosure of confidential information and the consequences of an apparent relationship between entities associated with Platinum and City employees.
6. The City conducted an investigation of sorts and responded to BOS Civil to say, in effect, there was no substance to its complaint.
7. Dissatisfied with the City’s response, BOS Civil contacted the Corruption and Crime Commission (CCC), which referred the matter to the City for action. The City engaged consulting practice INVision Investigations and Consulting (INVision) to investigate the allegation contained in the CCC referral and the associated BOS Civil complaint.

8. INVision prepared a report into the City's request for tender process, as it related to the RSMS Works, which found reasonable grounds to suspect misconduct on the part of two City employees, Mr Sriranjana Theivanayagam (known as Mr Sri Ranjan), and Mr Shaun Kan,. Following this report, INVision prepared two further reports in relation to the allegations of misconduct. This in turn triggered the City's disciplinary processes in respect of those allegations which were found by INVision to be substantiated.
9. Ultimately, Mr Ranjan and Mr Kan were both allowed to resign under settlement deeds with mutual confidentiality and non-disparagement clauses. This was despite INVision's findings about misconduct and termination having been accepted by the City.

## Timeline

|      |                       |   |
|------|-----------------------|---|
| 2016 | 11 January            | Members of a contractor panel were invited to submit a tender for civil works. Platinum and BOS Civil submitted tenders, with BOS Civil being cheaper.  |
|      | 16 February           | A decision was made by the City to re-issue the request for tender with quantities of materials included.   |
|      | 18 February           | The invitation to tender was re-issued. Platinum and BOS Civil submitted tenders with Platinum being cheaper.   |
|      | 4 March               | The Tender evaluation panel met.  |
|      | 16 March <sup>n</sup> | Platinum was awarded the contract.  |
|      | 12 May                | Civcon/Platinum emailed Mr Kan to say they were having difficulty obtaining pavers.   |
|      | 8 June                | BOS Civil lodged a complaint with the City about disclosure of confidential information; a relationship between Platinum and a City employee; and a City officer procuring material (pavers) for Platinum at a discounted rate.   |
|      | During June           | An Internal investigation into BOS Civil's complaint was conducted by Mr Paul Crosetta, Director, Construction and Maintenance.   |
|      | 2 August              | Mr Martin Mileham, Chief Executive Officer wrote to BOS about their complaint, concluding that the tender process was " <i>open and fair</i> ", that there were no conflicts of interest and no unfair advantage provided by City officers procuring materials at discounted rates. |
|      | 8 August              | BOS Civil wrote to the CCC alleging misconduct by City officers.  |
|      | 17 August             | The CCC wrote to Mr Mileham saying, " <i>It is alleged that an unknown officer at the City of Perth provided confidential tender information to other tenderers which has given them an improper advantage</i> ".   |
| 2017 | 31 October            | INVision was appointed to investigate the allegations.  |
|      | 23 February           | INVision completed an investigation report into the allegations.  |
|      | 4 May                 | INVision completed a report into allegations of misconduct against Mr Shaun Kan.  |
|      | 12 May                | INVision completed a report into allegations of misconduct against Mr Sri Ranjan. Mr Ranjan left the City on negotiated terms.  |
|      | 26 May                | Mr Kan left the City on negotiated terms.   |
|      | 28 June               | Mr Mileham wrote to the CCC advising the outcome of the investigation. " <i>the investigation has now concluded, which substantiated a number of allegations ...</i> ". He advised that two officers had resigned.  |

<sup>n</sup> Approximately

## Issues considered by the Inquiry

10. Consistent with A.3(v) of its Terms of Reference, a number of issues arose for the Inquiry's consideration in respect of the tender for the RSMS Works. Principally, those issues are:
  - whether the procurement process for the RSMS Works was conducted in accordance with City procedure;
  - whether the City conducted a proper investigation of the complaint lodged by BOS Civil before that company referred the matter to the CCC; and
  - whether the City's disciplinary processes, which were engaged in respect of this matter, were robust and appropriately applied.
11. In respect of these issues the Inquiry considers that:
  - The City's procurement processes were not followed.
  - The City failed to conduct anything like a proper investigation of the complaint lodged by BOS Civil on 8 June 2016.
  - The City's disciplinary processes were not robustly applied and should be reviewed and reformed.

## Investigation by the Inquiry

### Witnesses

12. The Inquiry held private hearings with 11 witnesses over several days. The positions given below for employees are the positions they held at the time of the events described in this matter. The Inquiry examined more than a thousand pages of material in respect of this matter.
13. The Inquiry heard from the evaluation panel members for the tender process for the RSMS Works, namely:
  - Ms Nicole Gallin, Principal Transport Planner with the City. Ms Gallin gave considered, reliable evidence regarding how she evaluated tenders and quotes for the City and of her involvement in relation to the RSMS Works.
  - Ms Marlena Pereira, Design Engineer with the City. Ms Pereira gave frank and honest evidence regarding the same topics as Ms Gallin. Ms Pereira often used the phrase "*I would say that ...*" to refer to what she did say, do or think at the time. Despite using that phrase, it was clear that Ms Pereira was giving evidence of her recollection, rather than a probable or possible reconstruction of events.<sup>255</sup>
  - Mr Kan, Project Manager and Senior Civil Engineer with the City. Mr Kan took over as project manager from Ms Gallin part of the way through the tender process for the RSMS Works. Mr Kan's evidence is described at paragraph 168.

14. Mr Paul Claxton, a former Director of Platinum and other related entities, gave evidence regarding Platinum's relationship with an associated company, Civcon Civil and Project Management Pty Ltd (Civcon), and the City's relationship with Platinum and Civcon. Despite wanting to provide information to the Inquiry, Mr Claxton was a reluctant witness who felt constrained by a settlement deed that he had entered into with his former business partners. The evidence that he did provide, while honest, was often speculative and of limited probative value.
15. Mr Khanh Nguyen, Director of Platinum and Civcon, gave evidence about his involvement in quoting for the RSMS Works, his relationships with City employees and the relationship between the City and Platinum and Civcon. Mr Nguyen presented as a shrewd witness.
16. Mr Lee McCabe, a former Director of Platinum and Civcon, gave evidence on the same topics as Mr Nguyen. Mr McCabe was guarded in the way he gave his evidence, before he became aware of the CCC's involvement in the matter, at which point he appeared to become more willing to assist the Inquiry.
17. The Inquiry heard evidence from Mr Kan regarding his involvement in the tender process for the RSMS Works, his role in managing the RSMS Works, his relationship with Platinum and Civcon, the INVision investigation as it related to him, the disciplinary process as it related to him and the circumstances in which he left the employ of the City.
18. In the absence of corroborating material, Mr Kan's evidence is not preferred, because:
  - in the Inquiry's view, Mr Kan lacked objectivity and insight when speaking about this matter;
  - Mr Kan's justifications for his conduct were sometimes fanciful or inconsistent<sup>256</sup> or based on assumptions<sup>257</sup> which had no reasonable basis; and
  - Mr Kan demonstrated a willingness to obfuscate to avoid adverse inferences from being drawn about his conduct.<sup>258</sup>
19. Mr Ranjan, Principal Engineer and Interim Manager, Construction (18 January 2016 to 21 October 2016) with the City, gave evidence to the Inquiry regarding his involvement in the RSMS Works, his relationships with Platinum, Civcon and Mr Nguyen, the INVision investigation as it related to him, the disciplinary process as it related to him and the circumstances in which he left the employ of the City. Mr Ranjan presented as an honest and truthful witness.
20. The Inquiry heard from Ms Barbara Moyser, Senior Employee Relations Adviser with the City. Ms Moyser gave evidence regarding the disciplinary process in relation to Mr Ranjan and Mr Kan. For the reasons described in an earlier Section of this Chapter, Ms Moyser's evidence is not preferred in the absence of corroboration.
21. The Inquiry also heard from Ms Jacqueline Scott, who commenced as the Manager, Construction with the City on 10 October 2016. She provided reliable evidence regarding her role in the response by the City to the CCC referral and the disciplinary processes in relation to Mr Ranjan and Mr Kan.

22. Mr Paul Crosetta, Director, Construction and Maintenance, told the Inquiry about his appointment to and conduct of the City's internal investigation of the complaints made by BOS Civil. Mr Crosetta presented as a candid witness, although some of his evidence suggests he was, at the time of conducting the investigation, naïve about the appropriateness of the steps he took.
23. Mr Martin Mileham, Chief Executive Officer (CEO), told the Inquiry about his involvement in the internal investigation, the external investigation and the decision to permit Messrs Ranjan and Kan to resign. At times Mr Mileham's evidence about his conduct in relation to this issue displayed a lack of the rigour one would ordinarily expect from a CEO.
24. Mr Mark Ridgwell was, at the time, the Manager, Governance. He told the Inquiry about the proper processes to be followed when the City receives a complaint of the type received from BOS Civil. He also expressed views on the appropriateness of the City's internal investigation, and on its initial response to BOS Civil. Mr Ridgwell presented as an honest and reliable witness.

## Evidence obtained by the Inquiry

### Tender for the Railway Street and Market Street Shared Path Extension Works

25. On 26 April 2012, the City issued a request for tender for admission to a panel of contractors for the provision of civil construction services.
26. The City of Perth Council (Council) endorsed the appointment of five companies to the contractor panel, including BOS Civil, Platinum and Broad Construction Services (WA) Pty Ltd.
27. On 11 January 2016, members of the contractor panel were invited to submit a tender for the RSMS Works (RFT1).<sup>259</sup> Materially:
  - RFT1 did not include a bill of quantities;<sup>260</sup> and
  - Platinum and BOS Civil both submitted tenders in response to RFT1, with BOS Civil's tender being the cheaper of the two.<sup>261</sup>
28. As described at paragraph 30-37, a decision was then made to recall and re-issue the request for tender. The Inquiry finds that:
  - the evaluation panel did not adequately consider alternative methods to clarify the competing bids of BOS Civil and Platinum and whether, in light of those alternative methods, it was proper to recall and re-issue RFT1;
  - the City lacked clear processes and procedures regarding whether, how, and in what circumstances non-panel members can be involved in making decisions affecting the tender process; and
  - Mr Kan may have influenced the evaluation panel, or the panel may have deferred to him, in deciding to recall and re-issue RFT1.

29. On 18 February 2016, the City re-issued the invitation to tender for the RSMS Works and included a schedule of items with quantities (RFT2).<sup>262</sup> Once again, Platinum and BOS Civil both submitted tenders. This time Platinum was the cheaper of the two.<sup>o</sup>

**Evaluation panel did not adequately consider whether Request for Tender 1 should be recalled and re-issued**

30. The evaluation panel members each said that the reason for recalling and reissuing RFT1 was to include quantities for the contractors to price against, due to a concern that the evaluation panel was otherwise unable to compare “*apples with apples*”.<sup>263</sup>
31. However, the decision to include a bill of quantities in the request for tender:
- was inconsistent with the RFT1 specifications;
  - may not have been truly necessary to enable the tenders to be compared; and
  - was made before seriously considering other options that were likely to result in a more expedient resolution of the (real or perceived) “*apples with apples*” issue.
32. The specification for RFT1 noted that a “*Schedule of items is provided in the Form of Quotation for the Bidder to fill-in their estimated quantities and rates*”.<sup>264</sup> In other words, the RFT1 specification contemplated evaluating the quantities submitted by the bidders as part of the qualitative assessment. The approach that was ultimately adopted, in reissuing the request for tender, arguably altered the selection criteria during the tender process.<sup>265</sup>
33. When examined, the evaluation panel members could not provide a clear reason why:
- the quantities submitted by the bidders were not evaluated as contemplated by the RFT1 specifications;<sup>266</sup>
  - the fact that bidders having provided different quantities would prevent the bids from being assessed, especially where reference could have been made to the City’s quantity surveyor’s “*correct*” quantities;<sup>p</sup> or
  - the focus was on the quantities, instead of the proposed cost.<sup>267</sup>
34. The Inquiry finds that, in the absence of a persuasive or cogent reason to the contrary, the evaluation panel members should have proceeded with the tender process in the manner contemplated by the RFT1 specification and awarded the tender on that basis.

<sup>o</sup> There was a large price difference between the tenders submitted by BOS Civil and Platinum in response to RFT1, with BOS Civil’s tender being cheaper by \$239,578.50.

<sup>p</sup> Transcript, N Gallin, private hearing, 1 May 2019, p 24; Transcript, S Kan, private hearing, 2 May 2019, p 38. The City engaged a quantity surveyor to provide the quantities to be incorporated into the re-issued request for tender. Despite being an evaluation panel member, Ms Pereira was not involved in the engagement of the quantity surveyor: Transcript, M Pereira, private hearing, 30 April 2019, p 19-20. Ms Pereira noted that, if she was managing the process, she would have trusted the contractor to provide quantities: Transcript, M Pereira, private hearing, 30 April 2019, p 15.

35. Given the time imperative associated with the RSMS Works,<sup>268</sup> it is unclear why options which were likely to have been more expedient and would not have required the re-issue of RFT1 were not pursued. For example:
- there was no discussion or consideration given to whether the rates provided in the tenders from Platinum and BOS Civil should, or could, be applied to the quantities calculated by the City's quantity surveyor;<sup>269, (q)</sup> and
  - significantly, and perhaps most obviously, the bidders were not asked to confirm or clarify the quantities in their tenders.<sup>r</sup>
36. The Inquiry finds that the evaluation panel did not consider various factors relevant to a decision to require contractors to provide quantities, including whether:
- doing so would impact on the proposed methodology of the contractor;<sup>270</sup>
  - the onus for getting the quantities right should be on the City or on the contractor;<sup>271</sup> and
  - it was a fixed lump sum contract as against a schedule of rates contract.<sup>272</sup>
37. This issue arose in circumstances where the evaluation panel members were not aware of any guidance as to what needed to be included in requests for tender.<sup>273</sup>

#### No clarity about the nature and extent of non-panel member involvement

38. The decision to re-issue RFT1 with a bill of quantities involved a meeting between Ms Gallin, Mr Ranjan and Mr Kan on about 16 February 2016,<sup>274, (s)</sup> which was followed by an email exchange with the City's Contracts Administrator, Mr Morris Stevens.<sup>275</sup>
39. Mr Ranjan became involved in the process, because the evaluation panel needed guidance and, as the Manager he was regarded as the obvious choice.<sup>276</sup> Mr Ranjan was not an evaluation panel member and had not signed a declaration of confidentiality and interest.<sup>t</sup>
40. There was contradictory evidence before the Inquiry about the nature of Mr Ranjan's input and the information provided to him. The Inquiry prefers the evidence of Mr Ranjan<sup>277</sup> (which is consistent with Ms Gallin's evidence)<sup>u</sup> over the evidence of Mr Kan,<sup>v</sup> to find that Ms Gallin and Mr Kan approached Mr Ranjan for advice in the abstract and he provided them with some options to consider.

q Mr Kan's evidence where he notes that evaluating against the City's analysis is fraught because *"that's not what each contractor or each proponent may be prepared to honour"*: Transcript, S Kan, private hearing, 2 May 2019, p 36.

r Mr Kan asserted that it would be too hard to seek clarification of the quantities that had been supplied by the bidders: Transcript, M Pereira, private hearing, 30 April 2019, p 22-23; Transcript, N Gallin, private hearing, 1 May 2019, p 25.

s Despite being an evaluation panel member, Ms Pereira was not involved in the meeting with Mr Ranjan or all the discussions between Ms Gallin and Mr Kan; Transcript, M Pereira, private hearing, 30 April 2019, p 12-13, 20.

t Confidentiality and conflicts of interest are described in more detail at paragraph 76-125.

u Mr Ranjan's evidence that the discussion was general and in the abstract is consistent with Ms Gallin's position regarding her confidentiality obligations: Transcript, N Gallin, private hearing, 1 May 2019, p 16.

v Transcript, S Kan, private hearing, 2 May 2019, p 15, 32, 39-40. Mr Kan gave three different accounts of when and how information was provided to Mr Ranjan.

41. Mr Stevens then provided his approval for the approach put to him, without any meaningful involvement in the decision to re-issue the request for tender. He had previously expressed a preference to go to open tender.<sup>278</sup>
42. The Inquiry finds that:
- City employees, at times, may consider that the Contract Administrator is simply there to “*rubber stamp*” a course of action already decided on;<sup>w</sup> and
  - a proper process, with meaningful involvement by the Contract Administrator, might have resulted in a better, or at least more considered, outcome.
43. The evaluation panel members had differing views as to whether, how, and to what extent, guidance and input could be sought from someone outside of the panel.<sup>279</sup>

**Mr Shaun Kan influenced the panel to recall and re-issue Request for Tender 1 to include a bill of quantities**

44. As to whether the request for tender should have been re-issued to include quantities, Ms Pereira said that she would have followed the advice of Mr Ranjan and Mr Kan.<sup>280</sup> Ms Gallin said that she was likely to have been influenced by Mr Ranjan and Mr Kan.<sup>281</sup>
45. Mr Ranjan gave unwavering evidence that he only raised options with Ms Gallin and Mr Kan and suggested that they speak to Mr Stevens. He indicated he did not advise them to recall the request for tender, because he did not want to be regarded as having made a decision that needed to be made by the evaluation panel.<sup>282</sup> Mr Kan could not recall who made the decision to recall and re-issue RFT1.<sup>283</sup>
46. The Inquiry finds that:
- the action plan to recall and re-issue RFT1 was proposed by Mr Kan;
  - Mr Kan discussed this action plan with Ms Gallin, Ms Pereira and Mr Ranjan;
  - Mr Ranjan validated the action plan as an option that could be pursued, but did not seek to direct or influence the evaluation panel to pursue it; and
  - Ms Gallin and Ms Pereira were influenced by or deferred to Mr Kan,<sup>284</sup> such that the panel adopted his proposed action plan without interrogating other possibilities or options that may have resulted in a better outcome for the City.
47. The motive underlying Mr Kan’s apparent preference for recalling and re-issuing RFT1 without having explored the other options is not easily determinable based on the evidence before the Inquiry.

w Albeit in the context of an irrigation tender: Transcript, K O’Brien, private hearing, 13 May 2019, p 51.

48. When asked why it was necessary to recall and re-issue the request for tender, Mr Kan said:
- “Because of the difference in quantities. They were just very large differences in quantities and we, the Panel, Evaluation Panel could not determine whose quantities were accurate to what the project requires”.<sup>285</sup>*
49. This explanation does not explain why the simpler course of clarifying the bids with the respondents was not taken.
50. Mr Kan said there was no discussion about taking that simpler course,<sup>286</sup> that they could have done that, that they took that course in respect of RFT2, but that to clarify the quantities in the bids for RFT1 *“never crossed the Panel’s mind”*.<sup>287</sup> The Inquiry is sceptical of this explanation from Mr Kan, who was at the time of the tender an otherwise experienced project manager in the Construction and Maintenance Directorate.
51. As described at paragraph 44-47, Mr Kan also influenced or was deferred to in relation to the evaluation carried out by the evaluation panel. In all the circumstances, the Inquiry finds that Mr Kan preferred Platinum’s submission

#### **Evaluation of the tenders received in relation to Request for Tender 2 for the Railway Street and Market Street Shared Path Extension Works**

52. The susceptibility of the tender process to manipulation is evident from:
- the failure of the evaluation panel to carry out the evaluation in accordance with City Procedure PR0660 – *Evaluation Panels for Assessing Tenders, Expressions of Interest and Quotations* (PR0660) (paragraph 54-58); and
  - the capacity for Mr Kan to influence the panel into adopting an objectively erroneous position and materially change the panel’s qualitative assessment of the submissions, and the deference shown by Ms Gallin and Ms Pereira to Mr Kan (paragraph 59-70).
53. As described at paragraph 71-75, the evidence does not support the proposition that Mr Ranjan intentionally sought to influence the tender process in relation to the RSMS Works. However, the Inquiry finds that Mr Kan demonstrated a preference towards Platinum and, while there is insufficient evidence to demonstrate that he intended to influence the panel, the panel was influenced by him, or deferential to him.

### Non-conformance with the procedure for evaluating tenders

54. The version of PR0660 last edited on 16 May 2007 was the approved version of the document which applied to the tenders received in response to the RFT1 and RFT2.<sup>288</sup> For the reasons addressed below, the Inquiry finds that PR0660 was not complied with in the following respects:
- when appointed to the evaluation panel, the panel members were not issued with PR0660 to assist in their deliberations (although copies were available);<sup>289</sup>
  - the evaluation panel did not meet to determine the selection criteria before the release of the tenders;<sup>290</sup>
  - evaluation panel members did not independently read each submission and assess them against the qualitative selection criteria;
  - notes providing details of the date, location, attendance, significant points raised during discussions, decisions made and action to be taken, were not taken at the evaluation panel meeting(s);<sup>291</sup> and
  - the evaluation panel did not limit themselves to only considering the content of the submissions.
55. As to the evaluation panel failing to limit itself to the content of the submissions when carrying out its evaluation, the Inquiry finds that:
- Mr Kan made assumptions, and read content into the submissions which was not there;<sup>292</sup>
  - Ms Gallin took into account Mr Kan's comment that BOS Civil did not do a project listed in their submission (without the panel clarifying this with BOS Civil);<sup>293</sup> and
  - Ms Pereira conflated Platinum's capabilities with Civcon's capabilities,<sup>294</sup> where Platinum's business was such that it could not have fulfilled its contractual obligations to carry out the RSMS Works without Civcon's involvement.<sup>295</sup>
56. The evaluation panel also did not adopt best practice when it sought clarification of Platinum's submission orally rather than in writing.<sup>296, (x)</sup>
57. The Inquiry finds that, had the requirements of PR0660 been followed, the City would have been better placed to better understand what occurred in relation to the RSMS Works tender process. The panel members each had differing recollections as to what meetings had taken place and the decisions that had been made in circumstances where no notes had been taken, as required by PR0660.<sup>297</sup> Had PR0660 been complied with, it would have been simpler for the City, and this Inquiry, to understand precisely what occurred.

x The revised version of PR0660 requires clarification to be sought in writing.

58. Unfortunately, even following the departure of Messrs Ranjan and Kan from the City, there was no discussion about the lessons to be learned, or how matters might have been able to have been dealt with differently.<sup>298</sup> Mr Ridgwell explained that recently the Commissioners of the City of Perth had adopted a centralised procurement model, which Mr Ridgwell hopes will remedy these and other procurement deficiencies. While the Inquiry considers that is a step in the right direction, it should not be seen as a silver bullet. Real steps will need to be taken to ensure that, regardless of whether the procurement model is centralised or not, procedures like PR0660 are followed.

#### Evaluation panel did not properly consider the submissions during its assessment

59. The evaluation panel made errors when assessing the submissions against the selection criteria, which can be seen in the way in which the panel dealt with the “*Timeframe/Program for undertaking the works*” and the “*Quantities*” criteria.
60. As to “*Timeframe/Program for undertaking the works*”, Platinum scored “3.5 out of 5”, and BOS Civil scored “3”.<sup>299</sup> The memorandum recommending the award of the tender to Platinum reasoned that Platinum proposed a 52-day programme to achieve completion by the end of May 2016, whereas BOS Civil proposed an 83-day programme bringing the end date to 30 June 2016 (both with a start date of 21 March 2016).<sup>300</sup>
61. However:
- BOS Civil’s second tender proposed a 10-week programme (providing a two-week buffer for unforeseen issues). Furthermore, the 83-day programme in the timeline included preliminaries; the actual construction programme was only 52 days, starting on 4 April 2016 and finishing on 9 June 2016;<sup>301</sup> and
  - Platinum’s timeline, which involved a 50-day programme, did not include preliminaries and proposed to start on 22 February 2016 and finish on 29 April 2016.<sup>302</sup> Since RFT2 was issued on 18 February 2016<sup>303</sup> and Platinum’s bid was submitted on 3 March 2016,<sup>304</sup> it is apparent that Platinum’s proposed programme was outdated and incapable of being achieved as set out in its submission (although it may be that the 50-day programme, in absolute terms, was appropriate).
62. On this issue, Ms Gallin and Ms Pereira both amended their score sheets during the evaluation panel meeting,<sup>305</sup> held on 4 March 2016, where:
- Ms Gallin noted that Platinum had a 50-day programme and BOS Civil had an 83-day programme (with “*no contingency for weather, unplanned events etc*”); and
  - Ms Pereira noted that Platinum had a 50-day programme that finished in May, whereas BOS Civil had a programme that runs into June.<sup>306</sup>

63. When asked about the basis for her comments, Ms Gallin asserted that, since it related to a construction programme, she is likely to have taken advice from the engineers in the room.<sup>307</sup> Ms Pereira said that she did not independently verify the timeline and accepted the advice of the other panel members in the room.<sup>308</sup>
64. Mr Kan admitted that he assumed a start date of 21 March 2016, despite the different dates that were stated in the bidders' timelines. Mr Kan could not explain the basis of his assumption, but confirmed that it was a factor when he scored the submissions and that he had communicated his views to the other panel members.<sup>309</sup>
65. As noted in other sections in this Chapter the composition of evaluation panels is such that it is common for the views of panel members who have expertise in particular areas to be given more weight in relation to matters arising out of those areas.<sup>310</sup>
66. The Inquiry finds that:
  - Mr Kan made objectively false and incorrect statements regarding the bidders' proposed timeframes and programmes, which were favourable to Platinum and disadvantageous to BOS Civil, during the evaluation panel meeting;
  - the scoring for the "*Timeframe/Program*" criteria was likely influenced by Mr Kan, in that Ms Gallin and Ms Pereira likely amended their scores for "*Timeframe/Program*" due to Mr Kan's erroneous statements or otherwise as a result of their deference to his views; and
  - the scores given by the evaluation panel for the "*Timeframe/Program*" criteria cannot be supported by reference to the submissions.
67. There is insufficient evidence for the Inquiry to make a finding as to whether Mr Kan erred in reviewing construction programmes and timelines (despite being a project manager in the Construction and Maintenance Directorate) or, alternatively, whether Mr Kan was intentionally seeking to influence the evaluation panel to award the tender to Platinum.
68. Either way, the Inquiry finds that:
  - during the evaluation panel meeting, Mr Kan displayed a preference towards awarding the contract to Platinum;<sup>311</sup>
  - Mr Kan, who made false statements about bidders' proposed timeframes and programmes during the evaluation panel meeting was, by those statements, able to influence the evaluation panel to adopt a position that was plainly erroneous and incapable of being supported by the submissions; and
  - the tendency of evaluation panel members to defer to panel members that are perceived to have experience or expertise in relation to an aspect of the tender, involves an abdication of responsibility and hinders robust consideration of the issue.

69. Furthermore, despite “*Quantities*” being part of the selection criteria, the evaluation panel did not seek to explore whether there was a way to fairly evaluate the submissions by reference to this criterion.<sup>312</sup> The Inquiry finds that the City should provide further training regarding how selection criteria are to be addressed by an evaluation panel.
70. Ultimately, the Inquiry finds that the process is susceptible to manipulation, although there is insufficient evidence for the Inquiry to conclude that Mr Kan was, in fact, seeking to manipulate the process.

#### **Allegation that Mr Sri Ranjan sought to influence the outcome of the assessment**

71. During his examination, Mr Kan made a serious allegation that Mr Ranjan wanted him “*to be biased*” and rate Platinum’s submission higher than its competitor’s submission, irrespective of the merits of Platinum’s submission. This allegation was based on Mr Ranjan telling Mr Kan that “*It is very important to pick the correct contractor*” and that “*Platinum are very easy to work with*”.<sup>313</sup>
72. Mr Ranjan admitted to having provided feedback regarding the strengths and weaknesses of the different contractors used by the City in the context of design team meetings and discussions about lessons learned. He also admitted to having conversations with Mr Kan regarding selecting the right contractor for the job. However, he denied ever seeking to influence a tender or quote process.<sup>314</sup>
73. The Inquiry finds that, without more, it was not reasonable for Mr Kan to infer a direction or request to manipulate the tender process from Mr Ranjan’s statements.
74. Mr Ranjan and Mr Kan did not have a positive working relationship.<sup>315</sup> However, there is insufficient evidence for the Inquiry to find that Mr Kan deliberately asserted that Mr Ranjan had engaged in misconduct due to their poor relationship.
75. That said, the Inquiry finds that, despite his protestations otherwise, Mr Kan may have influenced the other panel members to preference Platinum in a misguided attempt to obtain Mr Ranjan’s approval or to avoid perceived threats to his job security.<sup>316</sup>

#### **Confidential information and conflicts of interest are not appropriately managed**

76. The Inquiry finds that the City did not employ adequate measures to protect confidential and commercially sensitive information arising out of the tender process, particularly where:
  - evaluation panel members had differing views as to the significance of, and the obligations imposed by, the declaration of confidentiality and interest; and
  - despite procedures in place to protect confidential and commercially sensitive information disclosed in bids and submissions, a lack of strict adherence to those procedures, and ad hoc practices, created risks of disclosure.

77. Furthermore, the Inquiry finds that City employees were unaware or naïve with respect to the commercial value of information, with the result that commercially valuable information was disclosed without an appreciation of the significance and consequences of that disclosure.

#### **Declaration of confidentiality and interest**

78. Each of the evaluation panel members signed a declaration of confidentiality and interest in relation to the tender process. However, the panel members did not receive formal training about conflicts of interest and confidentiality, and each had a different understanding about their obligations under the declaration.<sup>317</sup>
79. None of the panel members took issue with the fact that Mr Ranjan, who was not a panel member, became involved in discussions regarding the process without first signing a declaration of confidentiality and interest.<sup>318</sup> This is especially concerning in light of the allegations of conflicts and misconduct made against Mr Ranjan.<sup>319</sup>
80. The Inquiry finds that the absence of appropriate training at the City created a risk of inadvertent disclosure of confidential information and that conflicts of interest (whether actual or perceived) were not appropriately managed.

#### **Management of confidential or commercially sensitive information**

81. There are procedures at the City that seek to protect the confidentiality of tender and quote submissions, including by limiting and restricting access to such submissions.<sup>320</sup>
82. However, the success of such procedures is dependent on evaluation panel members understanding and adhering to them. For example:
- panel members can print or copy submissions and there are no measures in place to stop copies from being circulated to non-panel members;<sup>321</sup> and
  - panel members can (and do) save submissions to the “I: drive”, which is a drive that is accessible by other City employees.<sup>322</sup>
83. The Inquiry finds that the City needs to prescribe the way evaluation panel members are to deal with submissions that are received, and mandate strict compliance with such procedures, to ensure the confidentiality of tender and quote submissions.

#### **Inadvertent disclosures of confidential or commercially sensitive and valuable information**

84. Mr Ranjan was the subject of an allegation that he had disclosed confidential and commercially sensitive information to Mr Nguyen with the effect of advantaging Platinum and/or Civcon in tender or quote processes. As noted at paragraph 19, Mr Ranjan presented as a witness of truth and denied the allegations made against him.<sup>323</sup>

85. The Inquiry heard that:
- Mr Ranjan had a relationship with someone at Platinum and Civcon;<sup>324, (y)</sup>
  - entities associated with Mr Nguyen did work for two organisations (the Ilankai Tamil Sangam of WA and the Perth Bala Murugan Temple) that Mr Ranjan was involved with in a personal capacity;<sup>325</sup> and
  - Civcon and Platinum may have benefited from the apparent relationship between Mr Ranjan and Mr Nguyen.<sup>326</sup>
86. Mr Ranjan and Mr Nguyen both gave evidence that the works for the Ilankai Tamil Sangam of Western Australia and the Perth Bala Murugan Temple were not costed or carried out other than in accordance with the contractor's usual commercial practices.<sup>327</sup> The evidence of Mr Claxton to the contrary was predicated on his suspicions that something dishonest was going on, but he did not know and could not be sure about whether those works were, in fact, charged at a rate that was below cost.<sup>328</sup>
87. There is insufficient evidence for the Inquiry to find that:
- Mr Ranjan obtained any form of benefit as a result of the works carried out for the Ilankai Tamil Sangam of Western Australia and the Perth Bala Murugan Temple; or
  - Mr Nguyen arranged for works to be carried out for Ilankai Tamil Sangam of Western Australia and Perth Bala Murugan Temple other than on a commercial basis.
88. However, there is evidence that City employees (including, but not limited to, Mr Ranjan) had a practice of asking contractors (including Mr Nguyen in his capacity as a Director of Civcon or Platinum) to provide a budget or indicative costs for proposed works.<sup>329</sup> These enquiries would be made for the purpose of gauging the "*market price*" for the proposed works prior to a tender being issued.<sup>330</sup>
89. The Inquiry finds that, in these discussions, commercially sensitive information (including information regarding what other contractors in the market were charging, or had previously charged, for particular work) was, or was at risk of, being disclosed.<sup>331</sup>
90. There is insufficient evidence to find that Mr Ranjan provided information to, or received information from, Mr Nguyen:
- with an appreciation of its commercial value (if any);
  - for the purpose of obtaining a personal advantage or benefit; or
  - for the purpose of conferring or facilitating an advantage or benefit to Mr Nguyen, Civcon or Platinum.

y Mr Kan described the relationship between Mr Ranjan and Mr Nguyen as being "just like any other professional relationship". Transcript, S Kan, private hearing, 2 May 2019, p 14.

91. The Inquiry finds that the City's practice of seeking a "*market price*" for works, by asking for a budget or indicative cost from one or more contractors, may, in circumstances where that process is not governed by any City policy or procedure, risk the inadvertent:
  - disclosure of commercially sensitive information; and
  - conferral of an advantage on certain contractors during the tender process for the works, due to their rate influencing the City's perception of the market rate.
92. However, there is insufficient evidence for the Inquiry to find that Mr Ranjan intentionally disclosed commercially sensitive information to Mr Nguyen for the purpose of gaining an advantage for himself or Mr Nguyen.

#### Procurement of UrbanStone pavers by Mr Shaun Kan

93. Platinum's bid for RFT2 included an amount of \$109,852.35 for the supply and laying of a "*standard footpath*" comprised of "*City Grey Paver 400x400*".<sup>332</sup>
94. The "*City Grey Paver*" is a product provided by an outfit called UrbanStone, with which the City has an agreement for the supply of the paver at a discount of about half on UrbanStone's commercial rate.
95. Generally, a contractor carrying out work for the City cannot avail itself of the City's contracting arrangements with suppliers. Rather, the usual approach is for the contractor to independently obtain quotes for the relevant product from suppliers, add a margin, and then price that into their bid.
96. That is what Platinum did.
97. However, on 12 May 2016, after the award of the tender to Platinum, Mr Nguyen emailed Mr Kan to say that Platinum (then Civcon) was having difficulty obtaining the pavers in a timely way, and that if they were to wait then it would put the 30 June 2016 completion date for the RSMS Works at risk. Mr Nguyen noted waiting was an option, but also suggested as Platinum's preferred mitigation that the City supply pavers at Platinum's cost from the City's inventory.<sup>333</sup>
98. Mr Kan forwarded Mr Nguyen's email to Mr Ranjan, copied to Ms Gallin, recommending the City adopt Mr Nguyen's suggestion, and seeking approval to change Platinum's scope of works from "*supply and install*" pavers to "*install*" pavers.<sup>334</sup>
99. The approval was given.<sup>335</sup> Mr Kan arranged for UrbanStone to make pavers available to Platinum pursuant to the City's contract,<sup>336</sup> and a "*negative variation*" of \$48,872.70 was issued reducing Platinum's line item of \$109,852.35 to \$60,302.35.
100. This exercise was problematic for a number of reasons.
101. First, the quantum of the negative variation reflected the GST exclusive cost to the City of the purchase of the pavers. GST was not passed on to Platinum, meaning that the City bore that cost, which was \$4,887.27.<sup>337</sup>

102. Secondly, because Mr Kan leveraged the City's contract with UrbanStone to purchase the pavers at the City's discounted rate, the revenue that would have ordinarily flowed to UrbanStone had the pavers been bought by Platinum was reduced by about \$38,649.00, in effect a commercial loss.<sup>338</sup>
103. Thirdly, Platinum's quote for the supply of pavers from UrbanStone obtained when Platinum first bid for the works, was \$99,729.00 (inclusive of GST and delivery). As noted above, Platinum's bid priced the supply and laying of the pavers at \$109,852.35 (inclusive of GST), implying that the price of laying was \$10,123.35 (inclusive of GST). As the City purchased the pavers, the price of laying is all it should have paid to Platinum. Instead, it paid \$60,302.35 giving, it appears, a financial windfall to Platinum (at a financial cost to the City) of around \$50,000.00.<sup>339</sup>
104. The procurement of the UrbanStone pavers by the City with the involvement of Mr Ranjan and Mr Kan was, as the next parts of this Section describe, a subject of complaint by BOS Civil and eventual investigation by the City.

### Complaint by BOS Civil and the City's response to the complaint

105. On 8 June 2016, Mr Bernard O'Sullivan, a Director of BOS Civil, wrote to Mr Mileham with concerns regarding the process by which the tender for the RSMS Works was managed and awarded (BOS Civil complaint).<sup>340</sup> These concerns related to:
- the recall and re-issue of RFT1;
  - whether there was disclosure of confidential tender information;
  - the appearance of a relationship between Platinum/Civcon and Mr Ranjan, resulting in the possibility of an unfair advantage being provided to Platinum/Civcon; and
  - City representatives procuring material for Platinum at a discounted rate (where the City representative referred to was Mr Kan).
106. Mr Mileham asked Mr Crosetta to address the complaint.<sup>341</sup> Mr Mileham said he asked Mr Crosetta to address the complaint, because "*in the first instance [his] perception of the allegations were they were likely to be unfounded*". With respect to Mr Mileham, his response is baffling and displays a concerning lack of regard for complaints lodged with the City. Mr Mileham could not cogently explain how or why he had that perception in circumstances where the complaint had yet to be investigated and Mr Mileham accepted that the complaints, if proved, would constitute serious misconduct.<sup>342</sup>
107. Despite thinking that the request from Mr Mileham was odd, having had no experience or training in conducting investigations of this type, and having been at the City for less than a year, Mr Crosetta complied with the request.<sup>343</sup>
108. He described the scope of what he was instructed to do as follows:
- "To meet with the parties involved, the party, Sri, and obtain his view on the accusations made, and then feed that back to the CEO in order for response to go back to Mr O'Sullivan".*<sup>344</sup>

109. Perhaps unsurprisingly, given that the task requested of him was not within Mr Crosetta's skill set,<sup>345</sup> that description is not one of a process appropriate to investigate allegations of misconduct. Mr Mileham could not recall speaking to Mr Crosetta about the matter or instructing Mr Crosetta to speak to Mr Ranjan in connection with it, and denied that instructing Mr Crosetta to speak to Mr Ranjan was something that he likely would have done.<sup>346</sup>
110. As Mr Ridgwell observed, and as Mr Crosetta accepted with hindsight following questioning at a private hearing,<sup>z</sup> an investigation into misconduct should not involve the person against whom the allegations are made, and copies of the complaint should not be made available to that person.<sup>347</sup>
111. Nonetheless, despite the BOS Civil complaint having named Mr Ranjan as potentially being involved in alleged misconduct,<sup>348</sup> Mr Crosetta provided Mr Ranjan with a copy of the complaint and sought his assistance in responding to the complaint.<sup>349</sup>
112. In this regard, Mr Ranjan:
  - was involved in discussions with Mr Kan (who was also referred to in the complaint, although not by name<sup>350</sup>) regarding the issues and problems that were being raised in relation to the process;<sup>351</sup>
  - facilitated the preparation of a file note<sup>352</sup> by Mr Kan about the process that was undertaken by the evaluation panel;<sup>353</sup>
  - was involved in the preparation of Mr Crosetta's proposed response to BOS Civil, including by discussing the response and incorporating his comments into it;<sup>354</sup> and
  - remained involved in briefing Mr Crosetta regarding the issues that were the subject of the BOS Civil complaint.<sup>355</sup>
113. Despite allegations having been made against City employees, neither the Manager, Human Resources nor Ms Moyser were made aware of the complaint or the consequent internal investigation at this stage.<sup>356</sup> Neither was Mr Ridgwell, until much later after BOS Civil complained to the CCC.<sup>357</sup>
114. The Inquiry finds that the "*internal investigation*" conducted in June 2016 by Mr Crosetta was limited to asking Mr Ranjan, a subject of the complaint, to investigate and assist in preparing the response.<sup>358</sup>
115. Following the "*internal investigation*", Mr Crosetta provided a draft letter to Mr Mileham,<sup>359</sup> who made some amendments before sending it to Mr O'Sullivan of BOS Civil.<sup>360</sup> The response to BOS Civil on 2 August 2016 from Mr Mileham referred to the City having "*undertaken an investigation into the serious allegations*" in the complaint, before concluding that the tender process was "*open and fair*", that there were no conflicts of interest (including with respect to Mr Ranjan) and no unfair advantage was provided by City representatives procuring materials at discounted rates.

z Transcript, P Crosetta, private hearing, 26 July 2019 p 66-67; although Mr Crosetta also said he did not find anything odd about involving Mr Ranjan in the "*investigation*" at the time: Transcript, P Crosetta, private hearing, 26 July 2019, p 61-62.

116. As Mr Mileham accepted, the City's response to BOS Civil did not specifically deal with or answer any of the questions identified in Mr O'Sullivan's complaint. Mr Mileham accepted those questions were understandable and capable of a response by the City. Mr Mileham accepted that the letter was a deficient response on this basis alone.<sup>361</sup>
117. Mr Mileham also accepted that the statement in the letter that Mr Ranjan "*was not part of the tender assessment team, nor did he become involved in any tender assessment or provide a recommendation for selection of the tender*" was not true.<sup>362</sup>
118. Mr Mileham also accepted that he took no steps to satisfy himself that the statement in the letter, namely, that an investigation had been carried out, was true. He said he relied on others. He agreed that the steps taken by Mr Crosetta, including the involvement of Mr Ranjan, was a deficient investigation.<sup>363</sup>
119. Mr Mileham also accepted that he knew that at the time he requested Mr Crosetta to conduct this "*investigation*", that Mr Crosetta had been at the City for only eight months and that he was not aware of any training Mr Crosetta had in undertaking tasks of this nature. He accepted that he should have delegated the task to Mr Ridgwell.<sup>364</sup>
120. The Inquiry finds that Mr Mileham failed to give the complaint from BOS Civil the seriousness it deserved, failed to appoint a properly qualified person to investigate the complaint, failed to oversee or gain an understanding of the investigation, and failed to take any steps to satisfy himself (beyond relying on Mr Crosetta to have prepared an accurate draft) that correspondence he was issuing on behalf of the City as its CEO was accurate.
121. Following receipt of the City's letter, Mr O'Sullivan complained to the CCC in terms which suggest that he was concerned about the nature and extent of the steps taken by the City to investigate his complaint.<sup>aa</sup>
122. The Inquiry finds that the internal investigation which was carried out in relation to the BOS Civil complaint was inadequate, inappropriate and undeserving of the label "*investigation*" and the City's response to the complaint was inaccurate and misleading, in circumstances where:
- the people against whom the complaint was made were involved in facilitating and undertaking the investigation or response;
  - Mr Crosetta accepted Mr Ranjan's explanations as to the matters raised by the complaint without independently verifying the facts; and
  - a more thorough investigation would have identified that Platinum was advantaged by Mr Kan making the City's rates for pavers available to it.
123. Mr Ridgwell, a governance specialist, was invited by the Inquiry to comment on the steps taken by the City as part of the "*internal investigation*". He agreed that the steps taken were "*not appropriate*" and that they did not amount to an acceptable investigation.<sup>365</sup>

aa Email, B O'Sullivan to the Corruption and Crime Commission, 12.09 pm 8 August 2016: in particular, that the City did not want to talk to him or others who may have had relevant information.

124. Had the City carried out a robust investigation into the BOS Civil complaint and communicated its actions and findings in a more open, accurate and transparent manner, BOS Civil may have been satisfied by the steps taken and the matter may not have been escalated to the CCC.
125. The Inquiry finds that the City lacked procedures or processes which provided guidance as to whether and how internal investigations should be conducted, such that action taken by the City was proportionate to the seriousness and credibility of the complaint or allegations made.

#### **Referral to the Corruption and Crime Commission and the City's response to the Corruption and Crime Commission referral**

126. On 8 August 2016, BOS Civil wrote to the CCC for the purpose of reporting misconduct of some officers at the City.<sup>366</sup> The correspondence, which attached the BOS Civil complaint, named Mr Ranjan, Mr Kan and Mr Nguyen.
127. The CCC identified the following allegation: *"It is alleged that an unknown officer at the City of Perth provided confidential tender information to other tenderers which has given them an improper advantage"* and referred the matter to the City for action (CCC referral).<sup>367</sup>
128. The City's response to the CCC referral was managed by Mr Ridgwell, who engaged INVision and liaised with its investigator, Mr Tony Langmair. Mr Crosetta recalls speaking to Mr Langmair, but not in respect of his conduct of the internal investigation.<sup>368</sup>
129. Ms Moyser only became involved in the process after INVision had carried out its preliminary investigation. Ms Moyser's involvement was limited to the disciplinary process that was to be carried out with respect to the impacted employees.<sup>369</sup>

#### **City relied on the findings by INVision Investigations and Consulting**

130. INVision prepared an investigation report into allegations of impropriety and irregularities within the City's tender evaluation process dated 23 February 2017.<sup>370</sup> This report found that there were reasonable grounds to suspect that:
- the tender process was biased towards Platinum's bid;
  - BOS Civil's bid had been shared with Mr Nguyen;
  - there was an undeclared conflict of interest by Mr Ranjan; and
  - Mr Ranjan and Mr Kan improperly used their position to Mr Nguyen's advantage by facilitating the supply of pavers at the City's contracted price.<sup>371</sup>
131. The INVision report into tender irregularities was followed by two further investigation reports into allegations of misconduct against Mr Kan dated 4 May 2017 and allegations of misconduct against Mr Ranjan dated 12 May 2017. The misconduct allegations against Mr Ranjan and Mr Kan related to serious misconduct and were mostly substantiated by INVision.<sup>372, (ab)</sup>

ab The only allegation that was not substantiated was the allegation that Mr Kan had shared BOS Civil's bid with Platinum.

132. INVision's findings were deemed to be credible and were relied on by the City to act against the employees involved. Despite the serious ramifications of INVision's findings for the two employees involved (being Mr Ranjan and Mr Kan), it appears that no one (other than Mr Ranjan and Mr Kan, including through their representatives as part of the disciplinary process ultimately engaged in by the City) questioned the basis or reliability of INVision's findings.<sup>ac</sup>

#### Disciplinary proceedings in relation to Mr Sri Ranjan and Mr Shaun Kan

133. Notwithstanding the guidance provided by City Procedure "*PR0439 – Disciplinary Guidance Notes*",<sup>373</sup> the evidence before the Inquiry suggests that the employees involved in the disciplinary processes relating to Mr Ranjan and Mr Kan all had differing views and understandings as to their role and the role of others in the process. For example:
- Ms Moyser saw her role as being limited to advising Mr Crosetta and Ms Scott (who would be making the decisions, with certain decisions escalated to Mr Mileham<sup>374</sup>) on the available options, without making any decisions herself;
  - Ms Scott saw her role as being pastoral and to pass on any decisions that were taken by the City, with decisions being made by Mr Crosetta, Ms Moyser (who was leading the process) and possibly Mr Ridgwell – Ms Scott considered the decisions made by her as being ones that she was "*required to take*",<sup>375</sup>
  - Mr Crosetta accepted that he was involved in the disciplinary process, and that his involvement involved an element of employee relations, but he could not recall whether he was involved in any decisionmaking;<sup>376</sup> and
  - Mr Mileham could not recall much of his role, or why he considered resignation was appropriate at the time. He said he would have relied on advice, but had no independent recollection of whether he received advice that resignation rather than termination was appropriate.<sup>377</sup>
134. The Inquiry finds that the City should clarify its procedure regarding disciplinary action, including in relation to the role of the various stakeholders.

#### Terms on which Mr Sri Ranjan and Mr Shaun Kan departed from the City

135. Mr Ranjan departed the City on 12 May 2017. Mr Ranjan, through his representatives, negotiated terms on which he resigned from his employment at the City.<sup>378</sup> These negotiations occurred while INVision was still investigating misconduct allegations against him, but after INVision's first report into the tender irregularities found that there was evidence to support those allegations.

ac For example, Ms Moyser did not seek to verify the accuracy of the information that INVision relied on to prepare their report and make findings: Transcript, B Moyser, private hearing, 9 May 2019, p 13-14. There are grounds for doubting the accuracy of the INVision reports – for example, INVision found that Mr Ranjan had a conflict of interest; however, the basis on which this finding was made may have been inconsistent with the way in which the City ordinarily proceeded in relation to what constitutes a conflict: Transcript, J Scott, private hearing, 7 May 2019, p 10.

136. Mr Kan departed the City on 26 May 2017. Mr Kan’s representatives negotiated the terms of his resignation after INVision had released its report into the allegations of misconduct by him, and after there was a recommendation made to Mr Mileham that his employment be terminated.<sup>ad</sup>
137. The City proceeded on the basis that the INVision reports were reliable. In short, despite accepting that Mr Ranjan and Mr Kan had engaged in serious misconduct,<sup>ae</sup> the City was willing to:
  - allow Mr Ranjan and Mr Kan to resign, resulting in a financial cost to the City associated with paying out their notice periods (where the City could have summarily terminated their employment for serious misconduct);<sup>379</sup>
  - facilitate the transfer of Mr Ranjan’s long service leave component to another local government;
  - cease the investigation into Mr Ranjan on the basis that he had resigned,<sup>380</sup> although there were grounds for suspecting that he had engaged in serious misconduct which may have caused detriment to the City; and
  - agree to mutual non-disparagement clauses (with the intent of maintaining confidentiality over the circumstances of their departures from the City)<sup>381</sup>, such that they could maintain the appearance of an unblemished record as a former City employee in a new role at a different local government.
138. As part of her role during the disciplinary process, Ms Moyser provided the decision-makers<sup>af</sup> with options that were available to them, including the advantages and disadvantages of each option. However, she did not consider the risk or likelihood of the advantages and disadvantages of each option occurring.<sup>382</sup>
139. In relation to Mr Kan, Ms Moyser prepared a recommendation for the purpose of Mr Mileham making a decision as to whether his employment should be terminated.<sup>383</sup> Ms Moyser said that the options were prepared with the input of Mr Crosetta and Ms Scott. Ms Scott, however, does not recall the options in the recommendation as being the options that she had been considering.<sup>384</sup>
140. Despite Ms Moyser’s evidence that a “*balancing act*” is carried out to formulate the appropriate recommendation,<sup>385</sup> the Inquiry finds that, once again, consideration was not given to the likelihood and weight to be attributed to each factor in the exercise, which significantly detracts from the value of the exercise.
141. In any event, the Inquiry finds that an employee with multiple allegations of serious misconduct substantiated against him should not be allowed to resign – with his notice period paid and a confidentiality clause preventing the City from disclosing the circumstances of his resignation – to avoid the risk that the employee would bring legal claims against the City.<sup>386</sup>

ad The recommendation for termination is at Human Resources Recommendation, City of Perth, 17 May 2017.

ae Putting aside whether the City ought to have accepted INVision’s findings in the manner and circumstances in which it did.

af As noted, there was a lack of clarity around who was, in fact, making the decisions.

142. The Inquiry finds that the:

- City's failure to consider the actual risk and likelihood of the consequences of the options available to it impeded selection of the most appropriate option; and
- outcomes of the City's disciplinary process were not necessarily commensurate with the conduct being disciplined.

### City responds to the Corruption and Crime Commission

143. On 28 June 2017, some 10 months after BOS Civil complained to the CCC, and following the conclusion of the INVision investigation and the departure of Messrs Ranjan and Kan's from the City, Mr Mileham wrote to the CCC to advise of the outcome of the investigation.
144. Mr Mileham wrote that *"the investigation has now concluded, which substantiated a number of allegations of both Mr Sri Ranjan, Principal Engineer and Mr Shaun Kan, Senior Civil Engineer"*. He attached reports received from INVision (Figure 2.37).
145. Mr Mileham also wrote that the *"City instigated the disciplinary process with both employees and both Mr Ranjan and Mr Kan decided to resign throughout the process"* and that *"City is not taking any further action at this stage"*.<sup>387</sup>
146. The statement that Messrs Ranjan and Kan decided to resign is not completely accurate. In truth, as described above, the City permitted Messrs Ranjan and Kan to resign, rather than taking steps to terminate their employment.
147. The statement that the City was not taking any further action at this stage also suggests that the City, at that time, was focussed on the particular outcome of the process adopted in respect of Messrs Ranjan and Kan. What is missing from the City's response is an appreciation of the broader systemic issues, described earlier in this Section, that allowed the procurement processes to go *"off the rails"* to the extent they did. It is those broader issues that needed addressing.

### Conclusion

148. The circumstances of the tender for the RSMS Works, and the handling of the complaint made about that tender, revealed systemic flaws in the City's processes. Those flaws are properly regarded as systemic as they began with the tender process, continued through the initial *"investigation"* conducted by Mr Crosetta (with Mr Ranjan) at Mr Mileham's request, and arguably infected the disciplinary process which followed.
149. Procurement remains, as recent events in Western Australia show, an area of significant risk for government. It is essential if that risk is to be minimised and managed that the processes are well-honed, well-guarded, and properly applied. Those things did not happen here. It is the hope of the Inquiry that the City, armed with the Inquiry's findings and recommendations, will now take those steps that need to be taken, to ensure the events described in this Section are not repeated.

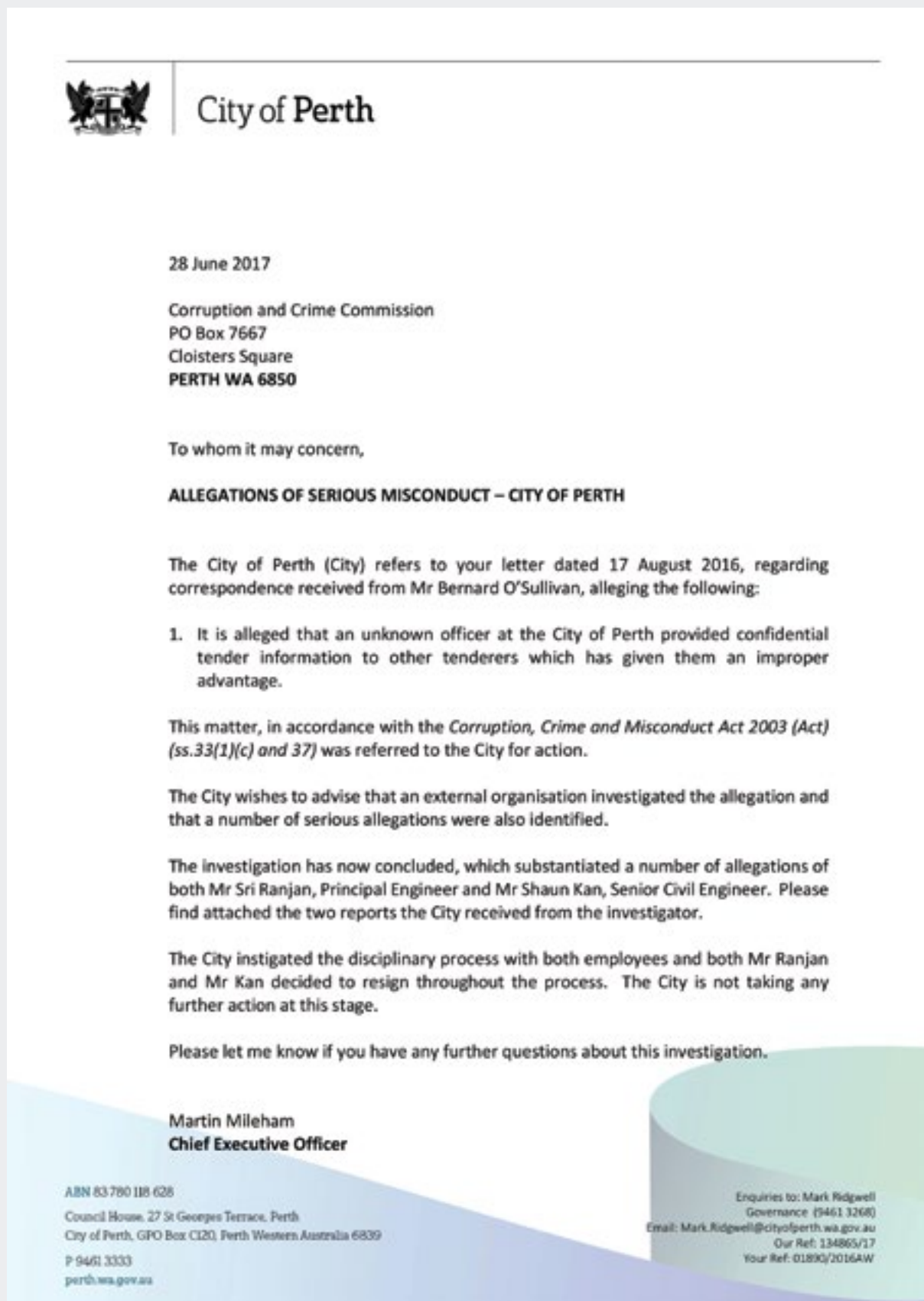


Figure 2.37: Letter from Mr Martin Mileham, Chief Executive Officer, City of Perth, to the Corruption and Crime Commission, 28 June 2017.

## Findings

### Finding 2.3.4 – 5

The Inquiry makes the following findings:

- i. Before a decision was made to recall and re-issue the RFT1, the City should have considered alternative options for clarifying the bids and submissions.
- ii. The evaluation process at the City was susceptible to manipulation, because the City's procedures were not consistently complied with and the practice of evaluation panels (as a result of their composition) was such that one panel member could have a disproportionate level of influence over the panel.
- iii. The absence of appropriate training at the City created risks that confidential information could be inadvertently disclosed and that conflicts of interest (whether actual or perceived) were not appropriately managed both at the commencement of, and during, the tender evaluation processes.
- iv. The City's approach and "*internal investigation*" into the BOS Civil complaint was inadequate and inappropriate, and not deserving of the label "*investigation*";
- v. Mr Crosetta, who had conduct of the "*investigation*", was ill-equipped and not trained to carry out that task.
- vi. The City dealt with the BOS Civil complaint by improperly involving the person who was the subject of the complaint in facilitating and preparing the response.
- vii. Mr Mileham should have referred the complaint to Mr Ridgwell as Manager, Governance, not to Mr Crosetta, as he was not experienced nor trained to deal with it.<sup>ag</sup>
- viii. BOS Civil's complaint should have been the subject of a full investigation when it was received, as it was once the City received the CCC referral.
- ix. The terms of the resignations that were agreed by the City were inappropriate in light of the City's acceptance that Mr Kan had engaged in serious misconduct and that there was material available to the City to suggest that Mr Ranjan too may have engaged in serious misconduct.

ag Mr Mileham accepted that in hindsight this is what should have occurred: Transcript, M Mileham, Private hearing, 30 July 2019, p 65.

**Finding 2.3.4 – 5 (contd)**

- x. The balancing exercise that was carried out by the City when determining how to proceed in relation to an employee who was the subject of a disciplinary process did not consider the likelihood and weight to be attributed to each factor and possible consequence. For example, on the one hand the need to properly sanction misconduct and the need to ensure the market was aware of the misconduct so as to prevent its possible recurrence, and on the other hand the need to be fair to the employee and limit the City's exposure to costly, protracted litigation, which would limit the utility of the exercise.
- xi. As a result, the outcomes of the City's disciplinary processes were not necessarily commensurate with the conduct being subjected to the discipline.
- xii. Notwithstanding the findings above:
  - there is no evidence to suggest Ms Brandon was motivated to sign the Foundation CP Agreement by any improper motive or for any improper purpose; and
  - the Foundation CP Agreement was (other than in respect of the payment of a service fee to the Foundation) uncontroversial and would have been executed by Ms Battista had she been asked to do so.

## Engagement of Marple Bridge

### Introduction

1. As part of its investigative work, the Inquiry considered a number of procurement and contracting matters. The City of Perth's (City) engagement of Marple Bridge Pty Ltd (Marple Bridge) was one them.
2. Marple Bridge was a consultancy firm engaged by the City to provide leadership and coaching services. Its director and the service provider was Mr Doug Aberle, a person known to the Chief Executive Officer (CEO) Mr Martin Mileham. Marple Bridge provided those services to the City between September 2016 and February 2018.

### Timeline

|      |                     |   |
|------|---------------------|---|
| 2016 | During July         | The City and Marple Bridge exchanged proposals for leadership and coaching services.  |
|      | 7 and 28 September  | Mr Aberle of Marple Bridge provided coaching services to Mr Mileham.  |
|      | 3 Oct 2016 – 12 Jan | Marple Bridge invoiced the City for services supplied totalling \$25,520.00.  |
| 2017 | 12 January          | Mr Mileham approved a sole supplier justification procedure exemption for the engagement of Mr Aberle. This covered services already provided.  |
|      | 16 May              | Mr Mileham's personal assistant advised Ms Kelly Pember, Acting Manager, Human Resources, that \$49,720.00 had been spent against the \$50,000.00 approved for Mr Aberle.   |
|      | 2 June              | Marple Bridge issued an invoice for a workshop (on or around this date).  |
|      | 29 June             | Marple Bridge issued an invoice for a team building workshop.   |
|      | 29 June             | Ms Pember raised with other officers that the scope of work for which Marple Bridge was engaged had expanded beyond what was originally tasked.   |
|      | 3 July              | Ms Pember was told by a Human Resources Advisor that Mr Mileham had asked another officer to "summarise and close out" the Marple Bridge contract.  |
|      | 28 August           | Mr Aberle had a session with the Executive Leadership Group. Ms Pember emailed Mr Mileham expressing concern about the use of Mr Aberle's services "... on the basis of no accountability and lack of positive outcomes for the 10 to 12 months of services provided to ELG [Executive Leadership Group]". Mr Mileham replied that afternoon saying a "close out" session was held that day and that he required Ms Pember's assistance to "address this and resolve the procurement issues". |
|      | 29 August           | Mr Mileham's personal assistant emailed Ms Pember saying Mr Mileham wanted to arrange additional regular sessions with Mr Aberle for the next four months.  |

|      |              |   |
|------|--------------|---|
| 2018 | 16 January   | Mr Aberle held a stakeholder mapping workshop for a Directorate.  |
|      | 29 January   | Ms Samantha Yan, a Senior Financial Management Officer raised the need for a renewed sole supplier justification form for the engagement of Marple Bridge.                            |
|      | 2 February   | Ms Alison Egan, Manager, Human Resources, raised with Mr Mileham that the form had expired, but no steps had been taken to cease using Mr Aberle's services.                          |
|      | 21 February  | Ms Yan raised the issue again. Then again on 26 and 27 February 2018 and 7 and 8 March 2018.  |
|      | 27 February  | A new sole supplier justification procedure form was completed seeking approval for a further \$25,000.00. This application does not appear to have been granted or became operative. |
|      | During April | Marple Bridge's final invoices were approved for payment.   |

## Issues considered by the Inquiry

- The key issue in this matter is whether the procurement process for the engagement of Marple Bridge was poorly managed and, if so, why. That is a matter of governance to which the Inquiry was required to give due consideration in accordance with A.3(v) of its Terms of Reference.

## Investigation by the Inquiry

### Witnesses

- The Inquiry held private hearings involving a number of people in the course of investigating this matter. The positions given below for employees are the positions they held at the time of the events described in this Section. The Inquiry also reviewed a range of documentary material.
- Ms Michelle Howells was the Manager, Human Resources between 21 July 2014 and 3 February 2017. Ms Howells appeared to want to assist the Inquiry but did not have a clear recollection of the circumstances surrounding the engagement of Marple Bridge or the completion of the procurement documentation.
- Mr Ramzi Ibrahim was the Senior Contracts Officer in the Construction and Maintenance Directorate. Mr Ibrahim provided an overview of the procurement and contracting process in the City. Mr Ibrahim commenced working at the City on 20 June 2016 and resigned on 2 May 2018. Mr Ibrahim was a witness of truth.
- Mr Robert Munro was a witness of truth who was employed by the City from 12 August 2002 to 21 September 2018. From March 2016, he was Senior Finance Management Officer for the Planning and Development Directorate. He reported to Ms Erica Barrenger, Director, Planning and Development.

8. Mr Michael (Dale) Quinlivan was the Manager, Executive Support and had little recollection of relevant events. Mr Quinlivan was employed by the City from 1998 to 7 July 2017. He has a PhD on accountability in local government. He generally reported directly to the CEO and was responsible for the staff of the Lord Mayor and the staff of the CEO. He was also involved in procurement for his area. Notwithstanding his role, Mr Quinlivan was unaware of the initial engagement of Marple Bridge. He could not recall whether, at the time he became aware of Marple Bridge's engagement, it was on the basis of a sole supplier justification.
9. Mr Daniel Richards was a witness of truth. Mr Richards was the Finance Manager with the City. He joined the City in March 2015 in what was his first local government role. Prior to January 2017, Mr Richards pressed for a centralised procurement system, because of a concern that those with knowledge of relevant legislation had very little influence on how tendering was done.<sup>388</sup> A centralised procurement system was rejected by the Executive Leadership Group (ELG).
10. Ms Susan Weary commenced work with the City on 15 March 2017 and was a Stakeholder Engagement Officer, in the Marketing, Communications and Engagement Unit. She resigned in August 2018. Ms Weary was a witness whose evidence is treated with caution. While it is accepted that her evidence may be affected by the passing of time, she explained that she had completed the necessary paperwork before the engagement of Marple Bridge, but when later was presented with the documents, which revealed that the forms were completed after the work had been undertaken, she was unable to explain why that was the case.
11. Ms Samantha Yan was a Senior Finance Management Officer, in the Construction and Maintenance Directorate, and a witness of truth, who was open and clearly wished to assist the Inquiry. She commenced at the City on 3 June 2010 and was a "*directorship accountant*" in the Construction and Maintenance Directorate.
12. Ms Kelly Pember was the Acting Manager, Human Resources from 10 February 2017 to 11 November 2017. Ms Pember gave evidence that she was concerned at the significant cost of Mr Aberle's services and that she did not have oversight over Mr Aberle's work. Ms Pember was also concerned that the City had not gone through an appropriate process to engage Mr Aberle.
13. The Inquiry also heard from Mr Aberle, who was a truthful witness.
14. Both Mr Mileham, CEO, and Mr Robert Mianich, Director, Corporate Services, were also examined. As described later in this Section, they were unwilling to take much if any responsibility for the failures in procurement that bedevilled the engagement of Marple Bridge.

### City of Perth's purchasing and sole supplier policies

15. The City has, and had at the time of the engagement of Marple Bridge, a purchasing policy. Its legislative basis was the *Local Government Act 1995* (LG Act) and the *Local Government (Functions and General) Regulations 1996*, which it broadly reflects.
16. In 2016 to 2018, the relevant purchasing policy was contained in Council Policy Manual "CP9.7 – Purchasing" (CP9.7).<sup>389</sup> Usually, for purchases over \$5,000.00, the relevant procuring officer had, depending on the value of the procurement exercise, to seek quotes or go to public tender.
17. However, where the procurement was of a good or service which could genuinely only be obtained from one supplier, the City could seek and obtain a sole supplier justification exemption. The procedure for such an exemption is set out in a document called the "City of Perth Sole Supplier Justification, Application and Approval procedure" (SSJ procedure).<sup>390</sup>
18. The SSJ procedure provides, in effect, that where a market is "highly specialised" and limited to a "few suppliers", or if there are "special circumstances", there may be sound reasons for investigating whether there is only one supplier. However, any exemption granted pursuant to the SSJ procedure must be "clearly and thoroughly justified". The procedure could not be used to avoid sound purchasing practices under CP9.7.
19. An SSJ procedure application requires certain details to be provided, including the purchase amount, period of supply, recommended supplier, description of requested items or services and their purpose, the reasons for requesting the sole supplier, an explanation of why the recommended supplier of the item or service is the only one that can supply to the City and why alternatives are unacceptable.

## Evidence and analysis

### July 2016: City of Perth and Marple Bridge exchange scope of work proposals

20. The City's first involvement with Marple Bridge happened in July 2016, when the City (through Ms Howells) and Mr Aberle exchanged proposals for a schedule of services to be supplied. In this respect, the Inquiry holds two proposal documents. The first is the City's original proposal to Mr Aberle. The second is Mr Aberle's counter-proposal. Both are dated July 2016.<sup>391</sup>
21. It is apparent from the scope of work documents that it was initially (that is, around July 2016) contemplated that Marple Bridge would provide the following sorts of services: orientation workshop, executive one-on-one sessions (not limited to Mr Mileham), an interactive workshop, attendance at "observation" meetings by Mr Aberle, further one-on-one sessions and a final interactive workshop. There was no substantive difference in the work that was proposed between the City's proposal and Mr Aberle's counter-proposal, but the value of the work changed. Mr Aberle's proposal suggested costs of about \$25,000.00. From the outset, the focus was on working with the ELG to improve their performance as a group.<sup>392</sup>

22. Despite the exchange of proposals, the City did not engage Marple Bridge at this time.

#### **September to October 2016: Marple Bridge starts providing services**

23. Despite this, Mr Aberle commenced providing coaching and other services to the City in September 2016.<sup>393</sup> The first services supplied by Marple Bridge were coaching services for Mr Mileham on 7 and 28 September 2016.<sup>394</sup>
24. Prior to Mr Aberle providing services to the City, he had provided other (personal) services to Mr Mileham in about 2012, although not through Marple Bridge, but in his personal capacity. Those services were different to the services Mr Aberle provided to the City through Marple Bridge.<sup>395</sup>
25. Ms Howells told the Inquiry that the initial contact with Mr Aberle was made by her on the direction of Mr Mileham.<sup>396</sup> Mr Mileham's evidence is consistent with Ms Howells's evidence.<sup>397</sup> Mr Aberle then came into the City and presented to Ms Howells and Mr Mileham about what he could offer.<sup>398</sup> Mr Aberle said that when he went to the meeting he did a "*double take*" when he saw Mr Mileham and had not anticipated him being there at the first meeting.<sup>399</sup>
26. An invoice dated 3 October 2016 is the earliest document recording the engagement of Marple Bridge.<sup>400</sup> It captures the coaching services supplied to Mr Mileham in September 2016. As best as the Inquiry can determine, beyond this invoice, there are no formal engagement documents from this date or earlier recording Marple Bridge's engagement. As the value of the works provided was under \$5,000.00, an SSJ procedure exemption was not required. Notwithstanding this, the engagement should have been documented, as required by CP9.7 and as a matter of best practice.<sup>401</sup> That it does not appear to be is a concern.
27. Mr Mileham's evidence was that if there was a failure to document Marple Bridge's initial engagement, it was likely the result of a "*stuff up*",<sup>402</sup> by which the Inquiry infers Mr Mileham is referring to human error. The Inquiry accepts this is likely the case, and that there was no calculated effort to avoid properly documenting Marple Bridge's initial engagement. However, this apparent failure is reflective of, and in hindsight perhaps heralded, the general mismanagement of the procurement of Marple Bridge's services, the further details of which are canvassed below.

#### **October 2016 to January 2017: Marple Bridge continues servicing the City of Perth**

28. The services supplied by Marple Bridge did not begin and end with the two coaching sessions for Mr Mileham. The engagement of Marple Bridge was, consistently with the proposal documents from July 2016, considerably more extensive.
29. It should have been apparent from the proposal documents that the value of the engagement of Marple Bridge would exceed the \$5,000.00 threshold in CP9.7, and would therefore require quotations, tendering or an SSJ exemption. In the event, none of the work was quoted nor tendered and the procurement was undertaken pursuant to two late-completed SSJ procedure forms. The City's approach to those SSJ procedure forms is the crux of the Inquiry's focus in this Section.

30. While Mr Richards was not involved in the decision to expand the scope of Marple Bridge's engagement to include ELG workshops, he described the second scope of work as coaching for the ELG.<sup>403</sup>
31. The invoice for the first of the ELG workshops totalled \$8,360.00 and so, consistent with CP9.7, required director approval. As best the Inquiry can tell, that approval was either not sought or obtained, or was not documented. Either way, proper compliance with the City's procurement practices demanded more.
32. Between 3 October 2016 and 12 January 2017, Marple Bridge invoiced for services supplied totalling \$25,520.00, some \$20,520.00 beyond the \$5,000.00 threshold contained in CP9.7. There is no material before the Inquiry, and no evidence received at hearings, to indicate that a proper procurement process had taken place for this work by this time.
33. One practical consequence of that failure to undertake a procurement process was that it led to an issue about how Marple Bridge would be paid.<sup>404</sup> Had proper procurement been undertaken, that issue might have been avoided.

#### **12 January 2017: Sole supplier justification procedure exemption is approved by Mr Martin Mileham**

34. On 12 January 2017, Mr Mileham approved an SSJ procedure exemption for the engagement of Mr Aberle (not Marple Bridge), marking the first time a formal procurement exercise was conducted for the services supplied by Mr Aberle through Marple Bridge.
35. The SSJ procedure form for Marple Bridge was initially completed by Ms Howells, who sought an SSJ procedure exemption for an amount of \$50,000.00 for the period 1 November 2016 to 31 October 2017 (in effect, backdating the approval to cover all services already provided by Mr Aberle). This was almost double the value of the work contemplated by the July 2016 proposals.
36. Ms Howells was unable to explain why the quantum of the SSJ exemption sought was almost twice what was contemplated in July 2016.<sup>405</sup> She accepted it was inflated, but was of the view there would have been a justification.<sup>406</sup> Mr Mileham could not recall how the figure was arrived at<sup>407</sup> and he accepted that if the only pricing information available to the City at the time of the completion of the SSJ procedure form was the July 2016 proposals, then the amount on the SSJ procedure form should have been around \$25,000.00.<sup>408</sup>
37. The SSJ procedure form describes the work to be undertaken as the:  
*"Development and delivery of Leadership program for CEO and Executive Leadership Group resulting in the establishment of an effective leadership team and a clear direction and plan to guide the City's administration to ensure delivery against the City's objectives".*<sup>409</sup>

38. None of the standard form reasons for a SSJ procedure exemption are selected, but a document is attached which sets out the reasons for seeking it, including:<sup>410</sup>
- Mr Mileham was a client of Mr Aberle several years ago and found his coaching and guidance extremely beneficial in the development of his career and personal abilities. Ms Howells told the Inquiry that this was included on the basis of information provided by Mr Mileham.<sup>411</sup>
  - As part of the coaching sessions, Mr Mileham and Mr Aberle had identified the need to align the ELG to ensure a cohesive and effective team. After questioning about the inconsistencies in the dates and events, Ms Howells's evidence was that the "*coaching*" services being referred to were not the coaching sessions that commenced at the City in September 2016, but Mr Mileham's previous sessions.<sup>412</sup>
  - Mr Aberle was the only qualified and knowledgeable facilitator to run a programme aligned with Mr Mileham's vision.
39. Ms Howells was of the view that this was the only SSJ procedure form she completed. She also said she would have reported to heads of department and was assisted by Mr Mianich, but to the best of her recollection only as to process (that is, matters like the level of detail that should be put in the SSJ procedure form), not content.<sup>413</sup> Mr Mianich could not recall assisting her<sup>414</sup> and otherwise gave evidence that he was not involved at all in the engagement of Marple Bridge.<sup>415</sup>
40. Ms Howells accepted that if the professional (rather than personal) coaching of Mr Mileham only started in September 2016, and not back in 2012 as she might have believed, the foundation for the statements in the SSJ procedure form (particularly those described at paragraph 38 were flawed.<sup>416</sup>
41. In examination, Mr Mileham accepted that although he did not write the justification document attached to the SSJ procedure form, he would have discussed the matter with Ms Howells. He also agreed that some of the information in that document could only have come from him.<sup>417</sup>
42. Mr Mileham also agreed that the services supplied by Mr Aberle were of a type that could have been supplied by other consultants in Western Australia and Australia. Mr Mileham agreed that on the face of the SSJ procedure form, the market was not tested to see whether Mr Aberle was genuinely the only supplier for the services, nor on the face of it, were best endeavours undertaken to obtain quotes from other suppliers.<sup>418</sup> Mr Mileham agreed these were requirements of the SSJ procedure and agreed, on reflection, that the content of the SSJ procedure form he signed on 12 January 2017 did not satisfy the SSJ procedure threshold of clear and thorough justification. Mr Mileham could not provide a convincing explanation of why, in light of these issues, the document was signed in January 2017. He indicated only that "*To the best of my knowledge at that time, I believe it met the criteria*".<sup>419</sup>

43. In view of this evidence, the Inquiry finds that the SSJ procedure form for Mr Aberle (Marple Bridge) should not have been progressed or approved without further steps being taken pursuant to the SSJ procedure and CP9.7. The justification expressed in the document did not satisfy the requirements of the SSJ procedure, nor the requirements of CP9.7. The desire to align the workshops provided to the ELG with Mr Mileham's vision, which was a desire expressed in the SSJ procedure form, is an understandable one. However, that does not, without more, elevate the services supplied by Mr Aberle to the City to something that could only be supplied under a sole supplier arrangement. At the very least, the market should have been tested before that conclusion was drawn.
44. Furthermore, while there is nothing to suggest Mr Mileham had an actual conflict of interest, it would have been prudent for him to distance himself from the authorisation of the SSJ procedure form in circumstances where:
  - there were deficiencies in the SSJ procedure form, noted above, that call into question its validity under the SSJ procedure and CP9.7;
  - Mr Mileham had a pre-existing relationship with Mr Aberle; and
  - Mr Mileham was, it seems from the SSJ procedure form, eager to engage Mr Aberle to align his vision with the ELG.
45. Had a disinterested Director with a rigorous understanding of procurement reviewed the SSJ procedure form, it may be that the issues with the proposed justification, described above, would have been identified and resolved and the procurement process halted or an appropriate process adopted. Such an approach may also have allayed any concerns (although none was expressed to the Inquiry by witnesses) that Mr Mileham could be perceived to have a conflict of interest in the engagement of Mr Aberle.

#### 14 January to 16 May 2017

46. Following the authorisation of the SSJ procedure form on 12 January 2017, Mr Aberle (Marple Bridge) continued to supply coaching, leadership and strategic management services to the City. Most of the sessions conducted by Mr Aberle were directed towards coaching for the CEO, and ELG workshops. This, on its face, appears consistent with the description of works given in the SSJ procedure form.
47. However, some of the services were different and were described as "*strategic planning*" including, for example in May 2017, the holding of six hours of directorate specific workshops described in Marple Bridge's invoice for that month as "*strategic planning input, DCC, DEDA and DPD*".<sup>420</sup>
48. Mr Aberle could not recall specifically what that was for, but said it was part of an overall strategic plan, and cascading that plan down through the business.<sup>421</sup> In the absence of evidence as to the distinction, if any, between the strategic planning work and other work conducted by Mr Aberle, the Inquiry makes no finding as to whether this work was within the ambit of the SSJ procedure form. However, it notes that this ambiguity is another example of the City's failure to properly manage the procurement of the services of Marple Bridge. The City should not be left in a position where ambiguity exists about whether services supplied are within the ambit of a procurement.

49. On 16 May 2017, Ms Alison Sunderland (Personal Assistant to Mr Mileham) advised Ms Pember about the SSJ procedure form for \$50,000.00 for Mr Aberle, and indicated that \$49,720.00 had been spent against it.<sup>422</sup> In examination, Mr Mileham was asked whether he was aware of this and said he was aware of “*difficulties with the administration of the contract*” and “*anomalies*” which he asked to be resolved.<sup>423</sup>
50. However, it does not appear that any steps were actually taken, at least at this stage, to resolve those difficulties or anomalies.

#### May to June 2017: Construction and Maintenance Directorate workshop

51. In the meantime, the scope of work undertaken by Mr Aberle continued to expand.
52. On about 2 June 2017, Marple Bridge issued an invoice in the amount of \$2,640.00 for “*KRA/KPI<sup>ah</sup> CMD [Construction and Maintenance Directorate] Directorate Workshop (incl pre and post work) 1 May*”.<sup>424</sup>
53. On 29 June 2017, Marple Bridge issued a further invoice in the amount of \$4,400.00<sup>425</sup>, which was for the Construction and Maintenance Directorate team building workshop.<sup>426</sup>
54. Mr Aberle considered that to be an extension of the initial engagement, helping him to cascade down the strategic planning he was offering to the ELG to some of the lower levels within the City.<sup>427</sup> However, those services are not within the July 2016 scoping documents, nor are they within the description of services approved under the SSJ procedure form signed by Mr Mileham on 12 January 2017.
55. There is nothing improper about the type of services supplied by Marple Bridge, and neither Mr Aberle nor Marple Bridge acted improperly in providing them. The rationale for the services was clear, and the internal processes of the City were not Mr Aberle’s concern. However, it is evident that by this stage there had been scope creep in the services being supplied, for which the City had responsibility. The root cause for this scope creep was the City’s failure to have clear, accurate and robust procurement processes in place, with adequate independent and centralised oversight and management of Marple Bridge’s engagement. Procurement, particularly procurement involving the expenditure of public money, should be carefully considered and properly supervised and controlled. This was not.

#### July to August 2017: Problems with the procurement are raised

56. On 29 June 2017, Ms Pember raised with Mr Quinlivan (copied to Ms Sarina Cuttone) that the scope of work for which Marple Bridge was engaged had expanded far beyond what was originally tasked. Ms Pember asked Mr Quinlivan to “*kindly send through ANY information*”.<sup>428</sup>
57. In response, on 3 July 2017, Ms Pember was told by Ms Cuttone that Mr Mileham had asked Mr Quinlivan to “*summarise and close out*” the Marple Bridge contract.<sup>429</sup> It is likely this is what Mr Mileham was referring to when he gave evidence that he had asked for the “*difficulties*” and “*anomalies*” with the contract to be resolved.

ah Which mean, respectively, “*key result area*” and “*key performance indicator*”: Transcript, D Aberle, private hearing, 29 April 2019, p 16; KRA might also be referred to as SRA, “*strategic result area*”: Transcript, D Aberle, private hearing, 29 April 2019, p 16.

58. However, while Mr Quinlivan may have taken steps, nothing appears to have been done to “*summarise and close out*” the contract (possibly because Mr Quinlivan took severance on 7 July 2017). There were no sessions in July. There was a session with Mr Aberle and the ELG on 28 August 2017.

59. At 1.45 pm on the same day, Ms Pember wrote directly to Mr Mileham, in an email sent with high importance and with the subject heading “*URGENT: Marple Bridge – Mr Aberle services*”.<sup>430</sup>

60. In that email, Ms Pember referred to an attached document which set out, in quite some detail, the problems with the procurement of Marple Bridge, before going on to say:

*“The attached document provides a summary of the services to date with two recommendations as detailed below:*

*1. The ongoing requirement to utilise this Supplier’s services is reviewed on the basis of no accountability and lack of positive outcomes for the 10 to 12 months of services provided to ELG; particularly in the light of the OCCA report finding concerning the ongoing dysfunction within ELG.*

*2. Review/audit to ascertain whether the Procurement process has been followed.*

*I understand that these services are continuing to be used by yourself and members of ELG, for varying purposes?*

*Martin, are you able to please advise that your prior direction remains unchanged and I will take steps to address this matter urgently and action, as per the two (2) recommendations made above.*

*[Mr Quinlivan] departed the business in June 2017; so to my knowledge, no action has been taken to address this outstanding matter. I would like to move this forward, with your support?”*<sup>431</sup>

61. Mr Mileham responded to Ms Pember at 4.57 pm that afternoon to say a “close out” session was held that day and that he required Ms Pember’s assistance to “*address this and resolve the procurement issues*”.<sup>432</sup>

62. However, despite this apparent commitment from Mr Mileham to bring the sessions with Mr Aberle to an end and to resolve the procurement issues, the following day Ms Pember received an email at 2.37 pm from Ms Terri Obern, Acting Personal Assistant to Mr Mileham, in which Ms Obern wrote:<sup>433</sup>

*“Hi Kelly*

*Thank you for providing me with the information on the Mr Aberle contract. Martin wants to check if yesterday’s session falls within the bounds of the contract, if not, extend the current contract or enter into a new one.*

*Following yesterday’s session, I’ve been asked to arrange the following:*

*4 September – Mr Aberle to meet with Rebecca and Byron*

*w/c 18 September – one on one with Mr Aberle and Martin for 90 minutes and then every 3 weeks thereafter until Christmas”.*

63. Ms Pember was examined about her reaction to receiving this email within 24 hours of receiving the earlier email from Mr Mileham.
64. In this respect, and not surprisingly, Ms Pember gave evidence she was very frustrated that Mr Mileham appeared to be disregarding the advice provided to him *“for no reason whatsoever other than he wanted to continue using [Mr Aberle’s] services”* and she wondered what was the point of preparing the report.<sup>434</sup>
65. In responding to Mr Mileham,<sup>435</sup> Ms Pember said she felt there was nothing more she could do to resolve the issues associated with the engagement of Marple Bridge and had almost given up. Ms Pember forwarded her response to Mr Mianich, as Director, Corporate Services, to keep him across the matter in the expectation that he would counsel Mr Mileham on how to move forward.<sup>436</sup> Mr Mianich does not recall doing so.<sup>437</sup>
66. Mr Mileham was taken to this correspondence in examination and was unimpressive, non-responsive and evasive in respect of it, as the following exchanges demonstrate:
- “Do you understand from Ms Pember’s point of view how it could be a confusing and frustrating experience to receive an email effectively from you, asking her to do these things?---It’s not effectively from – well, she may have taken it as being effectively from me but it isn’t.*
- I appreciate it’s not directly from you in the sense that it’s from your PA?---*
- That’s right.*
- And your PA acts on your instructions?---Not always.*
- ...
- Do you accept that it would have been confusing and frustrating for Ms Pember, who’s prepared that document we looked at, sent it to you the day before and then had this request from your office?---If she was confused and she’s told you that, that’s her view. In my view---*
- I’m asking you whether you accept it?---No, I don’t, not based on my frequent interactions with staff who are asked for things to be done or the PA asks for things to be done. They are 50 metres away down the corridor; if they have an issue, they come to me and they say, ‘Martin, I’m confused about this, do you really mean’, or ‘I don’t want to get an email from your PA’ and that has happened on hundreds of occasions, ‘They have told me you want this’ and I’ve said, ‘Well actually, no, what I meant was’ ...”.<sup>438</sup>*
67. It is not clear why Mr Mileham was unwilling to accept that Ms Obern’s email to Ms Pember was in effect an email from him, nor why he was unwilling to accept the self-evident proposition that the inconsistent emails of 28 and 29 August 2017 would have been confusing and frustrating for Ms Pember. The Inquiry infers Mr Mileham, in answering this way, was seeking to evade responsibility for the inconsistent positions he had adopted.

68. There is, on a copy of Ms Pember's email to Mr Mileham (forwarded to Mr Mianich) available to the Inquiry, a handwritten annotation that reads:
- "1) FINISH + FINAL PAYMENT*  
*2) ALL FUTURE BID & ACCEPT BASIS*  
*Terri, is this closed out?"*
69. There is then a signature and the notation "9/10".<sup>439</sup>
70. Mr Mileham explained that this notation and the signature was his, and that the "9/10" was a reference to 9 October.<sup>440</sup> Mr Mileham could not recall whether he spoke to Mr Mianich or Mr Richards about the matters contained in the email. He said he asked Ms Obern to close the matter out.
71. When asked whether he should have done more than simply ask his Personal Assistant to deal with it, given he approved the SSJ procedure form on 12 January 2017 and had a pre-existing relationship with Mr Aberle, Mr Mileham said, no.<sup>441</sup>
72. As it transpired, despite Ms Pember's emails and the document she prepared, *"Review of Services Provided by Marple Bridge"*, the problems were not resolved and Mr Aberle through Marple Bridge continued to supply services to the City without proper procurement processes being followed. Significantly, these services included a number of coaching sessions for Mr Mileham in September, October, November and December 2017. It must have been evident to Mr Mileham that the engagement of Marple Bridge for coaching and leadership services had not, by this stage, been *"closed out"*.

#### **Mid-January 2018: Marple Bridge's services expand further into *"stakeholder mapping"***

73. By mid-January 2018, the City had still failed to put in place a proper procurement framework for the services being supplied by Mr Aberle. Furthermore, the 12 January 2017 SSJ procedure form, which was valid for one year, had expired, apparently unnoticed, in October 2017.
74. Furthermore, and despite the SSJ procedure form's expiration, by 9 January 2018, the total amount expended by the City on Marple Bridge's services had reached approximately \$74,000.00 – some \$24,000.00 above the now-expired SSJ procedure form amount.
75. Undaunted, or perhaps unaware, on 16 January 2018, a stakeholder mapping workshop was held for the Planning and Development Directorate.<sup>442</sup> Again, this work was not within the July 2016 proposals or the works described in the 12 January 2017 SSJ procedure form. A separate procurement exercise was purportedly undertaken for this work. However, that process was also flawed.

76. In any event, at this stage it became apparent to officers with the City that the City had far exceeded even the (expired) SSJ procedure form for Marple Bridge's services. There was again tension between groups within the City about who would be liable for these costs reflecting, again, the failure to properly follow procurement processes.

#### January 2018: Steps are taken to close out and regularise the procurement

77. On 29 January 2018, Ms Yan, a Senior Financial Management Officer in the Construction and Maintenance Directorate, brought to the attention of Ms Alison Egan, Manager, Human Resources, and Mr Paul Crosetta, Director, Construction and Maintenance, the urgent need for a renewed SSJ procedure form for the further engagement of Marple Bridge.<sup>443</sup> She heard nothing.
78. On 2 February 2018, Ms Egan brought to Mr Mileham's attention that the SSJ procedure form had expired, but that no steps had been taken to cease using the services.<sup>444</sup>
79. On 21 February 2018, having heard nothing, Ms Yan raised the issue again.<sup>445</sup> Then again on 26 February 2018<sup>446</sup> and 27 February 2018,<sup>447</sup> to which she then got a reply that Ms Egan would send her a "*Sole Supplier doc*" in the "*next 30 minutes*".<sup>448</sup>
80. The second SSJ procedure exemption and approval form,<sup>449</sup> dated 27 February 2018, was completed and signed by Ms Egan. It sought approval for a further \$25,000.00 on the basis that Mr Aberle had a working knowledge of the City's unique set of challenges. It is not clear from the document whether the market was tested to confirm that conclusion. In any event, the Inquiry has not sighted a copy approved by a Director or the CEO and so, as best the Inquiry can determine, this second SSJ procedure exemption application was never granted or became operative.
81. As with the initial SSJ procedure form approved on 12 January 2017, this second SSJ procedure application was also back-dated, purporting to cover the period 1 November 2017 through to 31 October 2018. It is apparent that the commencement date was chosen to capture and cover the period immediately following the expiration of the first SSJ procedure form, during which period Marple Bridge provided, and invoiced for, services.
82. The Inquiry finds that this was not a proper procurement process. Rather, it was an attempt to gap-fill a period during which there was no formal process followed for the continued use of Marple Bridge's services from the expiry of the initial SSJ procedure form. It reflects, and arises from, again, the mismanagement of the procurement exercises conducted for the engagement of Marple Bridge. It was reactive to issues raised, rather than being proactive in advance of procurement.

### Purported procurement for stakeholder mapping

83. On 2 March 2018, Ms Weary completed a document entitled “*Cover Sheet for Requisitions, Verbal and Written Only*” (Cover Sheet).<sup>450</sup> On the face of it, the form suggested that three quotes for the stakeholder mapping session conducted by Marple Bridge in January 2018 were obtained.
84. However, the Cover Sheet raised two issues:
- first, whether proper process was followed and whether the quotes were obtained “*before*” Marple Bridge was engaged; and
  - secondly, and relatedly, whether Ms Weary completed the Cover Sheet “*after*” the event in order to justify the engagement, or to counter the failure to follow proper procurement process.
85. Ms Weary gave evidence to the following effect, although she was uncertain:
- Marple Bridge and another organisation provided quotes, although she could not recall how they were received.<sup>451</sup>
  - She had completed the Cover Sheet before the work was undertaken by Marple Bridge, although when taken to the document during her examination her evidence changed.
  - In the ordinary course she would have only completed the Cover Sheet after she received the quotes and while she did not recall whether she did that in this instance she has no reason to believe she would not have done so.<sup>452</sup>
86. Ms Weary was unable to explain how or why the Cover Sheet was completed in March 2018 when the work was undertaken and invoiced by Mr Aberle in January and February.<sup>453</sup>
87. Ms Weary was also asked about the disparity between a competitor’s quote for \$35,000.00 and Mr Aberle’s quote for \$4,000.00, and whether she simply included the competitor’s quote as a way of trying to justify Mr Aberle having been engaged without proper process.<sup>454</sup> That was denied, although Ms Weary accepted that on the face of the Cover Sheet, that is how it looked.<sup>455</sup>
88. In contrast, Mr Munro’s evidence included evidence to the following effect:
- Following the stakeholder mapping workshop in January 2018, Ms Weary sent him an email saying the invoice for it needed to be paid, but there was no purchase order that had been raised and she expected him to raise a purchase order. He said that he went back to her and asked her what quotes she had obtained and was told there were not any quotes, it was being done as a sole supplier.<sup>456</sup>
  - While his recollection had been that Ms Weary had told him she had obtained no quotes, when shown an email which referred to strategy and partnership having obtained two quotes, he said he may have been wrong. He did not recall having seen the quotes.<sup>457</sup>

89. While it may be suggested by these examinations that Ms Weary knew that the quotes had not been obtained at the necessary time, and that these steps were taken after the fact to justify the failure by the City to have followed proper procurement processes, there is insufficient evidence to make a finding of that gravamen. However, the Inquiry does find that the confusion in relation to this aspect of the expanding engagement of Marple Bridge reflects, again, the dysfunctional mismanagement by the City of the procurement exercises conducted to retain Marple Bridge.
90. Meanwhile, on 7 and 8 March 2018, Ms Yan continued to follow up about resolving the payments to Marple Bridge<sup>458</sup> which prompted Mr Richards to raise the issue with Ms Egan and the risk of a breach of the LG Act.<sup>459</sup>
91. By April 2018, Mr Aberle's invoice from February was still not paid, and there was discussion about how the City was going to satisfy the invoice. Around this time there was also discussion that Marple Bridge was to do no further work until an appropriate procurement process was undertaken.<sup>460</sup> Ultimately, seemingly as a matter of pragmatism consistent with the view held by Mr Munro that Marple Bridge was not responsible for internal failures by the City, Marple Bridge's invoices were approved for payment.
92. From this point on the matter was, to use Mr Mileham's language from August 2017, "*closed out*" and to the Inquiry's knowledge there was no further procurement of, or services provided to the City by, Mr Aberle or Marple Bridge.

## Conclusion

93. The story of the engagement of Marple Bridge is a story of deficient and mismanaged procurement processes. There is nothing in the material before the Inquiry to suggest corruption or cronyism. Rather, it seems that at the heart of this dysfunction is a combination of incompetence in the application of procurement processes, or ignorance of those processes, coupled with enthusiasm by Mr Mileham (and later, others) to get and keep Mr Aberle on board.
94. The initial engagement of Marple Bridge was not properly documented. That problem was compounded when the 12 January 2017 SSJ procedure form was approved by Mr Mileham on grounds that, even then, did not support its approval. While the desire to have Mr Aberle engaged because of his past work with Mr Mileham was understandable, that was not, as described earlier in this Section, sufficient reason to depart from proper procurement policy and processes.
95. The lack of transparency in that engagement, the poor scoping of the works which were being procured and the tenuous reasoning used to support the engagement quickly led to other problems within the City. Officers outside of the ELG had little idea what was going on, from a procurement point of view. The siloed nature of the City reared its head as skirmishes were had over who would foot Marple Bridge's bills.

96. Responsibility for the supervision of the procurement seems to have been abdicated by Mr Mileham and, though to a lesser degree, Mr Mianich. As described above, Mr Mileham authorised the original SSJ procedure form for Marple Bridge in circumstances where it ought not to have been authorised, and thought it suitable to leave the resolution of procurement issues to his Personal Assistant. Mr Mianich in examination could offer no comfort that he took any steps to correct the issues when they were raised with him first by Ms Pember in August 2017, and then again by Ms Yan on 21 February 2018.
97. Mr Mianich's failure to respond to Ms Yan is explicable on the basis that the email was directed primarily to Mr Richards, and Mr Mianich's attention was, understandably, focussed on other matters between 21 and 26 February 2018 (refer to **Part 2.4 – Final Days**). However, it is difficult to understand how Ms Pember's email to him in August 2017, forwarding her correspondence with Mr Mileham, could go apparently unheeded.
98. However, the engagement of Marple Bridge can be a point of reflection for the City. It can and should use this experience as an opportunity to improve its processes. Some of those improvements – for example, the centralisation of procurement at the City – are underway. Whatever system is adopted by the City it must be a robust one. Strong leadership, effective supervision and proper governance are all critical factors to the success of any procurement framework. Without them, the tale of Marple Bridge will simply repeat itself in some other context.

## Findings

### Finding 2.3.4 – 6

The Inquiry did not find any wrongdoing on the part of Marple Bridge or Mr Aberle.

### Finding 2.3.4 – 7

The Inquiry finds the following:

- i. Numerous City officers from the CEO down failed to follow proper procurement processes in the initial and ongoing engagement of Marple Bridge.
- ii. The procurement of Marple Bridge was poorly managed, and inadequately supervised, which allowed SSJ procedure exemptions to be used in circumstances where they should not have been.
- iii. There were efforts within the City to retrospectively justify the engagement of Marple Bridge, in circumstances where flawed reasoning was relied on.
- iv. There was a failure in the City's leadership to take responsibility for the poorly managed procurement of Marple Bridge, which poor management was only resolved by the initiative and diligence of officer-level employees more than 12 months after Marple Bridge was initially engaged.

## Refurbishment of Council House

### Introduction

1. This matter is about the refurbishment of the ground and lower ground floors of Council House (Council House Project). It is a tale of poor planning, poor programming, poor communication, and poor leadership, and the attendant delays and dysfunction that resulted.
2. Council House, located at 27-29 St Georges Terrace in Perth, is the primary premises from which the Administration of the City of Perth (City) and the Perth City Council (Council) operate. It is, and has been since 8 December 2006, a heritage listed building.
3. On 19 December 2017, Council approved the re-allocation of \$300,000.00 from the customer experience centre and customer relations management capital works budget (CW2195) to the refurbishment of the ground floor of Council House.<sup>461</sup>
4. A Request for Tender (RFT) for the refurbishment works was advertised in “*The West Australian*” newspaper on 17 February 2018. It had a closing date of 8 March 2018.<sup>462</sup>
5. The RFT described the scope of works generally as:
 

*“Design and construct the refurbishment of the Ground floor and security upgrades to the Lower Ground floor of Council House as per the City requirements. Details for each floor are below. The available project budget is \$300,000.00. Practical completion must be achieved by 6 June 2018”.*
6. The works relating to the ground floor were further detailed as follows:
 

*“Ground Floor*

*Required changes include:*

  1. *Disassembly, removal and disposal of the Concierge Counter (Figure 1.1 refer to RFT 113-17/18 document).*
  2. *Disassembly, removal and disposal of the Customer Services Counter and all partitions (attachment1 refer to RFT 113-17/18).*
  3. *Make good any damage occurred as a result of the removals in the areas of the current Concierge Counter and Customer Services Counter, including floor refurbishment, electrical and mechanical services, paint, etc. according to the agreed design.*
  4. *Supply and install a new Concierge and Customer Services Counter as show [sic] in the concept design. As a minimum; the required material should be top quality timber and marble. The final design and shop drawings shall be provided by the contractor and subject to the City’s approval.*
  5. *Provide options/solutions for the new security barriers/gates system as per concept design.*
  6. *Supply and installation of security barriers/gates system”.*

7. The works relating to the lower ground floor were also detailed as follows:
- “Lower Ground*
- Required changes include:*
- 1. Provide options/solutions for the new security barriers/gates system as per concept design (Figure 2 refer to RFT 113-17/18 document).*
  - 2. Supply and install the agreed security barriers/gates system (attachment 2 refer to RFT 113-17/18 document).*
  - 3. Make good any damage occurred as a result of the works”.*
8. In general terms, it is fair to describe the scope of works as a fit out, a description adopted by some witnesses before the Inquiry.<sup>463</sup>
9. The RFT also sets out a project timeline to which the City expected a successful proponent to work. That timeline provided:<sup>464</sup>
- “PROJECT TIMELINE*
- Tender Close 08 March 2018*
- Appointment of Contractor 15 March 2018*
- Program / Lead time 22 March 2018*
- Schematic Design report due 29 March 2018*
- Design Development- final design due 05 April 2018*
- Final design approved by the City(\*) 11 April 2018*
- Construction 11 April 2018*
- Practical Completion 06 June 2018*
- (\*) For the final design, make sure to provide all relevant Certifications and Building Permit”.*
10. As it transpired, despite the tender documentation suggesting a contractor would be appointed on 15 March 2018, and despite it indicating a date for practical completion of 6 June 2018, in fact a contractor was not appointed until 13 April 2018 and the works were not certified as complete until 20 December 2018.

## Timeline

|      |              |  |
|------|--------------|--|
| 2017 | 19 December  | Council approved the re-allocation of \$300,000.00 to the refurbishment of the ground floor of Council House.  |
|      |              |  |
| 2018 | 17 February  | The City advertised the tender for the refurbishment works with a timeline including <i>"Tender Close 08 March 2018"</i> ; <i>"Final design approved by the City 11 April 2018"</i> ; <i>"Construction 11 April 2018"</i> ; and <i>"Practical Completion 06 June 2018"</i> . |
|      | 13 April     | The City entered into a contract with MG Group for the tender.   |
|      | 13 April     | The City's Principal Statutory Planner advised the Project Officer for the project that all works to Council House required planning approval and the building was heritage listed.  |
|      | 18 June      | The City Architect advised the Project Officer (on or around this date) that the project should be stopped until development approval was in place, because the proposed materials for the reception desk were unacceptable from a heritage perspective.                     |
|      | 27 June      | An incomplete application for development approval was submitted to the Development Approvals Unit.  |
|      | 21 August    | A development approval application was sent to the Western Australian Planning Commission (WAPC).  |
|      | 20 September | The WAPC granted development approval subject to conditions.   |
|      | 25 September | The State Heritage Office endorsed the drawings and plans for the Council House Project.   |
|      | 26 September | The City obtained the approvals and permit to undertake the Council House Project.   |
|      | 20 December  | The works were certified as complete.  |
|      |              |  |

## Issues considered by the Inquiry

11. The process leading to the refurbishment of Council House, and the delay to the commencement and completion of that project, raise a number of issues within the Inquiry's Terms of Reference, particularly within paragraphs A.1(i), A.3(iii) and A.3(v).
12. Broadly, those issues are:

- why the officers responsible for the Council House Project failed to obtain development approval, heritage advice, and a building permit for the refurbishment, before commencing the project;
- whether appropriate pre-tender steps were taken to properly scope and programme the project to ensure it was deliverable within the 2017/2018 financial year;
- whether the officers responsible for the Council House Project were appropriately qualified and trained for the role and supported by senior staff within the City; and
- whether there were adequate, or any, policies and procedures in place to facilitate the timely completion of capital works projects.

## Investigation by the Inquiry

### Legislative framework for development approval

13. Before detailing what occurred during the project, it is useful to understand the planning framework within which the refurbishment of Council House should have, and eventually did, take place.
14. Council House is located within the City.
15. The City is subject to two planning schemes.
16. The first planning scheme, administered by the City, is a local planning scheme called City Planning Scheme No. 2 (CPS2). CPS2, as its name suggests, covers the City. The second planning scheme, administered by the Western Australian Planning Commission (WAPC), is the Metropolitan Region Scheme (MRS).
17. Generally, a proponent of a development in the City is required to obtain development approval under both schemes, consistently with the provisions of the *Planning and Development Act 2005*.<sup>465</sup>
18. A “development” for the purposes of the *Planning and Development Act 2005* includes “the development or use of any land including any demolition, erection, construction, alteration of or addition to any building or structure on the land”.<sup>466</sup>
19. That phrase would capture aspects of the refurbishment of Council House as outlined in paragraph 5-7, including particularly the installation of security gates.
20. The requirement to obtain development approval under the CPS2 and the MRS is removed when the proponent is the City itself and the development is a “public work”, as defined in the *Public Works Act 1902*.<sup>ai</sup>
21. However, while approval is not required in those circumstances, the City must nonetheless undertake, construct or provide the relevant public work having regard to the:
  - purpose and intent of the CPS2 and the MRS; and
  - the orderly and proper planning, and the preservation of the amenity, of the City.<sup>467</sup>
22. In this respect, the Inquiry received evidence from Ms Margaret Smith, Manager, Development Approvals, that the City had adopted an approach of requiring the City to apply for development approval even in circumstances where it is, strictly, exempt from doing so.<sup>468</sup>
23. However, to the Inquiry’s knowledge, informed by the evidence of witnesses, that approach was not, at the time of the Council House Project, codified in a formal policy or procedure.<sup>469</sup> It was later promulgated verbally, and in the form of a memorandum, among members of the Planning and Development and Construction and Maintenance directorates in June and July 2018, after issues with the Council House Project were identified.

ai The list of what constitutes a public work is lengthy and broad and is set out in s 2 of the *Public Works Act 1902* – it includes buildings for public office (s 2(e)) and works incidental to buildings for public office (s 2(zb)); *Planning and Development Act 2005* s 6(1).

24. It is possible, given the extensive definition of “*public work*” in the *Public Works Act 1902*, that some or all of the refurbishment development within Council House would, or might, be a public work within the meaning of that term, exempting the City from the requirements of the *Planning and Development Act 2005*.
25. However, it does not appear that at any time anyone within the City took advice on whether, as a matter of fact and law, that was so. Moreover, as was discovered during the course of examinations, witnesses in fact had little understanding of the concept of public works for the purposes of the *Public Works Act 1902*.
26. Therefore, in the absence of an exemption being considered and applied, development approval for the works the subject of the refurbishment was required under the *Planning and Development Act 2005*. As described later in this Section, that approval was not obtained until well after the works had commenced.

### Legislative framework for heritage advice

27. Council House is listed on the State Register of Heritage Places kept by the Heritage Council of Western Australia under the provisions of the *Heritage Act 2018*. It is also on the CPS2 Heritage Register kept by the City. Before the commencement of the *Heritage Act 2018*, a similar regime was in place in respect of Council House under the provisions of the *Heritage Act of Western Australia 1990*. It applied at the time of the Council House Project.
28. Without descending into the detail of the provisions of those statutes, which is considerable, the general effect of those provisions, both then and now, is that before developments that might affect property listed on the register are progressed by a decision-making authority (relevantly, the WAPC), they must be referred to the Heritage Council for its advice.<sup>470</sup> This is so regardless of whether the works to be carried out are “*public works*” or not.
29. As with the delay in lodging an application for development approval, the referral of the Council House Project to the Heritage Council for advice was also not done until well after the works had been commenced.

### Legislative framework for building permits

30. In addition to development approval and heritage advice, where a proponent of a development wishes to undertake “*building work*”, that proponent is also required to obtain a building permit under the *Building Act 2011*.
31. By section 9 of that Act, a person must not do building work unless a building permit is in effect for the building work. The phrase “*building work*” is defined in section 3 and includes the renovation, alteration, extension, improvement or repair of a building or an incidental structure.

32. That definition would incorporate most aspects of the Council House Project. Accordingly, works the subject of that refurbishment could not lawfully take place without a building permit being applied for and granted.
33. By section 14 of the *Building Act 2011*, a person may apply for a building permit. The formal requirements of an application of that type are set out in section 16, supplemented by the matters prescribed in regulation 16 of the *Building Regulations 2012*.
34. By section 20(1), a “*permit authority*” – which in the case of Council House is the City – must grant a building permit if it is satisfied that, among other things, the applicant for the permit has obtained each approval for the work required (if any) under the *Planning and Development Act 2005*.<sup>471</sup> Retrospective granting of a building permit can – as eventually happened here – occur, although it is fair to say that is not best practice, nor strictly in keeping with the intention of the *Building Act 2011*.
35. However, even though a retrospective grant can be made, before an applicant can be granted a building permit for building work constituting a “*development*”, the applicant must have first obtained development approval under the provisions of the *Planning and Development Act 2005*.

### Witnesses

36. The Inquiry interviewed, and held private and public hearings, involving 14 witnesses over several days in the course of investigating this matter. The positions given below for employees are the positions they held at the time of the events described in this Section:
37. The Inquiry heard from the following members of the Executive Leadership Group (ELG):
  - Mr Paul Crosetta, Director, Construction and Maintenance. As Director, Mr Crosetta was ultimately responsible for capital works projects in the City, which included the Council House Project. Mr Crosetta gave helpful evidence regarding processes and procedures governing capital works projects and was critical of some aspects of the processes that were followed at the time of the refurbishment. However, he claimed to know little about the details of the Council House Project and was unwilling to take responsibility for any of the issues that arose. In his view, the failures of the project were failures of those at an officer level. His evidence regarding budget carry-forwards, described below, was inconsistent with City employees who worked beneath him, but nevertheless credible from his perspective as a member of the ELG.
  - Mr Martin Mileham, Chief Executive Officer (CEO). Mr Mileham’s evidence was brief and confined to the ordinary process for undertaking capital works projects and the effect of carry-forwards. Mr Mileham suggested that he viewed carry-forwards as more of a project management issue. He believed projects need not be completed within a particular financial year, but that they did need to be adequately programmed and scoped.<sup>472</sup> As described later, this evidence is not consistent with the experience of those at officer level, and may indicate a breakdown in communications, or a failure to clearly articulate expectations.

- Ms Rebecca Moore, Director, Community and Commercial Services. Ms Moore was a candid and forthright witness on this issue, although her evidence on the topic was of marginal utility given her limited role in the matter. Ms Moore did, however, confirm her view – which she understood to be shared by those within her directorate – that budget carry-forwards should be avoided.
- Ms Erica Barrenger, Director, Planning and Development. Ms Barrenger was a reliable witness although, like Ms Moore, she had limited direct involvement in the Council House Project. She did however give useful evidence as to the tension that existed between her directorate (Planning and Development) and the Construction and Maintenance Directorate, the relative lack of cohesion between those units, and her directorate’s frustration (mirrored by the evidence of Ms Smith) with what she saw as the ongoing failure of the Construction and Maintenance Directorate to engage with Planning and Development in respect of capital works projects.

38. In addition to the ELG, the Inquiry also heard from Mr Daniel Richards, Finance Manager, who gave evidence as to the City’s general view, promulgated from an executive level down, that carry-forwards should be avoided. While Mr Richards’s evidence was limited to this issue, he was a sophisticated and reliable witness whose evidence is accepted.

39. The Inquiry also heard from employees at the City involved in the Council House Project, namely:

- Ms Alyce Higgins, Manager, Customer Service from 2016 to the present. Ms Higgins was a very good witness of truth who had detailed knowledge of the broader context within which the Council House Project took place. Prior to and during the project, Ms Higgins represented the “*client*” – that is, the business unit in the City (Customer Service) on whose behalf the Construction and Maintenance Directorate were carrying out the refurbishment. Her recall was impressive, particularly given the passage of time. Ms Higgins gave evidence about working alongside Mr Kirk Linares, during the pre-tender phase of the project, and her later involvement with certain design decisions made during the project. The Inquiry accepts her evidence.
- Ms Paola Mograve Duran, the Project Officer within the Properties Unit, who was tasked with managing the Council House Project. Ms Mograve had trained as an architect in South America and was employed by the City, although not in that capacity, on a temporary contract. Ms Mograve had no Australian project management experience prior to being engaged to oversee the refurbishment. Ms Mograve presented as a witness of truth, although it became apparent during her evidence that she was out of her depth on the Council House Project, had little to no true understanding of the need for and requirements of development and other approvals in the context of local government projects, and was heavily reliant on the advice of others (in particular, Mr Linares).

- Mr Linares was the Acting Manager, Properties in the Construction and Maintenance Directorate until 30 April 2018, when he was substantively appointed to the role. Mr Linares was Ms Mograve's supervisor. At times, he did not present as a forthcoming witness, and until confronted with evidence to the contrary effectively downplayed his involvement in the Council House Project. He did not readily accept propositions that seemed indisputable and at times gave improbable and conflicting evidence. The Inquiry approaches his evidence with caution, relying on it only when independently corroborated.
- Mr Lachlan Bugarin, Project Manager, Construction and Maintenance Directorate. Mr Bugarin worked alongside Ms Mograve and assisted her where he could. He raised a number of issues for the Inquiry's consideration. Mr Bugarin did not like Mr Linares. He frequently made comments critical of Mr Linares's management style and personality. While the Inquiry has no reason to doubt Mr Bugarin's candour or honesty, his recollection of events and his assignment of responsibility for acts and omissions may be coloured by his views about Mr Linares. For that reason, the Inquiry approaches his evidence with some caution.
- Ms Smith, Manager, Development Approvals, Planning and Development Directorate. Ms Smith was a sophisticated and reliable witness. She was candid in her criticism of the processes and procedures of the Construction and Maintenance Directorate, as well as the siloed mentality between the different directorates in the City. It was Ms Smith who first raised to an executive level, and documented, the issues with the ground floor refurbishment. Ms Smith gave helpful evidence about the planning context within which the Council House Project took place.
- Mr Sergio Massimini, Senior Project Officer, Construction and Maintenance Directorate. Mr Massimini was an experienced Project Officer and his evidence was generally helpful regarding City processes and procedures. However, as he started work at the City on 18 June 2018, his evidence was of limited direct assistance regarding the early stages of the Council House Project.
- Mr Craig Smith, City Architect, Planning and Development Directorate. Mr Smith had limited involvement with the Council House Project and his evidence was therefore of limited utility. However, to the extent that he could assist he was a generally helpful witness.
- Mr Noel Robertson, Principal Heritage and Strategy Officer, Economic Development and Activation Directorate. Mr Robertson's evidence was also of limited utility. He was only involved in the heritage aspect of the project. He offered general evidence regarding heritage processes and procedures, which was useful background information for the Inquiry.

40. The Inquiry also heard from Mr Carlo Menchetti, one of the directors of Menchetti Consolidated Pty Ltd (MG Group), the company awarded the construction contract for the Council House Project. Mr Menchetti's evidence was of limited assistance. This is not a criticism of Mr Menchetti, it simply reflects the fact that MG Group was not privy to the operations of City. Although he was generally forthcoming in his evidence, he could only comment from a third-party perspective.

## Evidence obtained by the Inquiry

### Council House Project is conceived, and funds are re-allocated

41. The customer experience centre and customer relationship management system CW2195 budget was a 2017/2018 budget item from the Community and Commercial Services Directorate for the purpose of enhancing the customer service experience of the City. Prior to this, customer service operations within the City were decentralised.
42. Within the CW2195 budget, \$700,000.00 was allocated to the Customer Relationship Management System (CRMS) aspect of the works.<sup>473</sup> The CRMS was, in effect, a centralised database of customer information which would, in due course, be used as a single reference point for customer interactions with the City.
43. The CRMS was to be delivered in three phases over a three-year period, commencing in 2017/2018 and including:
  - a pilot programme of the CRMS;
  - integration of the CRMS into the City; and
  - distribution of the CRMS throughout the City.
44. At the same time as the development of the pilot phase of the CRMS, level 5 of Council House was refurbished to create a centralised customer experience centre (also funded from the CW2195 budget). Previously, customer service operations were housed on separate floors of the building which, as Ms Higgins explained, was inefficient.<sup>474</sup>
45. At that point, in 2017, it was proposed to refurbish the ground floor of Council House in the following financial year, after the CRMS works had been completed.
46. The CRMS and the upgrade to Level 5 were scheduled for completion in the 2017/2018 financial year. At about the same time, an information technology (IT) core systems review was conducted into how the City's systems would or could work better together. The review included the CRMS, along with IT systems the City used as part of its everyday business activities.<sup>475</sup> At an early stage the review determined that, because of the interoperability of various IT systems, the roll-out of the 3 phases of the CRMS should be paused at the pilot stage until the review was completed.<sup>476</sup>

47. By this stage, only \$250,000.00 of the \$700,000.00 allocated to the CRMS had been expended, with an additional spend of \$150,000.00 anticipated for the balance of the 2017/2018 financial year. That left \$300,000.00 unspent and, owing to the pause on CRMS integration and distribution, notionally unallocated.
48. In those circumstances, Ms Higgins formed the view that the funds could be re-allocated to another project within the financial year, or could be returned to the City for re-allocation in the following financial year's budget.<sup>477</sup>
49. Ms Higgins, with Ms Moore's approval, advocated for and prepared advice to Council to have the funds re-allocated to the Council House Project. That re-allocation was considered and approved by Council in December 2017.<sup>478</sup> The effect of that decision was to bring the proposed completion of the ground floor refurbishment forward into the 2017/2018 financial year.

#### **Mr Linares's involvement in the Council House Project before budget re-allocation**

50. The decision to re-allocate funding was not made in a vacuum. Ms Higgins told the Inquiry that the decision was taken following discussions in October or November 2017 with Mr Linares about the feasibility of completing the Council House Project within the 2017/2018 financial year.<sup>479</sup>
51. Mr Linares said that he did not recall having any discussions about the Council House Project with Ms Higgins or anyone else before the budget re-allocation in December 2017. He said his first involvement was when Ms Moore told him that \$300,000.00 had been moved from the Customer Services Unit budget to the Properties Unit budget.<sup>480</sup>
52. Ms Higgins's evidence to the contrary is supported by a number of emails, including an email from her to Mr Linares on 19 October 2017, in which Ms Higgins provided four alternative drawings of the proposed ground floor refurbishment to Mr Linares.<sup>481</sup> Once Mr Linares was shown these emails in the course of his examination, he accepted that he must have discussed the project with Ms Higgins at that time, but could not recall the discussions.<sup>482</sup>
53. An email from Mr Linares to Ms Higgins on 13 November 2017 suggests that Ms Higgins and Mr Linares met to discuss the project around 14 or 15 November 2017.<sup>483</sup> As noted above, while Mr Linares said that he did not recall the emails or any meetings, upon being shown the emails he accepted that discussions would have taken place.<sup>484</sup>

54. Ms Higgins, who had a clear recollection of the discussions, told the Inquiry that:
  - she discussed the proposed Council House Project with Mr Linares, by reference to the drawings which had been prepared by the City architect, Mr Smith;<sup>485</sup>
  - she asked Mr Linares whether the project was deliverable in the 2017/2018 financial year and Mr Linares said it was;
  - she told Mr Linares that if the project was not deliverable by June 2018, she would prefer to give the money back to the budget;
  - she and Mr Linares discussed the heritage implications of the project, and in particular that heritage approval would be required;<sup>486</sup>
  - Mr Linares provided a timeline for the project and said it could be completed in the three-month period between April – June 2018, which timeline was reproduced in the RFT that went to market;
  - the timeline and cost were based on Mr Linares’s experience in these sorts of matters; and
  - Ms Higgins had no expertise in construction or programming and was reliant on Mr Linares in respect of these matters.
55. Mr Linares generally had no reason to quibble with Ms Higgins’s recollection. However, he disagreed with some aspects of Ms Higgins’s evidence. In particular, he initially disputed the proposition that a manager (that is, Ms Higgins) would inquire, before the project was funded and approved, as to whether the project could be completed within the financial year. That is, he initially disputed Ms Higgins’s evidence as set out at paragraph 54 second and third points. Mr Linares said he could not understand why a manager would ask those things, although when it was suggested to him that the manager may have an interest because the manager would wish to use the facility being constructed, he reluctantly conceded that *“it would be arrogant for me to say no, it is something I don’t know”*.<sup>487</sup> To the extent that there is an evidential dispute between Ms Higgins and Mr Linares on this issue, Ms Higgins’s evidence, which was clear and cogent in its recollection, is preferred.
56. Following her discussions and exchanges of correspondence with Mr Linares, Ms Higgins advised Ms Moore to recommend to Council that it re-allocate the money to the Council House Project. She said she made this recommendation in reliance on Mr Linares’s advice.<sup>488</sup> As Ms Higgins had no project management or delivery experience herself, the Inquiry accepts she relied on Mr Linares.
57. On 19 December 2017, Ms Moore emailed Ms Higgins, in anticipation of the Council Meeting that evening, asking for clarification regarding how the \$300,000.00 budget was determined. Ms Higgins responded that, as to the capital cost component of \$200,000.00, *“we used prior works as a guide to come to these figures”*.<sup>489</sup> In evidence, as noted above, Ms Higgins said that information came from Mr Linares.

58. Mr Linares accepted that between him and Ms Higgins he was the one better placed to know about estimating the time for and the cost of the Council House Project.<sup>490</sup> The Inquiry finds that to be the case and that it was no part of Ms Higgins's role or expertise to estimate those types of things.
59. However, despite being asked, and given the opportunity to explain, it is not entirely clear on what basis Mr Linares determined that the Council House Project could be delivered in three months or for a budget of \$300,000.00 (or \$200,000.00, insofar as the capital component is concerned).
60. There is evidence before the Inquiry to suggest Mr Linares was to obtain a quote for the works, but there is nothing to suggest that quote was obtained. In evidence, Mr Linares said that he did not remember who (if anyone) obtained a quote for the project, or how it was obtained.<sup>491</sup> He suggested that might have been a task allocated to Ms Mograve.
61. When asked whether it could be the case that rather than obtain a quote he estimated the cost of the works by reference to other comparable work, he said that he had done that type of estimate before, that the approach was common, but it was not his practice.<sup>492</sup> Given this evidence, Ms Higgins's evidence that Mr Linares made the estimate based on "*previous works that he had undertaken at the City that had similar requirements*",<sup>493</sup> and Ms Higgins's email to Ms Moore on 19 December 2017 to that effect, the Inquiry finds that it is more likely than not that Mr Linares used this approach to estimate the quantum of and timeline for the Council House Project.

#### **City of Perth fails to obtain appropriate approvals before the works are tendered**

62. Although Mr Linares does not recall their discussions, it is clear from Ms Higgins's evidence that as at November 2017, Mr Linares was at least aware that heritage advice would be required. However, Mr Linares's evidence indicates that he did not understand, as at late 2017 and early 2018, what was involved in obtaining heritage approval. He was under the impression that it was a process that could be completed internally through a heritage officer.<sup>494</sup> That understanding, as Mr Linares now knows, is incorrect.
63. Mr Linares's 2017–2018 misunderstanding of the requirements for and process relating to heritage advice is not unique, nor was it confined to heritage. Ms Mograve, like Mr Linares, similarly had little to no understanding of the process in the context of local government projects, either then or now. It appears that, as at November 2017 – April 2018, neither had been trained in the requirements of and process for obtaining development approval, heritage advice and building permits.

64. That said, it is remarkable that someone in the roles held by Mr Linares and Ms Mograve at the time, Manager, Properties and Project Officer, respectively, would not be aware of those sorts of approval processes, or would be permitted to proceed to embark on a tender process for capital works projects with understandings which, as the witnesses said, were incomplete or inaccurate. The Inquiry finds that state of affairs reflects failures of training, leadership and communication within the City at the time. The consequence of those failures is that it is likely that those officers' lack of understanding led directly to their failures to obtain development approval, heritage advice and a building permit before the works were tendered.
65. To the best that the Inquiry can determine, little happened in respect of the Council House Project between 19 December 2017, when Council approved the Finance and Administration Committee's recommendation that \$300,000.00 be re-allocated from the CW2195 budget to the Council House Project, and late January 2018.
66. In consequence, on 31 January 2018, Ms Moore emailed Mr Linares,<sup>aj</sup> copied to Mr Crosetta, writing:
- "Hi Kirk*
- The quotes for ground floor were due to be advertised 2 weeks ago. I and Alyce [Higgins] have asked for an update and also for the project plan for delivery.*
- This was approved by council in December and needs to be delivered by June.*
- Can you please confirm when this will be done and the project plan and delivery schedule ...".*
67. On 1 February 2018, after a follow-up email from Mr Crosetta asking for a response "today as a matter of urgency", Mr Linares responded as follows:
- "Rebecca*
- We've been working on the procurement plan for this project in order to simplify tender, specs are now ready and will be taken today to Contracts for advertisement on the weekend. Paola [Mogrove] will come up to Alyce [Higgins]'s office today to explain plan specifics".*
68. On 17 February 2018, the City advertised the tender.<sup>495</sup>
69. It is uncontroversial that by this stage no steps had been taken by the City to obtain development approval, heritage approval or a building permit for the works. Notwithstanding this, the project was permitted to go to tender with an ambitious timeframe which did not incorporate time for those approvals or the permit.
70. The failure to obtain them before going to tender, or alternatively to incorporate time for them within the tender timeframe, rendered the proposed timeframe absurd. As Mr Crosetta candidly observed, heritage approval alone could take up to eight weeks to obtain,<sup>496</sup> and inserting eight weeks into the planned programme would completely disrupt it.

aj At that time, Mr Linares was the Acting Manager, Properties within the Construction and Maintenance Directorate and reported to Mr Crosetta.

### City of Perth fails to obtain appropriate approvals, advice and a permit before the works are contracted

71. The failure to obtain approvals, advice and a permit before the works were tendered is regrettable and undoubtedly contributed to delays later suffered by the Council House Project.
72. For reasons which are explained below, the failure to obtain those things before the works were contracted is, in the Inquiry's view, and in the circumstances set out below, very difficult to understand and impossible to excuse.
73. On 13 April 2018, the City entered into a contract with MG Group for Tender 11317/18 (that is, the Council House Project).
74. At about the same time, on 12 and 13 April 2018, Ms Mograve sent and received a number of emails to and from the City's Principal Statutory Planner and the City's Acting Principal Building Surveyor, in relation to planning matters.
75. The first was an email dated 12 April 2018, with the subject line *"Building Permit"*,<sup>497</sup> to which Ms Mograve received responses from both office holders.
76. The response from the Acting Principal Building Surveyor,<sup>498</sup> receipt of which was acknowledged by Ms Mograve,<sup>499</sup> attached an application for a building permit and advised Ms Mograve that she would require certification by a private building surveyor to apply for the permit.
77. The response from the City's Principal Statutory Planner enclosed links to the applications for development approval required under the CPS2 and the MRS.<sup>500</sup> In a later email sent the same day (13 April 2018) the planner also advised Ms Mograve that *"As previously advised all works to Council House and grounds require planning approval noting that the building and grounds are state heritage listed"* and that *"the DA [development approval] approval can therefore be expected to take 60 days"*.<sup>501</sup>
78. No cogent reason has been advanced for the failure by the City to progress those applications and obtain the relevant approval and permit.
79. Ms Mograve gave evidence that she could not recall what she did when she received the emails indicating the Council House Project would require development approval, but said she (erroneously) understood it was the builder's responsibility.<sup>502</sup> When asked whether she had any recollection of speaking to Mr Linares about approvals specifically, Ms Mograve said that she spoke to Mr Smith, the City architect, and then she spoke with Mr Linares who told her *"just go ahead with the project"*.<sup>503</sup>

80. Ms Mograve was also asked whether Mr Linares ever told her to complete the works and get approvals later, to which Ms Mograve responded *“Probably he did but I don’t remember exactly. I just remember, ‘Go ahead with the project as planned’.* When asked what she meant by *“probably he did”*, Ms Mograve said *“Because he say, ‘Go ahead with the project’, that is what I remember, was the word”*. Ms Mograve also said Mr Linares never told her *“not”* to go ahead with the works until she had approvals.<sup>504</sup>
81. Mr Linares was asked about this exchange, and about the emails Ms Mograve had received from the City’s Principal Statutory Planner and the City’s Acting Principal Building Surveyor. He had no recollection of Ms Mograve showing him or forwarding to him either the emails or the applications documents hyperlinked in the emails.
82. Mr Linares also had no recollection of the conversation he had with Ms Mograve described at paragraph 79-80.<sup>505</sup>
83. When Mr Linares was presented with these emails and told that as a matter of fact development approval, heritage advice and a building permit were not obtained at this point in April 2018, Mr Linares could not offer an explanation about why Ms Mograve did not act upon the contents of the emails. He rejected the assertion that he would have advised her to go ahead with the works without approvals. On the contrary, he said that although he had no recollection of the discussion, if it happened, he would have told Ms Mograve to obtain the approvals.<sup>506</sup>
84. The Inquiry finds, on balance, that a conversation took place between Ms Mograve and Mr Linares about approvals following her receipt of the emails described at paragraph 75-77. The contrary proposition, that Ms Mograve, who insisted several times in evidence that she always sought the advice of and was reliant on Mr Linares, received the emails described and did not raise them with Mr Linares, or simply ignored them, strains credulity.
85. During his examination, Mr Linares was asked whether, if he had told Ms Mograve to obtain the approvals, he had any reason to think she would not have acted on that advice, particularly as it was consistent with the advice she had received in the emails described at paragraph 75-77.
86. In this respect, Mr Linares offered that *“the pressure [Ms Mograve] was under was enormous”*<sup>507</sup> and that not obtaining the approvals would have alleviated this pressure, because obtaining approvals meant *“she has to do approvals plus deliver the project ... so two things to think [about]”*.<sup>508</sup> However, he also conceded that the only pressure on Ms Mograve to deliver the project was pressure coming from him.<sup>509</sup>
87. As noted above, an indisputable fact is that development approval, heritage advice, and a building permit were not obtained at this time. Accordingly, on the state of the evidence the Inquiry must decide between two competing narratives. The first is that Ms Mograve received the emails at paragraph 75-77, discussed them with Mr Linares, was told by him to obtain the approvals, and ignored that instruction. The alternative is that Ms Mograve received the emails, discussed them with Mr Linares, was told by him to *“go ahead with the works”*, and complied with that instruction.

88. Faced with those competing narratives the Inquiry finds the second version more probable. As noted above, the Inquiry is cautious about accepting Mr Linares's evidence without independent corroboration. Furthermore, the second narrative is consistent with Ms Mograve's evidence. It provides a reasonable explanation as to why Ms Mograve failed to act on the emails from the City's planning and surveying officers. It is also consistent with Ms Mograve's tendency to rely on the advice of Mr Linares, and it is consistent with the fact that the approval, advice and permit was not obtained at that point in the project. The alternative version, that Ms Mograve independently ignored the advice of the planning and surveying officers, and disobeyed a direction from her line manager, is inherently less probable.
89. Mr Linares's motivation for instructing Ms Mograve in this way is also explicable. The Inquiry finds Mr Linares's motivation arose from, or was materially contributed to by, the pressure on Mr Linares to have projects completed by the end of financial year, and from his incomplete and erroneous understanding as at early 2018 of the need for development approval, heritage advice and building permits. Mr Linares's evidence regarding the pressure to have projects completed by the end of the financial year was cogent and consistent, and was supported by evidence given by others. That combination of pressure and lack of appreciation for the importance of regulatory control of developments readily explains why Mr Linares would have directed Ms Mograve as the Inquiry finds he did.

#### **Approvals and permit are eventually and retrospectively obtained**

90. The first, albeit very indirect, step taken towards obtaining approvals and a permit was that, in the week prior to 17 April 2018, Ms Mograve<sup>510</sup> had a discussion with a representative from SMEC,<sup>511</sup> an infrastructure consulting firm, inviting a quote to provide an accessibility audit, among other documents, to the City. The accessibility audit was necessary to apply for a building permit.
91. Consistently with the emails she had received from the City's planning and surveying officers, Ms Mograve noted in her email to the representative from SMEC that all works on Council House required planning approval and that the building is state heritage listed.<sup>512</sup>
92. As requested, SMEC provided a quote dated 18 April 2018, which was accepted by the City,<sup>513</sup> and which included:<sup>514</sup>
- providing an accessibility audit of the ground floor and lower ground floor and issuing a report to the City outlining suggested improvements for accessibility;
  - providing a design certification, which included providing a building code compliance report, issuing a BA3 and assisting the City with an application to Council for a building permit; and
  - "*Construction and finalisation*", including collating documentation and issuing a BA17 Certificate of Construction Compliance and assisting with an application to Council for occupancy.

93. The final plans for the Council House Project were due to be finalised by 26 April 2018. However, this timeframe was not achieved, because the City did not provide SMEC with the information required for it to write its report and recommendation. Specifically, SMEC was not informed that security gates would be installed and were not provided with any information referencing them.<sup>515</sup>
94. On 8 June 2018, Mr Paul Turney of SMEC emailed Ms Mograve with the Certificate of Design Compliance, BA3, for the City to undertake the Council House upgrade.<sup>516</sup> The BA3 attached the accessibility review of Council House dated June 2018, prepared by O'Brien Harrop Access, on instruction from SMEC.
95. Other than this, by June 2018, no other steps had been taken towards obtaining any other approvals or permit, despite demolition works being underway.
96. On 8 June 2018, Ms Smith emailed Ms Barrenger criticising the work that had been completed and stating that it was *"just another example of what goes wrong when our own works are not the subject of the required planning, heritage and building approvals"*.<sup>517</sup> Ms Barrenger's response, on 10 June 2018, referred to a memorandum Ms Smith was drafting regarding *"DAU [Development Approvals Unit] and DPD [Planning and Development Directorate] concerns with CMD [Construction and Maintenance Directorate] not getting approvals which they are required to"*.<sup>518</sup>
97. That memorandum was finalised on 11 June 2018 and eventually circulated, including to Mr Mileham, Mr Crosetta, Mr Linares and Ms Barrenger.<sup>519</sup> The issues in it were discussed at a meeting whose participants included Mr Linares on 14 June 2018.<sup>520</sup>
98. On Friday, 15 June 2018, Mr Dewald Gericke, the City's Principal Statutory Planner, and Mr Linares met and discussed the issue. Following this, on Monday 18 June 2018, Mr Gericke provided written advice by email to Mr Linares regarding the process and timeframe required for obtaining development approval (including the process and timing of heritage advice).<sup>521</sup>
99. The email exchange between Mr Gericke and Mr Linares suggests that:
  - consistently with Mr Linares's unfamiliarity with planning and heritage frameworks as disclosed during examinations, Mr Linares was not aware of which documents would be required to progress a development approval application for the works;
  - Mr Linares was not aware of the timeframe from submission to finalisation of development approval;
  - Mr Linares was not aware of what material was appropriate to use for the reception desk aspect of the project, suggesting unfamiliarity with the City's Conservation Management Plan;<sup>ak</sup> and
  - Mr Linares had not taken any steps towards obtaining development approval or seeking heritage advice prior to June 2018.

ak In evidence, Mr Linares said he knew the City of Perth had a Conservation Management Plan, but it was apparent he was not aware of its detail: Transcript, K Linares, private hearing, 17 October 2019, p 7.

100. In the week of 18 June 2018, Ms Mograve was also advised by Mr Smith, the City Architect, that the Council House Project should be stopped until development approval was in place, because the proposed materials for the reception desk were unacceptable from a heritage perspective.<sup>522</sup>
101. On 28 June 2018, Ms Smith noted that at a meeting a “*couple of weeks ago*” between her, someone from Properties and the CEO, it was agreed that works would not proceed until development approval had been received in accordance with “*advice from State Heritage*”.<sup>523</sup> The Inquiry infers the person “*from Properties*” was Mr Linares, given the meeting on 14 June 2018 noted at paragraph 97.
102. On 18 June 2018, Mr Massimini, Senior Facilities and Projects Officer, commenced employment with the City. To the best the Inquiry can determine, it was not until Mr Massimini took over the Council House Project that steps were taken to obtain development approval and heritage advice.
103. The first step towards an application for development approval was taken on 27 June 2018, when an incomplete application for development approval was submitted to the Development Approvals Unit (DAU).<sup>524</sup> Mr Massimini was listed as the contact person.
104. The development applications (under both the MRS and the CPS2) were accepted by the DAU on 29 June 2018.<sup>525</sup>
105. On 10 July 2018, Mr Roberto Colalillo of the DAU advised Mr Massimini that the application was deficient, telling him that the City’s Design Review Group had resolved to defer providing any recommendation to the WAPC until the following documentation was provided:<sup>526</sup>
  - an Access Statement;
  - a Heritage Impact Assessment Report; and
  - comprehensive plans of all work undertaken and envisaged.
106. Mr Colalillo advised that these standards were the minimum that would be required to assess and determine, given the heritage significance of Council House.
107. On 17 July 2018, a Heritage Impact Assessment was provided to the City by Griffiths Architects.
108. A Heritage Development Application Assessment, dated 9 August 2018, was conducted. It broadly approved of the works, but stated that the current design and use of materials for the desk were not supported.<sup>527</sup> This was because:

*“... The design does not address the original design philosophy of engaging with local artisans to create furniture and fittings of high quality for the building as outlined in the Conservation Management Plan. The design, location and quality and use of materials has not been assessed in the HIA to determine if impacts are minimal, the design of furniture has not addressed the heritage values ...”*<sup>528</sup>

109. On 21 August 2018, the DAU referred the development approval application to the WAPC with the recommendation that it be approved, subject to conditions regarding the compliance with the Conservation Management Plan. The referral letter also stated that *“no building works should proceed prior to the City issuing a building permit”*.<sup>529</sup>
110. On 13 September 2018, the DAU accepted the City’s application for building permit (BA1).<sup>530</sup> This included the certificate of design compliance.<sup>531</sup>
111. On 20 September 2018, the WAPC granted development approval subject to conditions.<sup>532</sup> On 25 September 2018, the State Heritage Office endorsed the drawings and plans for the Council House Project.<sup>533</sup> On 26 September 2018, the City approved the plan in the SMEC/O’Brien Harrop accessibility audit review report.<sup>534</sup>
112. On 26 September 2018, three months after the projected completion date, and two and a half months after the development application was lodged with the DAU, the City finally obtained the approvals and permit to undertake the Council House Project.
113. As Mr Linares accepted,<sup>535</sup> this process should have been completed after the works were scoped, but before the works were tendered. To do otherwise, as happened here, is to set a project up for disruption and, ultimately insofar as timeframes are concerned, failure.
114. Timely progress through the approvals and permit process can only take place where a project has been properly scoped. Until that is done, a decision-making authority is unable to reach a considered and informed decision on a development approval or permit.
115. In this case, as described in the next part of this extract, not only were approvals and a permit not sought until very late in the Council House Project, the project itself suffered from, to adopt the language of Mr Mileham, being inadequately programmed and scoped, even before the project went to tender.

### Late changes to the tender and variations to the contract

#### Security gates

116. At some point between Ms Higgins’s discussion with Mr Linares in November 2017, and the RFT being released in February 2018, a decision was made to expand the scope of the tender specification to include the installation of security gates. Ms Higgins gave evidence that:
  - this was not part of the scope of the original project, as requested by the Customer Service Unit;<sup>536</sup> and
  - Ms Higgins was not aware of this addition to the scope of the project prior to it going to tender.<sup>537</sup>

117. Ms Higgins understood that the addition of installation of the security gates to the tender scope resulted from the security audit conducted by the Properties Unit in conjunction with Community, Amenity and Safety Business Unit, which sat within the Community and Commercial Services Directorate.<sup>538</sup> This evidence was supported by Mr Linares<sup>539</sup>.
118. It is less clear who decided to add the installation of the security gates to the scope of the tender. While Mr Linares said he could not remember requesting the addition of security gates to the tender scope,<sup>540</sup> Ms Mograve said that Mr Linares assisted her in preparing the tender and she was told by Mr Linares to add security gates to the tender in around January 2018.<sup>541</sup> Mr Linares conceded that Ms Mograve would not have added security gates to the tender without his instruction.<sup>542</sup>
119. Relevantly, there was no additional budget or timeline incorporated into the tender to accommodate the time and cost associated with installation of the security gates. At the very least, this decision to significantly expand the works should have been reflected in the timeline and cost of the works as stated in the tender.
120. Ms Higgins's evidence indicated<sup>543</sup> that at the time the RFT was released, Mr Linares was also aware of the following factors that would add to the timeline and cost of the proposed works:
- the building was heritage listed. This meant that there would be heritage implications of installing security gates and the additional time and expense that went with obtaining the relevant reports and approvals; and
  - the Customer Services Unit required that the works support equal access and inclusion, which would need to be reflected in planning and designs.
121. The failure to include accessibility requirements in the tender resulted in:
- a variation of the contract with MG Group to construct gates that would permit universal access; and
  - a variation in the desk design, which meant that the engagement of an additional contractor was required.
122. Annexed to the contract with MG Group was correspondence between it and the City. The matters raised in the correspondence indicated that key aspects of the project had not been finalised prior to the tender being issued. In particular:<sup>544</sup>
- The City and MG Group discussed where to source security gates, with particular emphasis being placed on finding a manufacturer which could provide the gates within a short timeframe.
  - MG Group alerted the City to the difficulty of coordinating various contractors and the importance of smooth coordination to achieve timely completion of the project.

- MG Group stated that they anticipated finishing the job by the last week of June, which was later than the initially scoped practical completion day 6 June 2018, but that *“the program is very ambitious and depends heavily on other parameters”*.<sup>545</sup>
- Mr Ramzi Ibrahim, Senior Contracts Officer at the City, said that City would endeavour to provide the final design of the counter and security gates by 23 April 2018. In the project timeline provided on the tender document, the final design was to be approved by the City by 11 April 2018. From April until June 2018, several iterations of the desk and gate designs were provided to MG Group. The final designs were provided following the accessibility audit.
- Mr Menchetti gave evidence that the design for the gates was not finalised until the end of June or mid-July.<sup>546</sup>

#### Contract is varied

123. On 31 May 2018, Ms Mograve issued a memorandum to Mr Crosetta, seeking approval to vary the contract with MG Group. The reason for the variation was the addition of a further accessible gate in accordance with the recommendations of an accessibility consultant and the City’s Disability Access Inclusion Group. The value of the variation was \$9,440.20.<sup>547</sup>
124. If the accessibility audit had been completed prior to the project commencing, as it should have been, its findings could have been incorporated into an original plan for the gates and the desk and the variation would not have been required. The most likely reason that the audit was not conducted prior to commencement of the Council House Project was pressure to have the project completed by the end of the financial year, the late addition to the tender of the security gates and the generally inadequate approach to the proper planning and scoping of the project by those involved.

#### New desk is procured

125. On 7 June 2018, Ms Mograve emailed Mr Linares confirming their discussion that while MG Group had submitted an initial price for furniture supply/joinery of the customer service desk as a result of changes *“during the course of the development for the final design of the counter”*, the desk design had changed from the initially quoted design and an additional procurement would be required. She stated that these changes resulted from requests from the Customer Services Unit and recommendations of the disability audit.<sup>548</sup>
126. While it is accurate in one sense to say these changes arose *“during the course of the development”* of the project, it is only so because that issue was not specifically identified and planned for pre-tender. The RFT should have included details about accessibility from the outset. If it had, there would have been no need for this additional procurement.

### Carry-forwards

127. All witnesses, to varying degrees, gave evidence that there was a culture within the City to not allow budget “*carry-forwards*”. This aspect of the City’s culture has been touched on, in the context of the pressure on Mr Linares and Ms Mograve to complete the Council House Project, but is dealt with in some more detail here.
128. In effect, the (unwritten) policy against carry-forwards meant that money that was allocated to a particular financial year had to be spent before the end of that financial year and not “*carry forward*”, unspent, into the next financial year.
129. Ms Moore and Ms Higgins gave evidence that the culture within the Customer Service Unit resulted from rigour in budgeting and the desire to deliver projects to ratepayers in the financial year promised, rather than from a specific and arbitrary budgetary aim to prevent carry-forwards.<sup>549</sup>
130. In the Construction and Maintenance Directorate, there seemed to be a perception, particularly at an officer level, that avoiding budget carry-forwards was important. In particular, Ms Mograve and Mr Bugarin said that Mr Linares emphasised the importance of reducing budget carry-forwards. Mr Bugarin said Mr Linares told him that “*you need to realise if you haven’t completed your projects you have failed*”.<sup>550</sup> Mr Linares did not recall saying these words to Mr Bugarin, but he agreed that he did convey that sentiment to his staff and was quite firm about it.<sup>551</sup> It reflected, in turn, the pressure placed on him by Mr Crosetta and the ELG.
131. Mr Linares had to report the status of projects to the City Administration’s financial management taskforce, which included, among others, the ELG and colleagues from finance, at monthly meetings. He said that if, at the end of the financial year, a project had a carry-forward, that was considered “*under-performance*” by the taskforce and the ELG.<sup>552</sup>
132. The City’s position on carry-forwards was a source of tension. That tension arose predominantly between those who oversaw the management of the City’s finances, much of which is derived from ratepayers, and those who had a closer understanding of the somewhat uncertain nature of capital works projects.
133. Mr Crosetta’s evidence about this is representative. He said although he was “*frustrated*” by carry-forwards, and acted under the direction of the CEO in an attempt to reduce them, if there was a reasonable basis for the duration of a project to extend beyond the end of the financial year, his view was a carry-forward would be valid.<sup>553</sup> He further stated that if a project officer believed a project could not be completed within the allocated time, he would expect that project officer to approach him and identify the issue.<sup>554</sup> Given Mr Crosetta’s extensive project management experience, this evidence is credible. However, there is a question as to whether, and to what extent, this sentiment was communicated to staff below management level. On the evidence before the Inquiry, it is open to doubt that communication occurred, given officer-level evidence that the pressure to complete was significant.

134. Regardless of the extent to which leadership intended to create an atmosphere in which carry-forwards were discouraged, or the objective existence of pressure to prevent carry-forwards, the reality was that officer level staff such as Ms Mograve and Mr Bugarin perceived there to be real pressure to do whatever necessary to prevent carry-forwards, even at the expense of the quality or cost of the project. Mr Linares echoed this in his evidence, where he said every manager will do as much as possible to go to that monthly meeting to say, “I’m okay”.<sup>555</sup>
135. In the context of the Council House Project, Ms Mograve perceived that she was under pressure to complete the works before the end of the financial year. In fact, as noted above, Mr Linares conceded “the pressure [Ms Mograve] was under was enormous”.<sup>556</sup> One example of the absurd position that the emphasis on carry-forwards created at an officer level was the request to the contractor by Ms Mograve, in June 2018, for the contractor to invoice the City for the entirety of the contracted works, including significant portions of works which had not been completed (and which would not be completed until December 2018), in order to “to get all done before EOFY”.<sup>557</sup> This behaviour, which reflects poor financial management, is not explicable, and was not explained in the evidence, other than as a response to the pressure from the City’s approach to carry-forwards.<sup>al</sup>
136. The Inquiry finds there was haste to complete the Council House Project in an inappropriately short timeframe and that the City’s approach to carry-forwards was a significant contributing factor to that haste. In turn, that haste contributed to the City failing to properly plan and scope the works for the project before it went to tender, as completion before the end of financial year was prioritised above other considerations.
137. Compounding the impact of carry-forwards is that there was, during the period of the Council House Project, no documented policy in place about carry-forwards, which led to variations in the understandings of staff about the concept. The absence of a documented policy may also explain the disconnect between Mr Crosetta’s evidence that he would expect a project officer to come forward and justify the need for carry-forwards, and the evidence from officers that carry-forwards were simply seen as black marks against their names, reflecting failure or under-performance.

## Conclusion

138. The City’s approach to carry-forwards, and the pressure this placed on officers delivering capital works projects, was, as the Inquiry notes above, a factor in the poorly planned and poorly executed Council House Project.
139. Another factor which, the Inquiry finds, contributed to the issues with the project, is that Ms Mograve’s skillset at the time was not appropriate to do what was required, which was compounded by what appears to be a general lack of training within the Properties Unit of the Construction and Maintenance Directorate.

al For example, Mr Linares’s evidence on this topic, which is representative of the evidence of other witnesses: Transcript, K Linares, private hearing, 12 April 2019, p 93.

140. As observed earlier in this Section, neither Ms Mograve nor Mr Linares properly understood then, or understand now, the regime for development approval, heritage advice or building permits in the context of local government projects. That is remarkable given the roles they occupied.
141. Mr Linares said he was not trained in those matters, nor did he seek it out. It is apparent that Ms Mograve was not either. To the extent that situation prevails at the City, it should be rectified. Officers delivering capital works projects need to understand the planning frameworks within which they are operating. Steps must be taken, if they have not already been, to bring the City's project officers into a closer working relationship with the City's planning and heritage officers. Furthermore, a documented process in which all project officers are trained in the planning regime should be developed, adopted and promulgated.
142. It is apparent to the Inquiry that Ms Mograve was not the appropriate person to manage the refurbishment project. She had no Australian project management experience prior to managing the Council House Project. Her professional experience was limited to design and architecture, and much of it was conducted in Spain and Chile. She did not understand, and was not educated on, the regulatory frameworks within which the project had to be undertaken.
143. The difficulties posed by Ms Mograve's limited capacity in this area were compounded by Mr Linares's lack of understanding about the relevant planning, heritage and other regulatory frameworks.
144. The situation in which the City undertook the Council House Project was replete with deficiencies. The following factors all played a role in creating the dysfunctional environment within which the Council House Project was undertaken:
- the pressure not to have carry-forwards;
  - the siloed nature of the way various units and directorates involved operated;
  - the lack of any documented process or accurate understanding within the properties division of the planning, heritage and other regulatory frameworks within which they were required to work;
  - the failures in planning and scoping that bedevilled the tender and contract process; and
  - the engagement of a relatively inexperienced officer to carry out a project within a relatively complex regulatory framework.

145. One of the more striking aspects of the Council House Project, is the way in which it highlighted the siloed nature of some teams within the City during the Inquiry's Terms of Reference. There appears, on the material before the Inquiry, to have been little in the way of management-driven proper, formalised and adequate communication between the properties and planning teams. Rather, it seems liaison was largely left up to the initiative of officer level staff. There were no formal liaison arrangements, the Directors did not – as described elsewhere in the Inquiry's report – get along particularly well, and there were no documented processes (at least until Ms Smith's attempts in June 2018) in place for officers within the teams, particularly Properties, to follow in the event that liaison was required, as it clearly was here. That is, in the Inquiry's view, reflective of failings at a structural and executive level.
146. Like many things in the City, the failures described as part of the Council House Project are not the particular failures of any one person. Rather, the issues arose as a result of systemic failures within the City's structure, policy, documentation and leadership. All of these areas failed on this project, and all should be reviewed and improved by the City to avoid history repeating itself. The Council House Project is a valuable source of lessons to be learned, and should be treated as such by the City.

## Findings

### Finding 2.3.4 – 8

The Inquiry makes the following findings:

- i. Mr Linares was better placed than Ms Higgins to know about estimating the time for and cost of the Council House Project.
- ii. It is more likely than not that Mr Linares estimated the quantum of and timeline for the Council House Project by reference to previous works with which he had been involved.
- iii. The Council House Project was released to tender before it was adequately planned or scoped.
- iv. The City failed to take steps to obtain development approval, heritage advice or a building permit until well after the works for the Council House Project had been commenced.
- v. Mr Linares and Ms Mograve had little to no understanding of planning requirements for the project, and failures of training, leadership and communication within the City at the time were responsible for that lack of understanding.
- vi. Ms Mograve received the emails at paragraph 75-78, discussed them with Mr Linares, was told by him to *“go ahead with the works”*, and complied with that instruction.
- vii. Mr Linares’s motivation for instructing Ms Mograve in this way arose from, or was materially contributed to by, the pressure on Mr Linares to have projects completed by the end of financial year, and from his incomplete and erroneous understanding, as at early 2018, of the need for development approval, heritage advice and building permits.
- viii. There was unnecessary haste to complete the project within an inappropriately short timeframe and the City’s approach to carry-forwards was a significant contributing factor to that haste.
- ix. The City’s approach to carry-forwards and the pressure it generated on officer level staff resulted in perverse practices being adopted, including for example the request by Ms Mograve to MG Group for the contractor to invoice for the entirety of the works *“before EOFY”* even though the works were yet to be completed.

## Endnotes

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- 4 Transcript, R Ibrahim, private hearing, 29 April 2019, p 65-66.
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- 30 Transcript, B Humble, private hearing, 20 May 2019, p 14.
- 31 Email, M Copeman to B Humble, 11.04 am 19 September 2017; Transcript, M Copeman, public hearing, 15 August 2019, p 12-20.
- 32 Transcript, M Copeman, public hearing, 15 August 2019, p 13.
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- 35 Transcript, G Boros, private hearing, 13 May 2019, p 7.
- 36 Transcript, B Humble, private hearing, 17 May 2019, p 18-19; Transcript, M Bovell, private hearing, 15 May 2019, p 68; Transcript, S Pascoe, private hearing, 16 May 2019, p 7; Transcript, M Wilson, private hearing, 13 May 2019, p 63-65.
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- 43 Report, Stantons International, City of Perth Probity Review for Tender 31-17/18, p 22-24.
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- 58 Tender submission, Western Irrigation, Tender No 031-17/18, p 9; Transcript, B Humble, private hearing, 20 May 2019, p 20.
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- 60 Transcript, A Ogden, private hearing, 16 May 2019, p 76, 88; Transcript, B Humble, private hearing, 20 May 2019, p 64.
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- 110 Transcript, S Pascoe, private hearing, 16 May 2019, p 24, 30.
- 111 Transcript, M Copeman, private hearing, 22 May 2019, p 37-38; Transcript, S Pascoe, private hearing, 16 May 2019, p 30.
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- 157 Report, Stantons International, City of Perth Probity Review for Tender 31-17/18.
- 158 Transcript, B Moyser, private hearing, 15 May 2019, p 35-36.
- 159 Email, W Dunstan to B Moyser, 10.54 am 21 March 2018; Report, Stantons International, City of Perth Probity Review for Tender 31-17/18; Transcript, B Moyser, private hearing, 14 May 2019, p 72; Transcript, B Moyser, private hearing, 15 May 2019, p 35.
- 160 Report, Stantons International, City of Perth Probity Review for Tender 31-17/18; Transcript, B Moyser, private hearing, 14 May 2019, p 63, 65-67.
- 161 Report, Draft Shentons Aquatics Report, p 2.
- 162 Letter, M Mileham to the Commissioner, Corruption and Crime Commission, 6 June 2018.
- 163 Transcript, B Moyser, private hearing, 14 May 2019, p 73.
- 164 Transcript, M Ridgwell, public hearing, 15 August 2019, p 54-55.
- 165 Email, W Dunstan to B Moyser, 4.06 pm 6 April 2018.
- 166 Transcript, M Ridgwell, public hearing, 15 August 2019, p 58-61.
- 167 Transcript, B Moyser, public hearing, 16 August 2019, p 29-36.
- 168 Transcript, B Moyser, public hearing, 16 August 2019, p 40-43.
- 169 Transcript, B Moyser, public hearing, 16 August 2019, p 39.
- 170 Transcript, M Ridgwell, public hearing, 15 August 2019, p 23.
- 171 Transcript, M Ridgwell, public hearing, 15 August 2019, p 28.
- 172 Transcript, K O'Brien, private hearing, 13 May 2019, p 50.
- 173 Transcript, M Ridgwell, public hearing, 15 August 2019, p 63.
- 174 Transcript, K O'Brien, private hearing, 13 May 2019, p 51.
- 175 Transcript, M Copeman, private hearing, 22 May 2019, p 62; Transcript, M Ridgwell, public hearing, 15 August 2019, p 64.
- 176 Form, City of Perth, Western Irrigation Contract Extensions Form for Tender 031-17/18, 2 July 2018.
- 177 Transcript, B Humble, private hearing, 17 May 2019, p 83-85.
- 178 Transcript, G Boros, private hearing, 13 May 2019, p 5.
- 179 Letter, M Mileham to the Commissioner, Corruption and Crime Commission, 22 May 2018, under cover of Email, M Ridgwell to B Moyser, 1.20 pm 1 June 2018.
- 180 Letter, M Mileham to The Commissioner, Corruption and Crime Commission, 6 June 2018.
- 181 Transcript, G Boros, private hearing, 13 May 2019, p 5; Transcript, M Wilson, private hearing, 13 May 2019, p 62.
- 182 Transcript, M Ridgwell, public hearing, 15 August 2019, p 65.
- 183 Transcript, B Moyser, private hearing, 15 May 2019, p 46-47.
- 184 Transcript, M Mileham, private hearing, 30 July 2019, p 73.
- 185 Email, G Bartlett to M Mileham, 11.08 am on 7 July 2016; Transcript, G Bartlett, private hearing, 8 May 2019, p 3.
- 186 Transcript, G Bartlett, private hearing, 8 May 2019, p 5-6.
- 187 Transcript, G Bartlett, private hearing, 8 May 2019, p 8.
- 188 Email, G Bartlett to M Mileham, 5.39 pm on 7 September 2016.
- 189 Email, M Mileham to R Mianich cc M Howells, 5.41 pm on 7 September 2016.
- 190 Transcript, M Mileham, private hearing, 30 July 2019, p 79.
- 191 Transcript, M Mileham, private hearing, 30 July 2019, p 74.
- 192 Email, G Bartlett to M Mileham, 3.29 pm on 19 April 2017; Proposal, Bartlett Workplace, City of Perth Workplace 360 review focusing on culture and behaviours and conducting a facilitated interactive workshop for the leadership group (Councillors and Executive Group).
- 193 Transcript, G Bartlett, Private hearing, 8 May 2019, p 9-10.

- 194 Transcript, M Mileham, Private hearing, 30 July 2019, p 74.
- 195 Transcript, G Bartlett, Private hearing, 8 May 2019, p 12.
- 196 Proposal, Bartlett Workplace, City of Perth Workplace 360 review focusing on culture and behaviours and conducting a facilitated interactive workshop for the leadership group (Councillors and Executive Group).
- 197 Email, M Mileham to G Bartlett, 2.03 pm 21 April 2017.
- 198 Form, Application for Leave, City of Perth, M Mileham.
- 199 Transcript, M Mileham, private hearing, 30 July 2019, p 81.
- 200 Transcript, M Mileham, private hearing, 30 July 2019, p 79-80.
- 201 Personal communication, SMS Text; M Mileham to G Bartlett, 3.50 pm 20 April 2017; Letter, G Bartlett to Inquiry, 14 May 2019, p 7.
- 202 Letter, G Bartlett to Inquiry, 14 May 2019, p 7.
- 203 City of Perth Policy Manual, Policy 10.1.
- 204 Transcript, M Mileham, private hearing, 30 July 2019, p 82.
- 205 Gift Declaration, M Mileham, 28 April 2017.
- 206 Transcript, M Mileham, private hearing, 30 July 2019, p 83.
- 207 Transcript, M Mileham, private hearing, 30 July 2019, p 86-87.
- 208 Transcript, M Mileham, private hearing, 30 July 2019, p 88.
- 209 Transcript, M Mileham, private hearing, 30 July 2019, p 87-88.
- 210 Transcript, M Mileham, private hearing, 30 July 2019, p 88-91.
- 211 Transcript, M Mileham, private hearing, 30 July 2019, p 85-86, 92.
- 212 Email, M Tuohy to N Parkinson, documents for Submission to the Inquiry, 4.28 pm 7 October 2019; Transcript, M Saracini (counsel for M Mileham), private hearing, 11 October 2019.
- 213 Transcript M Saracini (counsel for M Mileham), private hearing, 15 October 2019.
- 214 For example, *Local Government Act 1995*, s 5.82, as at April 2017.
- 215 *Local Government Act 1995*, s 5.83(2)(c), as at April 2017.
- 216 Email, M Mileham to M Ridgwell, 1.47 pm 4 May 2017.
- 217 Transcript, M Ridgwell, private hearing, 25 July 2019, p 103; compare Mr Mileham's evidence to the effect that he had no recollection of informing Mr Ridgwell of the gift: Transcript, M Mileham, private hearing, 30 July 2019, p 95.
- 218 Transcript, M Ridgwell, private hearing, 25 July 2019, p 104.
- 219 Policy, City of Perth Policy Manual, Policy 10.1 – Code of Conduct, p 12.
- 220 Form, City of Perth Formal Quotation Request Form, Quotation 057-17/18, 21 September 2017.
- 221 Transcript, M Ridgwell, private hearing, 25 July 2019, p 106.
- 222 Email, S Cuttone to G Bartlett, 2.19 pm 30 August 2019.
- 223 Email, G Bartlett to S Cuttone, 8.08 am 31 August 2019.
- 224 Form, Addendum, Quotation No 057-17/18, 29 September 2019.
- 225 Transcript, M Ridgwell, private hearing, 25 July 2019, p 106.
- 226 Transcript, M Ridgwell, private hearing, 25 July 2019, p 106-107.
- 227 Transcript, M Ridgwell, private hearing, 25 July 2019, p 108.
- 228 Selection Criteria, City of Perth, Culture and Values Framework, 10 October 2017.
- 229 Form, City of Perth Declaration of Confidentiality and Interest Form, B Moyser, 18 October 2017.
- 230 Transcript, B Moyser, private hearing, 14 May 2019, p 28-29.
- 231 Form, Evaluation Panel – Score Sheet, B Moyser, Tender 057-17/18, 18 October 2017.
- 232 File note, B Moyser, Tender 057-17/18, 17 October 2017.
- 233 Transcript, B Moyser, private hearing, 14 May 2019, p 30.
- 234 Transcript, M Ridgwell, private hearing, 25 July 2019, p 114.
- 235 Tender submission, Bartlett Workplace, 10 October 2017.
- 236 Tender submission, Jackson McDonald, 10 October 2017; Transcript, B Moyser, private hearing, 9 May 2019, p 68.
- 237 Transcript, B Moyser, private hearing, 9 May 2019, p 66.
- 238 Transcript, B Moyser, private hearing, 9 May 2019, p 45.
- 239 Form, Qualitative Selection Criteria Matrix, Tender 057-17/18, 19 October 2017.
- 240 Transcript, M Ridgwell, private hearing, 25 July 2019, p 113.
- 241 Email, M Ridgwell to B Moyser and F Pandolfino, 3.37 pm on 27 October 2017.
- 242 Transcript, M Ridgwell, private hearing, 25 July 2019, p 110.
- 243 Transcript, M Ridgwell, private hearing, 25 July 2019, p 115.
- 244 Transcript, M Ridgwell, private hearing, 25 July 2019, p 116-117.
- 245 Transcript, M Ridgwell, private hearing, 25 July 2019, p 117.
- 246 Transcript, M Ridgwell, private hearing, 25 July 2019, p 120.

- 247 Invoice, Bartlett Workplace to City, City of Perth – Values and Culture Framework, 5 April 2018; Invoice, Bartlett Workplace to City, City of Perth – Values and Culture Framework, 31 May 2018.
- 248 Memorandum, Finance Manager to CEO, all directors and managers, 23 July 2018.
- 249 Transcript, M Ridgwell, private hearing, 25 July 2019, p 108.
- 250 Transcript, M Ridgwell, private hearing, 25 July 2019, p 108-109.
- 251 Transcript, M Mileham, private hearing, 30 July 2019, p 95-96.
- 252 Transcript, M Ridgwell, private hearing, 25 July 2019, p 108.
- 253 Transcript, M Ridgwell, private hearing, 25 July 2019, p 108-109.
- 254 Memorandum, City of Perth, P Crosetta to M Mileham, 9 March 2016 (signed M Mileham 16 March 2016).
- 255 Transcript, M Pereira, private hearing, 30 April 2019, p 4, 17.
- 256 Transcript, S Kan, private hearing, 2 May 2019, p 8.
- 257 Transcript, S Kan, private hearing, 2 May 2019, p 61-64.
- 258 Transcript, S Kan, private hearing, 2 May 2019, p 64-65.
- 259 Letter, D Richards to Panel Member, 11 January 2016.
- 260 Transcript, N Gallin, private hearing, 1 May 2019, p 14.
- 261 These were the only tenders received; Transcript, M Pereira, private hearing, 30 April 2019, p 12.
- 262 Letter, D Richards to Panel Member, 18 February 2016.
- 263 Transcript, M Pereira, private hearing, 30 April 2019, p 12-13; Transcript, N Gallin, private hearing, 1 May 2019, p 14; Transcript, S Kan, private hearing, 2 May 2019, p 38-39.
- 264 Invitation to tender, City of Perth, request for tender specification.
- 265 Transcript, N Gallin, private hearing, 1 May 2019, p 23.
- 266 Transcript, M Pereira, private hearing, 30 April 2019, p 15; Transcript, N Gallin, private hearing, 1 May 2019, p 21-22.
- 267 Transcript, N Gallin, private hearing, 1 May 2019, p 22.
- 268 Transcript, N Gallin, private hearing, 1 May 2019, p 10-11.
- 269 Transcript, M Pereira, private hearing, 30 April 2019, p 22.
- 270 Transcript, M Pereira, private hearing, 30 April 2019, p 18; Transcript, P Claxton, private hearing, 30 April 2019, p 61.
- 271 Transcript, M Pereira, private hearing, 30 April 2019, p 15, 17; Transcript, S Ranjan, private hearing, 3 May 2019, p 81.
- 272 Transcript, S Ranjan, private hearing, p 83-84.
- 273 Transcript, N Gallin, private hearing, 1 May 2019, p 10; Transcript, S Kan, private hearing, 2 May 2019, p 22; Transcript, M Pereira, private hearing, 30 April 2019, p 147.
- 274 Transcript, N Gallin, private hearing, 1 May 2019, p 15.
- 275 Emails, M Stevens and N Gallin, 3.09 pm and 3.15 pm on 16 February 2016.
- 276 Transcript, N Gallin, private hearing, 1 May 2019, p 17.
- 277 Transcript, S Ranjan, private hearing, 3 May 2019, p 82, 84-88.
- 278 Transcript, N Gallin, private hearing, 1 May 2019, p 17-18; Email, M Stevens to N Gallin, 3.15 pm on 16 February 2016; Investigation Report, INVision, 23 February 2017.
- 279 Transcript, M Pereira, private hearing, 30 April 2019, p 39-40; Transcript, N Gallin, private hearing, 1 May 2019, p 16-17. Transcript, S Kan, private hearing, 2 May 2019, p 33-35. Transcript, R Ibrahim, private hearing, 29 April 2019, p 55-56, 62.
- 280 Transcript, M Pereira, private hearing, 30 April 2019, p 17.
- 281 Transcript, N Gallin, private hearing, 1 May 2019, p 24.
- 282 Transcript, S Ranjan, private hearing, 3 May 2019, p 81-89.
- 283 Transcript, S Kan, private hearing, 2 May 2019, p 41-42.
- 284 Transcript, N Gallin, private hearing, 1 May 2019, p 24; Transcript, M Pereira, private hearing, 30 April 2019, p 16-17.
- 285 Transcript, S Kan, private hearing, 2 May 2019, p 36.
- 286 Transcript, S Kan, private hearing, 2 May 2019, p 41.
- 287 Transcript, S Kan, private hearing, 2 May 2019, p 51.
- 288 Procedure, City of Perth, PR0660, Evaluation Panels for Assessing Tenders, Expressions of Interest and Quotations; Transcript, R Ibrahim, Private hearing, 29 April 2019, p 53.
- 289 Transcript, M Pereira, Private hearing, 30 April 2019, p 7; Transcript, N Gallin, Private hearing, 1 May 2019, p 5; Transcript, S Kan, Private hearing, 2 May 2019, p 24.
- 290 Transcript, M Pereira, Private hearing, 30 April 2019, p 6; Transcript, N Gallin, Private hearing, 1 May 2019, p 13; Transcript, S Kan, Private hearing, 2 May 2019, p 27 (Mr Kan was not part of the panel at that stage).
- 291 Investigation Report, INVision, 4 April 2017.
- 292 Paragraph 64 of this Section; Transcript, N Gallin, private hearing, 1 May 2019, p 12-13.
- 293 Score sheet, City of Perth, Evaluation panel score sheet, 4 March 2016.
- 294 Transcript, M Pereira, private hearing, 30 April 2019, p 19, 24-25.

- 295 Transcript, P Claxton, private hearing, 30 April 2019, p 52-53; Transcript, L McCabe, private hearing, 1 May 2019, p 53-55; Transcript, K Nguyen, private hearing, 3 May 2019, p 6-7.
- 296 Transcript, M Pereira, private hearing, 30 April 2019, p 34-35; Transcript, N Gallin, private hearing, 1 May 2019, p 34-35; Transcript, S Kan, private hearing, 2 May 2019, p 30.
- 297 Transcript, S Kan, private hearing, 2 May 2019, p 15-17; Transcript, M Pereira, private hearing, 30 April 2019, p 13; Transcript, N Gallin, private hearing, 1 May 2019, p 13.
- 298 Transcript, P Crosetta, private hearing, 26 July 2019, p 68.
- 299 Evaluation matrix, City of Perth, Qualitative Selection Criteria Evaluation Matrix, 4 March 2016.
- 300 Memorandum, P Crosetta to M Mileham, 9 March 2016.
- 301 Tender submission, BOS Civil.
- 302 Gantt Chart, Platinum's timeline, 28 January 2016.
- 303 Letter, D Richards to Panel Member, 18 February 2016.
- 304 Email, K Nguyen to J Jones, 2.57 pm on 3 March 2016.
- 305 Transcript, N Gallin, Private hearing, 1 May 2019, p 28, 30, 32; Transcript, M Pereira, private hearing, 30 April 2019, p 25-27.
- 306 Score sheets, City of Perth, Evaluation panel score sheets, 4 March 2016.
- 307 Transcript, N Gallin, private hearing, 1 May 2019, p 32.
- 308 Transcript, M Pereira, private hearing, 30 April 2019, p 26-27.
- 309 Transcript, S Kan, private hearing, 2 May 2019, p 44-47.
- 310 Transcript, R Ibrahim, private hearing, 29 April 2019, p 63; Transcript, M Pereira, private hearing, 30 April 2019, p 4, 12; Transcript, N Gallin, private hearing, 1 May 2019, p 24.
- 311 Transcript, M Pereira, private hearing, 30 April 2019, p 29-30; note, the City had previously spoken to Mr Kan about his relationship with Civcon: Transcript, S Ranjan, Private hearing, 3 May 2019, p 64.
- 312 Transcript, N Gallin, private hearing, 1 May 2019, p 32-33; Transcript, M Pereira, private hearing, 30 April 2019, p 29. Transcript, S Kan, private hearing, 2 May 2019, p 38-39.
- 313 Transcript, S Kan, private hearing, 2 May 2019, p 12-13.
- 314 Transcript, S Ranjan, private hearing, 7 May 2019, p 36, 40.
- 315 Transcript, S Kan, private hearing, 2 May 2019, p 8-9; Transcript, S Ranjan, private hearing, 3 May 2019, p 66-67; Transcript, S Ranjan, private hearing, 7 May 2019, p 36-38; Transcript, J Scott, private hearing, 7 May 2019, p 17.
- 316 Transcript, S Kan, private hearing, 2 May 2019, p 53; For example, Transcript, M Pereira, private hearing, 30 April 2019, p 29-30.
- 317 Transcript, M Pereira, private hearing, 30 April 2019, p 21; Transcript, N Gallin, private hearing, 1 May 2019, p 16, 18-19; Transcript, S Kan, private hearing, 2 May 2019, p 15, 32-35.
- 318 Transcript, N Gallin, private hearing, 1 May 2019, p 16-17.
- 319 Paragraph 84-92 of this Section.
- 320 Transcript, N Gallin, private hearing, 1 May 2019, p 19.
- 321 Transcript, N Gallin, private hearing, 1 May 2019, p 19.
- 322 Transcript, S Kan, private hearing, 2 May 2019, p 28.
- 323 Transcript, J Scott, private hearing, 7 May 2019, p 7.
- 324 Transcript, P Claxton, private hearing, 13 April 2019, p 54, 57.
- 325 Transcript, S Ranjan, private hearing, 7 May 2019, p 41-44; Transcript, P Claxton, private hearing, 13 April 2019, p 54-55.
- 326 Transcript, P Claxton, private hearing, 13 April 2019, p 57-59.
- 327 Transcript, K Nguyen, private hearing, 3 May 2019, p 15-17; Transcript, S Ranjan, private hearing, 7 May 2019, p 44.
- 328 Transcript, P Claxton, private hearing, 13 April 2019, p 56.
- 329 Transcript, K Nguyen, private hearing, 3 May 2019, p 50-52; Transcript, S Ranjan, private hearing, 7 May 2019, p 46.
- 330 Transcript, S Ranjan, private hearing, 7 May 2019, p 46.
- 331 Transcript, S Ranjan, private hearing, 7 May 2019, p 47-48.
- 332 Tender submission, Platinum, Schedule of Items.
- 333 Email, K Nguyen to S Kan, 5.08 pm on 12 May 2016.
- 334 Email, S Kan to S Ranjan, 9.00 am on 16 May 2016.
- 335 Email, S Ranjan to S Kan, 9.12 am on 16 May 2016.
- 336 Email, S Kan to S Monteath, 1.02 pm on 19 May 2016.
- 337 Calculated as \$53,759.97-\$48,872.70.
- 338 Investigation Report, INVision, 4 April 2017.
- 339 Investigation Report, INVision, 4 April 2017.
- 340 Letter, BOS Civil to City of Perth, 8 June 2016.
- 341 Transcript, S Ranjan, private hearing, 3 May 2019, p 67; Transcript, M Mileham, private hearing, 30 July 2019, p 61; Transcript, P Crosetta, private hearing, 26 July 2019 p 56-57.
- 342 Transcript, M Mileham, private hearing, 30 July 2019, p 61-62.
- 343 Transcript, P Crosetta, private hearing, 26 July 2019 p 56-60.

344 Transcript, P Crosetta, private hearing, 26 July 2019 p 58.

345 Which Mr Crosetta accepted: Transcript, P Crosetta, private hearing, 26 July 2019 p 64.

346 Transcript, M Mileham, private hearing, 30 July 2019, p 64-65.

347 Transcript, M Ridgwell, private hearing, 25 July 2019, p 66-67.

348 Letter, BOS Civil to City of Perth, 8 June 2016.

349 Transcript, S Ranjan, private hearing, 3 May 2019, p 68 and 75.

350 Mr Kan was named in BOS Civil's correspondence to the CCC: Email, B O'Sullivan to CCC, 12.09 pm on 8 August 2016.

351 Transcript, S Ranjan, private hearing, 3 May 2019, p 70.

352 Memorandum, Tender Assessment Panel to P Crosetta through S Ranjan, Railway Street and Market Street Project.

353 Transcript, S Ranjan, private hearing, 3 May 2019, p 72-74.

354 Transcript, S Ranjan, private hearing, 3 May 2019, p 69; Email, S Ranjan to P Crosetta, 9.05 am on 27 July 2016; Email P Crosetta to P Crosetta, 9.09 am on 27 July 2016; Email, P Crosetta to S Ranjan, 3.07 pm on 26 July 2016. Transcript, P Crosetta, private hearing, 26 July 2019 p 61-62.

355 Transcript, S Ranjan, private hearing, 3 May 2019, p 70.

356 Transcript, B Moyser, private hearing, 9 May 2019, p 9-11.

357 Transcript, M Ridgwell, private hearing, 25 July 2019, p 61-64.

358 Transcript, P Crosetta, private hearing, 26 July 2019 p 61.

359 Email, P Crosetta to A Sunderland, 11.56 am on 29 July 2016.

360 Letter, M Mileham to B O'Sullivan, 2 August 2016.

361 Transcript, M Mileham, private hearing, 30 July 2019, p 63-64.

362 Transcript, M Mileham, private hearing, 30 July 2019, p 64.

363 Transcript, M Mileham, private hearing, 30 July 2019, p 65.

364 Transcript, M Mileham, private hearing, 30 July 2019, p 65.

365 Transcript, M Ridgwell, private hearing, 25 July 2019, p 72-73.

366 Email, B O'Sullivan to CCC, 12.09 pm on 8 August 2016.

367 Letter, CCC to M Mileham, 17 August 2016.

368 Transcript, P Crosetta, private hearing, 26 July 2019.

369 Transcript, B Moyser, private hearing, 9 May 2019, p 12.

370 The INVision Report is dated 23 February 2016, but was produced in 2017.

371 Investigation Report, INVision, 23 February 2017.

372 Investigation Report, INVision, 4 April 2017; Transcript, B Moyser, private hearing, 9 May 2019, p 20-21.

373 Guidance Note, City of Perth, Disciplinary Guidance Notes; Transcript, B Moyser, private hearing, 9 May 2019, p 21.

374 Transcript, B Moyser, private hearing, 9 May 2019, p 15.

375 Transcript, J Scott, private hearing, 7 May 2019, p 4, 6-7, 15.

376 Transcript, P Crosetta, private hearing, 26 July 2019 p 66.

377 Transcript, M Mileham, private hearing, 30 July 2019, p 67.

378 Emails, B Moyser and Professionals Australia, 1-10 May 2017.

379 B Moyser, private hearing, 9 May 2019, p 29.

380 Transcript, J Scott, private hearing, 7 May 2019, p 8.

381 Transcript, B Moyser, private hearing, 9 May 2019, p 28.

382 Transcript, B Moyser, private hearing, 9 May 2019, p 23-24, 27.

383 Human Resources Recommendation, City of Perth, 17 May 2017; Transcript, B Moyser, private hearing, 9 May 2019, p 33-35.

384 Transcript, J Scott, private hearing, 7 May 2019, p 16.

385 Transcript, B Moyser, private hearing, 9 May 2019, p 37-38.

386 Transcript, B Moyser, private hearing, 9 May 2019, p 43-45.

387 Letter, M Mileham to CCC, 28 June 2017.

388 Transcript, D Richards, private hearing, 23 April 2019, p 6.

389 Council Policy Manual, City of Perth, CP 9.7 Purchasing.

390 Procedure, City of Perth, Sole Supplier Justification and Approval.

391 Proposal, City of Perth to D Aberle 15 July 2016; Proposal, D Aberle to City of Perth (erroneously dated 21 July 2017).

392 Transcript, M Howells, private hearing, 10 May 2019, p 11.

393 Transcript, D Aberle, private hearing, 29 April 2019, p 4.

394 Invoice, Marple Bridge to City of Perth, Consulting Services, 3 October 2016.

395 Transcript, D Aberle, private hearing, 29 April 2019, p 4.

396 Transcript, M Howells, private hearing, 10 May 2019 p 6-8, 18, 39-40, 45.

397 Transcript, M Mileham, private hearing, 30 July 2019, p 102.

398 Transcript, D Aberle, private hearing, 29 April 2019, p 5.

- 399 Transcript, D Aberle, private hearing, 29 April 2019, p 21.
- 400 Invoice, Marple Bridge to City of Perth, Consulting Services, 3 October 2016.
- 401 Council Policy Manual, City of Perth, CP 9.7 Purchasing.
- 402 Transcript, M Mileham, private hearing, 30 July 2019, p 105.
- 403 Transcript, D Richards, private hearing, 23 April 2019, p 14.
- 404 Email, C Poerwanto to M Howells, 11.45 am on 11 January 2017.
- 405 Transcript, M Howells, private hearing, 10 May 2019, p 23.
- 406 Transcript, M Howells, private hearing, 10 May 2019, p 35.
- 407 Transcript, M Mileham, private hearing, 30 July 2019, p 115-116, 118.
- 408 Transcript, M Mileham, private hearing, 30 July 2019, p 118.
- 409 Form, Sole Supplier Justification, Application and Approval, City of Perth, D Aberle.
- 410 Form, Sole Supplier Justification, Application and Approval, City of Perth, D Aberle.
- 411 Transcript, M Howells, private hearing, 10 May 2019, p 33.
- 412 Transcript, M Howells, private hearing, 10 May 2019, p 41-43.
- 413 Transcript, M Howells, private hearing, 10 May 2019, p 29-32.
- 414 Transcript, R Mianich, private hearing, 19 July 2019, p 34.
- 415 For example, Transcript, R Mianich, private hearing, 18 July 2019, p 65-66.
- 416 Transcript, M Howells, private hearing, 10 May 2019, p 34, 37.
- 417 Transcript, M Mileham, private hearing, 30 July 2019, p 109.
- 418 Transcript, M Mileham, private hearing, 30 July 2019, p 30.
- 419 Transcript, M Mileham, private hearing, 30 July 2019, p 112.
- 420 Invoice, Marple Bridge to City of Perth, Consulting Services and Strategic Planning Session ELG, 5 May 2017.
- 421 Transcript, D Aberle, private hearing, 29 April 2019, p 11-12.
- 422 Email, A Sunderland to K Pember, 10.12 am 16 May 2017.
- 423 Transcript, M Mileham, private hearing, 30 July 2019, p 118-119.
- 424 Invoice, Marple Bridge to City of Perth, KRA/KPI CMD Directorate Workshop (incl pre and post work) 1 May, No. D1301, 2 June 2017.
- 425 Invoice, Marple Bridge to City of Perth, Consulting Services and CMD Teambuilding Workshop 16 June 2017, 20 June 2017.
- 426 Transcript, D Aberle, private hearing, 29 April 2019, p 15.
- 427 Transcript, D Aberle, private hearing, 29 April 2019, p 14.
- 428 Email, K Pember to D Quinlivan, 11.34 am on 29 June 2017.
- 429 Email, S Cuttone to K Pember, 10.18 am on 3 July 2017.
- 430 Email, K Pember to M Mileham, 1.45 pm on 28 August 2017.
- 431 Memorandum, A Egan to M Mileham, 2 February 2018 – Attachment, Review of Services Provided by Marple Bridge, no date.  
Note: bold emphasis is in the original.
- 432 Email, M Mileham to K Pember, 4.57 pm on 28 August 2017.
- 433 Email, T Obern to K Pember, 2.37 pm on 29 August 2017.
- 434 Transcript, K Pember, private hearing, 17 June 2019, p 70, 72.
- 435 Email, K Pember to M Mileham, 10.34 am on 30 August 2017.
- 436 Transcript, K Pember, private hearing, 17 June 2019, p 70-72; Email, K Pember to R Mianich, 10.35 am on 30 August 2017.
- 437 Transcript, R Mianich, private hearing, 19 July 2019, p 36.
- 438 Transcript, M Mileham, private hearing, 30 July 2019, p 124-125.
- 439 Email, K Pember to R Mianich, 10.35 am 30 August 2017.
- 440 Transcript, M Mileham, private hearing, 30 July 2019, p 125-126.
- 441 Transcript, M Mileham, private hearing, 30 July 2019, p 127.
- 442 Transcript, S Weary, private hearing, 24 April 2019, p 37.
- 443 Email, S Yan to A Egan, 11.08 am on 29 January 2018.
- 444 Memorandum, A Egan to M Mileham, 2 February 2018.
- 445 Email, S Yan to D Richards, 11.05 am on 21 February 2018.
- 446 Email, S Yan to D Richards cc R Mianich and others, 7.24 am on 26 February 2018.
- 447 Email, S Yan to D Richards and A Egan, 7.53 am on 27 February 2018.
- 448 Email, A Egan to S Yan, 8.32 am on 27 February 2018.
- 449 Form, City of Perth, Sole Supplier Justification and Approval, 27 February 2018.
- 450 Quotes Cover Sheet for Requisitions, City of Perth, 2 March 2018.
- 451 Transcript, S Weary, private hearing, 24 April 2019, p 40.
- 452 Transcript, S Weary, private hearing, 24 April 2019, p 42.
- 453 Transcript, S Weary, private hearing, 24 April 2019, p 43-45.
- 454 Transcript, S Weary, private hearing, 24 April 2019, p 46.

- 455 Transcript, S Weary, private hearing, 24 April 2019, p 49.
- 456 Transcript, R Munro, private hearing, 24 April 2019, p 11.
- 457 Transcript, R Munro, private hearing, 24 April 2019, p 15-16.
- 458 Email, S Yan to D Richards and A Egan, 9.40 am on 7 March 2018; Email, S Yan to D Richards and A Egan, 7.18 am on 8 March 2018.
- 459 Email, D Richards to A Egan, 5.06 pm on 8 March 2018.
- 460 Email, R Munro to E Barrenger, 9.11 am on 11 April 2018.
- 461 Minutes, Ordinary Council Meeting, 19 December 2017.
- 462 Request for Tender, City of Perth, Ground and Lower Ground Floor Access Upgrade – Council House – RFT Number: 113-17/18, 17 February 2018.
- 463 Transcript, K Linares, private hearing, 12 April 2019, p 8; Transcript, P Mograve, private hearing, 3 April 2019, p 6.
- 464 Request for Tender, City of Perth, Ground and Lower Ground Floor Access Upgrade – Council House – RFT Number: 113-17/18, 17 February 2018.
- 465 *Planning and Development Act 2005*, s 162.
- 466 *Planning and Development Act 2005*, s 4.
- 467 *Planning and Development Act 2005*, s 6(2).
- 468 Transcript, M Smith, private hearing, 2 April 2019, p 10-11.
- 469 Transcript, E Barrenger, private hearing, 19 August 2019, p 16.
- 470 Sections 72 and 73 of the *Heritage Act 2018*, read with s 163 of the *Planning and Development Act 2005*; and s 78 of the *Heritage Act of Western Australia 1990* (repealed 1 Jul 2019).
- 471 *Building Regulations 2011*, reg 18(2).
- 472 Transcript, M Mileham, private hearing, 30 July 2019, p 47.
- 473 Transcript, A Higgins, private hearing, 23 August 2019, p 5.
- 474 Transcript, A Higgins, private hearing, 23 August 2019, p 15.
- 475 Transcript, A Higgins, private hearing, 23 August 2019, p 5.
- 476 Transcript, A Higgins, private hearing, 23 August 2019, p 6.
- 477 Transcript, A Higgins, private hearing, 23 August 2019, p 7.
- 478 Minutes, Ordinary Council Meeting, 19 December 2017.
- 479 Transcript, A Higgins, private hearing, 23 August 2019, p 9.
- 480 Transcript, K Linares, private hearing, 17 October 2019, p 14.
- 481 Email, A Higgins to K Linares, 9.45 am 19 October 2017.
- 482 Transcript, K Linares, private hearing, 17 October 2019, p 23.
- 483 Email, K Linares to A Higgins, 5.52 pm 13 November 2018.
- 484 Transcript, K Linares, private hearing, 17 October 2019, p 23.
- 485 Transcript, A Higgins, private hearing, 23 August 2019, p 11-12.
- 486 Transcript, A Higgins, private hearing, 23 August 2019, p 13.
- 487 Transcript, K Linares, private hearing, 17 October 2019, p 18-19.
- 488 Transcript, A Higgins, private hearing, 23 August 2019, p 11, 24-25.
- 489 Email, A Higgins to R Moore, 6.13 pm 19 December 2017.
- 490 Transcript, K Linares, private hearing, 17 October 2019, p 23.
- 491 Transcript, K Linares, private hearing, 17 October 2019, p 25.
- 492 Transcript, K Linares, private hearing, 17 October 2019, p 27.
- 493 Transcript, A Higgins, private hearing, 23 August 2019, p 8.
- 494 Transcript, K Linares, private hearing, 17 October 2019, p 6-7.
- 495 Advertisement, Western Australian Newspaper, Tender No 113-17/18, 17 February 2018.
- 496 Transcript, P Crosetta, private hearing, 26 July 2019, p 37.
- 497 Email, P Mograve to D Gericke and C Mok, 5.41 pm on 12 April 2018.
- 498 Email, C Mok to P Mograve, 9.33 am on 13 April 2018.
- 499 Email, P Mograve to C Mok, 4.15 pm on 13 April 2018.
- 500 Email, D Gericke to P Mograve, 9.17 am on 13 April 2018.
- 501 Email, D Gericke to P Mograve, 10.12 am on 13 April 2018.
- 502 Transcript, P Mograve, private hearing, 16 October 2019, p 21.
- 503 Transcript, P Mograve, private hearing, 16 October 2019, p 23.
- 504 Transcript, P Mograve, private hearing, 16 October 2019, p 24-25
- 505 Transcript, K Linares, private hearing, 17 October 2019, p 35.
- 506 Transcript, K Linares, private hearing, 17 October 2019, p 35.
- 507 Transcript, K Linares, private hearing, 17 October 2019, p 37.
- 508 Transcript, K Linares, private hearing, 17 October 2019, p 39.

- 509 Transcript, K Linares, private hearing, 17 October 2019, p 38.
- 510 Email, P Mograve to P Turney, 12.24 pm on 17 April 2018.
- 511 Email, P Turney to P Mograve, 9.54 am on 18 April 2018.
- 512 Email, P Mograve to P Turney, 12.24 pm on 17 April 2018.
- 513 Document, Quotes Cover Sheet for Requisitions, City of Perth, 19 April 2018
- 514 Proposal, SMEC, SMEC Proposal for Ground and Lower Ground Floor Access Upgrade at Council House – Accessibility and Building Survey Certification.
- 515 Email, E Landers to K Linares, 9.44 am on 25 April 2018.
- 516 Email, P Turney to P Mograve, 2.44 pm on 8 June 2018.
- 517 Email, M Smith to E Barrenger, 4.36 pm on 8 June 2018.
- 518 Email, E Barrenger to M Smith, 3.08 pm on 10 June 2018.
- 519 Memorandum, M Smith to E Barrenger, 11 June 2018; Memorandum, E Barrenger to M Mileham cc P Crosetta, C Smith and M Smith, 26 June 2018.
- 520 Memorandum, E Barrenger to M Mileham cc P Crosetta, C Smith and M Smith, 26 June 2018.
- 521 Email, D Gericke to K Linares, 5.20 pm on 18 June 2018.
- 522 Email, C Smith to E Barrenger and others, 8.50 am on 28 June 2018.
- 523 Email, M Smith to C Smith E Barrenger and R Rees, 9.57 am on 28 June 2018.
- 524 Email, K Linares to E Barrenger, 4.36 pm on 2 July 2018.
- 525 Application, City of Perth, Application for Development Approval (Local Planning Scheme), 29 June 2018.
- 526 Email, R Colalillo to S Massimini, 5.03 pm on 10 July 2018.
- 527 Assessment, City of Perth, Heritage Development Application Assessment, 8 August 2018.
- 528 Assessment, City of Perth, Heritage Development Application Assessment, 8 August 2018.
- 529 Letter, M Smith to S Massimini, 27-29 (lot 760) St Georges Terrace, Perth – Alterations and Additions to the Lower Ground and Ground Floor levels of Council House, 21 August 2018.
- 530 Application, City of Perth, Application for building permit – certified (BA1), 13 September 2018.
- 531 Certificate, City of Perth, Certificate of design compliance (BA3), 13 September 2018.
- 532 Approval, Western Australian Planning Commission, Approval to Commence Development, 20 September 2018.
- 533 Letter, Department of Planning, Lands and Heritage to City of Perth, Council House, Perth, 25 September 2018.
- 534 Report, O'Brien Harrop Access, Accessibility Review City of Perth, Council House Security gates and concierge, June 2018.
- 535 Transcript, K Linares, private hearing, 17 October 2019, p 7.
- 536 Transcript, A Higgins, private hearing, 23 August 2019, p 21.
- 537 Transcript, A Higgins, private hearing, 23 August 2019, p 23.
- 538 Transcript, A Higgins, private hearing, 23 August 2019, p 22.
- 539 Transcript, K Linares, private hearing, 17 October 2019, p 29.
- 540 Transcript, K Linares, private hearing, 17 October 2019, p 29.
- 541 Transcript, P Mograve, private hearing, 3 April 2019, p 12.
- 542 Transcript, K Linares, private hearing, 17 October 2019, p 29-30.
- 543 Transcript, A Higgins, private hearing, 23 August 2019, p 12.
- 544 Contract, City of Perth and MG Group, Ground and Lower Ground Floor Access Upgrade – Council House – Contract Number: 113-17/18.
- 545 Email, MG Group to P Mograve and R Ibrahim cc K Linares and C Menchetti, 2.50 pm on 6 April 2018.
- 546 Transcript, C Menchetti, Private hearing, 10 April 2019, p 11.
- 547 Memorandum, P Mograve to P Crosetta, Variation to Contract (Policy 9.8) 113-17/18 Ground and Lower Ground Floor Access Upgrade – Council House, 31 May 201.
- 548 Email, P Mograve to K Linares, 7.49 am on 7 June 2018.
- 549 Transcript, R Moore, private hearing, 20 August 2019, p 15-16; Transcript, A Higgins, private hearing, 23 August 2019, p 10.
- 550 Transcript, L Bugarin, private hearing, 16 April 2019, p 5.
- 551 Transcript, K Linares, private hearing, 17 October 2019, p 12.
- 552 Transcript, K Linares, private hearing, 17 October 2019, p 10.
- 553 Transcript, P Crosetta, private hearing, 26 July 2019, p 41.
- 554 Transcript, P Crosetta, private hearing, 26 July 2019, p 35.
- 555 Transcript, K Linares, private hearing, 17 October 2019, p 11.
- 556 Transcript, K Linares, private hearing, 17 October 2019, p 37.
- 557 Email P Mograve to C Daniel, 4.08 pm on 22 June 2018.

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# 2.4

## Final Days



## 2.4.1 Events leading to the suspension of the Council

Final Days describes events within the City of Perth Council (Council) and Administration of the City of Perth (City) at the end of 2017, and the beginning of 2018, which led to calls from council members, the Chief Executive Officer (CEO) and senior officers for intervention. The level of apparent dysfunction caused the Minister for Local Government (Minister) to suspend the Council in March 2018.

### Timeline

|      |                       |  |
|------|-----------------------|--|
| 2017 | 21 October            | Council elections held.  |
|      | 24 October            | Dr Jemma Green was appointed as Deputy Lord Mayor.   |
|      | 27 October            | Dr Green sought access to legal advice. Mr Mark Ridgwell recommended Herbert Smith Freehills (HSF).  |
|      | 9 November            | Dr Green met HSF and gave them information about a conversation between Mr Martin Mileham and a property developer. The HSF investigation became 'Project Percy'.  |
|      | 28 November           | Dr Green gave information to HSF about the developer and Ms Lisa Scaffidi.   |
| 2018 | 29 January            | HSF provided its report on Project Percy to the City. It found no misconduct.  |
|      | 6 February            | Mr Ridgwell provided Mr Mileham with the HSF report on Project Percy.  |
|      | 8 February            | Mr Mileham sought legal advice on Project Percy.   |
|      | 12 February           | Mr Mileham, supported by the Executive Leadership Group (ELG), wrote to the Director General of the Department of Local Government, Sport and Cultural Industries (Department) about dysfunction at the City.  |
|      | 16 February           | Mr Mileham took personal leave because of health issues caused by Project Percy. Mr Robert Mianich became Acting CEO.  |
|      | 22 February           | By this date, Mr Mianich, had forwarded complaints about Dr Green and Mr Reece Harley interfering in administrative matters to the Local Government Standards Panel. Those complaints were ultimately dismissed.   |
|      | 24 February           | Five council members requested a Special Council Meeting to change a policy so they could appoint an Acting CEO.   |
|      | 26 February           | Mr Mianich took personal leave for health reasons, advising he would be on leave <i>"for at least one week"</i> .  |
|      | 27 February<br>8:00am | A special ELG session, with Ms Erica Barranger, Ms Rebecca Moore, Ms Nicola Brandon, Mr Paul Crosetta and Mr Ridgwell, took place in the CEO Boardroom. <ul style="list-style-type: none"> <li>Ms Brandon was asked to leave by Ms Moore.</li> <li>Ms Annaliese Battista telephoned the meeting and said she had been told the Council was intending to make her Acting CEO, and she had spoken to the Department.</li> <li>The ELG members in the meeting called a legal advisor and asked if the ELG could delay the Special Council Meeting.</li> <li>At 10:30 am they called the Minister's Chief of Staff and asked whether the Minister or his office could prevent the Special Council Meeting. They were told he could not.</li> </ul> |
|      | 11:00am               | The three ELG members declared a Priority 1 crisis, enacted the Crisis Management Plan, and formed a Crisis Management Team which held three meetings during the day.  |
|      | 5:00pm                | A Special Council Meeting was held. It amended the policy for appointment of an Acting CEO and appointed Ms Battista.  |
|      | 2 March               | The Minister suspended the Council and appointed Commissioners to oversee the City of Perth.   |

## Activation of the Crisis Management Plan and holding of a Special Council Meeting on 27 February 2018

### Introduction

1. On Saturday, 24 February 2018, a majority of council members at the City of Perth (City) requested a Special Council Meeting (SCM) to be held on 27 February 2018. The purpose of the meeting was to move a motion (Motion) to amend a Council policy and appoint an Acting Chief Executive Officer (CEO). On the morning of 27 February 2018, certain members of the Executive Leadership Group (ELG) enacted the City's Crisis Management Plan (CMP), declaring a Priority 1 crisis.
2. The calling of the SCM, the enactment of the CMP and the declaration of a crisis, occurred against the following background:
  - in early January, the return of Lord Mayor Ms Lisa Scaffidi to the City, following the Court of Appeal's December 2017 decision in *Scaffidi v Chief Executive Officer, Department of Local Government and Communities* [2017] WASCA 222;
  - on 29 January 2018, the delivery to the City of the Project Percy report by Herbert Smith Freehills (HSF), solicitors;
  - the provision of a copy of that report to the CEO, Mr Martin Mileham, and the Lord Mayor;
  - the engagement by the City, on or about 8 February 2018, of another law firm to review the process leading up to the Project Percy report, and the delivery to the City by that firm of its review on 27 February 2018;
  - Mr Mileham, with the support of the ELG, sending a letter of concern and complaint on 12 February 2018 to the Director General of the Department of Local Government, Sport and Cultural Industries (Department) suggesting "corrective measures" may need to be taken in respect of the City of Perth Council (Council);
  - from close of business on 16 February 2018, Mr Mileham taking personal leave for medical reasons;
  - from 19 February 2018, Mr Robert Mianich taking on the role of Acting CEO;
  - Mr Mianich complaining to the Local Government Standards Panel (LGSP) about council members Mr Reece Harley and Dr Jemma Green, and writing to council member Mr James Limnios with concerns about his behaviour, on 21 and 22 February 2018;
  - the request by certain council members on 24 February 2018 to Mr Mianich, in his capacity as Acting CEO, calling for the SCM;
  - from close of business on 26 February 2018, Mr Mianich taking personal leave for medical reasons; and
  - the ongoing speculation in the media that the Minister for Local Government (Minister) was considering suspending the Council.

## Issues considered by the Inquiry

3. The calling of the SCM and the enactment of the CMP raise serious questions about the governance of the City and the relationships between certain members of the ELG and the Council, which the Inquiry was required to consider and inquire into pursuant to A.3(ii), A.3(iii), A.3(v) and A.3(vi) of its Terms of Reference.

4. The issues identified by the Inquiry and considered in this Section include:

- Why did the ELG enact the CMP? Was the decision to do so reasonable, having regard to the criteria in the plan? Was it a reasonable response to circumstances “*on the ground*” at the time? Was it enacted for a purpose other than to respond to a perceived crisis?
- Why did certain council members call the SCM? Was there some ulterior purpose behind the Motion? Was it motivated by retribution?
- What does the activation of the CMP and the holding of the SCM reveal about relationships between and in the ELG and the Council in February 2018, and what do those events say about the level of dysfunction at the City at that time?

## Investigation by the Inquiry

### Witnesses

5. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this section. The positions given below are the positions they held at the time of the events described in this Section:

- Ms Rebecca Moore, Director, Community and Commercial Services.
- Mr Paul Crosetta, Director, Construction and Maintenance.
- Ms Erica Barrenger, Director, Planning and Development.
- Ms Annaliese Battista, Director, Economic Development and Activation.
- Mr Mark Ridgwell, Acting Director, Corporate Services and Manager, Governance.
- Mr Desmond Ngara, Acting Manager, Governance between 27 February 2018 and 9 March 2018.
- Mr Paul Gale, Manager, Strategy and Partnerships.
- Ms Lisa Scaffidi, Lord Mayor.
- Dr Green, Deputy Lord Mayor.
- Council members Mr Steve Hasluck, Mr Harley, Ms Lexi Barton and Mr Limnios.
- Mr Gary Hamley, Chief of Staff to the Minister.
- Mr Neil Douglas, Partner, McLeods, Barristers and Solicitors.

6. Ms Moore, Director, Community and Commercial Services, was a member of the ELG who enacted the CMP and was appointed to the principal role of Crisis Manager. She was, in respect of this topic, a combative witness, both in her responses to questions and her demeanour. Ms Moore was at pains to justify the enactment of the CMP, particularly when it was put to her that the enactment was not justified by the terms of the plan. Ms Moore was also inclined to obfuscate when questioned about the timing of, and changes to, file notes made by her in the days and weeks following the enactment of the CMP. As described later in this Section, some of her evidence on these topics stretches the bounds of credulity. Her evidence on this topic is approached with caution and is not accepted in the absence of objective corroboration, preferably documentary.
7. Mr Crosetta, Director, Construction and Maintenance, was also a member of the ELG present at and involved in the decision to enact the CMP. On this issue, Mr Crosetta's evidence was of limited value. His memory of the events of 27 February 2018 was unreliable. For example, he gave evidence that he thought the first meeting of the ELG on 27 February 2018 occurred in the afternoon, when it in fact occurred in the morning. His evidence is not accepted in the absence of contemporaneous corroboration. Mr Crosetta also maintained confusingly inconsistent positions. For example, he accepted that the absence of a CEO from the City was a day-to-day operational issue (which would not engage the CMP), but at the same time maintained that enactment of the CMP was an appropriate step for the ELG to take.
8. Ms Barrenger, Director, Planning and Development, was the third member of the ELG involved in and supportive of the decision to enact the CMP. In general Ms Barrenger's evidence was candid, assisted the Inquiry and filled a number of gaps in the Inquiry's knowledge of what happened at that time. However, Ms Barrenger was at times evasive and inconsistent, particularly on topics which did not reflect favourably on her or the actions of the ELG<sup>a</sup>. Her evidence on this topic is treated with some caution.
9. Ms Battista, Director, Economic Development and Activation, was not present at the meeting when the ELG enacted the CMP. She is, however, an important witness for this topic as she was ultimately installed by Council as Acting CEO at the SCM. Ms Battista gave evidence that she was on leave on 27 February 2018, that she requested her acting delegate (Ms Nicola Brandon) to attend meetings in her place, that she was disappointed and dismayed to find that Ms Brandon was excluded from critical meetings and that she was surprised and perplexed to this day about the ELG's decision to enact the CMP. She also gave evidence about the extent to which she and other members of the ELG considered it likely, and preferable, that the Minister suspend the Council. In relation to this topic Ms Battista presented as a candid and forthright witness. Her evidence is generally accepted.

<sup>a</sup> For example, Ms Barrenger's evidence about whether she had considered that the Minister for Local Government might suspend Council changed from denial to acceptance: Transcript, E Barrenger, public hearing, 18 September 2019, p 610.

10. Mr Ridgwell, Acting Director, Corporate Services (in lieu of Mr Mianich who was on leave at the time) and Manager, Governance, was present from time to time at the meeting at which the CMP was enacted. Mr Ridgwell was an honest and candid witness, although owing to the number of matters he had to deal with on 27 February 2018 and the fact that he was in and out of meetings relating to the CMP throughout the day, his evidence is of somewhat limited value.
11. Ms Scaffidi, the Lord Mayor, appears to have been a less obvious player in the events leading up to the SCM and CMP. She, together with council member Mr Jim Adamos, opposed all aspects of the Motion advanced at the SCM. When asked why, she said she thought it was unnecessary and that *“the feeling was that there was more to it”*.<sup>1</sup> While there is no reason to disbelieve the Lord Mayor, her evidence is of limited probative value on this topic.
12. Dr Green presented as a considered witness, whose evidence gave important context to the events of 27 and 28 February 2018. In that respect, Dr Green’s evidence traversed not only the CMP and the SCM, but also some of the events that led up to the City reaching the point it did. Dr Green’s evidence is generally accepted.
13. Mr Hasluck presented as a witness eager to assist the Inquiry. While Mr Hasluck’s evidence assisted in giving some context to the CMP and SCM, his recollection of events was at times poor. To his credit, Mr Hasluck readily accepted that his recollection was open to doubt.
14. Mr Harley was another witness who gave the impression of being eager to assist the Inquiry. He was a thoughtful, although at times, exuberant witness. He had clearly given considerable thought to the issues facing the City and his conduct in relation to them. Along with the Lord Mayor, he was the most obviously politically attuned of the witnesses examined on this topic. To a significant degree, Mr Harley’s evidence was marked by its candour. He readily accepted propositions that did not necessarily cast him or his behaviour in a positive light.<sup>2</sup> He was forthright in his opinions of others, gave qualified answers where he considered qualification was necessary and direct ones when pressed. Generally, Mr Harley’s evidence as to what happened is accepted, although some caution is taken when considering whether to accept Mr Harley’s evidence as to why things occurred the way they did.

15. Ms Barton’s demeanour in the witness box was direct and engaging, but otherwise unremarkable. While Ms Barton appeared to do her best to recall events, it did appear that on occasions, and perhaps unsurprisingly, some of her recollection was poor.<sup>3</sup> In the event, Ms Barton was a minor player in the events leading up to the CMP and SCM. While she signed the Motion and supported the resolutions in it, including by voting in support of them at the SCM, she had a more limited role in respect of the Motion when compared to Dr Green and Mr Harley. This may be because, like Mr Hasluck, Ms Barton was relatively new to the City as at 27 February 2018.
16. Mr Limnios’s recollection of events surrounding the CMP and SCM was very poor and, in the absence of corroboration, is not relied on.
17. Finally, the Inquiry heard evidence from Mr Hamley, Chief of Staff to the Minister, and Mr Douglas, partner at law firm McLeods. Messrs Hamley and Douglas were, in the scheme of things, relatively minor witnesses. Their evidence is generally accepted.

### Crisis Management Plan

18. The CMP sits within a suite of documents captured by the Crisis and Business Continuity Management Framework. That suite also includes the Business Continuity Plan. The Business Continuity Plan is engaged when the City needs to respond to an incident that could result in a prolonged disruption of the services and business activities of the City. The Business Continuity Plan sets out three ascending levels of disruption. Not all disruptions engage the CMP. It is only when the disruption is a Priority 1 “*crisis*” that the CMP is activated. Its purpose is to provide a framework for dealing with that kind of crisis (Figure 2.38).<sup>4</sup>
19. More specifically, the CMP provides a process for facilitating organised decision-making in the event of a major incident or crisis, “[t]o *reduce the risk and impact of a disruption that may have an effect on the life, safety or reputation of the City and its employees using effective communication, teamwork, coordination, assessment and decision-making*”.<sup>5</sup>
20. The Crisis and Business Continuity Management Framework gives some examples of the types of incidents that could lead to the activation of the CMP, including:
  - fire, flood or explosion causing significant damage to building and infrastructure, and rendering part of or all of the premises inaccessible or unusable;
  - prolonged loss of electric power to the site;
  - prolonged outage to networks, telephony and or IT services;
  - security or criminal incident resulting in denial of access to the site; and
  - accidents, sabotage, theft or intentional acts resulting in significant loss of or damage to critical assets.<sup>6</sup>

21. Further guidance as to what the CMP and Business Continuity Plan are designed to deal with is provided under the heading “scope” in the Business Continuity Plan, where, among other things, it is provided that:
 

*“This plan is designed to address significant disruptions to entire workflows or processes that result from a total infrastructure outage or denial of access to the work premise. It is not based on any specific scenario or causes of disruption but considers entire processes and the supporting infrastructure needed to recover prioritised services and business activities.*

*This plan is activated in a Priority 1 incident when a crisis has been declared by the Crisis Management Team (CMT). The plan does not address procedures for dealing with emergencies (such as bomb threat, fire or building evacuation) or day-to-day operational problems. These are respectively addressed in the appropriate emergency response plans and standing operating procedures”.*<sup>7</sup>
22. There are several priorities that can be assigned to an incident. They are, in ascending order of seriousness:
 

*“Incident – Priority 3: Minor problems with little or no impact to daily operations, including – i) Loss or damage to critical assets that can easily be rectified or replaced; and ii) Minor injury to staff or visitors that may require first aid;*

*Emergency – Priority 2: Significant delays or interruption to daily operations lasting less than 24 hours, including – i) Loss or damage to critical assets that will take at least 24 hours to rectify or replace; and ii) Injuries to staff or visitors requiring medical attention; and*

*Crisis – Priority 1: Prolonged interruption to operations lasting more than 24 hours, including – i) Irreparable damage or total loss to critical assets; and ii) Death / injuries to staff or visitors requiring hospitalisation”.*<sup>8</sup>
23. A Priority 1 escalation engages the CMP and triggers the appointment of the CEO or the Director, Community and Commercial Services as the Crisis Manager to convene the Crisis Management Team and oversee the running of the City.
24. A Priority 1 crisis is reserved for prolonged and extremely serious interruptions to the operations of the City.
25. On 27 February 2018, three directors, Ms Moore, Ms Barrenger and Mr Crosetta, with the acquiescence of Mr Ridgwell, activated the CMP and declared a Priority 1 crisis.
26. In this Section the Inquiry examines how and why the CMP was enacted.

**CITY OF PERTH  
CRISIS MANAGEMENT PLAN**

**NOTIFICATION AND ESCALATION**

| Level                              | Impact   | Actions   | Person in-charge               |
|------------------------------------|--|---|--------------------------------|
| <b>INCIDENT</b><br><br>Priority 3  | Minor problems will little or no impact to daily operations.<br><br>Including -<br><br>i) Loss or damage to critical assets can easily be rectified or replaced.<br><br>ii) Minor injury to staff or visitor that may require first aid                                | Person who encounters a problem or an imminent threat should notify his / her immediate Manager or delegate.<br><br>The Manager will take the necessary actions to resolve the situation using routine standard operating procedures (SOPs).<br><br>If the situation cannot be resolved using SOPs or requires a structured and coordinated response, the Director of the impacted area should be notified and the incident escalated to the Emergency level. | Manager of impacted area       |
| <b>EMERGENCY</b><br><br>Priority 2 | Significant delays or interruption to daily operations lasting < 24 hours<br><br>Including -<br><br>i) Loss or damage to critical assets that will take at least 24 hours to rectify or replace.<br><br>ii) Injuries to staff or visitors requiring medical attention. | The Director of the impacted area will mobilise the Critical Incident Control Team (CICT) to coordinate all necessary internal and external resources to resolve the problem.<br><br>If the situation is likely to take > 24 hours to resolve or there is irreparable damage to assets, the Crisis Manager should be notified and the Emergency escalated to the Crisis Level.  | Critical Incident Control Team |
| <b>CRISIS</b><br><br>Priority 1    | Prolonged interruption to operations lasting > 24 hours.<br><br>Including -<br><br>i) Irreparable damage or total loss to critical assets.<br><br>ii) Death / injuries to staff or visitors requiring hospitalisation  | The Crisis Manager will convene the Crisis Management Team (CMT).<br><br>The CMT will <u>activate</u> the Business Continuity Plans, if appropriate<br><br>The CMT will consider the broader strategic and reputational implications of the incident and provide any necessary support to the CICT. The CICT will continue to resolve the situation at the impacted site.   | Crisis Management Team         |

Figure 2.38: Notification and escalation table, City of Perth, Crisis Management Plan, 1 December 2017.

## Evidence obtained by the Inquiry

### Mr Martin Mileham receives the Project Percy report, writes to the Department of Local Government, Sport and Cultural Industries, and takes leave

27. On 6 February 2018, Mr Ridgwell provided Mr Mileham with the HSF Investigation Report (also known as the Project Percy report). The broader context of Project Percy is set out in this Section.
28. At first, Mr Mileham thought the report was amusing, or so absurd as to be laughable, although he soon realised it was not.<sup>9</sup> He took advice from one of the City's usual lawyers, McLeods, and two days later requested Mr Ridgwell engage with that law firm in order for the City to take advice as to "*next steps*".<sup>10</sup> Mr Ridgwell, together with Mr Mianich, did that. Beyond requesting the review occur, there is nothing to suggest that Mr Mileham had any further substantive involvement with Mr Douglas in connection with Project Percy.
29. In the meantime, on 12 February 2018, Mr Mileham with the support of the ELG wrote to the Director General of the Department expressing concern about dysfunction within the City, perceived failures in good governance, and his attempts to correct those matters.
30. Mr Mileham's letter included the following passage:
 

*"Notwithstanding these and other ongoing measures aimed at achieving good government as is required by both the City of Perth and Local Government Acts, it is my opinion that the conduct of Council should continue to be closely monitored and that corrective measures, should same be indicated, are applied swiftly".*
31. Mr Mileham's letter was co-signed by the entire ELG.
32. Mr Mileham told the Inquiry that his letter had been prepared in a draft form for some time and had been the subject of discussions between him and the ELG during that period. He said that those discussions included discussion of the suspension of Council.<sup>11</sup>
33. Mr Mianich gave evidence that in the months leading up to February 2018, he and the rest of the ELG had several discussions and meetings about what steps, if any, they could take to deal with their concerns about the Council. One of those steps, Mr Mianich accepted, was to have the Council suspended by the Minister. That evidence was echoed in substance by Mr Crosetta, Ms Battista and Mr Ridgwell.<sup>12</sup> Ms Barrenger also explained that, as at 12 February 2018, one of the "*corrective measures*" she was contemplating was a suspension of council following a warning, "*if we went through that full process*".<sup>13</sup>

34. Consistently with this evidence, Dr Green and Ms Battista told the Inquiry about a meeting attended by the ELG and Dr Green on or about 6 or 7 December 2017, at which Dr Green was asked by the ELG to approach the Minister and request the suspension of Council.<sup>14</sup>
35. In view of this evidence, the Inquiry finds it more likely than not that by 12 February 2018, Mr Mileham and the ELG held the view and implicitly conveyed that view to the Department by sending the letter dated 12 February 2018,<sup>b</sup> that one of the “*corrective measures*” that the Minister should consider was the suspension of the Council.
36. Four days after his letter to the Director General, at close of business on 16 February 2018, Mr Mileham took medical leave. In an email to the Lord Mayor on 14 February 2018, he cited the Project Percy investigation and report as a contributor to that decision. He appointed Mr Mianich, Director, Corporate Services, to act in his absence and notified the Council (through the Lord Mayor) that he considered the Project Percy investigation to constitute a breach of his employment contract.<sup>15</sup>

**Deputy Lord Mayor Dr Jemma Green requests, the City of Perth pay her legal costs and Mr Robert Mianich complains about Dr Jemma Green, Mr Reece Harley and Mr James Limnios**

37. Between 17 and 23 February 2018, Mr Mianich received a number of emails from Dr Green concerning requests by her for the City to meet her legal costs of dealing with and responding to the review then being conducted by McLeods into the Project Percy investigation. On 23 February 2018, Mr Mianich, in an email which appears to have brought the exchange to at least a temporary halt, indicated to Dr Green that he was not prepared to release the report being prepared by Mr Douglas and that he and Mr Douglas agreed that the best approach was for Mr Douglas to make a verbal presentation.<sup>16</sup>
38. At about the same time, Mr Mianich was also busy finalising and lodging complaints with the LGSP about Mr Harley and Dr Green and writing to Mr Limnios about concerns the City had with his behaviour.
39. By the end of 22 February 2018, those council members were all aware of the various complaints and allegations made about or against them.
40. The complaints against Mr Harley and Dr Green, and the letter written to Mr Limnios, are substantial documents. Shorn of detail, the documents effectively complain about the way those council members had allegedly conducted themselves in their dealings with the administration and that the conduct at times infringed the legislative prohibition against council members involving themselves in the administration of the City. The complaints about Mr Harley and Dr Green were ultimately dismissed by the LGSP.

<sup>b</sup> Some witnesses, for example Mr Crosetta, appeared to consider the letter to the Department of Local Government, Sport and Cultural Industries to, in effect, be to the Minister for Local Government, although this was not directly put to Mr Crosetta: Transcript, P Crosetta, public hearing, 23 September 2019.

**Council members Mr Steve Hasluck, Ms Lexi Barton, Dr Jemma Green, Mr Reece Harley and Mr James Limnios request the Special Council Meeting**

41. At 4.54 pm on Saturday, 24 February 2018, Mr Hasluck emailed Mr Mianich requesting Mr Mianich, as Acting CEO, call the SCM for Tuesday, 27 February 2018. Mr Hasluck's email was not copied to anyone.
42. Attached to Mr Hasluck's email was a motion signed by Mr Hasluck, Ms Barton, Dr Green, Mr Harley and Mr Limnios, by which it was proposed to amend Council Policy "CP12.6" (CP12.6) to, among other things, reserve to Council the right to appoint an Acting CEO during any period of the CEO's absence and to appoint an as then unnamed person to be the Acting CEO of the City (Motion).
43. The Motion, and its timing, is interesting for several reasons.
44. First, until its receipt by Mr Mianich, there is no record in the materials available to the Inquiry of any suggestion or discussion by Council or the administration that a motion of this type would be forthcoming or contemplated.
45. Secondly, the Motion was provided just before 5.00 pm on a Saturday.
46. Thirdly, the Motion proposed the appointment of an Acting CEO in circumstances where, as at the date of the Motion, an Acting CEO (Mr Mianich) was already in the role.
47. Fourthly, the Motion was sent by Mr Hasluck to Mr Mianich within two days of Mr Mianich complaining about, or writing to, three of the signatories to the Motion: Dr Green, Mr Limnios and Mr Harley.

**Who drafted the Motion?**

48. Mr Harley, Mr Hasluck and Dr Green all gave evidence that the Motion (Figure 2.39) was conceived of on or just before Saturday, 24 February 2018. It is also the evidence of those witnesses that the Motion was considered, discussed, drafted and signed on Saturday, 24 February 2018. The Inquiry so finds.
49. The primary authors of the Motion were Dr Green and Mr Harley, with some involvement from Ms Barton and Mr Hasluck.<sup>17</sup> While at the SCM, Mr Hasluck told the Lord Mayor that he had crafted the document. However, he accepted during his examination that the truth was that he had not done so.<sup>18</sup> His explanation for why he told the Lord Mayor something that was not true was that *"under the stress and the pressure that we were under at that moment, I wanted to just simplify and streamline and my natural reaction was to say yes"*. It is not a good explanation. However, Mr Hasluck denied that his response to the Lord Mayor was contrived to disguise the identity of the true authors.<sup>19</sup> Mr Harley said no consideration was given to whether it would be strategically advantageous to have Mr Hasluck present the Motion and that he would have been more than happy to move it himself.<sup>20</sup>

24 February 2018

**Request of the CEO to schedule a Special Council Meeting  
27<sup>th</sup> February 2018**

**We hereby request a Special Council Meeting to be held on Tuesday 27<sup>th</sup>  
February 2018 5PM to address the following:**

**1. That Council Policy 12.6 be amended to state:**

**CP12.6 Staff - Local Government Employees – Senior Employees  
POLICY OBJECTIVE**

**To :**

1. determine those employees that are considered to be suitably qualified to act in the position of Chief Executive Officer (Section 5.36(2)(b) of the Local Government Act 1995);
2. determine how the position of Chief Executive Officer will be filled on an acting basis as required; and
3. determine those employees that are designated as senior employees for the purposes of Section 5.37(1) of the Local Government Act 1995.

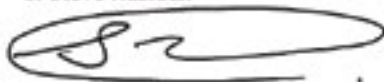
**POLICY STATEMENT**

1. In accordance with Section 5.36(2)(b) of the Local Government Act 1995, all Directors employed by the City are considered to be suitably qualified to act in the position of Chief Executive Officer.
2. Where the Chief Executive Officer is to be absent from work for more than one business day, or at work but interstate or overseas, one of the City's Directors must be appointed to act in the position of Chief Executive Officer.
3. Where the period of absence of the Chief Executive Officer is for a period exceeding four consecutive weeks, the Council shall determine which Director it wishes to appoint to act in the position of Chief Executive Officer.
4. Where the Chief Executive Officer appoints a Director to act in the position of Chief Executive Officer in accordance with point 2 above, the Chief Executive Officer must advise all Elected Members in writing which Director has been appointed and the period of appointment. For periods of pre-arranged leave the Chief Executive Officer must inform all Elected Members of the arrangements for Acting Chief Executive Officer as soon as practically possible.
5. Directors are designated as senior employees for the purposes of Section 5.37(1) of the Local Government Act 1995.
6. Notwithstanding clauses 1 to 5, Council reserves its right under the Local Government Act 1995 to appoint an Acting CEO, in the CEO's absence, for any period.
7. This policy is effective immediately.

**2. That Council appoints \_\_\_\_\_ to the role of acting Chief Executive Officer.**

Signed

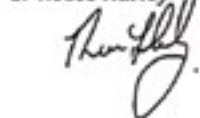
Cr Steve Hasluck




Cr Lexi Barton



Cr Reece Harley



Cr James Limnios



Cr Jemma Green

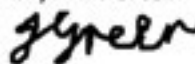


Figure 2.39: Request for a Special City of Perth Council Meeting on 27 February 2018.

50. In the event, it seems most likely that Mr Hasluck volunteered to move the Motion simply because he agreed with it<sup>21</sup> and he told the Lord Mayor he had crafted the Motion to avoid embarrassment in the clearly heated environment of the SCM.<sup>22</sup>

#### What motivated the Motion?

51. As described below, the Inquiry finds that the Motion was motivated by a desire to remove Mr Mianich from the role of Acting CEO and that the desire was contributed to, at least in part, by Mr Mianich lodging complaints about Dr Green and Mr Harley and writing to Mr Limnios in the terms he did, on 21 and 22 February 2018.
52. Mr Mianich told the Inquiry that he was out at dinner on the evening of Saturday, 24 February 2018, but that he expected he would have seen an email about the Motion on his telephone that evening. Mr Mianich's immediate reaction when he learned of the Motion was that it related to the standards breaches complaints he had made to the LGSP.<sup>23</sup>
53. On the following day, Mr Mianich forwarded Mr Hasluck's email and the Motion to Mr Douglas at McLeod's, noting that he had recently complained to the LGSP, that it appeared to him that the two matters were linked and requesting advice as to the protections available to him in the circumstances.<sup>24</sup> Mr Mianich gave evidence that he subsequently spoke to Mr Douglas about the topic, but could not recall with any specificity what advice he received. Mr Mianich described this day as *"very difficult"*.<sup>25</sup>
54. The day after, on 26 February 2018, Mr Ridgwell similarly forwarded Mr Hasluck's email and the Motion to Mr Ron Murphy, Manager Sector Governance – Local Government at the Department, observing that in his view *"there [were] strong grounds to suspect that there is a link between the complaints made to the Standards Panel ... and the proposed Special Council meeting"*.
55. Mr Ridgwell also observed that conduct of that nature would, if it had arisen in the context of a Corruption and Crime Commission complaint and if it were made out, constitute the serious offence of victimisation under the *Corruption, Crime and Misconduct Act 2003*.<sup>26</sup> It is clear that Mr Ridgwell, quite properly, took this concern very seriously. On 27 February 2018, he reiterated it to Mr Murphy and expressed the view that the State Solicitor's Office should *"consider the action of the last few days in respect to the handling of the complaints and the actions against the A/CEO"*.<sup>27</sup>
56. When asked why he did not raise his concerns regarding the Motion with Mr Hasluck, Ms Barton, Dr Green, Mr Harley and Mr Limnios, Mr Ridgwell said it was because he was concerned that if he did so, then some of those council members might have placed pressure on a new CEO or Acting CEO to terminate his employment or take action against him.<sup>28</sup>
57. The concerns of Mr Mianich and Mr Ridgwell were echoed by the members of the ELG who participated in the events of 27 February 2018, including in an administration advice prepared for, but apparently not received by, Council.<sup>29</sup>

58. The Inquiry finds that the victimisation concerns expressed by Mr Mianich and Mr Ridgwell in relation to Mr Mianich, and echoed by the ELG, were genuinely and reasonably held in the circumstances as apprehended by them at that time.
59. Dr Green and Mr Harley denied that the simple fact of the lodging of complaints about them motivated the Motion. Both witnesses explained that they considered the complaints were primarily the work of Mr Mileham and that Mr Mianich was simply *“in the chair”* when the time came for their lodgement.<sup>30</sup> Mr Limnios also denied that the letter he received from Mr Mianich had anything to do with his support for the Motion.<sup>31</sup> Rather, a more nuanced view of the timing of and motivation for the Motion was proffered by these witnesses.
60. Dr Green considered the complaints lodged about her to be amateur and patronising and denied they related to her support for the Motion. She said that her primary concern was that Mr Mianich had failed to respond to her questions about the confidentiality of the Project Percy report and that requests by her to have Mr Ridgwell removed from being involved in the McLeod’s review of that report *“fell on deaf ears”*. Dr Green’s view was that Mr Mianich was *“undertaking his work in a way that was not appropriate or professional”*.<sup>32</sup> She had, in effect, lost confidence in him as an Acting CEO.
61. Mr Harley’s evidence was that the connection between the complaints and the Motion was the way in which those complaints, and complaints more generally, were handled within the City. Mr Harley considered the complaints against him were vexatious and was quick to inform the Inquiry that the complaint had been *“thrown out”* by the LGSP. Mr Harley also thought Mr Mileham, while on leave, was in the background instructing Mr Mianich to act in ways that would damage certain council members, although he accepted he had no evidence for that view and that it was an assumption or belief of his at the time. As with Dr Green, Mr Harley had little confidence in Mr Mianich’s capacity as Acting CEO.<sup>33</sup>
62. Mr Limnios said that he felt that Mr Mileham and Mr Mianich *“didn’t really like me”* at the time and that he was motivated to support the Motion, because he wanted Council to consider its options and not be told what to do. In respect of Mr Mianich’s capacity to lead the City, Mr Limnios said that he thought *“there could have been others that could have done it better”*. He pointed to the fact that the Acting CEO role was a public interface role and that Mr Mianich was *“purely involved in our finances”*.<sup>34</sup>
63. In addition to expressing dissatisfaction with the professionalism of Mr Mianich, including in relation to complaints handling, Dr Green and Mr Harley also expressed support for the capacity of Ms Battista to take on the role of Acting CEO in Mr Mileham’s absence. Mr Harley described Ms Battista as professional and willing to deal with council members.<sup>35</sup> Dr Green recounted a conversation she had with Ms Battista in which she said that she could not see anyone else had the *“capability and had the integrity to steady the ship at that time”*.<sup>36</sup> It is clear that Ms Battista was, for Dr Green and Mr Harley, a preferable Acting CEO to Mr Mianich.

64. This preference was shared by Councillors Limnios, Barton and Hasluck, all of whom considered Ms Battista as the best option available to the Council at the time.<sup>37</sup>
65. An issue which arose in the course of evidence on the topic of the motivations of Councillors Green, Harley, Barton, Limnios and Hasluck in moving the Motion was whether Councillors Barton and Hasluck were aware of the complaints lodged against Councillors Green and Harley by Mr Mianich before supporting the Motion.
66. Ms Barton accepted that she was aware of these complaints as at the time of giving evidence to the Inquiry, but could not say whether she was aware of these complaints before she signed the Motion. She said it was something Dr Green and Mr Harley told her about, but she could not be sure whether it happened before or after the SCM.<sup>38</sup> Dr Green said she told Ms Barton on Saturday, 24 February 2018 that she had received two complaints and that in the course of that conversation she and Ms Barton also shared views about Mr Mianich's capacity to be Acting CEO.<sup>39</sup>
67. The Inquiry finds, on balance, that it is more likely than not that Ms Barton knew that complaints had been lodged by Mr Mianich about Dr Green and Mr Harley before signing the Motion.
68. The position with respect to Mr Hasluck is less clear. While he was aware that complaints about Mr Harley and Dr Green had been made, he denied knowing at the time of supporting the Motion that the complaints had been lodged by Mr Mianich.<sup>40</sup>
69. There is some evidence to the contrary:
- Mr Harley's evidence, albeit refreshed from emails, that he told Mr Hasluck about the complaints before 24 February 2018, a discussion which Mr Hasluck could not recall;<sup>41</sup>
  - Dr Green's evidence that she told Mr Hasluck about the complaints about her and said she described them to him (and Mr Harley) as "*vexatious and ridiculous*";<sup>42</sup>
  - an email dated 23 February 2018 from Mr Harley to Mr Mianich, which was forwarded to, among others, Mr Hasluck, in which Mr Harley wrote "*I received a letter from you [Mr Mianich] notifying me of a complaint of a minor breach to the standards panel*",<sup>43</sup> from which an inference can be drawn that the complaint is a complaint about Mr Harley made by Mr Mianich;
  - a responsive email dated 24 February 2018 from Mr Hasluck to, among others, Mr Harley, in which Mr Hasluck writes "*Reece did you receive a reply from Mianich?*"<sup>44</sup> Mr Hasluck accepted these words were a reference to Mr Harley's email to Mr Mianich which indicates at least that Mr Hasluck was aware of that email; and
  - Mr Hasluck being present at the SCM, at which the Lord Mayor asked whether there was any connection between the Motion and the complaints recently lodged by "*the Acting CEO*", who at the time was Mr Mianich.<sup>45</sup>

70. This evidence, particularly the evidence of Dr Green and Mr Harley, and the question posed by the Lord Mayor at the SCM, supports the conclusion that at least before voting on the Motion Mr Hasluck knew the complaints had been lodged by Mr Mianich. Furthermore, it strikes the Inquiry as unusual that Mr Hasluck would be aware that LGSP complaints had been made about his colleagues, but unaware as to who lodged the complaints, particularly in circumstances where frustration with Mr Mianich in connection with the handling of the complaints was an issue for Dr Green and Mr Harley at the time.
71. On the other hand, the evidence is equivocal. Mr Harley had no independent recollection of the discussion on 24 February 2018 until his memory was refreshed by a contemporaneous email. That prompts the Inquiry to be cautious in accepting the recollection as entirely accurate. Dr Green was dismissive of the complaints, and it may be inferred that as a result she may not have divulged much detail about them to Mr Hasluck. The emails of 23 and 24 February 2018 are inconclusive.
72. In respect of the question posed by the Lord Mayor, which directly referred to Mr Mianich by title, Mr Hasluck said in evidence that he did not *“put it together that [the Lord Mayor] was referring to the information I found out yesterday”*.<sup>46</sup> Given that Mr Hasluck knew that complaints had been made about Dr Green and Mr Harley, the reasonable inference to be drawn is that the complaints to which the Lord Mayor was referring were the complaints about Dr Green and Mr Harley. However, one possible explanation for Mr Hasluck’s failure to *“put it together”* may be that the SCM was a particularly intense environment, and because Mr Hasluck felt under stress and pressure during the meeting his capacity to connect the dots was impaired. That explanation is supported, in part at least, by the fact that Mr Hasluck was an inexperienced councillor, who had only been on the Council for about three months and who had no similar experience.<sup>47</sup>
73. In the event, the Inquiry finds that Mr Hasluck knew that complaints had been made about Dr Green and Mr Harley, and in all the circumstances described above should have at least deduced that they were lodged by Mr Mianich. However, in view of the equivocal nature of the evidence and Mr Hasluck’s consistent and emphatic denials, the Inquiry makes no finding as to whether Mr Hasluck actually knew, before voting on the Motion, that the complaints about Dr Green and Mr Harley had been lodged by Mr Mianich.
74. In summary, the Inquiry finds that:
  - the Motion was motivated by several matters, including the performance, or perceived performance, of Mr Mianich in the role of Acting CEO and the desire of certain council members to ensure that the most appropriate person held that role;
  - there was a connection between the lodging of the complaints by Mr Mianich and the Motion, but the connection was one in which the affected council members (Dr Green and Mr Harley) saw the lodgement of the complaints as symptomatic of underlying problems with Mr Mianich’s conduct and performance as Acting CEO;
  -

- the council members who signed the Motion preferred Ms Battista to Mr Mianich for the role of Acting CEO; and
- Mr Hasluck and Ms Barton knew that complaints had been lodged about Mr Harley and Dr Green before signing and supporting the Motion, though there is no evidence to suggest that Mr Hasluck and Ms Barton supported the Motion for any reason connected with the complaints – indeed, Ms Barton said they were irrelevant to her decision-making in this regard.

75. While, as noted above, there was some connection between the complaints and the Motion, there is insufficient evidence for the Inquiry to be satisfied that the Motion was motivated by a desire for retribution for the lodging of the complaints.

**Mr Robert Mianich arranges the Special Council Meeting, visits the doctor, and goes on leave**

76. Notwithstanding his concerns about victimisation, Mr Mianich arranged for the SCM to be convened, signing off on and circulating to the council members an agenda for the meeting in the middle of the day on Monday, 26 February 2018. In his evidence, Mr Mianich described this day as “even worse” than the preceding day, and that he ended up with a blood pressure of “203 over 95”.<sup>48</sup>

77. Ms Battista told the Inquiry that on this day she was contacted while on leave by Mr Mianich who left a voicemail for her, the gist of which was that Council planned to install her as Acting CEO.<sup>49</sup>

78. Mr Mianich accepted that he might have spoken to Ms Battista or left a message for her, but could not recall what he spoke about or what the message might have been. Mr Mianich could also not say where, if he did convey to Ms Battista that she would be installed as Acting CEO, he obtained that information from.<sup>50</sup>

79. After signing off on the agenda for the SCM, Mr Mianich visited his doctor at about 3.00 pm. That was an appointment Mr Mianich had in his diary for about a week.<sup>51</sup> The outcome of that appointment is recorded in a text message sent by Mr Mianich to the Lord Mayor at 4.54 pm that afternoon:

*“Lord Mayor Just returned from doctors Not good news blood pressure up around 200 I will not be at work for at least one week Sorry for this but the environment at work is not safe at present I have spoken to mark and he will act as director corporate services and attend the briefing and council meeting tomorrow I will allow council to select an acting ceo Robert”.*<sup>52</sup>

80. Mr Mianich’s reference to being off work “for at least one week” suggests Mr Mianich’s earliest return date would have been 6 March 2018 (as 5 March 2018 was the Labour Day public holiday in Western Australia that year).

81. Mr Mianich attributes his elevated blood pressure, at least in part, to knowledge of the Motion.<sup>53</sup>

### The special Executive Leadership Group session

#### Mr Mark Ridgwell calls a special meeting of the Executive Leadership Group for 8.00 am, Tuesday, 27 February 2018

82. As is apparent from Mr Mianich's message to the Lord Mayor, Mr Ridgwell was aware that Mr Mianich would not be at work for at least a week, that he, Mr Ridgwell, would be Acting Director, Corporate Services in Mr Mianich's absence and that the City was effectively without a CEO *"on the ground"*.
83. Consequently, just after 5.00 pm on 26 February 2018, Mr Ridgwell sent a meeting invite to Ms Battista, Ms Barrenger, Mr Mileham, Mr Crosetta, Ms Moore, Mr Mianich and Ms Brandon for a *"special ELG session"* to be held in the CEO Boardroom at 8.00 am the next morning.
84. Mr Ridgwell told the Inquiry that the purpose of the meeting was *"to get the Executive together and plan out how the day would work through the process"*.<sup>54</sup>

#### The special Executive Leadership Group session is convened and Ms Nicola Brandon is excluded

85. Consistently with Mr Ridgwell's meeting invitation, Ms Barrenger, Ms Moore, Ms Brandon, Mr Ridgwell and Mr Crosetta met at 8.00 am on 27 February 2018 in the CEO Boardroom.
86. Ms Brandon was there in her capacity as Acting Director, Economic Development and Activation, as Ms Battista was on leave. Ms Battista gave evidence that she had told Mr Ridgwell in advance of the meeting that Ms Brandon would be at the meeting in her place.<sup>55</sup> This is supported by Mr Ridgwell's meeting invitation, described above, which was extended to Ms Brandon.
87. Shortly after arriving, Ms Brandon was asked by Ms Moore to leave the room. The reason why Ms Brandon was asked to leave is the subject of conflicting evidence:
- Ms Brandon's evidence, supported by an email she sent to Ms Battista about it at 8.53 am on 27 February 2018, is that she was asked to leave by Ms Moore *"for her own protection"*, that she questioned whether she needed to be present to represent Ms Battista and was told by Mr Crosetta and Ms Moore that she was not.
  - Ms Battista's evidence is that Ms Brandon told her that she was asked to leave, because the ELG were going to discuss matters relating to Ms Battista that might upset Ms Brandon.<sup>56</sup>

- Mr Ridgwell’s contemporaneous file note records only that Ms Brandon was asked to leave. In examination, Mr Ridgwell said that Ms Brandon was asked to leave, because *“they wanted to be the Executive that were full-time Executive members, not actings”*.<sup>57</sup>
  - Ms Moore’s evidence was that it was not improper for Ms Brandon to be at the meeting, but that she was excluded because Ms Moore suspected that Ms Brandon would report the content of the meeting to Ms Battista who would in turn report that to some or all the council members. Ms Moore also said Ms Brandon was excluded because of concerns that the substantive directors might need to discuss matters to which acting directors had not been privy. When pressed, Ms Moore remained of the view that Ms Brandon’s exclusion was done on a proper basis.<sup>58</sup>
  - Mr Crosetta’s file note, made 7 March 2018, records only that Ms Brandon was asked to leave and that Ms Brandon questioned why, but provides no reason for the decision. When examined, Mr Crosetta said that *“we as executives decided that it wasn’t appropriate for her to stay in the meeting as she wasn’t privy to the letter that went to the Minister ...”*.<sup>59</sup>
  - Ms Barrenger’s handwritten file note of the meeting states that Ms Moore asked Ms Brandon to leave so that *“ELG could discuss what had happened”* and that the ELG *“did not want to bring her into this to protect her”*.<sup>60</sup> However, her typed notes, made some time later, state only that Ms Moore asked Ms Brandon to leave and that *“there were confidential matters to discuss that only ELG and Mark Ridgwell in his capacity as Manager of Governance were aware of”*.<sup>61</sup> In evidence, Ms Barrenger explained that Ms Brandon was asked to leave, because she was not privy to the letter that the ELG had sent to the Department on 12 February 2018.<sup>62</sup>
  - Notably, while Mr Ridgwell gave evidence that he was in discussions with the ELG from time to time about ongoing relationships and issues at the City, he could not recall seeing that letter prior to giving evidence and could not recall Mr Mileham ever showing him a copy of the letter.<sup>63</sup>
88. The Inquiry finds that Ms Brandon should not have been excluded from the meeting, as she was acting in the role of Director, Economic Development and Activation at the request of Ms Battista. The Inquiry also finds that Ms Brandon was excluded from the meeting, at least in part, to avoid discussions at that meeting being reported back to Ms Battista. That was an improper basis for her exclusion.

### Ms Annaliese Battista dials into the meeting, Executive Leadership Group agrees not to appoint an Acting Chief Executive Officer

89. Following her exclusion from the meeting, Ms Brandon called Ms Battista, quite upset, to update her. Ms Battista in turn attempted to contact those in the meeting, but her telephone calls went unanswered. She then contacted the CEO's personal assistant, Ms Judith Arnold, and asked her to knock on the door of the boardroom to let those inside know Ms Battista was trying to dial in.<sup>64</sup>
90. Ms Battista dialled into the meeting. The evidence at this point is generally consistent. The ELG discussed whether an Acting CEO should be appointed, Ms Battista disclosed that she had been told that the Council was intending to install her as Acting CEO that afternoon and that she had been in contact with the Department, and the ELG agreed that they themselves should not appoint an Acting CEO.<sup>65</sup> Ms Battista also told the Inquiry that she told the ELG that Mr Mileham or Mr Mianich had conveyed to her that the ELG should wait for Council to appoint someone. Neither Mr Mileham nor Mr Mianich could recollect this<sup>c</sup> though it is apparent from telephone records that Mr Mianich and Ms Battista were in contact about this time, as Mr Mianich accepted. A contemporaneous text message from Ms Battista to Mr Ridgwell also supports the conclusion that Mr Mianich told Ms Battista to wait until the SCM to determine the role of Acting CEO.<sup>66</sup>
91. Ms Battista then rang off the meeting, thinking it had ended. She only later found out that it had not.<sup>67</sup>

### Special Executive Leadership Group meeting continues

92. Ms Barrenger's handwritten notes record that the information conveyed to them by Ms Battista was "*all new information*" to her, Mr Crosetta and Ms Moore, and that they "*were in shock*". They decided to seek advice. They called Mr Douglas.
93. As best as the Inquiry can determine, this happened at about 8.30 am or 8.45 am.<sup>68</sup>
94. Ms Barrenger's handwritten notes record that they sought advice about whether the ELG could delay the SCM and were told that all "*admin could do was to give advice*". Her typed notes record this, too, but also record that the ELG asked Mr Douglas whether Ms Battista's conduct in contacting the Department was a breach of her employment contract. Ms Barrenger's notes say that Mr Douglas told them it was breaking the code of conduct.<sup>69</sup> When asked why the ELG was seeking that advice on that morning, Ms Barrenger candidly admitted it was in part to prevent Ms Battista from being appointed Acting CEO.
95. Other than in respect of the admission about preventing Ms Battista from being appointed Acting CEO, Mr Crosetta's and Ms Moore's notes are to similar effect.<sup>70</sup>

<sup>c</sup> For example: Transcript, private hearing, R Mianich, 19 July 2019, p 48; Transcript, M Mileham, public hearing, 16 September 2019, p 26.

96. Ms Moore's typed notes, made some time after the event, record that Mr Douglas *"noted that there was a functioning ELG who were enacting the plan. Recommended stick to policy and procedures"* and that Mr Douglas *"stated that ELG should do what was necessary to keep City running"*.<sup>71</sup>
97. Mr Douglas recalled having a discussion with the ELG, but could not recall the specifics of the discussion. He did, however, agree that at some stage about this time he was asked to consider and advise on Ms Battista's contract. Mr Douglas explained that his priority for that day was completing his review of the Project Percy investigation.<sup>72</sup>
98. Significantly, from the moment when the call to Ms Battista ended until the first meeting of the Crisis Management Team at 11.00 am, neither Ms Battista nor the Acting Director, Ms Brandon were involved in any of the discussions that took place. As, respectively, a substantive member and acting member of the ELG, they should have been.
99. The Inquiry finds that Ms Battista and Ms Brandon were deliberately excluded from the discussions, although the other members of the ELG denied this. The Inquiry notes in this regard that the discussions of the ELG were focussed, at least in part, on deferring the SCM and preventing Ms Battista being appointed as Acting CEO.
100. The Inquiry also finds that the exclusion of Ms Brandon, and the failure of the assembled ELG to contact Ms Battista, was conduct symptomatic of the breakdown in relationships at an ELG level, reflecting a heightened level of competition and distrust between its members.

#### **The Executive Leadership Group considers initiating the Crisis Management Plan**

101. Following the ELG's initial telephone call with Mr Douglas, the ELG began to consider whether to enact the CMP. Ms Moore's evidence was that she believed Mr Ridgwell suggested the ELG look to the CMP.<sup>73</sup> Mr Ridgwell's evidence was that he did not bring the CMP into the meeting and was not involved in the decision to enact it.<sup>74</sup> The Inquiry finds that Mr Ridgwell did not suggest the CMP.
102. Ms Moore's notes record that Mr Ngara, Acting Manager, Governance, *"provided [a] copy of the BCP [Business Continuity Plan] as an option for ELG"*.<sup>75</sup> There is no reference to Mr Ngara providing the plan in the notes of Ms Barrenger or Mr Crosetta. Ms Barrenger's oral evidence was that Mr Gale, Manager Strategy and Partnerships, first raised the idea of the Business Continuity and CMP and that he had a copy of the plan.<sup>76</sup> However, Mr Gale said that as he arrived at the meeting at 9.15 am, he was told that the Crisis and Business Continuity Management Framework had been enacted and that members of the ELG already had copies of the CMP or Crisis and Business and Continuity Management Framework.<sup>77</sup> Beyond this, generally, witnesses were uncertain as to how the CMP landed on the desk of the ELG during the meeting.

103. When asked about this, Mr Ngara's evidence was that he provided the CMP to the ELG and that he may have done that at Mr Ridgwell's request. He was not sure whether he provided the CMP during the special ELG meeting that commenced at 8.00 am, or whether he only provided copies at a later meeting, around 11.00 am, after the crisis management team had assembled.
104. In respect of the first meeting, commencing at 8.00 am, Mr Ngara said that when he *"entered the room the discussions were more about how to activate the plan than whether to activate the plan itself"*.<sup>78</sup>
105. In view of this, it is not clear whether the ELG had available to them a copy of the CMP when it began considering whether to initiate the Business Continuity Plan and CMP, or where it obtained that copy from. It would be surprising, however, if it did not, and it is likely on balance that it did.
106. Although it is far from clear, owing to the lack of contemporaneous and thorough minutes, the Inquiry finds that it is likely the ELG began considering the CMP at around 9.00 am. This finding is made, because there is evidence to suggest consideration of that document started:
- after, or less possibly while, speaking with Mr Douglas at about 8.30 am or 8.45 am;<sup>79</sup>
  - before Mr Gale entered the room at about 9.15 am at the request of the ELG to arrange a call with the Minister's Chief of Staff;<sup>80</sup> and
  - before speaking with the Minister's Chief of Staff at about 10.30 am.
107. The timing of that consideration is, unfortunately, not recorded with specificity in any of the City's records, including in the notes taken by Ms Moore during the 8.00 am meeting or by Ms Barrenger later that day.
108. The Inquiry finds that the City's record-keeping in respect of when the ELG turned to consider enacting the CMP was significantly lacking. Consideration of action of that type should have been properly minuted. It was not.
109. After commencing their consideration of whether to enact the CMP, the assembled ELG appear to have reached what might be described as an in-principle decision to activate that plan. However, before they did so, those members of the ELG present made at least two further calls.
110. First, they called the Minister's Chief of Staff to ask whether the Minister or his office could do something about the SCM. The assembled ELG were told that the Minister could not. There is some evidence before the Inquiry to suggest that the ELG also notified the Minister's office during this call that they intended to enact the CMP and that the Minister's Chief of Staff did not cavil at, and possibly supported, that action. Mr Hamley could not recall this occurring.
111. Secondly, they called Mr Douglas again. This also happened at about 10.30 am.<sup>81</sup>

112. During her examination, Ms Barrenger said the ELG also sought Mr Douglas's advice on whether they could, or should, enact the CMP and that Mr Douglas told them to stick with process and procedure. Ms Barrenger recalled Mr Douglas approving the use of the CMP, or implying its use was okay. Ms Barrenger maintained this view when pressed, although she accepted that neither version of her notes (handwritten or typed) contained a clear reference to the advice she said Mr Douglas gave the ELG.<sup>82</sup> Given the significance of the effect of Mr Douglas's alleged advice, if given, its absence from Ms Barrenger's notes is remarkable.
113. Mr Douglas on the other hand gave cogent evidence that he has never seen the CMP, that he did not know what was involved in it, that he was not asked any details about it by the ELG, that it was not his suggestion that it be activated and that he could not recall giving advice on whether or not there was a proper basis to enact the CMP.<sup>83</sup> Mr Douglas also produced to the Inquiry a file note from a call he had with the ELG at 10.30 am that read, in part, "*City has activated business crisis plan*".
114. The Inquiry prefers the evidence of Mr Douglas, particularly in view of his file note which indicates the decision to activate the CMP had been taken by the time he was called.
115. At about 11.00 am, the assembled ELG enacted the CMP, notifying staff by email at 11.04 am.<sup>84</sup>
116. At about the same time there may also have been a third call to Mr Mileham. He does not recall it, and there is no reference to it in any of the notes of the meeting taken by the various participants, although Ms Barrenger and Mr Crosetta both gave evidence of its occurrence.<sup>85</sup> If the call did occur, it seems likely that the content of the call was limited to advising Mr Mileham that the CMP had been enacted.<sup>86</sup>

**Why did the Executive Leadership Group initiate the Crisis Management Plan, and what process was followed to do so?**

117. The failure of the ELG to properly record the decision-making process relating to the enactment of the CMP has made it difficult for the Inquiry to determine precisely how and why the decision was reached.
118. Compounding the problem is that notes made around the time of the event, including the handwritten notes of Ms Moore and Ms Barrenger, do not disclose an obvious reason for enacting the CMP.
119. Ms Moore's handwritten notes contain a reference to protecting the reputation of the City and a reference to "*any crisis – crisis management plan issue*".<sup>87</sup> The notes also record "*functioning ELG enacting plan*".
120. Ms Moore's typed notes record:  
*"Reason for enacting Business Continuity Plan was had a functioning ELG supportive of existing CEO and ELG was doing what was necessary to keep city running without a CEO or an Acting CEO".<sup>88</sup>*
121. However, it is apparent that those notes were created some time after the event and are at risk of being, or incorporating, recreations to justify the enactment of the CMP.

122. Ms Moore's evidence as to the creation of her typed notes is also, to adopt the language of Counsel Assisting during Ms Moore's examination, somewhat extraordinary.
123. When the question of when the notes were created was first raised in examination, Ms Moore gave evidence that she created them within 48 hours of the enactment of the CMP. That is, by on or about 1 March 2018.
124. However, this version of events is strongly challenged by an email from Ms Moore to Mr Ngara dated 6 March 2018 in which Ms Moore writes, in response to a request from Mr Ngara for notes of the events of 27 February 2018: *"I do not have a file note or formal log"* and *"Based on your email extension my intention was to write up my recollections and file note today"*.<sup>89</sup>
125. When that email was put to Ms Moore in examination, and notwithstanding the clear inference to the contrary that can be drawn from Ms Moore's email, Ms Moore said that by the date of the email she *"had draft notes already"* and she was *"absolutely adamant"* about that.<sup>90</sup>
126. It was then put to Ms Moore that the metadata for her typed notes demonstrated that the creation date for the document was 6 March 2018 at 4.24 pm, about three and a half hours after Mr Ngara's email, and that the last modified and last printed dates were 7 March 2018.<sup>91</sup>
127. Ms Moore's explanation for this is that the document was not created on the City's system, but rather on a private computer within 48 hours of the close of the CMP on 28 February 2018. Ms Moore said it was possibly prepared at home, on her way to Gracetown, or in Gracetown.<sup>92</sup>
128. The following exchange then occurred:

*"And you then have indicated, or Mr Wyatt has indicated, that you brought the document that you created on either your Toshiba or your Apple over to the City of Perth, is that right?---On a USB.*

*So you copied it from your laptop onto a USB?---(No audible answer.)*

*Do you still have that USB?---I believe it would have been handed in with everything else that was handed in.*

*And so was it a City of Perth USB?---(No audible answer.)*

*COMMISSIONER: Is that a yes?---Yes, sorry. It was a yes.*

*MS LENDICH: And so you copied it over using – can you explain to the Commissioner precisely how you copied the document over to the City of Perth? I would have created a new document in the City of Perth system, and I would have cut and paste from the document into the new document on the system and saved it.*

*Using a USB?---(No audible answer.)*

*Did you personally do that?---Yes.*

*Ms Moore, that's quite an extraordinary way to create a document, do you understand that?---I'm trying to recall what I did, yes"*.<sup>93</sup>

129. In view of Ms Moore's email to Mr Ngara on 6 March 2018, the file note's metadata, and the inherent improbability of Ms Moore's idiosyncratic method of "*copying and pasting*" the content of documents in the manner described above, the Inquiry rejects Ms Moore's evidence on this matter, finding that her typed file notes were likely created on and after 6 March 2018. As a result, the Inquiry has doubts about the accuracy and candour of the notes and does not rely on them, other than where the events they recount are independently corroborated.
130. Ms Barrenger's handwritten notes state that the "*ELG Present called Chief of Staff to check if Minister could delay Special Council Meeting or take action today*" and that the ELG "*informed Minister initiating Business Continuity plan*". Her typed notes refer to "*a risk to the reputation and staff safety*" and that the ELG "*reviewed the Crisis Management Plan*" and "*ran through the proposal to activate the Business Continuity and Crisis Management Plan*".<sup>94</sup> The typed notes record that the ELG advised the Minister's office that the reason for the enactment of the CMP was "*Staff Safety and Reputational Risk*" and that the Minister's office said that this was a "*good idea*".
131. Mr Crosetta's notes record:
- "Discussion was also around the fact that the CEO and A/CEO on sick leave, hence the view of ELG to proceed with the BCP and establish a CMT. The BCP was referred to and the reference of DCC to Chair the CMT as the Crisis Manager noting the absence of the CEO in order to maintain business and services".*<sup>95</sup>
132. However, while of varying degrees of sophistication, none of these notes shed light on the process that the ELG went through to determine if it was appropriate, in all the circumstances, to enact the CMP.
133. The absence of any documented decision-making process is remarkable, in circumstances where:
- the enactment of the CMP was unprecedented in the City's history;
  - the members of the ELG who activated the CMP, later confirmed that they did so on the basis that the City was facing a Priority 1 crisis;
  - the activation of the CMP and establishment of the Crisis Management Team distorted the ordinary leadership structures of the City;
  - the members of the ELG who activated the CMP and formed the Crisis Management Team did so in the full knowledge that the Council would be meeting that afternoon with the intention of appointing an Acting CEO; and
  - the special ELG meeting commenced at 8.00 am and continued for three hours until about 11.00 am, leaving the members of the ELG at that meeting with ample time to consider, debate and record the decisionmaking process.

134. The evidence of the witnesses during examination took the matter little further. The following exchange with Ms Moore is illustrative:

*“And this was the first time that the City had called on the Crisis Management Plan, is that right?---Yes.*

*And in your role as a member of the ELG was it not incumbent on you to record that decision-making process?---Yes. It was, yes.*

*And the highest you can put your evidence today is that the decision was made during a call with Neil Douglas but you can’t recall whose idea it was, whose proposal it was, and what discussion or debate took place between the three members of the ELG who were present about that decision?---Correct.*

*Notwithstanding it being unprecedented?---Correct.”<sup>96</sup>*

135. The Inquiry finds that there was no crisis, as understood in the Crisis and Business Continuity Management Framework or CMP, to which the City had to respond when it enacted the CMP on 27 February 2018. Viewed cynically, it was a management plan in search of a crisis.

136. As observed above, contemporaneous and near-contemporaneous notes of the enactment of the CMP do not disclose with any clarity the crisis to which the ELG were responding when it enacted the CMP. Each of the assembled ELG were taken during the course of examinations to the CMP. However, none of them could give the Inquiry a persuasive and cogent explanation as to how the CMP supported the calling of a Priority 1 crisis.

137. On this issue, Ms Moore’s typed notes contain the following statements:

*“BCF includes imminent threat to people, property and reputation. Council endorsed plan that was consistent with framework. ND noted that there was a functioning ELG who were enacting the plan. Recommended stick to policy and procedures. ND stated that ELG should do what was necessary to keep City running.*

*...*

*Reason for enacting Business Continuity Plan was had a functioning ELG supportive of existing CEO and ELG was doing what was necessary to keep city running without a CEO or an Acting CEO.”<sup>97</sup>*

138. None of this supports the calling of a Priority 1 crisis, as defined in the CMP.

139. In evidence, Ms Moore said, of the decision to declare a Priority 1 crisis:

*“I do recall that they asked was it necessarily to enact the Crisis Management Team when Priority 1 talked about death or life, etcetera. And as the Crisis Manager my response was that it gives – it’s the framework that we have and that it will go for more than 24 hours and it was reasonable that to protect the reputation and look after the welfare of the staff that it was the right way to go.”<sup>98</sup>*

140. The difficulty with Ms Moore's evidence on this topic is that when the ELG enacted the CMP they knew a majority of council members were likely to support the appointment of an Acting CEO later that day, they could reasonably infer that Acting CEO would be Ms Battista (as Ms Battista had told them she had been approached for the role), and the criteria for a Priority 1 crisis says nothing about reputational risk.
141. It was also suggested that the CMP was enacted in response to "*significant media attention*", to help with delegated authorities, and to provide for staff welfare.<sup>99</sup>
142. However:
- each of these concerns was, as Mr Crosetta candidly accepted,<sup>100</sup> an "*operational problem*" to which the Business Continuity Plan and CMP expressly do not respond;
  - as to media attention, the City's media staff told the Inquiry that there was nothing unusual about the level of media attention on 27 February 2018 and that it was business as usual,<sup>101</sup> a fact borne out by the City's media log for the day;<sup>102</sup>
  - as to delegated authorities, the CMP has no effect on that process; and
  - no witness could point to any specific evidence that staff welfare was at risk and that the enactment of the CMP allayed that risk.
143. Mr Crosetta, in evidence, suggested that they could not have been certain an Acting CEO would have been appointed by the Council at the SCM, because to do so required the consent of the nominee and the ELG had agreed, as between themselves, not to accept that nomination. On that basis, Mr Crosetta suggested that there was a real likelihood that the City would have been without an Acting CEO or CEO for more than 24 hours, which was one of the criteria for declaring a crisis. When pressed in examination, Mr Crosetta did not appear to understand that in reaching that agreement the ELG were, in effect, themselves creating one plank of the platform for declaring a crisis.
144. Despite acknowledging that the issues facing the executive on 27 February 2018 were operational issues, Mr Crosetta maintained in his examination that the decision to enact the CMP and declare a Priority 1 crisis was appropriate. However, he was not able to articulate why it was appropriate, other than it gave the executive a process to follow.<sup>103</sup>
145. Mr Ridgwell was not involved in the decision to enact the CMP. However, he supported it because it gave the City's ELG a process to follow and, as Mr Ridgwell explained in evidence, "*As the Manager of Governance, I like process*".<sup>104</sup>
146. In March and April 2018, following the enactment and then standing down of the CMP and the aftermath of the SCM, the City engaged an external consultancy to conduct a post-incident desktop review on the activation of the CMP. The consultancy delivered a report in which it emphasised that the review was not intended to be a formal audit or formal investigation, and ultimately found that the "*decision to activate the CMP appears to be appropriate*".<sup>105</sup>

147. One of the observations made in the report along the way to reaching that conclusion was that the ELG arrived at its decision to enact the CMP on the basis that the City was without a “*leader*” in the midst of “*serious ongoing issues*”.
148. The author of the report was called by the Inquiry. In the course of his evidence, it became apparent that the author had not been made aware that the ELG knew, before enacting the CMP, that the Council intended to appoint an Acting CEO later that day. When asked whether knowledge of that would have affected his view as to the appropriateness of the enactment of the CMP, he conceded that in those circumstances it would not have been necessary to activate the CMP.<sup>106</sup>

**Did enactment of the Crisis Management Plan ensure the continuity of the operations of the City of Perth?**

149. It was suggested by members of the ELG that the enactment of the CMP was appropriate, because it put in place a process to ensure the continuity of the business of the City in the absence of a CEO. Indeed, that was the reason given to staff on 27 February 2018 for the enactment of the CMP.<sup>107</sup>
150. However, the Inquiry finds that the enactment of the CMP achieved very little, if anything, in respect of the smooth operation of the City. The Inquiry doubts the continuity of the business of the City was ever actually at risk. In this latter respect, the minutes of the first Crisis Management Team meeting at 11.15 am record, under the heading “*Is there any current or on-going threats or issues?*” only that “*Media are of concern*”.<sup>108</sup> It is difficult to understand how media being of concern would compromise the continuity of the business of the City.
151. The members of the ELG were highly paid executives. One of their principal roles was to manage and direct the City. It is what they were paid to do. In the Inquiry’s view, a functional ELG certainly had the capacity to manage the City for the eight or so business hours between the commencement of the working day and the Council Meeting scheduled for that afternoon. It is perverse to suggest that the City would cease to function, or suffer some other calamity, simply because a CEO was absent for a day.
152. Nothing that happened on 27 February 2018, other than the enactment of the CMP itself, was so significantly out of the ordinary that it could not have been managed by the ELG.
153. The City has staff whose role it is to liaise with the media. The City, being the capital of Western Australia and having regard to the recent media interest in the Lord Mayor, was no stranger to media queries. Media interest would have been manageable as business as usual.
154. On the contrary, it may be that enactment of the CMP damaged the continuity of business at the City by distracting the directors and other senior level staff from the demands of the ordinary business of the City.

155. The material before the Inquiry discloses that the ELG were in meetings for the bulk of the day. The first meeting, the special ELG meeting, ran from 8.00 am until about 11.00 am. It was followed by the first Crisis Management Team meeting at 11.15 am, which in turn was followed by the second Crisis Management Team meeting at 11.55 am. This was followed by the third Crisis Management Team meeting at 3.00 pm. All these meetings had as their core business either the decision to enact the CMP or the steps to take once that decision had been taken.<sup>109</sup> The meetings, and the focus in them on CMP related matters, self-evidently took the ELG away from the ordinary business of the City.
156. Furthermore, on the face of the material available to the Inquiry, the meetings achieved very little. For example, the minutes of the first Crisis Management Team meeting record under “*short term response*” that the priority for the next several hours was “*encourage business as normal within the City staff*”. The irony of that response is that had the CMP not been enacted there would be no need to encourage business as usual. It would have been the status quo.

**Crisis Management Plan was enacted to disrupt or delay the Special Council Meeting, and to encourage the Minister for Local Government to suspend the City of Perth Council**

157. The Inquiry finds that the CMP was enacted, at least in part, to disrupt or delay the SCM scheduled for that afternoon to prevent Ms Battista’s appointment as Acting CEO and to encourage the Minister to intervene and suspend the Council.
158. This finding is made on the basis that:
- Each of Mr Mianich, Ms Moore, Mr Crosetta and Ms Barrenger held, as at 27 February 2018, the view that the Minister should consider, as a possible option, the suspension of the Council.
  - The ELG had been considering for some time the “*corrective measures*” or steps it could take to remedy what it saw as the dysfunction of Council and had written to the Director General of the Department about those concerns and suggested that corrective measures may be required a fortnight before the CMP was engaged.
  - There was, when regard is had to the criteria in the CMP itself, no proper basis for the calling of a Priority 1 crisis on 27 February 2018.
  - During the special ELG meeting on 27 February 2018, the ELG sought Mr Douglas’s advice as to how they might delay the SCM and as to whether they could suspend Ms Battista (and thus prevent her from being appointed Acting CEO).
  - During the special ELG meeting on 27 February 2018, the ELG asked the Minister’s Chief of Staff whether the Minister could delay the SCM.
  - The file notes made by Ms Moore and Ms Barrenger refer specifically to the delaying of the SCM and Mr Crosetta accepted that one of the purposes of enacting the CMP was to delay or defer the SCM given Mr Mileham’s foreshadowed return.<sup>110</sup>

- Ms Barrenger accepted, in evidence, that every step the ELG had taken up to the point of enacting the CMP was directed towards delaying the SCM and preventing Ms Battista’s appointment as Acting CEO.
- The ELG’s advice to Council was that Council should delay the SCM until after the Minister had met with Council, as he planned to do at 3.30 pm on 28 February 2018.
- Mr Mileham, who was on personal leave at the time, wrote to the Council (by way of Ms Moore) at 3.25 pm on 27 February 2018 to inform the Council that he would be returning to work on 6 March 2018 and that he saw no “*urgent reason or requirement*” for Council to appoint an Acting CEO or change policy “*given the acknowledged capacity of the Executive Leadership Group to manage all operational matters until*” his return.<sup>111</sup> The Inquiry finds that the timing and content of this correspondence was designed to persuade Council to defer the SCM.
- There was considerable media at the time suggesting that the Minister was close to intervening, including by suspending Council.
- Mr Mianich sent text messages to various people on 28 February 2018 stating, among other things, that:

*“Hopefully the Minister will give the Council a 21 day show cause notice today and we have a Commissioner within 3 weeks*

*Council meeting Minister today, hopefully a Commissioner within 3 weeks*

*Things should improve once the Council goes*

*The last few weeks have been very difficult but some senior staff have had to draw a line in the sand which I believe was the final straw for the State Government to suspend the Council”.*<sup>112</sup>

159. It may also be the case, as suggested by some witnesses, that the CMP was enacted to give the ELG a process to follow on 27 February 2018. However, no witness was able to give a plausible explanation of what the CMP permitted the ELG to do that was different from what the ELG could have done as an executive group anyway. Furthermore, while on one view the enactment of a business plan like the CMP might have been appropriate to provide structure to a somewhat rudderless day, on no view advanced to the Inquiry by a witness has it been explained why it was necessary to declare a Priority 1 crisis to achieve that objective.

### Special Council Meeting goes ahead

160. Notwithstanding the advice from the Administration that the Council should defer the SCM,<sup>113</sup> the meeting went ahead.<sup>114</sup>

### Executive Leadership Group brief the Lord Mayor, Ms Lisa Scaffidi

161. Just before it did, the ELG and Mr Ridgwell met with the Lord Mayor to brief her on what had occurred during the day. Ms Moore explained in her evidence that they discussed standing up the CMP, the media attention around it, that the ELG was running the City, that the ELG had a plan for “*tomorrow*” regardless of how Council’s decision went that evening and the Motion. Ms Moore also said that she believed the Lord Mayor was supportive of what the ELG had done and she understood the Lord Mayor was in favour of deferring the SCM.<sup>115</sup>
162. There are no contemporaneous notes from the briefing of the Lord Mayor, although the minutes of the SCM reveal that the Lord Mayor supported a procedural motion moved by Mr Adamos to defer voting on that part of the Motion which contemplated the appointment of an Acting CEO<sup>116</sup> and, as described below, on the evening of the day the decision was made, the Lord Mayor expressed her support of the decision to enact the CMP.

### Council members Mr Steve Hasluck, Ms Lexi Barton, Dr Jemma Green, Mr Reece Harley and Mr James Limnios support the Motion

163. Mr Hasluck, Ms Barton, Dr Green, Mr Harley, and Mr Limnios were strong proponents of the meeting, having signed the Motion.<sup>117</sup>
164. The unusual circumstances in which the Motion was presented to the administration have been summarised above. In addition to those matters, the Motion and the SCM are remarkable for at least the following reasons:
- the Motion was brought on with a degree of unexplained urgency;
  - despite working most closely with the CEO or Acting CEO, the Lord Mayor’s views were not (but should have been) sought on the Motion, either before it was advanced by Mr Hasluck to Mr Mianich or before it was debated;
  - the Motion was pressed by Mr Hasluck, Ms Barton Dr Green, Mr Harley, and Mr Limnios notwithstanding Mr Mileham’s advice that he would return to work within five days, and was of the view that an Acting CEO was not required; and
  - correspondence leading up to, and debate and voting at, the SCM clearly exposed the rift between Mr Hasluck, Ms Barton, Dr Green, Mr Harley, and Mr Limnios on the one hand, and the Lord Mayor and the remaining council members on the other hand.
165. It is apparent from the documents that Dr Green and Mr Limnios considered the decision by the ELG to enact the CMP to be a poor one, with Mr Limnios describing it as “*pretty desperate*”.<sup>118</sup>

166. On the documents, it is also apparent that Mr Harley was the most vocal and active of the proponents for the Motion. For example:
- On receipt of the Administration’s advice to defer the meeting, Mr Harley wrote to Ms Moore, copied to all council members and the ELG, stating that in his view Council had “*a legal obligation and a duty of care*” to appoint an Acting CEO, and that to defer the council meeting would “*leave the City without an Acting CEO for an unacceptable period*”. He described the affairs at the City as demonstrating “*a leadership vacuum*”.<sup>119</sup>
  - Mr Harley described the enactment by the ELG of the CMP as “*absolutely astounding*” and went on to remark to Ms Barton and Mr Hasluck that if Ms Moore “*is willing to take this extraordinary step despite the clear will of councillors, that gives you some indication of how she would function in the acting CEO role*”.<sup>120</sup>
  - Despite the Motion being, on its face, put up by Mr Hasluck,<sup>121</sup> it was Mr Harley who sought advice on the Motion from the Department and the Administration.<sup>122</sup>

### The Special Council Meeting

167. At the SCM the Council resolved, by majority (Mr Hasluck, Mr Harley, Dr Green, Mr Limnios and Ms Barton against the Lord Mayor and Mr Adamos) to amend CP12.6 and to appoint Ms Battista to the role of Acting CEO.
168. The SCM was an unusual event, because of the circumstances in which the Motion was debated and the circumstances in which Ms Battista was appointed Acting CEO.
169. As to the former, at the meeting Mr Hasluck was asked to speak to the Motion, including to speak to why it was brought on with urgency. He either could not or would not do so. Rather than respond to the question of urgency in a direct way, Mr Hasluck gave a nonresponsive answer, with a significant pause indicated below with ellipses, to the effect that “*Council at all times reserves rights under the Local Government Act to ...*” “*... have the meeting that it was having*”.
170. The Lord Mayor also questioned whether there was any connection between the complaints made by Mr Mianich about Mr Harley and Dr Green and the letter he wrote to Mr Limnios, and either the Motion itself or the timing of it. The question was directed to the room at large, and notwithstanding that the Motion was on its face one advanced by Mr Hasluck, it was Mr Harley who responded, saying there was no connection.<sup>123</sup> This, again, supports the finding that Mr Harley was a dominant force behind the Motion.
171. Finally, the Lord Mayor asked Mr Hasluck whether he did not have faith in Mr Mianich. Again, rather than respond directly, Mr Hasluck responded to say that the question was irrelevant.
172. Eventually, after about 10 minutes of discussion, the first part of the Motion, to amend CP12.6, was passed.
173. Council then moved to consider the second part of the Motion, the appointment of an Acting CEO.

174. This too was unusual, because:

- Ms Barton nominated Ms Battista for the role, which nomination was immediately seconded by Mr Hasluck, notwithstanding that Ms Battista was not present and was, in fact, on annual pre-approved leave.
- Mr Adamos nominated Ms Moore for the role, which nomination was not seconded.
- Mr Ridgwell advised the meeting that the practice in circumstances like these was for Council to obtain the consent of the person nominated. Mr Harley resisted this practice, citing the Local Government Act, but in the event accepted Mr Ridgwell's advice.
- Council adjourned on two occasions to attempt to obtain the consent of Ms Battista, resulting in a delay of over half an hour to the meeting. During this period Mr Harley again agitated for Ms Battista to be appointed notwithstanding the failure (at that time) to obtain Ms Battista's consent and Mr Ridgwell again restated his advice that Council should not do that.
- After the Lord Mayor asked Ms Moore whether she consented to being nominated, notwithstanding that Ms Moore said that the ELG supported Mr Mianich and Mr Mileham and took the view that there was no need for an Acting CEO, the Lord Mayor nonetheless took that as a "*caveated*" acceptance of the nomination.
- Mr Hasluck (the mover of the original Motion), Ms Barton, Dr Green and Mr Limnios were largely, although not entirely, silent.<sup>124</sup>

175. In the event, Ms Battista was eventually contacted. She then consented to the appointment as Acting CEO and was so appointed. In evidence, Ms Battista denied having aspirations at this time of being CEO and told the Inquiry that by this stage in the City's history she did not want to stay there and that she took on the acting role "*by default*" out of concern for the welfare of her team and because she took the view that the appointment of Ms Moore, who was the other candidate nominated at the SCM, would not have been in the best interests of the City.<sup>125</sup>

#### **What were the motivations of council members at the Special Council Meeting?**

176. The Inquiry finds that:

- the Lord Mayor expressed her support for the decision to enact the CMP;
- Mr Harley and Dr Green supported the Motion, and the appointment of Ms Battista, in part because they did not respect the capacities of Mr Mileham and Mr Mianich as CEO and Acting CEO and may in due course have wanted to replace Mr Mileham with someone else;
- Mr Hasluck supported the Motion, because he did not think Mr Mianich was the appropriate person to "*calm the waters*", he considered Mr Mianich to be obstructive and he thought that Ms Battista was better suited to that role;<sup>126</sup>
- Mr Limnios supported the Motion, because he did not want Council to be told what to do in respect of the appointment of an Acting CEO and he thought others, including Ms Battista, were more capable of filling the role of Acting CEO; and

- Ms Barton supported the Motion, because she had identified that Council required or needed to retain its power to appoint who it decided was the best or most appropriate person to be CEO or Acting CEO.<sup>127</sup>

177. Further support for the first two of these findings is found in the events that took place after the SCM.
178. In relation to the first finding, following the SCM the Lord Mayor gave a statement to the media, which statement appears to have been prepared in the first instance for the purposes of being read at the SCM.
179. In that statement, Ms Scaffidi expressed the view that the Motion *“usurped what would be a simple administrative matter namely allowing good people who the City employs to run its administration to determine the best and most appropriate person to fill in for an employee who is away for less than four weeks”*.
180. The Lord Mayor also said:  
*“Tonight’s resolution may well aggravate the already difficult and disappointing position in which the City finds itself in this regard I would’ve hoped there would have been consideration to defer the matter this evening in view of the fact we had enacted the Crisis Management Plan”*.<sup>128</sup>
181. The Inquiry finds that this conduct supports the finding that the Lord Mayor supported, after the event (as there is no evidence that the Lord Mayor knew of any proposal to enact the CMP before the decision to do so was made), the decision to enact the CMP and to defer the SCM and the proposals in the Motion.
182. In relation to the finding as to the potential motivation of Mr Harley and Dr Green in advancing the Motion, it is relevant to note the conduct of Dr Green on the morning of 28 February 2018, where Dr Green emailed the Department, informed it that Council was considering scheduling a SCM for 5 March 2018, to suspend Mr Mileham, and asked whether the agenda for the meeting could be kept generic so as not disclose that fact.<sup>129</sup>
183. In the event, that meeting did not take place, because the Minister suspended the Council on 2 March 2018.

## Conclusion

184. Having regard to the foregoing, the Inquiry finds that the relationships between the council members of the City and its executive administration staff had, by 27 February 2018, deteriorated to such an extent as to render the proper and effective good government of the City extremely difficult, and perhaps impossible.
185. At least three of the members of the *“new majority”* on Council had little confidence in Mr Mileham and Mr Mianich as CEO and Acting CEO. There was a strong preference among the new majority for Ms Battista to assume, at least in the interim, the role of Acting CEO.

186. It seems the ELG also had limited confidence in the Council. Moves had been afoot since at least 7 December 2017, and were formalised in a confidential letter on 12 February 2018 to the Department, to have the State Government intervene. The preferred intervention of the ELG was, the Inquiry finds, the suspension of the Council by the Minister. When the Motion arrived in Mr Mianich's inbox on 24 February 2018, the ELG was immediately concerned about victimisation, leading even Mr Ridgwell, who had previously advised against encouraging the suspension of Council, to accept that by that stage the *"relationship had deteriorated so much that I didn't see a real viable way that the City could recover its relationship ..."*<sup>130</sup>
187. The activation of the CMP, which was in the Inquiry's view unnecessary, was likely a step taken by the ELG to, among other things, attempt to maintain control of the City against what it saw as an incursion into the administrative arena by the Council through the Motion to be considered at the Special Council Meeting that day. That the Motion was considered necessary, and that the CMP was activated in the circumstances in which it was, speaks volumes about the distrust between the ELG and the Council and the absence of any useful working relationship between them.
188. Relationships between the council members had also frayed to a point where professional working relationships appeared impossible to maintain. This was probably exacerbated by the return to the City, on 8 January 2018, of the Lord Mayor who found that there was, as some members candidly accepted during examination, a *"new majority"* on Council.
189. An example of the frayed nature of the relationships at Council level is the complete failure of any of the new majority to seek the views of the Lord Mayor on the Motion, notwithstanding the close working relationship the Lord Mayor would have with any replacement CEO. The audio recording of the SCM, played in part at a hearing of the Inquiry, demonstrates the palpable intensity of the debate, and an obvious schism between the new majority on the one hand, and the Lord Mayor and those generally aligned with her on the other hand.
190. At the same time, and as described elsewhere in this report, the ELG was internally fractured, with effective communication and mutual trust having broken down.<sup>131</sup> It is apparent that Ms Battista was having conversations with the Department and, at least, Dr Green, to which the other members of the ELG were not directly privy. Ms Barrenger, in evidence, explained how she had concerns that Ms Battista was undertaking her *"own plan"* without regard to the rest of the ELG. The effective exclusion of Ms Battista and her deputy, Ms Brandon, from the special ELG meeting held on 27 February 2018 was symptomatic of the fractured nature of the ELG.
191. By 27 February 2018, the City's governing bodies, the ELG and the Council, were dysfunctional to such an extent, both among and between themselves, that the good governance of the City was imperilled, if not significantly damaged. In the absence of relationships of trust and confidence between and among the ELG and the Council, it was impossible for the City and its constituent organs to properly, professionally and effectively meet their obligations under the Local Government Act, the *City of Perth Act 2016* and to the City's ratepayers.

## Findings

### Finding 2.4.1 – 1

The Inquiry finds that the council members who called the SCM were, as at least from the return to the City of the Lord Mayor on 8 January 2018, a “*new majority*” on Council.

### Finding 2.4.1 – 2

The Inquiry finds the new majority was motivated to call the SCM and move the Motion for various reasons including:

- i. In the case of Dr Green and Mr Harley, because of their disappointment in and frustration with Mr Mileham and Mr Mianich, including in respect of complaints lodged by Mr Mianich with the LGSP on 22 February 2018. Complaints which Dr Green and Mr Harley saw as symptomatic of underlying problems with Mr Mianich’s conduct and performance as Acting CEO. The Inquiry notes that there is insufficient evidence to suggest the Motion was motivated by a desire for retribution.
- ii. In the case of Mr Hasluck, because he considered Mr Mianich to be obstructive and not the appropriate person to “*calm the waters*” which, at the time, were turbulent.
- iii. In the case of Mr Limnios, because he did not want Council to be dictated to in relation to Council’s choice as to who should be Acting CEO.
- iv. In the case of Ms Barton, because she had identified that Council required or needed to retain its power to appoint who it decided was the best or most appropriate person to be CEO or Acting CEO.
- v. In the case of all of the new majority, because they:
  - preferred Ms Battista to Mr Mianich as Acting CEO, particularly if the substantive CEO, Mr Mileham, were to remain absent from the City for a prolonged period; and
  - may have considered it would demonstrate to the Minister that the Council, or at least the new majority, were in control of the City, thus removing the need for the Minister to suspend the Council.

### Finding 2.4.1 – 3

The Inquiry finds the CMP was enacted, and a Priority 1 crisis was declared:

- i. contrary to the CMP, the terms of which did not support the declaration of a Priority 1 crisis in the circumstances in which the ELG found itself on 27 February 2018;
- ii. to delay or defer the SCM;
- iii. to prevent the appointment of anyone, including specifically in the events as they unfolded, Ms Battista, to the role of Acting CEO; and
- iv. possibly to provoke or encourage the Minister to suspend the Council.

**Finding 2.4.1 – 4**

The Inquiry finds the Lord Mayor supported, after the event, the decision to enact the CMP.

**Finding 2.4.1 – 5**

The Inquiry finds that by 27 February 2018, there had been a breakdown in the relationships among the:

- i. council members themselves;
- ii. members of the ELG; and
- iii. council members and the ELG,

such that the City was in a state of dysfunction which imperilled, and significantly damaged, good governance.

## ‘Project Percy’

### Introduction

1. Project Percy was an investigation undertaken by law firm Herbert Smith Freehills (HSF) in late 2017 and early 2018 into allegations that the Lord Mayor, Ms Lisa Scaffidi, and the Chief Executive Officer (CEO) Mr Martin Mileham had, in mid-2017, offered a bribe to a property developer, Mr Adrian Fini.
2. The investigation culminated in the provision of some advice, known as the Project Percy report (Report), which was provided to the City of Perth (City) by HSF on 29 January 2019.<sup>132</sup> In it, HSF concluded that there were no *“reasonable grounds to suspect serious or minor misconduct may have occurred”*, that *“HSF have not identified any other evidence of possible serious or minor misconduct”* and that the City’s *“principal officer [had] no obligation to report the matter to”* the Corruption and Crime Commission (CCC).

### Issues considered by the Inquiry

3. The Inquiry’s interest in Project Percy is not in whether or not the allegations were made out. Rather, consistently with A.3(ii) and A.3(iii) of the Inquiry’s Terms of Reference. The Inquiry considered:

- the involvement of Deputy Lord Mayor Dr Jemma Green in the project and whether, in being involved, she breached certain obligations imposed on council members by the *Local Government Act 1995* (LG Act) and the *Local Government (Rules of Conduct) Regulations 2007* (Conduct Regulations);
- whether Manager, Governance, Mr Mark Ridgwell, acted reasonably in continuing to engage HSF when, between 19 and 22 December 2017, he had the opportunity to bring that engagement to an end; and
- what light, if any, the circumstances surrounding Project Percy shed on relationships at the City in February 2018.

## Investigation by the Inquiry

### Witnesses

4. The Inquiry interviewed, and held private and public hearings, involving a number of people in the course of investigating this Section:

- Deputy Lord Mayor Dr Green presented as a considered witness, whose evidence gave important context to the events surrounding and involving Project Percy. Her recollection was good and her evidence was thoughtfully given and generally supported by contemporaneous documents.
- Lord Mayor Ms Scaffidi was a relatively minor witness in respect of this topic. Though she was not involved in Project Percy, she was the subject of some of the investigations conducted and her evidence was to the effect that the matter upset her.
- Mr Mileham, CEO. Similarly to Ms Scaffidi, Mr Mileham was not involved in Project Percy, although he was subject to its investigation. He gave evidence about the impact Project Percy had on him and how it contributed to him taking medical leave in February 2018.
- Mr Ridgwell, Manager, Governance for the City, presented as an honest witness. He was involved in the initial engagement of HSF in October and November 2017 and its continued engagement through December 2017 and January 2018.

## Evidence obtained by the Inquiry

### Herbert Smith Freehills are engaged by the City of Perth to provide Dr Jemma Green with advice

5. On 24 October 2017, Dr Green was appointed Deputy Lord Mayor.
6. On her appointment to that role and owing to the absence from the City of the Lord Mayor, Dr Green was automatically empowered to perform the functions of the Lord Mayor pursuant to section 5.34 of the LG Act.
7. On or about 27 October 2017, Dr Green asked Mr Mileham who she could speak to about obtaining some advice on her roles and responsibilities as Deputy Lord Mayor.<sup>133</sup> Mr Mileham involved Mr Ridgwell, following which Dr Green and Mr Ridgwell liaised about the engagement of solicitors.<sup>134</sup>
8. In the course of that liaison, Dr Green and Mr Ridgwell exchanged emails, including one in which Mr Ridgwell recommended HSF, noting that *“They are expensive (hence deferring to others), but we are talking about a time limited advice”*.<sup>135</sup>

9. Dr Green treated the matter with a high level of sensitivity. She was concerned to use solicitors who did not have a current commercial relationship with the City and chose not to disclose to Mr Ridgwell the detail of the advice she would be seeking. This latter choice was made, because Mr Ridgwell's reporting line was directly to Mr Mileham, the person in relation to whom Dr Green was seeking advice.<sup>136</sup>
10. Mr Ridgwell was cognisant of the sensitivity with which Dr Green treated the matter and her desire to keep it confidential. Consistently with this, in an email to Dr Green dated 6 November 2017, Mr Ridgwell wrote (among other things):

*"I have stated that the contents of these discussions are highly confidential to both yourself and [HSF]. However a strictly confidential summary needs to be provided to the City of Perth for record keeping purposes. The contents of this advice will be limited to myself alone, should you wish for it to be an alternate (Robert Mianich) then please advise".*
11. In that same email, Mr Ridgwell asked Dr Green to keep him *"in the loop as to what stage of the advice you are at so that Purchase Orders and Payment etc. can be arranged"*.<sup>137</sup>
12. Dr Green responded a few minutes later to say *"Thanks Mark I will keep you posted"*. In examination, Dr Green accepted that by this comment she was telling Mr Ridgwell that she agreed to the process set out in his email and was agreeing to keep him in the loop.<sup>138</sup>
13. On 8 November 2017, a purchase order in favour of HSF was raised. It described the services purchased as *"discussions with DLM"* and was for an amount of \$2,000.00 inclusive of GST.

#### **Dr Jemma Green meets with Herbert Smith Freehills**

14. On 9 November 2017,<sup>139</sup> Dr Green had her first meeting with representatives from HSF.
15. There are no contemporaneous notes of what happened at that meeting and at least three slightly differing accounts exist.
16. The first account is described by HSF under the heading *"Background"* in a document called an *"Investigation Plan"*, dated 14 November 2017 (First HSF Account):

*"Herbert Smith Freehills (HSF) met with the City of Perth's Acting Lord Mayor Jemma Green on 9 November 2017. Cr Green instructed HSF that she has received information from Adrian Fini, Director of FJM Property, about the City's Chief Executive Officer, Martin Mileham. In short, Mr Fini, a property developer, alleges that Mr Mileham attempted to bribe him.*

*Cr Green has instructed HSF to investigate Mr Fini's allegations and to advise the City about its response to the allegations"*.<sup>140</sup>

17. The second account is the description given under the heading “*Introduction and scope*” by HSF in the written advice delivered by HSF to the City on 29 January 2018 (Second HSF Account):
 

*“On 9 November 2017, HSF met with the City of Perth’s (then) Acting Lord Mayor Jemma Green. Cr Green instructed HSF that Mr Adrian Fini, Director of FJM Property, had provided information to her about alleged possible misconduct by the City’s CEO, Martin Mileham, arising out of an alleged meeting between Mr Fini and Mr Mileham. Cr Green requested HSF’s advice about how to respond to the receipt of this information”.*<sup>141</sup>
18. The Second HSF Account is somewhat different from the First HSF Account, because it does not refer to Dr Green instructing HSF to investigate Mr Adrian Fini’s allegation.
19. The third account is Dr Green’s (Dr Green’s Account), given orally at a public hearing of the Inquiry. Dr Green’s Account was to the following effect:
  - Dr Green and HSF “*certainly discussed the issue that I brought to their attention and they said that they needed information to provide any initial views or a considered view*”.
  - Dr Green undertook to obtain that information.
  - HSF said that they would write something up for Dr Green to help her to obtain that information, which was to be obtained by Dr Green having a conversation with Mr Fini.
  - HSF did not, to Dr Green’s recollection, provide her at that meeting any indication at all, or a general summary, of her reporting obligations.
  - HSF told Dr Green that she should not be frivolous in making reports to the CCC and that she should exercise care and diligence in ascertaining whether that was an appropriate course of action.
  - HSF told Dr Green that HSF would like to speak to people within the administration at the City to find out more information about the matter.
  - A shared view was reached that someone from Human Resources, rather than Mr Ridgwell (whose reporting line was to Mr Mileham) was, given the sensitivity and need for confidentiality, the more appropriate contact for HSF within the administration.
  - HSF asked Dr Green to put HSF in touch with Human Resources.<sup>142</sup>
20. When asked whether she considered that would constitute being involved in the administration of the City, Dr Green said “*I did not think that facilitating an introduction between someone in Administration and a third party would constitute adding to the administrative burden in the sense defined in the [LG] Act, no*”.<sup>143</sup>

21. When asked whether she considered HSF's request that she obtain further information, including by speaking to Mr Fini, to be a request beyond the scope of the *"time limited advice"* arranged for her by Mr Ridgwell, Dr Green, who had never seen the purchase order, said she did consider that, but did not consider it beyond scope as she *"took it as given that to be able to provide me any advice on this, that they may need some information"*.<sup>144</sup>
22. Dr Green was also taken to the First HSF Account in the course of her examination. She said she did not, as at November 2017, have an understanding of what the phrase *"instructed"* meant in a legal context. She also said she did not respond to HSF to quibble with any of the language in the Investigation Plan, because she did not think there was anything with which to quibble.<sup>145</sup>
23. In view of this evidence, the First HSF Account, the Second HSF Account and Dr Green's Account can be reconciled if HSF's reference to being *"instructed"* to investigate Mr Fini's allegation is understood as Dr Green agreeing with, or acquiescing or acting in reliance on, a course of action proposed by HSF about how to deal with Mr Fini's allegation.

#### **Mr Mark Ridgwell follows up with Herbert Smith Freehills, and is avoided**

24. At 9:06 am on 13 November 2017, Mr Ridgwell emailed HSF to say that he had spoken with Dr Green who had advised him that HSF had *"provided the necessary advice on Friday"*. Consistently with what Mr Ridgwell had told Dr Green was the City's usual process, Mr Ridgwell requested from HSF a summary of the advice for the City's record-keeping.<sup>146</sup>
25. On this point, Mr Ridgwell's evidence before the Inquiry was consistent. In respect of any communication had with Dr Green following her meeting with HSF, Mr Ridgwell said that he *"potentially"* had a call with Dr Green following that meeting and that he recalled her seeming *"very happy, very pleased, seemed very positive and reassuring to me"*.
26. When asked whether Dr Green had indicated to him that the matter had been resolved, Mr Ridgwell said:  
*"I got the impression that was it and that was the conclusion of it, because that was all that we had agreed to being the case, one meeting plus a phone call. So I just said, 'Has that happened' and the answer was, 'Yes.' At that part, I would have expected if there was some further thing, that I would be asked, 'Well, I need to liaise – put more requests in for more advice', I would have thought to would come through here"*.<sup>147</sup>
27. Dr Green, when asked, said she recalled speaking to Mr Ridgwell at the City's Christmas Party (which in that year was held on 15 December) and telling him that she had not yet received the advice she was seeking from HSF. She denied telling Mr Ridgwell that she had received the advice and was happy with it. She said she did not receive any advice until the Report was provided to her in February 2018.<sup>148</sup>

28. In view of Mr Ridgwell's near contemporaneous email dated 13 November 2017, the Inquiry finds that Mr Ridgwell and Dr Green had at least one conversation between when Dr Green met with HSF on 9 November 2017 and when he sent the email to HSF. The Inquiry also finds that Mr Ridgwell formed the view, based on that conversation, that Dr Green had received advice from HSF and was happy with it. The Inquiry is unable, however, to make any finding as to precisely what was conveyed to Mr Ridgwell by Dr Green.
29. Despite numerous attempts, and despite Mr Ridgwell being the officer within the administration of the City who engaged HSF, Mr Ridgwell did not receive a response to:
  - his email to HSF dated 13 November 2017;<sup>149</sup>
  - a phone call he made to HSF in the week commencing 20 November 2017;<sup>150</sup>
  - his follow up email to HSF on 27 November 2017;<sup>151</sup>
  - his further follow up email to HSF on 29 November 2017 (and possibly an additional call made about this time);<sup>152</sup> or
  - a further follow up email he sent to HSF on 13 December 2017.<sup>153</sup>
30. Mr Ridgwell also instructed another law firm to contact HSF on behalf of the City on 14 December 2017,<sup>154</sup> which it did,<sup>155</sup> but to which it received no response that day to its call or email (though one was received the following afternoon).<sup>156</sup>
31. HSF contacted Mr Ridgwell on 15 December 2017.<sup>157</sup>
32. Mr Ridgwell's diary for that day records three relevant events.<sup>158</sup>
33. First, that at about noon, he had an in-person meeting with Ms Alison Egan, Human Resources Manager. Mr Ridgwell's notes of that meeting record:
  - Ms Egan and Ms Barbara Moyser had been liaising with HSF and Dr Green, including at a meeting earlier that day which was attended by "*all parties*";
  - the allegations being considered were allegations of bribery;
  - Mr Ridgwell had not been included in discussions due to his "*close role with*" Mr Mileham; and
  - Ms Egan and Ms Moyser were not comfortable and that the matter was being re-assigned to Mr Ridgwell.
34. Secondly, at about 1.45 pm, Mr Ridgwell told Mr Mileham that he had spoken with someone regarding the "*Freehills/DLM advice*", that he was undertaking responsibilities relevant to his role and for Mr Mileham to leave the matter with him to handle. He did this he said, because Mr Mileham had asked him to follow up on the status of the advice.<sup>159</sup> Mr Mileham's evidence on this point was that he did not want to see the advice, he just wanted to know that it had been given.<sup>160</sup>
35. Thirdly, at about 2.15 pm, Mr Ridgwell received a call from HSF, during which representatives from HSF conceded that they had been avoiding him (a fact confirmed by HSF's internal records), but that they had realised that Mr Ridgwell was required for the process in which they were engaged.<sup>161</sup> A meeting was then held between HSF and Mr Ridgwell, at HSF's offices, on 19 December 2017.<sup>162</sup>

### Investigation plan is prepared and issued

36. In the meantime, while Mr Ridgwell was attempting to obtain an update from HSF, a number of things happened.
37. First, on 14 November 2017, HSF issued to Dr Green (to a private, non-City email address)<sup>163</sup> an “*Investigation Plan*”.<sup>164</sup> Dr Green was asked about the use of non-City email accounts in connection with Project Percy. She said it was adopted because she had concerns that City emails were being monitored.<sup>165</sup>
38. The Investigation Plan is a short document setting out the steps HSF proposed to take, or have Dr Green or others within the City take, in conducting an investigation into Mr Fini’s allegation.
39. Consistently with Dr Green’s Account, the plan contains, among other things:
  - as an attachment, a script for a telephone call between Dr Green and Mr Fini;
  - a note that Dr Green would explore the possibility of engaging with the Human Resources Manager in order to form a team to coordinate the investigation;
  - advice to the effect that whilst a City based team would need to be assembled to coordinate the investigation, “*the team should also not include anyone who has a close relationship with the CEO*”; and
  - commentary to the effect that HSF had not yet formed a view about whether or not Dr Green had a reporting obligation.<sup>166</sup>
40. HSF’s advice that the team should not include anyone with a close relationship to Mr Mileham, in effect if not in its terms, implied the exclusion from the team of both Mr Ridgwell and Mr Robert Mianich (the alternate contact proposed by Mr Ridgwell in his email to Dr Green on 6 November 2017), both of whom reported to Mr Mileham.
41. That advice placed Dr Green in an unenviable position. On the one hand, she had told Mr Ridgwell that she would “*keep him in the loop*” about the matter, while on the other she was being advised by HSF to, in effect, not do so.
42. In those circumstances, the Inquiry asks, rhetorically, *what was Dr Green to do?*
43. One view may be that Dr Green should have simply reported the allegation of misconduct to the CCC and left it to that agency to consider. There is merit in that view. It would have been an appropriate way for Dr Green to proceed at the time she became aware of the allegation. It was an avenue that, as the City of Perth Council (Council) Policy Manual makes clear, was open to her.
44. However, there is nothing unreasonable about Dr Green seeking legal advice on her obligations before reporting the matter to an external agency like the CCC, particularly when it is remembered that she had only recently assumed the functions of Deputy Lord Mayor and Lord Mayor at the Council Meeting on 24 October 2017. Indeed, the Inquiry finds it was a reasonable and prudent thing for her to do.
45. Having taken that step, and received the advice, it was reasonable for her follow it. That does not constitute, in the Inquiry’s view, a breach of Dr Green’s obligations under the LG Act or the Conduct Regulations.

**Did Dr Jemma Green involve herself in the Administration of the City of Perth, or direct its staff?**

46. The second thing which happened while Mr Ridgwell was trying to get an update on the matter from HSF, was that Dr Green, consistently with Dr Green's Account and the Investigation Plan, took steps to introduce Human Resources staff to HSF.
47. Ms Moyser, Senior Employee Relations Advisor, was the primary contact for HSF. As recorded in a file note prepared by Ms Moyser on 13 February 2018, that contact was facilitated through Dr Green and the City's Human Resources Manager, Ms Kelly Pember. According to Ms Moyser's file note, she became involved, because Ms Pember was at about that time leaving the City. Ms Moyser then, with Dr Green's knowledge, later involved Ms Egan.<sup>167</sup>
48. The facilitation of that introduction by Dr Green raises for the Inquiry's consideration whether Dr Green involved herself in the administration of the City, or directed employees of the City, contrary to the LG Act and Conduct Regulations.
49. In this respect, regulation 9(1) of the Conduct Regulations provides:

*"A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task".*

50. As to directing employees, regulation 10(1)(a) provides:

*"(1) A person who is a council member must not –  
 (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; ... "*

51. On 28 November 2017, following a conversation with a partner at the firm, Dr Green wrote to HSF in terms including the following:  
*"Good to chat just now. I would like to introduce you to Barbara Moyser, Senior Employee Relations Advisor at the City of Perth. I have included her personal email here and will leave it to her discretion to determine how best to communicate with you going forward. Barbara is keen to talk with you. Her personal mobile number is [redacted]. Barbara is looking into whether the City has the capability to image text messages. She will revert. You can also liaise with Barbara going forward regarding the contract between the City of Perth and HSF".*<sup>168</sup>
52. As noted, Dr Green did not consider this introduction contravened her obligations under the LG Act or Conduct Regulations.

53. The Inquiry agrees. Having received advice from HSF that someone within the City, preferably within Human Resources, should be HSF's point of contact, it was inevitable that Dr Green would have to take *some* step to introduce the two. In the Inquiry's view, taking that step does not constitute the undertaking of "*a task that contributes to the administration of the local government*".<sup>169</sup> On the contrary, it appears to the Inquiry that it was a step taken by Dr Green to avoid her having to undertake administrative tasks such as arranging for emails to be reviewed, instructing information technology officers, or authorising payments.
54. As to whether Dr Green directed Ms Moyser, contrary to regulation 10(1)(a) of the Conduct Regulations, the Inquiry finds Dr Green did not contravene that provision.
55. Ms Moyser's file note indicates that she was asked by Ms Pember to speak with Dr Green, and she was happy to do so.<sup>170</sup> Ms Moyser's note then records:

*"Approximately a week later, I was contacted by Ms Green and I recall we spoke about the following:*

  - *Ms Green had engaged a legal firm to investigate a matter that had been brought to her attention involving Ms Lisa Scaffidi, Lord Mayor.*
  - *Ms Green indicated that the legal firm needed to contact someone within the City of Perth to assist in providing information as part of the investigation.*
  - *Ms Green also indicated the law firm would require authorisation from the City of Perth in terms of payment for legal costs.*
  - *Ms Green asked if she could provide my details to the law firm".*
56. Nothing in that excerpt indicates that Dr Green directed Ms Moyser to do anything.
57. Dr Green was examined on whether, in her view, she had directed Ms Moyser or whether she considered Ms Moyser might have interpreted their interaction as including a direction. Dr Green denied both suggestions, indicating instead (consistently with Ms Moyser's file note) that she had asked Ms Moyser whether she would speak with HSF and Ms Moyser indicated she would.<sup>171</sup>

#### **Did Dr Jemma Green instruct Herbert Smith Freehills to investigate Lord Mayor Ms Lisa Scaffidi?**

58. The third thing that happened during the period in which Mr Ridgwell was attempting to obtain an update from HSF was that the Project Percy investigation expanded.
59. While, initially, it had been focussed on an allegation concerning Mr Mileham, on about 28 November 2017 the ambit widened to include an allegation concerning the Lord Mayor.
60. In the Report, HSF explain:

*"On 28 November 2017, Cr Green instructed HSF about a further conversation between herself and Mr Fini. In that conversation, Mr Fini provided further information about alleged possible misconduct by the Lord Mayor, Lisa Scaffidi, arising out of a meeting between Mr Fini and the Lord Mayor on 29 August 2017".*<sup>172</sup>

61. Dr Green was examined about this. When questioned if she asked HSF to consider whether or not the further information conveyed to her by Mr Fini would constitute misconduct, Dr Green said, “*I did not*”. When asked whether, to her recollection, HSF said they were also going to look into this allegation, Dr Green said no. Dr Green confirmed that her recollection was that she only requested advice in relation to Mr Mileham.<sup>173</sup>
62. There are no contemporaneous records of Dr Green’s “*instruction*” to HSF on 28 November 2017, although there is a short note of a conversation between HSF and Dr Green on that date which records a reference to the Lord Mayor.<sup>174</sup> Furthermore, there is a file note of a conversation between Dr Green and HSF from 5 December 2017, in which the involvement of the Lord Mayor is addressed.<sup>175</sup>
63. In view of the state of the evidence, the Inquiry finds that while Dr Green was aware that, at 5 December 2017, HSF was considering the allegation in respect of the Lord Mayor, and took no steps to prevent that, there is no evidence to indicate that she instructed, in the sense of an active direction or request, HSF to investigate that allegation.

**Should Mr Mark Ridgwell have confirmed and extended Herbert Smith Freehills’s engagement?**

64. Following his meeting with Ms Egan and his separate telephone call with HSF on 15 December 2017, Mr Ridgwell was brought into the fold.
65. On 19 December 2017, Mr Ridgwell met with HSF. An action arising from the meeting was that Mr Ridgwell was to provide Ms Scaffidi and Mr Mileham’s emails to HSF, a task previously slated to be completed by Human Resources staff.<sup>176</sup> It is implicit that in undertaking to carry out that task, Mr Ridgwell approved of HSF’s ongoing involvement.
66. On 21 December 2017, that approval was formalised in an exchange of emails, including where HSF indicated to Mr Ridgwell that their accrued work in progress stood at \$22,000.00, that a certain additional sum was required for document management processes and where Mr Ridgwell indicated he was happy to proceed.<sup>177</sup> On 28 December 2017, Mr Ridgwell returned to HSF a signed terms of engagement.<sup>178</sup>
67. In a private examination, Mr Mileham suggested that Mr Ridgwell had displayed poor judgement in continuing to engage HSF in relation to this matter. Mr Mileham’s view was that Mr Ridgwell should have, or could have, terminated the engagement and sought other advice or referred the matter to the CCC or the Public Sector Commission.
68. Mr Mileham did not accept, when it was suggested to him, that another option available to Mr Ridgwell was that it would only be fair to him (Mr Mileham) and to Dr Green to see the investigation through to its conclusion so that everybody could see that a process was followed.<sup>179</sup>
69. Mr Ridgwell was examined about this. He said that the options that he considered at the time were either to continue the engagement of HSF “*to close out the investigation*”, or alternatively to immediately “*close out this investigation*” on the basis of HSF’s preliminary view that the allegation did not rise to the level of “*reasonable suspicion*” required to trigger a reporting obligation.

70. Mr Ridgwell explained that he determined that the alternative:
- “was not the best approach because of the fact there were two elements to it all and when someone gets accused of something, the matter should be concluded so that they can be either – it could go to the next escalation to an agency or it is that the matters are actually resolved and considered”.*
71. Mr Ridgwell added:
- “In respect to Deputy Lord Mayor Green if I had stopped the investigation at this point in time, that would not have been appropriate either. I felt in a compromised position”.*
72. When asked to clarify this comment, Mr Ridgwell explained:
- “Because there were reservations that I understood from the discussions with HSF, was that I was close to the Chief Executive Officer. So to close off an investigation before its conclusion just simply wasn’t appropriate”.*
73. Mr Ridgwell also explained that the advice he received from HSF was to continue with and close out the investigation, which is why he did so.<sup>180</sup>
74. The Inquiry does not fault Mr Ridgwell. He was placed in a difficult position of having to take conduct on behalf of the City, and make decisions about the future, of a half completed investigation into serious allegations concerning the City’s CEO and Lord Mayor. Mr Ridgwell was plainly alive to the difficult position in which he found himself. He acted in the best interests of the City and sought to facilitate rather than impede the investigation which had been commenced. It was proper for him to do so.

**Did Dr Gemma Green seek advice for any reason other than to understand her obligations?**

75. In his examination, Mr Mileham said that he felt surprised, dismayed, betrayed and sick when he learned of the Report. Mr Mileham was asked whether he felt undermined or attacked, but he did not adopt that language. Rather, Mr Mileham said he could not understand the motivation for the investigation, particularly because shortly after Dr Green was elevated to Deputy Lord Mayor (and Acting Lord Mayor) they spoke and agreed to *“work closely to make things happen”*.<sup>181</sup> The Inquiry accepts that the delivery of the Report had an impact on Mr Mileham, that he considered it a breakdown in his relationship with Dr Green and that it was a factor in his taking of medical leave in mid-February 2018.
76. The apparent disjunct between Dr Green’s and Mr Mileham’s mutual representations of co-operation, and the investigation that led to the Report, was a theme explored in examination of Dr Green by Mr Mileham’s counsel. Dr Green agreed that following her appointment as Deputy Lord Mayor she:
- “... as the newly minted Deputy Lord Mayor shook [Mr Mileham’s] hand and said words to the effect that although you’ve had your differences, you looked forward to working cooperatively with him in the best interests of the City”.*<sup>182</sup>

77. Dr Green was then asked how she thought this could be achieved after the Report had been delivered.
78. Dr Green plainly perceived an implied suggestion in that question that she took part in Project Percy in order to “go after” Mr Mileham, because in response Dr Green said, among other things:
- “What I said to Mr Mileham on that day, and I think it was even reiterated in the meeting that I had with him on the 6th that was documented in a file note by Mr Ridgwell where I said that I wanted to work collaboratively with Mr Mileham, was my true intention. So what happened with the Project Percy, I wasn’t going after Mr Mileham in relation to that report, I just was genuinely trying to get advice about the reporting obligations that I had to discharge”.*<sup>183</sup>
79. To the extent that there is a suggestion that Dr Green was involved in Project Percy to undermine, attack or “go after” Mr Mileham, or for some other improper purpose, the Inquiry accepts Dr Green’s evidence to the contrary and accepts that Dr Green was seeking advice for proper reasons. Independent and contemporaneous (albeit hearsay) support for that finding is found in a file note of a meeting with Dr Green (and Ms Egan) taken by a solicitor at HSF on 15 December 2017. In that file note, Dr Green is recorded as commenting “don’t want to go to CCC if I don’t have to”.<sup>184</sup> That would be an odd thing indeed for Dr Green to have remarked were she looking to undermine or otherwise damage Mr Mileham in his office.

### Cost to the City of Perth

80. The HSF Report, and the work that led to it, cost the City \$32,586.41.
81. Following the delivery of the Report, the City engaged Mr Neil Douglas of McLeods, Barristers and Solicitors to undertake a desktop review of “the processes that resulted in the HSF investigation and its report”. The primary focus of the review was “on lessons for the future that can be taken from the way that this matter has been handled”.<sup>185</sup>
82. Mr Douglas delivered his report (Douglas Report)<sup>186</sup> to the City on 27 February 2018, which was, coincidentally, the day that the Executive Leadership Group enacted the Crisis Management Plan and the Council appointed Ms Annaliese Battista to the role of Acting CEO.
83. Essentially, the Douglas Report concluded that Dr Green did not have the authority or power to engage HSF to undertake the investigation, and the investigation was unnecessary as Dr Green should have reported the allegations to the CCC.
84. As explained in the Douglas Report, the engagement and ongoing instruction of McLeods was undertaken by Mr Mianich and Mr Ridgwell at Mr Mileham’s request, shortly after the receipt by the City of the HSF Report.

85. In full, Mr Mileham's request, made by email with the subject line "Project Percy", was as follows:

*"I confirm our discussion re the above and my advice to you that, pursuant to a discussion I have had with Neil Douglas of McLeod's, I ask that you take carriage of liaising with Neil in respect to 'getting to the bottom of' what went on here and advising me so that I may appropriately advise Council. I ask this as I wish to preserve my separation from the matter until such time as I have received further advice from Neil and/or yourself as to next steps".<sup>187</sup>*
86. While it might at first blush seem odd that Mr Mileham, who had been the subject of the Report, requested a review of the processes that led to it, the Inquiry has not received any evidence that the request was anything but proper. It is apparent from the email above that Mr Mileham made that request having taken advice from Mr Douglas. Further, when the matter is viewed from the perspective of Mr Mileham, Mr Mianich and Mr Ridgwell as at 12 February 2018, in circumstances where from the initial engagement of HSF until 15 December 2017 Mr Ridgwell was deliberately excluded from the process, and in circumstances where it appeared from the Report that Dr Green may have instructed (as that term is understood by lawyers) HSF, it is understandable that a review was considered appropriate.
87. The Douglas Report, and the work that led to it, cost the City \$33,071.09.
88. On 14 February 2018, Mr Mileham notified the City that he considered the Project Percy investigation constituted a breach of his employment contract. The City, prudently, took advice on that question. That advice cost the City \$7,636.75.
89. The City also incurred a small cost when, Mr Ridgwell engaged a law firm to contact HSF after his repeated attempts were met with silence.
90. All told, Project Percy and its aftermath cost the City approximately \$74,000.00 in direct legal fees. The indirect costs, including for example, the cost of the time spent on the project and its aftermath by Mr Ridgwell and Mr Mianich, have not been quantified. Other unspecified costs were also incurred by the City, Dr Green and Mr Mileham in engaging lawyers to deal with aspects of, and matters relating to, Project Percy and the Douglas Report. For example, Mr Mileham and the City incurred costs in dealing with a workers compensation claim brought by Mr Mileham in connection with Project Percy,<sup>188</sup> and Dr Green incurred costs in engaging lawyers to correspond with Mr Douglas in respect of the Douglas Report.
91. The level of expenditure on the matter is regrettable. In hindsight, had the allegations been immediately referred to the CCC, the amount of funds expended on the issues raised by and arising from the Report would have been much lower. However, having regard to the evidence, the Inquiry makes no negative findings about the steps taken by any of the persons involved in procuring the HSF Report, the Douglas Report or the advice which followed. While reasonable minds may differ, none of the steps were inherently unreasonable.

## Relationships

92. In addition to the direct financial costs, Project Percy and the Douglas Report had a tangible impact on relationships at the City.
93. As described above, Mr Mileham felt betrayed by the process and considered that his employment contract had been breached. That in turn led, in part, to council member Reece Harley forming the view that Mr Mileham was out to “*blow up*” the Council, which was a factor in Mr Harley supporting the motion moved and passed at the Special Council Meeting on 27 February 2018 to amend Council Policy 12.6 and appoint Ms Battista to the role of Acting CEO.<sup>189</sup>
94. Dr Green and the Lord Mayor’s relationship also continued to sour, including as a consequence of a turbulent CEO Performance Review Committee Meeting held on 16 February 2018. Dr Green told the Inquiry she felt ambushed at that meeting and that allegations were made against her by the Lord Mayor and Mr Douglas to the effect that she had conducted an “*unauthorised*” investigation and had been instructing HSF. She felt that the Report was used at that meeting to attack her.<sup>190</sup> The Lord Mayor in turn considered that Dr Green should have declared a conflict of interest at that meeting in respect of a matter (not Project Percy) on the agenda which potentially involved HSF.<sup>191</sup>
95. Dr Green too was aggrieved by the broad circulation of the Report to council members (and others, including Mr Douglas), because she felt that Mr Ridgwell had retreated from the indication in his email of 6 November 2017<sup>192</sup> that the matter would be kept confidential between them (plus, in due course, Mr Mileham).<sup>193</sup>
96. As a consequence of the engagement by the City of McLeods, and as a consequence of Dr Green’s sense of ambush at the meeting on 16 February 2018 and the allegations made against her, Dr Green engaged solicitors. Part of the reason for doing so was to respond to the Douglas Report<sup>194</sup> and also because she was of the view that in order for the Douglas Report to tell the full story of her involvement with HSF, the City and McLeods should view the HSF file. Her solicitors wrote to Mr Douglas asking him to confirm that he would contact HSF to enquire as to for whom they acted.<sup>195</sup> That was not done, presumably because, as the Douglas Report states, a desktop review based on the material supplied to McLeods by the City was considered sufficient for the lessons learned focus of the Douglas Report.<sup>196</sup>
97. At about the same, starting on 17 February 2018<sup>197</sup>, but continuing until after the Council was suspended by the Minister for Local Government, Dr Green requested the City, meet her legal costs of engaging solicitors to deal with matters arising from Project Percy and the Douglas Report.<sup>198</sup> Ultimately, that request was declined, although not before some spirited emails were exchanged by Dr Green and Mr Mianich, which evidence a breakdown in their relationship.<sup>199</sup>
98. With hindsight, much if not all of the time, anguish and cost that resulted from Project Percy and the Douglas Report may have been avoided had the matter been referred to the CCC before HSF were engaged, or had there been a clear process in place for dealing with, including communicating internally about, misconduct allegations relating to the CEO and the engagement of lawyers to provide advice.

## Findings

### Finding 2.4.1 – 6

The Inquiry makes the following findings:

- i. In early November 2017, HSF was engaged by the City, through Mr Ridgwell.
- ii. On 21 December 2017, Mr Ridgwell extended and confirmed that engagement.
- iii. While Mr Ridgwell could theoretically have brought HSF's engagement to an end instead of extending and confirming it, that was not in the circumstances an option realistically available to him and he acted reasonably in reaching the decision he did.
- iv. Dr Green:
  - relied on advice provided to her by HSF;
  - did not, through her involvement in Project Percy, breach the LG Act or the Conduct Regulations;
  - did not seek advice from HSF for any reason other than to understand her roles and responsibilities, including in particular her reporting obligations.
- v. Certain relationships within the City became further frayed in the aftermath of Project Percy in that:
  - the delivery of the Report was a factor in Mr Mileham taking medical leave from the City in mid-February 2018 and he considered it reflective of a breakdown in his relationship with Dr Green;
  - Mr Mileham took the view that the process leading to the Report constituted a breach of his employment contract, prompting to him to engage solicitors to make that claim, which in turn led Mr Harley at least to form the view that Mr Mileham was hostile to the Council;
  - Dr Green felt aggrieved by the manner in which a review into the Report was conducted by an external law firm and felt aggrieved by what she saw as a breach of her confidence by Mr Ridgwell when the Report was circulated to council members; and
  - the relationship between the Lord Mayor and Dr Green soured as a result of events happening at a meeting on 16 February 2018, as did the relationship between Dr Green and Mr Mianich over the course of the next few days as questions about what was said at that meeting and whether certain legal costs of Dr Green's should be met by the City were considered.

## Endnotes

- 1 Transcript, L Scaffidi, public hearing, 19 September 2019, p 98-99.
- 2 Transcript, R Harley, public hearing, 18 September 2019, p 107. Transcript, R Harley, public hearing, 19 September 2019, p 15.
- 3 Transcript, A Barton, public hearing, 19 September 2019, p 55-57.
- 4 Plan, City of Perth, Business Continuity Plan.
- 5 Plan, City of Perth, Crisis Management Plan.
- 6 Document, City of Perth, Crisis and Business Continuity Management Framework.
- 7 Plan, City of Perth, Business Continuity Plan.
- 8 Plan, City of Perth, Business Continuity Plan.
- 9 Transcript, M Mileham, public hearing, 16 September 2019, p 7-8.
- 10 Email, M Mileham to M Ridgwell, 3.59 pm 8 February 2018.
- 11 Transcript, M Mileham, public hearing, 16 September 2019, p 17.
- 12 Transcript, P Crosetta, public hearing, 23 September 2019, p 53-54; Transcript, M Ridgwell, public hearing, 26 September 2019, p 7-8; Transcript, A Battista, private hearing, 28 June 2019, p 26.
- 13 Transcript, E Barrenger, public hearing 18 September 2019, p 9-10.
- 14 Transcript, J Green, public hearing, 20 September 2019, p 85; Transcript, A Battista, private hearing, 28 June 2019, p 26; Transcript, A Battista, private hearing, 4 October 2019, p 17-18.
- 15 Email, M Mileham to L Scaffidi, 8.01 am 14 February 2018.
- 16 Email, R Mianich to J Green, 6.33 pm 23 February 2018.
- 17 Transcript, J Green, public hearing, 23 September 2019, p 17; Transcript, S Hasluck, public hearing, 18 September 2019, p 48; Transcript, R Harley, public hearing, 18 September 2019, p 116; Transcript, A Barton, public hearing, 19 September 2019, p 44.
- 18 Transcript, S Hasluck, public hearing, 18 September 2019, p 74.
- 19 Transcript, S Hasluck, public hearing, 18 September 2019, p 74-75.
- 20 Transcript, R Harley, public hearing, 19 September 2019, p 7.
- 21 Transcript, S Hasluck, public hearing, 18 September 2019, p 63.
- 22 Audio recording, Special Council Meeting, 27 February 2018.
- 23 Transcript, R Mianich, private hearing, 19 July 2019, p 43-44.
- 24 Email, R Mianich to N Douglas, 1.39 pm 25 February 2018.
- 25 Transcript, R Mianich, private hearing, 19 July 2019, p 45, 47.
- 26 Email, M Ridgwell to R Murphy, 9.14 am 26 February 2018.
- 27 Email, M Ridgwell to R Murphy, 3.12 pm 27 February 2018.
- 28 Transcript, M Ridgwell, public hearing, 26 September 2019, p 89-90, 96-97.
- 29 Document, Administration advice RE: motion to change Policy 12.6, 27 February 2018; Transcript, R Harley, public hearing, 19 September 2019, p 11; Transcript, A Barton, public hearing, 19 September 2019, p 58-59.
- 30 Transcript, J Green, public hearing, 23 September 2019, p 14.
- 31 Transcript, J Limnios, private hearing, 1 August 2019, p 43.
- 32 Transcript, J Green, public hearing, 23 September 2019, p 14.
- 33 Transcript, R Harley, public hearing, 18 September 2019, p 98, 110.
- 34 Transcript, J Limnios, private hearing, 1 August 2019, p 41, 45.
- 35 Transcript, R Harley, public hearing, 19 September 2019, p 112.
- 36 Transcript, J Green, public hearing, 23 September 2019, p 16.
- 37 Transcript, J Limnios, private hearing, 1 August 2019, p 53.
- 38 Transcript, A Barton, public hearing, 19 September 2019, p 45.
- 39 Transcript, J Green, public hearing, 23 September 2019, p 19.
- 40 Transcript, S Hasluck, public hearing, 18 September 2019, p 55-56.
- 41 Transcript, S Hasluck, public hearing, 19 September 2019, p 85.
- 42 Transcript, J Green, public hearing, 23 September 2019, p 18.
- 43 Email, R Harley to R Mianich, 12.22 pm 23 February 2018; Email, R Harley to J Limnios J Green A Barton and S Hasluck, 12.25 pm 23 February 2018.
- 44 Email, S Hasluck to R Harley, J Green, J Limnios and A Barton, 9.26 am 24 February 2018.
- 45 Audio recording, Special Council Meeting, 27 February 2018.
- 46 Transcript, S Hasluck, public hearing, 18 September 2019, p 79; Transcript, R Harley, public hearing, 19 September 2019, p 18.
- 47 Transcript, S Hasluck, public hearing, 18 September 2019, p 73, 83.
- 48 Transcript, R Mianich, private hearing, 19 July 2019, p 47, 49.
- 49 Transcript, A Battista, private hearing, 25 June 2019, p 79-80.
- 50 Transcript, R Mianich, private hearing, 19 July 2019, p 47-48.
- 51 Transcript, R Mianich, private hearing, 19 July 2019, p 49.

#### 2.4.1 Events leading to suspension of the Council

- 52 Personal communication, R Mianich to L Scaffidi, 4.45 pm 26 February 2018; forwarded by the Lord Mayor to the council members at 5.24 pm that afternoon; Email, L Scaffidi to councillors, 5.24 pm 26 February 2018.
- 53 Transcript, R Mianich, private hearing, 19 July 2019, p 49.
- 54 Transcript, M Ridgwell, public hearing, 26 September 2019, p 18.
- 55 Transcript, A Battista, private hearing, 25 June 2019, p 75.
- 56 Transcript, A Battista, private hearing, 25 June 2019, p 75.
- 57 Transcript, M Ridgwell, public hearing, 26 September 2019, p 21.
- 58 Transcript, R Moore, private hearing, 22 March 2019, p 26-27.
- 59 Transcript, P Crosetta, public hearing, 23 September 2019, p 60.
- 60 File note (handwritten), E Barrenger, 27 February 2018.
- 61 File note (typed), E Barrenger, 27-28 February 2018.
- 62 Transcript, E Barrenger, public hearing, 16 September 2019, p 74.
- 63 Transcript, M Ridgwell, public hearing, 26 September 2019, p 3.
- 64 Transcript, A Battista, private hearing, 25 June 2019, p 75-76.
- 65 Transcript, A Battista, private hearing, 25 June 2019, p 76; Transcript, E Barrenger, public hearing, 18 September 2019, p 5-6; Transcript, P Crosetta, public hearing, 23 September 2019, p 63; File note, P Crosetta, 7 March 2018; File note, E Barrenger, 27 February 2018.
- 66 Personal communication, A Battista to M Ridgwell, 27 February 2018.
- 67 Transcript, A Battista, private hearing, 25 June 2019, p 77.
- 68 File note (handwritten), E Barrenger, 27 February 2018.
- 69 File note (typed), E Barrenger, 27-28 February 2018.
- 70 File note, R Moore, 27 February 2018; File note, P Crosetta, 7 March 2018 for 26-28 February 2018.
- 71 File note, R Moore, 26 February 2018 – 1 March 2018.
- 72 Transcript, N Douglas, private hearing, 28 March 2019, p 9, 12.
- 73 Transcript, R Moore, private hearing, 22 March 2019, p 28.
- 74 Transcript, M Ridgwell, public hearing, 26 September 2019, p 25.
- 75 File note, R Moore, 26 February 2018 – 1 March 2018.
- 76 Transcript, E Barrenger, public hearing, 16 September 2019, p 73.
- 77 Transcript, P Gale, private hearing, 28 March 2019, p 26-27.
- 78 Transcript, D Ngara, private hearing, 25 March 2019, p 89.
- 79 File note, E Barrenger, 27 February 2018.
- 80 Incident Log, P Gale, 27 February 2018.
- 81 Transcript, E Barrenger, public hearing, 18 September 2019, p 33.
- 82 Transcript, E Barrenger, public hearing, 18 September 2019, p 30, 31.
- 83 Transcript, N Douglas, private hearing, 28 March 2019, p 8, 18-19.
- 84 Email, R Moore to Executive Leadership Group and Ors, 11.04 am 27 February 2018.
- 85 Transcript, P Crosetta, public hearing, 23 September 2019, p 72-73; Transcript, E Barrenger, public hearing, 16 September 2019, p 67-68, 80.
- 86 Transcript, E Barrenger, public hearing, 18 September 2019, p 11.
- 87 File note, R Moore, 27 February 2018.
- 88 File note, R Moore, 26 February 2018 – 1 March 2018.
- 89 Email, R Moore to D Ngara, 1.08 pm 6 March 2018.
- 90 Transcript, R Moore, private hearing, 25 March 2019, p 51.
- 91 Transcript, R Moore, private hearing, 25 March 2019, p 53.
- 92 Transcript, R Moore, private hearing, 25 March 2019, p 57-58.
- 93 Transcript, R Moore, private hearing, 25 March 2019, p 61-62.
- 94 File note, E Barrenger, 27–28 February 2018.
- 95 File note, P Crosetta, 7 March 2018 for 26-28 February 2018.
- 96 Transcript, R Moore, private hearing, 22 March 2019, p 34.
- 97 File note, R Moore, 26 February 2018 – 1 March 2018.
- 98 Transcript, R Moore, private hearing, 22 March 2019, p 36.
- 99 Transcript, R Moore, private hearing, 22 March 2019, p 40.
- 100 Transcript, P Crosetta, public hearing, 23 September 2019, p 81.
- 101 Transcript, M Holland, private hearing, 28 March 2019, p 72-73.
- 102 Report, City of Perth Crisis Communications Team Report, 27 February 2018 at 4pm.
- 103 Transcript, P Crosetta, public hearing, 23 September 2019, p 75-79, 86-87.
- 104 Transcript, M Ridgwell, public hearing, 26 September 2019, p 19, 26.

- 105 Report, Riskwest, Post-incident Desktop Review of Crisis Management Plan Activation, 16 April 2018.
- 106 Transcript, K Seow, private hearing, 26 March 2019, p 103.
- 107 Email, T Obern to all employees, 12.22 pm 27 February 2018.
- 108 Minutes, Crisis Management Team/CICT Meeting/Conference Call, 11.15 am 27 February 2018.
- 109 Minutes, Crisis Management Team/CICT Meeting/Conference Call, 11.15 am 27 February 2018.
- 110 Transcript, P Crosetta, public hearing, 23 September 2019, p 87.
- 111 Email, M Mileham to M Ridgwell and R Moore, 12.59 pm 27 February 2018; Email, R Moore to L Scaffidi and council members, 3.25 pm 27 February 2018.
- 112 Personal communication, R Mianich to various people, 28 February 2018.
- 113 Document, Administration advice RE: motion to change Policy 12.6, 27 February 2018; Memo, R Moore, P Crosetta and E Barranger to L Scaffidi and council members, Enacted Business Continuity Framework, 27 February 2018.
- 114 Minutes, City of Perth, Special Council Meeting, 27 February 2018.
- 115 Transcript, R Moore, private hearing, 22 March 2019, p 50-52.
- 116 Minutes, City of Perth, Special Council Meeting, 27 February 2018.
- 117 Document, Request of the CEO to schedule a Special Council Meeting – Motion, 24 February 2018.
- 118 Email, R Harley to J Limnios and Ors, 1.00 pm on 27 February 2018.
- 119 Email, R Harley to R Moore and Ors, 12.32 pm 27 February 2018.
- 120 Email, R Harley to J Limnios and Ors, 1.00 pm 27 February 2018.
- 121 Document, Request of the CEO to schedule a Special Council Meeting – Motion, 24 February 2018; Email, Amended motion – Acting CEO, S Hasluck to R Moore 3.23 pm 27 February 2018.
- 122 Email, R Harley to R Murphy and J Murphy, 1.23 pm 27 February 2018; Email, R Harley to M Ridgwell, 1.38 pm 27 February 2018.
- 123 Transcript, R Harley, public hearing, 19 September 2019, p 1519.
- 124 Audio recording, Special Council Meeting, 27 February 2018.
- 125 Transcript, A Battista, private hearing, 28 June 2019, p 28.
- 126 Transcript, S Hasluck, public hearing, 18 September 2019, p 54-55, 59.
- 127 Transcript, A Barton, public hearing, 19 September 2019, p 49.
- 128 Report, City of Perth, Crisis Communications Team Report, 9.30 am 28 February 2018.
- 129 Email, J Green to R Murphy, 9.55 am 28 February 2018.
- 130 Transcript, M Ridgwell, public hearing, 26 September 2019, p 11.
- 131 By way of further example: Email, A Battista to J Green, 2.15 pm 27 February 2018.
- 132 Email, Herbert Smith Freehills to M Ridgwell, 9.21 am 29 January 2018 attaching Project Percy Advice.
- 133 Transcript, J Green, public hearing, 20 September 2019, p 35; Transcript, M Ridgwell, private hearing, 25 July 2019, p 75.
- 134 Transcript, J Green, public hearing, 20 September 2019, p 36-37; Email, J Green and M Ridgwell, 27 October 2017.
- 135 Email, M Ridgwell to J Green, 12.08 am 27 October 2017.
- 136 Transcript, J Green, public hearing, 20 September 2019, p 37.
- 137 Email, M Ridgwell to J Green, 2.24 pm 6 November 2017.
- 138 Transcript, J Green, public hearing, 20 September 2019, p 41.
- 139 Report, Herbert Smith Freehills, Project Percy Advice, 29 January 2018.
- 140 Plan, Herbert Smith Freehills, City of Perth Project Percy Investigation plan, 14 November 2017.
- 141 Report, Herbert Smith Freehills, Project Percy Advice, 29 January 2018.
- 142 Transcript, J Green, public hearing, 20 September 2019, p 42, 44-45, 49-52.
- 143 Transcript, J Green, public hearing, 20 September 2019, p 52.
- 144 Transcript, J Green, public hearing, 20 September 2019, p 43, 53.
- 145 Transcript, J Green, public hearing, 20 September 2019, p 70-71.
- 146 Email, M Ridgwell to Herbert Smith Freehills, 9.06 am 13 November 2017, 12.0489.
- 147 Transcript, M Ridgwell, private hearing, 25 July 2019, p 78-79.
- 148 Transcript, J Green, public hearing, 20 September 2019, p 41-42.
- 149 Email, M Ridgwell to Herbert Smith Freehills, 9.06 am 13 November 2017.
- 150 Email, M Ridgwell to Herbert Smith Freehills, 1.59 pm 27 November 2017.
- 151 Email, M Ridgwell to Herbert Smith Freehills, 1.59 pm 27 November 2017.
- 152 Email, M Ridgwell to Herbert Smith Freehills, 12.03 pm 29 November 2017.
- 153 Email, M Ridgwell to Herbert Smith Freehills, 1.14 pm 13 December 2017.
- 154 Email, M Ridgwell to M Reid, 10.33 am 14 December 2017.
- 155 Email, M Reid to Herbert Smith Freehills, 12.20 pm 14 December 2017.
- 156 Email, M Reid to M Ridgwell, 2.30 pm 15 December 2017.
- 157 Diary, M Ridgwell, 15 December 2017.
- 158 Diary, M Ridgwell, 15 December 2017.

## 2.4.1 Events leading to suspension of the Council

- 159 Emails, M Ridgwell and M Mileham, 12–14 December 2017.
- 160 Transcript, M Mileham, private hearing, 30 July 2019, p 50-51.
- 161 Diary, M Ridgwell, 15 December 2017.
- 162 File Note, M Ridgwell, 19 December 2017.
- 163 Email, Herbert Smith Freehills to J Green, 9.46 pm 14 November 2017.
- 164 Plan, Herbert Smith Freehills, City of Perth Project Percy Investigation plan, 14 November 2017.
- 165 Transcript, J Green, public hearing, 20 September 2019, p 58-60.
- 166 Plan, Herbert Smith Freehills, City of Perth Project Percy Investigation plan, 14 November 2017.
- 167 File note, B Moyser, 13 February 2018; Email, B Moyser to A Egan, 7.52 am 7 December 2017.
- 168 Email, J Green to Herbert Smith Freehills, 28 November 2017.
- 169 The conduct of the councillor in Yates and Local Government Standards Panel [2012] WASAT 52 (Deputy President Judge Sharp). See also the “*elements*” of a breach of reg 9(1) as set out by the Local Government Standards Panel in Burnett and Councillor McKay, SP 11 of 2013, [10.17].
- 170 File note, B Moyser, 13 February 2018.
- 171 Transcript, J Green, public hearing, 20 September 2019, p 57-58.
- 172 Report, Herbert Smith Freehills, Project Percy Advice, 29 January 2018.
- 173 Transcript, J Green, public hearing, 20 September 2019, p 72-73.
- 174 File note, Herbert Smith Freehills, 28 November 2017.
- 175 File note, Herbert Smith Freehills, 5 December 2017.
- 176 File note, M Ridgwell, 19 December 2017.
- 177 Email, M Ridgwell and Herbert Smith Freehills, 21 December 2017.
- 178 Email, M Ridgwell to Herbert Smith Freehills, 3.17 pm 28 December 2017, with attached signed Terms of Engagement.
- 179 Transcript, M Mileham, private hearing, 30 July 2019, p 54-55.
- 180 Transcript, M Ridgwell, private hearing, 25 July 2019, p 89-90.
- 181 Transcript, M Mileham, private hearing, 30 July 2019, p 55.
- 182 Transcript, J Green, public hearing, 23 September 2019, p 46.
- 183 Transcript, J Green, public hearing, 23 September 2019, p 47.
- 184 File note, Herbert Smith Freehills, 15 December 2017.
- 185 Report, N Douglas McLeods, Report to the CEO concerning ‘Project Percy’, 27 February 2018.
- 186 Report, N Douglas McLeods, Report to the CEO concerning ‘Project Percy’, 27 February 2018.
- 187 Email, M Mileham to R Mianich, 3.33 pm 12 February 2018.
- 188 Document, WorkCover WA, Certificate of Outcome, 13 March 2019.
- 189 Transcript, R Harley, public hearing, 19 September 2019, p 9.
- 190 Transcript, J Green, public hearing, 20 September 2019, p 74-75, 78.
- 191 Transcript, L Scaffidi, public hearing, 19 September 2019, p 78.
- 192 Email, M Ridgwell to J Green, 2.24 pm 6 November 2017.
- 193 Transcript, J Green, public hearing, 20 September 2019, p 78.
- 194 Letter, J Green to R Mianich, 17 February 2018.
- 195 Transcript, J Green, public hearing, 20 September 2019, p 80; Letter, Bennett + Co to McLeods, 21 February 2019.
- 196 Letter, McLeods to Bennett + Co, 22 February 2019; Report, N Douglas, McLeods, Report to the CEO concerning ‘Project Percy’, 27 February 2018.
- 197 Email, J Green to R Mianich, 9.36 pm 17 February 2018.
- 198 Emails, J Green, R Mianich, A Battista, 17 February 2018 – 9 March 2018.
- 199 Emails, J Green, R Mianich, 17–19 February 2018.



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are available on request.



# Report of the Inquiry into the City of Perth

An Inquiry under Part 8, Division 2  
*Local Government Act 1995*

3



## Acknowledgment of Country

The Western Australian Government proudly acknowledges the Traditional Owners and recognises their continuing connection to their lands, families and communities.

We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past, present and emerging.

The first step in living alongside and working with the Aboriginal community is built upon establishing respectful relationships. Crucial to these respectful relationships is acknowledging the history of Aboriginal people and recognising the importance of connection to family, culture and country.

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Published by the Department of Local Government, Sport and Cultural Industries, Western Australia, 30 June 2020.

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# Volume 3

## Restoring Good Government

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The City of Perth has a bright future. They have wonderful staff, we have a growing population, we have lots of economic opportunity and the capital city local government I'm sure is one that Western Australia will be proud of in the years to come.

Mr Andrew Hammond  
Chair Commissioner

# Volume 3

This Volume concludes with the opinion of the Inquiry Panel regarding whether there has been good government at the City of Perth as well as whether there is any prospect of good government being provided in the future.

## 3.1 Opinion of the Inquiry Panel



### About this Part

This Part contains the Inquiry's conclusions, as required by its Terms of Reference, about whether the Council and Administration of the City of Perth (City) provided 'good government' during the Inquiry period.

In making that assessment, this Part analyses the evidence obtained through the Inquiry's investigation and hearing programme. The evidence is set out in detail in [Volume 2: Case studies](#).

On the basis of the evidence considered by it, in respect of each topic examined in Volume 2, the Inquiry has made a determination about whether there was 'good government'.

## 3.2 The Future

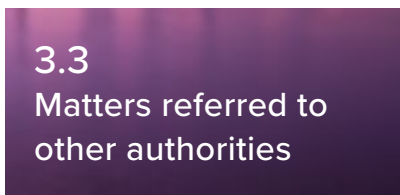


### About this Part

In this Part, rather than looking at past events, the Inquiry looks to the present and the future. The focus is on what has happened since 2 March 2018, when the Council was suspended. This Part addresses what steps have been taken, and what steps are planned for the future, to restore good government at the City. This responds specifically to Term of Reference A.1(ii), which requires that the Inquiry report on *"the prospect of such good government being provided in the future ..."*.

In considering issues such as people, governance, and corporate recovery at the City, the Inquiry has given significant weight to the evidence of Mr Andrew Hammond, City of Perth Commissioner and Chair Commissioner since the suspension of the Council, and Mr Murray Jorgensen, Chief Executive Officer of the City since November 2018.

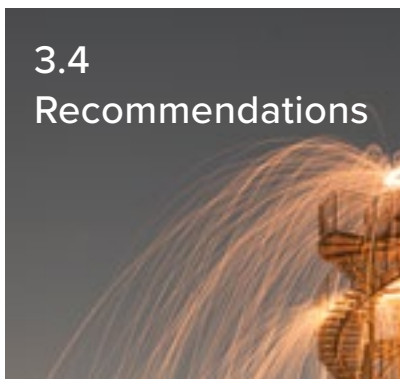
## 3.3 Matters referred to other authorities



### About this Part

This Part relates to the power of an Inquiry Panel to refer matters to Commonwealth, State and other authorities.

## 3.4 Recommendations



### About this Part

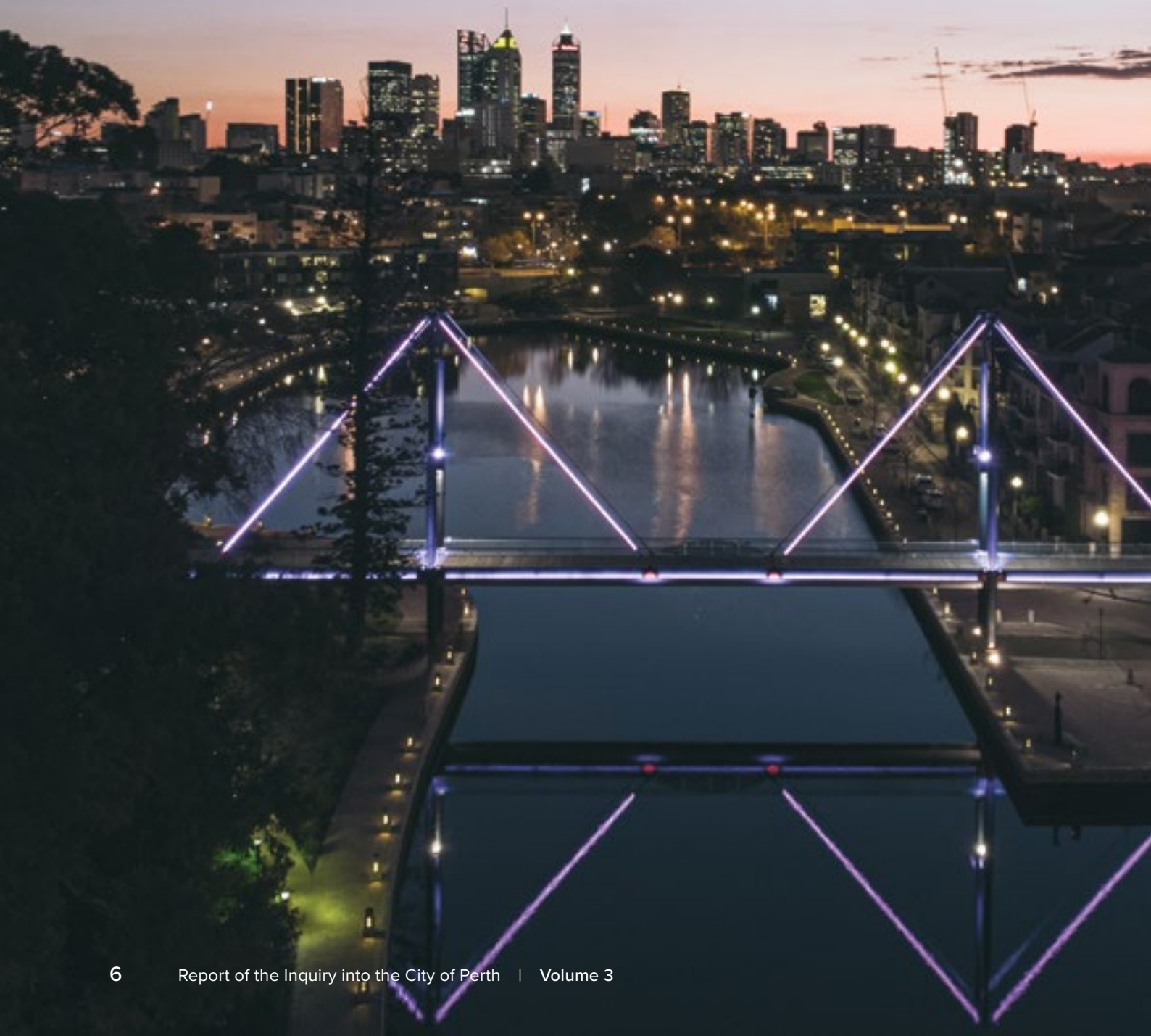
The Inquiry has searched for the root causes of the failings it has identified in this Report. In the opinion of the Inquiry shortcomings in culture and governance were core to the failings at the City.

The Inquiry considers that many of the issues identified in this Report represent risks also present in many other local governments.

On this basis the Inquiry has made a suite of recommendations. The Inquiry considers that many of these recommendations have the capacity for a broader local government-wide application.

# 3.1

## Opinion of the Inquiry Panel



## Introduction

### Good government

The Terms of Reference for the Inquiry require it to make determinations about “*good government*” at the City of Perth (City) during the period of the Inquiry’s Terms of Reference, 1 October 2015 to 1 March 2018 (Inquiry period).

Part A.1 of the Terms of Reference state:

- “1. *The Inquiry Panel is to inquire into and report on those aspects, operations and affairs of the City of Perth (including of the Council and the Administration) during the period between 1 October 2015 and 1 March 2018 inclusive, which may be necessary, in order to determine:*
- i. whether there has been a failure to provide for the good government of persons in the City of Perth’s district;*
  - ii. the prospect of such good government being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and*
  - iii. any steps which may need to be taken to ensure that such good government does happen in the future”.<sup>1</sup>*

The Council of the City is the body of nine council members, being the Lord Mayor and eight councillors, who are elected to office.<sup>2</sup> The Council is the governing and decision-making body for the government of the City.

The Administration of the City consists of employees of the City who implement the decisions of the Council and provide services to residents, ratepayers, businesses, people who work in the City, and visitors. The Administration consisted of between 700 and 760 employees during the Inquiry period. It was led by the Chief Executive Officer (CEO) and a group of directors who together made up the Executive Leadership Group.

This Chapter will consider, in the light of the evidence obtained by the Inquiry, whether the Council and Administration of the City provided “*good government*” during the Inquiry period.

The Inquiry considers that all council members and employees of the City, when they are acting in their official capacity, are part of the government of the City. If what they do is in accordance with the law, and their delegated authority, advances the legitimate objectives of the City, and is beneficial to the community, then it is good government.

When council members or employees do not act in accord with the objectives of the City or to the benefit of the community; if they act from self-interest, with bias, with a conflict of interest, or outside their authority, then their actions are not good government.

## Recommendations

Part B of the Terms of Reference state that the functions of the Inquiry *“include to inquire into, report on, and then make recommendations in relation to the matters the subject of the Inquiry that it considers appropriate (in accordance with its duty under section 8.22 of the Local Government Act 1995)”*.<sup>3</sup>

Section 8.22(1) of the *Local Government Act 1995* (LG Act) states:

*“(1) An Inquiry Panel’s report is to contain any recommendations that the Inquiry Panel considers appropriate”.*

The Inquiry, in this Report, has made a number of recommendations arising from its investigations and deliberations. These are made to assist the City to achieve and maintain good government in the future, and for other purposes.

## Dismissal of the Council or a council member

Section 8.22(2) of the LG Act empowers the Inquiry to recommend:

*“(a) that a council be dismissed; or*  
*...*  
*(c) if subsection (2A) applies, that a council member be dismissed”.*

In November 2018, after the commencement of the Inquiry, an amendment to the LG Act occurred to provide for a recommendation by an Inquiry Panel to dismiss individual council members. Subsection (2A) states:

*“(2A) The Inquiry Panel can only recommend that a council member be dismissed if the Inquiry Panel is satisfied, on reasonable grounds, that –*

- (a) at least one of the following apply:*
  - i. the member has failed, or is failing, to perform the member’s role, functions or duties under this Act;*
  - ii. the member’s conduct has impeded, or is impeding, the ability of another person to perform their role, functions or duties under this Act;*
  - iii. the member’s conduct has impeded, or is impeding, the ability of the local government to comply with the principles that apply to it under section 5.40 [of the LG Act];*

*and*

- (b) the seriousness or duration of that failure or conduct make it inappropriate for the member to continue to be a member of the governing body of the local government”.*

The Council was suspended on 2 March 2018, and the City has been governed by Commissioners. Since the suspension:

- On 27 May 2019, Ms Janet Davidson resigned from her position as a councillor.
- On 19 October 2019, the terms of Lord Mayor Ms Lisa Scaffidi, and councillors Mr Jim Adamos, Ms Lily Chen and Dr Jemma Green, expired.
- On 29 January 2020, the Governor declared the remaining offices of councillor to be vacant. That is, the offices held by Ms Lexi Barton, Mr Reece Harley, Mr Steve Hasluck and Mr James Limnios.

New Council elections will be held on 17 October 2020.

Given that a Council comprised of elected representatives does not currently exist, there is no requirement for the Inquiry to make a recommendation about the dismissal of the Council, or any individual council member.

However, on the basis of the evidence it has obtained, if the Inquiry had been required to make a determination about dismissal of the Council, it would have recommended that the Council be dismissed.

Having said that, the Inquiry does not consider that all council members were equally responsible for the dysfunction which existed at the time the Council was suspended.

### Evidence obtained by the Inquiry

The conclusions reached by the Inquiry are based on the evidence it has obtained through its comprehensive investigations and programme of hearings.

This evidence is set out in full in the chapters which make up Volume 2 of this Report. Those chapters cover a considerable range of topics relating to events at the City and the conduct of council members and employees.

To enable an understanding of how the Inquiry has reached its view on whether there was “*good government*” at the City, a summary will be given in this Chapter of the evidence set out in Volume 2.

However, to properly understand the matters the Inquiry has investigated, the evidence obtained, and the conclusions and findings derived from that evidence, it is necessary to refer to the individual chapters in Volume 2.

## 2.2 Community Leadership

This part of Volume 2 of this Report considers community leadership by the Council. Community leadership reflects the role of Council and council members in decision-making on social, economic, cultural, environmental and civic matters.

Councils are democratically elected governments. As elected officials of government, council members are individually and collectively bound by their statutory responsibilities and obligations under the LG Act. That is, to govern the local government's affairs and be responsible for the performance of the local government's functions. A Council should be strategically focused in its approach on setting its policy direction as well as guiding the facilities, services and programmes required by the community now and into the future.

In undertaking their roles, Council and council members should make representative, informed, accountable and transparent decisions in the interests of their local community. Council members must avoid any conflict between their own interests and the interests of the community in general. The City also had a broader representative and collaborative inter-governmental role as reflected in the *City of Perth Act 2016*.

This Part examined how council members got elected, how decisions were made, the balancing of official duties with private interests and the connection between decision-making and personal benefit.

### 2.2.1 Local government elections

The failure by council members to provide good government arises at the beginning of the democratic process, with the election of candidates to be council members.

The Inquiry has examined several situations in which the election process was improperly manipulated by candidates. These primarily involved Mr Keith Yong, who was a councillor from October 2013 to October 2017, but also involved other council members.

These situations included:

- Use of “sham” leases, either to make a person appear to be eligible to be a candidate, or to provide a candidate with corporate nominees who could vote for them.
- Falsification of corporate nominee processes to entitle people to vote on behalf of companies, which did not legitimately own or lease property in the City.
- Making false complaints to the City in order to have legitimate corporate nominees struck from the electoral roll.
- Use by a candidate of post office boxes controlled by him as the postal address for people on the electoral roll, giving rise to a suspicion that there was an intention by the candidate to falsify votes and the opportunity to do so.

The Inquiry also noted that the governance processes of the City appeared to be unable to adequately identify and deal with the manipulation of electoral processes by candidates.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

### 2.2.2 Decision-making

Council members have a responsibility to balance the interests of the whole community when making their decisions. Decision-making should be transparent and the reasons for decisions appropriate and documented. Greater transparency around council decision-making enables the community to understand how council members reach decisions on the matters they are required to consider. Good government is achieved when council members represent, and balance, the interests of the whole community, and not just a segment of it.

The Inquiry examined several situations in which the evidence suggested that some decisions made by the Council, relating to properties in the City, had aspects in which personal interests were put before community interests.

These included:

- Consideration of a development application for a shop in a commercial premise which was part of the Adagio apartment building. The evidence suggested that some council members decided to refuse the application, knowing that their decision would be overturned by the State Administrative Tribunal, but believing that their decision would gain votes at a forthcoming Council election.
- A decision to reject a sponsorship proposal to rejuvenate the Piccadilly Theatre premises in the City. Although this proposal was initially received positively by the Council, lobbying by two local businessmen appeared to have caused it to be rejected by the Council, without any adequate reasons being given.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

### 2.2.3 Disclosure, personal interest and entitlements

In serving the electorate and representing the interests of the whole community, council members must act to avoid any conflict between their own interests and the interests of the community in general. A council member's own interests may relate to their business interests or any other benefit they receive in their private capacity while they are a council member. A fundamental principle is that council members must always consider the community's interest in any decisions or actions taken in their role as a council member. In the event of a conflict between the public and private interests of a council member, the former must prevail.

Interests should be disclosed by council members. Disclosure of interests ensures transparency and integrity in decision-making and that the interests of the community are paramount. It also ensures that council members are accountable. Without disclosure, transparency and accountability are diminished.

The Inquiry has examined:

- The failure by some council members to disclose their financial or other interests.
- Misuse by some council members of entitlements which were available to assist them in their official role. This included use of the Council dining room, and reimbursement for costs associated with restaurants, clothes and dry cleaning.
- Misuse by a council member, Ms Chen, of her official title, office, business cards, email and the Council dining room for private business purposes.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

#### 2.2.4 Grants and sponsorship

Partnerships with other organisations through grants and sponsorships can provide positive and tangible benefits to the community. The best use of public funds should be a key consideration of Council, committees and staff, when making decisions about which initiatives and events to support. Accountability of the outcomes delivered, and acquittal of those funds, is the responsibility of the local government.

The community expects high standards of ethical behaviour and fair dealing in decision-making related to partnerships, sponsorships, grants and donations. This includes disclosure and management of interests, especially conflicts between private interests and official duties and the maintenance of high standards of accountability and transparency in decision-making.

The Inquiry has examined the allocation by Council of millions of dollars each year to community associations and events through partnerships, sponsorships, grants and donations. There were risks. Three risks which became evident to the Inquiry are that:

- Some council members received gifts, including tickets to events, from sponsored organisations, and did not properly declare or deal with them.
- Some council members attempted to ensure that the City allocated money to organisations and events with which they had a personal connection.
- Weaknesses in governance practices reduced the transparency and accountability for the spending of public funds and the potential benefits being derived by council members.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

### 2.3 Administrative Leadership

The next part of Volume 2 of this Report considers the Administrative leadership of the City.

Local governments are entrusted with significant resources on behalf of the community – people, physical assets and finances. Each of these resources need to be managed appropriately, efficiently and effectively. The Administration delivers the services, facilities and programmes of the local government.

The Administration is led by a CEO, who is employed by, accountable to, and managed by, the Council. The CEO plays a crucial role in translating the Council's direction and decisions into actions, employing and leading staff, managing the financial resources and providing a safe workplace. The CEO is instrumental in setting the workplace culture.

The CEO supports the Council to provide good government to the local community and is the liaison point between the Council and the Administration, which implements the Council's decisions. The relationship between the CEO and the Council is critical to a local government's success. Mutual understanding and acceptance of the roles of each is the cornerstone of this relationship.

Importantly, the relationship also relies on each having the ability to transparently manage and resolve issues and conflicts as they arise. This is particularly the case where a Council is factionalised, bringing an internal political dimension which a CEO must manage without becoming involved, or where council members attempt to "*empire build*", by controlling the activities of the CEO, or usurping the CEO's role by interfering in the day-to-day running of the local government.

The CEO is also responsible for keeping council members "*in-line*" and, if necessary, for reporting them to the Corruption and Crime Commission (CCC), the Public Sector Commission, the Local Government Standards Panel or the Department of Local Government, Sport and Cultural Industries (Department).

The employees of the Administration, like council members, are public officers. They must act with the highest level of integrity. Governance processes should provide for accountable, ethical and sound decision-making. Personal interests must not be put before a public officer's official duties.

This Part examined key aspects of the Administration including appointment and termination of the City's CEOs; people management practices including recruitment, performance management and termination; financial management and planning; and procurement and contract management, including investigation of misconduct.

This Part does not relate exclusively to the actions of employees, as the Inquiry's investigations identified numerous situations in which council members interfered in administrative processes, frequently to the detriment of good governance.

### 2.3.1 Chief Executive

This Chapter examined events surrounding the performance management and termination of a CEO, Mr Gary Stevenson, by the Council, and the appointment of another CEO, Mr Martin Mileham.

The appointment, performance management and termination of a CEO are among the most important decisions a Council will make. It is a significant financial investment in one person to deliver on the future aspirations and directions of the local government. Council members are individually and collectively responsible, as the Council, for decisions related to the CEO.

These decisions should, among other things, be free of nepotism, patronage or unlawful discrimination, fair and unbiased, transparent and capable of review. A Council that seeks to terminate the employment of its CEO must comply with the provisions of the LG Act. When it fails to do so, good government is not served.

Disintegration of the relationship between a Council and CEO has critical consequences for all parties. Where a Council seeks to terminate the employment of a CEO, it should be procedurally fair to that CEO and the decision should be transparent and capable of review.

At the City, the Inquiry notes that control over certain aspects of the position of the CEO appears to have been a significant aim of a faction of council members who were in the majority. While the faction led by Ms Scaffidi was in the majority, she, and her ally Ms Davidson, were two of the three members of the two committees which controlled the appointment, management and termination of the CEO – the CEO Recruitment Committee and the CEO Performance Review Committee.

The Inquiry considered whether Ms Scaffidi orchestrated the termination of Mr Stevenson, because he had reported to the CCC some travel and accommodation contributions she had received and not declared.

The appointment of Mr Mileham was also examined by the Inquiry. This included examination of a telephone conversation Ms Scaffidi had with Mr Mileham, shortly before he was to be interviewed for the substantive CEO position, telling him what she expected from the “*next CEO*”. This was not appropriate.

The Inquiry has also formed views on the performance management processes undertaken by the Council for Mr Stevenson and Mr Mileham. In the circumstances considered, the performance of a CEO should be managed appropriately and with regard to good people management principles, including as to the process adopted and the performance measures set and monitored. This did not occur at the City in the relation to the performance management of Mr Stevenson.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

#### 2.3.2 People management

Employees bring to the City knowledge, expertise, abilities, skill sets and experience that are an invaluable asset into the future. Good people governance in local government is achieved when there is integrity in decision-making, interests are transparently disclosed and managed, decisions are procedurally fair, transparent and capable of review, processes and decisions are free of nepotism, patronage or unlawful discrimination and, most importantly, people are treated fairly and consistently. Good people governance also includes sound policies, procedures and practices.

This Chapter considered aspects of people management by the City. The processes examined include recruitment, promotion, probation and termination of employees, complaints and grievances, record-keeping, and disciplinary processes.

Sections in this Chapter examined examples of recruitments, terminations and disciplinary processes which were not properly conducted and where there was, or may have been, inappropriate interference by council members.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

### 2.3.3 Financial management and planning

A local government plans and manages significant programmes and finances on behalf of its community. They must sustainably and holistically provide for its future. Finances which are used to provide services and facilities to the community must be responsibly managed.

The governance of the City during the Inquiry period included the systems and processes by which it operated. Important among these were the financial management and planning processes and practices. This Chapter examined in depth the financial management and strategic planning for the City. It examined the weaknesses in systems and processes during the Inquiry period, and how these are being, and can be, addressed.

These weaknesses included the following:

- An ineffective “*integrated*” planning and reporting framework which was not integrated, with plans which did not contain sufficient information to inform the community or assist the Council to manage performance. There was “*tick-the-box*” compliance approach to planning and reporting, rather than a better outcomes-based practice that would be expected of a local government of the City’s size, financial resources and capital city status.
- Non-compliance with legislative obligations including the conduct of reviews and establishment of plans. The City did not have a business plan for City of Perth Parking, contrary to section 3.59 of the LG Act. The City provided inaccurate information to the Department in its 2015, 2016 and 2017 Returns in relation to this requirement.
- Services were not appropriately monitored for performance and financial implications. The City was not able to report consistently on its statutory financial ratios.
- The City did not have appropriate systems and governance in place to manage and monitor its financial performance. There were weaknesses in the internal audit function.
- Financial management at the City was adversely affected by a “*siloes*” structure in which directorates and some units had their own financial staff who operated independently. This led to a lack of information sharing, good record keeping and centralised control of finances.

This Chapter also provided an example of a relationship between the City and an external organisation, the Perth Public Art Foundation, which involved a major commitment of funds by the City and which, although it had the characteristics of a sponsorship by the City, operated outside the governance framework. Governance practices by the City were also lacking around financial controls.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

#### 2.3.4 Procurement and contracting

The City spends approximately \$50 million per year on procurement.

City employees have considerable authority vested in them, as public officers of a local government, to source suppliers, manage contracts and authorise payments for goods and services. They are responsible and accountable for the public money they commit and expend on behalf of the City.

The community expects that the City's employees will perform their duties with integrity and impartiality and will act in the community's interest, rather than their own.

Local governments generally are exposed to high risks of fraud and corruption, because of the large volume of goods and services they procure and because of the high degree of devolved decision-making. When funds belonging to the City are misappropriated a "loss" is suffered by the City. It is important that the City, and local governments generally, understand these risks and actively manage them with appropriate controls.

The sections in this Chapter examined five specific procurement exercises conducted by the City, and investigated by the Inquiry, in which the consequences of failing to follow appropriate procedures ranged from unauthorised expenditure to possible fraud and corruption. The shortcomings and risks identified by the Inquiry included the following:

- Failure to declare and manage conflicts of interest.
- A request by the CEO, Mr Mileham, to a potential contractor for a gift, which was then inadequately declared.
- Failures by evaluation panels to properly evaluate tenders.
- Failures by the Administration to detect manipulation, by an evaluation panel member, of tender criteria and a comparative price analysis.
- Failures by the City to deal properly with complaints by unsuccessful tenderers and an allegation referred by the CCC.
- Misuse of the sole supplier tender exemption process.
- Failures by the City to monitor costs charged by contractors and enforce budget limits.
- Poor governance processes and practices, including limited oversight and limited fraud and misconduct risk assessment.

The Inquiry finds, based on the evidence, good government was not demonstrated in these circumstances.

## 2.4 Final Days

This part describes events within the Council and Administration of the City at the end of 2017, and the beginning of 2018, which led to the level of dysfunction which caused the Minister to suspend the Council.

### 2.4.1 Events leading to the suspension of the Council

This Chapter examined the circumstances relating to an external investigation by a legal firm, instigated by the Deputy Lord Mayor, Dr Green, into information which suggested possible misconduct by Ms Scaffidi and the CEO, Mr Mileham. This investigation was named “*Project Percy*”. No misconduct was identified by the investigation.

Following the completion of the Project Percy investigation, Mr Mileham went on sick leave. This led, by a series of other events, to a Special Council Meeting being called on 27 February 2018 to consider a motion which would enable the Council to appoint an Acting CEO.

On the day of the Special Council Meeting, but before it was held, several members of the Executive Leadership Group (ELG) inappropriately activated the City’s Crisis Management Plan, seemingly to prevent the Special Council Meeting being held and the Council appointing a different ELG member to the position of Acting CEO.

On the following day Dr Green emailed the Department advising that the Council was considering scheduling another Special Council Meeting on 5 March 2018 to suspend the CEO, Mr Mileham.

The Inquiry finds, based on the evidence, good government was not demonstrated in the activation of the Crisis Management Plan.

## Conclusions

### Features of the government of the City of Perth

Arising from its investigations and hearings, the Inquiry makes the following observations about the functioning of the Council and Administration of the City, during the Inquiry period:

For most of the Inquiry period, Ms Scaffidi was the subject of public comment arising from a CCC report dated 5 October 2015, which found that she had, in 2008 and 2009, engaged in serious misconduct in failing to disclose gifts and travel in relation to three instances of hospitality provided by different companies.<sup>4</sup>

- Throughout the Inquiry period, breaches of the LG Act by Ms Scaffidi were the subject of consideration by the Department, the State Administrative Tribunal or the Supreme Court. Ms Scaffidi stood down from the position of Lord Mayor from 7 September 2017 to 8 January 2018 and she was ultimately suspended from the position on 24 July 2018 for seven months, after the Council had been suspended by the Minister.
- The Council was factionalised and divided. For most of the Inquiry period a majority faction, led by Ms Scaffidi, controlled decision-making by the Council. For the last four and a half months of the Inquiry period, there was a new majority, but the Council continued to be divided.
  - These divisions in the Council contributed to dysfunction and poor decision-making.
  - It also contributed to dysfunction and divisions in the Administration of the City, including among members of the ELG.
- Some council members interfered regularly in the administration of the City in a way which was well beyond their official role, despite a prohibition against this conduct under the *Local Government (Rules of Conduct) Regulations 2007*.
  - This interference was most marked in relation to employment matters affecting staff at many levels. It included interference in recruitments, terminations and disciplinary processes.

There was also a willingness by some council members to approach staff directly about a variety of matters in which they had a personal interest, such as allocation of grant or sponsorship funding to particular community organisations.

- This led to a situation in which employees in the Administration sometimes spent considerable time dealing with requests and questions from council members.
- There was a culture of self-entitlement among some council members. Personal interests were put before service to the community. Some council members did not hesitate to disregard the rules relating to entitlements in order to maximise their personal benefit.

Decision-making and record-keeping by the Council was poor. Decisions were made on a factional team basis and there was not, therefore, proper debate or consideration of community views. Decisions were often made on the basis of the personal interest either of a council member or their associates. When decision-making is poor the real reasons for a decision are often not disclosed.

- The Inquiry found that reasons for important decisions by Council or its committees were sometimes either not recorded or were recorded in a way which obscured, rather than explained, the real basis for the decision. This was not transparent or accountable.
- This culture of disregard for the rules extended, for some council members, to the manipulation of election processes.
- There were a variety of other obstacles to good governance by the Administration, including competitiveness between directors, siloed business units and a failure to detect and deal with breaches of policies and procedures.
- Complaints made to the City, or allegations referred by the CCC were, in some cases, not properly investigated or dealt with by the City. On occasion this led to misconduct or corruption not being detected.

In relation to the culpability of individual council members, the Inquiry notes that the dysfunction present in the Council at the time it was suspended was due more to the actions of some council members than others. All council members did not bear equal responsibility for the situation which developed. Culture starts at the top, and the Lord Mayor, Ms Scaffidi, set a bad example in relation to self-interest, entitlement and interference in the Administration.

# 3.2

## The Future

## Introduction

Much of the Inquiry's task, as described in Volume 2 of this Report, has been to look backwards and ask questions about historical events:

*What, if anything, went wrong with good government at the City of Perth (City)?*

*If things went wrong, why did they?*

*What lessons can the past teach us for use in the future?*

This Volume of the Inquiry's Report is different. In this Part, the Inquiry briefly looks to the present and the future. The focus here is on what has happened since 2 March 2018 when the City of Perth Council (Council) was suspended and replaced by three Commissioners.

The questions asked in this Part are not what went wrong and why. Rather, they are what steps have been taken, and what steps are planned for the future, to return good government to the City. The questions are asked to assist the Inquiry to answer one of the ultimate questions posed by its Terms of Reference:

*What is the prospect that good government will be provided at the City in the future?*

## Investigation and hearings

The following witnesses gave relevant evidence to the Inquiry in the course of public hearings held on 9 and 10 October 2019:

- Mr Murray Jorgensen, Chief Executive Officer (CEO) since 27 November 2018; and
- Mr Andrew Hammond, City of Perth Commissioner, City of Perth, since 2 March 2018, and Chair Commissioner since 9 August 2019.

Mr Jorgensen and Mr Hammond did not occupy roles at the City during the period of the Inquiry's Terms of Reference. However, their evidence as to steps taken by the City since 2 March 2018 is the best evidence available on that topic. Furthermore, their expertise in good governance and good government in the context of local governments is undoubted,<sup>5</sup> and both were regarded by the Inquiry as impressive witnesses.

The evidence given by Mr Jorgensen and Mr Hammond was wide-ranging. It covered their perception of the state of the City upon their appointments, to steps which have been taken by the Commissioners and the administration to effect change, to policy decisions taken to achieve certain social and economic outcomes for the community.

Both Mr Jorgensen and Mr Hammond provided written statements to the Inquiry.

Mr Jorgensen's statement had 14 attachments. The first attachment is a draft Corporate Governance Framework, a significant document to which the Inquiry refers to below.

The second through fifth attachments are consultants' reports given to Mr Jorgensen by the Commissioners when he commenced at the City, to provide him with an overview of the "level" at which the City was operating.<sup>6</sup> At the risk of generalising, those reports provide point in time comment on the City's overall performance, its stakeholder engagement and corporate communications, its customer service performance and its human resources performance.

The remaining attachments are internal documents prepared by, for, or with the input of, Mr Jorgensen during his tenure as CEO of the City in response to – and again at the risk of generalising – the issues identified by the consultancy reports. They include the City's Procurement Strategy and its Corporate Recovery Implementation Plan, both of which the Inquiry refers to below.

In broad terms, the evidence of Mr Jorgensen and Mr Hammond reflects a willingness on the part of both the administration of the City and its Commissioners to reinstall confidence in the City and its governance. The evidence reflects positive steps taken by all concerned to implement that willingness. Structural change is evident and perhaps inevitably so, with a focus on using the City's best resource – its people – to return good governance practices and undertake the corporate recovery necessary to ensure good government.

While the evidence received is broad, the key themes of quality people, good governance and corporate recovery emerged from it all, and so it is to these themes that the Inquiry turns.

### Evidence obtained by the Inquiry

#### People

The most pervasive theme arising from the evidence of Mr Jorgensen and Mr Hammond was the central significance to future good governance and good government of having "good people" within the organisation to conduct its business.

In response to an early question about his experience with staff at the City, Mr Jorgensen explained:

*"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 dedicated, committed professionals trying to do the right thing in a very difficult environment ...".<sup>7</sup>*

This was a theme to which Mr Jorgensen returned at the end of his evidence:

*"We have high quality individuals there which we are trying to harness to just make the City a better place and I'm confident, before I depart, that we will be well down the track of corporate recovery".<sup>8</sup>*

Mr Hammond was similarly emphatic as to the criticality of quality staff:

*“In terms of what makes a successful Local Government, what do you say the core drivers of that are?---People, good people. Irrespective of any legislation or regulations, it’s all about the people. You’ve got to have good staff, committed staff, staff that love the community in which they live and staff that want to do well. You’ve got to have Elected Members with exactly the same attitude. If ever there was Local Government Nirvana, it would be when the CEO, the Executive, management group, Elected Members and Mayor, and key stakeholders, say in the City of Perth’s example it would be the State Government, if they are all actively committed to the shared vision of the City and are all actively working and influencing towards that shared vision, then that Local Government becomes a formidable Local Government. It would be hard to stop, almost impossible to stop in achieving their vision”.<sup>9</sup>*

The significance of quality staffing is reflected, not only in the evidence given by Mr Jorgensen and Mr Hammond, but in the recruitment that has occurred since 2 March 2018. In addition to refreshing and restyling the Executive Leadership Team (formerly the Executive Leadership Group), the City has employed a Project Director, Strategic Finance who is responsible for strategic financial and technology management; a Project Director, Corporate Recovery, who is principally responsible for the City’s corporate recovery; and a Strategic Procurement Lead responsible for implementing reforms within the procurement space at the City.

Mr Hammond explained why the City employed a Project Director, Strategic Finance:

*“It occurred because there was an inability to, I think obtain an acknowledgment from the staff involved as to the importance of an Integrated Strategic Planning Framework and the need for documents like the Corporate Business Plan to be fully populated with financial projections and also a need for team-based plans that could give Council and the Executive the opportunity to almost forensically understand what each team was up to and what their activities were likely to be for the next three to five years”.<sup>10</sup>*

Mr Hammond continued:

*“There is a very strong interface between strategic finance and the development of strategy. There is nothing worse in the context of a Local Government, when strategy is developed and it’s adopted and it’s publicised, but it’s never executed because it gets to the first budget and it doesn’t get a run. If that strategy is adopted, that strategy can only be adopted if the Corporate Business Plan clearly establishes that the City has the financial capacity to deliver, and not before”.<sup>11</sup>*

Mr Hammond also explained why the City employed a Project Director, Corporate Recovery:

*“... the engagement that the Commissioners have had with her is based on two areas: one is the development of the Strategic Planning Framework, and that interface between finance that we talked of before, the assistance with staff in developing their team-placed plans. The identification of specific issue strategies that will come from the Strategic Community Plan, for example, homelessness, core retail activation, and event strategy and the like, but also on the corporate recovery side is a range of other issues such as getting an effective Business Plan for the City of Perth Parking Business Unit.*

*Other areas such as the review of the Council's Standing Orders, which is the meeting procedure, that's, in my view, somewhat archaic. The development of policies/business rules for the development of strategy policy, policies that provide for the governance framework. Essentially, establishing that contemporary Local Government framework so when the Councillors come back in, which they will and which they should, they will have a very, very contemporary and robust system in which to work under".<sup>12</sup>*

Mr Jorgensen described the significance of the recruitment of the City's Strategic Procurement Lead, who is also the author<sup>13</sup> of the City's Procurement Strategy:<sup>14</sup>

*"[The Lead is] 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 ...".<sup>15</sup>*

Given what the Inquiry has had to say elsewhere in this Report about the City's past issues with strategic financial management, procurement and corporate governance, the engagement of specialised staff to manage those aspects of the City's business was prudent and well-considered.

More generally, in view of the evidence of Mr Jorgensen and Mr Hammond, the Inquiry is, in general, satisfied that the City is staffed by high quality and dedicated professionals who have and who can, to adopt Mr Jorgensen's language, convey the City down the track of corporate recovery.

## Governance

While Mr Hammond and Mr Jorgensen emphasised the critical significance of having good people within the City to steer its corporate recovery and development, they also recognised that people alone are not sufficient to ensure good governance. Structural supports are also necessary. As Mr Jorgensen explained in his evidence:

*"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 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".<sup>16</sup>*

The "four fundamental pillars" of good governance to which Mr Jorgensen referred have been captured in a document produced by the City and titled "Corporate Governance Framework".<sup>17</sup> This document, which at the time of Mr Jorgensen giving evidence had not yet been formally adopted by the City, but which was shortly to be adopted,<sup>18</sup> was prepared at the instruction of Mr Jorgensen.<sup>19</sup> It is a substantial document, running to 52 pages.

The document describes its purpose in the following way:

*“For the City to demonstrate good governance, there needs to be a clear understanding of responsibility and accountability. The Corporate Governance Framework has been produced to outline the information used to guide decisionmaking, the roles of Council, Elected Members and the Administration, how and when decisions are made and how the City is accountable for its actions”.<sup>20</sup>*

It then describes the four pillars *“required to create the foundations of excellence in governance at the City of Perth”*,<sup>21</sup> namely, strategy and leadership; roles and responsibilities; transparent decision-making and accountability and performance.

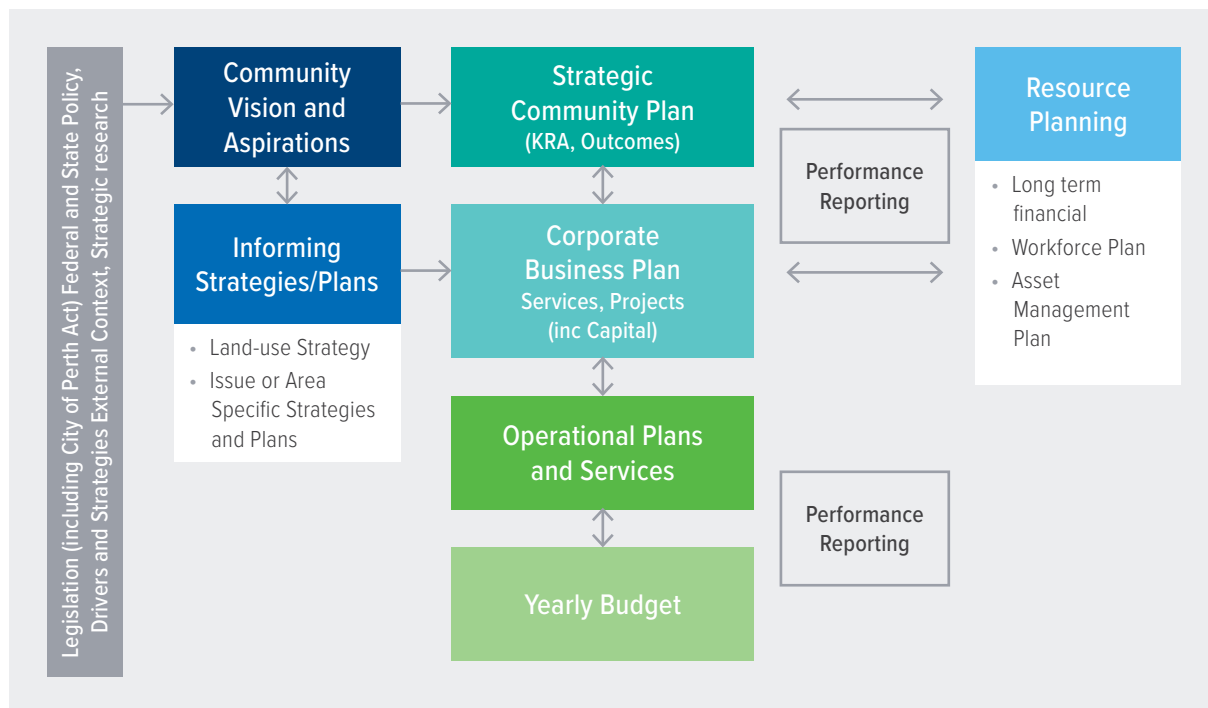
Each is described in considerable detail within the Corporate Governance Framework<sup>22</sup> and was the subject of detailed evidence from Mr Jorgensen.<sup>23</sup> Mr Jorgensen agreed that they provide a well-known framework in local government, describing them as being present in *“many local government corporate governance frameworks”*.<sup>24</sup>

In essence, each pillar comprises a group of principles of good governance which, when adopted, provide a measurable way to indicate whether good governance is being achieved. To take *“strategy and leadership”* as an example, that pillar comprises three principles of good governance: strategic focus, positive culture, and engagement. These principles, in turn, are achieved by the application of certain *“tools”*, described in Appendix A to the Corporate Governance Framework, each of which can be identified, applied, measured and reported against. In that way, the clear goal is for good governance to become very much a matter of daytoday practice rather than, as it might otherwise be, an empty aspirational statement.

Significantly, within the Corporate Governance Framework is a description of the City’s overarching governance structure, the Integrated Planning and Reporting Framework (IPR Framework). The Corporate Governance Framework describes the purpose of the IPRF as being to *“ensure the priorities and services provided by the City align with community needs and aspirations, within organisational resource constraints”*.<sup>25</sup>

The core components of the IPR Framework are described as the Strategic Community Plan, the Corporate Business Plan and the annual operational plans and budgets. Mr Jorgensen explained the IPR Framework. He told the Inquiry it is concerned with *“what sort of City or Local Government you really want to become”*.<sup>26</sup> He gave evidence to the Inquiry that each of the plans, and the budgets, within the IPR Framework cascade from the high level to the granular, and were directed to achieve the goal of becoming the City or local government the organisation was aiming to be, explaining that *“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”*.<sup>27</sup>

That cascading, and the guiding link back to the City’s aspirations and the community visions the City exists to serve, is clearly reflected in the diagram taken from page 18 of the Corporate Governance Framework (Figure 3.1):<sup>a</sup>



**Figure 3.1:** City of Perth integrated planning model, September 2019.

In evidence, Mr Jorgensen explained the connections between the Strategic Community Plan and the Corporate Business Plan:

*“[The] 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 ...”.*<sup>28</sup>

He then expanded upon the connection between the Corporate Business Plan and the Operational Plans:

*“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] 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 ...”.*<sup>29</sup>

<sup>a</sup> A slightly, though not materially different version of this, is referred to in Chapter 2.3.3: *Financial management and planning*, Section: *Financial management and planning* of this Report.

From the operational plans the granularity then descends further into annual budgets which are populated “from all of these input documents”.<sup>30</sup> It is plain from Mr Jorgensen’s evidence, and from the content of the Corporate Governance Framework including the IPR Framework, that the planning and reporting structures contemplated by the frameworks are necessary to, and should facilitate, good governance at the City.

Mr Hammond explained that, prior to the production of the Corporate Governance Framework, a formal documented framework was not in place at the City.<sup>31</sup> He went on to explain the consequences of not having a contemporary governance framework:

*“We get back to that lack of engagement with policy and strategy and I’m not here to comment on the behaviour of Council or behaviour of staff, but my opinion is that if you haven’t got an effective framework of business rules, that basically mandate the engagement of Councillors in things that they should be engaged with ... you will have problems”.*<sup>32</sup>

Mr Hammond explained the practical significance of the Corporate Governance Framework to the business of the City and how it was to be used to position the City for success in the future:

*“That Governance framework will include matters such as, when Council meetings are conducted, when Council briefing sessions or forums are conducted, how we engage with the community. It will also provide for how much notice needs to be given for agendas and also provide how much time the Councillors should have with their agenda papers prior to having to meet so as they can consider them effectively. Also matters such as submitting notices of motion, giving the staff the opportunity to be able to comment on the implications of such motions. A whole range, if you like, of business rules. Once again, the business rules are absent in that Governance Policy Strategy area. We will have them well and truly in place by first quarter next year”.*<sup>33</sup>

The Inquiry unreservedly agrees with the significance given by Mr Jorgensen and Mr Hammond to corporate governance, and the need for a framework for the implementation and oversight of corporate governance. The Corporate Governance Framework, described by Messrs Hammond and Jorgensen, appears to be a robust document. If implemented, monitored and continually reviewed (and where necessary, updated) by staff and council members committed to advancing the best interests of the community of the City of Perth (and the Inquiry has no reason to think it will not be) it should stand the City in good stead for the future.

## Corporate recovery

In addition to people and governance, the need to plan the road to corporate recovery, and the sense that they were commencing from a low base, emerged from the evidence of Mr Jorgensen and Mr Hammond. It was plain that corporate recovery is a key goal.

Mr Jorgensen and Mr Hammond both gave evidence about the state of affairs when they commenced at the City.

Mr Jorgensen described the organisation as *“inward looking”*. He said that his perception when he arrived was that the organisation had been through *“an incredibly [difficult] period, you would almost call it survival. It had been under a lot of scrutiny, attack, disruption and therefore I would say many of the staff were almost in survival mode, or protection mode”*.<sup>34</sup>

This was a view shared by Mr Hammond, who gave evidence to the Inquiry that:

*“My first impression was that it was an organisation under siege. The demeanour of the staff, and obviously we were only in contact with the senior staff, but they were quite stressed. They seemed to me to have been through a lot of adversity and they were struggling with the situation, if you like, and from that I saw an internal defence focus”*.<sup>35</sup>

One consequence of the difficulties facing the staff at the City, as described by Mr Jorgensen and Mr Hammond, was that a significant degree of corporate recovery was necessary. To facilitate this, a Corporate Recovery Implementation Plan (CRIP) has been prepared and adopted.<sup>36</sup>

In his message to the staff of the City in the CRIP, Mr Jorgensen explained its purpose:

*“[It] clearly identifies what we need to do to help us mature into an organisation of which we can all be proud. The plan is not about apportioning blame or fault, it is entirely about what our team needs to do, to become a highly functional local government”*.<sup>37</sup>

In his message, Mr Jorgensen explained that *“It will take commitment from us all to achieve our goals and this plan will be dynamic, monitored and adjusted as we go”*,<sup>38</sup> before turning to set out the key focus areas for the CRIP, including establishing:

- “1. a high performing executive*
- 2. a fully Integrated Planning and Strategic Framework (IPSF)*
- 3. meaningful and effective performance measurement and benchmarking aligned with the IPSF*
- 4. integrated financial systems*
- 5. integrated Information and Communications Technologies (ICT)*
- 6. robust and contemporary project management*
- 7. a solid foundation of governance for the orderly transition and return of an elected Council*
- 8. a customer service-orientated ethos that is agile and responsive [to] the community, customers and stakeholders*
- 9. effective human resource development and a positive organisational culture”*.<sup>39</sup>

The CRIP is a living document which, as Mr Jorgensen told the Inquiry, is constantly being updated as the City becomes aware of new issues that require resolution in pursuit of the City’s corporate recovery.<sup>40</sup>

As at the date of Mr Jorgensen giving evidence, the CRIP was 24 pages long and detailed the goals, and the markers for progress against, seven CRIP recovery areas.<sup>41</sup>

Success against the CRIP, as amended from time to time, is measurable and measured.

As at the date of Mr Jorgensen and Mr Hammond giving evidence to the Inquiry, the City was about 24 per cent of the way along the path to corporate recovery set out in CRIP.<sup>42</sup>

That progress is reflected in a document called the “*Corporate Recovery Implementation Plan – Status Report*”, the most recent of which in the Inquiry’s holdings is dated 15 September 2019,<sup>43</sup> though it is like the CRIP itself a living document.

Mr Jorgensen was asked about how long full corporate recovery would take to achieve according to the CRIP:

*“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”.*<sup>44</sup>

Mr Jorgensen’s estimate is a sensible one. The CRIP is multi-faceted, and it will take time to implement all of the actions necessary to achieve its outcome. What is important, though, and what is apparent from the evidence of Mr Jorgensen, is that the City has planned a route and has commenced the journey towards corporate recovery.

The Inquiry observes that the areas identified as key areas within the CRIP reflect the themes which permeated Messrs Hammond and Jorgensen’s evidence: people, governance and recovery. This reflects, in the Inquiry’s view, that the Commissioners and the City’s administration under Mr Jorgensen have given careful consideration to a structured and targeted approach to corporate recovery which should, when implemented, serve the City well for and into the future.

## Conclusion

Both Mr Jorgensen and Mr Hammond were asked about how they saw the future of the City. In answer, both expressed the view that the City’s future was bright, and that their task was to get the basic foundations of a functioning local government in place in order to secure that future.<sup>45</sup>

Mr Hammond summarised the position neatly towards the end of his evidence:

*“The City of Perth has a bright future. They have wonderful staff, we have a growing population, we have lots of economic opportunity and the capital city Local Government I’m sure is one that Western Australia will be proud of in the years to come. The Commissioners will get the basics of Local Government right, those fundamental areas of governance that need to be strong and from there, provided that good people are involved with the City, both at the Executive level and at the elected level, the City will thrive”.*<sup>46</sup>

There are good reasons to believe the City will fare better than it has in the recent past. The means to become a better local government are being or have been put in place. The willingness to change appears to be present. It will in the Inquiry’s view take some time to overcome the obstacles which beleaguered it in the past, but with commitment to the path now mapped out for it there is reason to think that in the future the City will be properly governed, thrive and prosper. There are plenty of reasons to think that the public confidence in it, as the State’s capital city, will be restored.

# 3.3

## Matters Referred to Other Authorities



## Overview

This Inquiry has the power to refer any matter arising out of it to an authority of the State, the Commonwealth, another State or a Territory that has a power under a law to investigate or take action in relation to it and it may pass on to that authority any document it has obtained in the course of this Inquiry.

While this was an Inquiry under the *Local Government Act 1995* into matters of governance and government at the City of Perth, it did in the course of its investigation find out about a number of matters, some more serious than others, which required it in the responsible discharge of its duties, functions and powers to refer them to a number of external agencies.

In the discharge of this duty, the Inquiry referred 135+ matters, many concerning suspected criminal behaviour, in respect of 23 individuals and two organisations, including council members and senior members of the Administration, to 17 different Commonwealth, State and other authorities.

However, it should be made clear that the referral of a matter by this Inquiry to those agencies merely indicates that this Inquiry has formed the view that there is a reasonable basis for referral to that other agency for its consideration and action. It should not be seen as confirmation of wrongdoing. Whether or not there has been any wrongdoing is a matter to be decided elsewhere and by others at some later time.

# 135+

Matters referred



# 17

Commonwealth, State and other authorities



# 23

Persons referred



# 1

Organisation referred



# 320+

Recommendations for the future

# 3.4

## Recommendations



## Introduction

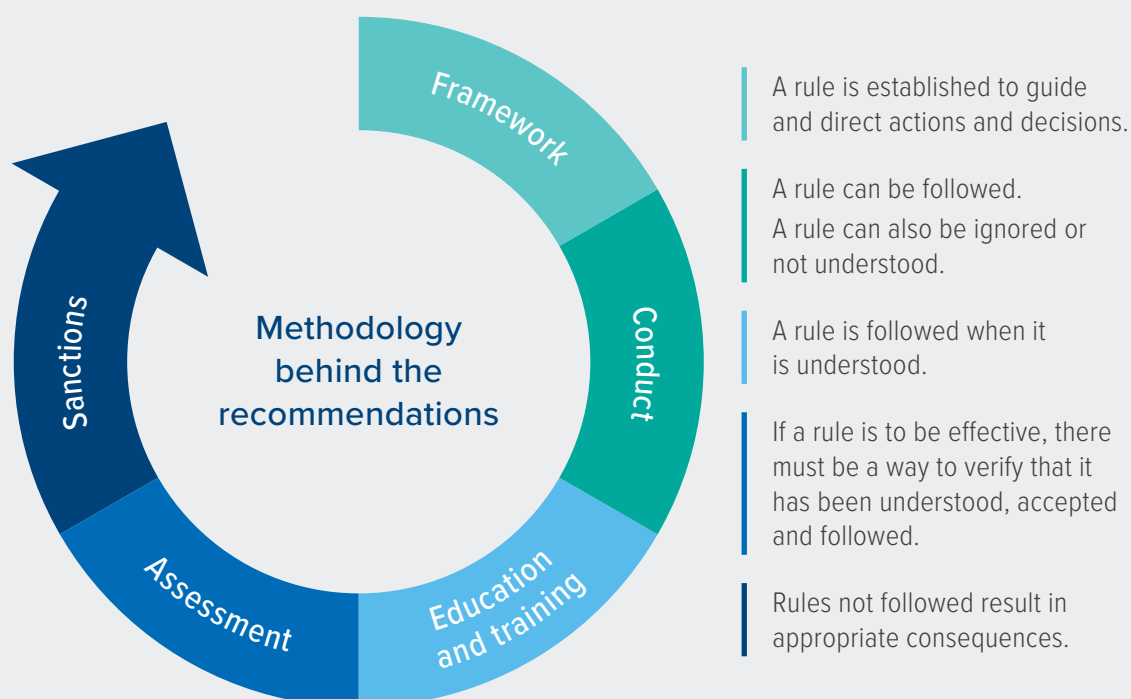
In the course of examining government at the City of Perth (City) during the period of this Inquiry's Terms of Reference, 1 October 2015 and 1 March 2018 (Inquiry period), a number of failings in good government were identified. They existed in the Council and the Administration of the City.

Inevitably, the investigation undertaken by this Inquiry drove it to search for the root causes of many of these failings. In the end, it was clear that many of them stemmed largely from two root causes. They were poor behaviour and poor decision-making. The poor culture at the City and poor governance practices proved fertile ground for these two root causes.

It is this understanding of what lies at the heart of many of the failings identified by this Inquiry which is the primary driver for many of its recommendations.



A simple model has guided the Inquiry in articulating the methodology behind the recommendations.



### Framework

Rules guide and direct our actions and decisions. Rules can take many forms. They can be written or not. Rules often articulate a power that a person, group of persons or organisation has over another. They can be created by governments, taking the form of legislation or policies and procedures. Rules tell us how something is to be done or how it is not to be done. Rules can be self-regulated or regulated by other parties, including other arms of government or government agencies. Rules are designed to provide for fairness and consistency in treatment. Rules are to be followed.

Local government has power to create local laws and make rules. It also has to comply with rules imposed by legislation (such as the *Local Government Act 1995* or other laws which require local government to regulate functions such as environmental health) as well as any directions provided by the Minister for Local Government.

### Conduct

Integral to finding an effective and lasting solution to many of the problems at the City is the need to have, a clear, simple, meaningful and practical set of rules governing the behaviour and decision-making of council members<sup>b</sup> and employees. While the roles of these two groups are different, when it comes to behaviour and decision-making, there is much common ground between them.

Rules governing behaviour and decision-making should be compulsory. They should set acceptable minimum standards, benchmarked to best practice. Any aspiration by the City (or indeed any local government) to some higher standard should be encouraged. The adoption of a lower standard would defeat the purpose of the regime.

### Education and training

A rule is less likely to be followed if it is not understood. It may not be enough that the rule is clear and simple. In some cases, the rule governing behaviour and decision-making will need to be further explained by, for example, scenario modelling. A full and proper understanding is often the best way of ensuring compliance.

### Assessment

If a rule is to be effective, it must be understood, accepted and then followed. Often, it is not enough for the rule to just be understood. The person to whom it applies must also accept and adopt the reason for its existence. It must be seen as appropriate and, in some cases, necessary. Mentoring by an experienced professional is often the best method for ensuring the adoption of a different way of behaving. It can be done in a number of different ways.

<sup>b</sup> Council member is a term describing members of a local government's Council including a Lord Mayor, Mayor or President and councillors.

It can often be done effectively by one-on-one mentoring. It can sometimes be supplemented and reinforced by continuing professional development. Assessment is a good way of measuring acceptance.

The evidence heard by this Inquiry has demonstrated that the rules governing behaviour and decision-making by council members and employees alike were often not understood, not accepted or deliberately not followed.

## Sanctions

Equally important to understanding and adopting rules of this kind is having the machinery to ensure that if they are not followed, there are appropriate consequences. This requires at least two things.

First, that there is a system whereby failures to follow the rules are dealt with fairly, quickly and consistently. In that way, those bound by the rules will understand that there are measured, timely and unwanted consequences for their failures.

The current system is not timely, it often produces inconsistent results and often requires solutions to be found in different places. It is not streamlined. It can be confusing. Consequently, it is not as effective as it could be. There is no real need for such a diverse and disconnected regulatory system. The problems of local government are often local government specific. It makes good sense, therefore, for them to be dealt with by a streamlined local government-specific regime.

Secondly, while most council members and employees of local government will, when they understand the rules and the reasons for them, conduct themselves accordingly, some will not. It is because of this minority that there needs to be an appropriate and measured range of sanctions.

The purpose of a sanction, in the context of local government as elsewhere, is to punish and correct conduct where it does not accord with what is required and expected of public officers. It is also to mark public disapproval of that conduct and deter the public officer and other public officers from engaging in that conduct in the future. It is the counterbalance to education and training about the right way to do things. It should always be proportionate to the breach.

It is therefore appropriate for the sanctions which will be applied to this minority to range from dismissal, suspension and pecuniary penalties all the way down to reprimands and apologies. Obviously, the nature and extent of the breach and the purpose underlying the sanction should shape the sanction applied in any given case.

It is important in the area of local government for sanctions for failures to follow the rules governing behaviour and decision-making to be transparent. Transparency is an effective way of ensuring accountability and correcting behaviour. Therefore, where sanctions are imposed on council members or employees, they should be made public. Often, the publication of a sanction, even one at the lower end of the scale, can be an effective form of correction, as well as a disincentive to others who might be considering something similar.

#### ‘Lines of defence’ approach

In developing the recommendations consideration has also been given to the City’s lines of defence<sup>c</sup> to:

- Strengthen the City’s internal controls at a business level, including policies, procedures and processes, and provide training and awareness to ensure comprehension and application (*First line of defence*).
- Improve the City’s internal oversight mechanisms through better planning, monitoring and reporting, including whole of organisation governance frameworks such as risk management, compliance and complaint handling frameworks (*Second line of defence*).
- Support accountability through maturing the internal audit function with a greater focus on audits and reviews to detect and address fraud and misconduct and systemic problems and weaknesses (*Third line of defence*).
- Identify potential areas of legislative improvement that provide for better practice or universal systemic solutions.

#### State Government legislative reform programme

The recommendations have also been prepared against the background of the current legislative framework for local government in Western Australia. This legislative framework is currently undergoing reform as part of the State Government’s Local Government Act Review programme. In developing the recommendations contained in this Report, consideration has been given to the current legislation (as at June 2020). It has also been informed by those elements of the State Government’s reform programme which are in the public domain.

The recommendations have also been prepared having regard to the legislative framework for regulating local governments in other States and Territories in Australia, namely, the Victorian Local Government Inspectorate and the Queensland Office of the Independent Assessor.

Some of the Inquiry’s recommendations fall outside the scope of the State Government’s reforms because, for example, they go to operational matters which do not require legislative reform. Some of the recommendations are in addition to and complement the State Government’s reforms. Some recommendations cover the same matters, but are different from the State Government’s reforms.

While the recommendations made by this Inquiry have been heavily influenced by what the Inquiry considers to be the root causes of many of the problems at the City during its period of interest, they are not the only drivers.

<sup>c</sup> The ‘Four lines of defence’ model has been developed by the Western Australian Auditor General, and the Institute of Internal Auditors Australia has a 3 lines of defence model, both covering similar elements: Report, Western Australian Auditor General, Audit Results Report – Annual 2018-19 Financial Audits of Local Government Entities, Report 16: 2019-20, 11 March 2020, p 27; Factsheet, Institute of Internal Auditors Australia, ‘3 Lines of Defence’ Combined Assurance Model, 2020.

An important part of this Inquiry's work was an examination of whether the failings it identified had occurred before, whether they had occurred elsewhere and whether their causes lie in some more deep-rooted problems with local government as a whole. This is one of the reasons why this Inquiry examined the findings and recommendations of similar inquiries and reports dealing with similar problems, both in this State and elsewhere.

As a consequence of this wider consideration, this Inquiry has concluded that many of the failings identified in its Report are also common to many other local governments, both in this State and elsewhere. Consequently, it is this Inquiry's respectful opinion that the solutions offered by these recommendations, while based on the evidence before this Inquiry and the findings made by it, have the potential for a much broader local government-wide application, well beyond the City of Perth.

## Summary of recommendations

In summary, the Inquiry recommends:

### Conduct

- The creation of a single, mandatory and comprehensive Code of Conduct for all council members and employees of local governments, complemented by training and assessment on, and enforcement of, a Code;
- An assessment of the culture of the City's Council and Administration and supporting leadership development for the City's Council, Chief Executive Officer (CEO) and executives;
- Continuing professional development for council members, CEOs and executives in local government.

### Decision-making

- Greater transparency and accountability for decision-making by Councils and committees of local governments, including audits of decisions of the City's Council.
- Changes to the regulation of the disclosure of conflicts and financial interests by council members and employees, the entitlements for council members and the use of the City's dining room.
- Improved practices for provide greater transparency in decision-making, procedural fairness and consistency in the management of a local government's CEO including appointment, management of performance and termination of employment.

#### Capability

- Improvements to the induction training and education for the Lord Mayor and councillors of the City.
- Coaching programmes for elected mayors or presidents and appointed CEOs.
- Training programs for City employees in areas such as managing conflicts of interest, procurement and contracting, project management, risk management and misconduct prevention.

#### Systems and processes

- Operational changes to the City's systems, policies, procedures and practices for financial management, human resources, procurement of goods and services, project management and handling of complaints, including allegations of corruption and other misconduct.
- Improved risk, audit and assurance practices for the City, utilising a 'lines of defence' model and adopting a risk approach to misconduct identification and mitigation.

#### The local government system

- Legislative amendments and operational changes to ensure the integrity of local government elections and to improve financial management of local governments and the City.
- Independent oversight of the recruitment and performance management of CEOs of local governments.
- The creation of a Local Government Inspectorate, to improve the capability and integrity of local governments and the local government system.
- Amendments to the Royal Commissions Act 1968, to improve the efficiency of Royal Commissions and other commissions of inquiry.
- Reporting by the City on its progress against the Inquiry's recommendations.

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## Statutory roles and responsibilities

### Council members

#### City of Perth

1. The City provide the newly elected Lord Mayor and councillors with an independent course of education (City Council Induction Programme), with an assessment component, on the special role, functions, duties and responsibilities of their respective offices within six months of each City of Perth ordinary or special local government election.

*The Lord Mayor and councillors must be provided with a comprehensive understanding of their statutory roles and responsibilities in order for Council to function, including instruction as to their special roles as articulated by the City of Perth Act 2016, in addition to the universal training provided to all newly elected council members regarding their roles as prescribed by local government.*

2. The City Council Induction Programme include instruction as to obligations under relevant legislation, including but not limited to the:

- *City of Perth Act 2016;*
- *Local Government Act 1995 and regulations;*
- *Corruption, Crime and Misconduct Act 2003;*
- *State Records Act 2000;*
- *Equal Opportunity Act 1984; and*
- *Occupational Safety and Health Act 1984.*

*These statutes contain regimes which are critical for the Council to understand in order to govern properly.*

3. The City Council Induction Programme also include education on the integrated planning and reporting framework, its components and undertaking community consultation and engagement. This would include the vision and strategic direction that it sets for the City, its resourcing implications, and the alignment of the framework with both the aspirations of the community, medium and long term, and the City's objectives under the City of Perth Act 2016.

*The City's integrated planning and reporting framework is fundamental to the governance role of Council and is the primary means by which both the aspirations of the community, medium and long term, and the objectives of the City, as prescribed by the City of Perth Act 2016, are translated into effective, affordable, and achievable strategic directions and actions by Council.*

4. An independent training provider be engaged, by the City, to assist the City's CEO to develop the City Council Induction Programme; independently deliver the programme, including all training and assessment components; and report on the outcomes of compliance with the programme to Council.

*To enhance the quality and integrity of the City Council Induction Programme through the involvement of a suitably experienced independent training provider.*

5. The independent training provider be selected and engaged by the City in a fair and transparent manner and, in so far as is practicable, the provider is not to have any professional or personal affiliations with the CEO, the Lord Mayor or councillors, historic or otherwise.

*To prevent the politicisation of the training programme, perceived or otherwise, in the absence of a preferred supplier panel for training providers in local government.*

#### Chief Executive Officer

##### Local government

6. Any newly appointed CEO of a local government undertake an independent course of education established by the Department<sup>d</sup> (CEO Induction Programme), with an assessment component, on the role, functions and duties and responsibilities of local government CEOs. The CEO Induction Programme should be required regardless of whether the new appointee has been previously employed as a CEO, but with some provision for advanced standing, where appropriate.

*Knowledge of the role is critical to the discharge of its functions.*

7. The CEO Induction Programme include instruction as to obligations under, including but not limited to, the
  - *Local Government Act 1995* and regulations;
  - *Corruption, Crime and Misconduct Act 2003*;
  - *State Records Act 2000*;
  - *Equal Opportunity Act 1984*; and
  - *Occupational Safety and Health Act 1984*.

*These statutes contain regimes which are critical for the CEO to understand in order to properly fulfil his or her role.*

<sup>d</sup> The State Government department responsible for local government in Western Australia is the Department of Local Government, Sport and Cultural Industries.

8. A panel of independent training providers be established by the Department to deliver the CEO Induction Programme, including all training and assessment components, and report on the outcomes of compliance with the programme to the council of the local government.

*To enhance the quality and integrity of the CEO Induction Programme through the involvement of a suitably experienced independent training provider.*

#### City of Perth

9. In the absence of a CEO Induction Programme established by the Department, the City engage an independent training provider to develop and deliver the programme described in Recommendations 6-7 for each newly appointed CEO of the City.

*Knowledge of the role is critical to the discharge of its functions.*

10. The City's CEO is to undertake and complete the CEO Induction Programme within six months of commencement and the outcomes be included in the CEO's probationary performance agreement and reported to the City of Perth Council as part of the performance review.

*To enhance the quality and integrity of the CEO Induction Programme and support the continuing professional development of the City's CEO.*

## Culture, conduct and leadership

### Culture

#### City of Perth

11. The City engage an accredited provider to undertake a review, guided by the 'Organisational Cultural Inventory' or some other appropriate system, of the culture of the City, including the City of Perth Council and the Administration (Cultural Assessment).

*To identify and assess, in an holistic way, the City's organisational culture.*

12. The accredited provider be engaged for a minimum of three years to provide a baseline, progress and closing assessment, in the form of an assessment report for each assessment to the CEO, of the cultural change performance within the City.

*A three-year period would ordinarily cut across election cycles and give a more representative view.*

13. The City is to conduct the baseline Cultural Assessment survey within three months of the commencement of the new Council, and it is to be undertaken by council members, the CEO, and the Administration.

*This sets the timing of the survey and who is required to participate in the assessment.*

14. The accredited provider should also provide the City with organisational development advice to guide actions in response by the City of Perth Council and the CEO to the Cultural Assessment findings.

*An accredited provider will have an appropriate tool to make the assessment and provide operational development advice.*

15. The reports containing the results of the Cultural Assessment and proposed actions to address findings in each report is to be provided to the City of Perth Council by the CEO for consideration, endorsement and action no later than three months after the results are received by the CEO.

*The City consider what organisational cultural improvements can and should be implemented following the assessment.*

16. The report, and the City of Perth Council's response to it, is to be communicated appropriately to staff and made available to the public.

*Reporting and disclosures facilitate transparency and accountability in local government.*

17. In the years subsequent to the baseline report, the accredited provider is to provide in the report a view on the effectiveness of the strategies implemented by the City and any barriers to their implementation, as well as ongoing organisational development strategies to address areas in need of improvement.

*Constant re-assessment as to whether strategies are working and where issues remain will facilitate organisational improvement.*

18. The Cultural Assessment is to be supported by and integrated with an accredited Executive 360-degree cultural and leadership assessment for the City's council members, the CEO and the executive of the Administration.

*To provide an avenue for individuals in a leadership role to gain insight into their leadership skills.*

19. Key performance indicators from the Cultural Assessment and Executive 360-degree programme are to form part of the City's CEO and each executive's performance and development agreement.

*Individuals are held accountable for their behaviours, areas of improvement and contribution to the team and City outcomes for culture.*

## Code of Conduct

### Local government

20. The *Local Government Act 1995* be amended to provide for the Director-General of the Department to prescribe a single mandatory Code of Conduct (Code) for all council members, members of council committees (committee members) and employees of a local government,<sup>e</sup> which will set minimum standards to comprehensively regulate all conduct engaged in by council members, committee members and employees in the discharge of their duties and functions, including, but not limited to, the disclosure of conflicts of interest, financial interests and gifts.

*Key conduct obligations for council members and employees across local governments are the same. While roles and delegations may differ, the fundamental way an officer of the local government should act and make decisions should be the same and should, where practicable, be articulated in one instrument. The standard should not be different or separated.*

*The new section 5.51A of the Local Government Act 1995, which has not come into effect, provides that the CEO of a local government is to prepare and implement a Code of Conduct to be observed by employees.*

*The new sections 5.103 and 5.104 of the Local Government Act 1995, which have not come into effect, provide for regulations to prescribe a model code of conduct for council members, committee members and candidates and for local governments to adopt a code of conduct incorporating the model code.*

21. The provisions of the Code be principles-based and incorporate the principles of integrity, diligence, fairness, service, transparency and accountability.

*The Code should, wherever possible, broadly state and explain what is required of council members and employees, rather than prohibiting improper or unethical behaviour.*

*The rules of conduct in the Local Government (Rules of Conduct) Regulations 2007 and the proposed provisions of Part C of the draft “Mandatory Code of Conduct for Council Members, Committee Members and Candidates” are proscriptive, that is, those rules and provisions set out in detail what council members “must not” do.*

22. The Code should mandate compliance with the standards that the community expects from public officers, namely, to act in the best interests of the community, with reasonable care and diligence and with honesty, integrity and transparency, having regard to relevant and factually correct information.

*Those serving the community should represent it and live up to the community’s expectations of them.*

<sup>e</sup> The Code of Conduct is to apply to all those persons of the local government defined as a “public officer” in section 1 of the *Criminal Code*.

23. The Code deal with the matters in Part 5, Division 6 of the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*, with those provisions to be repealed.

*To consolidate the obligations of council members and employees in one instrument.*

24. A local government may, in addition to the Code, regulate other aspects of the conduct of council members, committee members and employees, or impose greater constraints on conduct than those regulated by the Code, but cannot do so in a way which derogates from or is in conflict with the Code's minimum requirements.

*To encourage improvement on, but prevent diminution of, the requirements of the Code. That is the effect of new section 5.104(3) of the Local Government Act 1995, which has not come into effect, in relation to the model code of conduct.*

25. The Department arrange for an independent review of the Code, at three-yearly intervals, to determine whether it remains effective and relevant and whether it should be updated and amended.

*To maintain the efficacy and relevance of the Code to allow for iterative improvement and the implementation of best practice.*

26. Any breach of the Code be subject to the imposition of a sanction commensurate with the breach.

*To encourage compliance, it is important that any breaches of the Code be subject to the imposition of appropriate sanctions by an independent adjudicative body: Recommendations 332-333.*

*Under sections 5.103 and 5.105 of the Local Government Act 1995, as amended by section 51 of the Local Government Legislation Amendment Act 2019, only breaches of Part C of the draft "Mandatory Code of Conduct for Council Members, Committee Members and Candidates" may be dealt with by the Local Government Standards Panel. The Panel may only order that a council member found to be in breach of the provisions of Part C be publicly censured, made to apologise publicly, undertake training or pay a fine.*

*Breaches of Part A of the draft Mandatory Code will not result in any sanctions. Breaches of Part B of the draft Mandatory Code are proposed to be dealt with by the council of the local government which may require a council member to undertake training, mediation or counselling.*

*Under the previous statutory framework, failure by council members to comply with the local government's code of conduct did not result in any sanctions or consequences.*

## City of Perth

27. If Recommendations 20-22 are not adopted, the City of Perth Council review and amend the City's Code of Conduct (Council Policy "CP10.1") to give effect to those recommendations.

*The City's Code of Conduct should, wherever possible, broadly state and explain what is required of council members, committee members and employees, rather than prohibiting improper or unethical behaviour.*

## Training

### Local government

28. Local governments be required to provide all newly elected council members, committee members and newly recruited employees with training on the Code, including an assessment component, as part of their induction process.

*Those bound by the Code should understand it.*

29. All council members and employees undergo training on the Code when it is introduced and refresher training on the Code, including an assessment component, at no less than 12-month intervals.

*To maintain currency of understanding.*

30. The Department establish the training programmes described in Recommendations 28-29, and publish comprehensive training materials on its website, for use by internal and external facilitators, in delivering the programme to council members and employees.

*Training content is to be accessible and enable local governments to deliver the training internally and directly through the use of free, centralised training materials.*

31. The Department consider establishing a standardised method for the assessment component of the training programme which is low burden, for both the facilitator and recipients of the training, and to allow the content to be easily updated.

*Training content is to be accessible and to enable local governments to deliver the training internally, and directly, using free, centralised training materials.*

32. The training programmes and materials be reviewed annually by the Department, and where possible, include recent examples and case studies which are relevant to the training content.

*Training content is to be relevant and current and is seen as such.*

33. The Department to consider the inclusion of reporting against compliance with the Code training requirement in a local government's compliance audit return, split by category, namely, council members, committee members, candidates, the CEO, "senior employees"<sup>f</sup> or equivalent and employees.

*To encourage compliance, transparency and accountability.*

34. Local governments be required to publish in their Annual Report their percentage of compliance for the financial year with the Code training requirement, according to the specified categories (as described in Recommendations 33).

*To encourage transparency and accountability for the local government's performance.*

#### City of Perth

35. If Recommendation 28 is not adopted, the City is to provide all newly elected council members, newly appointed committee members and newly recruited employees with training on the Code, including an assessment component, as part of their induction process.

*Those bound by the Code of Conduct should understand it.*

36. If Recommendation 29 is not adopted, all council members and employees undergo training on the Code when it is introduced and refresher training on the Code, including an assessment component, at no less than 12-month intervals.

*To maintain currency of understanding.*

37. If Recommendation 34 is not adopted, the City is to publish in its Annual Report its percentage of compliance for the financial year with the Code training requirement, according to the specified categories (as described in Recommendations 363).

*To encourage transparency and accountability for the City's performance.*

<sup>f</sup> Local Government Act 1995, s 5.37.

## Leadership

### Lord Mayor, mayors or presidents

#### Local government

38. The Department establish a Mayoral Leadership Coaching Programme for newly elected mayors and presidents of local governments, delivered by accredited coaching providers, to support mayors and presidents build their non-technical and leadership skills as part of continuing professional development.

*A mayor or president as a leader needs to have good leadership skills.*

39. An independent accredited executive coach, with formal experience in leadership coaching, be appointed to support and mentor a newly elected mayor or president in his or her transition into the role and for continuing professional development, particularly the development of skills necessary to provide effective community leadership and manage relationships within and between the City of Perth Council and the CEO. The coach to be selected by the mayor or president from a panel of suppliers provided by the Department.

*Professional expertise assists to improve capability and provided objective insights.*

#### City of Perth

40. In the absence of a Mayoral Leadership Coaching Programme established by the Department, the City establish the equivalent of the Mayoral Leadership Coaching Programme described at Recommendation 38, within three months of the Lord Mayor commencing in the role.

*The Lord Mayor is to receive professional coaching that is effective, appropriate, and provides for development of his or her leadership capability.*

41. An independent accredited executive coach, with formal experience in leadership coaching, be appointed by the City to support any newly elected Lord Mayor in his or her transition into the role and for continuing professional development, particularly the development of skills necessary to provide effective community leadership and manage relationships within and between the City of Perth Council and the CEO. The coach to be selected by the Lord Mayor from a panel of suppliers provided by the City.

*Professional coaching enhances and develops leadership skills.*

## Chief Executive Officers

### Local government

42. The Department establish a CEO Professional Leadership Coaching Programme for CEOs of local governments, delivered by accredited coaching providers, to support CEOs to build their non-technical and leadership skills both in their transition into the role and for continuing professional development.

*A CEO, as a leader, needs to have leadership skills.*

43. An independent accredited executive coach, with formal experience in leadership coaching, be appointed, to support and mentor a CEO (including new and current CEOs) in his or her role and continuing professional development, particularly the development of skills necessary to provide effective community leadership and manage relationships within and between the council and the CEO. The coach to be selected by the CEO from a panel of suppliers provided by the Department.<sup>g</sup>

*Professional expertise assists to improve capability and provided objective insights.*

### City of Perth

44. In the absence of a CEO Professional Leadership Coaching Programme established by the Department in Recommendation 42, the City engage an independent accredited coaching provider to support the City's CEO to build non-technical and leadership skills both in his or her transition into the role and for continuing professional development.

*The CEO is to receive professional coaching that is effective, appropriate, and provides for development of his or her leadership capability.*

45. An independent accredited executive coach, with formal experience in leadership coaching, be appointed, to support and mentor a newly appointed City CEO in his or her role and for continuing professional development, particularly the development of skills necessary to provide effective community leadership and manage relationships within and between the Council and the CEO. The coach to be selected by the CEO from a panel of suppliers provided by the City

*Professional expertise assists to improve capability and provided objective insights.*

46. The Council is to facilitate the appointment of the independent accredited executive coach described in Recommendation 45, within three months of the new CEO commencing at the City.

*It is important for the newly appointed CEO to commence with the right support and coaching.*

<sup>g</sup> The State Government department responsible for local government in Western Australia is the Department of Local Government, Sport and Cultural Industries.

## Council member essential training

### Local government

47. To the extent these matters are not sufficiently dealt with in the *Council Member Essentials* training<sup>h</sup>, regulation 35(2) of the *Local Government (Administration) Regulations 1996* be amended to require council members to undergo training on:
- the statutory roles and functions of, and the relationships between, the council, Mayor or President, council members, the CEO and other employees of the local government, including:
    - council’s role as the governing body of the local government and the administration’s role in managing the local government’s operations;
    - decision-making processes of local governments, including council and committee meeting procedures;
    - how council, the CEO and the administration can and should work constructively; and
    - how council can and should monitor and manage the CEO’s and the local government’s performance;
  - conduct and integrity in decision-making, including declaring and managing conflicts of interests;
  - financial management and the Integrated Planning and Reporting Framework; and
  - leadership, including council members’ role as elected representatives of the community.

*Training is to be targeted and relevant to support council members of a local government to properly perform their roles.*

### City of Perth

48. Council members of the City are to be trained in those areas described in Recommendation 47.

*Training is to be targeted and relevant. These matters are integral to council members at the City properly performing their roles and directly relates to areas of deficiency identified by this Inquiry.*

<sup>h</sup> *Local Government (Administration) Regulations 1996*, reg 35(2).

## Continuing professional development

### Local government

49. The State Government consider amending section 5.128 of the *Local Government Act 1995* and prescribing regulations to require local governments, in preparing and adopting policy on continuing professional development:

- to extend that policy to committee members and senior employees;
- to consider the individual training and professional development needs of council members, committee members and senior employees; and
- to require training and professional development courses be delivered by independent and qualified training providers who are members of a panel of training providers established by the Department, with assessment undertaken as part of the course.

*To provide for essentials in local government training and development for persons of the local government other than council members.*

50. Committee members, including those who are council members, as part of their continuing professional development, receive training in respect of the specialised skills and knowledge required to competently carry out that committee function.

*Council members and others should receive specialised training relevant to the effective discharge of their roles.*

51. The training described in Recommendation 50 be received before the committee member serves on the relevant committee or, if that is not practicable, as soon as practicable after appointment to the committee.

*Decision-making is to be informed by the training.*

52. Local governments to report all continuing professional development compliance to the Department.

*For compliance and performance monitoring.*

53. The Salaries and Allowances Tribunal consider whether the hours undertaken for continuing professional development be provided for under council members' sitting fees or whether a further allowance be granted for this purpose.

*To appropriately meet the time impost on council members.*

## City of Perth

54. If Recommendation 49 is not adopted, the City prepare and adopt a policy on continuing professional development:
- to extend that policy to committee members and senior employees;
  - to consider the individual training and professional development needs of council members, committee members and senior employees; and
  - to require training and professional development courses be delivered by independent and qualified training providers who are members of a panel of training providers established by the Department, with assessment undertaken as part of the course.

*To provide for essentials in local government training and development for persons of the City other than council members.*

55. If Recommendation 50 is not adopted, the City arrange for all committee members, as part of their continuing professional development, to receive training in respect of the specialised skills and knowledge required to competently carry out that committee function.

*Council members and others should receive specialised training relevant to the effective discharge of their roles.*

56. The training described in Recommendation 55 be received before the committee member serves on the relevant committee or, if that is not practicable, as soon as practicable after appointment to the committee.

*Decision-making is to be informed by the training.*

## Council and committee decision-making

### Local government

57. Part 2 of the *Local Government (Administration) Regulations 1996* be amended to require all council meetings and committee meetings of Council be audio-visually recorded in their entirety, which recordings should be kept in compliance with the *State Records Act 2000*.

*To improve transparency and accountability, and by those measures the quality of local government decision-making.*

58. Audio-visual recordings of all parts of meetings of a council or a committee of the council that were open to members of the public be prescribed pursuant to section 5.96A(1)(i) of the *Local Government Act 1995* as information which the CEO must publish on a local government's official website.

*To improve transparency and accountability.*

59. Audio-visual recordings of all parts of meetings of a council or a committee of the council that were open to members of the public be prescribed pursuant to section 5.94(u)(ii) of the *Local Government Act 1995* as information which a person attending the office of a local government during business hours may inspect.

*To improve transparency and accountability.*

60. Regulation 11(da) of the *Local Government (Administration) Regulations 1996* be amended to require the reasons for all decisions of council or a committee of council be recorded in writing in the minutes of the meeting in sufficient detail to explain why the decision was made.

*To improve transparency and accountability, and to avoid the situation where a committee and council reach the same view on a proposal, but for unexplained and possibly different reasons.*

61. Local governments ensure that their policies make clear that all communications<sup>i</sup> sent or received by any council member relating to any decision of a council or a committee of the council (Decision-Making Correspondence) are records which must be forwarded to the CEO<sup>j</sup> and stored in accordance with the *State Records Act 2000* and the State Records Commission's guidance on local government elected members' records.

*To improve compliance with the State Records Act 2000, to facilitate transparent and accountable decision-making, and to aid auditing, investigation and oversight.*

i Including social media posts, text messages, messages from applications such as WhatsApp and Facebook Messenger and records of verbal communications.

j In the case of the matters related to the performance and termination of employment of a CEO this would be a designated "senior employee".

62. The Code require all council members, committee members and employees of a local government,<sup>k</sup> where information technology facilities are provided by the local government,<sup>l</sup> to use those facilities for any matter relating to the business of the local government or the performance of the duties or functions of their office or employment.

*To facilitate transparent and accountable decision-making, and to aid auditing, investigation and oversight.*

#### City of Perth

63. Recommendation 58 be adopted as better practice transparency by the City of Perth Council, in the absence of broader local government legislative reforms.

*To improve transparency and accountability at the City.*

64. The decisions of the City of Perth Council, a committee and the CEO, including related correspondence, be audited for compliance with statutory and policy requirements and obligations, no less than once every 24 months by an independent, qualified auditor.

*An independent report providing oversight on the City's ability to act and make decisions in accordance with the legislation and policy provides accountability, transparency and improvement.*

65. The results of the audit be reported to the City of Perth Council's Audit Committee (Audit Committee) and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

66. The first audit described at Recommendation 64 be conducted for the financial year ending 30 June 2021.

*The City to use the first audit as a mechanism to inform the new Council and CEO of areas of compliance and for potential improvement.*

67. If an audit conducted under Recommendation 64 identifies serious deficiencies in the City's compliance with statutory and policy obligations, sanctions should be imposed immediately, a report to Council on an improvement programme<sup>m</sup> be developed, that programme be adopted by the City of Perth Council within two months of the audit report being presented and the audit be repeated at 12 months.

*Where an audit identifies non-compliance or process weaknesses, action should be taken to address (including sanction and improvement actions control framework weaknesses).*

<sup>k</sup> The Code of Conduct is to apply to all those persons of the local government defined as a "public officer" in section 1 of the *Criminal Code*.

<sup>l</sup> Including email addresses, remote system access and electronic devices such as computers, mobile telephones and electronic tablets.

<sup>m</sup> The improvement programme should include specific actions to address findings made in the audit, allocation of responsibility and timeframes for the completion of the action. This improvement programme is to be monitored by the Audit Committee.

68. A copy of the independent audit report for the financial year ended 30 June 2021 and the City of Perth Council's response to that report (Recommendation 67) be provided to the Minister for Local Government by no later than 31 December 2021.

*Confidence in the City to act in accordance with its legislative and policy responsibilities is strengthened with transparency and accountability to the Minister for Local Government.*

## Disclosure, personal interests and entitlements

### Disclosures and conflicts

#### Local government

69. The Code require council members, committee members and employees of a local government to disclose any actual or perceived conflicts of interest (conflict of interest) that arise in the discharge of their duties and functions; and in sufficient detail so as to:

- identify what the conflicting interest is and the reason why it gives rise to an actual or perceived conflict; and
- enable a third-party to assess the nature and extent of the conflict.

*The detailed definitions of “financial interest” and “closely associated person” in the Local Government Act 1995 are complex and confusing.*

*Furthermore, the different consequences which attach to the declaration of a “financial interest” under the Local Government Act 1995 in comparison to the consequences which attach to a declaration of an “impartiality interest”<sup>n</sup> under the Local Government (Rules of Conduct) Regulations 2007 can lead to inconsistent and absurd results.*

*By unifying the concept of a conflict of interest with reference to well-defined principles, the system should be simpler to understand and easier to comply with and lead to better governance outcomes.*

70. Where a council member, committee member or employee has a conflict of interest in relation to a matter before a council or committee meeting, the Code require the council member, committee member or employee to disclose that conflict:
- to the CEO in writing and as soon as practicable prior to that meeting; or
  - if that is not practicable, orally at the commencement of the meeting and then in writing to the CEO as soon as practicable after the conclusion of the meeting.

*Conflicts of interest should be made and recorded appropriately and transparently.*

<sup>n</sup> This may also be the case with the proposed definition of an “interest” under the draft “Mandatory Code of Conduct for Council Members, Committee Members and Candidates”.

71. The Code prohibit council members, committee members and employees who declare a conflict of interest from discharging any of their duties or functions in relation to that conflict, unless:
- i) in the case of a council member at a council meeting or a committee member at a committee meeting,
    - at the meeting the council member or committee member discloses the conflict orally and in sufficient detail; and
    - the council or committee, having regard to the disclosure, the nature and extent of the conflict and the advice of the CEO, resolves by absolute majority vote:
      - that it is appropriate to permit that council member or committee member to participate in discussions or decision-making processes at the meeting in relation to that matter; and
      - the extent to which it is appropriate for that council member or committee member to participate in discussions or decision-making processes at the meeting in relation to that matter; and
    - the council member or committee member only participates in discussions or decision-making processes at the meeting to the extent of the council's or the committee's resolution;
  - ii) in the case of a council member who declares a conflict of interest in relation to any other aspect of their role, for example, in relation to their attendance at a council briefing session:
    - the CEO, having regard to the council member's disclosure and the nature and extent of the conflict, decides:
      - that it is appropriate to permit that council member to discharge his or her duties and functions in the matter; and
      - the extent to which it is appropriate for that council member to discharge his or her duties and functions in the matter; and
    - the council member or committee member only discharge his or her duties and functions in the matter to the extent decided by the CEO;
  - iii) in the case of an employee:
    - the employee's line manager<sup>o</sup>, having regard to the employee's disclosure and the nature and extent of the conflict, decides:
      - that it is appropriate to permit that employee to discharge his or her duties and functions in the matter; and
      - the extent to which it is appropriate for that employee to discharge his or her duties and functions in the matter; and
    - the employee only discharges his or her duties and functions in the matter to the extent decided by his or her line manager;

<sup>o</sup> In the case of the CEO, this would be a designated "senior employee".

- iv) in the case of an employee at a council or committee meeting:
  - the CEO, having regard to the employee's disclosure and the nature and extent of the conflict, decides:
    - that it is appropriate to permit that employee to discharge his or her duties and functions in the matter; and
    - the extent to which it is appropriate for that employee to discharge his or her duties and functions in the matter; and
  - the employee only discharges his or her duties and functions in the matter to the extent decided by the CEO.

*Conflicts of interest should be made, recorded and managed appropriately and transparently.*

72. Where the council, a committee, the CEO or an employee makes a decision in relation to a disclosure of a conflict of interest, including a decision that it is not appropriate for a council member, committee member or employee to participate in discussions or decision-making processes or to exercise duties and functions, detailed reasons for that decision or determination must be given.

*Conflicts of interest should be managed and documented appropriately and transparently when connected to decision-making.*

73. All disclosures of conflicts of interest and any decision or determination in Recommendation 71 on that conflict, including the reasons for that decision or determination, be recorded in full in an Expenditure, Interests and Gifts Register.

*To reflect the position in section 5.88 of the Local Government Act 1995.*

74. Where a disclosure of a conflict of interest is made in relation to a council or committee meeting, the disclosure and any decision or determination in Recommendation 71 on that conflict, including the reasons for that decision or determination, be recorded in full in the minutes of the meeting.

*To increase transparency and accountability.*

75. The Department is to provide examples of, and the Code is to provide guidance on, what constitutes a conflict of interest, what information and level of detail a disclosure of a conflict of interest should contain and how conflicts of interest are to be managed.

*To assist council members, committee members and employees in meeting their obligations under the Code.*

76. The Code incorporate section 5.69 of the *Local Government Act 1995*.

*To enable council meetings to consider and vote on an item where a majority of council members have declared conflicts of interest, where the Minister of Local Government is of the opinion that it is in the public interest to do so.*

77. Council members, committee members and employees should consult the Expenditure, Interests and Gifts Register as soon as practicable after receipt of an agenda for a council or committee meeting and notify the CEO of any interests which may be required to be declared in relation to any items before the meeting.

*To assist council members to meet their responsibility to disclose conflicts of interest.*

#### Primary and annual returns

78. The Code incorporate the current obligations in Part 5, Division 6, Subdivision 2 of the *Local Government Act 1995* and require council members, the CEO and designated employees to disclose their financial interests in a primary and annual returns.

*The primary and annual return documents are complex; requiring continuous disclosure in each return improves transparency and accountability by reducing or eliminating the need to reconcile different returns across different periods of time.*

79. The Code require council members, the CEO and senior employees to disclose all financial interests in the primary and then each subsequent annual return and not permit information to be excluded because it was recorded in a previous return.

*The primary and annual return documents are complex; requiring continuous disclosure in each return improves transparency and accountability by reducing or eliminating the need to reconcile returns across periods of time.*

*Section 5.78(2)(a) of the Local Government Act 1995 does not require a council member, the CEO or senior employees to disclose any information that has been disclosed in a previous return. That reduces transparency and accountability.*

80. The Code require the use of the current forms for primary and annual returns (Form 2 and Form 3, Schedule 1, *Local Government (Administration) Regulations 1996*) with the following amendments:

- i) the forms specifically identify the common types of income required to be disclosed, namely, “income from an occupation”, “income from a trust”, “rent”, “share dividends and other income from investments”, “bank interest”, “commissions” and “sources of other income”, with a separate disclosure space for each income type; and
- ii) the Code and the forms require the person completing the form to provide the name and address of the person or body corporate providing each income source and a description of the relationship between the person completing the form and the person or body corporate providing the income.

*The primary and annual return documents are complex. The amendments will promote and improve clarity and accountability.*

81. The financial interests disclosed in primary and annual returns be disclosed in an Expenditure, Interests and Gifts Register.

*To increase transparency and accountability. This is consistent with section 5.88 of the Local Government Act 1995.*

82. If Recommendations 78-80 are not adopted, the *Local Government Act 1995* and associated regulations be amended to give effect to the specific changes proposed in those recommendations.

*The primary and annual return documents are complex. The amendments will promote and improve clarity and accountability.*

83. The Department give consideration to further amending the regulated forms for primary and annual returns to require council members and “designated employees” to disclose the names of close family members and entities that they or their close family member control or jointly control, in compliance with Australian Accounting Standard AASB 124 *Related Party Disclosures*.

*To improve transparency and administrative efficiency.*

84. The Department provide guidance to local governments in relation to the disclosure requirements of financial interests in primary and annual returns, consistently with Recommendation 79.

*To assist the person making the return to do so accurately.*

85. The CEO of a local government or his or her nominee is to be involved, in a substantive way, and responsible for maintaining an Expenditure, Interests and Gifts Register (Recommendation 97), maintaining the local government’s conflicts of interest framework (including policies, procedures and training) and identifying potential risks to the integrity of decision-making within the local government.

*Without governance expertise and accountability to guide the process, conflicts of interest may not be properly addressed and managed.*

#### City of Perth

86. If Recommendation 84 is not adopted, the City should provide guidance to all Relevant Persons in relation to the disclosure requirements of Relevant Persons’ income sources in primary and annual returns, consistent with Recommendation 79.

*To assist the person making the return to do so accurately.*

## Use of Councillor title

### City of Perth

87. The Department develop guidelines for local governments about the circumstances in which a council member may use his or her councillor title.

*Council members are not use their councillor title when it is not appropriate to do so, whether deliberately or inadvertently.*

## Gifts

### Local government

88. The Code require:
- council members, committee members and employees; and
  - any person or entity who:
    - requires, or who it is reasonable to believe may require, a decision from the local government; and or
    - has, or who it is reasonable to believe may have, directly or indirectly, commercial dealings or a commercial relationship with the local government,

to disclose in full any gift that a council member, committee member or employee receives from that person.

*The highest standards of integrity are expected in local government decision-making.*

89. Alternatively, if Recommendation 88 is not adopted:
- i) the State Government consider lowering the prescribed minimum value for gifts that must be declared pursuant to regulation 20A(1) of the *Local Government (Administration) Regulations 1996* from \$300.00 to \$0.00;
  - ii) local governments adopt policies requiring any person declaring a gift to take reasonable steps to ascertain the actual value of the gift and to attach evidence of the value of the gift to the declaration; and
  - iii) the declaration form be prescribed by the *Local Government (Administration) Regulations 1996*; and
  - iv) all gift declarations be recorded on the Expenditure, Interests and Gifts Register.

*To provide for transparency and accountability for gifts received.*

90. Specific information from the Expenditure, Interests and Gifts Register be published on the local government's website, comprising:

- conflicts of interest, or impartiality, financial and proximity interests, if Recommendation 69 is not adopted, declared by council members, committee members, the CEO and senior employees;
- interests disclosed in primary and annual returns by council members, the CEO and senior employees; and
- any failures by council members, committee members, the CEO and senior employees to declare gifts or interests, together with the explanation given by that person for the failure.

*To promote transparency and accountability.*

91. The Expenditure, Interests and Gifts Register be independently audited by an independent auditor once each financial year, with the results of the audit published on the local government's website as soon as they become available.

*To promote transparency and accountability.*

92. That section 5.62(1B)(a) of the *Local Government Act 1995* be repealed.

*It is not appropriate for council members, the CEO and employees to accept gifts in the form of tickets but be exempt from disclosing that gift as an interest or be treated as not having a conflict of interest when the organisation that is the source of those tickets has an interest in matters before council.*

## Entitlements

### Local government

93. Section 5.98 of the *Local Government Act 1995* and Part 8 of the *Local Government (Administration) Regulations 1996* be amended to enable the Salaries and Allowances Tribunal to set categories of, and caps on, permissible council member allowances or entitlements.

*To improve clarity, and provide external setting, of council member allowances and entitlements.*

### City of Perth

94. The amendments to City of Perth Council Policy – “CP10.6: Elected Members – Reimbursement of Expenses” on 25 September 2018, which restricts the amount and categories of permissible reimbursement for expenses incurred by council members, be retained.

*To maintain limits on the types of expenditure for which reimbursement can be sought.*

95. The City's CEO only authorise council members to be reimbursed, at the City's cost, where the sole purpose of the expenditure is for the proper discharge of the council member's role as a representative of the City.

*A claim for reimbursement by a council member is to have a proper connection to the discharge of that council member's functions and duties.*

96. City of Perth Council Policy – "CP10.6: Elected Members – Reimbursement of Expenses" be further reviewed and amended by the end of September 2020 to:

- clearly articulate the process and financial controls in place for reimbursement of expenses, including actions required by council members;
- articulate that council members cannot commit City funds or incur expenses on behalf of the City;
- provide a requirement for evidence of the expenditure, namely, a receipt paid by the council member;
- provide that council members must complete the required declaration regarding the expenditure and that where the declaration is not made and complete, the reimbursement will not occur;
- articulate the CEO and/or delegated employee responsibilities for the acquittal of claims for expenses by council members;
- articulate that the allowance of one council member cannot be used by another if that council member's allowance has been exceeded; and
- state that making a false or fraudulent claim may be a criminal offence and reported to the Western Australian Police Force and/or the Corruption and Crime Commission.

*A clearly articulated policy ensures all persons involved in claiming and approving claims for reimbursement understand the process, roles and responsibilities and reduces the likelihood of potential fraud or misuse.*

97. All expenditure claims, including the council member's name, claim category, parties or connection to the City<sup>p</sup>, amount and date approved will be recorded in a register maintained by the City's CEO or his or her delegate immediately after the claim has been incurred by an authorised officer and be contained in the Expenditure, Interests and Gifts Register.

*For transparency and accountability, and to aid audit, investigation and oversight.*

<sup>p</sup> Refer to Recommendations 101-103 for additional information required for the dining room.

98. The City engage an independent qualified auditor to conduct an audit of the Expenditure, Interests and Gifts Register, supporting evidence and governance processes for incurring the expenditure, as part of the annual internal audit programme.<sup>q</sup>

*Misconduct risks associated with these claims requires independent oversight to establish appropriate behaviours and processes at the City.*

99. The results of the audit are to be reported to the Audit Committee and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

100. The City is to publish in its Annual Report each year, the total reimbursement provided to each council member under “CP10.6: Elected Members – Reimbursement of Expenses”.

*Confidence in the City to act in accordance with its legislative responsibilities is strengthened with transparency and accountability to the Minister for Local Government.*

#### The Council dining room

##### City of Perth

101. The City’s dining and function facilities be used only by the City to discharge its unique civic responsibilities.<sup>r</sup>

*The City’s civic and function facilities (including the dining room) should be for the benefit of the City and the community it serves, with proper regard to the status of the City as the capital of Western Australia.*

102. The use of these civic and function facilities must be authorised by the City’s CEO, who must record in writing that he or she is satisfied that its use meets the unique responsibilities that the City has, as the State’s capital city local government, and that the costs of the use will be incurred in the City’s best interests.

*To provide a degree of oversight to the use of the dining room.*

103. A quarterly report to the Council be submitted containing the costs associated with the dining room facility including events and meetings held, those parties that attended, the council members who attended, the number that attended each event or dining service and the cost per person to host, as public information.

*To clarify expectations around the transparency and accountability.*

q If this recommendation is not adopted, this recommendation shall apply to the City’s equivalent registers of expenditure, interests and gifts.  
r City of Perth Act 2016.

## Appointing, managing and terminating employment of a Chief Executive Officer

### Model contract and minimum professional competencies

#### Local government

104. The *Local Government (Administration) Regulations 1996* be amended to provide for the contract of employment for a CEO to be based on a model contract<sup>s</sup> to be developed by the Department.

*To standardise minimum specifications for CEO employment contracts across the sector, enhancing the ability of Councils to successfully fulfil their obligations as the employer of the CEO.*

105. The Department establish standardised professional leadership competencies for local government CEOs in each classification band.

*Professional leadership competencies outline role expectations, standards and key accountabilities deemed critical to overall individual, organisation and whole of sector performance.*

106. The Department adopt guidelines<sup>t</sup> for the use of those standardised professional leadership competencies of a CEO (Recommendation 105) in respect of:

- the CEO's initial recruitment; and
- his or her ongoing performance and the review of that performance (including termination of employment).

*To set a baseline for CEO professional and performance competencies across the sector and to assist Councils in recruiting, selecting and managing performance, having regard to the different sizes, needs and capabilities of local governments.*

107. The CEO model standards<sup>u</sup> prescribed pursuant to section 5.39A of the *Local Government Act 1995* require local governments to develop and use criteria for the selection and employment of a CEO and the review of a CEO's performance that, at a minimum, include the professional leadership competencies articulated by the Department pursuant to Recommendation 105.

*To provide a mechanism for councils and CEOs to have a common understanding of expectations and performance standards.*

<sup>s</sup> There is no mandatory contract of employment for CEOs in Western Australian local governments. The Salaries and Allowances Tribunal sets salary ranges, allowances and categories of payments for CEO contracts. The Western Australian Local Government Association (WALGA) and Local Government Professionals have developed an agreed joint model contract for local government CEOs.

<sup>t</sup> This may be included in the *"Standards and Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination"*, which is currently under development by the Department.

<sup>u</sup> Local governments will be required, under the new provisions, to adopt model standards for the recruitment, performance management and early termination of employment of the CEO: Document, Parliament of Western Australia, Local Government Amendment Bill 2019, Explanatory Memorandum, no date, p 3.

108. Section 5.39B<sup>v</sup> of the *Local Government Act 1995* be amended to require local governments to comply with the requirements of the CEO model standards.

*Good governance must occur for the appointment, performance management and termination of employment of CEOs.*

109. The up-to-date version of the professional leadership competencies and the most recent CEO selection criteria used by the local government, as adopted by the local government, be publicly available on the local government's website.

*The role and expectations of the CEO of a local government must be available for public scrutiny and to inform the community.*

110. The Department consider requiring local governments to publish in their annual reports the details related to the employment of a CEO, including the total value of the annual remuneration, the term of the contract and the documented reasons for the decision on the salary to be paid.

*Employment of a CEO is a significant decision both financially and strategically and transparency on the decision ensures accountability to the community.*

111. The Department establish a panel of professionals with demonstrated expertise in the recruitment and selection and management of performance of executive employees, to assist local governments to recruit, establish key performance indicators for and manage the performance of the CEO.

*For compliance, performance monitoring and accountability across the sector.*

#### City of Perth

112. The City develop within six months of this Report, a Council Policy articulating the Council's principles, procedures and decision-making processes for the recruitment, selection, performance management and termination of employment of the City's CEO.

*To provide for better practice recruitment, selection and performance management and termination of employment of the City's CEO, while transparently articulating the process and principles of the decision-making adopted.*

113. In the absence of the establishment of sector-wide leadership competencies for CEOs, the City of Perth Council develop, in consultation with independent expert advice, professional leadership competencies for the City's CEO in line with the City's classification as a "Band 1" local government.

*To provide for better practice performance management of a CEO, while transparently articulating the standards and competencies expected.*

<sup>v</sup> *Local Government Legislation Amendment Act 2019*, which provision at the date of providing the report had yet to come into effect.

114. In the absence of the adoption of Recommendation 121 by the Department, the City of Perth Council develop and use a standard format for the CEO Performance and Development Agreement and Assessment.

*To provide a consistent format, structure and assessment.*

115. The City of Perth Council engage a professional, with expertise in performance management to assist it, as a newly formed council, to establish the performance criteria (Recommendation 131) for the City's CEO and to provide the required knowledge and skills to council members on undertaking better practice performance management and assessment.

*The City's newly elected Council should have access to expert professional assistance to develop the agreement and assess the performance of the CEO.*

## Recruitment

### Local government

116. The CEO model standards require the recruitment and selection process for a local government CEO be undertaken by a panel (CEO Recruitment Panel), which shall make a recommendation to the council of a local government on the candidate to be appointed as CEO. The CEO Recruitment Panel is to comprise:
- a member of the council, appointed to the panel by the council;
  - an independent third party, with demonstrated expertise in local government; and
  - a member of the panel described in Recommendation 111, appointed by the Department, with experience in the recruitment and selection and managing the performance of executive employees, who shall provide guidance and advice to the CEO Recruitment Panel.

*The selection and recruitment process for local government CEOs should adhere to good governance principles through transparent, consistent and independent people management and recruitment practices, with the mandated involvement of a Department representative as an experienced third party.*

117. The CEO model standards prescribe that the council of a local government:
- must not employ<sup>w</sup> a CEO in the absence of a recommendation from a CEO Recruitment Panel;
  - must allow the members of the CEO Recruitment Panel to be present during discussions of the Panel's recommendation;
  - may accept the CEO Recruitment Panel's recommendation;
  - may reject the CEO Recruitment Panel's recommendation and appoint another person as CEO, but must provide detailed reasons for doing so; and
  - may require further information before deciding whether to accept or reject the CEO Recruitment Panel's recommendation.

*The selection and recruitment process for local government CEOs is to be fair and transparent.*

118. The appointee of the Department to a CEO Recruitment Panel prepare the report to council on the recruitment and selection process for a local government CEO, including the decision of council to accept or reject the Panel's recommendation and the reasons given by the Council for that decision.

*Independent oversight of the appointment of local government CEOs provides for fairness, greater accountability and better transparency.*

119. The appointee of the Department to raise any probity concerns, with the Department, including potential breaches of the legislation.

*Independent oversight of the appointment of local government CEOs provides for fairness, greater accountability and better transparency.*

120. The Department monitor trends in CEO recruitments and selections and provide advice to local governments on areas for improvement.

*Oversight of the local government sector performance supports better practices into the future.*

<sup>w</sup> Pursuant to section 5.36 of the *Local Government Act 1995*.

## Reviews of performance

### Local government

121. The Department consider developing a sector-wide standard format for the CEO Performance and Development Agreements and Assessments.

*To provide for a consistent format, structure and assessment for a CEO's performance agreement and assessment.*

122. The CEO model standards require the review of the performance of a local government CEO be facilitated by a panel (CEO Performance Advisory Panel), which shall make a recommendation and provide a report to the council of a local government on the outcome of that review. The CEO Performance Advisory Panel is to comprise:

- a member of the council, appointed to the committee by the council;
- an independent third party with demonstrated expertise in local government, and/or the recruitment and selection and managing the performance of executive staff, appointed by the council; and
- one of whom is a member of the panel described in Recommendation 111 nominated by the Department, who shall be experienced in the recruitment and selection and managing the performance of executive employees and provide guidance and advice to the CEO Performance Advisory Panel.

*Performance reviews for local government CEOs should adhere to good governance principles through transparent, consistent and independent people management and recruitment practices, with the mandated involvement of a Department representative as an experienced third party.*

123. The CEO model standards prescribe the council of a local government:
- review a CEO's performance guided by a recommendation from a CEO Performance Advisory Panel;
  - must allow the members of the CEO Performance Advisory Panel to be present during council's discussions of the Panel's recommendation;
  - may accept the CEO Performance Advisory Panel's recommendation with or without modifications, but if the Panel's recommendation is modified must provide detailed reasons for doing so;
  - may reject the CEO Performance Advisory Panel's recommendation and adopt an alternative outcome for the review, but must provide detailed reasons for doing so; and
  - may require further information before deciding whether to accept or reject the CEO Performance Advisory Panel's recommendations.

*The performance review process for local government CEOs is to be transparent.*

124. The appointee of the Department to a CEO Performance Advisory Panel prepare the report to council on the local government CEO's performance review assessment and outcome, including the decisions of council, the reasons for them and the process undertaken.

*Independent oversight of the appointment of local government CEOs provides for fairness, greater accountability and better transparency.*

125. The council is to afford the CEO procedural fairness by providing:
- the CEO Performance Advisory Panel's report to the CEO prior to the council meeting at which council will decide the outcome of the review; and
  - sufficient time for the CEO to respond to any adverse statements in the report.

*To afford the CEO procedural fairness.*

126. The report to council is to include the report of the CEO Performance Advisory Panel and any response provided by the CEO, as described in Recommendation 125.

*To afford the CEO procedural fairness and ensure that all council members receive all the relevant information to make their decision.*

127. Immediately following the council meeting where the report described in Recommendation 126 is considered, the CEO be provided with written advice from the council on the decision and any reasons for that decision and any areas for improvement.

*To afford the CEO procedural fairness.*

128. All records related to Recommendations 124-127 are to be recorded in accordance with the requirements of the *State Records Act 2000*.

*To provide for review, transparency and accountability.*

129. The appointee of the Department to raise any probity concerns with the Department, including potential breaches of the legislation.

*Independent oversight of performance management of local government CEOs is necessary for good governance and good government.*

130. The Department monitor trends in CEO recruitments and provide advice to local governments on areas for improvement.

*Oversight of the local government sector performance supports better practices into the future.*

#### City of Perth

131. The City of Perth Council develop CEO performance criteria to be included in the City's CEO Performance and Development Agreement and Assessment, which include but are not limited to:

- at a minimum, the professional leadership competencies described in Recommendation 113;
- specific and measurable key performance indicators across areas of responsibility, including the CEO's legal responsibilities, service delivery outcomes and deliverables, financial management, people management, culture, and implementation of council plans and decisions;
- behavioural ('soft' skills) and developmental indicators; and
- developmental requirements informed by training and coaching programmes (including the CEO Induction Programme at Recommendation 6 and the CEO Professional Leadership Coaching Programme at Recommendation 42).

*The performance review criteria should be fair, and the CEO should be aware of the performance criteria against which he or she will be assessed.*

132. The Council Policy described in Recommendation 131 provide that performance review criteria be set in a timely manner, to allow the CEO the 12-month period to meet the performance objectives.

*The CEO have an adequate opportunity to meet the performance expectations.*

## Termination of employment

### Local government

133. The CEO model standards require that before a local government terminates a CEO's employment, the Council of the local government must record in writing, and provide to the CEO, the reasons for the termination, including:
- the date on which the decision was made;
  - if the termination was by consent, the reasons given by the Council and the CEO for consenting to the termination;
  - if the termination was for serious misconduct or other conduct justifying summary dismissal, the precise conduct said to give rise to the termination; and
  - if the termination was for poor performance or non-performance of the CEO's duties or functions:
    - the precise way in which the CEO's performance was poor, expressed by reference to the criteria for performance described in Recommendation 107;
    - the impact that performance had on the good government of the local government;
    - the steps which were taken by the council to remedy that poor performance; and
    - any comment or response provided by the CEO in respect of his or her performance, which comment or response the council must seek.

*To provide a procedurally fair process.*

134. The written statement of reasons described in Recommendation 133:
- where it concerns termination of the CEO's employment other than with the CEO's consent, be prepared with the professional assistance of an independent third-party described in Recommendation 111; and
  - be kept as a record of the local government in accordance with the *State Records Act 2000*.

*While the cessation of the employment of the CEO is properly a matter for council, evidence received by the Inquiry indicates that the "at the council's pleasure" character of that employment, and the potential for it to be politicised, contributed to a range of dysfunctional outcomes within the City, suggesting a degree of independent interrogation of termination decisions is warranted for the security of the role and the stability of local government.*

135. The *Local Government (Administration) Regulations 1996* be amended to provide that no decision to terminate the employment of a CEO may be made within three months after a local government election, except in the case of serious misconduct or mutual agreement.

*To limit political interference in the appointment of a CEO, and to maintain organisational continuity across electoral cycles.*

136. The State Government consider amending section 7A of the *Salaries and Allowances Act 1975* to replace the words “paid or provided” with the words “offered, paid or provided”.

*To improve probity and compliance with legislative requirements.*

137. The State Government consider amending regulation 18F of the *Local Government (Administration) Regulations 1996* to replace the word “paid” with the words “paid or offered”.

*To improve probity and compliance with legislative requirements.*

#### City of Perth

138. If Recommendation 133 is not adopted, and if the City terminates a CEO’s employment, it must record in writing, and provide to the CEO, the reasons for the termination, including:
- the date on which the decision was made;
  - if the termination was by consent, the reasons given by the Council and the CEO for consenting to the termination;
  - if the termination was for serious misconduct or other conduct justifying summary dismissal, the precise conduct said to give rise to the termination; and
  - if the termination was for poor performance or non-performance of the CEO’s duties or functions:
    - the precise way in which the CEO’s performance was poor, expressed by reference to the criteria for performance described in Recommendation 134;
    - the impact that performance had on the good government of the local government;
    - the steps which were taken by the council to remedy that poor performance; and
    - any comment or response provided by the CEO in respect of his or her performance, which comment or response the council must seek.

*To provide a procedurally fair process.*

139. The written statement of reasons described in Recommendation 138:

- where they concern termination of the CEO's employment other than with the CEO's consent, be prepared with the professional assistance of an independent third-party described in Recommendation 111; and
- be kept as a record of the local government in accordance with the *State Records Act 2000*.

*While the cessation of the employment of the CEO is properly a matter for council, evidence received by the Inquiry indicates that the "at the council's pleasure" character of that employment, and the potential for it to be politicised, contributed to a range of dysfunctional outcomes within the City, suggesting a degree of independent interrogation of termination decisions is warranted for the security of the role and the stability of local government.*

## Local government elections

### Local government

140. Section 4.31(1G) of the *Local Government Act 1995* be amended so that a body corporate owning or occupying rateable property can only nominate officers of the body corporate to vote on its behalf.

*The body corporate is to exercise a vote, consistent with the position in local government elections in South Australia, Victoria and the City of Sydney.*

141. The *Local Government (Elections) Regulations 1997* be amended so that ballot papers can only be sent to the elector's address as shown on the State electoral roll and or the Commonwealth electoral roll.

*The elector should receive the ballot paper directly and exercise the voting right.*

142. Section 4.32(3) of the *Local Government Act 1995* and the *Local Government (Elections) Regulations 1997* be amended to prescribe that an occupier must either:

- i) pay a minimum amount of rent; or
- ii) have the right to occupy a minimum amount of floor space,

in relation to a property, in order to be eligible to be enrolled on the owners and occupiers roll by reason of the occupation of that property.

*The right of occupation entitling a person to enrol as a voter is to be genuine.*

143. Section 4.31(1C) of the *Local Government Act 1995* be amended to add, as an additional criterion of eligibility to enrol to vote as a non-resident occupier, that the person uses and intends to continue to use the relevant rateable property for a genuine purpose.

*The right of occupation entitling a person to enrol as a voter is to be genuine and to ensure that electors and candidates do not enter into agreements to occupy premises for the sole purpose of being eligible to vote or nominate as a candidate in a local government election.*

144. If Recommendations 142-143 are not adopted, the State Government consider whether to amend the *Local Government Act 1995*, so non-resident occupiers of property are not eligible to vote or nominate as candidates in elections.

*The integrity of City of Perth elections is to be preserved.*

145. Before each biennial local government election cycle, the Department audit the eligibility of candidates and electors across local governments.

*To strengthen the integrity and oversight of local government elections.*

146. The Western Australian Electoral Commission (WAEC) consider and review the adequacy of its practices and procedures regarding to the handling and investigation of electoral complaints.

*Effective mechanisms to deal with complaints during local government elections need to be in place, given the issues identified by the Inquiry.*

147. Section 4.98 of the *Local Government Act 1995* be repealed and section 94 of the *Criminal Code* be amended so that Chapter XIV of the *Criminal Code* applies to local government elections.

*Electoral offences are generally able to be prosecuted without a limitation period. This provides for the integrity of the electoral process. Misconduct in relation to local government elections should be capable of being dealt with under the electoral offence provisions in Chapter XIV of the Criminal Code. Proceedings for breaches of electoral offence provisions under the Local Government Act 1995 must currently be brought within two years, which may prevent instances of electoral misconduct, when discovered, from being prosecuted.*

#### City of Perth

148. The City of Perth engaged an independent qualified auditor to conduct an audit of the owners and occupiers roll as a matter of urgency prior to the October 2020 election to mitigate the risks of misconduct in the election process.

*The integrity of the City owners and occupiers roll, given the matters discovered by this Inquiry, is to be preserved.*

149. The results of the audit described in Recommendation 148 be reported to the Audit Committee and the Council (City of Perth Commissioners).

*The Audit Committee has oversight for the audit activities of the City.*

150. The City and the WAEC establish a clear division of responsibilities in the conduct of Council elections, including the handling of complaints.

*Clarity on roles and responsibilities will ensure integrity and accountability in the local government election process.*

151. The City's returning officer scrutinise each candidate for the City of Perth local government elections to confirm that he or she is eligible to enrol as an elector for the City and where a candidate who is enrolled on the owners and occupiers roll does not appear to be entitled to be so enrolled, to refer the matter to the City's CEO.

*Candidates who are successfully elected are to be eligible to hold office.*

152. Applications for enrolment to vote by occupiers of rateable property within the City:

- be accompanied by adequate proof of that occupation, for example, copies of the lease of the property and proof of payment of rent; and
- be carefully scrutinised by properly trained scrutineers at the City,

to ensure the right of occupation is genuine and applicants meet the criteria in the *Local Government Act 1995* for enrolment.

*To prevent ineligible electors from voting in elections.*

153. The City engage the WAEC to provide adequate training to persons assisting with the City's 2020 local government elections commensurate with their roles and responsibilities (including returning officer and scrutineers).

*Persons are to be appropriately skilled and qualified to perform the roles and responsibilities assigned to them.*

154. The City conduct an audit of its systems and processes regarding the owners and occupiers roll, including processes related to applying to be on the roll, acceptance of nominations, inclusion on the roll and release of information on that roll to parties including council members.

*The integrity of the system is to be strengthened by identifying control weakness and areas for improvement.*

155. The results of the audit are to be reported to the Audit Committee and the Council (City of Perth Commissioners).

*The Audit Committee has oversight for the audit activities of the City.*

## People management

### General

#### City of Perth

156. The City's CEO is to review all human resources policies and procedures within 12 months of this Report and consider the development of policy for areas of deficiency.

*Human resources policies are to be current and based on contemporary practices for public officers.*

157. The City conduct an audit of the human resources function's record-keeping compliance, specifically related to recruitment, termination of employment, performance management and grievance and complaint handling.

*The City is to comply with the State Records Act 2000 and the City's Record-Keeping Plan.*

158. The City take steps to accurately measure and report to Council on the growth or contraction in labour numbers and costs.

*To facilitate workforce planning and associated service regimes, including, for example, setting the budget, resource allocation and priority setting.*

159. The City take steps to develop key people management metrics and associated performance targets during the development of the City's Corporate Business Plan and Workforce Plan, based on human resource best practice.

*Measurement of people management activities provides quantifiable evidence on developments in the workforce, including impacts from initiatives such as organisational change, and can also provide an indication of the health of the organisation.*

160. A report to Council be provided by the CEO on the City's performance against the reporting targets for key people management metrics on a quarterly basis, including any actions taken to correct performance which is not on target.

*Targets and benchmarks assist with the monitoring of performance.*

161. The City's Annual Report contain performance assessment in the key people management metrics.

*People are the City's most significant asset and this provides transparency and accountability for workforce initiatives.*

## Recruitment

### Local government

162. Section 5.37(2) of the *Local Government Act 1995* be repealed.

*To remove the capacity for a council to be involved in the employment of senior staff, maintaining the delineation in roles between the Council and the CEO and Administration.*

163. The State Records Office give consideration to whether the requirement to retain recruitment records of "other staff" for 12 months is sufficient or whether recruitment records should be retained for a greater time of period to enable better scrutiny of the process.

*The current 12-month timeframe in the disposal schedule<sup>x</sup>, had the City complied with it, would have meant that records would not have been available for the Inquiry to examine as part of its Terms of Reference.*

### City of Perth

164. The City to examine all recruitment records held in the City's human resource systems, including the 'BigRedSky' platform and ensure they are recorded, retained and disposed of, in accordance with the *State Records Act 2000*, the City's Record-Keeping Plan and the State Records Office's "*General Disposal Authority for Local Government Records*".

*The City is to comply with the State Records Act 2000.*

<sup>x</sup> According to the State Records Office "*DA 2015-001 – General Disposal Authority for Local Government Records*", 10 March 2016, adopted by the City of Perth, local governments are only required to "*retain 1 year after action completed, then Destroy*" records related to "*Other staff – recruitment records, including advertising, interview records, applications (unsuccessful), selection criteria and shortlists*".

165. All recruitment decisions, relating to permanent appointments and/or contracts greater than 12 months, at the City should be made by a panel of at least two persons, comprising the direct line manager for the advertised position and:
- for senior employees and management positions, a person independent of the local government with the necessary skills and knowledge to assess the suitability of the candidate for the advertised role; and
  - for all other positions, a person who is independent of the business area for the position being recruited.

*To improve probity and ensure objectivity in the recruitment process.*

166. A City employee is not to participate on a recruitment panel until he or she have undertaken suitable selection and recruitment training provided by an independent industry accredited provider to industry best practice standards.

*Good people management practices are necessary to ensure a recruitment process which meets the objectives of the Local Government Act 1995.*

167. The training to be provided in a direct format, with assessments conducted at the end of the training to ensure comprehension.

*Outcomes are best achieved with the quality of teaching.*

168. Refresher training is to occur at least every three years.

*Outcomes are best achieved with the quality of teaching.*

169. The role, duties, functions, discretions and other terms of employment be clearly and consistently defined for each City employee.

*For clarity of roles, to the benefit of the prospective employee and the City.*

170. The City selection process for employment be based on a measurable and objective assessment of suitability, competence and ability to satisfy the requirements of the position description, and on no other basis.

*To improve probity and ensure merits-based recruitment.*

171. Each selection and recruitment process be recorded in writing, with sufficient detail, to ensure the recruitment decision can be audited if required and retained as a record of the City in accordance with the *State Records Act 2000*.

*To aid probity, transparency, accountability and audit.*

172. The City establish in policy that late applications will not be considered.

*In the interests of fairness to all applicants and to guard against interference in the process.*

173. The City consider establishing a complaints and grievances procedure for recruitment and selection processes, with a qualified external professional engaged where appropriate.

*To provide a fair process for all applicants and detect potential breaches of process.*

174. The City review its human resources policy, procedure and forms to prescribe a process for assessing and managing any declared conflicts of interest and confidentiality and require employees to:

- complete a declaration of conflicts of interest form; and
- acknowledge, in a separate document, an understanding of the confidentiality provisions and confirm agreement to them.

*To provide a fair process and aid probity, transparency, accountability and audit.*

## Performance management

### City of Perth

175. Every employee has specified key performance indicators, based on the position description, established within one month of commencing at the City.

*Clear and effective performance monitoring will benefit the employee and the City.*

176. An employee's probationary performance be assessed against the requirements of his or her key performance indicators, prior to the expiry of the probationary period.

*A fair assessment process will provide feedback to the employee and the City.*

177. The performance assessment of the employee be recorded in writing and kept by the City as a written record of that employee's performance assessment in accordance with the *State Records Act 2000*.

*To aid probity, transparency, accountability and audit.*

178. If any employee, whether on probation or not, is assessed as not satisfying the requirements of his or her position description and/or key performance indicators, the employee be:
- advised of the nature and extent of the deficiency;
  - invited to respond to the deficiency within a reasonable time; and
  - after consideration of the employee's response, advised of the manner in which the employee is required to improve on the deficiency, if that is the case, in order to satisfy his or her key performance indicators.

*To promote transparency and accountability in human resourcing decisions.*

179. The nature of the deficiency described in Recommendation 178 be recorded in writing, provided to the employee, and kept as a record of the City in accordance with the *State Records Act 2000*.

*To aid probity, transparency, accountability and audit.*

180. The City to examine all current and historical complaint and grievance records held in unregistered<sup>y</sup> hard copy files or the City's local drives to ensure that they are recorded, retained and disposed of, in accordance with the *State Records Act 2000*, the City's Record-Keeping Plan and the State Records Office's "*General Disposal Authority for Local Government Records*".

*The City is to comply with the State Records Act 2000.*

181. Auditing of the City's compliance with Council Policy 12.4 "*Payments under section 5.50 of the Local Government Act 1995*" be undertaken as part of the City's annual internal audit programme to ensure compliance, proper documentation and record-keeping.

*Accountability and oversight for financial decisions of the City is necessary.*

## Termination of employment

### City of Perth

182. The employment of an employee shall only be terminated in accordance with that employee's contract or prescribed conditions of employment.

*For clarity and accountability, to benefit the City and the employee.*

183. Where an employee's employment is terminated, he or she will be afforded procedural fairness, where required by law, and the reasons for the termination of employment will be recorded in writing and kept by the City in accordance with the *State Records Act 2000*.

*For fairness, accountability and compliance with the State Records Act 2000.*

<sup>y</sup> A registered file is one which has an allocated HPE content manager file reference.

184. The City develop a framework for the termination of employment, including the terms of separation, and resolving actual or potential legal claims from current or former employees arising out of their employment, including:

- the circumstances in which it is appropriate for the City to enter into Deeds of Settlement; and
- the appropriateness of the terms of such Deeds, such as;
  - whether it is appropriate for the City to make payments in excess of an employee’s statutory and contractual entitlements and the amount of any such payments; and
  - whether it is appropriate for the City to agree to any obligations of confidentiality or non-disparagement.

*The City is to strike an appropriate balance between managing its exposure to risk from legal claims and its accountability to the community, including its use of community funds.*

185. The City engage an independent, external and qualified auditor to conduct an audit of the recruitment, performance management and termination of employment processes, as part of the annual internal audit programme.

*Misconduct risks associated with these claims requires independent oversight to establish appropriate behaviours and processes at the City.*

186. The results of the audit are to be reported to the Audit Committee and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

187. The City examine all current and historical termination of employment records held in unregistered hard copy files or the City’s local drives to ensure that they are recorded, retained and disposed of in accordance with the *State Records Act 2000*, the City’s Record-Keeping Plan and the State Records Office’s “*General Disposal Authority for Local Government Records*”.

*The City is to comply with the State Records Act 2000.*

## Financial management

### General

#### Local government

188. The State Government consider amendments to the *Local Government Act 1995* to provide for better practice financial management through the establishment of Local Government Financial Management Instructions (similar to the Treasurer's Instructions for State Government) that establish a minimum set of standards and requirements for the financial administration of local government (Financial Management Instructions).

*To set a base standard of financial management and reporting.*

189. The "WA Accounting Manual" be reviewed, updated and promulgated by the Department within the next 12 months.

*The WA Accounting Manual is dated 3 September 2012. It should be current and relevant.*

190. The Minister for Local Government consider prescribing the format of the annual budget and financial report to provide consistency across local government.

*For consistency and ease of comprehension and comparison by the community.*

191. The Department consider issuing a better practice guide for business plans for major trading undertakings required under regulation 10 of the *Local Government (Functions and General) Regulations 1996*.

*Guidance will facilitate and provide a template for better planning and disclosure relating to the trading enterprises.*

192. The Department increase its regulatory role in the oversight of compliance audit returns and the issuing of directions to local governments who have not established business plans for major trading undertakings required under regulation 10 of the *Local Government (Functions and General) Regulations 1996*.

*To encourage compliance with statutory obligations and in so doing to promote better business and accountability practices.*

193. The Department consider an amendment to the annual compliance return for the declaration of the date of the last review of the appropriateness and effectiveness of the City's financial management systems and procedures, as required by regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.

*To encourage compliance with statutory obligations, and in so doing to promote better business and accountability practices.*

194. Regulation 13 of the *Local Government (Audit) Regulations 1996* be amended to require a local government to report on whether the CEO has complied with regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*.

*To promote and record the undertaking by CEOs of reviews of the appropriateness and effectiveness of the local government's financial management system, as required by regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996.*

195. The Department publish better practice examples of plans required under the integrated planning and reporting framework.

*To facilitate and encourage the preparation of best practice integrated planning and reporting frameworks by local governments.*

196. The Department develop a guide on better practice cost allocation models for the allocation of internal costs within financial budgeting, planning and reporting.

*To facilitate the preparation of better cost allocation models by local governments.*

197. The Department consider developing sector professional capabilities for local government finance employees.

*Capability frameworks articulate expected skills and behaviours required across the sector, while complementing the skills and job requirements specific to particular local governments.*

#### City of Perth

198. The City consider employing an appropriately qualified<sup>z</sup> chief finance officer.

*To provide specialist leadership, strategic advice and oversight of the City's finances and financial management practices (including commercial functions), given the City's size and financial base.*

199. If Recommendation 197 is not adopted, professional capabilities for finance employees be developed and adopted as better practice by the City in the absence of broader local government reforms.

*Capability frameworks articulate expected skills and behaviours required for specific roles or job types. It also supports ongoing professional development.*

<sup>z</sup> Appropriately qualified requires that a person holds a relevant tertiary qualification in finance, commerce, business or equivalent and membership of a professional accounting body. Such bodies include CPA Australia as a CPA, Chartered Accountants Australia and New Zealand as a Chartered Accountant or the Institute of Public Accountants as a MIPA.

200. All City employees who are, or who are likely to be, involved in any aspect of its financial management, including those with a delegated financial authority and incurring limits and authorities, receive training provided by an industry accredited provider on those aspects of financial management necessary for the performance of that employee's role and the discharge of his or her duties and functions, and be assessed by that provider on understanding and competency in those matters on which the training has been received.

*To promote the professional development of financial management staff and to improve the quality of financial services delivery.*

201. The training and assessment be repeated, as part of a continuing professional development programme, according to industry best practice at no less than 12-month intervals.

*To promote the continuing professional development of financial management staff and to maintain the quality of financial services delivery within the City.*

202. The City's CEO maintain an accurate and up-to-date register of all training and assessment in financial management, recording in writing the details of who has undergone what training and assessment, when it occurred in each case and the extent to which that employee was compliant with the necessary assessment standard.

*To maintain the quality of financial services delivery within the City, and to aid audit.*

203. Any City employee who is not fully qualified in the financial management described in Recommendations 200-201 be restricted from engaging in those aspects of financial management for which he or she is not qualified.

*To maintain the quality of financial services delivery for the City, and to aid audit.*

204. The City of Perth Council and the City's CEO review the delegation framework to ensure it provides sufficiently clear direction to council members, committee members, the CEO and employees on delegated limits and documents they are permitted to sign and the financial arrangements they can enter into on behalf of the City.

*All council members, committee members and employees should be able to clearly identify the limitation of their delegated authority to commit funds or services and sign documents, contracts or agreements for the City.<sup>aa</sup>*

aa This includes the areas of financial management, people management and grants management.

205. The City institute a mechanism to ensure employees understand and confirm their understanding of their delegated authority, documents they are permitted to sign and the limit of any financial management authorities, including when employees are acting in other roles.

*Employees are to understand and act within their delegated authority.*

206. The City implement a financial control which prevents an officer approving contracts, agreements and purchase orders outside of his or her delegated authority.

*To improve expenditure control.*

207. Key financial processes and systems be process mapped and documented to support consistent decision making and ensure accountability.

*To minimise business continuity risks and ensure consistency and transparency in decision-making.*

208. The CEO review the activity-based costing model for the allocation of direct service costs and other overhead costs.

*The City's activity-based costings model is to be based on best practice methodology.*

209. The CEO conduct a root-cause analysis, to be presented to City of Perth Council as a report for action, of its consistent underspend in capital works projects, to identify improvements to the City's capital works planning, budget setting, asset management, capabilities, project execution and financial management practices.

*The City consistently underspends its capital works programme by approximately 30-40 per cent each year, for which it collected rates it did not spend.*

210. A copy of the report for Recommendation 209 and the City of Perth Council's response to the report be provided to the Minister for Local Government no later than 30 June 2021.

*Confidence in the City to act in accordance with its legislative responsibilities is strengthened with transparency and accountability to the Minister for Local Government.*

211. The City progress the implementation of the Corporate Governance Framework (as tendered to the Inquiry) with it to be monitored and continually reviewed (and where necessary, updated) by employees and council members.

*A sound Corporate Governance Framework articulates expectations, rules and processes in place to ensure integrity, transparency and accountability focussed on advancing in the best interests of the community of the City of Perth and positioning it well for the future.*

## Governance

### City of Perth

212. The CEO undertake a functional review of the governance function to identify:
- the current capability and maturity of the governance function within the City;
  - the services provided and resources required by the governance unit, compared against similar local governments and industry benchmarks;
  - the adequacy or otherwise of current compliance measures in relation to relevant local government governance obligations;
  - key performance indicators which are used to monitor ongoing performance; and
  - any gaps and prepare a gap analysis and recommendations.

*The City spent a significant amount annually on its governance function. The Inquiry has made multiple findings related to deficiencies in the policies, processes and practices of the governance function. The City should align its governance function, processes, systems, operations and organisational design to its legislative purposes and performance expectations.*

## Integrated planning and reporting framework

### City of Perth

213. The City of Perth Council and the CEO review the City's approach to the integrated planning and reporting framework to shift the focus to a planning for the future approach, rather than a compliance and financially driven internal process.

*An effective integrated planning and reporting framework is essential to future planning and financial management, providing transparency and accountability to the community.*

214. The City engage, for the next planning cycle, a suitably qualified service provider to assist in the development of best practice plans, including the Corporate Business Plan, the Workforce Plan, the Asset Management Plan and the Long Term-Financial Plan.

*Sound financial and service delivery planning should ensure the City's resources are directed, monitored and managed efficiently and are effective with regard to its current and future needs.*

215. The City take steps to engage appropriate employees in the annual planning and budgeting process.

*To improve staff understanding of financial matters, and to generate a sense of ownership and accountability.*

## Performance measures

### City of Perth

216. The City of Perth Council develop, in consultation with key stakeholders, effectiveness and efficiency key performance indicators which are specific and measurable for key programmes, services, functions and outcomes.

*This is important to aid a proper understanding of the effectiveness and efficiency of service delivery.*

217. The City of Perth Council set reporting targets for key performance indicators on an annual and recurrent basis.

*Targets and benchmarks assist with the monitoring of performance against the indicators.*

218. Key performance indicators and their targets or benchmarks form part of the City Corporate Business Plan and/or Annual Budget and the performance against the targets be reported in the City's Annual Report.

*Targets and benchmarks are to be monitored and reported.*

219. A report to Council be provided by the CEO on the City's performance against the reporting targets for key performance indicators on a quarterly basis, including any actions taken to correct performance that is not on target.

*Targets and benchmarks assist with the monitoring of performance against the indicators.*

## Financial management

### Financial systems, processes and capability

#### City of Perth

220. The CEO undertake a functional review of the finance function to identify:
- the current capability and maturity of the finance unit and other financial areas within the City;
  - the services provided and resources required by the finance unit, compared against similar local governments and industry benchmarks;
  - the adequacy or otherwise of current compliance measures in relation to relevant local government financial regulations, including tax obligations;
  - the potential impact of industry and technological changes on the finance unit;
  - the impact of the City's projected growth on the unit;
  - key performance indicators which are used to monitor ongoing performance; and
  - any gaps and prepare a gap analysis and recommendations.

*The City is to align its finance function, processes, systems, operations and organisational design to its legislative purposes and performance expectations.*

### Rate setting

#### City of Perth

221. The City of Perth Council take steps to improve transparency when setting rates and clearly document its reasons for differential rate increases and articulate the extent of any cross-subsidisation.

*For transparency and accountability to the community.*

### Major trading undertaking

#### City of Perth

222. The City of Perth Council develop and publish its business plan for the City of Perth Parking (CPP), as a matter of urgency.

*This is a requirement of section 3.59(2) of the Local Government Act 1995 for a major trading undertaking.*

223. The CPP business plan and the City's Annual Budget account for and document competitive neutrality in the pricing of services provided by the CPP.

*The management of the unique position of the City as a business operator should be recognised through a documented position on competitive neutrality.*

224. The City set and adopt key performance indicators with targets or benchmarks for the CPP business, with them to be included in the City's Corporate Business Plan and the CPP business plan and reported on in the City's Annual Report.

*Arguably required by section 11(2)(f)(ii) of the City of Perth Act 2016, and important to aid a proper understanding of the effectiveness and efficiency of service delivery.*

225. Following its establishment, the business plan be reviewed annually as part of the process to develop the Annual Budget, Corporate Business Plan and Long Term Financial Plan.

*The requirement for a business plan should not be seen simply as a compliance obligation, rather as better practice financial and business planning. Incorporation into the integrated planning and reporting framework activities ensures integration and aligns effort.*

226. The City of Perth Council's first business plan for CPP is to be provided to the Minister for Local Government by no later than 31 December 2020.

*Confidence in the City to act in accordance with its legislative responsibilities is strengthened with transparency and accountability to the Minister for Local Government.*

## Grants, sponsorships and partnerships

### City of Perth

227. The City of Perth Council review its policies and procedures on partnerships, grants, sponsorships and donations to ensure better practice and that its policies and procedures:

- cover all types of discretionary funding provided in these categories, regardless of where the spend is approved;
- clearly articulate who has authority and to what level to approve funding arrangements; and
- describe the process for acquittal of funding arrangements.

*The City's policies and procedures are to be inclusive of all activities; that Council, committees and employees understand the level of delegated authority to enter into arrangements; and accountability for the release and acquittal of funds.*

228. The City develop a partnership policy for arrangements with external organisations which, like its historic arrangement with the Perth Public Art Foundation, are not captured by Council Policy “CP18.8 – Provision of Sponsorship and Donations”.

*There is to be a process for the management of partnerships exists to guide expenditure, assessment and acquittal.*

229. The City establish appropriate systems and processes to accurately record, monitor and report on all partnership, grant, sponsorship and donation funding arrangements, be it a single instance of funding or multi-year funding. These should be reported in the Annual Report and include the type, the activity, the entity funded, the funding approved, who approved the funding and the amount acquitted as spent.

*There is to be full transparency on the funding provided to other individuals or organisations through these programmes, because current reporting is deficient or inconsistent and doesn't enable the community to understand the full extent of funding provided.*

230. The City allocate a specified, pre-determined part of its Annual Budget to discretionary spending on partnership, grant, sponsorship and donation funding arrangements<sup>ab</sup> (Discretionary Grant Funding Arrangements), having appropriate regard to the relative expenditure of other capital city local governments on these categories of funding and the City's Strategic Community Plan.

*To provide for certainty and discipline in discretionary expenditure.*

231. Discretionary Grant Funding Arrangements entered into by the City<sup>ac</sup> be independently audited at least every 12 months for compliance and better practice grant funding management.

*Funding arrangements and associated expenditure is required to meet the requirements set for it.*

232. The results of the audit be reported to the Audit Committee and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

ab This amount is to include cash and in-kind (for example, waiving the cost of venue hire, fees and charges, parking, etc) allocation funding from the City.

ac Arrangements entered into by the council, a committee of council, the CEO or an employee under delegated authority.

233. The City of Perth amend its policy dealing with the attendance of council members and CEO<sup>ad</sup> to require that a council member, committee member or employee only be permitted to accept a ticket and attend an event under a Discretionary Grant Funding Arrangement when that person is performing an official role at the event or discharging the functions and duties of their office or employment, unless the person pays the cost of the ticket.

*To improve transparency and accountability, and through those mechanisms the quality of decision-making.*

234. The City continue to facilitate the transition of the employment of the Executive Director, Perth Public Art Foundation from the City to the Foundation and do likewise with any similar arrangements.

*To separate the City from the organisations it funds and place it at arms-length for accountability, transparency and independence, thereby allowing the City to appropriately manage the relationship and funding arrangement.*

235. The City conduct and retain complete and fully executed copies of all funding arrangements to which it is a party.

*To improve transparency, accountability and oversight of the arrangement.*

236. The City examine all current Discretionary Grant Funding Arrangements to ensure that fully executed copies, signed by an appropriately delegated officer, of all funding arrangements are recorded and retained in accordance with the *State Records Act 2000* and the City's Record-Keeping Plan.

*To improve transparency, accountability, oversight and contract management, as well as ensuring the City complies with the State Records Act 2000.*

237. All Discretionary Grant Funding Arrangements, including the entity funded, category of funding (partnership, grant, sponsorship and donation), amount approved (in-kind and cash reported separately), date approved, approval authority, date of agreement, date acquitted, final expenditure and linkage to any other operational funding to the same activity, will be recorded in a single register maintained by the CEO or his or her delegate.

*For transparency and accountability, and to aid audit, investigation and oversight.*

238. A report to Council be provided by the CEO on the City's Discretionary Grant Funding Arrangements on a quarterly basis.

*For transparency and accountability, and to aid reporting and audit.*

<sup>ad</sup> Pursuant to section 5.90A of the *Local Government Act 1995*.

239. The City review its funding agreements and arrangements before execution or renewal and consider whether it should take legal advice, having regard to the value of the agreement and its terms.

*The City is to know the legal effect of the agreement or arrangement it is executing or extending.*

240. The City to review its policies and practices regarding the provision of funding in accordance with agreement or arrangement terms and acquittal<sup>ae</sup> of funds provided to external parties under partnership or other similar agreements or arrangements.

*Acquittal processes are to be understood and properly conducted.*

241. The City amend its policies and practices to require an entity funded on a multi-year Discretionary Grant Funding Arrangement to provide an annual financial report, containing a Statement of Income and Expenditure, relating to activity funded which must be signed by the Chairperson or Chief Executive Officer or equivalent and the Treasurer or Chief Finance Officer or equivalent of the funded entity, and be certified by a qualified auditor who is:

- not an officer or employee of the organisation;
- not an employee of the City;
- registered as a company auditor or equivalent under a law in force in Western Australia; or
- a Member or Fellow of the Institute of Chartered Accountants, the Australian Society or Certified Practising Accountants or the National Institute of Accountants.

*To provide for good financial management and ensure funding claimed by a funded entity was spent on the purpose described in the funding agreement or arrangement.*

242. In the case of a partnership arrangement, such as the one with the Perth Public Art Foundation, a review of all the City's expenditure and acquittal processes for that entity should be conducted before the arrangement ends and a new one is approved by the City of Perth Council, to ensure the funds have been properly applied.

*This would be sound grant and financial management practice, providing accountability for the spending of funds by the City.*

<sup>ae</sup> 'Acquittal' occurs when the City has advised the recipient of Discretionary Grant Funding that the reports and financial information provided by the recipient are satisfactory.

243. Partnership arrangements to be acquitted by an appropriately qualified or experienced officer, having regard to any segregation of duties between an advisory/facilitation role and a grants management role, with the results of the acquittal to be provided to the Audit Committee.

*To encourage ownership of expenditure, to improve reporting, and to facilitate audit.*

## Risk, assurance and audit

### Local government

244. The Department review, update and promulgate its publication “*Risk Management Resources*”, including the “*Model Risk Management Policy*”, having regard to current industry standards<sup>af</sup> and best practice.

*“Risk Management Resources” is dated March 2013.*

### City of Perth

245. The City’s risk, audit and assurance management frameworks be comprehensively reviewed and a report to Council prepared by an independent consultant with expertise in current industry best practice, working collaboratively with a senior employee designated responsibility by the CEO, providing a schedule of actions to improve the City’s maturity in risk, audit and assurance.

*The City’s risk management framework needs to be appropriate to the scale, scope and complexity of the City and its local government activities.*

246. The report described in Recommendation 245 be submitted by the CEO to Council within 12 months of this Report.

*The City’s risk management framework needs to be appropriate to the scale, scope and complexity of the City and its local government activities.*

247. The City review its Crisis Management Plan, Crisis and Business Continuity Management Framework and Business Continuity Plan for consistency of process, roles and responsibilities, which review be undertaken along with Recommendations 245-246.

*The roles, responsibilities and processes are to be consistently expressed across these governing documents and understood by those relying on them.*

<sup>af</sup> ISO 31000: Risk management

248. The City take steps to improve the capability of the Council, committees and employees in risk, audit and assurance, so that the City's business planning, project management, capital planning and service delivery policies and practices are consistent with leading international standards for risk and audit management.

*The City as part of its everyday activities should identify, consider, monitor and manage risks.*

249. The City's CEO, supported by the Audit Committee, implement the 'lines of defence' model<sup>ag</sup> to manage risk and improve governance practices within the City.

*This provides a framework for officers at the City to identify and understand and view risks, identify existing controls and strengthen or add controls where they are absent.*

250. City employees receive risk management training, appropriate to their roles and responsibilities, together with guidance on the 'lines of defence' model.

*Risk management is to be properly understood and applied by the broader organisation.*

251. The City integrate risk management practices into all annual planning activities.

*The City, as a whole, needs to achieve a better understanding of its service costs and risks to inform corporate and operational planning and budgets.*

252. The Audit Committee develop, with appropriately qualified external assistance, a Strategic Internal Audit Plan that relates to the focus areas of internal audit over the medium term.

*The City does not currently have a Strategic Internal Audit Plan.*

253. The City consider adopting a co-sourcing internal audit model to use the experience of external professional providers to complement the current internal audit team.

*The Council should have an effective internal audit function that provides independent assurance that the City is functioning effectively and the internal controls the City has put into place to manage risk are working.*

254. The internal audit function be reviewed and, if necessary, expanded to consider opportunities for the adoption of better practices, continuous improvement and compliance with professional standards.

*The City needs to approach better practice in its audits.*

ag 'Three lines of defence': Factsheet, Institute of Internal Auditors Australia, '3 Lines of Defence' Combined Assurance Model, 2020 and 'Four lines of defence': Report, Western Australian Auditor General, Audit Results Report – Annual 2018-19 Financial Audits of Local Government Entities, Report 16: 2019-20, 11 March 2020, p 27.

255. The City consider adopting a professional development programme for its internal audit team, as part of the co-sourced model, to improve the team's capability and capacity.

*A more effective and efficient audit team should increase the number of audits that can be conducted per year and should improve audit rigour.*

256. The City review its Internal Audit Charter to ensure it is based on internationally accepted standards and best practice.

*The City's Charter was last reviewed in 2015.*

257. The Audit Committee develop, with appropriately qualified external assistance, an Assurance Map to understand the nature, scope and extent of assurance activities across the City.

*The City does not currently have an assurance map.*

258. As part of the Strategic Internal Audit Plan and Annual Internal Audit Plan, and to supplement compliance audit, the Audit Committee introduce performance audits or reviews to assess the efficiency and effectiveness of activities, services and programmes undertaken or delivered by the City's.

*Performance audits determine whether a local government is carrying out its activities effectively and doing so economically and efficiently and in compliance with all relevant laws.*

259. The City consider establishing an independent chief audit officer role to oversee the City's audit activities, whose role is similar to and guided by Treasurer's Instruction 1201(4) for State Government agencies.

*For the internal audit function to be effective, it must be able to carry out its responsibilities independently and objectively, without interference.*

260. The Audit Committee establish appropriate industry benchmarks against which to monitor and measure audit performance of the internal audit function.

*The absence of formal measurement of an internal audit's performance may result in missed opportunities to maximise its effectiveness.*

261. The City should establish a guide which clearly describes and distinguishes the roles of probity auditor and probity advisor, used during procurement processes, including:

- where the procurement is complex and/or sensitive, a probity advisor should be engaged to establish the probity management framework; and
- a probity auditor should then be engaged to provide an independent scrutiny of the procurement process and express an objective opinion on whether the prescribed probity requirements have been followed.

*This clarification will ensure roles and responsibilities are clear and services engaged are fit for purpose.*

262. The engagement and use of probity auditors be overseen by the chief audit officer.

*Professional standards are compromised when staff not experienced in audit take a lead role in using the services for unrelated purposes.*

## Procurement and contracting

### Procurement and contracting systems, processes and capability

#### City of Perth

263. The City's CEO undertake a functional review of the procurement and contracting function to identify:

- improvements since the Deloitte Organisational Capability and Compliance Assessment (June 2017);
- the current capability and maturity of the City for procurement and contracting;
- the adequacy or otherwise of current compliance measures in relation to relevant local government procurement and contracting;
- key performance indicators, which are used to monitor ongoing performance; and
- any gaps and prepare a gap analysis and recommendations.

*The City is to align its procurement and contracting function, processes, systems, operations and organisational design to its legislative purposes and performance expectations.*

264. The City continue to advance its adoption of a centralised procurement model and establish a centralised procurement team.

*Centralising procurement will improve supervision, improve accountability and audit, and provide a 'one stop' shop for staff with procurement and contracting issues.*

265. The City adopt a consistent approach in relation to whether and in what circumstances, a bill of quantities is to be supplied as part of a request for tender.

*To avoid similar instances to the recall and re-issue of the tender for the construction of the Railway Street and Market Street Shared Path Extension do not occur in the future.*

266. The City consider establishing a centralised project management office to provide organisation-wide leadership, resources and integration of better practice project management within functions and activities.

*To provide resources to assist in improving the City's capacity to scope, manage and report on projects, as well as support better financial management of project planning and delivery.*

267. City of Perth Council Policy “CP9.7 – Purchasing” and the Sole Supplier Justification Procedure be amended to provide a clear process to follow in circumstances where the CEO wishes to engage on behalf of the City a person or an organisation with whom the CEO has an interest or conflict of interest (actual or perceived) as a result of a personal or business relationship.

*Council Policy “CP9.7 – Purchasing” and the Sole Supplier Justification Procedure is currently silent as to the process to follow in these circumstances.*

268. City of Perth Council Policy “CP9.7 – Purchasing” be amended to expressly require all engagements, even those resulting from a verbal quotation process, to be fully documented.

*While this requirement is implicit in Council Policy 9.7, making it express will help prevent the requirement from being overlooked and ensures compliance with the State Records Act 2000.*

269. City of Perth Council Policy “CP9.7 – Purchasing” be amended to make price and value for money a specific criterion of assessment.

*Price has historically been treated inconsistently in procurement activity, leading to inappropriate results which may not reflect the City’s overarching focus on value for money.*

270. Employees of the centralised procurement team should not be a member of an evaluation panel for requests for tenders or quotations.

*Being a panel member for requests for tenders or quotations process compromises the independence of the function, including providing advice and guidance, conducting reviews of process or approving and authorising process.*

## Confidentiality and conflicts of interests in procurement and contracting

### City of Perth

271. The City separate its “Declaration of Confidentiality and Interest” form into two separate documents, one dealing with obligations of confidence and the other dealing with the issue of conflicts of interests.

*Separating the components of the declaration will help the person completing the forms focus on what should be declared.*

272. The City require each panel member, technical advisor and decision-maker in a procurement process to complete a Declaration of Interest Form, declaring any conflict of interest, before undertaking any role or taking any step in the procurement process.

*To limit the prospect of a procurement process being adversely affected by conflicts of interests.*

## Evaluation of quotations and tenders

### City of Perth

273. All City procurement activities above \$150,000.00 be supported with a risk assessment and, for those identified as high risk, the City consider the specific risks associated with that procurement and develop treatment plans to mitigate those risks, including probity of the procurement process.

*In a fiscal environment that is increasingly characterised by independent contract or resource availability and economic pressures and constraints, effective corruption and misconduct management is paramount to ensure value for money is obtained for ratepayers in all decision-making.*

274. City of Perth Council Policy “CP9.7 – Purchasing” be amended to prescribe the circumstances in which a procurement process requires an independent probity advisor or auditor to be involved in the process.

*A specialised probity officer being involved “at the coalface” of tendering decisions should minimise the prospects of misconduct or process failure, and provide a first port of call for staff on evaluation panels who have probity questions.*

275. The City make clearer to the members of evaluation panels which requirements of a tender are “compliance criteria”, the mandatory criteria which tender submissions must meet to be considered as part of the tender process, and which requirements are “selection criteria”, the criteria against which tender submissions are assessed.

*Evaluation panel members are to understand the requirements which will be assessed during a tender process and assess accordingly.*

276. If a comparative price analysis is to be retained by the City, as part of request for tender or quotation assessment, then:

- a policy or procedure should be adopted setting out the methodology to be applied; and
- the comparative price analysis is to be independently verified by a senior member of the procurement team.

*Comparative price analysis can be a source of data manipulation or miscalculation, without reference to the tenderers, which can result in unsatisfactory or corrupt tender or quotation outcomes.*

277. Where possible, evaluation panels should include more than one person with specialised technical knowledge relevant to the evaluation to be undertaken.

*Where an evaluation panel defers to a single technical expert, there is potential for that expert to inappropriately, or inadvertently, influence the evaluation leading to inappropriate outcomes.*

278. The City adopt a clear process by which an evaluation panel can obtain guidance or input from a non-panel member about issues that arise during the tender evaluation process. For example, about aspects of tender submissions which may be outside their areas of expertise.

*Panel members should be provided with the ability to seek guidance outside the panel without jeopardising the integrity of the tender evaluation process.*

279. Evaluation panel members to score tenders by consensus, rather than by averaging the scores of each panel member.

*To reduce the risk that the evaluation of tenders is manipulated by members of the panel.*

#### Capital works contracts

##### City of Perth

280. The City develop, adopt and communicate to staff a plain-English procedure about the application of carry forwards to capital works projects.

*Inconsistent knowledge of carry forwards at a project officer level, and the poor or inconsistent communication of the attitude of the executive towards carry forwards in capital works projects, has the capacity to adversely affect capital works.*

#### Training and development

##### City of Perth

281. The City create and implement a procurement and contract management training and development programme (P&CM Programme) for employees, including but not limited to finance staff, employees who have a delegated authority to incur liabilities on behalf of the City, employees who procure goods and services or have the potential to be a member of or a technical advisor to an evaluation panel and any other employee who has a role in procurement and contract management processes.

*Policies and processes are only as good as their implementation, and proper implementation is reliant on competent, confident and informed staff.*

282. The P&CM Programme should be customised to the needs of the relevant groups of employees, based on their roles and responsibilities, including, at a minimum, training on:
- Integrity in procurement and contract management: declaring and managing conflicts of interest, confidentiality, record-keeping and decision-making (including delegations, financial limits and incurring and certifying processes).
  - Planning to procure: how to define requirements, analyse the supply market, understanding the procurement framework and developing and obtaining approval for a request for quotation or tender.
  - Forming a contract: advertising the request, the evaluation and negotiation processes, the role of panel members and technical advisors, the role of approvers and contract award.
  - Managing a contract: ensuring suppliers fully meet their obligations as efficiently and effectively as possible to achieve the contract outcomes, as well as arranging payment for services.

*Understanding the basics of procuring and managing goods and services arrangements are essential to sound financial management and service provision to the community.*

283. The City consider, as part of the P&CM Programme, exploring case studies of where previous issues have arisen in the procurement area, for example,
- where City officers have engaged in corrupt conduct and the consequences for those officers of engaging in that conduct; or
  - where an issue was identified early and corrected before it could corrupt the process.

*Case studies help ground theoretical instruction in real world facts.*

284. The City require employees involved in procurement and contracting activity to undertake refresher training, at least annually, as part of the P&CM Programme.

*To be useful, the training must be current.*

285. An employee is not permitted to sit on an evaluation panel or make a procurement decision, unless the employee has successfully completed all training required by the P&CM Programme, and the relevant refresher training.

*Procurement processes are only to be undertaken by properly trained employees.*

286. The City compile and maintain a contracting and procurement handbook, comprising:

- all relevant City processes, policies and procedures;
- reference materials for the P&CM Programme;
- contact information for places or people to whom staff can turn when faced with procurement or contracting management issues; and
- a frequently asked questions section.

*To provide a single source of reliable information for procurement and contracting management matters, and to assist staff to properly deal with issues as they arise.*

287. The City improve the skills and knowledge of project manager, project officers and other staff responsible for or involved in construction, maintenance or other works, including internal works, in the requirements for development approval, heritage advice and building permits, including in respect of buildings or other assets owned or managed by the City.

*Confusion over matters of this type is embarrassing for the City, frustrating for relevant staff, potentially exposes the City to liabilities under relevant legislation, and affects the programme and budget for capital works.*

## Reporting

### City of Perth

288. The City to publish monthly on its website the contracts register for all contracts awarded<sup>ah</sup> above \$50,000.00 (in value), including:

- the contract details;
- the mechanism of procurement;<sup>ai</sup>
- the party to whom the contract was awarded;
- the value of the contract;
- the date the contract was awarded;
- the period or duration of the contract;
- any variations to the contract; and
- the funds the City actually spent under the contract.<sup>aj</sup>

*To provide transparency and accountability on the contracted work, effective contract management and final expenditure for compliance with the legislation and policy.*

ah Contracts related to services or goods procured, including through requests for quotations, sole suppliers, tenders, use of the State Government's Common Use Agreement and WALGA Preferred Supplier Programme.

ai That is, whether the City undertook a tender process, requested quotations, engaged the provider using its sole supplier procedure, used the State Government Common Use Agreement or WALGA's Preferred Supplier Program.

aj Note that for contracts across financial years, a report would only need to occur in the financial year the contract ended.

## Risk and audit

### City of Perth

289. Procurement and contracting risks to be reviewed annually and included in a report to the Audit Committee.

*To provide transparency to procurement and contract risks and enable consideration to be given to target areas as part of an annual audit plan.*

290. Procurement and contracting activities of the City be independently audited at least every 12 months, as part of the City's internal audit programme with representative and random sampling across all levels of expenditure, procurement types and all business units, giving consideration to risk, for compliance, misconduct and better practice grants management.

*Random audits combat complacency, tend to identify systemic failures and facilitate the identification of misconduct.*

291. The results of the audit are to be reported to the Audit Committee and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

## Complaints and misconduct prevention

### General

#### Local government

292. Local governments be required to develop a complaints resolution procedure based on the Australian/New Zealand *Guidelines for complaint managements in organisations* AS/NZS 10002:2014.

*Local governments are to deal with complaints properly and fairly. It would also reduce recurring complaints, improve standards of service to the community and raise the standard of decision-making.*

*Part B of the draft "Mandatory Code of Conduct for Council Members, Committee Members and Candidates" requires local governments to have a complaints management policy, but this policy will only apply to complaints about council members.*

293. The Department establish better practice guidelines for councils and CEOs on complaint handling in local government.

*To provide an industry standard for better practice in Western Australian local governments.*

294. All council members and employees of local governments be trained and assessed on the complaints handling process, as part of any training on the Code, by an industry-accredited provider on the commencement of the policy.

*All public officers are to understand the policy and the processes to lodge, manage, determine and refer complaints.*

#### Corruption and misconduct risks

##### City of Perth

295. The City adopt a policy which clearly states it has a zero-tolerance of fraud and corruption and develop an holistic fraud and corruption control framework.

*To establish the City's stance on fraud and corruption and then manage it.*

296. The City adopt a process, in accordance with industry best practice and standards, to identify and document the City's misconduct and fraud risks and implement treatment plans.

*To eliminate, mitigate and manage identified risks.*

297. The City undertake within three months of this report<sup>ak</sup> a corruption and misconduct risk assessment, including, for example, areas such as contracting and procurement, financial management, human resources, information management and service delivery areas.

*The City is to have a robust framework to identify, manage and mitigate misconduct and corruption risks.*

298. The first City corruption and misconduct risk assessment be conducted by an independent and suitably qualified provider and the outcome be reported to the Audit Committee and the Council.

*To establish a baseline against which to measure corruption and misconduct risk.*

299. Corruption and misconduct risk assessment be reviewed annually and included in a report to the Audit Committee and the Council.

*To provide transparency to procurement and contract risks and enable consideration to be given to target areas as part of an annual audit plan.*

300. The City's CEO develop comprehensive, organisation-wide strategies (education and awareness, policy and compliance), based on the risk assessment (as described at Recommendation 2465) to combat fraud and corruption.

*The City is to have a robust framework to counteract misconduct and corruption risks.*

<sup>ak</sup> If not undertaken in the 12 months prior to this Report.

301. An external audit be conducted every two years on the City's approach to misconduct and fraud.

*The approach needs to be current and appropriate to the risks facing the City.*

302. The results of the review be reported to the Audit Committee and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

### Complaints handling framework

#### City of Perth

303. A centralised complaint handling policy, based on industry best practice, and an appropriately confidential system be developed for the management and recording of complaints and grievances by or against any council member, committee member or employees of or contractors to the City, including the outcome of any investigations.

*To provide a central and consistent method of receiving, recording, investigating and reporting on complaints and grievances, including the identification of trends and accountability for corrective actions. The database should contain controls to protect the integrity and confidentiality of the information on it.*

304. The City keep a record of these complaints and grievances in a centralised system (Recommendation 303), detailing the persons involved, the nature and extent of the complaint or grievance, actions taken and the outcome, which records are to be retained in accordance with the *State Records Act 2000*.

*To aid probity, transparency, accountability and audit.*

305. The City adopt, maintain and publish on its website clear complaints and grievances handling policies and procedures, dealing with how the City will:

- as a matter of process, deal with misconduct complaints against or grievances about council members, committee members or employees of or contractors to the City;
- as a matter of process, deal with referrals to and from the Corruption and Crime Commission, the Public Sector Commission and any other relevant authority; and
- conduct internal investigations.

*Clear policies and procedures promote understandable, efficient, consistent and transparent outcomes.*

306. Publication of the policies and procedures described in Recommendation 305 on the City's website be accompanied by a frequently asked questions (FAQ) section.

*To assist in understanding the procedures and how they operate.*

307. The policies, procedures, records and FAQ section described in Recommendations 303-306 be prepared by an industry accredited expert in accordance with industry best practice standards.

*The City's complaints handling policy, procedures, records and FAQ should be at an industry best practice standard.*

308. The City require a person with appropriate governance experience be designated to be involved, in a substantive way, in maintaining the complaints and grievances handling framework, dealing with complaints, grievances, referrals and internal investigations and reporting.

*Without governance expertise and accountability to guide the process, complaints of misconduct may not be properly addressed.*

309. The City's CEO or his or her designated officer be responsible for ensuring that all complaints and grievances<sup>al</sup> are processed in accordance with the policies and procedures described in Recommendations 3043-306.

*Oversight by properly skilled officers is required to be in place.*

#### Complaints handling training

##### City of Perth

310. Council members and employees of the City be trained and assessed on the complaints and grievances handling policies and procedures by an industry-accredited provider on the commencement of the policies and procedures.

*All public officers need to properly understand the policies and the procedures to lodge, manage, determine and refer complaints and grievances.*

#### Investigations

##### City of Perth

311. The City ensure any employee dealing with complaints, grievances, referrals or internal investigations is independent of the subject matter of the investigation, is appropriately trained and is, where necessary, supervised or assisted by a similarly independent person with specialist governance experience.

*Without independence, and without governance expertise to guide the process, complaints and grievances may not be properly addressed.*

<sup>al</sup> Unless there is a conflict of interest.

312. The City ensure the engagement of a third-party consultant to advise or assist with any complaint, grievance or probity matter (Consultant Engagement) be clearly documented, including as to scope and budget.

*Failure to properly document engagements, and the scope of engagements, contributed to the issues identified in the Project Percy and Western Irrigation sections of this Report.*

313. All Consultant Engagements be reviewed for potential or actual conflicts of interest by a suitably qualified person with appropriate governance experience.

*An employee with an actual or potential conflict in the engagement of a third party is not to be involved in procurement activities involving that party.*

314. All Consultant Engagements be on terms specifying, by name or office, those within the City who have authority to give instructions to the consultant.

*The absence of clear and appropriate lines of communication between consultants and the City contributed to the issues identified in the Project Percy section of this Report.*

315. City employees managing the Consultant Engagements should not involve themselves in the subject of the engagement, so as to substantially influence or appear to influence the results of that investigation or the advice given to the City.

*To maintain the integrity of the procurement process.*

316. The City adopt and encourage the practice of critically reviewing the accuracy and cogency of outcomes, conclusions and findings produced under Consultant Engagements.

*For probity, accountability, transparency and value for money.*

317. Any systemic, endemic or high-risk issues identified by Consultant Engagements be captured in the complaints and grievances handling system by the designated officer responsible for complaints and grievances handling and reported as part of the quarterly reporting requirement described in Recommendation 320.

*To baseline and inform a “lessons learned” process.*

318. The City to cease the practice of splitting investigations into employee matters and other matters for separate investigation.

*Better practice investigation involves an holistic review of the allegations or complaint to ensure that individual and systemic issues are identified.*

## Reporting and audit

### City of Perth

319. Trend and outcome reporting on complaints and grievances be reported in writing and at least quarterly to the City's executive and the Council.

*To provide the City's leadership with information on the number, nature and outcome of the complaints and grievances across the City.*

320. An audit of the City's complaints and grievance handling framework, including the management of individual employee-related matters, the system data and compliance with the policies and procedures be undertaken annually by an independent qualified auditor as part of the internal audit programme. This is to review the City's compliance with policies and procedures, the effectiveness of the training programme and areas for improvement.

*To determine whether the procedures are being consistently and fairly applied in a timely way and to aid probity, transparency, accountability and audit.*

321. The results of the audit are to be reported to the Audit Committee and the Council.

*The Audit Committee has oversight for the audit activities of the City.*

322. The City publish in its Annual Report the findings of the audit described in Recommendation 321, along with the City's trend and outcome reporting on complaints and grievances.

*To promote transparency and accountability, and through those mechanisms drive improvements in process and compliance.*

## External oversight and intervention

### Local Government Inspector

#### Local government

323. An office of Inspector of Local Government (Inspector) be established as an independent statutory office, responsible to the Minister for Local Government.

*The current system for monitoring, promoting and enforcing the integrity, efficiency and effectiveness of local governments is fragmented and can be cumbersome. Centralising and better defining the functions dealing with these matters will promote consistent, fair and timely resolutions.*

324. The Inspector have the following duties and functions, namely, to:

- i) improve the decision-making, integrity, efficiency, effectiveness and accountability of local governments;
- ii) assume the regulatory and advisory functions of the Department, including any additional functions of the Department arising from these recommendations<sup>am</sup>;
- iii) assist local governments by providing guidance, education and advice, as requested by local governments, or as the Inspector thinks fit;
- iv) receive, investigate, assess and mediate complaints or referrals about local government matters, including about council members and employees, including in relation to the Code;
- v) of his or her own motion, conduct investigations into and audits of local governments, including council members and employees;
- vi) decide what matters should be investigated or audited, how they should be investigated or audited, what actions should be taken in respect of any investigation, what records or things will be required to be produced, who will be required to be examined under oath or affirmation and who will conduct the examination of any such person in the course of any investigation;
- vii) inquire into local government matters at the direction of the Minister for Local Government and assume the functions of authorised inquiries under Part 8, Division 1 and the functions of Inquiry Panels under Part 8, Division 2 of the *Local Government Act 1995*, as appropriate;
- viii) report to the Minister for Local Government where, in the Inspector's opinion, a local government may be failing to provide good government, or one or more council members are impeding the ability of the local government to provide good government; and
- ix) bring legal proceedings against council members and employees for failing to comply with their obligations under the Code.

*These are the duties and functions required for the effective monitoring, promotion and enforcement of the integrity, efficiency and effectiveness of local governments.*

<sup>am</sup> Recommendations 6, 8, 9, 20, 30-33, 38-40, 42-44, 49, 52, 75, 83, 84, 87, 104-107, 110, 111, 114, 116, 118-122, 124, 129, 130, 145, 189, 191-193, 195, 197, 244 and 293.

325. The Inspector be conferred with powers to:

- i) issue Standards establishing minimum standards that local governments must comply with, for example, in relation to procurement and contracting, governance, human resources and strategic planning;
- ii) require, by notice in writing, a person to produce any record or thing relating to the Inspector's investigations, audits or examinations;
- iii) require, by notice in writing, a local government, council member or employee to produce a written statement of information relating to the Inspector's investigations, audits or examinations;
- iv) require a person to attend and be examined on oath or affirmation;
- v) conduct examinations in public or private, as the Inspector thinks fit, having regard to the public interest and the matter before the Inspector;
- vi) prohibit any person examined in private from disclosing the requirement to attend for the examination or the content of that examination to any other person without the Inspector's express prior written authorisation;
- vii) to issue improvement notices on local governments, requiring local governments to remedy any failures to comply with the *Local Government Act 1995* or other statutory instruments or any matter which, in the reasonable opinion of the Commissioner, amounts to a failure to provide good government or good governance;
- viii) require parties to a complaint, an allegation of breach, or referred matter, to attend a mediation of the complaint, breach or matter, or to undertake another form of alternative dispute resolution that, in the opinion of the Inspector, is best suited to the matter before him or her;
- ix) refer suspected contraventions of the law to an appropriate external agency, such as the Corruption and Crime Commission or the Western Australia Police Force;
- x) delegate any of his or her functions to officers holding prescribed offices within the office of the Inspector; and
- xi) do all things that are necessary for or incidental to the discharge of the Inspector's duties and functions.

*These are the powers necessary for the Inspector to discharge the conferred duties and functions.*

326. The Inspector be a legal practitioner of at least 10 years' experience, with sufficient skills and experience in local government to properly discharge the roles and duties associated with the office.

*Sufficient and relevant experience will be necessary to the proper and effective discharge of the role.*

327. The office of the Inspector be appropriately resourced and staffed with personnel having the necessary skills and experience to support the Inspector to carry out his or her statutory duties and functions, including investigative, regulatory and legal expertise.

*The office must be adequately resourced to be effective.*

328. The office of the Inspector be independently audited at no less than three-year intervals to assess whether he or she is meeting his or her objectives and properly discharging his or her duties and functions.

*The effectiveness of the office should be regularly assessed.*

329. The Inspector report to the Minister for Local Government annually, and otherwise on request by the Minister, on the performance of the Inspector's functions or the discharge of his or her duties.

*The Minister for Local Government should be kept properly informed of the Inspector's performance and effectiveness.*

330. Consequential amendments be made to Part 8 of the *Local Government Act 1995* to give effect to Recommendations 323-329.

331. If Recommendations 323-329 are not adopted:

- the proposed functions of the Inspector be conferred on the Department; and/or
- the State Government consider alternative models used in other States and Territories in Australia for regulating the local government sector.

*The duties and functions are important and need to be done by some other authority, if it is not the Inspector.*

## Compliance and enforcement

### Local government

332. The *Local Government Act 1995* be amended to:

- abolish the Local Government Standards Panel; and
- give the State Administrative Tribunal jurisdiction to deal with alleged failures by council members to comply with their obligations under the Code.

*To simplify the regime for dealing with complaints against and disciplining council members. Under the current statutory framework and the framework proposed by the State Government's Local Government Act Review, failures by council members to comply with statutory obligations in different statutory instruments will be dealt with by different bodies with different consequences.*

333. On a finding that a council member has failed to comply with his or her obligations under the Code, the State Administrative Tribunal have the power to make an order that the council member be publicly censured, be made to apologise publicly, undertake training, be suspended for a period of not more than six months, be disqualified for a period of not more than five years and/or be made to pay a fine.

*To retain the sanctions currently available to the Tribunal under section 5.117(1) of the Local Government Act 1995 and to give the Tribunal the additional power to order that a council member pay a fine.*

*It may be appropriate for the Tribunal to adopt more informal procedures where a lesser sanction (for example, a public censure, an order for an apology or a requirement to undertake training) is sought by the Local Government Inspector.*

334. The Magistrates Court be given jurisdiction to deal with serious failures of council members and employees of local governments to comply with designated obligations under the Code, including, for example, serious failures to disclose conflicts of interest or financial interests.

*To align with the current position under the Local Government Act 1995, where the failure to comply with certain provisions may be the subject of criminal proceedings: see, for example, sections 5.65, 5.67, 5.70, 5.71, 5.71A, 5.76, 5.78, 5.89 and 5.93.*

335. On a finding that there has been a serious failure by a council member or employee of a local government to comply with a designated obligation under the Code, the Magistrates Court have the power to order a term of imprisonment or that the council member or employee be made to pay a fine.

*To align with the current position under the Local Government Act 1995 where the failure to comply with certain provisions may be punished by a fine or imprisonment: see, for example, sections 5.65, 5.67, 5.70, 5.71, 5.71A, 5.76, 5.78, 5.89 and 5.93.*

## Inquiries under the *Local Government Act 1995*

### Local government

336. In the event that Recommendations 323-32430 are not adopted, the State Government consider appointing a suitably qualified person or panel of persons to prepare and publish a 'bench book' for inquiries conducted by Inquiry Panels under Part 8, Division 2 of the *Local Government Act 1995* to provide guidance to inquiries of that type and to provide model documentation including, for example, model practice directions, model notices to produce documents, and the like.

*Time and resources can be used most effectively in future local government inquiries by building upon the practical knowledge acquired through the conduct of such an inquiry.*

337. The *Royal Commissions Act 1968* be amended to:

- clarify the Royal Commission's power to make orders of non-disclosure; and
- enable a Royal Commission, when issuing a summons or a notice to produce, to prohibit the recipient from disclosing the summons or the notice to any other person.

*There is currently no express power under the Royal Commissions Act 1968 to restrain parties from disclosing the evidence in private hearings to other parties. Further, there is no power under the Royal Commissions Act 1968 to restrain parties from disclosing that they have been served with a notice to produce documents or a summons to give evidence or the contents of that notice or summons.*

*Witnesses before the Inquiry admitted disclosing their evidence in private hearings to other witnesses. The ability of Royal Commissions or other inquiries exercising the powers of a Royal Commission to conduct investigations would be greatly enhanced with powers similar to those held by other investigative bodies.<sup>an</sup>*

338. The *Royal Commissions Act 1968* be amended to give a Royal Commission the power to examine documents over which legal professional privilege is claimed for the purposes of verifying the claim of privilege.

*This reflects the position in section 6AA of the Royal Commissions Act 1902 (Cth).*

## Reporting on recommendations of this Inquiry

339. The Minister for Local Government receive a detailed report from the City of Perth Council annually within four-months of the close of the financial year on the progress against recommendations contained within this Report, including reasons for any decisions taken to not implement recommendations.

*Provides for accountability for actions to address matters identified in this Inquiry.*

340. The Minister for Local Government to determine the nature and timing of reporting by the Department on the progress against recommendations contained within this Report, including reasons for any decisions taken to not implement recommendations.

*Provides for accountability for actions to address matters identified in this Inquiry.*

<sup>an</sup> For example, *Corruption Crime and Misconduct Act 2003*, s 99 and 167.

341. Unless otherwise determined by the Minister for Local Government:

- i) the City of Perth Council and the City's CEO are to report on performance against recommendations contained in this Report annually in the Annual Report until such time as all relevant recommendations have been addressed;
- ii) the City of Perth Council to receive and consider, at a minimum on a six-monthly basis, a report on progress against the recommendations of this Inquiry;
- iii) the City of Perth Council minutes are to document any decisions taken in regard to the recommendations in this Report; and
- iv) any report on progress described in Recommendation 341(i)) is to be publicly available and provide sufficient detail for a member of the community to understand the actions taken as a result, including any decision to not undertake and action in the recommendation.

*Provides for accountability for actions to address matters identified in this Inquiry to the community and regular reporting to the Minister for Local Government.*

## Endnotes

- 1 Notice of Appointment of an Inquiry Panel, Terms of Reference A.1, 24 April 2018.
- 2 *City of Perth Act 2016*, s 9, 20.
- 3 Notice of Appointment of an Inquiry Panel, Terms of Reference B, 24 April 2018.
- 4 Report, Report on an Investigation into Acceptance and Disclosure of Gifts and Travel Contributions by the Lord Mayor of the City of Perth, Corruption and Crime Commission, 5 October 2015.
- 5 Transcript, M Jorgensen, public hearing, 9 October 2019, p 43-47; Transcript, A Hammond, public hearing, 10 October 2019, p 15-16.
- 6 Volume 4, Part 4.3: City of Perth reports.
- 7 Transcript, M Jorgensen, public hearing, 9 October 2019, p 51.
- 8 Transcript, M Jorgensen, public hearing, 10 October 2019, p 10.
- 9 Transcript, A Hammond, public hearing, 10 October 2019, p 24-25.
- 10 Transcript, A Hammond, public hearing, 10 October 2019, p 31.
- 11 Transcript, A Hammond, public hearing, 10 October 2019, p 31.
- 12 Transcript, A Hammond, public hearing, 10 October 2019, p 32.
- 13 Transcript, M Jorgensen, public hearing, 9 October 2019, p 116.
- 14 Document, City of Perth, Procurement Strategy, 2018, 0.0747.
- 15 Transcript, M Jorgensen, public hearing, 9 October 2019, p 115.
- 16 Transcript, M Jorgensen, public hearing, 9 October 2019, p 50.
- 17 Document, City of Perth, Corporate Governance Framework, September 2019.
- 18 Transcript, A Hammond, public hearing, 10 October 2019, p 35.
- 19 Transcript, M Jorgensen, public hearing, 9 October 2019, p 53.
- 20 Document, City of Perth, Corporate Governance Framework, September 2019.
- 21 Document, City of Perth, Corporate Governance Framework, September 2019.
- 22 Document, City of Perth, Corporate Governance Framework, September 2019.
- 23 Transcript, M Jorgensen, public hearing, 9 October 2019, p 53-55
- 24 Transcript, M Jorgensen, public hearing, 9 October 2019, p 55.
- 25 Document, City of Perth, Corporate Governance Framework, September 2019.
- 26 Transcript, M Jorgensen, public hearing, 9 October 2019, p 103.
- 27 Transcript, M Jorgensen, public hearing, 9 October 2019, p 103.
- 28 Transcript, M Jorgensen, public hearing, 9 October 2019, p 103.
- 29 Transcript, M Jorgensen, public hearing, 9 October 2019, p 103.
- 30 Transcript, M Jorgensen, public hearing, 9 October 2019, p 104.
- 31 Transcript, A Hammond, public hearing, 10 October 2019, p 35
- 32 Transcript, A Hammond, public hearing, 10 October 2019, p 35.
- 33 Transcript, A Hammond, public hearing, 10 October 2019, p 35.
- 34 Transcript, M Jorgensen, public hearing, 9 October 2019, p 53.
- 35 Transcript, M Jorgensen, public hearing, 9 October 2019, p 21.
- 36 City of Perth, Corporate Recovery Implementation Plan, September 2019, 0.0877.
- 37 City of Perth, Corporate Recovery Implementation Plan, September 2019, 0.0879.
- 38 City of Perth, Corporate Recovery Implementation Plan, September 2019, 0.0879.
- 39 Document, City of Perth, Corporate Recovery Implementation Plan, September 2019.
- 40 Transcript, M Jorgensen, public hearing, 9 October 2019, p 107.
- 41 Document, City of Perth, Corporate Recovery Implementation Plan, September 2019.
- 42 Transcript, M Jorgensen, public hearing, 9 October 2019, p 108.
- 43 Document, City of Perth, Corporate Recovery Implementation Plan – Status Report, September 2019.
- 44 Transcript, M Jorgensen, public hearing, 9 October 2019, p 108.
- 45 For example, Transcript, M Jorgensen, public hearing, 10 October 2019, p 7.
- 46 Transcript, A Hammond, public hearing, 10 October 2019, p 35.





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Alternative formats of this Report  
are available on request.



# Report of the Inquiry into the City of Perth

An Inquiry under Part 8, Division 2  
*Local Government Act 1995*

4



## Acknowledgment of Country

The Western Australian Government proudly acknowledges the Traditional Owners and recognises their continuing connection to their lands, families and communities.

We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past, present and emerging.

The first step in living alongside and working with the Aboriginal community is built upon establishing respectful relationships. Crucial to these respectful relationships is acknowledging the history of Aboriginal people and recognising the importance of connection to family, culture and country.

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Published by the Department of Local Government, Sport and Cultural Industries, Western Australia, 30 June 2020.

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# Volume 4

## Appendices

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# 4.1

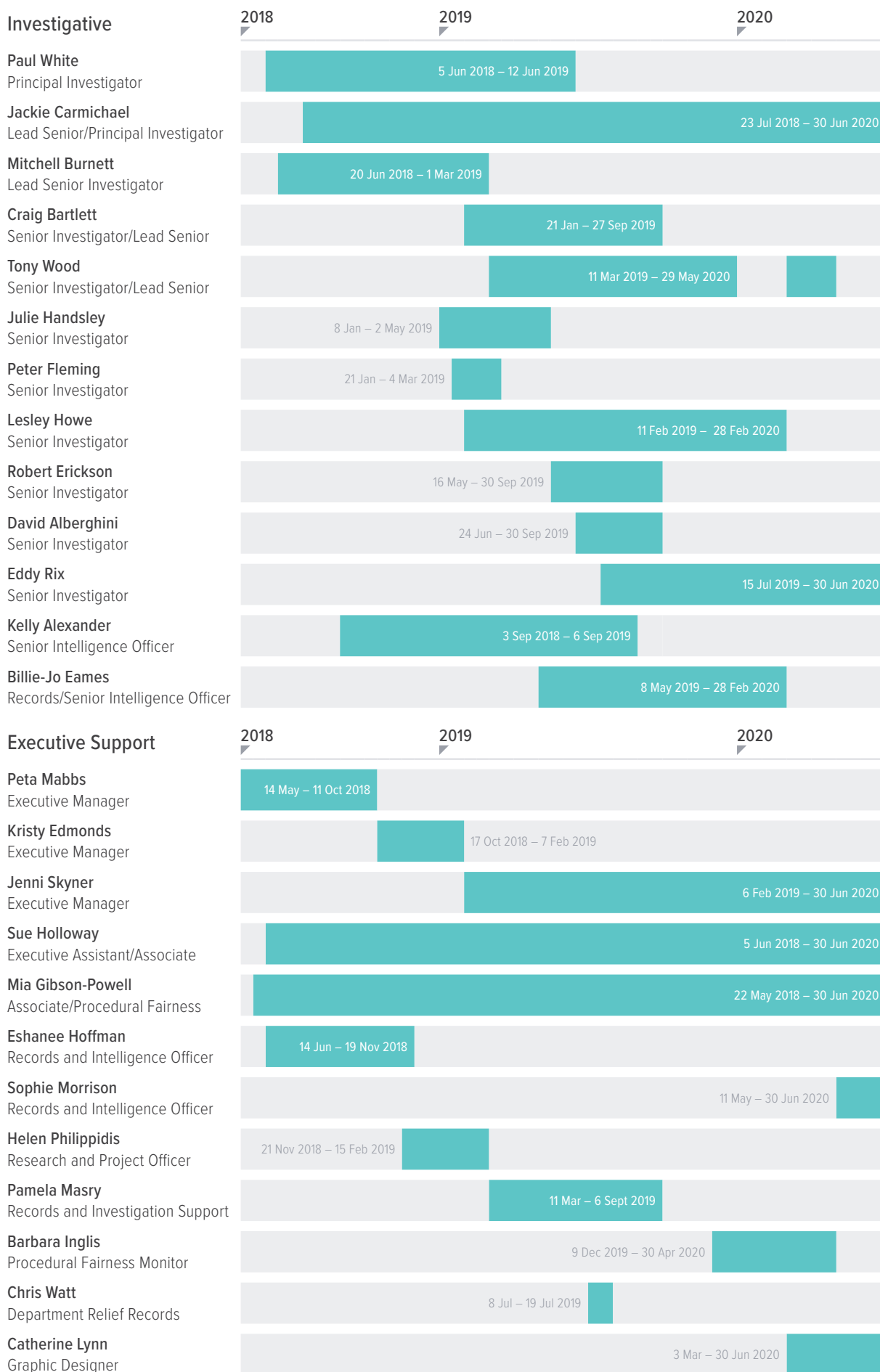
## The Inquiry

## Inquiry resourcing

In the period 24 April 2018 to 30 June 2020, the Inquiry Panel was resourced with legal officers, investigative officers and executive support officers. Table 4.1 provides a list of all Inquiry staff during this period.

**Table 4.1:** Inquiry into the City of Perth: Human resources.

| Legal  | 2018 | 2019                     | 2020                      |
|--|------|--------------------------|---------------------------|
| <b>Commissioner Power</b><br>Inquiry Panel       |      |                          | 1 May 2019 – 30 Jun 2020  |
| <b>Kim Lendich</b><br>Counsel Assisting          |      | 1 May 2018 – 30 Jun 2019 |                           |
| <b>Rachel Joseph</b><br>Counsel Assisting        |      | 5 Mar – 31 May 2019      |                           |
| <b>Philip Urquhart</b><br>Counsel Assisting      |      |                          | 5 Jun 2019 – 30 Jun 2020  |
| <b>Kate Ellson</b><br>Counsel Assisting          |      |                          | 5 Jun 2019 – 30 Apr 2020  |
| <b>Cheyne Beetham</b><br>Counsel Assisting       |      |                          | 12 Jun 2019 – 30 Jun 2020 |
| <b>Nicholas Parkinson</b><br>Solicitor Assisting |      |                          | 28 May 2018 – 30 Jun 2020 |
| <b>Sarah Oldfield</b><br>Instructing Solicitor   |      |                          | 14 May 2019 – 12 Jun 2020 |
| <b>Thomas Camp</b><br>Instructing Solicitor      |      |                          | 12 Jun 2019 – 12 Jun 2020 |
| <b>Maria Madigan</b><br>Instructing Solicitor    |      |                          | 24 Jun – 23 Dec 2019      |
| <b>Matthew Handcock</b><br>Senior Lawyer         |      | 1 Apr – 12 Jun 2019      |                           |
| <b>Zoe Herger-Smith</b><br>Paralegal             |      |                          | 3 Mar – 12 Jun 2020       |



## Coercive powers

In accordance with the *Royal Commissions Act 1968*, the Inquiry Panel had the power to:

- compel public authorities or public officers to produce statements of information (section 8A);
- serve a written notice on a person requiring that person to produce specified documents, books, writings or things specified in the notice (section 8B);
- summons a person and require that person to give evidence or produce any documents, writings or things in his or her custody or control (section 9); and
- examine a witness on oath and require that witness to answer any question relevant to its investigation (sections 11 and 14(1)(b)).

During the Inquiry:



**21**

Statements of Information were compelled from public authorities or public officers

Table 4.2



**100**

Notices to Produce a Record were served

Table 4.3

As part of the hearing programme:



**104**

Persons were summonsed to appear before the Inquiry and gave evidence

Table 4.4

The Inquiry Panel also issued orders during public hearings for the non-publication of evidence or documents in accordance with section 19B(5)(c) and (d) of the *Royal Commissions Act 1968*, which has effect pursuant to section 8.20 of the *Local Government Act 1995*.



**4**

Orders preventing the publication of information were issued during the public hearings

Table 4.6

## Statements of Information and Notices to Produce

The positions given for people listed in Tables 4.2 and 4.3 are the positions they held at the time served with a Notice to Produce a Statement of Information or a Notice to Produce a Record, respectively.

**Table 4.2:** Section 8A of the *Royal Commissions Act 1968* – Statements of Information compelled for production to the Inquiry.

| Reference No.   | Party   | Date       |
|-----------------|---|------------|
| SOI 001 of 2018 | Mr Mark Ridgwell, Manager, Governance, City of Perth              | 25/10/2018 |
| SOI 002 of 2019 | Mr Murray Jorgensen, Chief Executive Officer (CEO), City of Perth | 17/01/2019 |
| SOI 003 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 11/02/2019 |
| SOI 004 of 2019 | Ms Lisa Scaffidi, Lord Mayor                                      | 1/03/2019  |
| SOI 005 of 2019 | Mr Jim Adamos, Councillor   | 1/03/2019  |
| SOI 006 of 2019 | Ms Janet Davidson, Councillor                                     | 1/03/2019  |
| SOI 007 of 2019 | Ms Lily Chen, Councillor  | 1/03/2019  |
| SOI 008 of 2019 | Mr Reece Harley, Councillor                                       | 1/03/2019  |
| SOI 009 of 2019 | Dr Jemma Green, Councillor  | 1/03/2019  |
| SOI 010 of 2019 | Mr James Limnios, Councillor                                      | 1/03/2019  |
| SOI 011 of 2019 | Ms Alexis Barton, Councillor                                      | 1/03/2019  |
| SOI 012 of 2019 | Mr Steve Hasluck, Councillor                                      | 1/03/2019  |
| SOI 013 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 11/03/2019 |
| SOI 014 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 18/03/2019 |
| SOI 015 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 8/04/2019  |
| SOI 016 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 16/05/2019 |
| SOI 017 of 2019 | Mr Mark Ridgwell, Manager, Governance, City of Perth              | 17/06/2019 |
| SOI 018 of 2019 | Ms Rochelle Lavery, CEO, City of Subiaco                          | 25/07/2019 |
| SOI 019 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 30/08/2019 |
| SOI 020 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 21/10/2019 |
| SOI 021 of 2019 | Mr Murray Jorgensen, CEO, City of Perth                           | 21/10/2019 |

**Table 4.3:** Section 8B of the *Royal Commissions Act 1968* – Notice to Produce a Record compelled for production to the Inquiry.

| Reference No.   | Party   | Date       |
|-----------------|---|------------|
| NPR 001 of 2018 | Mr Lloyd Peters, Manager, Technology, City of Perth   | 12/06/2018 |
| NPR 002 of 2018 | Mr Robert Mianich, Director, Corporate Services, City of Perth  | 12/06/2018 |
| NPR 003 of 2018 | Ronald Murphy, Manager, Sector Governance,<br>Department of Local Government, Sport and Cultural Industries | 14/06/2018 |
| NPR 004 of 2018 | Mr Lloyd Peters, Manager, Technology, City of Perth   | 18/06/2018 |
| NPR 005 of 2018 | Mr Lloyd Peters, Manager, Technology, City of Perth   | 20/06/2018 |
| NPR 006 of 2018 | Mr Lindsay Warner, Acting Public Sector Commissioner  | 29/06/2018 |
| NPR 007 of 2018 | Ms Louise Welch, former Ranger, City of Perth   | 10/07/2018 |
| NPR 008 of 2018 | Mr Mark Close, former Place Development Officer, City of Perth  | 18/07/2018 |
| NPR 009 of 2018 | Mr Michael Carter, former Director<br>Economic Development and Activation, City of Perth                    | 18/07/2018 |
| NPR 010 of 2018 | Mr Martin Mileham, CEO, City of Perth   | 26/07/2018 |
| NPR 011 of 2018 | Ms Lisa Scaffidi, Lord Mayor  | 30/08/2018 |
| NPR 012 of 2018 | Dr Jemma Green, Councillor  | 30/08/2018 |
| NPR 013 of 2018 | Ms Janet Davidson, Councillor   | 30/08/2018 |
| NPR 014 of 2018 | Mr Jim Adamos, Councillor   | 30/08/2018 |
| NPR 015 of 2018 | Ms Judy McEvoy, Councillor  | 30/08/2018 |
| NPR 016 of 2018 | Mr Keith Yong, Councillor   | 30/08/2018 |
| NPR 017 of 2018 | Ms Alexis Barton, Councillor  | 30/08/2018 |
| NPR 018 of 2018 | Ms Lily Chen, Councillor  | 30/08/2018 |
| NPR 019 of 2018 | Mr Reece Harley, Councillor   | 30/08/2018 |
| NPR 020 of 2018 | Mr Steve Hasluck, Councillor  | 30/08/2018 |
| NPR 021 of 2018 | Mr James Limnios, Councillor  | 30/08/2018 |
| NPR 022 of 2018 | Ms Rebecca Moore, Director,<br>Community and Commercial Services, City of Perth                             | 30/08/2018 |
| NPR 023 of 2018 | Mr Paul Crosetta, Director,<br>Construction and Maintenance, City of Perth                                  | 31/08/2018 |
| NPR 024 of 2018 | Mr Robert Mianich, Director, Corporate Services, City of Perth  | 30/08/2018 |
| NPR 025 of 2018 | Ms Erica Barrenger, Director, Planning and Development, City of Perth                                       | 30/08/2018 |
| NPR 026 of 2018 | Mr Martin Mileham, CEO, City of Perth   | 30/08/2018 |
| NPR 027 of 2018 | Mr Mark Ridgwell, Manager, Governance, City of Perth  | 30/08/2018 |
| NPR 028 of 2018 | Mr Robert Mianich, Director, Corporate Services, City of Perth  | 19/09/2018 |
| NPR 029 of 2018 | Mr David Kerslake, Electoral Commissioner of Western Australia  | 17/10/2018 |
| NPR 030 of 2018 | Westpac Banking Corporation   | 8/11/2018  |
| NPR 031 of 2018 | National Australia Bank   | 8/11/2018  |
| NPR 032 of 2018 | Westpac Banking Corporation   | 8/11/2018  |

| Reference No.   | Party  | Date       |
|-----------------|--|------------|
| NPR 033 of 2018 | Mr Mark Ridgwell, Manager, Governance, City of Perth   | 9/11/2018  |
| NPR 034 of 2018 | Mr Lloyd Peters, Manager, Technology, City of Perth  | 13/11/2018 |
| NPR 035 of 2018 | Ms Andrea Ballantyne, Assistant Secretary,<br>Local Government Racing and Cemeteries Employees Union           | 4/12/2018  |
| NPR 036 of 2018 | Mr Mark Ridgwell, Manager, Governance, City of Perth   | 4/12/2018  |
| NPR 001 of 2019 | National Australia Bank  | 8/01/2019  |
| NPR 002 of 2019 | Bankwest   | 8/01/2019  |
| NPR 003 of 2019 | ANZ Banking Group Limited  | 8/01/2019  |
| NPR 004 of 2019 | Commonwealth Bank of Australia   | 8/01/2019  |
| NPR 005 of 2019 | Westpac Banking Corporation  | 8/01/2019  |
| NPR 006 of 2019 | Mr Kenny Seow, Partner, RiskWest Management Consultants  | 9/01/2019  |
| NPR 007 of 2019 | Mr Darren Kavanagh, Commissioner, WorkSafe Western Australia   | 9/01/2019  |
| NPR 008 of 2019 | Mr Eric Lumsden, Chair of Commissioners, City of Perth   | 14/01/2019 |
| NPR 009 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 17/01/2019 |
| NPR 010 of 2019 | Mr Mark Ridgwell, Manager, Governance, City of Perth   | 24/01/2019 |
| NPR 011 of 2019 | Ms Janine Thompson, Registrar, Perth Magistrates Court   | 6/02/2019  |
| NPR 012 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 11/02/2019 |
| NPR 013 of 2019 | Mr Geoffrey Blades, Director, Lester Blades  | 12/02/2019 |
| NPR 014 of 2019 | Ms Lilly Yong  | 5/03/2019  |
| NPR 015 of 2019 | Ms Dale Calhoun, Director, Tower Human Capital Group   | 6/03/2019  |
| NPR 016 of 2019 | Ms Judy McEvoy, former Councillor  | 7/03/2019  |
| NPR 017 of 2019 | Mr Keith Yong, former Councillor   | 7/03/2019  |
| NPR 018 of 2019 | Mr Martin Mileham, former CEO, City of Perth   | 7/03/2019  |
| NPR 019 of 2019 | Mr Ronald Murphy, Manager, Sector Governance,<br>Department of Local Government, Sport and Cultural Industries | 15/03/2019 |
| NPR 020 of 2019 | Mr Gary Hamley, Chief of Staff to the Minister for<br>Local Government, Heritage, Culture and the Arts         | 15/03/2019 |
| NPR 021 of 2019 | Mr Neil Douglas, Partner, McLeods Barristers and Solicitors  | 15/03/2019 |
| NPR 022 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 18/03/2019 |
| NPR 023 of 2019 | Mr Jim Adamos, Councillor  | 26/03/2019 |
| NPR 024 of 2019 | Mr Robert Butler, former Councillor  | 26/03/2019 |
| NPR 025 of 2019 | Ms Margaret Smith, Manager, Development Approvals, City of Perth   | 2/04/2019  |
| NPR 026 of 2019 | Mr Carlo Menchetti, Director, Menchetti Consolidated Pty Ltd (MG Group)  | 4/04/2019  |
| NPR 027 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 8/04/2019  |
| NPR 028 of 2019 | Mr Simon Coad, CEO, Ticcidev Insolvency  | 15/04/2019 |
| NPR 029 of 2019 | Ms Alison Egan, Manager, Human Resources, City of Perth  | 29/04/2019 |
| NPR 030 of 2019 | Ms Barbara Moyser, Senior Employee Relations Advisor, City of Perth  | 29/04/2019 |

| Reference No.   | Party  | Date       |
|-----------------|--|------------|
| NPR 031 of 2019 | Mr Mario d'Orazio, Chairperson, Perth Public Art Foundation                          | 9/05/2019  |
| NPR 032 of 2019 | Mr Blake Humble, Co-ordinator Park Operations, City of Perth                         | 20/05/2019 |
| NPR 033 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 20/05/2019 |
| NPR 034 of 2019 | Mr Martin Copeman, Manager, Parks, City of Perth                                     | 22/05/2019 |
| NPR 035 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 6/06/2019  |
| NPR 036 of 2019 | Mr Mark Ridgwell, Manager, Governance, City of Perth                                 | 17/06/2019 |
| NPR 037 of 2019 | Mr Mark Ridgwell, Manager, Governance, City of Perth                                 | 2/07/2019  |
| NPR 038 of 2019 | Mr Andrew Corke, Acting Manager, Governance, City of Perth                           | 3/07/2019  |
| NPR 039 of 2019 | Mr Keith Yong, former Councillor   | 3/07/2019  |
| NPR 040 of 2019 | Ms Lily Chen, Councillor   | 4/07/2019  |
| NPR 041 of 2019 | Mr Darren Kavanagh, Commissioner, WorkSafe WA  | 22/07/2019 |
| NPR 042 of 2019 | Mr Andrew Corke, Acting Manager, Governance, City of Perth                           | 24/07/2019 |
| NPR 043 of 2019 | Ms Rochelle Lavery, CEO, City of Subiaco   | 25/7/2019  |
| NPR 044 of 2019 | Osaka Gas Australia Pty Ltd  | 26/7/2019  |
| NPR 046 of 2019 | Mr Joshua Preston, Chief Legal Officer, Burswood Nominees Limited                    | 31/7/2019  |
| NPR 047 of 2019 | Mr Joshua Preston, Chief Legal Officer, Burswood Nominees Limited                    | 1/08/2019  |
| NPR 048 of 2019 | Mr Martin Michalik, Director,<br>Stantons International Audit and Consulting Pty Ltd | 5/08/2019  |
| NPR 049 of 2019 | Mr Martin Michalik, Director,<br>Stantons International Audit and Consulting Pty Ltd | 5/08/2019  |
| NPR 050 of 2019 | Mr Tet Khiong Yong   | 6/08/2019  |
| NPR 051 of 2019 | Ms Barbara Moyser, Senior Employee Relations Advisor, City of Perth                  | 9/08/2019  |
| NPR 052 of 2019 | Mr Chad Ferguson, Director, DevWest Group Pty Ltd                                    | 12/08/2019 |
| NPR 053 of 2019 | Mr Xin Ping Chen, Accountant, Henry & Associates Pty Ltd                             | 13/08/2019 |
| NPR 054 of 2019 | Ms Barbara Moyser, Senior Employee Relations Advisor, City of Perth                  | 16/08/2019 |
| NPR 055 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 20/08/2019 |
| NPR 056 of 2019 | Telstra Corporation Limited  | 21/08/2019 |
| NPR 057 of 2019 | Telstra Corporation Limited  | 21/08/2019 |
| NPR 058 of 2019 | Telstra Corporation Limited  | 21/08/2019 |
| NPR 059 of 2019 | Mr Nick Sloan, CEO,<br>Western Australian Local Government Association (WALGA)       | 27/08/2019 |
| NPR 060 of 2019 | Telstra Corporation Limited  | 5/09/2019  |
| NPR 062 of 2019 | Mr Daniel Zador, Partner, Herbert Smith Freehills                                    | 23/09/2019 |
| NPR 063 of 2019 | Mr Murray Jorgensen, CEO, City of Perth  | 21/10/2019 |
| NPR 064 of 2019 | Mr Mark Cox, Director, MDC Legal   | 5/12/2019  |
| NPR 001 of 2020 | Mr Shane Melville, Principal Registrar, District Court                               | 7/02/2020  |
| NPR 002 of 2020 | Mr Murray Jorgensen, CEO, City of Perth  | 10/02/2020 |

## People summonsed to give evidence and procedural fairness

The Inquiry conducted public and private hearings with 104 witnesses. Witnesses were summonsed and could be represented by legal counsel, if they so chose. Procedural fairness processes were observed by the Inquiry. Prior to Sections of this Report being finalised, the Inquiry gave each person who was the subject of a potential adverse finding the opportunity to make submissions in response to those potential adverse findings (Table 4.4 and 4.5).

**Table 4.4: Section 9 of the *Royal Commissions Act 1968* – Persons summonsed to give evidence before the Inquiry Panel and afforded procedural fairness.**

| Name   | Legal representative (firm) <sup>a</sup>                  | Private Hearing | Public Hearing | Procedural fairness process |
|--|---|-----------------|----------------|-----------------------------|
| <b>City of Perth council members (Lord Mayor)</b>  |   |                 |                |                             |
| 1. Ms Lisa-Michelle (Lisa) Scaffidi                | Hotchkin Hanly Lawyers                                    | ✓               | ✓              | ✓                           |
| <b>City of Perth council members (Councillors)</b> |   |                 |                |                             |
| 2. Mr Jimmy (Jim) Adamos                           | HWL Ebsworth Lawyers                                      | ✓               | ✓              | ✓                           |
| 3. Ms Alexis (Lexi) Louise Foster Barton           | Cornerstone Legal   |                 | ✓              | ✓                           |
| 4. Mr Robert (Rob) John Butler                     | MinterEllison   | ✓               |                | ✓                           |
| 5. Ms Lily Chen                                    | HWL Ebsworth Lawyers                                      | ✓               | ✓              | ✓                           |
| 6. Ms Janet Elizabeth Davidson OAM                 | MinterEllison   | ✓               | ✓              | ✓                           |
| 7. Dr Jemma Marie Green                            | Norton Rose Fulbright                                     | ✓               | ✓              | ✓                           |
| 8. Mr Reece James Harley                           | Pragma Lawyers  | ✓               | ✓              | ✓                           |
| 9. Mr Steven (Steve) Jeffrey Hasluck               | Blackwall Legal LLP                                       |                 | ✓              | ✓                           |
| 10. Mr Dimitrios Athanasios (James) Limnios        | Hale Legal Pty Ltd  | ✓               | ✓              | ✓                           |
| 11. Ms Judith (Judy) Sabina McEvoy                 | Barry.Nilsson.Lawyers                                     | ✓               | ✓              | ✓                           |
| 12. Mr Yit-Kee (Keith) Yong                        | MinterEllison; D.G. Price & Co, Barristers and Solicitors | ✓               | ✓              | ✓                           |
| <b>City of Perth Chief Executive Officers</b>      |   |                 |                |                             |
| 1. Mr Gary John Stevenson                          | Clyde & Co  | ✓               |                |                             |
| 2. Mr Martin Nicholas Mileham                      | Equitas Lawyers   | ✓               | ✓              | ✓                           |
| 3. Mr Murray Alan Jorgensen                        | Wotton + Kearney  |                 | ✓              |                             |
| <b>City of Perth Executive Leadership Group</b>    |   |                 |                |                             |
| 1. Ms Erica Margaret Barrenger                     | HWL Ebsworth Lawyers                                      | ✓               | ✓              | ✓                           |
| 2. Ms Annaliese Maria Battista                     | Gilchrist Connell   | ✓               |                | ✓                           |
| 3. Mr Michael James Carter                         | HWL Ebsworth Lawyers                                      | ✓               |                |                             |
| 4. Mr Luciano Paola (Paul) Crosetta                | Barry.Nilson.Lawyers                                      | ✓               | ✓              | ✓                           |
| 5. Mr Robert David Mianich                         | Barry.Nilsson.Lawyers                                     | ✓               | ✓              | ✓                           |
| 6. Ms Rebecca Therese Moore                        | Clyde & Co  | ✓               |                | ✓                           |

<sup>a</sup> Some witnesses were represented by more than one solicitor from a firm. Some witnesses were represented by counsel in addition to solicitors. Some witnesses were unrepresented at different stages of the Inquiry before subsequently being represented.

| Name                    |  | Legal representative (firm) <sup>a</sup> | Private Hearing | Public Hearing | Procedural fairness process |
|-------------------------|--|--|-----------------|----------------|-----------------------------|
| City of Perth employees |  |  |                 |                |                             |
| 1.                      | Ms Judith Francis Arnold                                     | HWL Ebsworth Lawyers                     | ✓               |                |                             |
| 2.                      | Ms Gaynor Boros  | Clyde & Co                               | ✓               |                |                             |
| 3.                      | Mr Myles Courtney Bovell                                     | HWL Ebsworth Lawyers                     | ✓               |                |                             |
| 4.                      | Ms Nicola Therese Brandon                                    | MinterEllison                            | ✓               |                | ✓                           |
| 5.                      | Mr Lachlan Bugarin   | Not represented                          | ✓               |                |                             |
| 6.                      | Ms Catherine Joanne Clayton                                  | Not represented                          | ✓               |                |                             |
| 7.                      | Mr Mark Close  | Clyde & Co                               | ✓               |                |                             |
| 8.                      | Mr Martin William Copeman                                    | Clyde & Co                               | ✓               | ✓              | ✓                           |
| 9.                      | Ms Paola Loretta Mograve Duran<br>(Ms Paola Loretta Mograve) | HWL Ebsworth Lawyers                     | ✓               |                | ✓                           |
| 10.                     | Ms Wendy Jane Earl   | Not represented                          | ✓               |                |                             |
| 11.                     | Ms Alison Elizabeth Egan                                     | Clyde & Co                               | ✓               |                | ✓                           |
| 12.                     | Dr Kenneth William Evans                                     | Squire Patton Boggs                      | ✓               |                | ✓                           |
| 13.                     | Mr Paul Gale   | Clyde & Co                               | ✓               |                |                             |
| 14.                     | Ms Joan Nicole Gallin  | Clyde & Co                               | ✓               |                |                             |
| 15.                     | Mr Nathan John Giles   | Clyde & Co                               | ✓               |                |                             |
| 16.                     | Ms Alyce Maree Higgins                                       | Clyde & Co                               | ✓               |                |                             |
| 17.                     | Mr Daniel High   | Clyde & Co                               | ✓               |                |                             |
| 18.                     | Mr Michael Lindsay Holland                                   | Clyde & Co                               | ✓               |                |                             |
| 19.                     | Ms Simone Holmes-Cavanagh                                    | Clyde & Co                               | ✓               |                |                             |
| 20.                     | Ms Michelle Debra Howells                                    | Clyde & Co                               | ✓               |                | ✓                           |
| 21.                     | Mr Blake William Humble                                      | Clyde & Co                               | ✓               |                | ✓                           |
| 22.                     | Mr Ramzi A Ibrahim   | Clyde & Co                               | ✓               |                |                             |
| 23.                     | Mr Shaun Kan   | MinterEllison                            | ✓               |                | ✓                           |
| 24.                     | Ms Emma Louise Landers                                       | Clyde & Co                               | ✓               |                |                             |
| 25.                     | Mr Kirk David Linares  | Clyde & Co                               | ✓               |                | ✓                           |
| 26.                     | Mr Dennis Albert Martin                                      | Clyde & Co.                              | ✓               |                |                             |
| 27.                     | Mr Sergio Massimini  | Clyde & Co                               | ✓               |                |                             |
| 28.                     | Ms Barbara Mia Moyser  | MinterEllison                            | ✓               | ✓              | ✓                           |
| 29.                     | Mr Robert Wallace Munro                                      | Clyde & Co                               | ✓               |                |                             |
| 30.                     | Mr Desmond Simbarashe Ngara                                  | Clyde & Co                               | ✓               |                |                             |
| 31.                     | Ms Kathleen Elizabeth O'Brien                                | MinterEllison                            | ✓               |                |                             |
| 32.                     | Mr Simon John Pascoe   | Clyde & Co                               | ✓               |                |                             |
| 33.                     | Ms Kelly Louise Pember                                       | MinterEllison                            | ✓               |                |                             |
| 34.                     | Ms Marlena Pereira   | Clyde & Co                               | ✓               |                |                             |

| Name  |   | Legal representative (firm) <sup>a</sup> | Private Hearing | Public Hearing | Procedural fairness process |
|-------|---|--|-----------------|----------------|-----------------------------|
| 35.   | Mr Michael Dale Quinlivan                   | Clyde & Co                               | ✓               |                |                             |
| 36.   | Mr Theivanayagam Sriranjana (Mr Sri Ranjan) | Clyde & Co                               | ✓               |                | ✓                           |
| 37.   | Mr Daniel James Richards                    | Clyde & Co                               | ✓               |                | ✓                           |
| 38.   | Mr Mark Hunter Ridgwell                     | Clyde & Co                               | ✓               | ✓              | ✓                           |
| 39.   | Mr Noel Bernard Robertson                   | Clyde & Co                               | ✓               |                |                             |
| 40.   | Ms Jacqueline Mary Scott                    | Clyde & Co                               | ✓               |                |                             |
| 41.   | Mr Craig Melville Smith                     | Clyde & Co                               | ✓               |                |                             |
| 42.   | Ms Margaret Smith                           | Clyde & Co                               | ✓               |                |                             |
| 43.   | Ms Susan Weary                              | MinterEllison                            | ✓               |                | ✓                           |
| 44.   | Mr Melvyn Stewart Wilson                    | Not represented                          | ✓               |                |                             |
| 45.   | Ms Samantha Yan                             | Not represented                          | ✓               |                |                             |
| Other |   |  |                 |                |                             |
| 1.    | Mr Douglas Trevor Aberle                    | AMCG Legal                               | ✓               |                |                             |
| 2.    | Mr Levent Altintas                          | Not represented                          | ✓               |                |                             |
| 3.    | Mr Glen Robert Bartlett                     | Not represented                          | ✓               |                |                             |
| 4.    | Mr Peter Helge Betz                         | Not represented                          | ✓               |                |                             |
| 5.    | Mr Imad Bkoor                               | Not represented                          | ✓               |                |                             |
| 6.    | Mr Geoffrey Blades                          | Not represented                          | ✓               |                | ✓                           |
| 7.    | Ms Jodie Cant                               | Not represented                          | ✓               |                |                             |
| 8.    | Mr Chi Lung (Charlie) Chen                  | Not represented                          | ✓               |                |                             |
| 9.    | Ms Lyn Cavanagh                             | Not represented                          | ✓               |                | ✓                           |
| 10.   | Mr Daniel Sean Choung Ow                    | Not represented                          | ✓               |                |                             |
| 11.   | Mr Paul Michael Claxton                     | Not represented                          | ✓               |                |                             |
| 12.   | Mr Patrick Joseph Coward                    | Not represented                          | ✓               |                |                             |
| 13.   | Mr Lee Brian McCabe                         | Mr James Healy of counsel                | ✓               |                |                             |
| 14.   | Mr Xin Ping Chen (Henry)                    | Not represented                          | ✓               |                |                             |
| 15.   | Mr Paul William Daniel                      | Not represented                          | ✓               |                |                             |
| 16.   | Mr Neil Frederick Douglas                   | Not represented                          | ✓               |                |                             |
| 17.   | Mr Chad William Ferguson                    | Not represented                          | ✓               |                |                             |
| 18.   | Mr Adriano (Adrian) Fini                    | Not represented                          | ✓               |                |                             |
| 19.   | Mr Gary Hamley                              | Not represented                          | ✓               |                |                             |
| 20.   | Mr Julius Lewin                             | Not represented                          | ✓               |                |                             |
| 21.   | Mr Wil Lie (Willie) Lim                     | Not represented                          | ✓               |                |                             |
| 22.   | Mr Bradley John Mellen                      | Payne and Associates                     | ✓               |                |                             |
| 23.   | Mr Carlo Simon Menchetti                    | Not represented                          | ✓               |                |                             |

| Name                              | Legal representative (firm) <sup>a</sup> | Private Hearing | Public Hearing | Procedural fairness process |
|-----------------------------------|--|-----------------|----------------|-----------------------------|
| 24. Mr Ronald Richard Murphy      | Not represented                          | ✓               |                |                             |
| 25. Mr Khanh Nguyen               | Hotchkin Hanly Lawyers                   | ✓               |                |                             |
| 26. Mr John Andres Nicolaou       | Not represented                          |                 | ✓              |                             |
| 27. Mr Andrew Ogden               | Not represented                          | ✓               |                | ✓                           |
| 28. Mr Terry Charles Posma        | Not represented                          | ✓               |                |                             |
| 29. Mr Jordan Qaraleh             | Not represented                          | ✓               |                |                             |
| 30. Mr Kenny Seow                 | Not represented                          | ✓               |                |                             |
| 31. Mr Jian Shu (Jason) Sun       | Not represented                          | ✓               |                |                             |
| 32. Mr Michael Sutherland         | Not represented                          | ✓               |                |                             |
| 33. Mr Keiji Takemori             | Clayton Utz                              | ✓               |                |                             |
| 34. Mr Anthony Tran               | Not represented                          | ✓               |                | ✓                           |
| 35. Ms Angie (Yit-Choo) Yong      | Perrella Legal Pty Ltd                   | ✓               | ✓              | ✓                           |
| 36. Ms Chiew (Christine) Yen Yong | Not represented                          | ✓               |                |                             |
| 37. Ms Lily Yong                  | Perrella Legal Pty Ltd                   | ✓               | ✓              | ✓                           |
| <b>City Of Perth Commissioner</b> |  |                 |                |                             |
| 1. Mr Andrew Charles Hammond      | Not represented                          |                 | ✓              |                             |
| <b>Sub-total</b>                  |  | <b>99</b>       | <b>23</b>      | <b>38</b>                   |

**Table 4.5:** Person afforded procedural fairness who was not summonsed to give evidence before the Inquiry Panel.

| Name                  | Legal representative (firm) <sup>a</sup> | Private Hearing | Public Hearing | Procedural fairness process |
|-----------------------|--|-----------------|----------------|-----------------------------|
| <b>Other</b>          |  |                 |                |                             |
| 1. Mr Jeffrey Sanders | Not represented                          |                 |                | ✓                           |
| <b>Sub-total</b>      |  |                 |                | <b>1</b>                    |
| <b>Total</b>          |  | <b>99</b>       | <b>23</b>      | <b>39</b>                   |

## Orders prohibiting publication of personal information

Pursuant to section 19B(5)(c) and (d) of the *Royal Commissions Act 1968*, which has effect by virtue of section 8.20 of the *Local Government Act 1995*, the Inquiry may make orders preventing the publication of information and documents produced during public hearings. Table 4.6 describes the terms of the Order, the date the Order was made, and the place of publication of the Order.

**Table 4.6:** Section 19B(5)(c) and (d) of the *Royal Commissions Act 1968*, which has effect pursuant to section 8.20 of the *Local Government Act 1995* – Inquiry Panel Orders (public hearings).

| Nature of the Order   | Date       | Published         |
|---|------------|-------------------|
| The Inquiry Panel orders that publication of any Personal Information of any person referred to during the evidence given, or contained in any documents displayed, during public hearings of the Inquiry during the period 5 August 2019 to 16 August 2019, is prohibited.       | 2/08/2019  | Inquiry's website |
| The Inquiry Panel orders that publication of any Personal Information of any person referred to during the evidence given, or contained in any documents displayed, during public hearings of the Inquiry during the period 13 September 2019 to 27 September 2019 is prohibited. | 13/09/2019 | Inquiry's website |
| The Inquiry Panel orders that publication of any Personal Information of any person referred to during the evidence given, or contained in any documents displayed, during public hearings of the Inquiry during the period 1 October 2019 to 9 October 2019 is prohibited.       | 1/10/2019  | Inquiry's website |
| The Inquiry Panel orders that publication of any Personal Information of any person referred to during the evidence given, or contained in any documents displayed, during public hearings of the Inquiry during the period 10 October 2019 to 11 October 2019 is prohibited.     | 10/10/2019 | Inquiry's website |

## Inquiry's Practice Directions

The Inquiry's Practice Directions (Practice Directions) set out the procedures followed by the Inquiry. They explain the processes used by the Inquiry Panel for conducting hearings and affording procedural fairness to those appearing before it.

The Practice Directions were published on the Inquiry's website on 22 November 2018 and amended on 2 August 2019 and 1 November 2019.

A summary of the Practice Directions is contained in Table 4.7. The full Practice Directions are contained in this Section.

**Table 4.7: Summary of Inquiry's Practice Directions governing the conduct of the Inquiry.**

| Title   | Matters dealt with  |
|---|---|
| 1. Introductory matters                       | Explained the purpose of the Practice Directions and that they may be supplemented, varied or replaced.   |
| 2. Providing information                      | Invited submissions from persons with information or documents relevant to the Inquiry.   |
| 3. Initial public hearing                     | Explained the date, place and conduct of the first public hearing.  |
| 4. Hearing administration                     | Set out the days and times of Inquiry's hearings and arrangements for publication of hearing programmes and transcripts.  |
| 5. Private hearings                           | Explained how the Inquiry would conduct private hearings.   |
| 6. Leave to appear                            | Explained how persons could seek leave to appear before the Inquiry and participate in the Inquiry's public hearings.   |
| 7. Leave to be represented                    | Explained how persons could seek leave to be represented by a legal practitioner.   |
| 8. Production of documents before the Inquiry | Explained how documents would be tendered at hearings, including how parties could apply to produce additional documents.   |
| 9. Calling of witnesses                       | Explained how witnesses would be called to give evidence before the Inquiry, including how parties could apply to have the evidence of other witnesses put before the Inquiry.  |
| 10. Examination of witnesses                  | Explained how witnesses would give evidence to the Inquiry, including: <ul style="list-style-type: none"> <li>• how legal representatives could apply to examine a witness and how the Inquiry would deal with such applications; and</li> <li>• how legal representatives could apply to have a witness recalled for further examination.</li> </ul> |
| 11. Objections to evidence                    | Provided guidance on how the Inquiry would deal with objections to the evidence adduced before the Inquiry.   |
| 12. Production of documents by parties        | Explained how documents were to be produced to the Inquiry, including in response to notices.   |
| 13. Confidentiality                           | Explained how parties could apply for a direction that confidential documents produced to the Inquiry not be published.   |
| 14. Legal professional privilege              | Explained how parties could seek to assert legal professional privilege over communications otherwise required to be produced to the Inquiry.   |
| 15. Suppression orders                        | Explained how parties could apply for documents or evidence provided to the Inquiry to be suppressed.   |
| 16. Extensions of time                        | Explained how parties could apply for an extension of time to comply with a direction of the Inquiry, including any requirement to produce documents.   |
| 17. Other procedural matters                  | Explained how parties could raise procedural matters not provided for in the Practice Directions.   |
| 18. Final Report                              | Explained how parties subject to potential adverse findings in the Inquiry's final report could make submissions on those findings.   |

## Amendments to the Inquiry's Practice Directions

There were three substantive amendments to the Practice Directions during the Inquiry's appointment.

The Practice Directions initially provided that a person who may be substantially or directly interested in, or materially affected by, evidence to be adduced at a hearing, would be notified prior to the hearing.

That Practice Direction was removed, but the Inquiry nevertheless endeavoured, where reasonably practicable, to inform parties before the Inquiry of hearings in which they may have an interest.

The Practice Directions initially provided that any person seeking leave to appear was required to make an application to Counsel Assisting by a date to be published on the Inquiry's website.

That Practice Direction was amended to require an application to be made as soon as possible after it became apparent that the applicant was the subject of an inquiry to be undertaken; had a direct or substantial interest in the hearing or the subject of inquiry; and/or may be the subject of an adverse finding by the Inquiry.

The Practice Directions initially stated that Counsel Assisting would deliver closing submissions on the findings open to the Inquiry and the recommendations the Inquiry may consider appropriate. Any person who was potentially the subject of adverse findings, conclusions or comments, or whose legal rights, financial interests, personal reputation, status or livelihood may be affected by the recommendations, would be provided with extracts of the closing submissions and be given an opportunity to provide written submissions in response.

That Practice Direction was amended to provide that any person who was potentially the subject of any adverse findings in the Inquiry's final report would be provided with extracts of the final report to enable that person to address those potential adverse findings and make submissions. Parties could apply to inspect documents or materials they required to respond to those potential adverse findings.



# Inquiry Into the City of Perth

## PRACTICE DIRECTIONS

*Local Government Act 1995*  
*Royal Commissions Act 1968*

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## 1 INTRODUCTORY MATTERS

- 1.1 These practice directions govern the conduct of the Inquiry into the City of Perth (**Inquiry**). They should be read in conjunction with the *Royal Commissions Act 1968 (WA) (RCA)*, the Terms of Reference dated 24 April 2018 (**Terms of Reference**)<sup>1</sup> and Part 8 Division 2 of the *Local Government Act 1995 (WA) (LGA)*.
- 1.2 These practice directions provide general guidance on the procedures the Inquiry will follow. Where the Inquiry thinks appropriate, these practice directions may at any time be supplemented, varied or replaced.
- 1.3 Nothing in these practice directions derogates from the obligations in the RCA, the LGA, other legislation or the common law.

## 2 PROVIDING INFORMATION

- 2.1 The Inquiry invites submissions from all persons<sup>2</sup> with information or documents relevant to any of the matters described in the Terms of Reference.
- 2.2 Any person who wants to provide the Inquiry with information relevant to the Terms of Reference should contact the Inquiry through the online submission page<sup>3</sup> or by telephone<sup>4</sup> or email<sup>5</sup>.

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<sup>1</sup> The Terms of Reference are available at <https://www.dlgsc.wa.gov.au/InquiryCoP/Pages/TOR.aspx>.

<sup>2</sup> Reference to person or persons includes a body politic or corporate.

<sup>3</sup> <https://www.dlgsc.wa.gov.au/InquiryCoP/Pages/ContactUs.aspx>.

<sup>4</sup> (08) 6160 1510.

<sup>5</sup> [info@inquiryintocityofperth.wa.gov.au](mailto:info@inquiryintocityofperth.wa.gov.au).

- 2.3 Unless otherwise advised in writing, the Inquiry will assume that all communications to the person providing information may be directed to the address from which the Inquiry received the information.

### **3 INITIAL PUBLIC HEARING**

- 3.1 The Inquiry will hold an initial public hearing at 10.30am on 21 November 2018 at Level 18, 111 St Georges Terrace, Perth.
- 3.2 Applications for leave to appear will not be heard or determined at the initial public hearing. The issue of leave to appear is dealt with in practice direction 6.
- 3.3 The Inquiry will give notice of further public hearings by publishing notice on its website.

### **4 HEARING ADMINISTRATION**

- 4.1 The hearing days for the Inquiry will be between Monday and Friday of each week, except as otherwise advised. The usual hearing hours will be from 10:00am to 1:00pm and from 2:15pm to 4:15pm. The hearing room will be on Level 18, 111 St Georges Terrace, Perth.
- 4.2 The Inquiry's proceedings will be as orderly as possible. The Inquiry will endeavour to ensure that those persons whose interests may be adversely affected by the evidence before the Inquiry are treated fairly and in accordance with the requirements of procedural fairness, where applicable, while protecting confidentiality where that is deemed appropriate.

4.3 The Inquiry will publish its programme of public hearings on its website<sup>6</sup>.

4.4 Transcripts of all public hearings will be made available on the Inquiry's website. They will be posted as soon as practicable, subject to any order of the Inquiry.

## 5 PRIVATE HEARINGS

5.1 The Inquiry may take the evidence of a person in private where it considers it necessary or appropriate to do so.

5.2 Only persons expressly authorised by the Inquiry will be permitted to be present. Ordinarily the Inquiry will expressly authorise the following persons to be present:

- (a) Counsel Assisting;
- (b) the Solicitor Assisting the Inquiry (**Solicitor Assisting**);
- (c) any legal practitioner who has been granted leave by the Inquiry pursuant to practice direction 7 to represent the witness giving evidence in the private hearing; and
- (d) any Inquiry officer who will be supporting or assisting the Inquiry or Counsel Assisting during the hearing.

5.3 Where the Inquiry conducts a private hearing, the Inquiry will direct at the beginning of the private hearing that the witness who is being examined and his or her legal representative must not disclose any part of the evidence given

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<sup>6</sup> <https://www.dlgsc.wa.gov.au/InquiryCoP/Pages/default.aspx>.

by the witness, whether directly or indirectly, to any other person, unless that person has the prior and express written authorisation of the Inquiry. Any such direction will continue in effect until the Inquiry has concluded or the Inquiry orders otherwise.

- 5.4 In the ordinary course, the Inquiry will not rely on the evidence given in a private hearing to make an adverse finding against a party without that party having an opportunity to address any such evidence.

## **6 LEAVE TO APPEAR**

- 6.1 Any person who seeks to appear before the Inquiry (**Leave to Appear Applicant**) must make an application seeking leave to appear (**Leave to Appear Application**).

- 6.2 The Inquiry will, generally, grant leave to appear when a Leave to Appear Applicant:

- (a) is the subject of an inquiry to be undertaken; and/or
- (b) has a direct or substantial interest in the hearing or the subject of inquiry; and/or
- (c) may be the subject of an adverse finding by the Inquiry.

- 6.3 For the purpose of this practice direction, a Leave to Appear Applicant will have a direct or substantial interest in a hearing or subject of inquiry if the person's legal rights, financial interests, personal reputation, status or livelihood may be prejudiced by:

- (a) the evidence heard by the Inquiry during the hearing or subject of inquiry;  
and/or
- (b) the findings that may be made by the Inquiry based on the evidence heard by the Inquiry during the hearing or subject of inquiry.

6.4 The Leave to Appear Applicant must comply with the following procedure.

6.5 The Leave to Appear Application must be made to the Solicitor Assisting<sup>7</sup> as soon as possible after it becomes apparent that one or more of the criteria in practice direction 6.2 applies. The Leave to Appear Application must be made using the application form available on the Inquiry's website and supported by any affidavit evidence and written submissions relied on by the Leave to Appear Applicant in support of the Leave to Appear Application. Any supporting affidavit evidence and written submissions must address the basis on which leave is sought:

- (a) if leave to appear is sought on the basis of a direct or substantial interest in a hearing or subject of inquiry, the nature and extent of that interest;
- (b) if leave to appear is sought on the basis of the rules of procedural fairness, the basis on which the rules of procedural fairness are asserted to be engaged; and
- (c) if leave is sought to participate in a hearing other than a hearing where the person is a witness, what circumstances exist to indicate to the

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<sup>7</sup> [nparkinson@inquiryintocityofperth.wa.gov.au](mailto:nparkinson@inquiryintocityofperth.wa.gov.au)

Inquiry that it is proper to allow such participation and the extent of any such participation.

6.6 Where a Leave to Appear Applicant makes a Leave to Appear Application, the Inquiry:

- (a) may require Counsel Assisting to submit responsive affidavit evidence and written submissions in reply;
- (b) will decide the Leave to Appear Application on the papers or notify the Leave to Appear Applicant if a hearing is required prior to such a decision being made; and
- (c) will notify the Leave to Appear Applicant in writing of the Inquiry's decision.

6.7 Except in exceptional circumstances, the Inquiry will not grant a person, whether legally represented or not, unconditional leave to appear. Grants of leave to appear will be confined to the hearing in which the person has a direct or substantial interest and subject to specified conditions. Specifically, the Inquiry may:

- (a) limit the topics or issues on which the person granted leave may examine a witness;
- (b) impose time limits on examination; and
- (c) require submissions be written.

6.8 Where a person is granted leave to appear at a hearing the person, or the legal

practitioner acting on the person's behalf:

- (a) will be entitled to participate in that hearing, subject to the control of the Inquiry and only to such extent as the Inquiry considers appropriate;
- (b) may apply to adduce evidence pursuant to practice directions 8 and/or 9;
- (c) may apply for leave to examine a witness pursuant to practice direction 10.6;
- (d) may object to the evidence adduced before the Inquiry pursuant to practice direction 11;
- (e) raise any other procedural or legal matters with the Inquiry pursuant to practice direction 17; and
- (f) may make submissions about the findings that are open to the Inquiry and the recommendations that the Inquiry may consider appropriate pursuant to practice direction 18.4.

## **7 LEAVE TO BE REPRESENTED**

7.1 Any person who has been summonsed to give evidence before the Inquiry or who has been granted leave to appear before the Inquiry pursuant to practice direction 6, who wishes to be represented by a legal practitioner in the Inquiry's hearings (**Leave to be Represented Applicant**) must seek leave to be represented (**Leave to be Represented Application**).

7.2 The Leave to be Represented Applicant must comply with the following procedure.

- 7.3 The Leave to be Represented Applicant must apply in writing:
- (a) if the Leave to be Represented Applicant is making a Leave to Appear Application pursuant to practice direction 6 above, when the Leave to Appear Application is made; or
  - (b) if the Leave to be Represented Applicant is a witness summonsed to give evidence before the Inquiry, as soon as reasonably practicable after the Leave to be Represented Applicant is served with the summons by the Inquiry and in any event before the hearing at which the Applicant is summonsed to give evidence.
- 7.4 The Leave to be Represented Application must be made to the Solicitor Assisting using the application form available on the Inquiry's website.

## 8 PRODUCTION OF DOCUMENTS BEFORE THE INQUIRY

- 8.1 Each document produced to the Inquiry will be given a unique Inquiry documentary classification system number and will retain that number to identify it if and when it is tendered as evidence.
- 8.2 Subject to the control of the Inquiry, Counsel Assisting will determine what documentary or physical evidence will be tendered at a hearing and when it is tendered.
- 8.3 Any person seeking to have any additional document produced at a public or private hearing of the Inquiry (**Production Applicant**) must make an application to produce the document (**Production of Additional Documents Application**).

- 8.4 The Production Applicant must comply with the following procedure.
- 8.5 The Production Applicant must apply in writing using the application form available on the Inquiry's website and provide a copy of the document to the Solicitor Assisting:
- (a) as soon as practicable after its existence and its potential relevance to the Inquiry becomes known; and
  - (b) within a reasonable time before the hearing.
- 8.6 Where a Production Applicant makes a Production of Additional Documents Application, Counsel Assisting:
- (a) will determine the Production of Additional Documents Application and decide whether any such document will be produced and if produced, the time at which it will be produced;
  - (b) may require the Production Applicant to produce further documents to enable the Production of Additional Documents Application to be considered; and
  - (c) will notify the Production Application in writing of the decision.
- 8.7 If Counsel Assisting declines to produce a document before the Inquiry, the Production Applicant may apply to the Inquirer to review Counsel Assisting's decision by writing to the Associate to the Inquirer<sup>8</sup>.

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<sup>8</sup> mgibsonpowell@inquiryintocityofperth.wa.gov.au

## 9 CALLING OF WITNESSES

- 9.1 Subject to the control of the Inquiry, Counsel Assisting will determine:
- (a) whether any person will be called to give evidence at a hearing; and
  - (b) the order in which evidence will be adduced at a hearing.
- 9.2 All witnesses will give evidence under oath or affirmation pursuant to section 11 of the RCA.
- 9.3 All witnesses will be summonsed pursuant to section 9 of the RCA to appear before the Inquiry.
- 9.4 Any person seeking to have the evidence of any other person put before the Inquiry (**Evidence Applicant**) must make an application (**Evidence Application**).
- 9.5 The Evidence Applicant must comply with the following procedure.
- 9.6 The Evidence Applicant must apply in writing to the Solicitor Assisting:
- (a) as soon as practicable after the existence of that prospective evidence and its potential relevance to the Inquiry becomes known; and
  - (b) within a reasonable time before the hearing.
- 9.7 The Evidence Application must:
- (a) be made using the application form available on the Inquiry's website;
  - (b) provide the name of each such witness; and

- (c) include the written substance of the evidence which the Evidence Applicant will seek to adduce from that witness at a hearing.

9.8 Subject to the control of the Inquiry, Counsel Assisting will decide whether such witnesses will be called to give evidence before the Inquiry.

9.9 In determining any Evidence Application, Counsel Assisting or Inquiry officers may interview any such prospective witness and take further statements from him or her.

9.10 Any interview under practice direction 9.9 and the taking of any such additional statement will not occur in the presence of the Evidence Applicant or the legal practitioner acting on the Evidence Applicant's behalf.

## **10 EXAMINATION OF WITNESSES**

10.1 All witnesses will first be called and examined by Counsel Assisting.

10.2 Subject to practice direction 10.4, the examination of witnesses will generally proceed in the following manner:

- (a) examination by Counsel Assisting;
- (b) examination (if any) by Counsel Assisting in accordance with practice direction 10.10;
- (c) examination by the witness's legal representative;
- (d) examination by any other person, or his or her legal representative, considered by the Inquiry to have a sufficient interest and who has been

granted leave to do so;

- (e) further examination by the witness's legal representative; and
- (f) further examination by Counsel Assisting.

10.3 Legal practitioners should note that, further to practice direction 6.7:

- (a) the contents of the rules of procedural fairness do not require, in all cases, that counsel be afforded the opportunity to examine a witness; and
- (b) the Inquiry may limit the particular matters on which any such examination may occur and limit the time allowed for such examination.

10.4 When Counsel Assisting concludes examination of a witness, the Inquiry will ask counsel for that witness whether he or she seeks to apply to examine the witness. If counsel for the witness applies to examine the witness, the following procedure will apply.

- (a) The Inquiry will ask counsel to briefly identify the matters on which he or she proposes to examine and how an examination of those matters will advance the purposes of the Inquiry. The proposed questions should bear directly on the factual issues in, or provide necessary clarification of, the evidence adduced in Counsel Assisting's examination of the witness.
- (b) After counsel for the witness has identified the matters for

examination, the Inquiry will invite Counsel Assisting to make submissions on whether the examination should proceed and if so, to what extent.

- (c) After Counsel Assisting's submissions on the matters in practice direction 10.4(b), the Inquiry will then determine whether those matters should be examined and, if so, what limitations will apply to that examination.

10.5 When counsel for the witness concludes any examination in accordance with practice direction 10.4 above, the Inquiry may invite counsel for any other person with a sufficient interest in the matters the subject of that evidence to apply for leave to examine that witness.

10.6 Should counsel for any other person apply to examine any such witness, then the following procedure will apply.

- (a) The Inquiry will ask counsel to briefly identify the topics on which he or she proposes to examine. The proposed questions should be directly relevant to the substantive interest of the counsel's client in the witness's evidence.
- (b) The Inquiry will invite Counsel Assisting to make submissions on the application for leave.
- (c) The Inquiry will determine the application for leave to examine and may attach conditions to the leave, for example, on the length of time for examination and the topics for examination.

- 10.7 If counsel is granted leave to examine in accordance with practice direction 10.6, but does not comply with any of the conditions attaching to the leave, Counsel Assisting will object.
- 10.8 When examination of the witness by counsel for the other party concludes, the Inquiry will ask counsel for that witness whether he or she seeks to apply to further examine the witness.
- 10.9 If counsel for the witness makes an application to further examine the witness, the procedure in practice direction 10.6 will *mutatis mutandis* apply, save and except that counsel's proposed questions should be limited to questions necessary to clarify or explain the evidence given under examination by counsel for the other party.
- 10.10 If there are any unrepresented persons in a hearing and it appears to the Inquiry that they should be given an opportunity to examine a witness, then the procedure will be as follows.
- (a) An unrepresented person must provide any written question he or she would like to ask another witness to Counsel Assisting.
  - (b) Counsel Assisting will decide whether it is appropriate to put any such question to that witness.
  - (c) At an appropriate time, after Counsel Assisting has examined the witness, Counsel Assisting will then put the questions of the unrepresented person (as determined appropriate in accordance with practice direction 10.10(b)).

(d) If the unrepresented person wishes to take issue with the decision of Counsel Assisting in accordance with practice direction 10.10(b), the Inquiry will allow the unrepresented person to address the Inquiry on that topic.

(e) The Inquiry will then rule on whether the question should be put and, if necessary, in what form it should be put and it will then be put by Counsel Assisting.

10.11 Persons who have a direct or substantial interest in the subject matter of the Inquiry may be unaware of the totality of relevant evidence until the conclusion of the hearings.

10.12 The Inquiry may permit applications to recall a witness for examination (**Recalling Witness for Examination Application**).

10.13 The Inquiry will only permit a witness to be recalled for examination if the significance of the witness's evidence could not have been appreciated at the time that the witness initially gave evidence, or there are other extraordinary circumstances justifying the recall of that witness.

10.14 A person making a Recalling Witness for Examination Application (**Recalling Witness for Examination Applicant**) must comply with the following procedure.

10.15 The Recalling Witness for Examination Applicant must apply to the Solicitor Assisting in writing as soon as the need to recall and examine the witness becomes apparent.

10.16 The Recalling Witness for Examination Application must be made using the application form available on the Inquiry's website and supported by any affidavit evidence and written submissions relied on by the Recalling Witness for Examination Applicant in support of the Application at the time of submitting the form. Any such supporting affidavit evidence and written submissions must address:

- (a) why the significance of the witness's evidence could not be appreciated at the time that the witness initially gave evidence and /or any other extraordinary circumstances justifying the recall of the witness for examination;
- (b) the topics on which the Recalling Witness for Examination Applicant proposes to cross-examine the witness; and
- (c) the directions sought by the Recalling Witness for Examination Applicant from the Inquiry.

10.17 Where a Recalling Witness for Examination Application is made, the Inquiry:

- (a) may require Counsel Assisting to submit responsive affidavit evidence and written submissions in reply;
- (b) will decide the Recalling Witness for Examination Application on the papers or notify the Recalling Witness for Examination Applicant if a hearing is required prior to such a decision being made; and
- (c) notify the Recalling Witness for Examination Applicant in writing of the Inquiry's decision.

10.18 If the Inquiry grants the Recalling Witness for Examination Application, the Inquiry may:

- (a) limit the topics or issues on which the Recalling Witness for Examination Applicant's legal representative may examine that witness;
- (b) impose time limits on the examination.

## **11 OBJECTIONS TO EVIDENCE**

11.1 Witnesses, persons who have been given leave to appear before the Inquiry and legal representatives appearing before the Inquiry should be mindful of the investigative nature of the Inquiry when objecting to the evidence adduced before the Inquiry.

11.2 In particular, the following should be noted:

- (a) the Inquiry is not bound by the rules of evidence;
- (b) the concept of relevance in civil litigation or criminal proceedings does not apply to the Inquiry;
- (c) evidence sought to be adduced will be relevant to the Inquiry if there is a real possibility that the evidence may directly or indirectly inform the Inquiry's deliberations on the Terms of Reference.

## **12 PRODUCTION OF DOCUMENTS BY PARTIES**

12.1 The following practice directions will govern the production of documents to the Inquiry.

- 12.2 The Inquiry requires documents be produced to it electronically, unless a summons or notice to produce requires documents be produced in hard copy.
- 12.3 Any party who seeks to produce any document in hard copy must first write to the Solicitor Assisting before production and obtain permission to do so.
- 12.4 All electronic documents should be produced electronically in original format, being the file format in which they exist on the system of the person producing the document. More specifically, Microsoft Outlook emails are to be produced as .msg files and Microsoft Word documents are to be produced as .doc or .docx files.
- 12.5 Where an electronic copy of a document does not exist, any hard copy must be scanned and rendered directly to Portable Document Format (PDF), so as to be machine-readable and capable of being word searched.
- 12.6 Any person producing any electronic document must ensure all parts of the document are produced, including all parts of any chain of correspondence and all attachments to any such document.
- 12.7 Any person required to produce any hard copy document must produce the original copy of the document.

### **13 CONFIDENTIALITY**

- 13.1 That documents or information may be confidential does not provide a valid basis for refusing to produce documents or provide information to the Inquiry.
- 13.2 However, any person seeking a direction from the Inquiry that confidential

documents produced to the Inquiry not be published (**Confidentiality Claimant**) must make an application (**Confidentiality Application**).

- 13.3 The Confidentiality Claimant must comply with the following procedure.
- 13.4 The Confidentiality Claimant must clearly label or describe any information or documents, or any part of the information or documents, over which confidentiality is claimed. For example:
- (a) where documents are produced to the Inquiry in electronic form on an electronic storage device, the Confidentiality Claimant must store the documents in a folder or folders marked "Subject to Confidentiality"; or
  - (b) where documents are produced to the Inquiry in hard copy form, the Confidentiality Claimant must provide the documents in a sealed envelope marked "Subject to Confidentiality".
- 13.5 The Confidentiality Claimant must make the Confidentiality Application in writing to the Solicitor Assisting as soon as reasonably practicable after the requirement to produce is imposed but by no later than the time of production.
- 13.6 The Confidentiality Application must be made using the application form available on the Inquiry's website and supported by any affidavit evidence and written submissions relied on by the Confidentiality Claimant in support of the Confidentiality Application. Any supporting affidavit evidence and written submissions must address:
- (a) the basis of the claim for confidentiality;
  - (b) to whom the duty of confidentiality is alleged to be owed;

- (c) the prejudice that the Confidentiality Claimant or any other person would suffer if the information or documents were not kept confidential; and
- (d) the direction sought by the Confidentiality Claimant from the Inquiry.

13.7 Where a Confidentiality Claimant makes a Confidentiality Application, the Inquiry:

- (a) will maintain confidentiality over the subject matter of the application pending its determination;
- (b) may require Counsel Assisting to submit responsive affidavit evidence and written submissions in reply;
- (c) will decide the Confidentiality Application on the papers or notify the Confidentiality Claimant if a hearing is required prior to such a decision being made; and
- (d) will notify the Confidentiality Claimant in writing of the Inquiry's decision and, if the Inquiry upholds all or part of the Confidentiality Application, how the Inquiry will treat the confidential information or documents.

## 14 LEGAL PROFESSIONAL PRIVILEGE

- 14.1 Any person seeking to assert legal professional privilege over any communications required to be produced to the Inquiry (**Privilege Claimant**) must make an application to claim privilege (**Privilege Application**).
- 14.2 The Privilege Claimant must comply with the following procedure.
- 14.3 The Privilege Claimant must clearly label or describe any communications or

documents, or any part of the communications or document, over which privilege is claimed. For example:

- (a) where the communications or documents are produced to the Inquiry in electronic form on an electronic storage device, the Confidentiality Claimant must store the communications or documents in a folder or folders marked "Subject to Legal Professional Privilege";
- (b) where the communications or documents are produced to the Inquiry in hard copy form, the Confidentiality Claimant must provide the communications or documents in a sealed envelope marked "Subject to Legal Professional Privilege".

14.4 The Privilege Claimant must apply in writing to the Solicitor Assisting as soon as reasonably practicable after the requirement to produce is imposed but by no later than the time of production.

14.5 The Privilege Application must be made using the application form available on the Inquiry's website and supported by any affidavit evidence and written submissions relied on by the Privilege Claimant in support of the Privilege Application. Any such supporting affidavit evidence and written submissions must address the basis of the claim of privilege.

14.6 If a Court of law has previously made a finding that the communication is to be subject to legal professional privilege, the Privilege Claimant must provide the Solicitor Assisting with:

- (a) a copy of the judgment or order of that Court which contains the finding;

and

- (b) any relevant affidavit evidence confirming there has been no waiver or loss of privilege since that finding was made.

14.7 Where a Privilege Claimant makes a Privilege Application, the Inquiry:

- (a) will not, subject to practice direction 14.9, review the communications or documents that are the subject of the Privilege Application until the Inquiry determines the application;
- (b) may require Counsel Assisting to submit responsive affidavit evidence and written submissions in reply;
- (c) will decide the Privilege Application on the papers or notify the Privilege Claimant if a hearing is required prior to such a decision being made; and
- (d) notify the Privilege Claimant in writing of the Inquiry's decision.

14.8 If the Inquiry rejects that claim, the Privilege Claimant will be required to immediately produce the subject communications or documents to the Inquiry.

14.9 The Inquiry will endeavour in all cases to determine the Privilege Application on the affidavit evidence and submissions in support without considering the subject communication, but will, if necessary, consider the communication/s or document/s to make its determination. Where the Inquiry considers it necessary to do so, it will give the Privilege Claimant an opportunity to make further written submissions before considering the subject communications.

## 15 SUPPRESSION ORDERS

- 15.1 There is a significant public interest in the Inquiry's hearings being conducted in public. The Inquiry will only order documents produced to the Inquiry or evidence given before the Inquiry be suppressed if there are exceptional circumstances which justify its suppression.
- 15.2 Any person who wishes the Inquiry to make a suppression order in relation to a document produced to the Inquiry or evidence given before the Inquiry (**Suppression Applicant**) must make an application for that order (**Suppression Application**).
- 15.3 The Suppression Applicant must comply with the following procedure.
- 15.4 The Suppression Applicant must apply in writing to the Solicitor Assisting as soon as reasonably practicable. The Suppression Application must be made using the application form available on the Inquiry's website and must be supported by affidavit evidence and written submissions. Any such supporting affidavit evidence and written submissions must address:
- (a) the basis for the Suppression Application; and
  - (b) the direction sought by the Applicant from the Inquiry.
- 15.5 Where the Suppression Application relates to a document, the Suppression Applicant must clearly denote the pages, or the parts thereof, containing the material the Suppression Applicant seeks to have suppressed. For example:

- (a) where the documents are produced to the Inquiry in electronic form on an electronic storage device, the Suppression Applicant must store the documents in a folder or folders marked “For Suppression”; or
- (b) where the documents are produced to the Inquiry in hard copy form the Suppression Applicant must, on a copy of the document:
  - (i) mark the relevant pages of the document with the words “For Suppression” appearing prominently at the top of each such page; and/or
  - (ii) highlight the relevant part of the page or the words or phrases in the document.

15.6 Where a Suppression Applicant makes a Suppression Application, the Inquiry:

- (a) may require Counsel Assisting to submit responsive affidavit evidence and written submissions in reply;
- (b) will decide the Suppression Application on the papers or notify the Suppression Claimant if a hearing is required prior to such a decision being made; and
- (c) will notify the Suppression Applicant in writing of the Inquiry’s decision.

## 16 EXTENSIONS OF TIME

16.1 Any person seeking an extension of time to comply with a direction of the Inquiry (**Extension Applicant**), including any requirement to produce a statement of information or documents to the Inquiry, must make an

application (**Extension of Time Application**).

- 16.2 The Extension Applicant must comply with the following procedure.
- 16.3 The Extension Applicant must apply in writing to the Solicitor Assisting as soon as reasonably practicable after the direction is made and by no later than three business days before that person is required to comply with the direction.
- 16.4 The Extension of Time Application must be made using the application form available on the Inquiry's website and supported by any affidavit evidence or submissions relied on by the Extension Applicant in support of the Extension of Time Application. Any such supporting affidavit evidence and written submissions must address:
- (a) the basis of the claim for an extension of time; and
  - (b) the directions sought by the Extension Applicant from the Inquiry.
- 16.5 The Inquiry will determine the application on the papers and notify the Extension Applicant in writing of the Inquiry's decision.

## **17 OTHER PROCEDURAL MATTERS**

- 17.1 Any person:
- (a) who has been called as a witness before the Inquiry; and/or
  - (b) who has been granted leave to appear before the Inquiry pursuant to practice direction 6; and/or
  - (c) who has been granted leave to be represented before the Inquiry

pursuant to practice direction 7; and

- (d) who wishes to raise a procedural or legal matter with the Inquiry, where a procedure for raising that matter is not provided for in these practice directions,

must write to the Solicitor Assisting and provide a brief outline of the submission to be made.

17.2 Where a person writes to the Solicitor Assisting pursuant to practice direction 17.1, the Inquiry:

- (a) may require the person to provide supplementary submissions and/or supporting evidence on affidavit;
- (b) may require Counsel Assisting to submit written submissions and evidence on affidavit in reply;
- (c) will consider the matter on the papers or notify the person if a hearing is required prior to such a decision being made; and
- (d) notify the person in writing of the Inquiry's decision.

## 18 FINAL REPORT

18.1 The Inquiry will provide its final report to the Minister for Local Government (**Final Report**) pursuant to section 8.22 of the LGA.

18.2 Any person who is potentially the subject of any adverse findings in the Final Report will be provided with extracts of the draft of the Final Report which will allow that person to know and to be able to address those potential adverse

findings and will be allowed to provide written submissions in response by or before a date which will be specified by the Solicitor Assisting.

18.3 If any person referred to in practice direction 18.2 forms the view that they require further documents or material from the Inquiry to be able to respond to any potential adverse findings, that person must apply to inspect those documents or that material by or before a date which will be specified by the Solicitor Assisting. That person must apply using the prescribed form and identify why they require those documents or that material to adequately respond to any potential adverse findings.

18.4 The Inquiry will consider any written submissions it receives pursuant to practice directions 18.2 before it produces the Final Report.

Date: 1 November 2019

## Notice of Appointment of the Inquiry Panel

### *Local Government Act 1995*

#### **Notice of Appointment of an Inquiry Panel (Section 8.16)**

Pursuant to Section 8.16 of the *Local Government Act 1995* (**the Act**), I hereby appoint an Inquiry Panel consisting of one person, Anthony Power, Legal Practitioner, to inquire into and report on the aspects, operations and affairs of the City of Perth in accordance with the terms as to the scope and duration of that inquiry set out hereunder:

#### **A Nature of the Inquiry to be Conducted**

1. The Inquiry Panel is to inquire into and report on those aspects, operations and affairs of the City of Perth (including of the Council and the Administration) during the period between 1 October 2015 and 1 March 2018 inclusive, which may be necessary, in order to determine:

- (i) whether there has been a failure to provide for the good government of persons in the City of Perth's district;
- (ii) the prospect of such good government being provided in the future (including by reference to whether the Council and Administration has the ability to, and is likely to, do so); and
- (iii) any steps which may need to be taken to ensure that such good government does happen in the future.

2. The Inquiry Panel may inquire into and report on a period, or periods, before 1 October 2015, if it considers that to be necessary, or that it may be necessary, for the purpose of properly discharging its function under paragraph 1 above, and placing the matters inquired into within a relevant context in the circumstances.

3. The Inquiry Panel is (and without limiting the generality of paragraph 1 above) to give due consideration to, and inquire into and report on, the following matters:

- i. whether there was improper or undue influence by any member, as defined by section 1.4 of the Act (**member**) of the Council of the City of Perth in administrative tasks, such as recruitment, employee management and grants administration;
- ii. whether any member engaged in improper or unlawful conduct in relation to the performance by the Council or the members of any of their functions and obligations;
- iii. the relationships between the Council, members, the Chief Executive Officer and other employees of the City and the effect of those relationships on the performance of the City's functions and obligations;

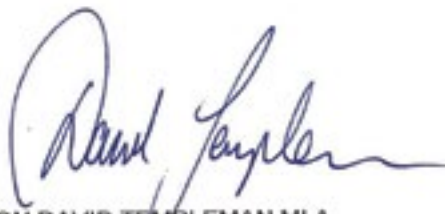
- iv. sponsorship arrangements between organisations and the City and the acceptance of gifts in the form of tickets to events by members from those organisations;
- v. governance practices, including adherence to the financial interest provisions of the *Local Government Act 1995*;
- vi. adequacy and competency of Council decision making.

**B. Functions of the Inquiry Panel**

The functions of the Inquiry Panel are as set out in A. above, and for the avoidance of doubt, include to inquire into, report on, and then make the recommendations in relation to the matters the subject of the Inquiry that it considers appropriate (in accordance with its duty under section 8.22 of the *Local Government Act 1995*).

**C. Duration of Inquiry**

The Inquiry is to commence on 1 May 2018 and shall present its report and recommendations no later than 2 May 2019.



HON DAVID TEMPLEMAN MLA  
**MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS**

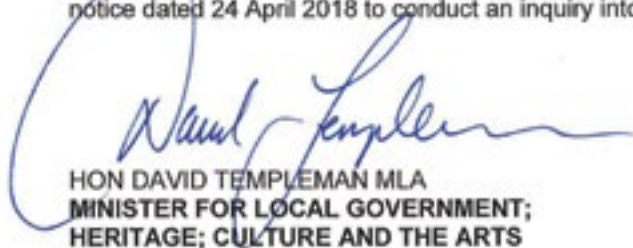
DATE: **24 APR 2018**

## Notice of Additional Term of Appointment of the Inquiry Panel

*Local Government Act 1995*  
*Royal Commissions Act 1968*

**Notice of Additional Term of Appointment of an Inquiry Panel  
(Sections 8.16 and 8.20 of the *Local Government Act 1995* and section 18 of  
the *Royal Commissions Act 1968*)**

Pursuant to the abovementioned provisions, I hereby declare that section 18 of the *Royal Commissions Act 1968* applies to the inquiry panel appointed by me by notice dated 24 April 2018 to conduct an inquiry into the City of Perth.



HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS

DATE: 6 September 2018

## Extensions to the timeframe for reporting

*Local Government Act 1995*

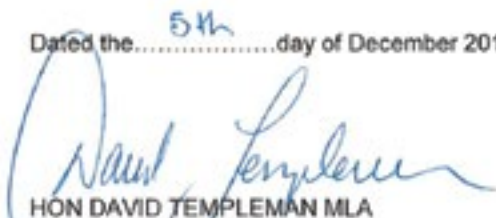
**Section 8.16 and 8.17**

**Notice of Amendment to duration of the Inquiry into the City of Perth**

To: Mr Anthony Power

I give notice that the Notice of Appointment to Inquire into the City of Perth, dated 24 April 2018, is hereby amended by deleting the passage '2 May 2019' in Part C 'Duration of Inquiry' and inserting in its place the passage '20 January 2020'.

Dated the 5<sup>th</sup> day of December 2018



HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS

*Local Government Act 1995*

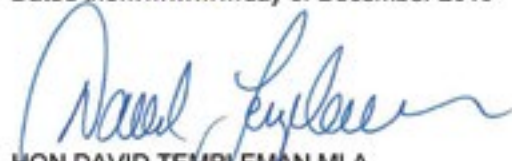
**Section 8.16 and 8.17**

**Notice of Amendment to duration of the Inquiry into the City of Perth**

To: Mr Anthony Power

I give notice that the Notice of Appointment to Inquire into the City of Perth, dated 24 April 2018, is hereby amended by deleting the passage '20 January 2020' in Part C 'Duration of Inquiry' and inserting in its place the passage '30 April 2020'.

Dated the 10th day of December 2019

A handwritten signature in blue ink, appearing to read 'David Templeman', is written over the printed name and title.

HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS

*Local Government Act 1995*

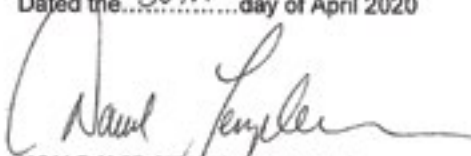
**Section 8.16 and 8.17**

**Notice of Amendment to duration of the Inquiry into the City of Perth**

To: Mr Anthony Power

I give notice that the Notice of Appointment to Inquire into the City of Perth, dated 24 April 2018, is hereby amended by deleting the passage '30 April 2020' in Part C 'Duration of Inquiry' and inserting in its place the passage '30 June 2020'.

Dated the 30<sup>th</sup> day of April 2020

A handwritten signature in black ink, appearing to read 'David Templeman', is written over the printed name and title.

**HON DAVID TEMPLEMAN MLA  
MINISTER FOR LOCAL GOVERNMENT;  
HERITAGE; CULTURE AND THE ARTS**

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# 4.2

## Inquiry Commissioned Reports

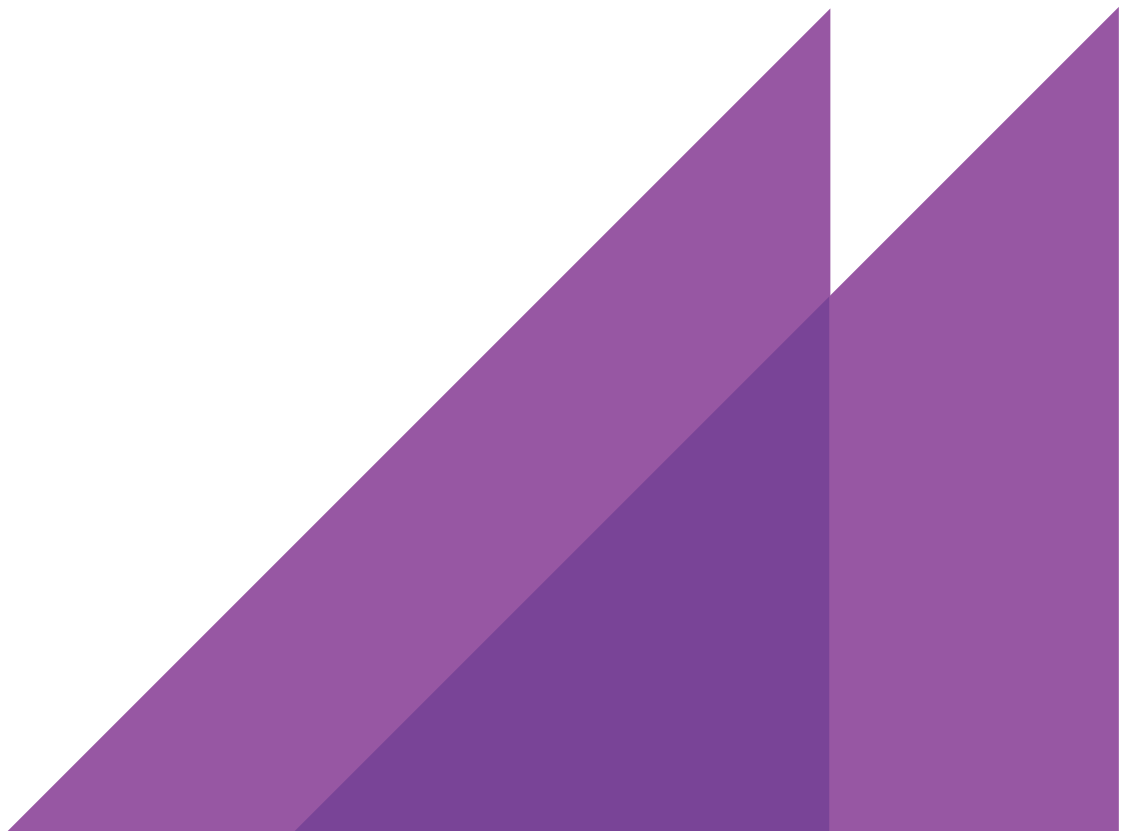
ACIL ALLEN CONSULTING

REPORT TO  
**INQUIRY INTO THE CITY OF PERTH**  
MAY 2019

# CITY OF PERTH FINANCIAL REVIEW



INQUIRY INTO CITY OF PERTH





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## EXECUTIVE SUMMARY

### Introduction and Context

In April 2019, ACIL Allen was engaged by the Inquiry to report on the City of Perth's finances and the degree to which it has in place good strategic and financial practices to ensure sound financial management of the City and its commercial operations.

Specifically, the Inquiry has sought a report that provides advice on:

- the adequacy of the City of Perth's strategic planning and financial planning and management business models;
- analysis of the City of Perth's financial position and the underlying drivers of the City's financial position over time;
- a focused review of the City of Perth's parking business, the City of Perth Parking (CPP); and
- analysis of the City of Perth's rates model for residential and commercial properties, and the degree to which there is any cross-subsidisation and any subsidisation arising from the CPP business.

ACIL Allen's financial review has been desktop in nature, prepared exclusively with materials provided by the City of Perth and supplemented with publicly available data in parts. ACIL Allen has not interviewed any City staff in connection with the review, beyond discussions required to bring ACIL Allen up to speed with the data provided. As such, ACIL Allen has not tested the analysis, findings or recommendations with the City. Nonetheless, the analysis, findings and recommendations do point to a number of issues within the City's financial framework to support the Inquiry's work, and which warrant additional consideration and analysis under a larger scope of works.

### Role and Functions of the City of Perth

The City of Perth is a statutory entity constituted under the *Local Government Act 1995* to provide services and facilities to a broad range of stakeholders including residents, commercial and retail businesses, workers, and local, national and international visitors.

However, the City is subject to a number of other Acts of Parliament, including most recently with the introduction of the *City of Perth Act 2016*. This Act formally acknowledged the social, economic, cultural, environmental and civic role that the City of Perth plays as the capital city of Western Australia, and brought with it an expansion in the boundaries of the City of Perth.

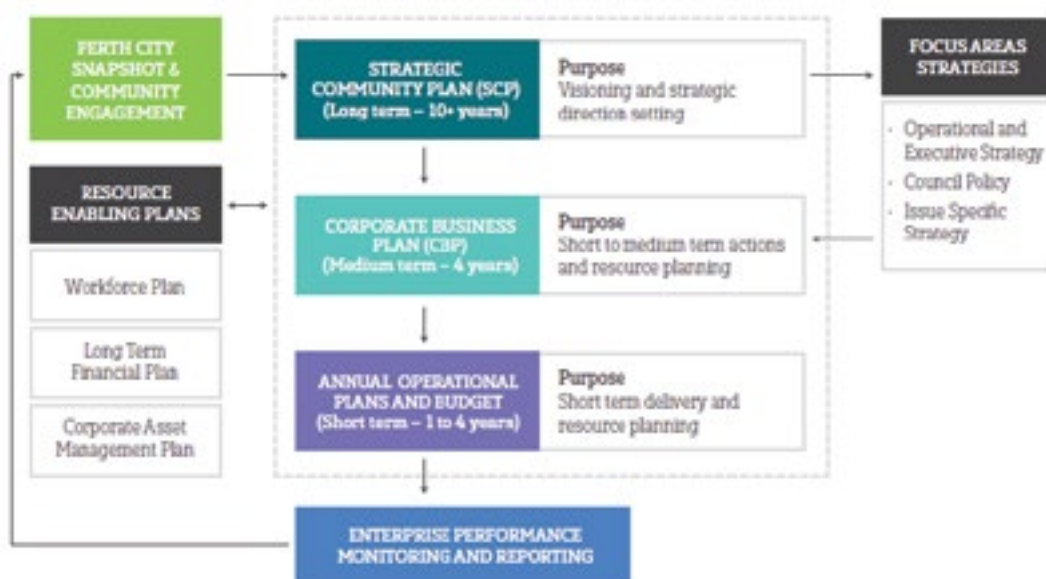
In the context of this report, and the broader Inquiry into the City of Perth, Section 3.1 of the *Local Government Act 1995* establishes that the general function of a local government is to provide for the **good government** of persons in its district. The scope of what a local government can do is broadly what its community requires and can reasonably be provided with available resources and within the constraints of the Act or any other written law.

In addition to legislation, there are a series of policies and guidelines that require Local Government Authorities in Western Australia to produce a cohesive set of local area plans and strategies for the benefit of their citizens and businesses. As required under the *Local Government Act 1995*, the City of Perth's Integrated Planning and Reporting Framework (IPRF) is intended to provide a structure that guides the development of the City's strategic direction and subsequent organisational activities.

The Framework calls for a local government authority to establish:

- **Strategic Community Plan**, which is the organisation-wide strategy document for the City. It is a community facing strategy document that is refreshed every four years.
- **Corporate Business Plan**, which sets out the City's initiatives and activities over a four-year period, with an emphasis to delivering on the strategic goals set out in the Strategic Community Plan. Informing the Plan are a number of resource enabling plans, including:
  - **Workforce Plan**, which outlines the required resources, capabilities, and competencies the City of Perth requires to deliver against its objectives and to continue servicing the community.
  - **Long Term Financial Plan**, which assists the City to set priorities in accordance with its financial resources, through the allowance of key assumption-based analysis.
  - **Corporate Asset Management Plan**, which provides guidance on service provision and whole of life cycle asset management to inform the City's financial sustainability and key service levels.
- **Annual Report and Budget** includes a snapshot of the performance of the City of Perth over the past year and an overview of the City's outlook for the future. The City produces a Quarterly Organisational Performance Report to provide an update on the progress of the City's Corporate Business Plan.

FIGURE ES 1 CITY OF PERTH INTEGRATED PLANNING AND REPORTING FRAMEWORK



SOURCE: CITY OF PERTH

While the City of Perth's IPRF fulfils its statutory requirements under the Act, ACIL Allen's assessment is that there is **limited integration between these planning documents, and as a total framework it is unclear that it is an effective tool to guide decisions by the City**. This is reinforced by an independent assessment of the City's organisational capability and compliance, which found the Strategic Community Plan and Corporate Business Plan did not effectively capture the organisation's strategy, due to the absence of business as usual activities, insufficient target setting, and a lack of

integration between the various strategy and planning documents. Without a clearly defined organisational strategy, this makes it difficult for the organisation to prioritise and manage its portfolio of services and investments.

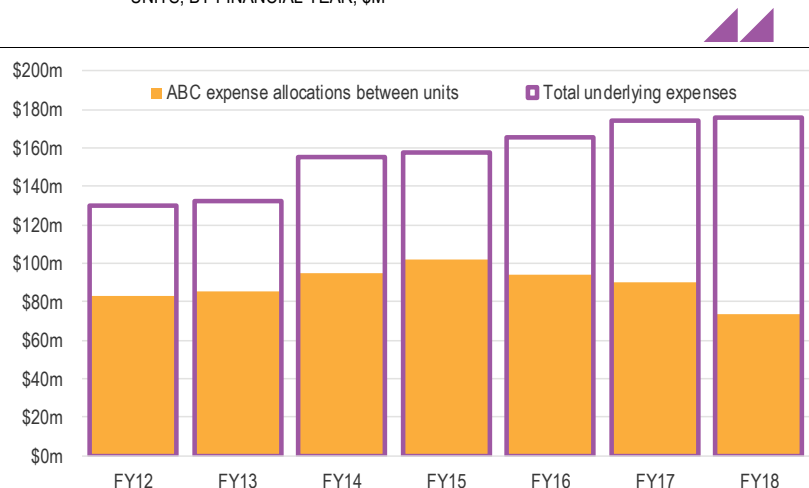
In addition to a range of City-wide plans, the *Local Government Act 1995* requires local government authorities to develop detailed plans for so-called “major undertaking” for activities with an annual expenditure of over \$5 million.

In 2018, it was determined the **City of Perth Parking (‘CPP’) was a major undertaking**, and that the City was non-compliant with the Act as it did not have a business plan. While the CPP pre-dates the Act, the Council resolved to develop a business plan, which was presented to the Council at its June 2018 meeting. However, the plan was not endorsed by the Council. **ACIL Allen’s assessment of this plan is that it does not address the requirements of the Act, as it does not provide consideration of risk, costs, competitive neutrality or impact on the City’s overall finances (except for revenue).**

In relation to the **City of Perth’s financial framework**, ACIL Allen found that the City of Perth arranges its finances in a logical manner. It accounts for revenue and expenditure using a detailed general ledger, with 226 revenue and expense codes distributing revenue and expenses between 36 business units (which themselves are grouped to six directorates, that map to the City’s organisational structure).

This first level of accounting captures the direct revenue and direct expenditure of each individual business unit. From here, the City employs an Activity Based Costing (ABC) framework, which shifts the revenue and expenditure between business units with an intent to reflect actual costs and revenue. However, the City could not produce a document which outlined the basis of the allocations, despite the City’s system allocating on average 57 per cent of total expenditure over the assessment period. ACIL Allen’s high level observations suggest the **City’s approach to ABC is not based on sound principles, and appears to be instead used as a tool to undertake cost-shifting across the organisation.**

**FIGURE ES 2** CITY ABC ALLOCATION, TOTAL EXPENDITURE ALLOCATED BETWEEN BUSINESS UNITS, BY FINANCIAL YEAR, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN

From a **performance measurement** perspective, the Strategic Community Plan outlines eight goals and corresponding strategic objectives. The Corporate Business Plan identifies the operational initiatives that the City have formulated to address the strategic objectives. The strategic objectives

and corresponding operational initiatives have been focused through a set of key result areas, which in turn have a set of key performance indicators to measure progress.

The City of Perth's KPIs are intended to provide the community with a broad assessment of the performance of the City of Perth 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 performance are a subset of the financial indicators that local governments are required to report on under Western Australia Local Government (Financial Management) Regulations.

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.**

A review of the KPIs used to measure the financial performance of the City of Melbourne and the City of Sydney found they both have KPIs that track financial performance from an efficiency perspective through a focus on expenditure levels and growth. This supports ACIL Allen's assessment that the City of Perth's KPIs do not have an adequate focus on efficiency from a financial governance perspective.

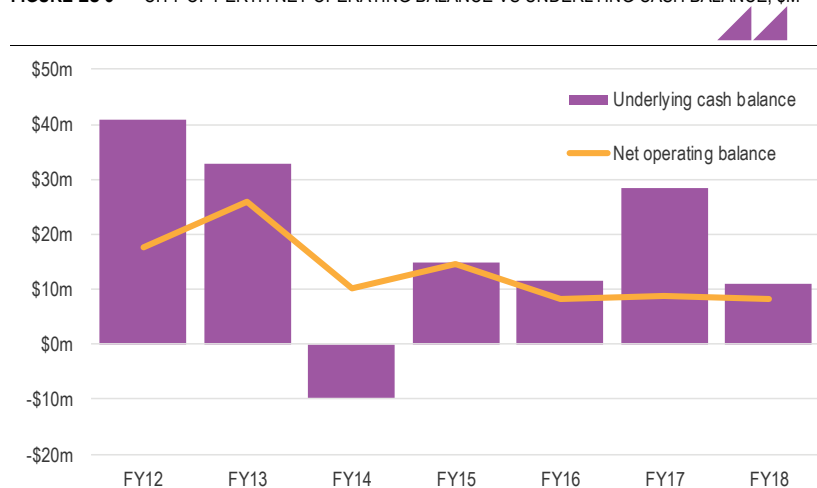
## City of Perth Financial Performance

### Summary results

Overall, the City of Perth's **operating position** (operating revenue less operating expenditure) has narrowed over the past seven years, falling from a peak of \$26.1 million in 2012-13 to \$8.2 million in 2017-18. The deterioration in the City's operating position comes despite growth in total operating revenue from \$169.2 million in 2012-13 to \$201.9 million in 2017-18 (+\$32.8 million), with operating expenditure growing from \$143.2 million to \$193.8 million (+\$50.7 million) over the same period.

The City's **gross operating margin on own-source revenue has shrunk from 12 per cent in 2011-12 to 4.4 per cent in 2017-18.**

FIGURE ES 3 CITY OF PERTH NET OPERATING BALANCE VS UNDERLYING CASH BALANCE, \$M



Note: The Underlying Cash Balance is a calculation which appends the net operating balance by removing non-real expenditure (ie depreciation), and adds in cashflows related to non-cash asset purchases and government grants (which are not accounted for in the operating statement).

SOURCE: ACIL ALLEN CONSULTING

On an **underlying cash balance** basis (which reflects the City's own cash outlays versus cash receipts), its surpluses have also narrowed in recent years, particularly compared to the first two years of the assessment period. According to ACIL Allen's calculations, the City's underlying cash balance for the 2017-18 financial year was \$11.1 million, its lowest cash surplus over the assessment period (excluding the deficit in 2013-14 when the City made a cash contribution to the State Government for the Perth City Link project).

The City's overall **operating revenue** has increased from \$158.4 million in 2011-12 to \$201.9 million in 2017-18, for average growth of 4.2 per cent per annum over the assessment period. After removing the impact of the Perth Parking Levy and the Emergency Services Levy, which are passed on to the State Government, shows the City's overall underlying revenue has grown from \$148.1 million to \$183.9 million, for average growth of 3.7 per cent per annum.

The City's underlying revenue growth of 3.7 per cent per annum is 2.2 percentage points faster than the Perth Consumer Price Index over the same period. It also comes as property asset prices have generally fallen back to pre-resources boom levels after peaking between 2012 and 2014. All things being equal, this **suggests there has been an increase in "revenue effort" by the City, meaning it has sought to increase its revenue base by taking actions to increase its capture of activity in its local area.**

By contrast, the City of Perth's total **operating expenditure** has increased from \$140.6 million in 2011-12 to \$193.8 million in 2017-18, with annual average growth of 5.6 per cent over the assessment period. Growth in the City's expenditure over the assessment period has been driven almost entirely by four expenditure groups. These are:

- **Direct staff expenditure**, increasing from \$53.4 million in 2011-12 to \$75.4 million in 2017-18 (six per cent per annum). This has accounted for 41 per cent of the City's total expenditure growth.
- **Depreciation expenses**, increasing from \$21.1 million to \$34.7 million (8.8 per cent per annum). This has accounted for 26 per cent of the City's total expenditure growth.
- **The Perth Parking Levy**, increasing from \$9.9 million to \$17.4 million (10.7 per cent per annum). This has accounted for 15 per cent of the City's total expenditure growth.
- **Contract labour expenditure**, increasing from \$3.5 million to \$7.7 million (15.7 per cent per annum). This has accounted for eight per cent of the City's total expenditure growth.

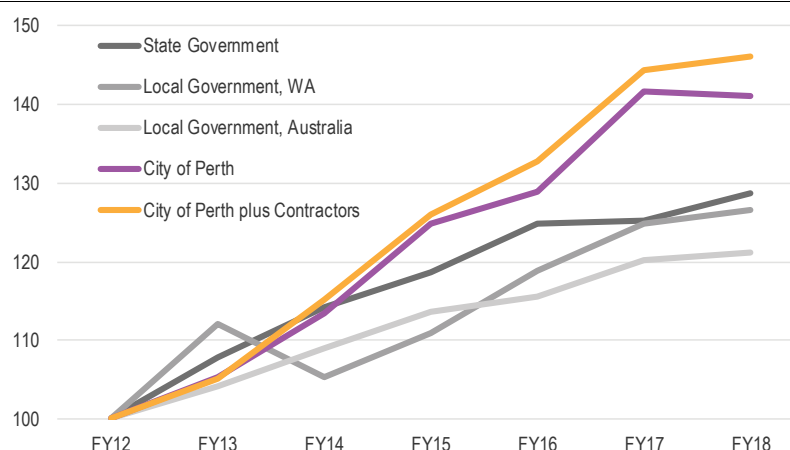
These four expenditure items account for 89 per cent of the City's total expenditure growth over the assessment period, despite accounting for 69 per cent of total expenditure in 2017-18. The remaining 31 per cent of the City's expenditure base account accounts for just 11 per cent of total expenditure growth.

Given the Perth Parking Levy expenditure represents the pass through of a State Government tax, and the City's depreciation charge is an accounting expense rather than a real expense, it is clear growth in the **City's controlled expenditure base has been largely driven by staff costs – both direct staff and contract staff – over the assessment period.**

ACIL Allen found that City's labour expenditure has increased at a faster rate than publicly available benchmarks over the assessment period, including by 13.5 per cent faster than the State Government's direct employment costs, 15.6 per cent faster than local government at a State level, and 20.7 per cent faster than the local government labour expenditure at a national level. **If the City had contained labour costs to the average local government labour expenditure benchmark for Western Australia, employment costs would have been \$40.4 million lower over the assessment period, and \$11.3 million lower in 2017-18 alone (\$71.8 million instead of \$83.1 million).**

ACIL ALLEN CONSULTING

FIGURE ES 4 CITY OF PERTH SALARY COST BENCHMARKING, INDEX; FY12 = 100



SOURCE: CITY OF PERTH, ABS, ACIL ALLEN CONSULTING

#### Overall Assessment

There are a number of issues which emerge from this high-level review that are worth exploring in greater detail – two of which are subject to further analysis in this report. These are:

- The role of the **City of Perth Parking major undertaking** in the City's overall financial framework;
- The **City's rates model**, particularly the drivers behind the recent substantial increase in rates values for Residential and Office properties from abnormally low bases;
- The **City's direct labour costs**, in particular the growth in labour expenditure over the assessment period (and potentially in prior years, as it is not clear from the data that the strong growth in direct labour costs is a new development);
- The **City's utilisation of contract labour**, in particular the growth over the assessment period;
- The **City's increased reliance on professional services contracts**, and whether this reflects an underlying capability issue within the City that is impacting its ability to discharge its functions; and
- The drivers of the **City's increased depreciation expenditure**, noting ACIL Allen's high-level analysis suggests this could simply be driven by high levels of capital investment (but also noting it could be due to the deterioration of the City's existing asset base).

It is also important to note the analysis conducted in this section does not consider the allocation of costs between business units within the City. While the City undertakes a notional Activity Based Costing exercise each year, without adequate consideration of the true cost drivers or detailed policy that would allow for a rigorous costing exercise to be undertaken, this too is likely to impact on the overall financial outcomes.

The City remains in a very strong financial position overall. According to its 2017-18 annual report, and a detailed balance sheet made available to ACIL Allen, the City holds some \$114 million in cash or liquid financial assets, and has a fixed asset base of in excess of \$1.1 billion with no material liabilities carried against these. In addition, its taxing powers provide a certain revenue stream of close to \$90 million per annum regardless of any other suppliers or services it elects to provide.

However, the City's financial position is not guaranteed, nor should a strong balance sheet preclude it from ensuring it provides the most efficient and effective services (with an efficient revenue raising framework) for its residents and businesses.

### Review Focus Areas: City of Perth Parking (CPP)

In addition to the high level financial assessment of the City of Perth, the Inquiry requested that ACIL Allen undertake a more detailed investigation of the CPP.

The CPP operates as a commercial unit within the City's Community and Commercial Services Directorate which began operating commercially in the 1990s. The CPP's main responsibilities concern on street parking technology, revenue management, off street parking facilities, financial control, operations and customer service.

The CPP business and all parking in the City is subject to the Perth Parking Levy which has been applied by the State as per the *Perth Parking Management Act 1999*. The rate of the Levy is determined by the State annually and in 2017-18 totalled \$17.4 million.

The City of Perth (via the CPP) is uniquely placed in terms of parking management compared to other capital city local government jurisdictions in Australia. The **CPP is the largest provider of public parking within the City and manages 35 car parks which is far greater than any other capital city in Australia** but remains competitive amongst private companies such as Wilson, Secure and other private companies.

The City Councils of Brisbane, Melbourne and Sydney each own only 2 car parks within their respective central business districts. These cities have a larger contingent of privately owned car parks. The City of Adelaide operates a more substantial off street parking operation, although it has nine properties and approximately 6,000 parking spaces (both significantly smaller than the CPP undertaking).

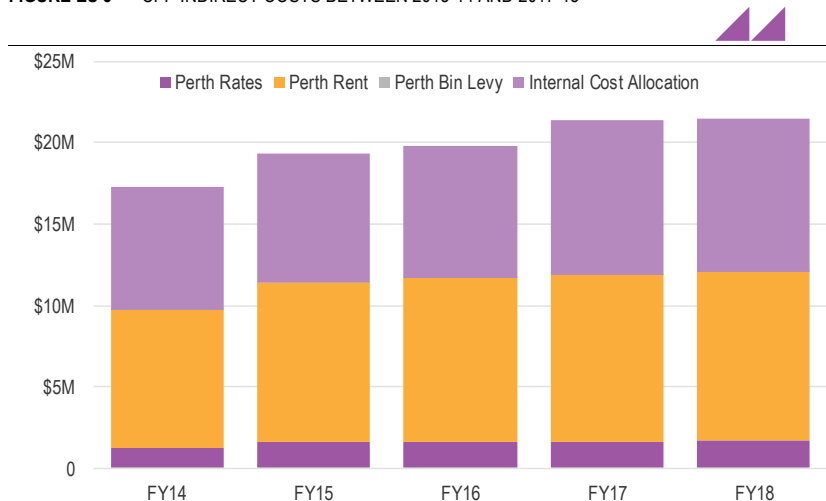
The CPP's **revenue** has grown from \$68.9 million in 2013-14 to a maximum of \$73.8 million in 2017-18. This represented an increase of 7.1 per cent over the four years. However, **after removing the Perth Parking Levy, the CPP undertaking's revenue has declined by 3.5 per cent** between 2013-14 and 2017-18. By contrast, the revenue flowing to the State Government via the levy has increased by 66.4 per cent, from \$10.5 million in 2013-14 to over \$17.4 million in 2017-18.

The CPP undertaking **operational expenditure** has remained relatively stable between 2013-14 and 2017-18, growing from \$15.5 million in 2013-14 to \$16.2 million in 2015-16 before declining to \$15.4 million in 2017-18. All told, the CPP undertaking has kept direct expenditure broadly steady, in line with its weak revenue performance.

Despite the CPP's modest revenue performance, and relatively steady growth in direct expenditure, ACIL Allen found that the City has continued to increase the level of **internal expenditure** allocated to the CPP undertaking.

Since 2013-14, **internal expenditure allocations have increased by \$4.3 million (from \$17.3 million to \$21.6 million), however, ACIL Allen could not determine whether there was a clear basis for this, or why internal cost allocations to the CPP undertaking are increasing over time.**

FIGURE ES 5 CPP INDIRECT COSTS BETWEEN 2013-14 AND 2017-18



SOURCE: ACIL ALLEN CONSULTING

In reality, however, the CPP is a part of the broader City's financial framework, providing it with a line of source of revenue, and ultimately surplus free cashflow, to potentially fund other aspects of the City.

This can be measured by paring back the finances of the City of Perth Parking undertaking to actual revenues minus any State Government taxes and banking charges, less the real expenditures associated with the undertaking (ie excluding depreciation, amortisation and provisions). Under this frame of reference, the variety of internal City charges which are transferred to the CPP undertaking, including internal rates, internal rents, internal waste levies, and Activity Based Costing allocations are set aside and form part of the cash surplus generated by the CPP undertaking which is then available to the City as free cash.

Using this frame of reference, the **CPP undertaking generated \$202.6 million of free cash for the City over the five year period** where data was available. This accounted for approximately 21 per cent of the City's total free cash generated from operating activities between 2013-14 and 2017-18.

Over the assessment period, the **City has raised \$75.1 million in internal charges from the CPP undertaking**. It is not clear from the City's financial system where these internal charges flow however it is assumed they flow to the City's consolidated revenue.

Given the size of this business undertaking, it is **not appropriate for the City to continue to operate the CPP business without an adequate business plan**, be it required to produce one according to legislation or not.

In addition, it is **not clear from the information provided that the City fully accounts for competitive neutrality in the CPP undertaking**. This puts the City at a competitive advantage over private sector providers of parking services in the City of Perth, by virtue of the City's status as a public sector entity only. This goes against the NTER, and should be addressed by the City.

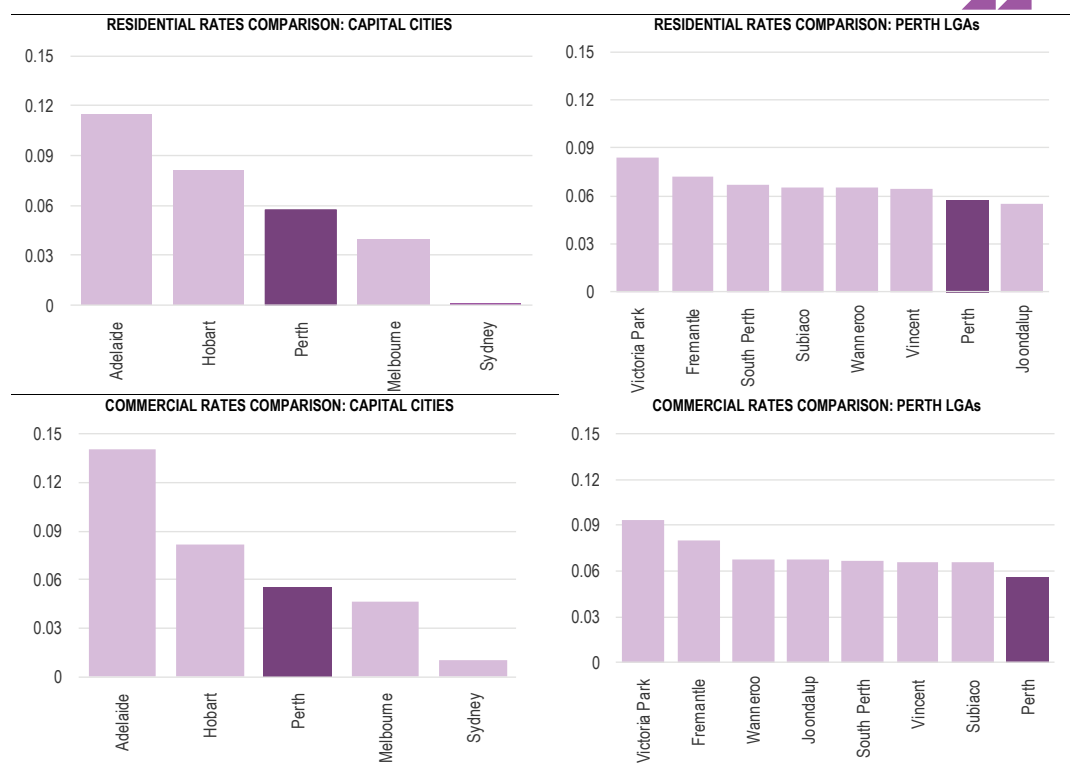
The City's parking undertaking is evidently a significant cashflow generator for the City. No other local government in Western Australia, and no other capital city local government in Australia, has access to a line of cashflow like the CPP affords the City. Given the findings of other areas of this report, ACIL Allen considers it likely the **availability of this free cashflow generated by the CPP undertaking has played a role in the City's high level of costs over the assessment period**.

## Review Focus Areas: City of Perth Rates Model

The other review focus area requested by the Inquiry was for ACIL Allen to examine the City of Perth's rates model.

The City of Perth's rates for residential and commercial land uses are set at a lower level than other capital city local governments and metropolitan Perth local governments, with the exception of the City of Melbourne and the City of Sydney which have significantly larger ratepayer bases. The low level of rates against other capital city local governments potentially reflects the impact of the City's ability to earn additional revenue through its CPP business, however it is not possible to determine with the evidence provided to ACIL Allen.

**FIGURE ES 6** RESIDENTIAL AND COMMERCIAL COUNCIL RATES, CITY OF PERTH VERSUS COMPARATOR LOCAL GOVERNMENT AUTHORITIES, 2017-18 VALUES (CENTS PER GRV)



SOURCE: VARIOUS COUNCIL ANNUAL REPORT, ACIL ALLEN

Rates in the City of Perth are determined according to the Gross Rental Value (GRV) of the land use, and is calculated on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the City's annual budget and the estimated revenue to be received from all sources other than the rates, as well as a consideration of the extent of any increase in rates over the level adopted in the previous year

There are four categories of rateable land used by the City of Perth: Commercial, Office, Residential and Vacant land. In 2018-19, the highest differential rate is set on Vacant land (6.25865 cents per dollar of GRV), followed by Residential (5.74033 cents), Commercial (5.56344 cents) and Office (4.55125 cents) land uses.

Since 2014-15, the differential rates for the Office land use has increased by 69 per cent, followed by Residential land use which has increased by 36 per cent over the same period. By comparison, the differential rates for the Vacant land has risen by 16 per cent since 2014-15, while for Commercial land use the rate has increased by 10 per cent. These recent increases have ensured that there is a more equal treatment of land for rating purposes (other than for vacant land).

Using the GRV and revenue collections for each rateable land use category, an indication of the “revenue effort” of the City of Perth to each land use category can be calculated.

Based on the GRV and revenue generation from each land use category, the **Residential land use category had the highest revenue effort for the City of Perth, with revenue representing 6.2 per cent of the total Residential land use GRV. Commercial land use was next highest, with revenue generated representing 5.75 per cent of the total Commercial land use GRV, while the Office category was lowest at 4.5 per cent.**

**The result of the City’s differential rate setting may be that the residential and commercial ratepayers of the City are being left to carry a heavier rates burden relative to office ratepayers.** ACIL Allen estimated the “general rate” (ie all rate payers pay the same rate per unit of GRV) required to generate the same revenue the City raised from its differential rates in 2017-18 would be 4.94446 cents in the dollar. At this rate, **Office ratepayers would have paid an additional \$4.6 million in rates in 2017-18, while Residential and Commercial ratepayers would have paid \$2.3 million less each.** This provides one view of a potential cross-subsidisation of the City’s rate base to the Office ratepayers from other City ratepayers.

## Summary of Key Findings

### KEY FINDING 1 GOVERNING LEGISLATION

The City of Perth is guided by the legislative requirements of it under the *Local Government Act 1995*, which was the basis from which the Minister for Local Government suspended the Council and establish an Inquiry into the City of Perth.

The *City of Perth Act 2016* formally acknowledged the social, economic, cultural, environmental and civic role that the City of Perth plays as the capital city of Western Australia, and brought with it an expansion in the boundaries of the City of Perth. The Act also established the City of Perth Committee to facilitate collaboration between the State and City of Perth. The Committee is required to meet at least twice a year, however, as no meetings were held in 2018 this requirement was not met.

### KEY FINDING 2 GOOD GOVERNMENT

The general function of a local government is to provide for the **good government** of persons in its district. The notion of “good government” is reflected in the provisions of the Act which is intended to result in better decision making, greater community participation, greater accountability of local governments to their communities, and more efficient and effective local government.

This report will explore the degree to which the City of Perth has provided good government to the community through the lens of the City’s finances.

### KEY FINDING 3 DEVELOPMENT OF ANNUAL BUDGET

The *Local Government Act 1995* requires that local governments establish their budget by first determining the amount they wish to spend and then estimate the revenue sources required to fund this outlay. This requirement means that in order to ensure that local government are operating efficiently, strong controls over expenditure are required.



### KEY FINDING 4 CPP MAJOR UNDERTAKING

The CPP fits the criteria of a "major undertaking" per the *Local Government Act 1995* and *Local Government (Functions and Regulations) 1996*. However, given the CPP major undertaking pre-dates the Act it's not clear the City is legally required to comply with this aspect of the Act and Regulations.

The City has prepared a business plan. The plan does not address the requirements of the Act, as it does not provide consideration of risk, costs, competitive neutrality or impact on the City's overall finances (except for revenue).



### KEY FINDING 5 CITY OF PERTH INTEGRATED PLANNING AND REPORTING FRAMEWORK

The City of Perth Integrated Planning and Reporting Framework is intended to provide the necessary structure to guide the development of the City's strategic direction, and is required as part of its statutory planning responsibilities under the *Local Government Act 1995*.

While the City of Perth's IPRF fulfils its statutory requirements under the Act, there is limited integration of these planning documents. This is reinforced by an independent assessment of the City's organisational capability and compliance, which found the Strategic Community Plan and Corporate Business Plan did not effectively capture the organisation's strategy, due to the absence of business as usual activities, insufficient target setting, and a lack of integration between the various strategy and planning documents. Without a clearly defined organisational strategy, this makes it difficult for the organisation to prioritise and manage its portfolio of services and investments.



### KEY FINDING 6 CITY OF PERTH FINANCIAL FRAMEWORK

The City notionally applies Activity Based Costing to its finances, to shift revenue and expenditure between business units to reflect the true cost of service delivery. However, the City could not produce a document which outlined the basis of the allocations, despite the City's system allocating on average 57 per cent of total expenditure over the assessment period. ACIL Allen's high level observations suggest the City's approach to ABC is not based on sound principles, and appears to be instead used as a tool to undertake cost-shifting across the organisation.



#### KEY FINDING 7 CITY OF PERTH KEY PERFORMANCE INDICATORS

The KPIs are intended to provide the community with a broad assessment of the performance of the City of Perth 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 performance are a subset of the financial indicators that local governments are required to report on under Western Australia *Local Government (Financial Management) Regulations*.

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.

#### KEY FINDING 8 FINANCIAL GOVERNANCE COMPARISONS

A review of the KPIs used to measure the financial performance of the City of Melbourne and the City of Sydney has found that they both have KPIs that track financial performance from an efficiency perspective through a focus on expenditure levels and growth. This supports ACIL Allen's assessment that the City of Perth's KPIs do not have an adequate focus on efficiency from a financial governance perspective.

#### KEY FINDING 9 NARROWING OPERATING SURPLUSES

The City's operating surpluses have been shrinking over the assessment period, narrowing to just \$8.2 million in 2017-18. This represents an operating surplus margin of just 4.4 per cent of own-source revenue, compared to surpluses of over ten per cent earlier in the assessment period.

#### KEY FINDING 10 UNDERLYING REVENUE GROWTH

The City's underlying revenue growth has averaged 3.7 per cent per annum over the assessment period. This is in excess of growth in the Perth Consumer Price Index, suggesting there has been an increase in the "revenue effort" by the City over the assessment period.

#### KEY FINDING 11 MUNICIPAL RATES

Municipal rates account for the largest share of the City's own-source revenue. Over the assessment period the City has significantly increased the rates value for Residential and Office properties in its jurisdiction, which is the main contributor to rates revenue growth of 6.7 per cent per annum.

#### KEY FINDING 12 PARKING FEES

At a headline level parking services revenue has been increasing over the assessment period. However, almost all of this growth has been driven by increases in the State Government's Perth Parking Levy, which is collected by the City and passed on to the State Government. Actual parking revenue generated by the City has been broadly flat over the period, growing by just 1.3 per cent per annum.

#### KEY FINDING 13 OVERALL EXPENDITURE TRENDS

The four largest expenditure growth areas of the City – direct staffing costs, depreciation, the Perth Parking Levy and contract labour – account for close to nine in every ten dollars of expenditure growth in the City over the assessment period. By comparison, these four categories made up just under 70 per cent of total City expenditure in 2017-18.



#### KEY FINDING 14 EMPLOYMENT COST GROWTH

The City's direct staff expenditure has increased by six per cent per annum over the assessment period, accounting for 41 per cent of overall City expenditure growth.



#### KEY FINDING 15 FTE/HEADCOUNT INFORMATION

The City was unable to produce a reliable estimate of actual staff headcount – on an FTE or actual headcount basis – for the assessment period. The data that was made available regarding staff levels was pulled together on an ad-hoc basis and represented the collation of *budgeted* staff levels (rather than actual staff levels) for a four-year period, two years of which were outside of the assessment period. In addition, there appear to be no controls (such as a KPI or simple target) regarding headcount or FTEs at an overall or business unit level. This lack of centralised HR management information, and lack of management information/targets, are likely to be contributing to the substantial growth in the City's direct employment and contractor costs.



#### KEY FINDING 16 USE OF CONTRACT LABOUR

The City's expenditure on contract labour has more than doubled over the assessment period, from \$3.5 million to \$7.7 million. Despite coming from a small base of approximately two per cent of the City's expenditure in 2011-12, growth in the use of contract labour is the third largest single contributor to the City's expenditure growth over the assessment period.



#### KEY FINDING 17 SALARY COST GROWTH BENCHMARKING

The City's labour expenditure has increased at a faster rate than publicly available benchmarks over the assessment period, including by 13.5 per cent faster than the State Government's direct employment costs, 15.6 per cent faster than local government at a State level, and 20.7 per cent faster than the local government labour expenditure at a national level. If the City had contained labour costs to the average local government labour expenditure benchmark for Western Australia, employment costs would have been \$40.4 million lower over the assessment period, and \$11.3 million lower in 2017-18 alone (\$71.8 million instead of \$83.1 million).



#### KEY FINDING 18 PROFESSIONAL SERVICES CONTRACTS

The use of professional services contracts (excluding legal fees) by the City of Perth has doubled over the assessment period. Most business units have utilised professional services. Expenditure has tended to be quite "lumpy", with no users seeing large recurrent professional services expenditure outside of the audit fees which are allocated to the Finance Unit.



#### KEY FINDING 19 MAINTENANCE AND SERVICE CONTRACTORS

The circa \$2.4 million decline in annual expenditure on maintenance and service contractors may go part of the way to explaining the increase in direct staff costs made by the City. However, this decline only represents approximately ten per cent of the increase in annual staffing costs.



#### KEY FINDING 20 DEPRECIATION AND CAPITAL INVESTMENT

The City's depreciation charges have been increasing significantly in recent years. This is likely a reflection of a substantial rolling capital works program, which has seen the City invest \$45.3 million per annum via the purchase of fixed assets over the assessment period (compared to an annual average depreciation charge of \$28.4 million). This is partially explained by the role of external Commonwealth and State Government grant funding in the City's capital works program.



#### KEY FINDING 21 REVENUE AND COST GROWTH IN THE CPP UNDERTAKING

Direct revenue and expenditure in the CPP undertaking have been broadly unchanged over the assessment period. While headline revenue has increased, this has been on account of growth in the Perth Parking Levy. Direct expenditure incurred by the CPP undertaking has remained broadly unchanged over the assessment period, while internal expenditure allocations have increased by \$4.3 million (from \$17.3 million to \$21.6 million) without any clear rationale for this.



#### KEY FINDING 22 PCEC CAR PARK

The Perth Convention and Exhibition Centre Car Park is the largest source of gross profit for the CPP undertaking, producing \$8 million of gross profit before internal transfers in the 2017-18 financial year. This accounted for 23.4 per cent of total CPP off street parking gross profit last year, despite accounting for just 13.6 per cent of the portfolio's bays.



#### KEY FINDING 23 CPP UNDERTAKING CASH CONTRIBUTION

ACIL Allen estimates the City of Perth Parking undertaking has generated \$202.6 million in free cash for the City over the five year period where data is available. This accounted for approximately 21 per cent of the City's total operating revenue cashflow generation over the period.



#### KEY FINDING 24 COMPETITIVE NEUTRALITY

It is not clear the City adequately accounts for competitive neutrality in the pricing of services provided by the CPP. By not correctly accounting for its competitive advantage of not being required to pay Commonwealth and State taxes, this puts the City at an advantage against private sector providers, which is against the requirements of the NTER.

#### KEY FINDING 25 CITY OF PERTH – DIFFERENTIAL GENERAL RATES BY LAND USE CATEGORY

Rates in the City of Perth are determined according to the Gross Rental Value (GRV) of the land use, and is calculated on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the City's annual budget and the estimated revenue to be received from all sources other than the rates, as well as a consideration of the extent of any increase in rates over the level adopted in the previous year

There are four categories of rateable land used by the City of Perth: Commercial, Office, Residential and Vacant land. In 2018-19, the highest differential rate is set on Vacant land (6.25865 cents per dollar of GRV), followed by Residential (5.74033 cents), Commercial (5.56344 cents) and Office (4.55125 cents) land uses. Since 2014-15, the differential rates for the Office land use has increased by 69 per cent, followed by Residential land use which has increased by 36 per cent over the same period. By comparison, the differential rates for the Vacant land has risen by 16 per cent since 2014-15, while for Commercial land use the rate has increased by 10 per cent. These recent increases have ensured that there is a more equal treatment of land for rating purposes (other than for vacant land).

#### KEY FINDING 26 CITY OF PERTH – REVENUE EFFORT BY LAND USE CATEGORY

Using the GRV and revenue collections for each rateable land use category, an indication of the "revenue effort" of the City of Perth to each land use category can be calculated.

Based on the GRV and revenue generation from each land use category, the Residential land use category had the highest revenue effort for the City of Perth, with revenue representing 6.2 per cent of the total Residential land use GRV. Commercial land use was next highest, with revenue generated representing 5.75 per cent of the total Commercial land use GRV, while the Office category was lowest at 4.5 per cent.

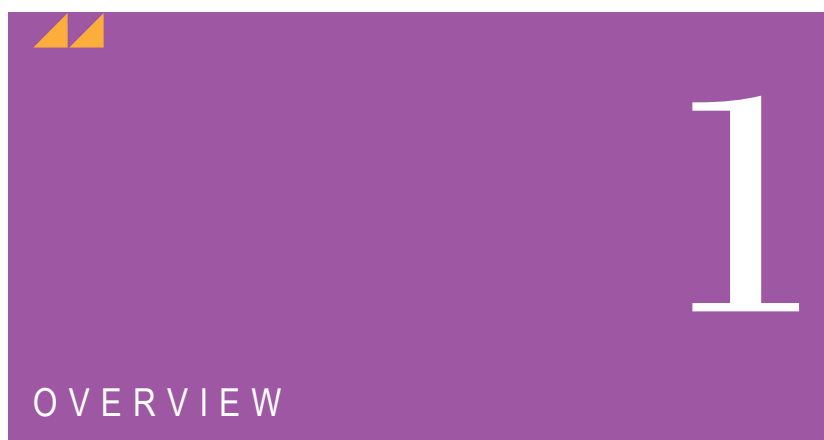
#### KEY FINDING 27 CROSS SUBSIDISATION OF THE CITY OF PERTH'S RATE BASE

The application of differential rate setting by the City of Perth has resulted in a cross-subsidisation of the City's rate base to the Office ratepayers from other City ratepayers. ACIL Allen estimated the "general rate" required to generate the same revenue the City raised from its differential rates in 2017-18 would be 4.94446 cents in the dollar. At this rate, Office ratepayers would have paid an additional \$4.6 million in rates in 2017-18, while Residential and Commercial ratepayers would have paid \$2.3 million less each.

#### KEY FINDING 28 RATES REVENUE COMPARISONS

The City of Perth's rates for residential and commercial land uses are set at a lower level than other capital city local governments and metropolitan Perth local governments, with the exception of the City of Melbourne and the City of Sydney which have significantly larger ratepayer bases. The low level of rates against other capital city local governments potentially reflects the impact of the City's ability to earn additional revenue through its CPP business, however it is not possible to determine with the evidence provided to ACIL Allen.





## 1.1 Introduction

On 2 March 2018, the Local Government Minister David Templeman announced the suspension of the City of Perth council and his intention to establish an inquiry panel to investigate the City's governance issues. The Minister's action came as a result of ongoing and serious concerns of failure by the elected council to ensure that the local government performs its functions properly.

The suspension order, outlined under section 8.19 of the *Local Government Act 1995*, saw three commissioners fulfil the role of the suspended council to ensure continuity of service to ratepayers while the inquiry is underway.

The inquiry panel will have the powers of a Royal Commission and the authority to make recommendations as to whether the council should be dismissed or reinstated. Following the inquiry, a report will be prepared for the Minister to decide what action the State Government will take.

On 24 April 2018, the Minister for Local Government established the inquiry into the City of Perth. The Inquiry has been asked to consider if there was a failure to provide good government for the City of Perth community, the prospect of providing future good government and any necessary action to ensure ongoing good government. At the centre of good government must be good policies, practices and procedures, and a sound system of financial management, to ensure effective decisions are made.

In April 2019, ACIL Allen was engaged by the Inquiry to report on the City of Perth's finances and the degree to which it has in place good strategic and financial practices to ensure sound financial management of the City and its commercial operations.

Specifically, the Inquiry has sought a report that provides advice on:

- the adequacy of the City of Perth's strategic planning and financial planning and management business models;
- analysis of the City of Perth's financial position and the underlying drivers of the City's financial position over time;
- a focused review of the City of Perth's parking business, the City of Perth Parking (CPP); and
- analysis of the City of Perth's rates model for residential and commercial properties, and the degree to which there is any cross-subsidisation and any subsidisation arising from the CPP business.

## 1.2 Interpreting this Report

ACIL Allen's financial review has been desktop in nature, prepared exclusively with materials provided by the City of Perth and supplemented with publicly available data in parts. ACIL Allen has not

interviewed any City staff in connection with the review, beyond discussions required to bring ACIL Allen up to speed with the data provided. As such, ACIL Allen has not tested the analysis, findings or recommendations with the City. Nonetheless, the analysis, findings and recommendations do point to a number of issues within the City's financial framework to support the Inquiry's work, and which warrant additional consideration and analysis under a larger scope of works.

### 1.3 Report Structure

This report has been structured in the following chapters to respond to the specific issues that the Inquiry has sought specific advice on.

- **Chapter 2** provides an overview of the role and functions of the City of Perth, through a high level review of its structures and governance, strategic and operational plans, its financial framework and its performance against its published key performance indicators.
- **Chapter 3** provides a comprehensive review of the City of Perth's finances in terms of the trends in its overall operating position, revenue and expenditure by key line item, and an assessment of the key drivers behind the recent trends in the City's finances.
- **Chapter 4** provides a more focussed review on the City of Perth's parking business, CPP.
- **Chapter 5** provides further analysis and insights into the City of Perth's rates model, recent changes and comparisons to other local governments.

Key findings are presented throughout the report, and a consolidated assessment of the City of Perth's finances is provided in the **Executive Summary** to this report.

### 1.4 Glossary of Terms and Abbreviations

Throughout this report a number of key terms and abbreviations have been used, which are set out in the tables below.

TABLE 1.1 TERMS USED

| Term              | Description   |
|-------------------|---|
| Major undertaking | As defined in the <i>Local Government Act 1995</i> and <i>Local Government (Functions and Regulations) 1996</i> , an undertaking of a local government with an annual expenditure of \$5 million or more. |
| The Act           | The <i>Local Government Act 1995</i>  |
| The City          | The City of Perth   |
| The Inquiry       | The Inquiry into the City of Perth  |

SOURCE: ACIL ALLEN CONSULTING

TABLE 1.2 ACRONYMS USED

| Acronym | Description                                 |
|---------|---|
| ABC     | Activity Based Cost model                   |
| CBD     | The Perth Central Business District         |
| CEO     | Chief Executive Officer                     |
| CPI     | Consumer Price Index                        |
| CPP     | City of Perth Parking                       |
| ESL     | Emergency Services Levy                     |
| FTE     | Full Time Equivalent                        |
| FY      | Financial Year                              |
| GRV     | Gross Rental Value                          |
| IPRF    | Integrated Planning and Reporting Framework |

| Acronym                       | Description                            |
|-------------------------------|--|
| KPI                           | Key Performance Indicator              |
| NTER                          | National Tax Equivalence Regime        |
| OBM                           | Outcome Based Management               |
| PCEC                          | Perth Convention and Exhibition Centre |
| PPL                           | Perth Parking Levy                     |
| SOURCE: ACIL ALLEN CONSULTING |  |



This section provides an overview of the City of Perth, its structures and governance, strategic and operational plans, and its high-level performance measured against its published key performance indicators.

## 2.1 City of Perth Overview

The City of Perth is a statutory entity constituted under the *Local Government Act 1995* to provide services and facilities to a broad range of stakeholders including residents, commercial and retail businesses, workers, and local, national and international visitors. The City has a distinct leadership role as the capital city authority of Western Australia.

Today, the City of Perth includes the suburbs, or parts thereof, of Crawley, East Perth, Nedlands, Northbridge, Perth and West Perth. On 1 July 2016, the City of Perth local government area expanded to include Kings Park, the University of Western Australia, Queen Elizabeth II Medical Centre, residential and commercial areas around Hampden Road and Broadway, and the Matilda Bay foreshore in Crawley and Nedlands.

In 2017-18, the estimated population of the City of Perth was 27,432 residents. The City's resident population is forecast to grow to 50,000 residents by 2050, representing an additional 25,800 residents in 16,000 dwellings over the next 34 years. Each workday, the City attracts around 205,750 workers and visitors to the CBD and over 25,000 to the University of Western Australia and Queen Elizabeth II Medical Centre. In 2017-18, the City of Perth had an estimated workforce population of 147,474 people.

The City of Perth employs a workforce in excess of 700 staff to undertake the core business of Council, including essential community services such as waste, maintenance, parks and gardens and community facilities. The majority of staff are based at Council House and a works depot in Osborne Park houses the City's operational staff. The City is supported by a six person executive team.

## 2.2 Governing Legislation

The City is subject to substantial regulation via legislation. The two most significant Acts are the *Local Government Act 1995* and the *City of Perth Act 2016*. These are discussed below.

### 2.2.1 Local Government Act 1995

The current legislation governing the functions of Local Government in Western Australia is the *Local Government Act 1995*. In relation to the financial management of local governments, the Act provides a framework for the administration and financial management of local governments and for the scrutiny of their affairs.

All local governments are required to plan for the future of their district under Section 5.56 (1) of the *Local Government Act 1995*. The minimum requirement towards achieving this is the development of a Strategic Community Plan and a Corporate Business Plan. There are separate provisions regulating the Annual Budget and Annual Report.

In mid-2017, the Minister for Local Government, the Hon David Templeman, announced the commencement of the review of the *Local Government Act 1995*. The review will be undertaken in two phases. Phase 1 of the review is considering reforms that have the potential to modernise local government, empower and enable local government, meet community expectations for accountability and transparency, and relieve regulatory burden. In the context of this report, the second phase of this review will explore, among other things, improving the financial management of local governments.

On 2 March 2018, the Local Government Minister David Templeman announced the suspension of the City of Perth council under section 8.19 of the *Local Government Act 1995*, which saw three commissioners fulfil the role of the suspended council to ensure continuity of service to ratepayers while the inquiry is underway.

### 2.2.2 City of Perth Act 2016

The *City of the Perth Act 2016* formally acknowledges the special social, economic, cultural, environmental and civic role that the City of Perth plays as the capital city of Western Australia. The Act recognises the important role that the City of Perth plays in representing the broader Perth area and the state of Western Australia on both a national and international level.

The Act outlines the responsibilities of the Lord Mayor and councillors, with a particular emphasis on the matters that relate to the unique responsibilities of the City of Perth that flow from Perth's status as capital of Western Australia. However, the Act does not limit the roles, functions, powers, obligations and responsibilities of the Lord Mayor or councillors under the *Local Government Act 1995*.

The Act brought with it an expansion in the boundaries of the City of Perth to include land occupied by The University of Western Australia, Kings Park, Queen Elizabeth II Medical Centre, Perth Children's Hospital and residential areas home to about 3,000 people who were previously in the City of Subiaco.

Under the Act, a committee called the City of Perth Committee was established to facilitate collaboration between the State and City of Perth. The members of the Committee include the Premier, Minister for Local Government, Lord Mayor, Deputy Lord Mayor, CEO of the City of Perth and the CEO of the Department of the Public Service.

The Committee is required under the Act to meet at least twice a year. The last recorded meeting of the Committee was on 20 December 2017. There were no meetings in 2018, and the Committee has yet to meet in 2019.

#### KEY FINDING 1 GOVERNING LEGISLATION

The City of Perth is guided by the legislative requirements of it under the *Local Government Act 1995*, which was the basis from which the Minister for Local Government suspended the Council and establish an Inquiry into the City of Perth.

The *City of Perth Act 2016* formally acknowledged the social, economic, cultural, environmental and civic role that the City of Perth plays as the capital city of Western Australia, and brought with it an expansion in the boundaries of the City of Perth. The Act also established the City of Perth Committee to facilitate collaboration between the State and City of Perth. The Committee is required to meet at least twice a year, however, as no meetings were held in 2018 this requirement was not met.

## 2.3 Role, Governance and Structure of the City of Perth

Local Government Authorities in Western Australia have a defined set of minimum roles and responsibilities. These are discussed below.

### 2.3.1 Role of Local Governments

The section 3.1 of the *Local Government Act 1995* establishes that the general function of a local government is to provide for the good government of persons in its district. The scope of what a local government can do is broadly what its community requires and can reasonably be provided with available resources and within the constraints of the Act or any other written law.

The notion of “good government” is reflected in the provisions of section 1.3(2) of the Act which summarises the outcomes intended:

*“This Act is intended to result in –*

- a) better decision making by local governments;*
- b) greater community participation in the decisions and affairs of local governments;*
- c) greater accountability of local governments to their communities; and*
- d) more efficient and effective local government.”*

*Section 1.3(3) establishes that “in carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity”.*

A local government can make a local law for the good governance of the people in its district. However, a local law will be inoperative to the extent that it is inconsistent with any other written law (for instance, because there is already a similar State law covering the same area).

Local governments can make local laws about health and safety, street trading, reserves and foreshores, signs, parking, cats and dogs, and much more.

The executive functions of local government include the administration of local laws and the provision of services and facilities. A local government can provide any service or facility that is necessary or convenient for the good governance of the people in its district or for the performance of any other function under the Act.

However, before commencing a service or providing a facility, a local government has to satisfy itself that the service or facility it provides integrates with State or Commonwealth services, does not duplicate inappropriately any State, Commonwealth or private service, and is managed efficiently and effectively.

The role of local governments is reflected in its governance, its structures and its strategic and operational plans, all of which are required under the relevant provisions in the Act.

#### KEY FINDING 2 GOOD GOVERNMENT

The general function of a local government is to provide for the **good government** of persons in its district. The notion of “good government” is reflected in the provisions of the Act which is intended to result in better decision making, greater community participation, greater accountability of local governments to their communities, and more efficient and effective local government.

This report will explore the degree to which the City of Perth has provided good government to the community through the lens of the City’s finances.



### 2.3.2 Governance

The council is the governing body of a local government. It is made up of councillors and a mayor or president. The council’s role is to:

- govern the local government’s affairs;
- be responsible for the performance of the local government’s functions;
- oversee the allocation of the local government’s finances and resources; and
- determine the local government’s policies.

Prior to suspension of the City of Perth Council on 2 March 2018 and the appointment of three Commissioners to perform the role of Council, the City of Perth Council was made up of eleven elected councillors, including a Lord Mayor and Deputy Lord Mayor.

Under the Council, the following Committees exist:

- **CEO Performance Review Committee**, which establishes annual performance objectives of the Chief Executive Officer (CEO), undertakes an annual performance review of the CEO and reports the outcome of the review to Council.
- **Audit and Risk Committee**, which provides guidance and assistance in relation to risk management, internal controls, legislative compliance and internal and external audit planning and reporting; and
- **Design Advisory Committee**, which provides independent technical advice and recommendations to Council in respect to applications requesting a Plot Ratio Bonus in the city, as well as advising on design issues on other applications referred to it for consideration.

Following the suspension of the City of Perth Council, the following committees ceased:

- Finance and Administration Committee;
- Planning Committee;
- Marketing, Sponsorship and International Engagement Committee; and
- Works and Urban Development Committee.

As noted in Section 2.2.2 the *City of Perth Act 2016* established the **City of Perth Committee** to facilitate collaboration between the State and City of Perth. The last meeting of this Committee was on 20 December 2017.

### 2.3.3 Organisational Structure

The role of the Chief Executive Officer (CEO) is to provide overall strategic direction, leadership and coordination of the organisation. Along with the directors and staff, the CEO acts on the Council's decisions by developing and putting into practice the Council's policies and resolutions.

In 2015, the former CEO of the City of Perth announced a restructure of the organisation, based on five directorates (each headed by a Director) that reflect the core functions of the City. The CEO has the role of overseeing five directorates, along with the following units:

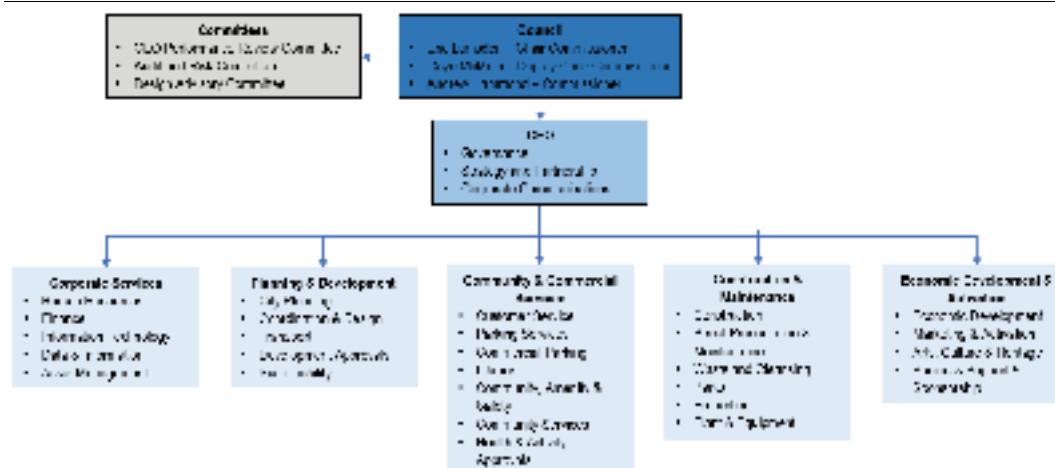
- **Governance** – Management of the council's governance responsibilities to ensure legislative compliance. The unit is responsible for risk management, business continuity, as well as electoral and legal matters.
- **Corporate Communications** – Protect and enhance the City of Perth's reputation, by developing and maintaining a constructive and engaging conversation between the City and its stakeholders.
- **Strategy and Partnership** – Provides advice on strategic planning to enable effective delivery of community goals. The unit is responsible for developing the City's Strategic Community Plan and Corporate Business Plan, as well as providing guidance to ensure an integrated planning approach.

The City of Perth's five directorates which carry out the core functions of the City are listed below:

- **Corporate Services**- which includes Human Resources, Finance, Information Technology, Data & Information and Asset Management.
- **Planning and Development** – which includes City Planning, Coordination & Design, Transport, Development Approvals and Sustainability.
- **Community and Commercial Services** – which includes Customer Service, Parking Services, Commercial Parking, Library, Community, Amenity & Safety, Community Services and Health & Activity Approvals.
- **Construction and Maintenance** – which includes Construction, Street Presentation & Maintenance, Waste & Cleaning, Parks, Properties and Plant & Equipment.
- **Economic Development and Activation** – which includes Economic Development, Marketing & Activation, Arts, Culture & Heritage and Business Support & Sponsorship.

The current governance structure of the City of Perth is presented in **Figure 2.1** below.

**FIGURE 2.1** CURRENT GOVERNANCE STRUCTURE



SOURCE: CITY OF PERTH

## 2.4 Strategic and Operational Plans

In addition to legislation, there are a series of policies and guidelines that require Local Government Authorities in Western Australia to produce a cohesive set of local area plans and strategies for the benefit of their citizens and businesses. These are discussed below.

The City of Perth Integrated Planning and Reporting Framework ('IPRF') (**Figure 2.2**) provides a structure that guides the development of the City's strategic direction and subsequent organisational activities. The framework satisfies the City's statutory planning responsibilities under the *Local Government Act 1995*. The Framework aims to encourage local governments to link with and influence planning by others – including regional planning bodies, State and Federal agencies and community organisations – that also impact on community outcomes.

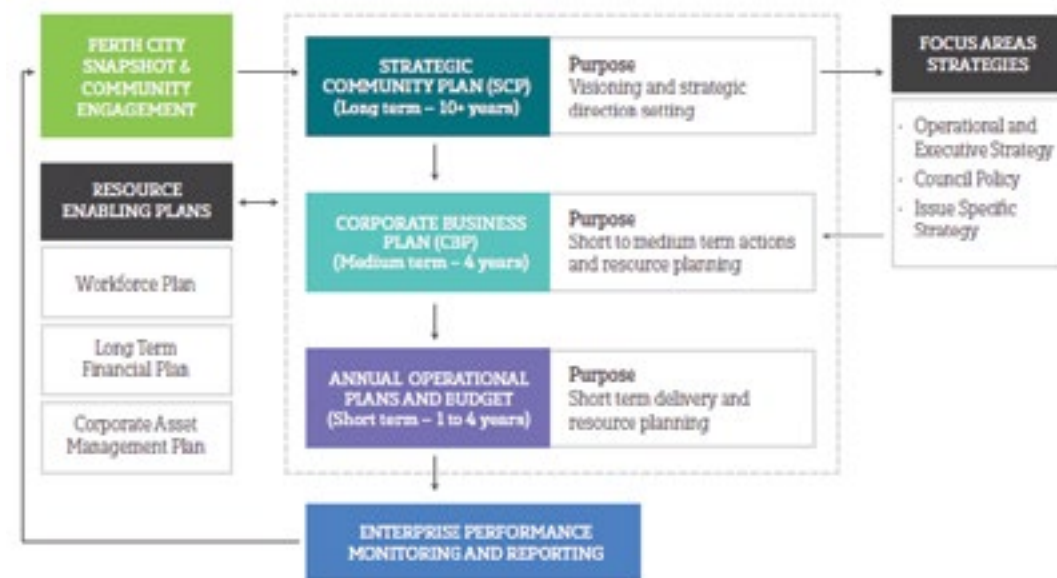
The intent of the Framework is to ensure the priorities and services provided by the City are aligned with the community's needs and aspirations. A comprehensive risk management approach is embedded in the Framework and considered at all levels of the planning cycle. The City's approach to risk management aligns to AS/NZS ISO 31000:2009 risk management principles and guidelines.

The *Local Government (Administration) Regulations 1996* requires each Local Government to adopt a Strategic Community Plan and a Corporate Business Plan.

### 2.4.1 Strategic Community Plan (Long Term – 10+ years)

The Strategic Community Plan is the organisation-wide strategy document for the City. It is a community facing strategy document that is refreshed every four years, and its purpose and function is defined under Regulation 19C of the *Local Government (Administration) Regulations 1996*.

FIGURE 2.2 CITY OF PERTH INTEGRATED PLANNING AND REPORTING FRAMEWORK



SOURCE: CITY OF PERTH

The City's current Strategic Community Plan, *Shaping Our Capital City*, was released in June 2017. The document sets out a 12-year vision for the City and presents eight goals required to achieve this vision:

- A city for people;
- An exceptionally well designed, functional and accessible city;
- A city connected to its natural beauty;
- A future focussed and resilient city;
- A prosperous city;
- A city that celebrates its diverse cultural identity;
- An open and engaged city; and
- A city that delivers for its community.

The Strategic Community Plan informs and ratifies Council policies and issue specific strategies<sup>1</sup> that the City use to narrow the area of focus for the delivery of initiatives and services to the community.

The *City of Perth Act 2016* has meant that the Strategic Community Plan broadens the scope of the City's focus to represent the state as a whole, as well as increasing the number of stakeholders engaged in the City's activities.

As an external facing document, the Strategic Community Plan is more of a vision setting document that articulates to the community the future of Perth City over the decade ahead. For each of the eight goals, the Plan articulates a set of Key Performance Indicators to track the City's progress against these goals.

<sup>1</sup> These include strategies such as the Lighting Strategy 2014, Looking West International Engagement Strategy 2014, Transport Strategy 2017 and Waste Strategy 2014-2024.

The Plan does not, however, articulate the actions that the City will undertake to achieve these goals. The actions are instead articulated in the City's Corporate Business Plan, which is discussed further below.

#### **2.4.2 Corporate Business Plan (Medium Term – 4 years)**

The Corporate Business Plan sets out the City's initiatives and activities over a four-year period, with an emphasis to delivering on the strategic goals set out in the Strategic Community Plan.

The 2017-2021 Corporate Business Plan was released following the Strategic Community Plan in June 2017.

The Corporate Business Plan is informed by the City's Workforce, Long Term Financial and Asset Management Plans. The Corporate Business Plan is also intended to guide the development of holistic strategies, business unit plans and the City's annual budget. The Corporate Business Plan is reviewed annually, as part of the corporate planning process that includes the development of the City's annual budget.

The Corporate Business Plan presents a series of actions against each of the eight goals from the Strategic Community Plan, with progress against each of these actions reported in the City's Annual Report.

#### **2.4.3 Annual Operational Plans and Budget (Short Term – 1 to 4 years)**

The Annual Report includes a snapshot of the performance of the City of Perth over the past year and an overview of the City's outlook for the future.

The Act requires that a local government is to, having regard for its Integrated Planning and Reporting documents, prepare an estimate of its upcoming expenditure, the revenue and income it will receive independent of rates, and the amount in rates required to make up any deficiency. This approach means that local governments are required to establish their budget by first determining the amount they wish to spend and then estimate the revenue sources required to fund this outlay.

The City produces a Quarterly Organisational Performance Report to provide an update on the progress of the City's Corporate Business Plan. This performance reporting assists with the continuous improvement of the City, the achievement of strategic goals and the delivery of improved services to the community.

#### **KEY FINDING 3 DEVELOPMENT OF ANNUAL BUDGET**

The *Local Government Act 1995* requires that local governments establish their budget by first determining the amount they wish to spend and then estimate the revenue sources required to fund this outlay. This requirement means that in order to ensure that local government are operating efficiently, strong controls over expenditure are required.

#### **2.4.4 Resource Enabling Plans**

The Workforce Plan, Long-Term Financial Plan and Corporate Asset Plan are used by the City of Perth to guide the delivery of the initiatives outlined in the Corporate Business Plan.

##### **Workforce Plan**

The Workforce Plan outlines the required resources, capabilities, and competencies the City of Perth requires to deliver against its objectives and to continue servicing the community.

The intent of the Workforce Plan is to ensure that employees are supported, resourced appropriately and provided with opportunities to develop their capabilities.

The 2017-2021 Workforce Plan is the latest version to be adopted by the City of Perth.

As it reads, the Workforce Plan is of limited value as a planning document. It is a high level statement of projected workforce requirements by Directorate over the period between 2017 to 2021, but it does not adequately articulate the business need over this period; nor does it provide any link to the City's budget or Corporate Business Plan.

#### Long Term Financial Plan

The ten-year Long Term Financial Plan assists the City to set priorities in accordance with its financial resources, through the allowance of key assumption-based analysis.

In terms of financial sustainability, the Plan seeks to ensure:

- strong cash flow capability;
- a diverse revenue base with rate increases being kept to a reasonable level;
- ability to meet financial commitments;
- prudent management of debt; and
- maintenance of the City's assets to an appropriate level.

The 2017-2027 Long Term Financial Plan is the latest version to be adopted by the City of Perth.

Like the Workforce Plan, the Long Term Financial Plan is of limited value as a planning document. It is a high level statement of the 10 year financial projections for the City, which is based on a series of high level assumptions that are not adequately reported in the Plan. The Long Term Financial Plan does not adequately articulate the business need to support these projections through more detailed projections of the City's revenue and expenditure projections by key business unit or Directorate. The Plan also does not provide any link to the City's other planning documents, particularly the Corporate Business Plan.

#### Corporate Asset Management Plan

The Corporate Asset Management Plan provides guidance on service provision and whole of life cycle asset management to inform the City's financial sustainability and key service levels.

The Corporate Asset Management Plan reports asset information collated from Individual Asset Management Plans prepared for each of the City's Asset Classes and presents an organisational plan for Asset Management improvement for the City.

The 2017-2027 Corporate Asset Management Plan is the latest version to be adopted by the City of Perth.

Like the other resource enabling plans, the Corporate Asset Management Plan is of limited value as a planning document. There is very little detail presented in the Plan to allow for an adequate assessment of the City's maintenance requirements or future capital requirements. Significantly, the Corporate Asset Management Plan does not provide any link to the City's other planning documents, particularly the Long Term Financial Plan, Corporate Business Plan or Strategic Community Plan.

#### Business Unit Plans

In addition to a range of City-wide plans, the *Local Government Act 1995* requires local government authorities to develop detailed plans for so-called "major trading undertaking" ("major undertaking"). In the Act, a major undertaking is defined as a defined activity which requires expenditure over a "prescribed amount" in a given financial year – although the "prescribed amount" is not defined in legislation. The *Local Government (Functions and General Regulations) 1996* state the amount prescribed for a major undertaking is an activity with an annual expenditure of over \$5 million. A local government authority is required to have a detailed business plan for all major undertakings.

In 2018, it was determined the **City of Perth Parking ('CPP') was a major undertaking**, and that the City was non-compliant with the Act as it did not have a business plan. This was a point of contention within the City, as because the CPP business pre dates the *Local Government Act 1995*, the City argued it did not require a business plan. However, the Council resolved to develop a business plan.

The plan which has been provided to ACIL Allen fails to address many material aspects of the CPP business and its future. This includes:

- no consideration of the cost to serve, and so no consideration of the profitability and future risks to profitability of the CPP undertaking;
- no forward capital works plan;
- no statement of impact on the broader City's finances, and the City-wide risks associated with over or underperformance of the undertaking; and
- no statement regarding competitive neutrality, noting it is not clear the City applies competitive neutrality principles to the undertaking (despite this being a clear situation where this is required).

Instead, the CPP business plan is centred on the total revenue generation of the CPP undertaking, and qualitative consideration of the economic and social benefits associated with the City's provision of parking in the City. We note from documents provided by the Inquiry<sup>2</sup> the City considers the current form of the business plan is adequate, although the Plan was not endorsed by the Council when it was included in its 6 July 2018 meeting.<sup>3</sup>

#### KEY FINDING 4 CPP MAJOR UNDERTAKING

The CPP fits the criteria of a "major undertaking" per the *Local Government Act 1995* and *Local Government (Functions and Regulations) 1996*. However, given the CPP major undertaking pre-dates the Act it's not clear the City is legally required to comply with this aspect of the Act and Regulations.

The City has prepared a business plan. The plan does not address the requirements of the Act, as it does not provide consideration of risk, costs, competitive neutrality or impact on the City's overall finances (except for revenue).

#### 2.4.5 Overall Assessment

The City of Perth IPRF is intended to provide the necessary structure to guide the development of the City's strategic direction, and is required as part of its statutory planning responsibilities under the *Local Government Act 1995*.

While the City of Perth's IPRF fulfils its statutory requirements under the Act, there is limited integration between these planning documents, and as a total framework it is unclear that it is an effective tool to guide decisions by the City.

In 2017, Deloitte was engaged to undertake a comprehensive assessment of the City's operations. In relation to the City's IPRF, the Deloitte report, *City of Perth Organisational Capability and Compliance Assessment*<sup>4</sup>, found that there was no clear alignment between the organisational strategy and business unit strategies. Based on interview feedback from directors and managers, the Deloitte report revealed that the Strategic Community Plan and Corporate Business Plan did not effectively capture the organisation's strategy, due to the absence of business as usual activities, insufficient target setting, and a lack of integration between the various strategy and planning documents. Without a clearly defined organisational strategy, this makes it difficult for the organisation to prioritise and manage its portfolio of services and investments.

<sup>2</sup> Inquiry into the City of Perth. 2019. Email from Ms Kathleen O'Brien to Mr Neil Douglas (McLeods Legal) regarding legal advice on CPP major undertaking business plan, 31 July 2018

<sup>3</sup> Inquiry into the City of Perth. 2019. Ordinary Council Meeting 6 July 2018, Item 13.4 – Business Plan for City of Perth Parking Major Trading Undertaking.

<sup>4</sup> Deloitte. 2017. *City of Perth Organisational Capability and Compliance Assessment* (pg 10). Provided to ACIL Allen by The Inquiry.

#### KEY FINDING 5 CITY OF PERTH INTEGRATED PLANNING AND REPORTING FRAMEWORK

The City of Perth Integrated Planning and Reporting Framework is intended to provide the necessary structure to guide the development of the City's strategic direction, and is required as part of its statutory planning responsibilities under the *Local Government Act 1995*.

While the City of Perth's IPRF fulfils its statutory requirements under the Act, there is limited integration of these planning documents. This is reinforced by an independent assessment of the City's organisational capability and compliance, which found the Strategic Community Plan and Corporate Business Plan did not effectively capture the organisation's strategy, due to the absence of business as usual activities, insufficient target setting, and a lack of integration between the various strategy and planning documents. Without a clearly defined organisational strategy, this makes it difficult for the organisation to prioritise and manage its portfolio of services and investments.



## 2.5 City of Perth Financial Framework

The City of Perth arranges its finances in a logical manner. It accounts for revenue and expenditure using a detailed general ledger, with 226 revenue and expense codes distributing revenue and expenses between 36 business units (which themselves are grouped to six directorates, that map to the City's organisational structure).

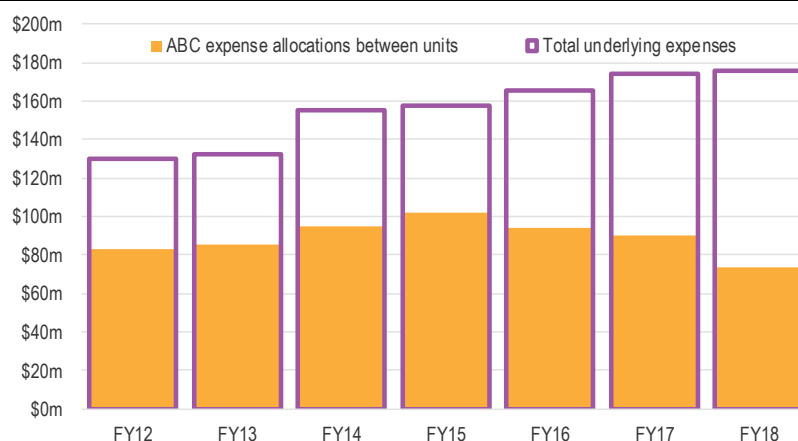
This first level of accounting captures the direct revenue and direct expenditure of each individual business unit. From here, the City employs an Activity Based Costing (ABC) framework, which shifts the revenue and expenditure between business units with an intent to reflect actual costs and revenue. Revenue and expenses are allocated as credit and debits to general ledger codes which are intended to reflect the direction of allocations. The allocation is a significant part of the City's financial framework; as demonstrated by the extent of the allocation as a share of the City's total expenditure (**Figure 2.3**). Between FY12 and FY18, the expense allocations between units has averaged 58 per cent of total expenditure.

ACIL Allen sought a policy document that outlined the rationale for the allocations, but none was available. Instead, ACIL Allen received a Microsoft Excel workbook with the present allocations, and a document titled "An introduction to the new ABC ETL.docx", which suggests the City's ABC is based on the floorspace occupied by each business unit.<sup>5</sup>

ACIL Allen did not analyse the City's ABC in detail as this is a significant body of work. However, ACIL Allen's high level observations suggest the City's approach to ABC is not based on sound principles, and appears to be instead used as a tool to undertake cost-shifting across the organisation.

<sup>5</sup> Inquiry into the City of Perth. 2019. Email from Mr Neil Jackson to Mr Ryan Buckland (ACIL Allen Consulting) regarding allocation of costs between business units, 24 April 2019

**FIGURE 2.3** CITY ABC ALLOCATION, TOTAL EXPENDITURE ALLOCATED BETWEEN BUSINESS UNITS, BY FINANCIAL YEAR, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN

#### KEY FINDING 6 CITY OF PERTH FINANCIAL FRAMEWORK

The City notionally applies Activity Based Costing to its finances, to shift revenue and expenditure between business units to reflect the true cost of service delivery. However, the City could not produce a document which outlined the basis of the allocations, despite the City's system allocating on average 57 per cent of total expenditure over the assessment period. ACIL Allen's high level observations suggest the City's approach to ABC is not based on sound principles, and appears to be instead used as a tool to undertake cost-shifting across the organisation.

## 2.6 Performance against Key Performance Indicators

The Strategic Community Plan outlines eight goals and corresponding strategic objectives. The Corporate Business Plan identifies the operational initiatives that the City have formulated to address the strategic objectives. The strategic objectives and corresponding operational initiatives have been focused through a set of key result areas. The Corporate Business Plan presents a set of key performance indicators for each key result area, which is presented in **Table 2.1** below:

**TABLE 2.1** KEY PERFORMANCE INDICATORS

| Key Result Area                            | Key Performance Indicators   |
|--|--|
| Greater liveability                        | <p>Increased Liveability Index Rating (source: The Economist Intelligence Unit)</p> <p>Greater than 75 per cent satisfaction in the Community Perception Survey</p> <p>Increase in 2 and 3 bedroom dwellings</p> <p>Increased residents to 28,700</p> <p>Completion of Wellington Square development</p> |
| Create a safer city                        | <p>Greater than 75 per cent satisfaction in the Community Perception Survey</p>  |
| Maintain and enhance the built environment | <p>Greater than 75 per cent satisfaction in the Community Perception Survey</p> <p>Delivery of a plan for Perth Concert Hall by June 2019</p>  |

| Key Result Area   | Key Performance Indicators   |
|---|--|
| Improve movements through and to the city                                       | Greater than 75 per cent satisfaction in the Community Perception Survey   |
| Improve, maintain and enhance the natural environment                           | Greater than 15 per cent increase in canopy cover<br>Increase people using open space by 10 per cent<br>Greater than 75 per cent satisfaction in the Community Perception Survey<br>Deliver the riverfront masterplan                                    |
| Be a leader in sustainable practices  | All City asset management plans to incorporate sustainable practices<br>Increase City-wide energy usage from renewable or low carbon sources<br>Increase number of social enterprises in the city  |
| Build business vibrancy   | Greater than 75 per cent satisfaction in the Community Perception Survey<br>Increase number of businesses with employees 1-4 to 3,940<br>Increase number of businesses with employees 5-19 to 1,896  |
| Deliver diverse cultural experiences  | Number of cultural institutions within City of Perth boundaries to increase<br>Greater than 75 per cent satisfaction in the Community Perception Survey  |
| Engage and collaborate with Aboriginal People                                   | Reconciliation Australia Endorse 'Reflect' RAP and reporting requirements met<br>Greater than 75 per cent satisfaction in the Community Perception Survey  |
| Engage with community, ratepayers and Citizens                                  | 95 per cent of projects apply the IAP2 Framework<br>Greater than 75 per cent satisfaction in the Community Perception Survey   |
| Create a customer centric organisation  | 100 per cent of complaints addressed within 10 working days<br>Customer satisfaction is 85 per cent<br>Net promoter score is >12<br>Internal service and collaboration key performance indicators developed  |
| Efficient and effective systems and processes to support performance and growth | Transformation project delivered on time and budget  |
| Organisation that is financially sustainable                                    | Operating surplus greater than or equal to 5 per cent<br>Current ratio greater than or equal to 0.7<br>Debt service cover ratio greater than or equal to ratio of 2<br>10 per cent controllable cost reduction<br>97 per cent asset sustainability ratio |
| Organisational culture aligned to its values and purpose                        | Transformation project delivered on time and budget.   |

SOURCE: CITY OF PERTH

The City's Quarterly Performance Report provides a status update (Not on track, Monitor, On track, Completed, Scheduled to commence) for each operational initiative, with an annual update of the City's performance as measured by the KPIs presented in the Annual Reports.

The KPIs are intended to provide the community with a broad assessment of the performance of the City of Perth 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 Outcome Based Management (OBM) performance management framework has been a feature of Western Australian public sector governance for appropriation-funded agencies since 1998. These guidelines were last updated by the Department of Treasury in 2017. The guidelines provide information for public sector agencies on the characteristics of good key performance indicators, establishing key performance indicators and the process of developing key performance indicators.

In the design of KPIs, the Department of Treasury advocates that adherence to the SMART principles is a measure that can be used by an agency to assess KPIs:

- Specific: the indicator outcome is clear and well defined;
- Measurable: the indicator outcome is quantifiable, and its progress can be measured;
- Attainable: the indicator outcome is realistic, and is not out of reach or below standard performance;
- Relevant – the indicator outcome will contribute to driving the overall performance of the agency/organisation forward; and
- Time-bound – the indicator outcome is to be achieved within a reasonable timeframe.

The Department of Treasury categorises key performance indicators into two categories:

- Effectiveness indicators – These indicators help to determine if the agency's desired outcomes have been achieved through service delivery.
- Efficiency indicators – These indicators monitor the relationship between the services delivered and the resources used to produce the service.

While it is outside the scope of ACIL Allen's review to undertake a detailed assessment of the City's KPIs, in the context of its review of the City's finances, the chief concern is the limited financial metrics that are reported to understand business performance.

The City's suite of KPIs are primarily effectiveness metrics that use broad economic metrics or the City's annual Community Perceptions Survey to measure performance.

The key performance indicators that the City currently has in place relating to financial performance provide a perspective on the efficiency of the City in the delivery of its services to the community. These financial KPIs are a subset of the financial indicators that local governments are required to report on under Western Australia *Local Government (Financial Management) Regulations*. **Table 2.2** presents these seven financial indicators, along with the benchmark level as provided on the My Council website, the benchmark level used by the City of Perth for these indicators (if specified in strategic documents) and the performance of the City of Perth under the financial indicators in 2017-18 (as reported on the My Council website).

ACIL Allen was unable to source a benchmark that has been set by the City of Perth for the asset consumption ratio, asset renewal funding ratio and own source revenue coverage ratio.

**TABLE 2.2** LOCAL GOVERNMENT REPORTING – FINANCIAL INDICATORS

| Financial Indicator               | My Council Benchmark | COP Benchmark | COP Performance (2017-18) | Definition   |
|-----------------------------------|----------------------|---------------|---------------------------|--|
| Current ratio                     | ≥ 1.00               | ≥ 0.7         | 1.2                       | Current assets minus restricted assets relative to current liabilities minus liabilities associated with restricted assets.  |
| Asset consumption ratio           | ≥ 0.5                | NA            | 0.6                       | Depreciated replacement cost of depreciable assets relative to current replacement cost of depreciable assets.   |
| Asset renewal funding ratio       | ≥ 0.75               | NA            | 1.00                      | Net present value of planned capital renewals over 10 years relative to net present value of asset management plan estimated required capital expenditure over 10 years. |
| Asset sustainability ratio        | ≥ 0.9                | 0.97          | 0.72                      | Capital renewal and replacement expenditure relative to depreciation.  |
| Debt service cover ratio          | ≥ 2.00               | ≥ 2.00        | 7.33                      | Annual operating surplus before interest and depreciation relative to principal and interest.  |
| Operating surplus ratio           | ≥ 0.01               | ≥ 0.05        | 0.04                      | Operating revenue minus operating expenses relative to own source operating revenue  |
| Own source revenue coverage ratio | ≥ 0.4                | NA            | 1.03                      | Own source operating revenue relative to operating expenses.   |

SOURCE: WALGA – IMPROVING FINANCIAL SUSTAINABILITY FOR LOCAL GOVERNMENT, MY COUNCIL, CITY OF PERTH

For 2017-18, the My Council website reports that the City of Perth met the benchmark for six out of seven of the financial indicators. The City did not meet the benchmark for the asset sustainability ratio. In the context of this review of the City's finances, the ratios described above have limited application as they do not adequately assess the efficiency of the City in the delivery of services to the community. In order to gain a better appreciation as to how efficient the City is in its operations and in the delivery of its key services, it is important to understand, for example:

- Administration costs as a proportion of total expenditure;
- Administration costs as a proportion of the total expenditure by Directorate/business unit;
- Staff headcount as a proportion of total expenditure
- Staff headcount by Directorate/business unit; and
- Costs to deliver key services.

The next section of this report will analyse the City's financial performance, with a particular focus on the trends in expenditure by function.

#### KEY FINDING 7 CITY OF PERTH KEY PERFORMANCE INDICATORS

The KPIs are intended to provide the community with a broad assessment of the performance of the City of Perth 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 performance are a subset of the financial indicators that local governments are required to report on under Western Australia *Local Government (Financial Management) Regulations*.

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.

#### 2.6.1 Capital City Local Government KPI Comparisons

To support this review, ACIL Allen has reviewed the key performance indicators of the City of Melbourne and City of Sydney that are used to measure financial performance.

##### City of Melbourne

The City of Melbourne's financial performance indicators are detailed in its Annual Plan and Budget (Table 2.3), with forecasts provided for each of these indicators in the 2018-19 Annual Plan and Budget through to 2021-22. While the City of Melbourne's reported financial indicators provide a better suite of indicators to assess its overall financial health, the key limitation is the absence of a performance benchmark for each indicator. Instead, the City of Melbourne assesses its performance against each indicator on a scale of a 'budgeted increasing trend', 'neutral' or 'budgeted decreasing trend'.

Like the City of Perth, the City of Melbourne's financial performance indicators are weighted towards assessing its performance from a balance sheet or asset position, however also included are efficiency KPIs that look at its performance from a rates perspective (rates revenue as a proportion of the number of residential property assessments) and in relation to expenditure levels (expenses as a proportion of the number of residential property assessments).

TABLE 2.3 CITY OF MELBOURNE – FINANCIAL PERFORMANCE INDICATORS

| Focus Area                 | Measure  |
|----------------------------|--|
| Adjusted underlying result | Underlying surplus (deficit)/underlying revenue    |
| Working Capital            | Current assets/Current Liabilities                 |
| Cash Ratio                 | Cash and cash equivalents/Current Liabilities      |
| Loans and borrowings       | Interest bearing loans and borrowings/rate revenue |

| Focus Area           | Measure  |
|----------------------|--|
| Loans and borrowings | Interest and principal repayments on interest bearing loans and borrowings/rate revenue                          |
| Indebtedness         | Non-current liabilities/own source revenue   |
| Asset renewal        | Asset renewal expense/Asset depreciation   |
| Rates concentration  | Rates revenue/adjusted underlying revenue  |
| Rates effort         | Rates revenue/CIV of rateable properties in the municipality   |
| Expenditure level    | Total Expenses/number of property assessments  |
| Revenue level        | Residential rate revenue/number of residential property assessments  |
| Workforce turnover   | Number of permanent staff resignations and terminations/Average number of permanent staff for the financial year |

SOURCE: CITY OF MELBOURNE – 2018-19 ANNUAL PLAN AND BUDGET – APPENDIX D

### City of Sydney

The City of Sydney provides an update on the City's performance in respect to the mandated Office of Local Government Performance measures in its Operational Plan, which is detailed in **Table 2.4** below. Overall, the City of Sydney's suite of KPIs provides a balance between its operating performance (revenue, expenditure, operating position) and asset position (asset renewal ratio, infrastructure backlog ratio, asset maintenance ratio, debt service ratio). In the context of the review of the City of Perth's financial indicators, it is noteworthy that the City of Sydney includes a key financial KPI related to expenditure (real operating expenditure per capita), which can help to assess the efficiency at which the City of Sydney operates.

**TABLE 2.4** CITY OF SYDNEY – FINANCIAL PERFORMANCE INDICATORS

| Measure   | Formula   |
|---|---|
| Operating Performance Ratio                     | Operating Revenue (excl Capital Grants & Contributions) less Operating Expenses/Operating Revenue (excl Capital Grants & Contributions)   |
| Own Source Revenue                              | Total continuing operating revenue less all grants and contributions/Total Operating Revenue (inclusive of Capital Grants and Contributions)  |
| Building and Infrastructure Asset Renewal Ratio | Actual Asset Renewals/Required Renewal of Building and Infrastructure Assets  |
| Infrastructure Backlog Ratio                    | Estimated Costs to Bring Assets to a Satisfactory Standard/Written Down Value of Infrastructure (incl roads and drainage costs), Building, Other Structures and Depreciable Land Improvement Assets |
| Asset Maintenance Ratio                         | Actual Asset Maintenance/Required Asset Maintenance   |
| Debt Service Ratio                              | Principal Repayments (from Statement of Cash Flows) plus Borrowing Interest Costs (from the income statement)/Operating Results before Interest and Depreciation (EBITDA)                           |
| Real Operating Expenditure per Capita           | Real Operating Expenditure/Residential Population of Local Government Area  |

SOURCE: CITY OF SYDNEY – 2018-19 OPERATIONAL PLAN

**KEY FINDING 8 FINANCIAL GOVERNANCE COMPARISONS**

A review of the KPIs used to measure the financial performance of the City of Melbourne and the City of Sydney has found that they both have KPIs that track financial performance from an efficiency perspective through a focus on expenditure levels and growth. This supports ACIL Allen's assessment that the City of Perth's KPIs do not have an adequate focus on efficiency from a financial governance perspective.





This section discusses the high-level financial performance of the City of Perth over the period 2011-12 to 2017-18, reflecting the period the City was able to provide comprehensive financial accounts to ACIL Allen. The analysis presented below reflects the findings of ACIL Allen's review of the data provided by the City only.

### 3.1 Introduction

ACIL Allen has reviewed the financial accounts of the City of Perth for the period 2011-12 to 2017-18, to describe how the City's financial circumstances have changed over this period. The analysis period extends further than the period of the Inquiry, reflecting the need to take a longer-term view of the City's financial performance to provide the appropriate context.

To progress this review, ACIL Allen received the following information from the City of Perth:

- A summary general ledger for the City's operating units on a financial year basis for the period 2011-12 to 2017-18;
- A high-level overhead cost allocation framework;
- Summary cashflow statements for the City as a consolidated entity for the period 2011-12 to 2017-18;
- Detailed balance sheet for the City as a consolidated entity for the period 2011-12 to 2017-18; and
- A more granular general ledger for the Commercial Parking business unit.

The analysis below has been conducted independent of any review or advice from the City.

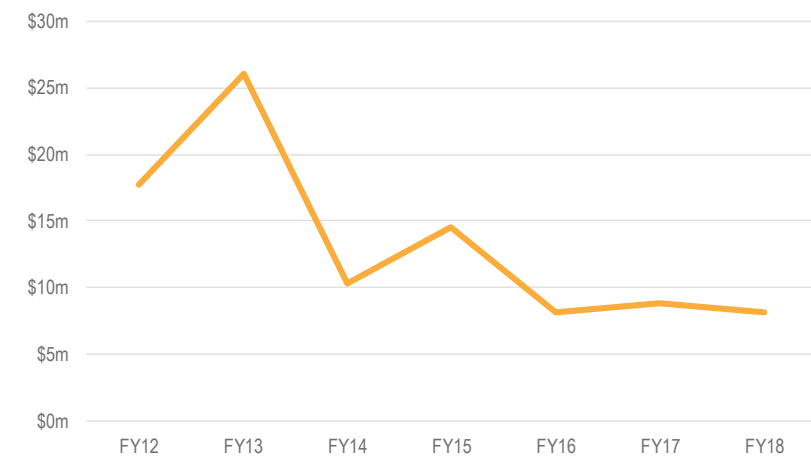
### 3.2 Operating position

The operating position of the City of Perth reflects the City's ability to fund the day to day operations of the City, and services provided within the council area. At a headline level the City's financial performance has been deteriorating over time. However, this reflects a number of changes to both its revenue and expenditure bases, which are discussed in later sections.

The City of Perth's operating position (operating revenue less operating expenditure) has narrowed over the past seven years, falling from a peak of \$26.1 million in 2012-13 to \$8.2 million in 2017-18 (**Figure 3.1**). The deterioration in the City's operating position comes despite growth in total operating revenue from \$169.2 million in 2012-13 to \$201.9 million in 2017-18 (+\$32.8 million), with operating expenditure growing from \$143.2 million to \$193.8 million (+\$50.7 million) over the same period.

The City's gross operating margin on own-source revenue has shrunk from 12 per cent in 2011-12 to 4.4 per cent in 2017-18.

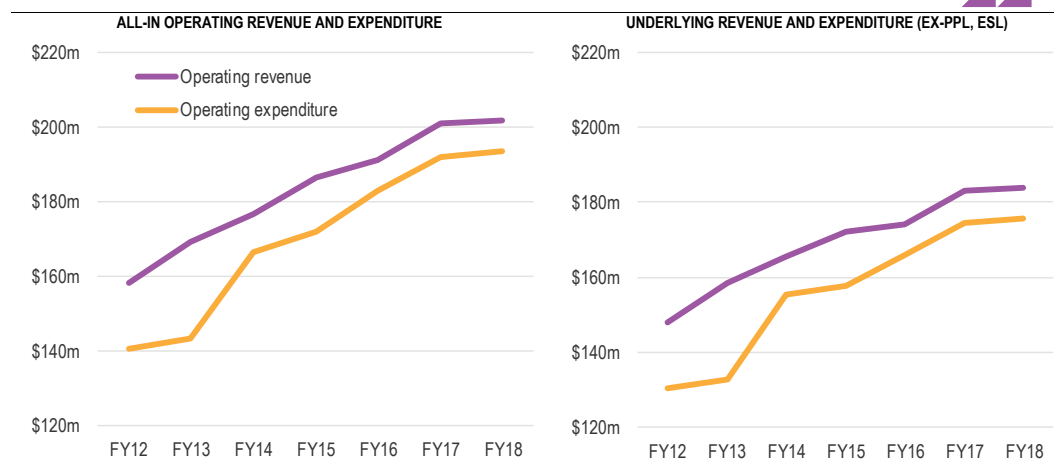
**FIGURE 3.1** CITY OF PERTH OPERATING POSITION, BY YEAR, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN CONSULTING

The City's operating position as presented above includes the collection and pass through of two State Government taxes: the Perth Parking Levy ('PPL') and the Emergency Services Levy ('ESL'). Removing these two taxes from the City's revenue and expenditure yields the same operating position, but provides a more accurate picture of the City's underlying revenue and expenditure performance. These are presented below (Figure 3.2).

**FIGURE 3.2** CITY OF PERTH REVENUE AND EXPENDITURE, ALL-IN VS UNDERLYING, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN CONSULTING

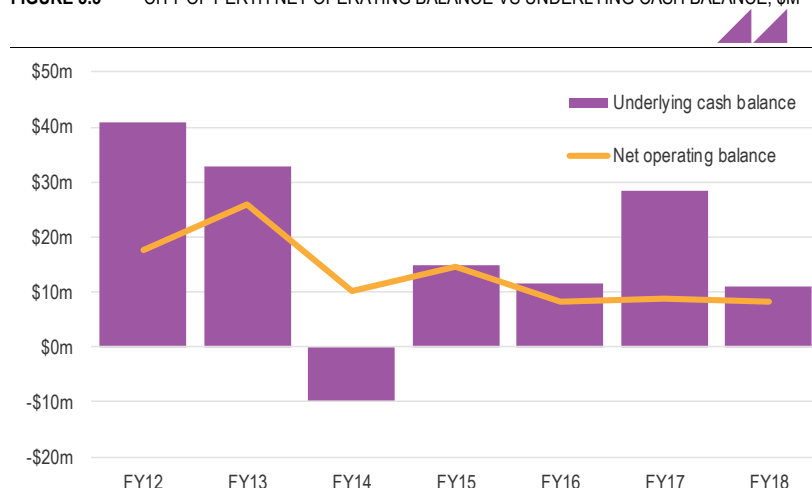
Removing the impact of the PPL and ESL, over the past seven years the City's operating revenue has increased by 17 per cent (\$25.2 million), while its operating expenditure has increased by 33.1 per cent (\$43.1 million). The drivers of these two outcomes are discussed below.

#### KEY FINDING 9 NARROWING OPERATING SURPLUSES

The City's operating surpluses have been shrinking over the assessment period, narrowing to just \$8.2 million in 2017-18. This represents an operating surplus margin of just 4.4 per cent of own-source revenue, compared to surpluses of over ten per cent earlier in the assessment period.

On an underlying cash balance basis (which reflects the City's own cash outlays versus cash receipts), its surpluses have also narrowed in recent years, particularly compared to the first two years of the assessment period. According to ACIL Allen's calculations (**Figure 3.3**), the City's underlying cash balance for the 2017-18 financial year was \$11.1 million, its lowest cash surplus over the assessment period (excluding the deficit in 2013-14 when the City made a cash contribution to the State Government for the Perth City Link project).

**FIGURE 3.3** CITY OF PERTH NET OPERATING BALANCE VS UNDERLYING CASH BALANCE, \$M



Note: The Underlying Cash Balance is a calculation which appends the net operating balance by removing non-real expenditure (ie depreciation), and adds in cashflows related to non-cash asset purchases and government grants (which are not accounted for in the operating statement).

SOURCE: ACIL ALLEN CONSULTING

### 3.3 Revenue

The City raises revenue from a range of sources, including:

- Levying rates on properties within the City's geographic boundary;
- Providing a range of municipal services, including waste collection, on-street parking, a library and information search services;
- Renting out a number of City-owned premises, on both short-term and long-term rental basis;
- Collecting fees for the licencing of regulated activities, such as food services, outdoor dining and building permits;
- Collecting fines for non-compliance with regulations, including the Health Act and local parking laws;
- Providing additional non-municipal services, including a childcare centre, a rest centre and a podiatry business;
- Earning interest on financial reserves;

- Receiving grants and subsidies from State and Commonwealth Governments, for both specific (tied) and general (untied) purposes; and
- Provision of off-street parking services, under the City of Perth Parking ('CPP') brand.

### 3.3.1 Overall revenue trends

The City's overall operating revenue has increased from \$158.4 million in 2011-12 to \$201.9 million in 2017-18, for average growth of 4.2 per cent per annum over the assessment period. As discussed above, the City's operating revenue includes collection of State Government taxes (the PPL and ESL), which are then passed on to the State Government. Removing these from the City's revenue base shows the City's overall underlying revenue<sup>6</sup> has grown from \$148.1 million to \$183.9 million, for average growth of 3.7 per cent per annum.

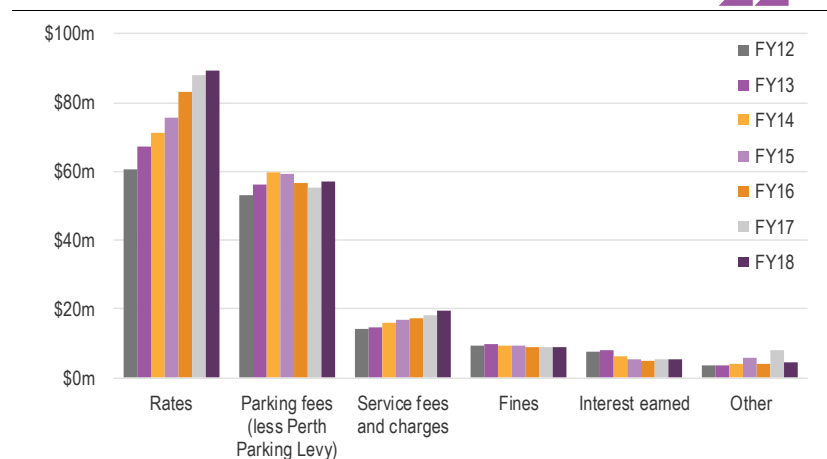
The City's underlying revenue growth of 3.7 per cent per annum is 2.2 percentage points faster than the Perth Consumer Price Index over the same period. It also comes as property asset prices have generally fallen back to pre-resources boom levels after peaking between 2012 and 2014. All things being equal, this suggests there has been an increase in "revenue effort" by the City, meaning it has sought to increase its revenue base by taking actions to increase its capture of activity in its local area.

#### KEY FINDING 10 UNDERLYING REVENUE GROWTH

The City's underlying revenue growth has averaged 3.7 per cent per annum over the assessment period. This is in excess of growth in the Perth Consumer Price Index, suggesting there has been an increase in the "revenue effort" by the City over the assessment period.

As **Figure 3.4** shows, the City's major source of revenue is rates revenue, accounting for \$88.9 million, or 49 per cent, of total revenue in 2017-18 (up from 41 per cent in 2011-12).

**FIGURE 3.4** CITY OF PERTH REVENUE TRENDS, BY KEY CATEGORY, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN

The other major source of City revenue is from parking fees (both on-street and off-street, less the PPL), accounting for \$56.9 million, or 31 per cent, of total revenue (down from 36 per cent). Unlike the

<sup>6</sup> From this point, "revenue" refers to the City's revenue less the Perth Parking Levy and the Emergency Services Levy

City's rates revenue, the City's parking revenue has been broadly unchanged over the assessment period.

The City's municipal and non-municipal services revenue has grown to account for \$19.4 million, or 10.6 per cent, of revenue in 2017-18 (up from 8.8 per cent). All other City of Perth revenue sources account for a combined 10 per cent of total operating revenue in 2017-18, down from 14 per cent in 2011-12. The decline in other revenue lines is mostly attributable to faster growth in rates and service fees and charges, and a fall in interest revenue.

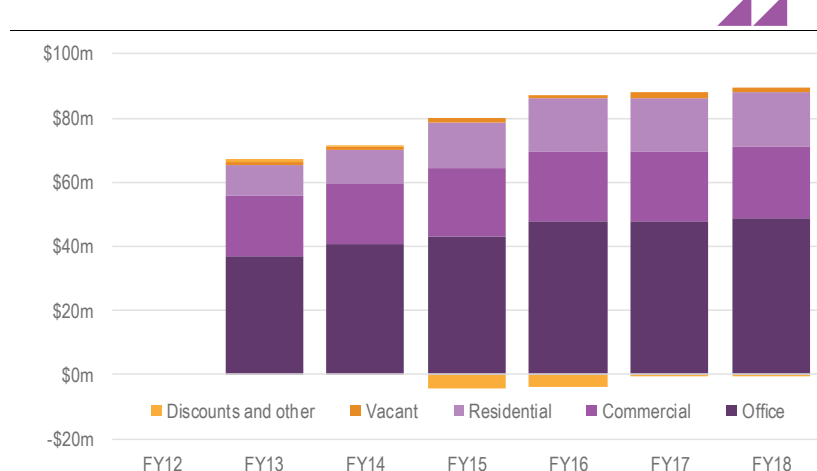
### 3.3.2 Rates

Municipal rates is the City's largest source of both revenue and revenue growth, with rates revenue rising from \$60.8 million in 2011-12 to \$89.5 million in 2017-18. The City's rates revenue has increased by an average of 6.7 per cent per annum, or an average of \$4.8 million of incremental growth each year over the assessment period.

The City levies its rates on the land value of properties within its jurisdiction, at differential rates intended to incentivise the highest and best use of land given various City planning policies and regimes. More information on the City's current and historic approach to rate setting is included in Section 5.

Over the assessment period, the City's rates revenue from Office properties represented the largest proportion of total rents, with \$48.6 million in rates raised in 2017-18 (54.2 per cent of total rates revenue). This was followed by rates on Commercial properties (all properties which were not principally office spaces or residential properties), with these rates raising \$22.5 million. Rates on Residential properties raised \$17.1 million, while rates on Vacant Land raised \$1.5 million (Figure 3.5).

**FIGURE 3.5** CITY OF PERTH MUNICIPAL RATES, BY PROPERTY TYPE, \$M PER ANNUM



Note: Data on rates by property type was only made available for the period 2012-13 to 2017-18

SOURCE: CITY OF PERTH, ACIL ALLEN

There has been a strong shift in the composition of the City's rate base towards Residential properties over the assessment period, with Residential property rates increasing from \$9.7 million to \$17.1 million (+76.8 per cent). Between 2013-14 and 2017-18 – the period where rates values were made available to ACIL Allen – the City's rate on Residential properties increased by 38 per cent, against revenue growth of 63.1 per cent. Further discussion regarding the City's municipal rates is included in Section 5.

#### KEY FINDING 11 MUNICIPAL RATES

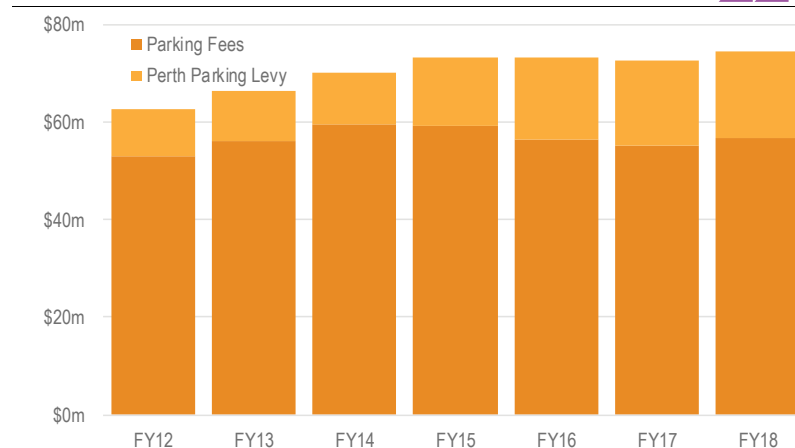
Municipal rates account for the largest share of the City's own-source revenue. Over the assessment period the City has significantly increased the rates value for Residential and Office properties in its jurisdiction, which is the main contributor to rates revenue growth of 6.7 per cent per annum.

#### 3.3.3 Parking fees

The City provides a range of parking services, both on-street and off-street in a range of complexes across the City's jurisdiction. The City also provides parking services (revenue collection and enforcement) for the Town of Victoria Park, and at a facility in the City of Nedlands.

Overall the City raised \$74.6 million of revenue from parking fees and services in the 2017-18 financial year, up from \$62.8 million in 2011-12. This line of revenue has grown by 2.9 per cent per annum over the period. However, most of this growth has come from increases in the Perth Parking Levy, which accounts for two thirds of the total growth in the City's parking services revenue over the period (Figure 3.6).

FIGURE 3.6 CITY OF PERTH PARKING SERVICES REVENUE, FEES VS PPL, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN

This revenue does not include parking fines, which are discussed further below. The City of Perth Parking ('CPP') business is discussed in more detail in Section 4.

#### KEY FINDING 12 PARKING FEES

At a headline level parking services revenue has been increasing over the assessment period. However, almost all of this growth has been driven by increases in the State Government's Perth Parking Levy, which is collected by the City and passed on to the State Government. Actual parking revenue generated by the City has been broadly flat over the period, growing by just 1.3 per cent per annum.

### 3.3.4 Municipal and non-municipal services

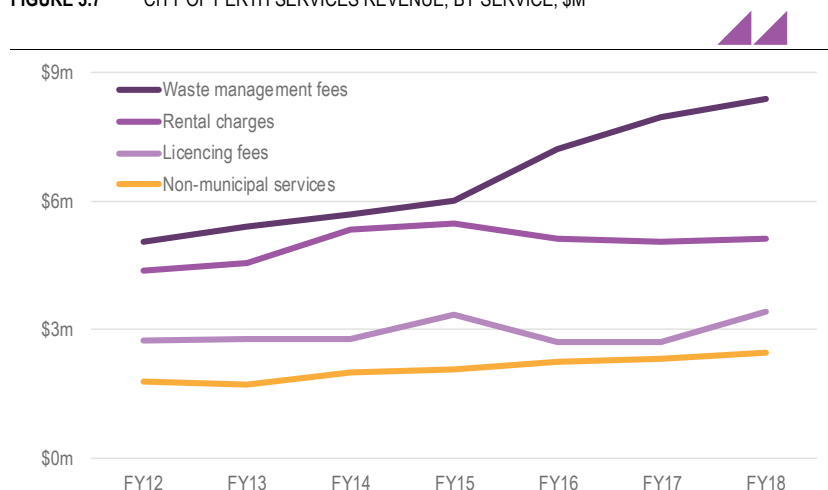
The City provides a range of services to businesses and residents of the City, and visitors to the City (however these are relatively small in scale compared to the services provided to residents). A breakdown of the services revenue raised by the City over the assessment period is presented in Figure 3.7.

The largest area of services revenue is waste management fees, which totalled \$8.4 million in 2017-18 (43 per cent of total services revenue). Waste management fees have grown strongly in recent years, rising by an average of 8.9 per cent per annum over the assessment period, making it the fastest growing sources of City revenue (albeit from a relatively low base of \$5.1 million in 2011-12).

The City's fees and charges associated with renting a variety of properties and facilities owned by the City is the second largest source of services revenue, raising \$5.1 million in 2017-18 (26 per cent of total services revenue). Growth in this service line has been more modest at 2.8 per cent per annum over the assessment period, which is broadly in line with the Perth Consumer Price Index over this time.

In its role as a regulator, the City raises revenue from the granting of permits for a range of activities including food services and construction. This service line raised \$3.4 million in revenue for the City in 2017-18, or 18 per cent of total services revenue. Finally, the City provides a range of non-standard services, principally a "rest centre" and childcare service at the Perth Train Station precinct. These non-municipal services raised \$2.5 million in revenue for the City, accounting for 13 per cent of total services revenue.

**FIGURE 3.7** CITY OF PERTH SERVICES REVENUE, BY SERVICE, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN

### 3.3.5 Fines

The City issued \$8.7 million in fines in 2017-18, with the vast majority (99 per cent) of these being parking fines. The balance (\$110,000) were fines issued from the Community Amenity and Safety Unit and the Health and Activity Approvals Unit. The City's fines revenue has declined modestly over the analysis period, falling from \$9.3 million in 2011-12.

### 3.4 Expenditure

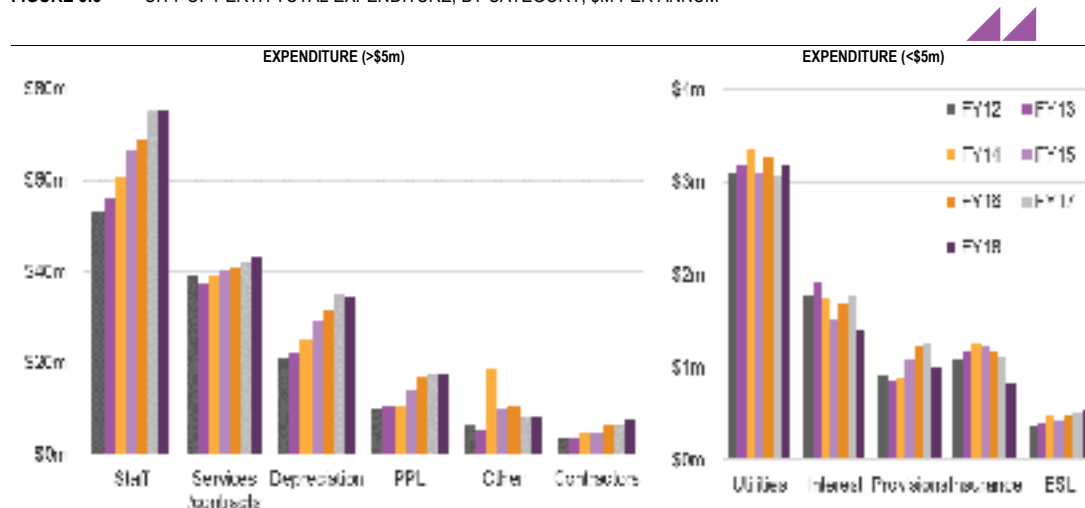
As a local government, the City has a range of services it is required by law to provide to its citizens and businesses operating in its jurisdiction. These include waste collection, maintenance of public areas and parks, on-street parking services, building and food service activity approvals, and application of other regulations (such as signage). In addition, the City of Perth provides a range of other services and conducts a number of additional activities, which are more in keeping with its role and ambition as a “capital city” local government – including hosting and administering significant events, economic development and promotion activities, international engagement, sustainability and support for businesses.

The City organises itself in a range of business units, which have changed multiple times in recent years. In addition, the City undertakes a large-scale and complex cost allocation exercise across each of its business units. The analysis in this section centres mostly on the overall expenditure trends of the City as a consolidated entity, with business unit level expenditure provided where it can add additional context.

#### 3.4.1 Overall expenditure trends

Overall, the City of Perth’s total operating expenditure has increased from \$140.6 million in 2011-12 to \$193.8 million in 2017-18, with annual average growth of 5.6 per cent over the assessment period. ACIL Allen’s classification of the City’s total expenditure by major line item is presented below (Figure 3.8).

**FIGURE 3.8** CITY OF PERTH TOTAL EXPENDITURE, BY CATEGORY, \$M PER ANNUM



SOURCE: CITY OF PERTH, ACIL ALLEN

Growth in the City’s expenditure over the assessment period has been driven almost entirely by four expenditure groups. These are:

- Direct staff expenditure, increasing from \$53.4 million in 2011-12 to \$75.4 million in 2017-18 (six per cent per annum). This has accounted for 41 per cent of the City’s total expenditure growth.
- Depreciation expenses, increasing from \$21.1 million to \$34.7 million (8.8 per cent per annum). This has accounted for 26 per cent of the City’s total expenditure growth.
- The Perth Parking Levy, increasing from \$9.9 million to \$17.7 million (10.7 per cent per annum). This has accounted for 15 per cent of the City’s total expenditure growth.

- Contract labour expenditure, increasing from \$3.5 million to \$7.7 million (15.7 per cent per annum). This has accounted for eight per cent of the City's total expenditure growth.

These four expenditure items account for 89 per cent of the City's total expenditure growth over the assessment period, despite accounting for 69 per cent of total expenditure in 2017-18. The remaining 31 per cent of the City's expenditure base account accounts for just 11 per cent of total expenditure growth.

Given the Perth Parking Levy expenditure represents the pass through of a State Government tax, and the City's depreciation charge is an accounting expense rather than a real expense, it is clear growth in the City's controlled expenditure base has been largely driven by staff costs – both direct staff and contract staff – over the assessment period. This is discussed in more detail below.

#### KEY FINDING 13 OVERALL EXPENDITURE TRENDS

The four largest expenditure growth areas of the City – direct staffing costs, depreciation, the Perth Parking Levy and contract labour – account for close to nine in every ten dollars of expenditure growth in the City over the assessment period. By comparison, these four categories made up just under 70 per cent of total City expenditure in 2017-18.

### 3.4.2 Staff and contract labour

The City's labour expenditure has made the largest contribution to its expenditure growth over the past seven years, growing from a combined \$56.8 million to \$83.1 million over the assessment period. This has seen staff and contract labour costs rise from 40 per cent to 43 per cent of the City's total expenditure, or from 43 per cent to 47 per cent when the PPL and ESL are removed from expenditure. Some aspects of this growth are discussed below where information was made available to ACIL Allen.

#### Direct staff

Direct staff expenditure includes the City's wages and superannuation charges, in addition to ancillary employment expenditure such as annual and personal leave, workers compensation insurance premiums and redundancy payments. The City's direct staff costs have increased from \$53.4 million in 2011-12 to \$75.4 million in 2017-18, or a rate of six per cent per annum. This has accounted for 41 per cent of the City's total expenditure growth over the assessment period.

#### KEY FINDING 14 EMPLOYMENT COST GROWTH

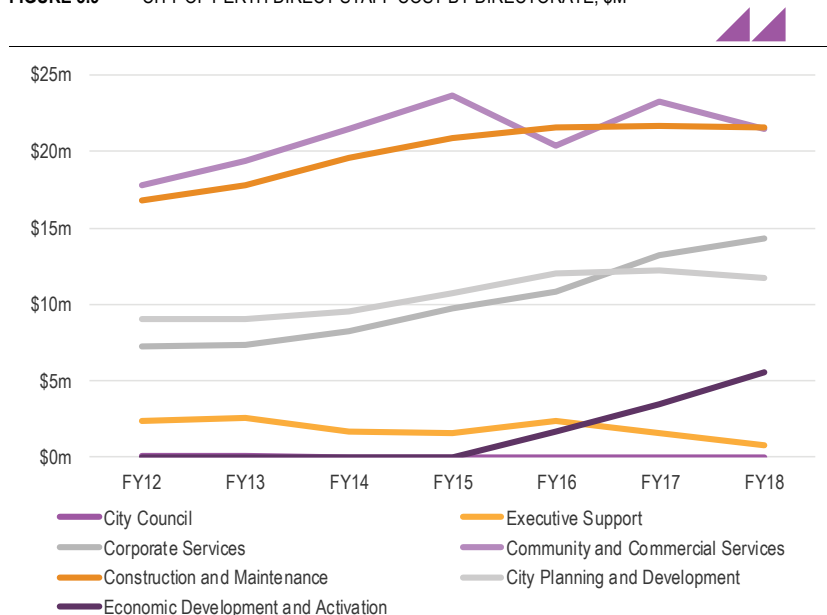
The City's direct staff expenditure has increased by six per cent per annum over the assessment period, accounting for 41 per cent of overall City expenditure growth.

The City does not have a long-term record of staff or contract labour in terms of Full Time Equivalent (FTE) or headcount, at a total City level or an individual business unit level. In addition, there have been two substantial restructures which make tracking the underlying growth in employment costs challenging.

In the 2017-18 financial year, the largest direct staff cost business unit was the Commercial Parking Unit (which manages the CPP-branded off street parking and parking services provided to non-City of Perth parking facilities), with \$5.4 million of direct staff costs. The next largest was the Parking Services Unit (which manages the City's on-street parking and enforcement activities), with \$5.1 million of direct staffing costs. Other business units with large (greater than five per cent of total City direct staffing costs) direct staffing contingents include the Waste and Cleansing Unit (\$4.8 million), Parks Unit (\$4.4 million), and Community Services Unit (\$4.0 million).

For units which have carried over the assessment period (21 units), direct staff costs have increased the fastest for the Director Construction and Maintenance Unit (+250 per cent, although this may be driven by one off costs in the 2017-18 financial year), Library Services Unit (+121.7 per cent), Properties Unit (+77.6 per cent), Economic Development Unit (+75.6 per cent) and Human Resources Unit (+65.1 per cent). A number of units have seen a reduction in overall direct staff costs, including Executive Support, Director Community and Commercial Services, Parking Services, Street Presentation and Maintenance, City Planning, Development Approvals and Coordination and Design. The City arranges its Units into seven overarching Directorates. Direct staff cost trends for each of those Directorates are presented below (Figure 3.9).

**FIGURE 3.9** CITY OF PERTH DIRECT STAFF COST BY DIRECTORATE, \$M



SOURCE: CITY OF PERTH, ACIL ALLEN

The Corporate Services Directorate (which groups units centred on administrative functions like IT, human resources and asset management) has seen the fastest growth in direct staff costs at 96.3 per cent over the assessment period. Other units have experienced more modest growth, of between 20.7 per cent (Community and Commercial Services) and 29.5 per cent (City Planning and Development).

The Economic Development and Activation Directorate was created following the 2015-16 restructure. This Directorate saw direct staff costs increase from zero in 2014-15 to \$5.5 million in 2017-18 – growth which has occurred with limited offset from other Directorates (as demonstrated below).

As discussed above, the City has very limited information regarding staff headcount, on either an FTE or actual headcount basis, both for current activity levels and for past periods. The City produced estimates of budgeted (not actual) FTE employment by business unit for the period 2015-16 to 2019-20. This data was considered unreliable and was not considered further.

It is evident from ACIL Allen's experience seeking this information that the City lacks a centralised workforce management function that would allow human resources management activities such as headcount tracking to take place. This lack of information may have been a contributing factor behind the City's significant increase in employment costs in recent years.

#### KEY FINDING 15 FTE/HEADCOUNT INFORMATION

The City was unable to produce a reliable estimate of actual staff headcount – on an FTE or actual headcount basis – for the assessment period. The data that was made available regarding staff levels was pulled together on an ad-hoc basis and represented the collation of *budgeted* staff levels (rather than actual staff levels) for a four-year period, two years of which were outside of the assessment period. In addition, there appear to be no controls (such as a KPI or simple target) regarding headcount or FTEs at an overall or business unit level. This lack of centralised HR management information, and lack of management information/targets, are likely to be contributing to the substantial growth in the City's direct employment and contractor costs.

#### Contractors

The City accounts for contract labour using three general ledger accounts: 7128 (Internal Contract Labour), 7232 (External Contract Labour) and 7268 (Contractors). Summing the expenditure recorded in each of these accounts provides an indication of the extent of contractor use by the City over the assessment period.

Overall, expenditure on contract labour has increased from \$3.5 million in 2011-12 to \$7.7 million in 2017-18, for growth of 123.9 per cent. As discussed above, this accounted for close to ten per cent of the City's total expenditure growth over the assessment period, a significant escalation from 2011-12 when contractor costs represented 2.5 per cent of total expenditure.

The Marketing and Events Unit has seen the fastest and largest growth in contractor expenditure, with \$2.8 million worth of contract labour expensed to these three accounts in the 2017-18 financial year. This is up from \$0.07 million in 2011-12. This Unit has accounted for 23 per cent of all contract labour expenditure over the assessment period, despite representing just over six per cent of total City expenditure.

Other significant users of contract labour in the 2017-18 financial year include the Waste and Cleansing Unit (\$1.2 million), Commercial Parking (\$0.8 million), Health and Activity Approvals (\$0.5 million), and the Arts, Culture and Heritage Unit (\$0.3 million).

Strong growth in the City's contract labour expenditure is occurring despite the City's expenditure on direct staff costs increasing at rates well in excess of a range of public sector staffing benchmarks. However, as ACIL Allen's scope is limited to a review based on the City's data only ACIL Allen cannot draw a more definitive conclusion regarding the use of contract labour by the City beyond noting it has increased substantially in recent years.

#### KEY FINDING 16 USE OF CONTRACT LABOUR

The City's expenditure on contract labour has more than doubled over the assessment period, from \$3.5 million to \$7.7 million. Despite coming from a small base of approximately two per cent of the City's expenditure in 2011-12, growth in the use of contract labour is the third largest single contributor to the City's expenditure growth over the assessment period.

#### Benchmarking

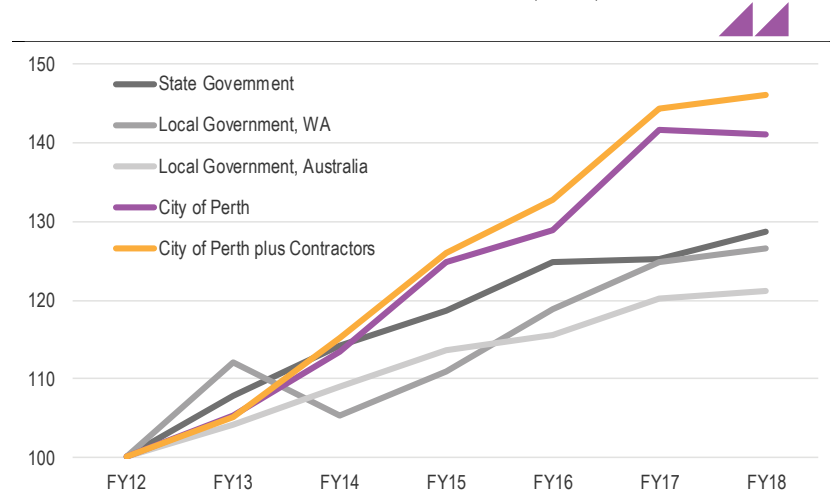
ACIL Allen has compared the City's staff cost growth to a range of publicly available benchmarks, being:

- Total State Government in Western Australia salary costs (Australian Bureau of Statistics);
- Local Government in Western Australia salary costs (Australian Bureau of Statistics); and
- Local Government in Australia salary costs (Australian Bureau of Statistics).

The benchmarks are published as indices, and have been re-weighted so the 2011-12 financial year is the base year for all data. The City's staff costs (direct staff costs, and direct staff costs plus contract

labour) have been converted to an index, with a base year of 2011-12. The results of the analysis are presented below (**Figure 3.10**).

**FIGURE 3.10** CITY OF PERTH SALARY COST BENCHMARKING, INDEX; FY12 = 100



SOURCE: CITY OF PERTH, ABS, ACIL ALLEN CONSULTING

The City's direct employment costs have increased 9.6 per cent faster than the State Government's direct employment costs, 11.6 per cent faster than local government at a State level, and 16.5 per cent faster than local government at a national level. When contractors are included, the City's staff costs have increased 13.5 per cent, 15.6 per cent and 20.7 per cent faster than the respective benchmarks.

If the City's employment costs had increased in line with the average of the Western Australian local government sector, its employment costs would have been \$40.4 million lower over the assessment period, and \$11.3 million lower in 2017-18 alone (\$71.8 million instead of \$83.1 million).

#### KEY FINDING 17 SALARY COST GROWTH BENCHMARKING

The City's labour expenditure has increased at a faster rate than publicly available benchmarks over the assessment period, including by 13.5 per cent faster than the State Government's direct employment costs, 15.6 per cent faster than local government at a State level, and 20.7 per cent faster than the local government labour expenditure at a national level. If the City had contained labour costs to the average local government labour expenditure benchmark for Western Australia, employment costs would have been \$40.4 million lower over the assessment period, and \$11.3 million lower in 2017-18 alone (\$71.8 million instead of \$83.1 million).

#### 3.4.3 Services and contracts

While direct and contract staff costs are by far the largest item of City expenditure, the City also procures a range of suppliers and services on a contract basis in addition to purchases of materials to undertake its various activities. These expenditures totalled \$43.2 million in 2017-18, an increase of 10.9 per cent over the assessment period (1.8 per cent per annum). This relatively modest level of headline growth does hide some areas of substantial growth over the period.

The City's use of professional services contracts (excluding legal services) has more than doubled between 2011-12 and 2017-18, rising from \$2.9 million to \$6.0 million. The use of professional services contracts is somewhat lumpy in nature, with some units spending significant amounts in

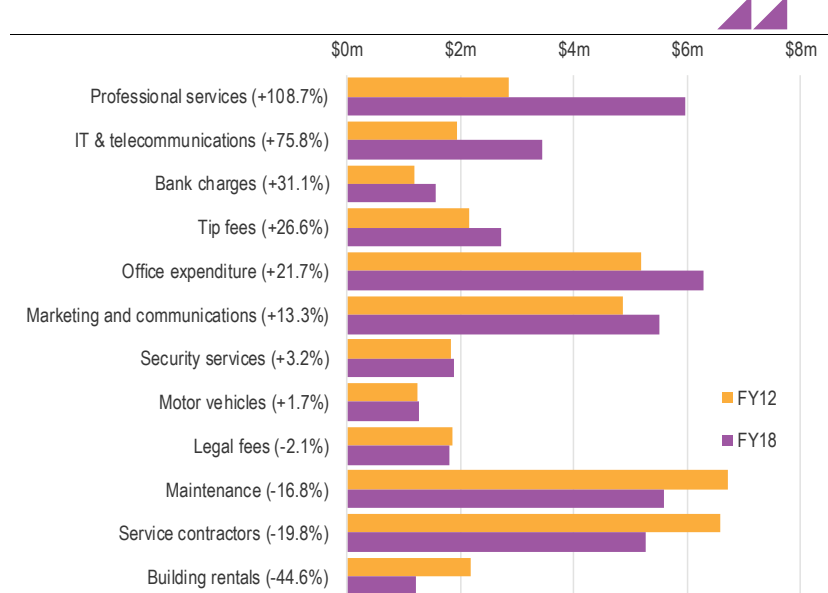
some years and none in other years. Over the assessment period, the largest user of professional services contracts was the Marketing and Events Unit, with \$3.2 million of professional services fees accessed (12 per cent of the total). Other substantial users of professional services include the Street Presentation and Maintenance Unit (\$2.2 million), Information Technology Unit (\$2.1 million) and the Finance Unit (\$2.1 million, however this is mostly the City's audit fees). Every City Unit has some direct expenses listed against the professional services codes.

#### KEY FINDING 18 PROFESSIONAL SERVICES CONTRACTS

The use of professional services contracts (excluding legal fees) by the City of Perth has doubled over the assessment period. Most business units have utilised professional services. Expenditure has tended to be quite "lumpy", with no users seeing large recurrent professional services expenditure outside of the audit fees which are allocated to the Finance Unit.

Other areas of significant growth over the assessment period include IT and telecommunications expenditure (+75.8 per cent, or an additional \$1.5 million) and bank charges (+31.1 per cent, or \$0.4 million), however the latter is effectively passed on to the City's customers and ratepayers via the charges they face for services.

**FIGURE 3.11** CITY OF PERTH SERVICES, MATERIALS AND CONTRACTS EXPENDITURE, \$M, 2011-12 VS 2017-18, \$M (GROWTH/DECLINE IN AXIS NOTATION)



SOURCE: CITY OF PERTH, ACIL ALLEN

The City has also increased expenditure on external legal advice over the period, with total expenditure of \$3.7 million, at an average of \$525,000 per annum.

As far as expenditure reductions go, the most notable falls are in relation to maintenance expenditure and expenditure on service contractors (classified as accounts that suggest the letting of a specified contract to deliver services), falling by 16.8 per cent and 19.8 per cent respectively. This may go part of the way to explaining growth in the City's own workforce over the period, as a decline in the use of contracts may suggest the City has "in-sourced" some previously outsourced works. However the

scale of the decline in annual expenditure (\$2.4 million from 2011-12 to 2017-18) is around one tenth of the increase in direct wages and contract labour expenditure (\$26.3 million).

#### KEY FINDING 19 MAINTENANCE AND SERVICE CONTRACTORS

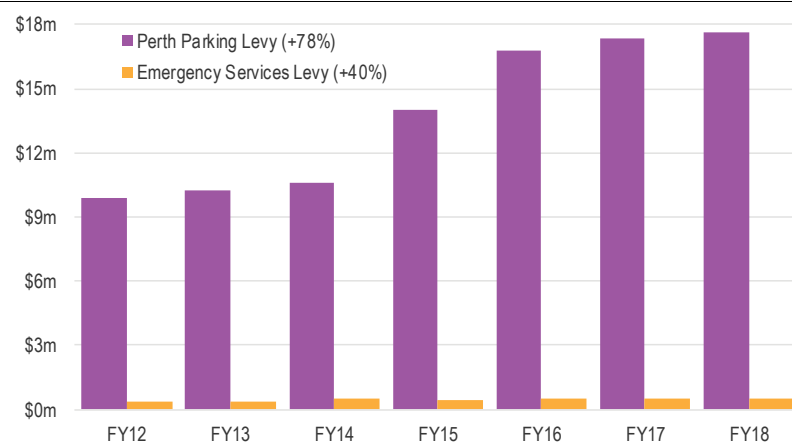
The circa \$2.4 million decline in annual expenditure on maintenance and service contractors may go part of the way to explaining the increase in direct staff costs made by the City. However, this decline only represents approximately ten per cent of the increase in annual staffing costs.



### 3.4.4 Statutory fees and charges

The City collects two major State Government taxes through its operations: the Perth Parking Levy and the Emergency Services Levy. Combined, these two taxes represent 9.4 per cent of the City's total expenditure in 2017-18, up from 7.3 per cent in 2011-12. As discussed above, State Government taxes has been one of the largest line items of expenditure growth for the City over the assessment period, although this has been met with matching revenue growth. The trend for both taxes is presented in **Figure 3.12**.

**FIGURE 3.12** STATE GOVERNMENT PASS THROUGH TAX EXPENDITURE, BY YEAR, \$M



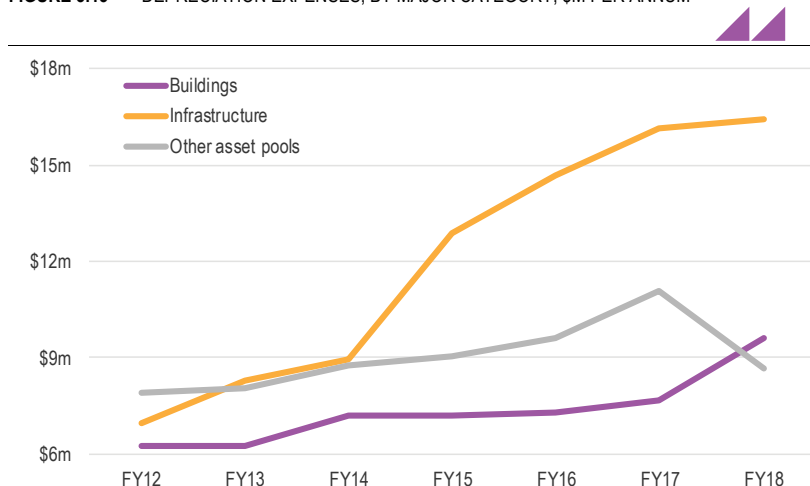
SOURCE: CITY OF PERTH, ACIL ALLEN

### 3.4.5 Depreciation and amortisation expense

The City's depreciation and amortisation charges have increased strongly in recent years, rising from \$21.1 million in 2011-12 to \$34.7 million in 2017-18 (**Figure 3.13**). This has seen depreciation increase from 15 per cent of the City's expenditure to 17.9 per cent.

There are 11 depreciation pools in the City's financial accounting system, though two of them ("buildings" and "infrastructure") account for three quarters of depreciation expenditure. Within these accounts, the majority of the depreciation charges flow to the Properties Unit, for buildings, and to the Parks Unit and the Street Presentation and Maintenance Unit for infrastructure depreciation. All other depreciation expenses, spread across the residual nine accounts, represent just over one quarter of total City depreciation expenditure.

**FIGURE 3.13** DEPRECIATION EXPENSES, BY MAJOR CATEGORY, \$M PER ANNUM



SOURCE: CITY OF PERTH, ACIL ALLEN

The City's increased depreciation charges are likely a reflection of an increase in the rate of fixed asset investment undertaken by the City in recent years. According to the City's successive cashflow statements, purchases of fixed assets have averaged \$45.3 million per annum over the assessment period, running well ahead of the average annual depreciation charge of \$28.4 million. However, part of this gap is likely to represent the impact of State and Commonwealth Government funding for some investment items, with the City receiving an average of \$4.5 million per annum in external Commonwealth and State Government grants.

The lift may also be driven by a change to the *Local Government (Financial Management) Regulations 1996* issued in 2012 that required a revaluation of all local government assets as of the end of the 2013-14 financial year. However, without an asset register it is not possible to say if this is the driver. In addition, this is not reflected in the City's Corporate Asset Management Plan.

#### KEY FINDING 20 DEPRECIATION AND CAPITAL INVESTMENT

The City's depreciation charges have been increasing significantly in recent years. This is likely a reflection of a substantial rolling capital works program, which has seen the City invest \$45.3 million per annum via the purchase of fixed assets over the assessment period (compared to an annual average depreciation charge of \$28.4 million). This is partially explained by the role of external Commonwealth and State Government grant funding in the City's capital works program.

### 3.5 Overall assessment

The analysis completed by ACIL Allen in this section reflects on the high-level financial information provided by the City, primarily in the form of seven years of profit and loss statements at a unit level. The principal finding of this assessment is **the City of Perth's operational performance is deteriorating each year in the assessment period**, with progressively narrower operating surpluses recorded on account of strong growth in expenditure and more modest growth in own-source revenue.

There are a number of issues which emerge from this high-level review that are worth exploring in greater detail – two of which are subject to further analysis in this report. These are:

- The role of the City of Perth Parking major undertaking in the City's overall financial framework **(to be explored in a subsequent section)**;
- The City's rates model, particularly the drivers behind the recent substantial increase in rates values for Residential and Office properties from abnormally low bases **(to be explored in a subsequent section)**;
- The City's direct labour costs, in particular the growth in labour expenditure over the assessment period (and potentially in prior years, as it is not clear from the data that the strong growth in direct labour costs is a new development);
- The City's utilisation of contract labour, in particular the growth over the assessment period;
- The City's increased reliance on professional services contracts, and whether this reflects an underlying capability issue within the City that is impacting its ability to discharge its functions; and
- The drivers of the City's increased depreciation expenditure, noting ACIL Allen's high-level analysis suggests this could simply be driven by high levels of capital investment (but also noting it could be due to the deterioration of the City's existing asset base).

It is also important to note the analysis conducted in this section does not consider the allocation of costs between business units within the City. As discussed in Section 2.5, the City undertakes a notional Activity Based Costing exercise each year, without adequate consideration of the true cost drivers or detailed policy that would allow for a rigorous costing exercise to be undertaken. This too is likely to contribute to the financial outcomes the City now faces.

The City remains in a very strong financial position overall. According to its 2017-18 annual report, and a detailed balance sheet made available to ACIL Allen, the City holds some \$114 million in cash or liquid financial assets, and has a fixed asset base of in excess of \$1.1 billion with no material liabilities carried against these. In addition, its taxing powers provide a certain revenue stream of close to \$90 million per annum regardless of any other suppliers or services it elects to provide.

However, the City's financial position is not guaranteed, nor should a strong balance sheet preclude it from ensuring it provides the most efficient and effective services (with an efficient revenue raising framework) for its residents and businesses.



## REVIEW FOCUS AREAS: CITY OF PERTH PARKING (CPP)

This section discusses the financial performance of the City of Perth's City of Perth Parking ('CPP') business over the assessment period 2011-12 to 2017-18, at a headline level, at a facility level, and considers the overall cash-based contribution the business makes to the broader City of Perth's finances. This section also considers the business at a higher level, comparing the parking operations of the City of Perth to other capital city local governments in Australia and discussing the City's Major Business Undertaking document.

### 4.1 Introduction

ACIL Allen received a number of documents and data sources to conduct this assessment. These include:

- Detailed profit and loss statements for the City of Perth at large;
- A detailed history of the financial year performance of the City's parking businesses at a parking property level, for the period 2013-14 to 2017-18 only (noting the assessment period is 2011-12 to 2017-18);
- The major undertaking "Business Plan" prepared by staff in the Commercial Services Directorate of the City; and
- A "Commercial Review" prepared by Mr Phillip Yum, the Commercial Manager of the CPP undertaking.

The analysis presented in this section represents the findings of ACIL Allen's desktop review of the operating environment of the CPP undertaking, and the analysis of historic financial data for the CPP undertaking provided by the City.

### 4.2 The City of Perth Parking undertaking

The *Local Government Act 1995* prohibits local government authorities in Western Australia from setting up or taking control of a body corporate. As a result, local governments cannot "own" businesses. Where a local government undertakes a specific activity which is not core to the provision of municipal services, this is referred to as a "major undertaking". The CPP is a major undertaking of the City.

The CPP operates as a commercial unit within the City's Community and Commercial Services Directorate which began operating commercially in the 1990s. The CPP's main responsibilities concern on street parking technology, revenue management, off street parking facilities, financial control, operations and customer service.

CPP revenue is used to fund key services and facilities provided by the City without undue burden on ratepayers. CPP also provides services to the City borne out of its community service obligations as

part of local government. Parking facilities are located and operated to facilitate Perth as a place to visit, live, work, and conduct business.

CPP is a significant revenue generator for the City of Perth and generates approximately 37 per cent of the City of Perth's annual revenue<sup>7</sup>. In 2017-18, the CPP business generated \$73.8 million in revenue.

The CPP business and all parking in the City is subject to the Perth Parking Levy which has been applied by the State as per the Perth Parking Management Act 1999. The rate of the Levy is determined by the State annually and in 2017-18 totalled \$17.4 million.

The CPP business supports over 5,700 on street fee-paying bays for the City (plus services for over 700 parking meters), 10,500 off street parking bays in 35 active car parks<sup>8</sup>. Most of the car parks operated by CPP are on premises owned by the City and the remainder are leased from the State or operated on behalf of private owners.

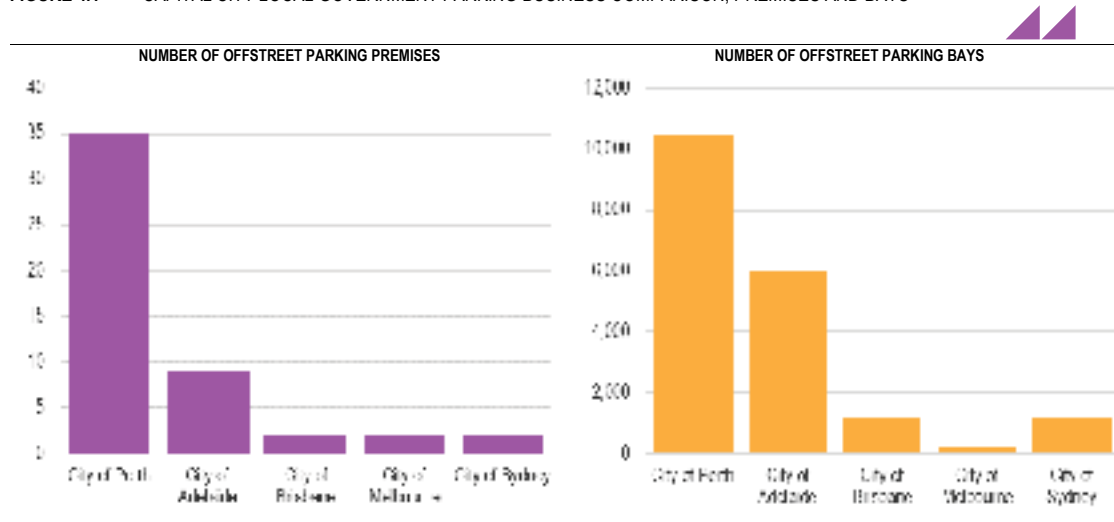
The CPP business also provides commercial parking services to third party customers (for example the Town of Victoria Park). Services provided include technical services, financial services and customer service.

The City of Perth (via the CPP) is uniquely placed in terms of parking management compared to other capital city local government jurisdictions in Australia. The CPP is the largest provider of public parking within the City and manages 35 car parks which is far greater than any other capital city in Australia but remains competitive amongst private companies such as Wilson, Secure and other private companies.

The City Councils of Brisbane, Melbourne and Sydney each own only 2 car parks within their respective central business districts<sup>9</sup>. These cities have a larger contingent of privately owned car parks. The City of Adelaide operates a more substantial off street parking operation, although it has nine properties and approximately 6,000 parking spaces (both significantly smaller than the CPP undertaking).

The significant difference between the City's CPP undertaking and the parking operations of other capital city local governments is highlighted in **Figure 4.1**.

**FIGURE 4.1** CAPITAL CITY LOCAL GOVERNMENT PARKING BUSINESS COMPARISON, PREMISES AND BAYS



SOURCE: CITY OF PERTH, CITY OF ADELAIDE, CITY OF BRISBANE, CITY OF MELBOURNE, CITY OF SYDNEY, ACIL ALLEN CONSULTING

<sup>7</sup> CoP Annual Report 2017-18

<sup>8</sup> CPP Annual Report

<sup>9</sup> City of Melbourne, Brisbane City Council & City of Sydney

## 4.3 Financial performance

### 4.3.1 Revenue

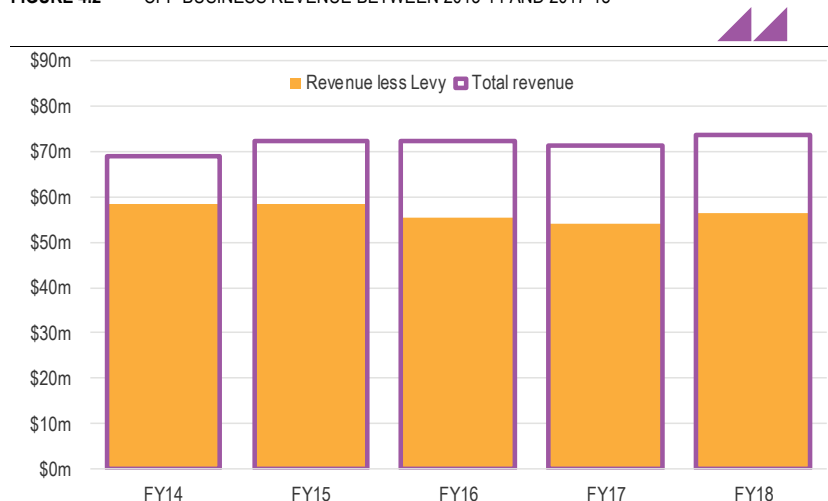
The CPP generates revenue from a range of sources, including:

- 35 off street car parking facilities in the Perth Central Business District;
- Two so-called "Specified Car Parks" (the undercroft parking at the Perth Convention and Exhibition Centre, and an open air car park at Langley Park);
- Several kerbside parking sites in the Perth Central Business District and surrounding areas; and,
- The provision of parking services to other parking facility owners.

The CPP business has generated an average annual revenue of \$71.7 million between 2013-14 and 2017-18 and has covered its expenditure annually by an average of 4.6 times.

The CPP's revenue has grown from \$68.9 million in 2013-14 to a maximum of \$73.8 million in 2017-18. This represented an increase of 7.1 per cent over the four years (Figure 4.2). However, after removing the Perth Parking Levy, the CPP undertaking's revenue has declined by 3.5 per cent over the same time period. By contrast, the revenue flowing to the State Government via the levy has increased by 66.4 per cent, from \$10.5 million in 2013-14 to over \$17.4 million in 2017-18.

**FIGURE 4.2** CPP BUSINESS REVENUE BETWEEN 2013-14 AND 2017-18



Note: Levy refers to the Perth Parking Levy.

SOURCE: ACIL ALLEN CONSULTING

### 4.3.2 Direct expenditure

The main sources of expenditure for the CPP includes expenses associated with the operation of car parks, other parking services and administration expenses. Between 2013-14 and 2017-18, the CPP's expenditure has averaged \$15.7 million or about one fifth of the average revenue generated by the CPP business.

The CPP undertaking expenditure has remained relatively stable between 2013-14 and 2017-18, growing from \$15.5 million in 2013-14 to \$16.2 million in 2015-16 before declining to \$15.4 million in 2017-18. All told, the CPP undertaking has kept direct expenditure broadly steady, in line with its weak revenue performance.

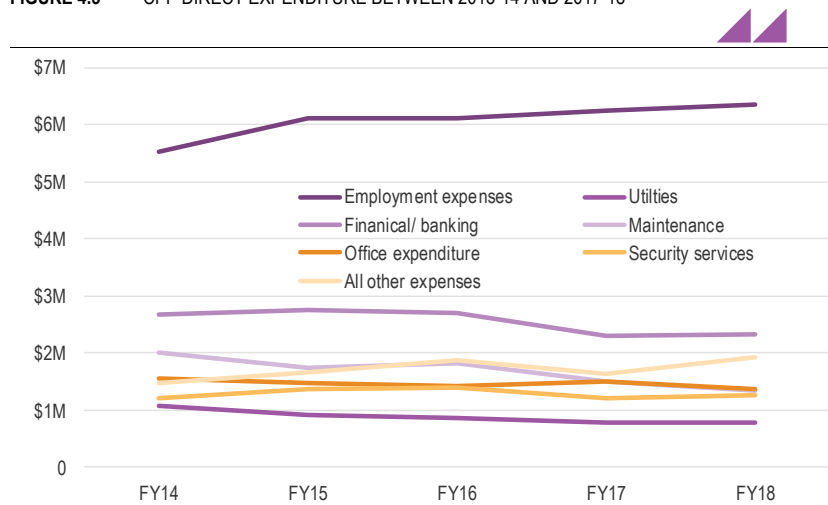
The most significant component of the CPP's direct expenditure is employment expenses (which includes contractors) which has increased from \$5.5 million in 2013-14 to \$6.3 million in 2017-18, an

increase of 14.9 per cent over the period. Employment related expenses have accounted for about 38.7 per cent of all direct expenses.

Secondly, financial and banking related expenses such as bank charges and interest and insurance have represented 16.2 per cent of all direct expenses on average. These expenses have fallen by 12.7 per cent from \$2.7 million to \$2.3 million between 2013-14 and 2017-18.

Maintenance expenses represent another 10.7 per cent of direct expenditure and have fallen from \$2.0 million to \$1.3 million, a fall of 33.4 per cent. Additionally, utility related expenses have fallen by 26.9 per cent and office expenditure has fallen by 11.1 per cent. All other expenses (which includes items like marketing, IT, legal fees and building rentals) have increased by 30.4 per cent with most of the growth coming from marketing and communications.

**FIGURE 4.3** CPP DIRECT EXPENDITURE BETWEEN 2013-14 AND 2017-18



SOURCE: ACIL ALLEN CONSULTING

#### 4.3.3 Internal expenditure

As a business unit of the City, the CPP undertaking is subject to a number of internal charges payable to the City's other business units. These include:

- Internal rates, levied on some CPP properties (the basis of which is unknown);
- Internal rents, levied on some CPP properties (the basis of which is unknown);
- Internal bin levy charges, levied on some CPP properties (the basis of which is unknown); and,
- Internal cost allocations, per the City's ABC model.

These are discussed below.

**Internal rates** for the CPP totalled \$1.7 million in 2017-18, up 34.9 per cent since 2013-14 where rates were \$1.3 million. Rates peaked in 2017-18 and have been increasing by about 8.2 per cent per annum on average.

Internal rates were charged across 25 income generating CPP properties (Unit 1, Unit 2 and PCEC properties) in 2017-18. It is unclear how these rates are charged on different parking properties but resembled about 3.6 per cent of income per property on average.

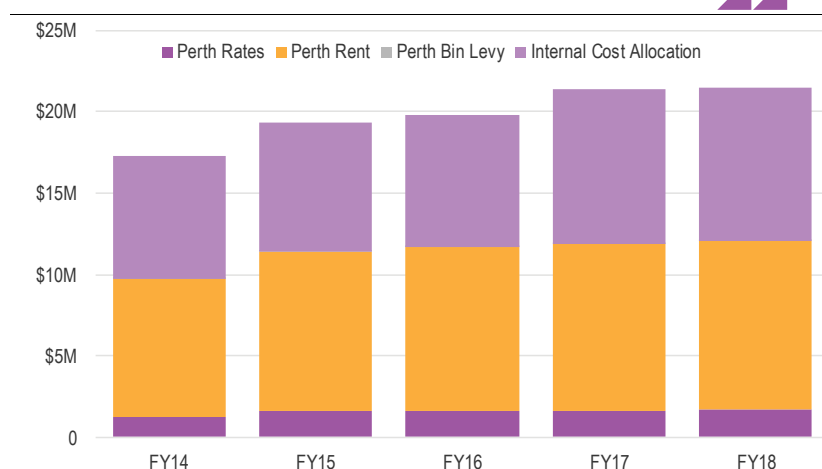
**Internal rents** have increased from \$8.5 million in 2013-14 to \$10.3 million in 2017-18, an increase of approximately 21.8 per cent over the period. Rents peaked in 2017-18 and have increased by 5.2 per cent on average per annum. Internal rents were levied on 30 of the CPP's properties (Unit 1, Unit 2, and Other Parking Services) in 2017-18 but the basis of these rents remains unclear.

The **internal bin levy** is a minimal expense for the CPP business remaining below \$5,000 in 2017-18. Notably, the bin levy has increased by 50.7 per cent or 11.0 per cent per annum since 2013-14. The internal bin levy was charged on seven CPP properties in 2017-18.

**Internal ABC allocations** have increased from \$7.5 million in 2013-14 to \$9.5 million in 2017-18, an increase of 26.2 per cent over the period. Internal costs peaked in 2016-17 at \$9.5 million and have grown by an average of 6.2 per cent per annum.

Internal cost allocations have been made on nearly all CPP income producing car park properties in 2017-18. A \$1.3 million allocation for administration, \$1.4 million for kerbside parking and \$1.2 million for PCEC parking were most notable.

**FIGURE 4.4** CPP INDIRECT COSTS BETWEEN 2013-14 AND 2017-18



SOURCE: ACIL ALLEN CONSULTING

Despite the CPP's modest revenue performance, and relatively steady growth in direct expenditure, the City has continued to increase the level of internal expenditure allocated to the CPP undertaking. As discussed in Section 2.5, there is no clear basis for the City's internal cost and revenue allocation, and so it is not clear why internal cost allocations to the CPP undertaking are increasing over time.

#### KEY FINDING 21 REVENUE AND COST GROWTH IN THE CPP UNDERTAKING

Direct revenue and expenditure in the CPP undertaking have been broadly unchanged over the assessment period. While headline revenue has increased, this has been on account of growth in the Perth Parking Levy. Direct expenditure incurred by the CPP undertaking has remained broadly unchanged over the assessment period, while internal expenditure allocations have increased by \$4.3 million (from \$17.3 million to \$21.6 million) without any clear rationale for this.

#### 4.3.4 Depreciation

On average, depreciation has represented 4.8 per cent of total revenue. The CPP's depreciation was \$3.7 million in 2013-14 before falling to \$2.8 million in 2017-18. Depreciation has fallen by 22.7 per cent over the four years and has averaged \$3.4 million. It is not clear why this is the case, particularly given the buildings and infrastructure in the CPP undertaking are likely to represent a substantial share of the City's assets.

#### 4.3.5 Property level performance

The CPP's parking is split up into seven top level units, namely units 1 to 6 and 99. Units 1 to 6 capture the income, expenditure and depreciation associated with car parks and kerbside parking whilst Unit 99 is an administration-based unit. On average between 2013-14 and 2017-18, the CPP's total revenue has covered expenditure by 4.6 times.

##### Open air parking properties (30 individual car parks and special event parking)

Unit 1's total revenue in 2013-14 was \$12.6 million and grew to \$13.9 million in 2017-18. Unit 1's revenue has consistently represented approximately 18 per cent of the CPP's total revenue. At the same time, Unit 1 expenditure has been about \$1.2 million on average per annum. Unit 1 also incurs \$1.1 million per annum in depreciation.

##### Undercover parking properties (15 individual car parks)

Unit 2 is the largest source of income for the CPP (43.9 per cent on average) with total revenue remaining between \$30 and \$32 million between 2013-14 and 2017-18. Meanwhile, expenditure associated with Unit 2 parking has been \$5.6 million on average per annum. Unit 2 has also incurred depreciation of \$1.3 million per annum and is the largest depreciation unit for the CPP.

##### The Perth Convention and Exhibition Centre Carpark<sup>10</sup>

Revenue from this car park has grown from \$10.4 million in 2013-14 to \$11.5 million in 2017-18. Total revenue has accounted for approximately 15.4 per cent of the CPP's total revenue. At the same time, expenditure has fallen from \$2.1 million in 2013-14 to \$1.5 million in 2017-18.

##### Kerbside parking<sup>11</sup>

Total revenue from these kerbside parking sites has grown from \$15.0 million in 2013-14 to \$16.7 million (with Nedlands/Crawley coming online in 2016-17). Revenue has accounted for approximately 21.9 per cent of total CPP parking revenue. Expenditure has averaged \$1.0 million, peaking in 2015-16 at \$1.1 million. Unit 4 also incurs \$1.1 million on average per annum in depreciation.

##### Parking services

Unit 6 captures some of the services provided by the CPP and isn't a significant source of revenue. Revenue from these items has remained minimal totalling \$0.2 million in 2013-14, rising to \$0.3 million in 2017-18. At the same time, expenditure has significantly outweighed revenue at an average of \$1.2 million per annum.

##### Central administration<sup>12</sup>

The only source of revenue for this unit is administration related which has generated less than \$0.1 million in revenue per annum between 2013-14 and 2017-18. Meanwhile, expenditure has grown from \$4.7 million in 2013-14 to \$4.8 million in 2017-18, peaking at \$5.0 million in 2014-15. Administration expenses have accounted for nearly all (97.6 per cent) expenses for this unit.

#### 4.4 Facility level performance

There is a significant difference in the gross profit performance of the CPP undertaking's off street parking facilities. In the 2017-18 financial year, the average level of gross profit (before internal City charges, but inclusive of the Perth Parking Levy and Emergency Services Levy where applicable) per parking bay was \$3,128. Of the City's 33 active premises, just 10 achieved this average level of performance, and accounted for a total of 68 per cent of the gross profit from the entire CPP off street

<sup>10</sup> Perth Convention and Exhibition Centre

<sup>11</sup> Kerbside parking, Nedlands/ Crawley and South Ward

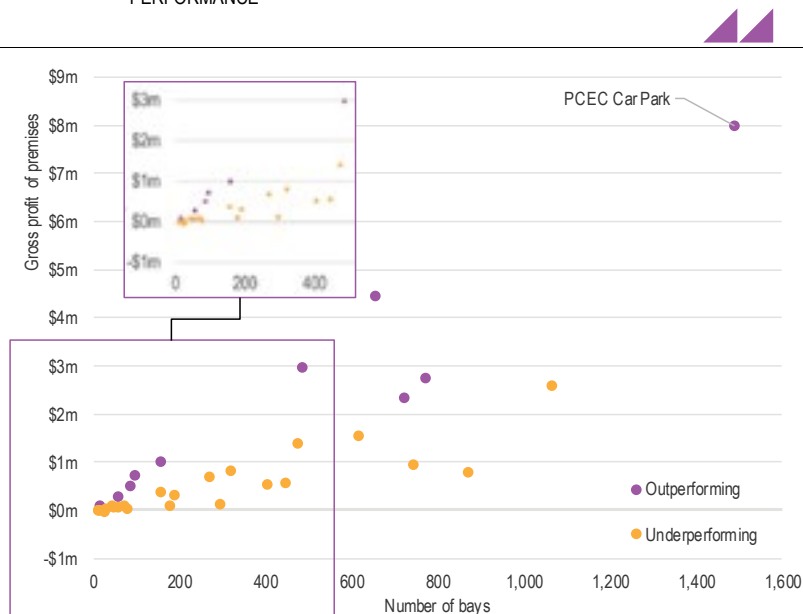
<sup>12</sup> Carbon Offset Program, Discount Allowed Parking and Restructure/ Amalgamation & Reform

premises. This includes the Perth Convention and Exhibition Centre premises, which on its own accounted for 23 per cent of the gross profit from the CPP off street premises.

The other 23 off street premises delivered 32 per cent of the off street gross profit in 2017-18, while two premises (Mardalup Park and John Oldham Park) delivered a gross loss.

The performance of the CPP undertaking's off street parking portfolio is summarised in **Figure 4.5**.

**FIGURE 4.5** CPP OFFSTREET PREMISES PERFORMANCE, GP (\$M) VS NUMBER OF BAYS, 2017-18 PERFORMANCE



Note: Gross Profit is measured as all direct premises costs (including Perth Parking Levy and Emergency Services Levy), and does not include internal cost allocation or a portion of CPP administration overhead

SOURCE: CITY OF PERTH, ACIL ALLEN

The analysis suggests the Perth Convention and Exhibition Centre premises is a significant driver of the CPP undertaking's overall financial performance. In 2017-18, the premises delivered a gross profit (before internal allocations) of \$8 million, or 23.4 per cent of the total gross profit of the CPP's off street premises, despite accounting for just 13.6 per cent of total off street parking bays.

By contrast, the next highest performing car park in 2017-18 was located at His Majesty's Theatre, with a gross profit of \$4.4 million (before internal allocations). At the other end of the spectrum, car parks at Mardalup Park and John Oldham Park delivered a gross loss of \$15,000 and \$39,000 respectively (before internal allocations) in 2017-18.

#### KEY FINDING 22 PCEC CAR PARK

The Perth Convention and Exhibition Centre Car Park is the largest source of gross profit for the CPP undertaking, producing \$8 million of gross profit before internal transfers in the 2017-18 financial year. This accounted for 23.4 per cent of total CPP off street parking gross profit last year, despite accounting for just 13.6 per cent of the portfolio's bays.

## 4.5 Cash contribution to City of Perth

The analysis above has considered the overall financial position of the City of Perth Parking undertaking as if it was a standalone entity. In reality, the undertaking is a part of the broader City's financial framework, providing it with a line of source of revenue, and ultimately surplus free cashflow, to potentially fund other aspects of the City.

This can be measured by paring back the finances of the City of Perth Parking undertaking to actual revenues minus any State Government taxes and banking charges, less the real expenditures associated with the undertaking (ie excluding depreciation, amortisation and provisions). Under this frame of reference, the variety of internal City charges which are transferred to the CPP undertaking, including internal rates, internal rents, internal waste levies, and Activity Based Costing allocations are set aside and form part of the cash surplus generated by the CPP undertaking which is then available to the City as free cash.

Using this frame of reference, the CPP undertaking generated \$202.6 million of free cash for the City over the five year period where data was available. This accounted for approximately 21 per cent of the City's total free cash generated from operating activities between 2013-14 and 2017-18.

The City incorporates a sizeable portion of this free cashflow into the operations of its other business units via internal charges (discussed in Section 4.3.3), which it is assumed flow to the City's Finance Unit to be distributed across the organisation. In addition, the Activity Based Costing approach undertaken by the City results in an additional \$6 million of distributions away from the CPP undertaking in net terms to a range of City business units.

Over the assessment period, the City has raised \$75.1 million in internal charges from the CPP undertaking. It is not clear from the City's financial system where these internal charges flow however it is assumed they flow to the City's consolidated revenue.

### KEY FINDING 23 CPP UNDERTAKING CASH CONTRIBUTION

ACIL Allen estimates the City of Perth Parking undertaking has generated \$202.6 million in free cash for the City over the five year period where data is available. This accounted for approximately 21 per cent of the City's total operating revenue cashflow generation over the period.

## 4.6 Competitive neutrality

In 1995, the National Competition Policy process established a series of principles associated with the notion of Competitive Neutrality. The Australian Government and all state and territory governments undertook to ensure that their publicly owned businesses did not enjoy any net competitive advantage simply because they are publicly owned. For significant government businesses, governments undertook to adopt a corporatisation model where appropriate and to impose on the business full taxes or tax equivalents and debt guarantee fees to offset advantages from government guarantees, and to apply to the business regulations normally applying to private sector businesses. This manifested in the National Tax Equivalence Regime ('NTER').

The NTER states that publicly owned businesses or undertakings should not have undue pricing or cost advantages over privately-owned businesses where the advantage is solely due to the tax advantages of public ownership. In this case, the CPP undertaking competes squarely with the private sector in the provision of off street parking in the City of Perth – with its principal competitor being Wilson Parking Services. As a private company, Wilson Parking Services is subject to company income tax, land tax on any premises it owns, and pays rates to the City of Perth either directly on properties it owns or indirectly via the agreements it would hold with property owners where it is providing services.

The City appears to account for this in some instances, by "charging" the CPP undertaking internal rates and rents for some off street premises. However, the City was unable to produce any

documentary evidence that suggested it was familiar with the NTER or had an appropriate policy surrounding application of NTER principles. It may be that the internal rates and rents applied to the CPP business are simply mechanisms to transfer revenue from the CPP business to other aspects of the City's operation. In addition, the City is not explicitly accounting for the largest of the NTER-related competitive neutrality concerns in its financial system, being company income tax. This puts the City's parking businesses in a position of advantage over private sector providers.

The CPP draft business plan makes reference to the City's approach to setting fees and charges using four underlying factors, including market pricing, the type and location of each facility, operational costs for each facility, and a community service obligation. Importantly, it does not make reference to competitive neutrality as a consideration when setting fees and charges.

#### KEY FINDING 24 COMPETITIVE NEUTRALITY

It is not clear the City adequately accounts for competitive neutrality in the pricing of services provided by the CPP. By not correctly accounting for its competitive advantage of not being required to pay Commonwealth and State taxes, this puts the City at an advantage against private sector providers, which is against the requirements of the NTER.

## 4.7 Overall assessment

Overall, it is evident the CPP undertaking is both:

- An unusual undertaking among capital city local governments in Australia, and
- A significant driver of the overall City's financial performance.

The City owns and operates 2.5 times the number of off street parking premises, and more than the total number of off street parking bays of the Cities of Adelaide, Brisbane, Melbourne and Sydney combined. In addition, ACIL Allen calculates the CPP undertaking generated \$202.6 million of free cashflow for the City over the five year period where detailed data on the CPP undertaking was made available – approximately 21 per cent of the City's total operating revenue cashflow generation over the period.

Given the size of this business undertaking, it is not appropriate for the City to continue to operate the CPP business without an adequate business plan, be it required to produce one according to legislation or not.

In addition, it is not clear from the information provided by the City that the City fully accounts for competitive neutrality in the CPP undertaking. This puts the City at a competitive advantage over private sector providers of parking services in the City of Perth, by virtue of the City's status as a public sector entity only. This goes against the NTER, and should be addressed by the City.

The City's parking undertaking is evidently a significant cashflow generator for the City. No other local government in Western Australia, and no other capital city local government in Australia, has access to a line of cashflow like the CPP affords the City. Given the findings of other areas of this report, ACIL Allen considers it likely the availability of this free cashflow generated by the CPP undertaking has played a role in the City's high level of costs over the assessment period.



## 5 REVIEW FOCUS AREAS: CITY OF PERTH RATES MODEL

This section provides a detailed examination of the City of Perth's rates model that it applies to residential, office and commercial properties, as well as vacant land. It extends on the analysis and insights provided by ACIL Allen in Section 3.3.2 of this report.

### 5.1 City of Perth Rates Model

Rates are the City's largest source of both revenue and revenue growth, with rates revenue rising from \$60.8 million in 2011-12 to \$89.5 million in 2017-18. The City's rates revenue has increased by an average of 6.7 per cent per annum, or an average of \$4.8 million of incremental growth each year over the assessment period.

In the City of Perth, all land (other than exempt land) is rated according to its Gross Rental Value (GRV). Landgate Valuation Services provides the City of Perth with GRVs on a triennial basis.

Rates in the City of Perth are determined on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the budget and the estimated revenue to be received from all sources other than the rates, as well as a consideration of the extent of any increase in rates over the level adopted in the previous year<sup>13</sup>.

Under the provisions of Section 6.33 of the *Local Government Act 1995*, the City of Perth imposes differential rates on all rateable land within the City according to the predominant purpose for which the land is held or used, as determined by the City. There are four categories of rateable land used by the City of Perth: Commercial, Office, Residential and Vacant land. The commercial category is a consolidation of the Hotel, Retail and the former Commercial category into one ratepayer class (each category has the same differential rate in 2018-19). Prior to the 2018-19 Annual Budget, Hotel and Retail were presented as separate land use categories.

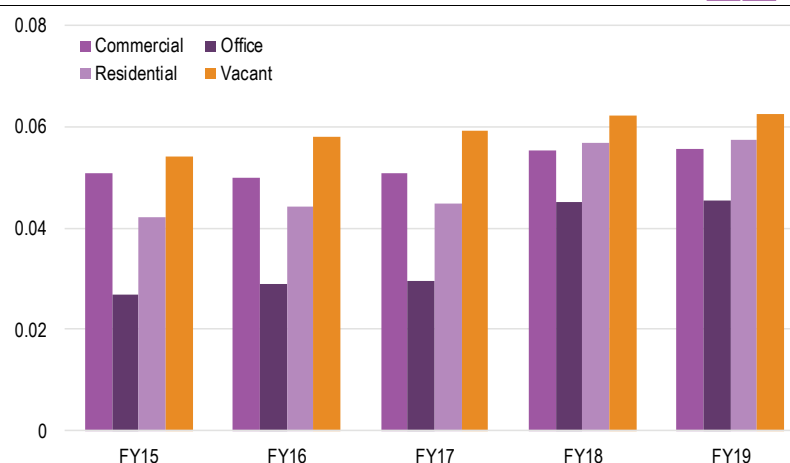
The City of Perth sets a minimum payment to ensure that all ratepayers make a reasonable contribution to support the provision of local government services. The minimum payment mainly impacts the residential category. In the 2018-19 Budget, the minimum rate was set at \$705 for all four land uses. This is the same minimum payment that was set in 2017-18. Minimum payments equate to a small proportion of the total revenue generated by rates. In 2017-18, revenue generated through minimum payments equated to \$1.1 million, approximately 1.2 per cent of total rate revenue.

The City of Perth has budgeted to generate approximately \$90.2 million in rate revenue in 2018-19, which will equate to approximately 44.9 per cent of the City's total revenue base.

**Figure 5.1** presents the differential rates set by the City of Perth across the four land use categories over the past five years.

<sup>13</sup> City of Perth – 2018-19 Annual Budget

**FIGURE 5.1** CITY OF PERTH – DIFFERENTIAL RATES BY LAND USE CATEGORY



Note: In 2018-19, Hotel and Retail have the same differential rate as Commercial.

SOURCE: CONSECUTIVE CITY OF PERTH ANNUAL BUDGETS

In 2018-19, the highest differential rate is set on Vacant land (6.25865 cents per dollar of GRV), followed by Residential (5.74033 cents), Commercial (5.56344 cents) and Office (4.55125 cents) land uses. Since 2014-15, the differential rates for the Office land use has increased by 69 per cent, followed by Residential land use which has increased by 36 per cent over the same period. By comparison, the differential rates for the Vacant land has risen by 16 per cent since 2014-15, while for Commercial land use the rate has increased by 10 per cent. These changes have seen the gap between the highest differential rate (Vacant) and lowest differential rate (Office) narrow from being 100 per cent higher in 2014-15 to 37.5 per cent higher in 2018-19.

The City of Perth imposes the highest possible differential rate on vacant land to discourage holdings of undeveloped land within the City, while until recently had kept the residential rate relatively lower than other land uses in the city and compared to other local governments in order to encourage people to reside in the City. The recent increases in the Residential rate reflects the City's objective to reduce the level of subsidy in the residential land use category to levels more commensurate with other metropolitan local governments and the cost of service delivery.

The City of Perth applied an increase to the differential rate across all land use categories at the Consumer Price Index (CPI) of 0.8 per cent for the 2018-19 financial year. This increase was comparatively low when compared to other local governments in the Perth metropolitan area, as well as rate increases made by the City of Perth in previous years.

#### KEY FINDING 25 CITY OF PERTH – DIFFERENTIAL GENERAL RATES BY LAND USE CATEGORY

Rates in the City of Perth are determined according to the Gross Rental Value (GRV) of the land use, and is calculated on the basis of raising the revenue required to meet the deficiency between the total estimated expenditure proposed in the City's annual budget and the estimated revenue to be received from all sources other than the rates, as well as a consideration of the extent of any increase in rates over the level adopted in the previous year

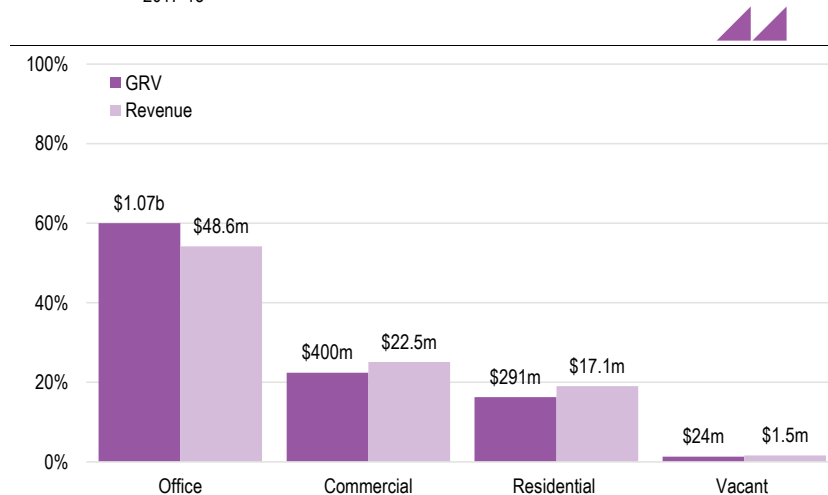
There are four categories of rateable land used by the City of Perth: Commercial, Office, Residential and Vacant land. In 2018-19, the highest differential rate is set on Vacant land (6.25865 cents per dollar of GRV), followed by Residential (5.74033 cents), Commercial (5.56344 cents) and Office (4.55125 cents) land uses. Since 2014-15, the differential rates for the Office land use has increased by 69 per cent, followed by Residential land use which has increased by 36 per cent over the same period. By comparison, the differential rates for the Vacant land has risen by 16 per cent since 2014-15, while for Commercial land use the rate has increased by 10 per cent. These recent increases have ensured that there is a more equal treatment of land for rating purposes (other than for vacant land).

**Figure 5.2** presents the GRV and total rates revenue for each land use category in the City of Perth in 2017-18. This provides a perspective on the "revenue effort" of the City of Perth across the four categories, by comparing the GRV of each category against the revenue generated by each.

The GRV of the office land use category represents a large proportion of the total rateable value of the City of Perth. In the 2017-18 Annual Budget, the GRV of the Office land category was \$1.07 billion, which equated to approximately 60 per cent of the total rateable value of land in the City of Perth. Following Office land uses was Commercial land uses which totalled \$400 million, Residential which totalled \$291 million and Vacant land which totalled \$24 million.

Office land use was also the largest category by revenue generation (\$48.6 million or 54.2 per cent of total rate revenue) for the City of Perth in 2017-18, followed by Commercial (\$22.5 million or 25.1 per cent), Residential (\$17.1 million or 19.1 per cent) and Vacant land (\$1.5 million or 1.6 per cent).

**FIGURE 5.2** CITY OF PERTH - GRV AND TOTAL RATES REVENUE BY LAND USE CATEGORY IN 2017-18



SOURCE: CITY OF PERTH 2018-19 ANNUAL BUDGET AND 2017-18 ANNUAL BUDGET

Based on the GRV and revenue generation from each land use category, the Residential land use category had the highest "revenue effort" for the City of Perth, with revenue representing 6.2 per cent

of the total Residential land use GRV. Commercial land use was next highest, with revenue generated representing 5.75 per cent of the total Commercial land use GRV, while the Office category was lowest at 4.5 per cent.

**KEY FINDING 26 CITY OF PERTH – REVENUE EFFORT BY LAND USE CATEGORY**

Using the GRV and revenue collections for each rateable land use category, an indication of the “revenue effort” of the City of Perth to each land use category can be calculated.

Based on the GRV and revenue generation from each land use category, the Residential land use category had the highest revenue effort for the City of Perth, with revenue representing 6.2 per cent of the total Residential land use GRV. Commercial land use was next highest, with revenue generated representing 5.75 per cent of the total Commercial land use GRV, while the Office category was lowest at 4.5 per cent.

The result of the City’s differential rate setting may be that the residential and commercial ratepayers of the City are being left to carry a heavier rates burden relative to office ratepayers. ACIL Allen estimated the “general rate” (ie all rate payers pay the same rate per unit of GRV) required to generate the same revenue the City raised from its differential rates in 2017-18 would be 4.94446 cents in the dollar. At this rate, Office ratepayers would have paid an additional \$4.6 million in rates in 2017-18, while Residential and Commercial ratepayers would have paid \$2.3 million less each. This provides one view of a potential cross-subsidisation of the City’s rate base to the Office ratepayers from other City ratepayers.

**KEY FINDING 27 CROSS SUBSIDISATION OF THE CITY OF PERTH’S RATE BASE**

The application of differential rate setting by the City of Perth has resulted in a cross-subsidisation of the City’s rate base to the Office ratepayers from other City ratepayers. ACIL Allen estimated the “general rate” required to generate the same revenue the City raised from its differential rates in 2017-18 would be 4.94446 cents in the dollar. At this rate, Office ratepayers would have paid an additional \$4.6 million in rates in 2017-18, while Residential and Commercial ratepayers would have paid \$2.3 million less each.

## 5.2 Local Government Comparisons

This section focuses on the rates models used by capital city local governments in Australia and local governments throughout metropolitan Perth. It is not possible to draw a direct comparison between other local governments and the City of Perth due to differing financial and legislative circumstances, however the information provided aims to highlight the importance of a sustainable rates model to the provision of services and facilities by local government across Australia.

### 5.2.1 City of Melbourne

The City of Melbourne uses a Net Annual Value (NAV) method for calculating rates. For residential properties, this is 5 per cent of the property’s value. Rates are calculated using the total NAV figures and the Council’s annual budget requirements, with respect to how much revenue is needed to deliver services and programs. This sum is divided by the NAV figure to calculate a rate in the dollar which is then applied to each property’s NAV.

For example, in 2017-18 the City of Melbourne required revenue of \$424 million, of which rates contributed \$272 million (approximately 64 per cent) to cover its expected costs. To raise this sum, using NAV as the basis for the rates model, it was calculated that residential properties pay 3.996 cents per dollar of NAV, while commercial properties pay 4.621 cents per dollar of NAV<sup>14</sup>.

<sup>14</sup> <https://www.melbourne.vic.gov.au/residents/rates/Pages/how-rates-are-calculated.aspx>

In 2015, the Fair Go Rates System was introduced by the Victorian Government to limit the amount of revenue increases a council can levy through rates through the setting of a cap. Each year, the Minister for Local Government sets a cap on rate increases based on that period's CPI and advice from the Essential Services Commission (ESC). For 2019-20, council rate rises in Victoria have been capped at 2.5 per cent.

The rate cap applies to a council's total rate revenue and not individual properties. As such, in many cases, an individual rates bill may increase or decrease by more (or less) than the capped rise amount. This may happen because:

- the value of the property has increased or decreased in relation to the value of other properties in the council;
- other charges and levies that are not subject to the cap, such as the waste charge, has risen (the capped increases apply to the general rates and municipal charges only); and
- the amount of rates levied from properties of that type (residential or non-residential) has changed through the Council's application of differential rates.

**Table 5.1** outlines how compliance to the Fair Go Rates System has impacted the setting of rates in the City of Melbourne.

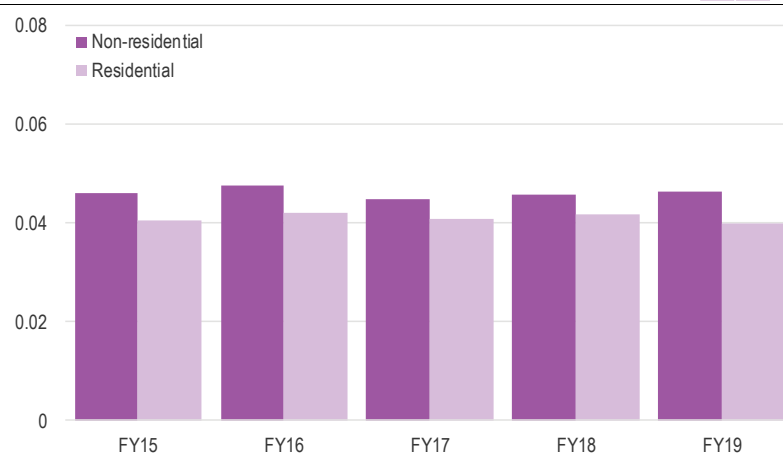
**TABLE 5.1** CITY OF MELBOURNE – FAIR GO RATES SYSTEM COMPLIANCE

|                               | 2017-18       | 2018-19       |
|-------------------------------|---------------|---------------|
| Annual previous years rates   | \$265,169,465 | \$276,337,644 |
| Number of rateable properties | 107,148       | 113,607       |
| Base average rate             | \$2,475       | \$2,432       |
| <b>Maximum rate increase</b>  | <b>2%</b>     | <b>2.25%</b>  |
| Capped average rate           | \$2,524       | \$2,487       |
| Maximum general rates         | \$270,472,854 | \$282,554,986 |
| Budget general rates          | \$270,472,854 | \$282,554,986 |

SOURCE: CITY OF MELBOURNE – 2018-19 ANNUAL PLAN AND BUDGET

**Figure 5.3** presents the differential rates set by the City of Melbourne for the non-residential and residential land use categories over the last five years.

**FIGURE 5.3** CITY OF MELBOURNE – DIFFERENTIAL RATES BY LAND USE CATEGORY



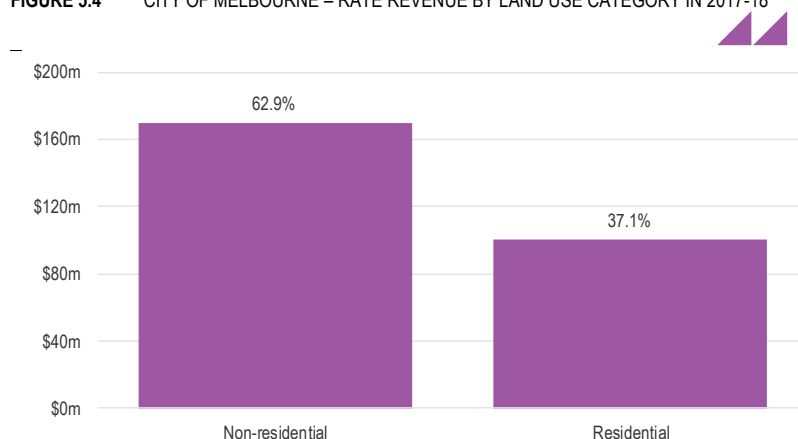
SOURCE: CONSECUTIVE CITY OF MELBOURNE ANNUAL PLAN AND BUDGETS

In 2018-19, the differential rate for residential properties is 3.996 cents per dollar of NAV and the differential rate for non-residential properties is 4.621 cents per dollar of NAV, a 4 per cent decrease and 1 per cent increase on their respective values in 2017-18. The two differential rates set by the City of Melbourne are lower than the differential rates set by the City of Perth for corresponding land use categories.

**Figure 5.4** presents the revenue generated through rates in the City of Melbourne across the non-residential and residential land use categories in 2017-18.

Non-residential was the largest land use category by revenue generation (\$170 million) for the City of Melbourne, accounting for 62.9 per cent of the total revenue generated through rates (\$270.5 million) in 2017-18. In 2017-18, rates accounted for approximately 60 per cent of the City of Melbourne's total revenue base, a higher proportion than the same measure for the City of Perth.

**FIGURE 5.4** CITY OF MELBOURNE – RATE REVENUE BY LAND USE CATEGORY IN 2017-18



Note: The figure calculated for total rates revenue excludes the 'Cultural and recreational' and 'Other rates' categories.

SOURCE: CITY OF MELBOURNE – 2018-19 ANNUAL PLAN AND BUDGET

## 5.2.2 City of Adelaide

In the City of Adelaide, property valuations for the purposes of calculating rates are prepared on the basis of 'Annual Value'. Annual value is defined in the *Valuation of Land Act 1971* and is computed as 75 per cent of the gross annual rental that the land might reasonably be expected to realise if leased upon, condition that the landlord was liable for all rates, taxes, insurance and other outgoings necessary to maintain the value of the land. In 2017-18, the City of Adelaide generated \$104.4 million in revenue from rates, which equated to approximately 54 per cent of the City of Adelaide's total revenue base, a higher proportion than the same measure for the City of Perth.

The City of Adelaide decided to freeze the differential rate in the dollar for 2018-19 at the same level as 2017-18 for both residential and non-residential ratepayers. In 2018-19, residential properties pay a rate of 0.1149 in the dollar, while non-residential properties pay a rate of 0.1408 in the dollar. The two differential rates set by the City of Adelaide are higher than the differential rates set by the City of Perth for corresponding land use categories.

In South Australia, there is no limit to what a council can increase its rates by under the *Local Government Act 1999*. Separate rates are levied for the purposes of managing and marketing the Rundle Mall Precinct, and to recover funds on behalf of the Adelaide and Mount Lofty Ranges Natural Resources Management Board.

To assist in cases where an individual property valuation has increased significantly, the City of Adelaide provided a 'Special Discretionary Rate Rebate' to all land uses in 2017-18 to ensure any increase in general rates payable for comparable properties is no more than 10 per cent. This rebate

is not applicable to properties where the valuation has increased as a result of new development, additions or alterations. In July 2017, the City of Adelaide announced the 'Free Rates for Five Years' incentive for owner-occupiers purchasing an off-the-plan apartment or conversion from a C or D grade office building. The incentive was designed to assist developers with pre-sales to enable apartment projects to progress to construction.

### 5.2.3 Brisbane City Council

Land valuation for the purpose of setting rates by the Brisbane City Council is based on site value. Site value is the market value of the land in its present state, and includes the value of any improvements made to the land including filling, clearing, levelling and drainage works. The site value does not include structural improvements such as houses, sheds and other buildings. Brisbane City Council averages a property's past three land valuations to determine the average rateable valuation. The current valuation is used by Brisbane City Council to calculate rates if it's less than the average rateable valuation.

Brisbane City Council calculates a rates bill by multiplying the property's average rateable value by a dollar rate. The dollar rate used is dependent on the property's land use category. From 1 July 2018, there are 77 land use categories. In 2017-18, rates and utility charges accounted for approximately 46 per cent of the Council's total revenue base, a marginally higher proportion than the same measure for the City of Perth.

In the 2018-19 Budget, owner-occupied residential rates increased by 2.5 per cent, which is marginally above the 2.4 per cent increase in the 2017-18 Budget, to a rate of 0.2701 in the dollar. This differential rate is significantly higher than the differential rate for the residential land use category set by the City of Perth.

Rate capping is granted on general rates for owner-occupiers of residential properties and for non-residential/commercial properties at 7.5 per cent and 10 per cent respectively. The rate cap means that if the increase in general rates is more than the applicable capping amount, the Council will grant the amount greater than the cap as a remission. Minimum general rates increased in the 2018-19 Budget to \$715.88 for owner-occupied properties and \$944.24 for non-owner occupied.

### 5.2.4 City of Sydney

Rates are the main source of revenue for the City of Sydney, making up approximately 41 per cent of the total revenue base in 2017-18, which is a lower proportion than the same measure for the City of Perth.

Rates are calculated from property valuations supplied by the NSW Valuer General. New land values are issued every three years. All rateable land within the City of Sydney is categorised as either residential or business. Business is composed of a business ordinary rate category and a business CBD rate category. The City of Sydney uses the method of ad valorem and minimum rates. The City imposes a rate per dollar (ad valorem) of land value, with a minimum amount. In 2018-19, residential properties pay a rate of 0.001305 in the dollar, business properties pay a rate of 0.00455 in the dollar and business CBD properties pay a rate of 0.01056 in the dollar. The three rates categories are forecasted to generate revenue of \$76.7 million, \$65.8 million and \$162.7 million respectively in 2018-19. The three differential rates set by the City of Sydney are significantly lower than the differential rates set by the City of Perth on corresponding land use categories.

The NSW State Government, through the Independent Pricing and Regulatory Tribunal (IPART), approves a maximum percentage increase in the total income a council can receive from rates, thereby limiting the amount of income a council can raise via general rates. The setting of the rate peg is mainly based on the Local Government Cost Index (LGCI), which measures prices changes over the previous year for the goods and labour an average council will use. As long as its general income remains within the set maximum increase, councils may increase categories of rates by higher or lower than the rate peg. IPART has set the 2019-20 rate peg for NSW councils at 2.7 per cent.

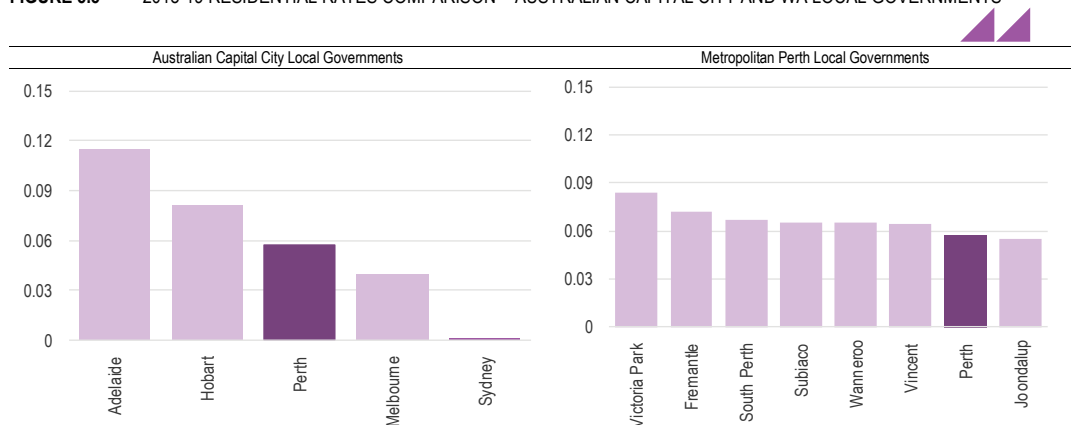
### 5.2.5 Overall Assessment

**Figure 5.5** presents how the residential rates set by the City of Perth compare with other capital city local governments in Australia and major local governments in the Perth metropolitan area.

Relative to other capital city local governments in Australia, the City of Perth's residential rates are set at a low level. The City of Melbourne and City of Sydney both set their residential rates at a lower level than the City of Perth, however this is compensated for in both cases by a larger ratepayer base, particularly for commercial businesses, as well as incentives encouraging high-density residential living.

The City of Perth also has relatively low residential rates when compared to other major local governments in the Perth metropolitan area. This can be attributed to factors such as the City of Perth having a larger number of commercial businesses in their ratepayer base and additional business units, such as CPP, which provide relatively consistent revenue flows from year to year. In addition, the City of Perth has sought to encourage people to live in the city which has underpinned the setting of residential rates at a relatively low level.

**FIGURE 5.5** 2018-19 RESIDENTIAL RATES COMPARISON – AUSTRALIAN CAPITAL CITY AND WA LOCAL GOVERNMENTS

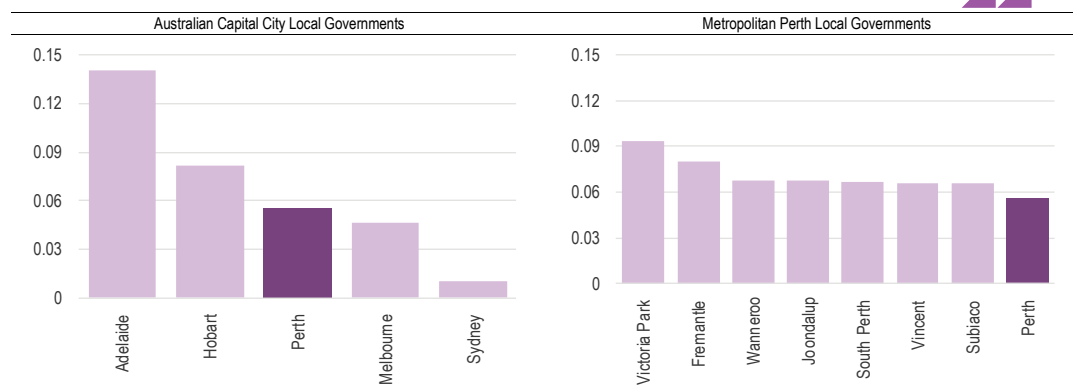


Note: Brisbane City Council is excluded from this chart due to their method of land use categorisation and valuation.  
SOURCE: ACIL ALLEN CONSULTING

**Figure 5.6** presents how the commercial rates set by the City of Perth compare with other capital city local governments in Australia and major local governments in the Perth metropolitan area. Relative to other capital city local governments in Australia, the City of Perth's commercial rates are set at a low level. Similar to residential rates, the City of Melbourne and City of Sydney both set their commercial rates at a lower level than the City of Perth.

The City of Perth also have relatively low commercial rates when compared to other major local governments in the Perth metropolitan area. This can be partly attributed to the City of Perth having a larger ratepayer base of commercial businesses, as well as the additional office land use category in their rates model which was not used by other metropolitan local governments in Perth. In addition, unlike the City of Perth, there are some local governments that use the same differential rate for residential and commercial land uses.

**FIGURE 5.6** 2018-19 COMMERCIAL RATES COMPARISON – AUSTRALIAN CAPITAL CITY AND WA LOCAL GOVERNMENTS



Note: Brisbane City Council is excluded from this chart due to their method of land use categorisation and valuation.  
SOURCE: ACIL ALLEN CONSULTING

#### KEY FINDING 28 RATES REVENUE COMPARISONS

The City of Perth's rates for residential and commercial land uses are set at a lower level than other capital city local governments and metropolitan Perth local governments, with the exception of the City of Melbourne and the City of Sydney which have significantly larger ratepayer bases. The low level of rates against other capital city local governments potentially reflects the impact of the City's ability to earn additional revenue through its CPP business, however it is not possible to determine with the evidence provided to ACIL Allen.

---

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MORE THAN THIRTY YEARS.





August 2019

# Review of Governance and Financial Matters

Department of Local  
Government, Sport and Cultural  
Industries on behalf of the  
**Inquiry into the City of Perth**



Audit / Tax / Advisory

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2 September 2019

Ms Jackie Carmichael  
Principal Investigator  
Inquiry into the City of Perth  
Level 19, 111 St Georges Terrace  
PERTH WA 6000

#### Inquiry into the City of Perth – Governance and Financial Matters

Dear Ms Carmichael,

In accordance with our proposal dated 31 January 2019 and subsequent scope extension proposals dated 28 March 2019 under the terms of CUA AFA2018, we have completed our examination of the matters in the scope of work and are pleased to submit our report to you.

If you have any questions, please contact Duy Vo, Associate Partner on 0475 944 586 or 08 9481 1000.

Sincerely,  
Findax (Aust) Pty Ltd

Scott Goddard  
Partner – Forensic and Data Analytics

Duy Vo  
Associate Partner – Audit & Assurance

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## 1. Executive Summary

### Context

Pursuant to Section 8.16 of the *Local Government Act 1995* (the “**Act**”), the Minister for Local Government; Heritage; Culture and the Arts; appointed an Inquiry Panel to investigate and report on the aspects, operations and affairs of the City of Perth (the “**City**”).

The Department of Local Government, Sport and Cultural Industries (the “**Department**”) on *behalf* of the Inquiry into the City of Perth engaged Crowe to support the investigation into the financial management of the City.

### Summary of Findings

The foundation of the financial management issues at the City is a set of complex systemic problems that existed without adequate attention for an extended period. The failures have been both serious and continuous, resulting in mismanagement of resources, compromised governance standards, and significant reputational damage to the City.

The review identified the ongoing failure to manage an underperforming culture in Finance Services, which experienced a set of challenging governance circumstances and was not adequately equipped with the capabilities nor expertise to address. When combined this factor with a myriad of day-to-day operational issues, over ambitious strategies and external scrutinies, the tensions became overwhelming for many individuals and senior leaders at the City.

Some governance issues at the City are due to a lack of appreciation of how to maintain the requisite standard of probity in decision-making. Conflicts of interest represent a significant threat to the impartiality of any decision-making process and **strikes at the heart of good governance**.

Ratepayers expect that Elected Members and public officials will always perform their duties in a fair and impartial way – **placing the public interest first at all times**. Whilst conflicts of interest are not wrong in themselves – public officials are also private individuals and there will always be occasions when their private interests come into conflict with their duty to put public interest first – **but such conflicts must be identified, disclosed and effectively managed**. We found this was not always done at the City.

Through its involvement with the Perth Public Arts Foundation (“**PPAF**”), the City has potentially conflicted relationships with industries and individuals who donate to the PPAF as the City also may regulate these entities through processes such as land approvals and developments.

The ongoing lack of recognition of conflicts of interest, at different levels, highlights the continuing governance weakness at the City.

Grants, donations and sponsorships were not well managed; characterised by poor record keeping, tainted with conflict of interest and non-compliance with established policies. Decisions for funding approval were not transparent; and controls exercised over the acquittal of monies were inadequate at best. It is questionable whether ratepayers’ monies had been expended on the intended purposes.

Within its operating context, the City was thus vulnerable to issues related to:

- Procurement and contract management;
- Fraud; and
- Inappropriate relationships.

The City's governance structure was beset by an imbalance of control that is weighted towards certain compliance functions but deficient in some areas, exposing the City to significant risks of misconduct and corruption. Risk Management and Internal Audit functions offered limited value to improve the City's governance in this regard, and existed more in form rather substance. Their structure – in its current state – is emblematic of the continued governance dysfunction at the City.

External Audit primarily focused on the City's "General Purpose" financial reports, with limited insights into, nor influence on, the configuration of controls, playing an even lesser role to ensure the City operates in a transparent manner, with due probity and integrity.

The net effect is that the City's 'second' and 'third lines of defense' do not actively reinforce the governance standards required to provide effective oversight.

Poor governance existed at the City because of the following factors:

1. Inadequate management of conflicts of interest;
2. There was no appreciation of the misconduct risks associated with procurement, contract management or sponsorship/donation; as a result, little was done to proactively manage them;
3. Misalignment of capabilities, systems and processes;
4. Internal Audit and Risk Management failed to identify and recommend the right balance of control, resulting in risk exposure to some areas and inefficiencies created in others; and
5. Over reliance on third-party consultants to provide investigation and probity services without an appreciation of the nature of advice or the level of assurance being given, resulting in misrepresentations to the CCC.

Whilst no one single factor was responsible for the systemic governance failure at the City, when combined, the City was overwhelmed with pressures that it was incapable of addressing due to less than robust risk/control management strategies, which left it vulnerable to the risk of misconduct occurring.

Based on the evidence, we found:

- The City did not, and probably do not, have the capacity to effectively manage fraud and corruption risks; and
- Circumstances which underpinned the weakness in controls were a symptom of systemic failure to maintaining good governance at the City.

## Recommendations

Addressing the symptoms or imposing further ineffective compliance measures add limited value under the circumstances. What is required, is comprehensive reform which:

- Addresses people/capabilities, systems and processes;
- Identifies conflicts of interest as principle to guide policy development; and
- Recognises the complexities of the procurement environment and the misconduct risks attendant.

In that context, we make the following recommendations:

#### Recommendation 1

Conduct a functional review of the Finance Services area. The review is to identify the following:

- Current capability and maturity assessment of the Financial services unit. A diagnosis of current performance, including “client” feedback and expectations.
- Services and resource level comparison against similar local governments and industry benchmarks.
- Adequacy of measures in place to ensure compliance with relevant local government financial regulations, including tax obligations such as Fringe Benefits Tax, Goods & Services Tax.
- The potential impact of industry and technological changes.
- Impact of the City’s projected growth to be taken into account.
- Key performance indicators to monitor ongoing performance.
- Gap analysis and recommendations.

#### Recommendation 2

Key financial processes and systems need to be process mapped and documented to support consistent decision making and ensure accountability.

#### Recommendation 3

- A. Develop comprehensive, organisation-wide strategies to combat fraud and corruption including a review of policy and procedures to manage conflicts of interests and related-party transactions.
- B. Reiterate the importance of conflict of interest and a training program that reinforces the need to:
  - i. Declare all interests, whether a direct or indirect financial interest, a proximity interest or an impartiality interest;
  - ii. Abstain from any decision-making forum associated with the subject matter that may present a conflict of interest;
  - iii. Restrict the person’s access to relevant information that is sensitive;
  - iv. Divest the personal interest, which creates the conflict; and
  - v. Provide education to individuals about identifying conflicts of interest.

#### Recommendation 4

- A. The City’s procurement operating model should be underpinned by relevant skills, experience, people and governance systems. For high risk procurement, the City should consider the specific risks associated with that procurement in general (i.e. supply market considerations and business risk considerations), as well as risks particular to probity of the procurement process. This can assist in clarifying the specific role that the probity auditor and/or advisor will play and the particular issues that he/she may be required to address.
- B. The City should establish a centralised contract management function that aims to address the organisational-wide needs including measures that monitor payment (to avoid duplication), variation, out of scope work and overall expenditure (to ensure compliance with procurement policy). Contract management activities should include, but not limited to, the following:
  - Establish, measure and monitor key performance indicators;
  - Conduct performance review of suppliers;
  - On-going integrity check and risk management e.g. insurance, registrations, licences, etc.;

#### Recommendation 4

- Value testing and benchmarking; and
- Manage contract variations as appropriate.

#### Recommendation 5

The roles of probity auditor and probity advisor should be clearly distinguished.

Where the procurement is complex and/or sensitive, a probity advisor should be engaged to establish the probity management framework. A probity auditor should then be engaged to provide an independent scrutiny of the procurement process and express an objective opinion as to whether the prescribed probity requirements have been adhered to.

#### Recommendation 6

Effective governance should enhance organisation performance, management and minimise risks. To this end, the City should reset the risk management and internal audit functions; and more broadly, governance; in their current form. A review should be conducted to identify whether the structure, skillset, output, delivery is commensurate with an organisation of the scale, scope and complexity such as the City. An evaluation should also be undertaken examining alternative internal audit models, which include outsource and co-source arrangements.

#### Recommendation 7

As part of the reform initiatives, the City should plan some culture training tailored to different stakeholders in the organisation with the objective of promulgating the importance of accountability, taking ownership for individual actions and lead by example. At the same time, the City should review its Human Resource regime and recalibrate its disciplinary approach to ensure its punitive measures are balanced and not having a deleterious effect on the culture of the organisation by deterring individuals from accepting responsibility for their actions.

#### Recommendation 8

The City should ensure proper documentation and record keeping is maintained when applying *Council Policy 12.4 "Payments under section 5.50 of the Local Government Act 1995"*.

#### Recommendation 9

Customisations of the Finance One system should be risk assessed to determine the broader implications in terms of stakeholders' engagement and overall integration and alignment with organisational objectives.

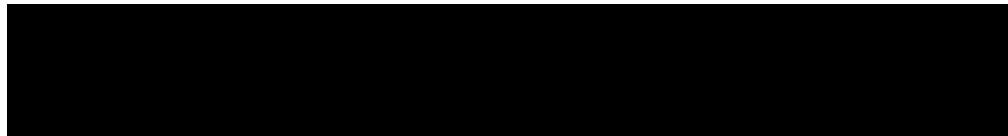
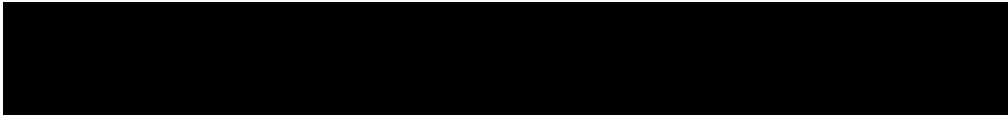
#### Recommendation 10

Asset Management and Project Management represent core capabilities that are dependent upon for the delivery and management of the City's capital program. A comprehensive review should be conducted to determine whether these business units have the right capabilities, systems and processes necessary to support the delivery of the City's capital budget; and the structure is aligned to the organisation's operational requirements.

#### Recommendation 11

When engaging investigators and external consultants/advisors, the City should ensure that:

- It identifies the nature of assurance it requires;
- The service provider is appropriately qualified, and, seek evidence of that qualification and experience;
- The investigator – whether internal or external – does not have a conflict of interest with the subject matter concerned;
- It formalises the engagement with a term of reference that is signed by all parties;
- Upon receipt of the deliverable such as a draft report, the City rigorously reviews the information paying careful attention to the quality of the finding, logic and supporting evidence; and
- Weaknesses of governance and/or controls identified contribute to a 'lesson learnt' process as part of an intelligence-led Internal Audit function.



#### Recommendation 14

In respect of grants, donations and sponsorships, the City should:

- A. For Small one-off projects – request a report on achievements against objectives and financial acquittal when the project is completed.
- B. For more complex projects and service delivery programs – conduct regular and rigorous review to determine progress and assess whether value for money has been achieved. This should include regular progress reports by the funding recipient against agreed performance measures or milestones and/or site visits by a representative from the City. A final acquittal report should include an independent financial audit accompanying the following information:
  - a. Acquittal certificate;
  - b. Balance Sheet;
  - c. Income and Expenditure Statement,
  - d. Asset Register; and
  - e. Performance Report.

Surplus funds should be returned to the City unless the recipient has made a formal application for funding retention. A regular review of monitoring, reporting and evaluation activities for funding programs should be scheduled in the City's internal audit plan.

## 2. Introduction

### 2.1. Objective and Scope

The Inquiry Panel sought advice on the following matters over the period **1 October 2015 to 1 March 2018**:

- A. Appropriateness of governance practices for budgeting and financial reporting, and oversight by the City (Council and Administration).
- B. Maturity/appropriateness/effectiveness of the City's Internal Audit and fraud and corruption risk management program.
- C. Analysis of financial budgeting and expenditure to identify areas of risk to inform D.
- D. Analysis of a sample of the City's:
  - i. Major spend (budget>procurement>contract> expenditure) to identify strengths and weaknesses in controls;
  - ii. Payroll payments (e.g. termination payments); and
  - iii. Grants and/or sponsorships.
- E. Audit services or financial advice related to any other matters under investigation. This included consideration of areas such as declaration of interests, fringe benefits tax, delegations of authority and asset management.

The Inquiry Panel sought further advice on the following matters for the same period (Phase two):

- A. Audit relating to the City's acquittal of the funding for PPAF.
- B. Audit of a significant value grant/sponsorship (+\$100,000), a smaller value grant/sponsorship (under \$100,000) and a donation by the City.
- C. An end-to-end analysis of the spend from two areas, one applying across the City and the other being Branch specific (budget>procurement>contract>actual expenditure).
- D. A high-level review of the procurement/grants, contracting and expenditure activities related to McLean Lane in Perth.
- E. Analysis of workers compensation expenditure, focusing on the insurance premium paid.

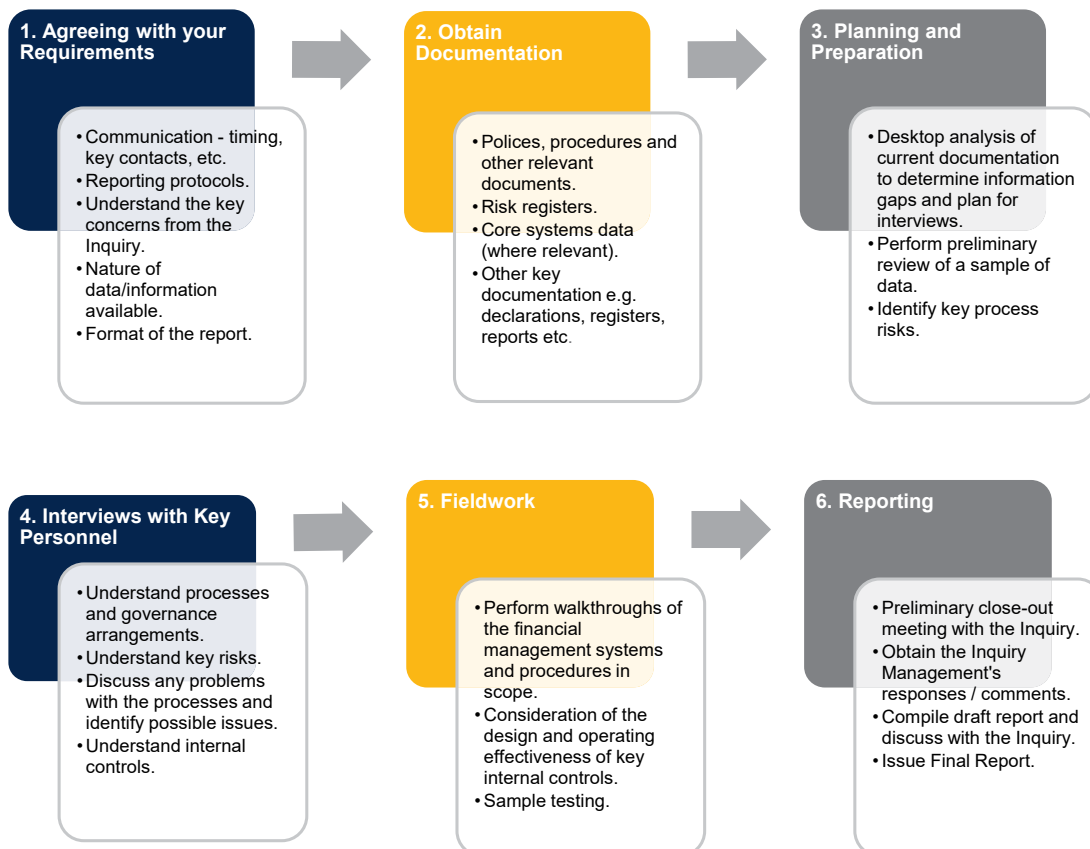
*The analysis of Phase Two matters are outlined in the attached Addendums.*

## 2.2. Approach

Our methodology is outlined in the following diagram:



The fieldwork is further expanded below:



As agreed upon, we placed reliance on data analytics, profiling of expenses and third-party reports to inform our analysis.

## Detailed Findings and Recommendations

The following sections provide detailed analysis of the samples and focused areas that we were instructed to review. Recommendations have been justified on the basis of comprehensive reform, designed to address the root cause of the issues.



### 3. Procurement and Contract Management



### 3.1. Procurement Model

The City procures a vast array of goods and services. In support of its procurement activities, the City has established, inter alia, the following procedure and guideline frameworks:

- *Procurement guidelines and procedures; and*
- *Code of Conduct and Statement of Business Ethics.*

The City currently operates a decentralised procurement model, with many aspects of the procurement cycle undertaken by project officers with varying procurement skills. The City's "*Procurement Plan 2018 – final*" identified the following deficiencies associated with existing procurement activities (extract below), which significantly exposed the City to probity and misconduct risks:

- *"Procurement is significantly dispensed across the City and the level procurement is engaged varies between directorates and business units. There is limited collaboration across business units / directorates when sourcing similar spend categories.*
- *Significant value leakage through the absence of structured category management.*
- *Officers could be exposing the City to litigation through incorrect procurement processes.*
- *The City is currently exposed to many levels of non-compliance on procurement activities across the City due to the current structure and the lack of system to support the audit and compliance checks e.g. Vendor to Employee Relationships, Potential duplicate payments, Efficient expenditure checks including vendor to vendor relationships.*
- *There are areas where there has been continued use of suppliers for various categories which decreases competition. There is a possible perception in the market that the City will only use certain suppliers as the response rates to procurement activities is minimal and minor when compare to the number collecting the request documents for public processes.*
- *Officers across the City currently conduct many procurement activities reducing their capacity to undertake their core duties. These Officers are the primary people deciding which suppliers to use enabling duplication and siloing of suppliers. This also provides suppliers the opportunity to extract additional value for their business at the expense of the City often through inflated costs to the City.*
- *Many procurement process [sic] are conducted without involvement of procurement professionals and may expose the City to breaches of legislation and possible legal action. For example, a contract can incur significant cost increases or variations. These can result in legal disputes for resolution and claims. A public example (March 2018) occurred relating to an ex-employee of City of Perth, Brett Kenny, admitted to bribery and corruption charges relating to engagement of an electrical contractor Hervey Harms. Each of the engagements were below \$5,000. While the offences occurred between 2012 and 2014 it is an example of the long term adverse media impact to the City's operations".*

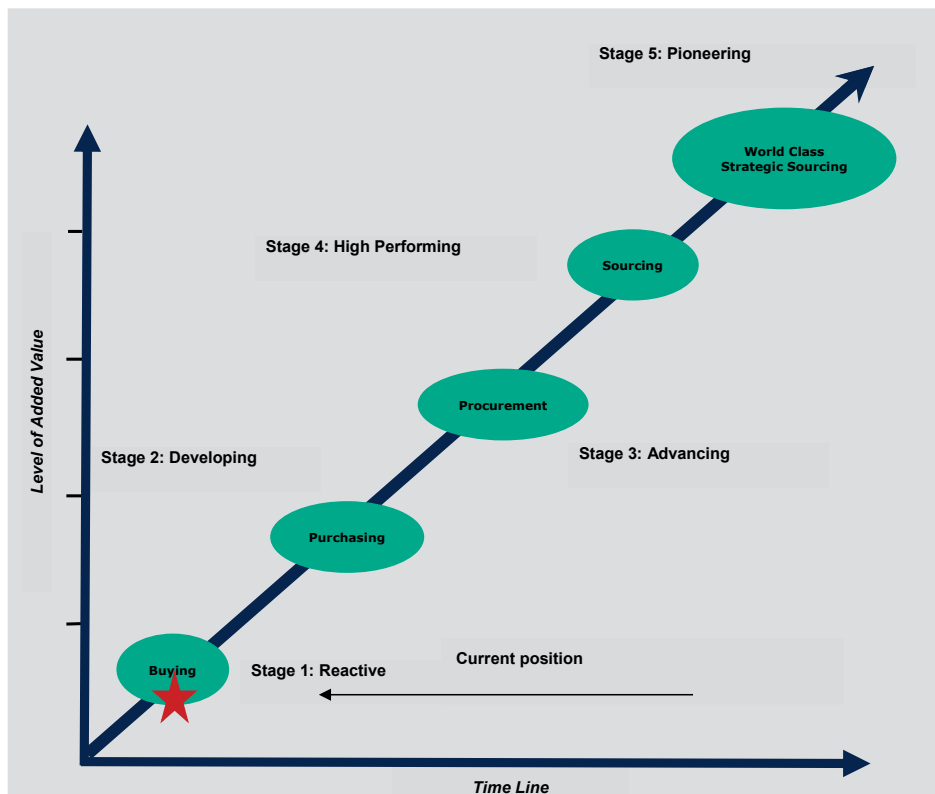
We observed the City's ability to achieve value for money for their contracts was diminished by poor planning and probity management. Despite the existence of procurement policies and arrangements, there remained insufficient controls for managing probity and conflicts of interest. Senior Management did not have a good appreciation of the distinction between a probity advisor and probity auditor, and consequently, misunderstood the nature of advice and the level of assurance being provided by the consultant.

Through enquiries and review of literatures, we found that the City's procurement regime was fragmented, largely reactive, tactical and project focused, and did not address core strategic procurement fundamentals. Of particular concern, was the limited emphasis on:

- End-to-end procurement process and developing new commercial approaches. There was little focus on current strategic procurement practices such as comprehensive spend analytics and opportunity assessment, spend category management, supplier positioning, hypothesis testing,

- strategic sourcing and negotiations, and enterprise supplier performance management;
- City-wide strategic category management planning; and
- Probity management.

Our assessment of the City's procurement maturity (illustrated by the red star) is depicted in the following diagram:



|                                       | Activities Covered  |
|---------------------------------------|---|
| <b>World Class Strategic Sourcing</b> | <ul style="list-style-type: none"> <li>• Strategy fully supports the corporate goals and driven by corporate consensus</li> <li>• Managing the supply risk while leveraging the competitive strengths</li> <li>• Nurturing supplier relationships</li> <li>• Supplier base share improvement target for cost and innovation added value</li> <li>• Full visibility and trust across the external value chain</li> <li>• Procurement maintains a rationalised supplier network that delivers technology, knowledge, products or service quality superior to competitors</li> </ul> |
| <b>Sourcing</b>                       | <ul style="list-style-type: none"> <li>• Procurement strategy aligned to corporate strategy</li> <li>• Suppliers selected for strategic fit and deliver continuous improvement</li> <li>• Data driven decision making</li> <li>• Full support over purchasing cycle</li> <li>• Risk sharing higher with the organisations co-located and jointly financed</li> <li>• Business planning optimises all commercial aspects, tax, investment, people</li> </ul>   |
| <b>Procurement</b>                    | <ul style="list-style-type: none"> <li>• Formal Planning processes</li> <li>• Focus on Supplier Relationship Management and sharing business plans</li> <li>• Longer term, bigger value contracts with fewer suppliers</li> <li>• Collaboration on cost improvement, increased levels of risk sharing</li> <li>• Trained and qualified resources supporting all categories of spend</li> <li>• Key Performance Indicators in place.</li> </ul>  |
| <b>Purchasing</b>                     | <ul style="list-style-type: none"> <li>• Some category strategy creation, but not organisation wide, and not communicated effectively</li> <li>• Volume leverage through effective use of competition across categories</li> <li>• Track commercial measure of performance, targets for savings</li> <li>• Technology enablers i.e. purchase to pay cycle improvement through automation</li> <li>• Selected supplier base consolidation</li> <li>• Training and recognition of skills required</li> </ul>  |
| <b>Buying</b>                         | <ul style="list-style-type: none"> <li>• Needs not anticipated, data not available or not used</li> <li>• No organisation wide procurement strategy, large supplier base</li> <li>• Transactional focus</li> <li>• Procurement provides ad-hoc tactical support</li> <li>• Low skills and resource, little career planning</li> </ul>   |

### 3.2. Contract Management

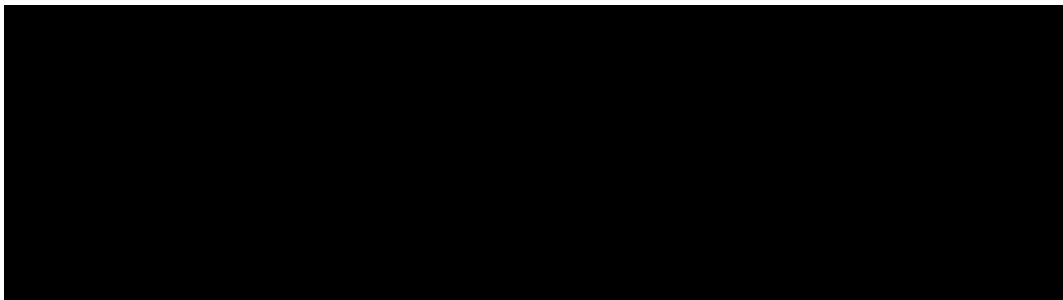
In relation to contract management, the City's "Procurement Plan 2018 – final" identified, inter alia, the following issues (extract below):

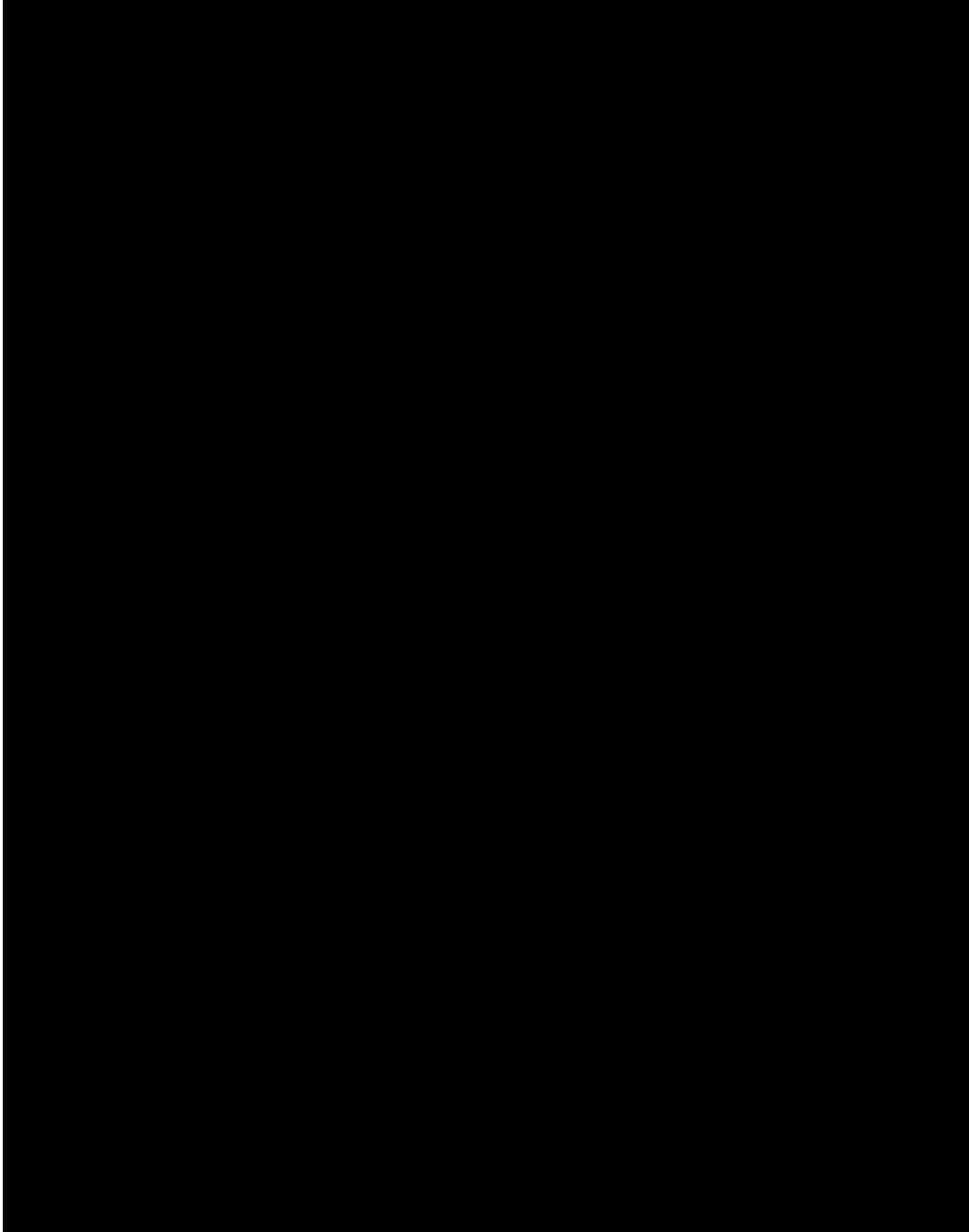
- *"Contracts are currently managed by individual business units with little evidence of collaboration across business units for the contract management activities.*
- *Contract management occurs at business unit level in a decentralised manner.*
- *Without dedicated contract managers full contract management is performed as a duty under other roles e.g. project managers. This results in many contracts only established for a single need.*
- *There is [sic] varying levels of contract management activities for example:*
  - *weighted Key Performance Indicators vs unweighted Key Performance Indicators regular performance reviews (i.e. quarterly business reviews vs only prior to contract extension)*
  - *performance reviews on both the supplier and the City to enable improvements for both parties on-going integrity checks and risk mitigation e.g. OSH, licences, registrations and insurances*
  - *management of contract variations through the life of the contract inconsistency [sic] payments terms across suppliers*
  - *value testing / benchmarking*
- *Due to the decentralised procurement model currently in existence suppliers of the City have multiple contact points across the directorates and business units. This presents a risk for the City from suppliers trying to influence the procurement of goods and services. An example of this occurred on 20 September 2017 when a supplier contacted people from the City offering the chance to win a \$6,000 party for their team if they placed an order for stationary over \$200. Under the current model each of the contact points to the City could not be identified quickly and easily. Fortunately, at the time this issue was raised with Procurement so an intranet notice could be issued explaining that acceptance of a prize or gift was not acceptable".*

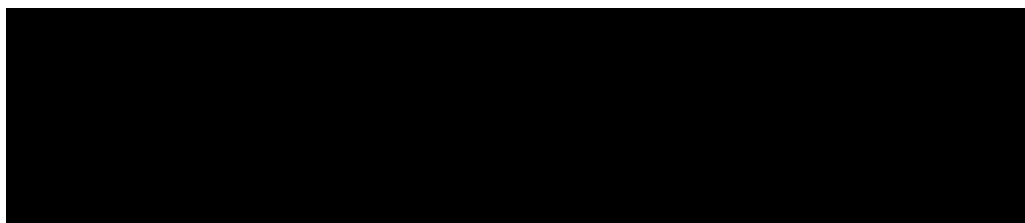
Contract management was not well managed at the City. Whilst the City recognises that contract management processes exist and that these processes are accepted and practiced throughout the organisation, there is no City-wide, formal contract management framework that, inter alia, takes into consideration the business risks in attendant.

Managers do not appear to be held accountable for adhering to, or complying with, any basic contract management processes or standards. Our enquiries on 'contract ownership' were inevitably met with the standard response, "it's the City contract – not my business unit!", even though the business area initiated the tender in the first place.

Simply put, there was no sense of responsibility.







### 3.4. Tender 031 – 17/18: Maintenance of Irrigation Bores, Pumps and Associated Works

Tabled below is a summary of the documents assessed and reviewed, and interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• CP 9.7 – Purchasing Policy</li> <li>• PR0660 - Evaluation Panels Procedure</li> <li>• Advertising Program: Tender 031 – 17/18: Maintenance of Irrigation Bores, Pumps and Associated Works</li> <li>• Request for Tender 031 – 17/18: Maintenance of Irrigation Bores, Pumps and Associated Works</li> <li>• Evaluation Panel Scoresheets and Declaration of Confidentiality</li> <li>• Qualitative Selection Criteria Evaluation Matrix</li> <li>• Form of Tender – Schedule of Rates – Western Irrigation Tender</li> <li>• City of Perth Memorandum dated 14 September 2017</li> <li>• Record of Delegated Authority Decision for Tender 031 – 17/18 dated 9 October 2017</li> <li>• Contract 031 – 17/18 – Western Irrigation</li> <li>• Accounts Payable report – Extracted from Finance 1</li> <li>• Hydroquip complaint letter to the CCC dated 2 November 2017</li> <li>• CCC letter to the City dated 10 January 2018</li> <li>• Stantons International Report – Probity Review</li> <li>• Shenton Enterprises Report – Technical Review</li> <li>• City letter to the CCC dated 6 June 2018</li> <li>• City letter to Hydroquip dated 20 August 2018</li> <li>• ASIC Directorship search results</li> <li>• General Disclosure of Interest Form – Mr Humble</li> <li>• The City's Contracts Chart as at 11 March 2019</li> </ul> |
|-------------------------------|---|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Mr Blake Humble ("<b>Mr Humble</b>") – Coordinator Park Operations</li> <li>• Mr Simon Pascoe ("<b>Mr Pascoe</b>") – Supervisor Irrigation and Mowing</li> <li>• Mr Martin Copeman ("<b>Mr Copeman</b>") – Manager Parks</li> <li>• Mr Morris Stevens ("<b>Mr Stevens</b>") – Contracts Administrator</li> </ul>   |

### 3.4.1. Context

Public authorities must be able to demonstrate to suppliers and the community that they conduct their procurement activities with high standards of probity and accountability. Probity requires organisations to conduct their procurement activities ethically, honestly and fairly.

**In accordance with the Department of Finance, probity means:**

*“the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.”<sup>1</sup>*

- The City's Parks Unit manages parklands, road reserves, street trees, public places, mall horticultural presentations, boutique gardens and landscape maintenance and construction.
- During 2017, the City invited tenderers to tender for the provision of irrigation bore and pump maintenance services throughout the City for a period of one year with options to extend for two further one-year periods - *Tender 031 – 17/18*.
- The Request for Tender (**RFT**) was advertised in *The West Australian* on 16 August 2017 with a closing date for tender submissions on 31 August 2017 at 2pm WST.
- The City's 2017/18 Parks pump and bore maintenance budget provided \$111,499 based on previous years spent. The budget was verified by the City Park Unit's Directorate Accountant and approved by the Director Construction and Maintenance.
- Following the closing date and time of the tender, four service providers submitted their tenders, via the Tenderlink E-Tendering website, namely:
  - Western Irrigation Pty Ltd (**Western Irrigation**);
  - Acemark Investments Pty Ltd ATF The McFadden Trust T/A Hydroquip Pumps & Irrigation (**Hydroquip**);
  - Total Eden Pty Ltd (**Total Eden**); and
  - All Pumps and Waterboring (**All Pumps**).

After the evaluation process was concluded, Mr Martin Mileham, the former Chief Executive Officer (“**CEO**”) of the City, signed a contract with the successful tenderer, Western Irrigation - *Contract No. 031 – 17/18 for the Maintenance of Irrigation Bores, Pumps and Associated Works*.

### 3.4.2. Analysis and Findings

**The processes followed in *Tender 031 – 17/18* were defective. Poor management of probity practices made it possible for certain individuals to engineer an outcome that favours the tenderer. Our overall assessment suggests there are indicators of association that warrant further exploration of the relationship between Mr Humble and Western Irrigation.**

#### 3.4.2.1. Administration of the Evaluation

The City's “PR0660 - Evaluation Panels Procedure” states that:

*“...To ensure assessment of tender submissions are undertaken fairly, consideration should be given to involve officers from **different units** to be part of the evaluation panel...”*

The “*Qualitative Selection Criteria*” for this tender was evaluated by all personnel from the City's Parks Unit without an officer from another business function.

<sup>1</sup> <https://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/accountability-and-transparency/ethics-and-probity/principles.html>

Implication

- By not involving a person from another business unit in the evaluation process, it decreases the balance in objectivity and does not provide a different perspective during the assessment process.
- Inadequate segregation of duties may expose the City to claims of a lack of impartiality and undermines public confidence in the procurement processes.

We noted that “Declaration of Confidentiality and Interest” forms were only witnessed ex post facto (after the fact). Our review of the forms revealed that:

- Mr Bovell signed as witness on Mr Humble’s “*Declaration of Confidentiality and Interest Form*” a week after the form was signed; and
- Mr Humble signed as witness on Mr Bovell’s “*Declaration of Confidentiality and Interest Form*” three days after the form was signed.

From interviews conducted, it appears that the City personnel complete and sign declaration of interest forms as a matter of administrative procedure without proper due regard to the underlying intent of declaring direct or indirect interests.

The action of the City’s Officers in this respect indicates a lack of appreciation of the seriousness and implication of the declaration.

Implication

If a ‘witness’ signs a document purporting to have seen a person executing their signature onto a document and has not done so, it may render the document invalid, thereby undermining the overall governance of the evaluation process.

**3.4.2.2. Management of Conflict of Interest**

On 11 September 2017, Mr Humble signed the “*Declaration of Confidentiality and Interest*” form stating that:

*“I have no conflict of interest, real or potential, in this Tender evaluation.”*

We are of the view Mr Humble signed the form when he may have a real or potential conflict of interest. Through interviews and searches conducted on the Australian Securities and Investment Commission’s (“ASIC”) Directorship, we found:

- Mr Humble, as well as his manager, Mr Copeman were previously employed by the City of Subiaco in similar roles to their incumbent positions with the City;
- The main irrigation contractor at the City of Subiaco was a company called Elliotts Irrigation Pty Ltd (“**Elliotts**”), with the ABN 076 083 308, who subcontracted work to Western Irrigation;
- Mr Humble and Mr Copeman both confirmed knowing and dealing with Western Irrigation and / or its Director, Mr Andrew Ogden (“**Mr Ogden**”), at the City of Subiaco;
- Mr Humble also knows Mr Ogden through his membership with Irrigation Australia, an irrigation association;
- After the evaluation of Tender 031 – 17/18, on 27 November 2017, Mr Humble signed a “*General Disclosure of Interest*” form declaring his interest as Vice Chairperson of Irrigation Australia (WA Region), of which Mr Ogden is the Chairman and Secretary of Irrigation Australia; and
- Mr Humble confirmed that he was the Vice-Chairman of Irrigation Australia and has been involved with the WA Region chapter for “*some time*”.

Our inquiries further revealed that:

- Mr Ogden is a Director and Secretary in Western Irrigation, Elliotts, and Irrigation Australia; and
- Elliotts was performing irrigation related work at the City prior to the tender.

Under the circumstances, given the extent of Mr Humble's relationship with the tenderer from prior employment and professional association, it is reasonable to expect that such relationship should have been disclosed prior to Mr Humble participating in the evaluation.

When Mr Humble did declare a potential conflict of interest, in respect of Mr Ogden, it was made one month after the award of the tender. The declaration was only in relation to his professional membership at Irrigation Australia (WA Region), but there was no reference to, or acknowledgement of, a prior relationship with Mr Ogden at the City of Subiaco or even currently at the City of Perth via Elliotts. In fact, Mr Humble and Mr Copeman denied any knowledge of the connection between Mr Ogden and Elliotts even though Western Irrigation was "sub-contracting" to Elliotts at their previous place of employment.

Failure to identify, declare and manage conflicts of interest is a particular risk in procurement activities. It is important for disclosure to occur promptly – not after the fact.

#### Implication

- Mr Humble's relationship with the tenderer and his role in the tender process, create the perception – whether real or not – that he may have been inclined to favour Western Irrigation.
- The City may be accused of not properly managing its conflicts of interest, resulting in potential reputational damage.

#### 3.4.2.3. Conduct of Evaluation

The City's "PR0660 - Evaluation Panels Procedure" states that:

- *"The Project Officer shall prepare a preliminary set of Selection (Evaluation) Criteria for the consideration of the panel prior to the calling of any tender."; and*
- *The selection criteria are to be agreed by the panel members as the means for evaluating all submissions for the project."*

Mr Humble, unilaterally, selected 49-line items from the schedule of rates to evaluate the prices submitted by tenderers, without prior mutual agreement from other panel members. An evaluation panel member corroborated, with the evidence, that Mr Humble was the only panel member to evaluate the fees submitted by tenderers.

When we reviewed the pricing-schedule submitted by Western Irrigation, we found Mr Humble had entered the wrong amount (lower amounts) on two occasions when evaluating the schedule of rates. When corrected, we noted that this would have reduced the difference in the final score between Western Irrigation and Hydroquip from 0.0255 to 0.0245 points.

#### Implication

- By not agreeing on the evaluation criteria prior to commencement of the evaluation, and latterly, not involving other panel members on the selection of the fee items for assessment, the evaluation may be perceived as biased towards a tenderer.
- It is possible to contrive an outcome by selecting the fee items that confer an advantage on a tenderer.

Our review of the pricing-schedules identifies several anomalies as follows.

With regards to the All Pumps price schedule, Mr Humble had entered the wrong amount, \$160 instead of \$1600, under "A3 – Pump Servicing - JH Abrahams". This appears to be a typographical error and would not have had an impact on the overall ranking of All Pumps.

In relation to the Hydroquip pricing-schedule, we observed the following:

- Under section "A3-1 – Pump Servicing", an amount of \$680 was added to 40 items, of which, six (6) line items were used in the price comparison, increasing the total quoted amount by \$27,200 for this section; and
- Under section "A3-3 – Bore Redevelopment Servicing", an amount of \$680 was added to 14 line items an amount of \$340 was added to one (1) other line item, of which, two (2) line items were used in the price comparison, increasing the total quoted amount by \$9,860 for this section.

Further enquiry revealed that Mr Humble, on 12 September 2017, requested permission from the Senior Contracts Manager to seek confirmation from the tenderers on some of their quoted prices. Mr Humble stated the following in his email to the Senior Contracts Manager:

- *"In reviewing the tender submissions for the Maintenance of Irrigation Bores and Pumps. I have identified that there is a wide range of variation in the costs provided for both the servicing of pumps and the development of bores.*
- *Is it possible for an email to be sent to the four (4) contractors to confirm that their pricing includes all of the requirements detailed within the specification. I'd like to be sure that we are comparing apples for apples."*

The Senior Contracts Manager agreed to the request on the condition that **"as long as there will be No changes to the Prices / Rates submitted"** (emphasis added).

Emails sent to the four tenderers contained, *inter alia*, the following question:

- *"Could you please confirm that the prices submitted within the schedule of rates for both pump servicing and bore development include allowance for the aspects outlined below as detailed in the tender specifications.*

**Pump Servicing**

*The Contactor shall carry out servicing of pump units and provide a lump sum service charge for each site/installation..."*

**Development of Existing Bores**

*Development of bores shall include..."*

Responses from the tenderers, except for All Pumps, were received confirming that the prices submitted within the schedule of rates for both pump servicing and bore development included allowance for the aspects detailed in the tender specifications.

Mr Humble requested further confirmation from Hydroquip without requesting the same from the other tenderers:

- *"Thanks for the prompt response, regarding the service fee nominated in the schedule of rates. In the situation where the City requested a pump to be serviced, could you confirm that the cost would be*
  - *Service Charge - \$680.00*
  - *Pump Service Cost - Harold Boas Gardens - \$680.00".*

Hydroquip responded by stating:

- *"I can confirm the service fee in the schedule of rates for the following:*
  - *Section 5.5.1.1 – service charge \$680.00 consists of pump removal and re-installation, electrical disconnection and re-connection, disassembly of complete pump unit with an assessment of the unit and a quotation for works required, reassembly of pump unit, flow and pressure test, pump information sheet".*

We consider this line of enquiry by Mr Humble, in particular, selecting two items of similar price (\$680) whilst other examples with a different price were available, was designed to:

- a) Cause confusion on the part of the tenderer; and
- b) Provide scope for an explanation as to his subsequent action of increasing the prices of Hydroquip.

As can be seen in response to the question on pump service fee by Mr Humble, who set out two (2) price elements contributing to the service, Hydroquip's answer indicated one (1) price element applies.

We observed that the "Schedule of Rates", "A3-1 – Pump Servicing", and "A3-3 – Bore Redevelopment Servicing", made no reference to a "Service Charge" as imputed by Mr Humble. The "Service Charge" only relates to **A4 – Non-scheduled Bore and Pump Servicing (Ad-Hoc Service)**.

"A3-1 – Pump Servicing" and "A3-3 – Bore Redevelopment Servicing" in the Schedule of Rates are categorised as "Programmed Maintenance Work Service", which requires the contractor, pursuant to section 5.3 of the tender (annual inspection of bores and pumps), to provide a **scheduled maintenance service** on irrigation bores, pumps and associated works on an annual basis. The work to be performed is under the terms of section 5.5 of the tender.

Section 5.2 of the tender describes item "A4 – Non-scheduled Bore and Pump Servicing (Ad-Hoc Service)" as services requested by the City, on an **ad-hoc basis**, from the contractor, whether through an emergency or routine maintenance.

Our enquiry with an evaluation panel member indicated that the type and cost of services for "scheduled maintenance" are different to "ad-hoc services". It is not reasonable to apply a "service charge" for ad-hoc service **on top of** the scheduled maintenance cost. Furthermore, there is no definition of what a "service charge" is under section 5.2. There appears to be no consensus understanding of a service charge under the schedule of rates, A4 – Non-scheduled Bore and Pump Servicing (Ad-Hoc Service).

We observed only two tenderers (out of four) provided a quote for a "service charge" under A4 – Non-scheduled Bore and Pump Servicing (Ad-Hoc Service). This should have warranted further enquiries with **all** tenderers as to the reason for either including or not including a quoted price for service charge. Considering the different nature and type of service under the circumstances, it would not have been reasonable to add the service charge fee under ad-hoc service to the routine maintenance cost in the manner calculated by Mr Humble.

In Mr Humble's follow-up clarification email to Hydroquip (and only Hydroquip), it appears he conflates the two types of services and imputes them to be a combined fee:

*"confirm that the cost would be*

- *Service Charge - \$680.00*
- *Pump Service Cost - Harold Boas Gardens - \$680.00".*

Mr Humble did not clearly clarify the intent of his question, which ought to be whether the:

- 1) Total fee for the pump service would be \$1,360 (being service charge of \$680 plus pump service cost of \$680); or
- 2) Respective cost of a pump service under section 5.5.1.1 is only \$680 for the Harold Boas Gardens.

Notwithstanding Hydroquip's confirmation that a single cost element would be applicable, and without express permission from the evaluation panel and in contradiction with the Senior Contract Manager's instruction, Mr Humble changed Hydroquip's quoted price on 55 occasions by adding \$680 to each amount. Eight (8) of those items formed part of the 49-line items selected for price comparison.

If Mr Humble's actions were reversed, Hydroquip would have been the preferred supplier with the final weighted score of **3.7010** against Western Irrigation's score of **3.6859**.

#### Implication

Inappropriate changes to the tenderer's submitted price had resulted in the non-preferred party being awarded the tender.

The City's "PR0660 - Evaluation Panels Procedure" states that:

- *"On completion of the assessment and once any queries have been satisfied, the panel shall meet to make a joint deliberation and arrive at a consensus decision". Consensus scores must be determined by the group discussion and recorded by the Project Officer".*

We found that the final score of the "Qualitative Selection Criteria Evaluation Matrix" was based on an "average score" and not a "consensus score" as required by the PR0660 - Evaluation Panels Procedure.

During an interview with Mr Humble, his recollection of events did not align with the evidence we found for calculation of the final scores. Mr Humble claimed to have met with the other two evaluation panel members to discuss the evaluation scores and agreed on a "consensus score".

One of the evaluation members corroborated with the view that there was no "consensus" discussion.

#### Implication

- Non-compliance with the City's procedures - PR0660 - Evaluation Panels Procedure in respect of the requirement to achieve a consensus of the scores.
- In the absence of a consensus decision, individuals did not have to justify their scoring in a discussion forum. The 'averaging' method creates an opportunity to submit a score that is strategically advantageous for a tenderer.

The City's "CP 9.7 Purchasing Policy" states, inter alia, that:

*"...Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the City. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, risk factors, sustainability, life cycle costing, and service benchmarks..."*

Section 3.0 "Qualifications" stipulates that:

*"...the Contractor requires the following minimum to fulfil the requirement of this specification:...",*  
which, *inter alia*, includes sub-section 3.2 "Commercial Diving".

**Clause 3.2 Commercial Diving** states:

*“...The City has three sites which have submersible pumps. **In order to fulfil the requirements of this specification, the Contractor shall have a valid commercial diving licence** for the purposes of installing, repairing and servicing of submersible pumps, aerators and associated infrastructure at the Narrows Interchange, Claisebrook Lake and Ozone Reserve....”*

The requirement is unambiguous. The literal meaning of this requirement is that, if this qualification is not met, then the prospective tenderer has not fulfilled the minimum standards of the tender and as such is unqualified to be considered for the work. This requirement cannot be supplanted by an alternative qualification. To use an analogy, a person cannot use their “C Class” drivers licence to operate a ride share business. In the State of Western Australia, an “F Class Extension licence is required”.

In other words, the “Commercial Diving” licence is mandatory.

Tender 031 – 17/18, under *Selection Criteria (b) Skills and Experience of Staff Undertaking the Specified Works* requires, *inter alia*, that evidence be provided by tenderers with reference of sub-section 3.2 “**Commercial Diving**” as follows:

*“...Provide a detailed list of all key staff (including CVs and other supporting documents) which will be available to be providing the services. Supporting documentation should include information about relevant skills, experience and qualifications. Operators are to have the relevant skills, experience and qualifications to deliver the required services, refer also to clause number 3.2 of the specification....”*

We found Western Irrigation did not supply the requisite evidence to comply with the requirement under the Selection Criteria. Considering the mandatory compliance nature of the requirement, the City’s personnel reasonably ought to have conducted further enquiries with Western Irrigation during the evaluation process of the type of diving licence held by the company. This did not occur.

It is not clear whether Mr Humble had assumed that Western Irrigation possessed a commercial diving licence (in the absence of any documented evidence) or deliberately overlooked that Western Irrigation may not have the required commercial diving licence. Mr Humble, in this regard, gave Western Irrigation a higher score than Hydroquip, who complied with the requirement.

An extract of Mr Humble’s evaluation recorded against each tenderer as follows:

- *Western Irrigation – Staff at Western Irrigation have the required skills and experience to meet the requirements of the contract – **Score 4.5**; and*
- *Hydroquip – Staff have the required skills and experience, including fabrication and **commercial diving** – **Score 4**.*

We sighted the photocopy images of what appears to be diving licences held by Western Irrigation staff appended to the Shenton’s report indicating “**open water diver**”. Our enquiry with the Australian Diver Accreditation Scheme (“**ADAS**”) indicated that open water diver licences issued by the Professional Association of Diving Instructors (“**PADI**”) is for recreational diving only and not suitable for occupational diving.

It would appear that Western Irrigation did not meet the mandatory compliance criterion.

**Implication**

Acceptance of a tender that does not meet the mandatory compliance requirement not only **breaches** the City’s Purchasing Policy - *CP 9.7 Purchasing* but was **fatal** to the overall result of the tender.

#### 3.4.2.4. **Management of the Allegations and Subsequent Investigation Reports**

After receiving the letter from the CCC, the City appointed Stantons International (“**Stantons**”) to conduct a post-process probity audit of the evaluation process.

The scope of Stantons’ probity audit was to:

- *determine if the evaluation process for the Tender was compliant with the process contract and other relevant City policies and procedures relating to the conduct of tendering processes;*
- *determine if the evaluation process followed due process and gave all responses due consideration;*
- *to observe whether the process met the five principles of probity; and*
- *to draw a conclusion regarding the allegation of misconduct by the CCC {sic}.”*

We reviewed the Stantons report and observed the following conclusions:

- **Material weaknesses** existed in the evaluation process;
- The process was **materially flawed**; and
- Personnel involved in the evaluation process either do not have sufficient procurement training and/or were **negligent in their duties**.

We found the letters from the City advising the CCC and Hydroquip of the outcomes of the investigations to be, at best, contradicting the Stantons’ report and at worst, misleading. Part of the City’s correspondence to the CCC states:

*“...The investigation has identified some procedural inconsistencies for the city to address in its procurement and assessment process...”*

Given the nature of the issues identified by Stantons and their weight on the probity merit of the process, it was not a reasonable interpretation by the City to characterise the shortcomings as mere procedural or administrative inconsistencies. It is telling that Stantons held the view:

**“...The review identified a potential material weakness in the evaluation process that could be sufficient to mount a legal challenge to the process being that WI do not appear to have met a requirement that was identified in the tender document as mandatory to be considered for contract award. In addition to this, there are further weaknesses that, when combined, could also be used in their own right to mount or support a legal challenge to the process...”**

More broadly, the Stanton’s report concluded:

*“...On this occasion, the failures to apply sound procurement practices have resulted in a very real possibility of litigation and financial redress to be paid by the City, and it is possible that the City may be subject to similar exposures in other tender processes that have simply not been identified due to the lack of external scrutiny...”*

We note that the City did not furnish the Stanton’s report to the CCC.

The letter to Hydroquip, in part, states:

*“...There was no supporting evidence to indicate that Mr Humble received a personal benefit from being involved in the process...”*

It was not open for the City to reach this conclusion when neither Stantons nor Shenton Aquatics had the capability and statutory powers to conduct an invasive investigation on Mr Humble, to effectively determine **whether a personal benefit had been obtained**.

#### Implication

- Misrepresentation to the CCC, in whole or in part, could have averted further external scrutiny.
- The City does not appear to understand the nature of assurance and advice being provided by the consultants it engaged.

Alongside the Stantons' review, the City also appointed Shenton Enterprises ("Shenton") to conduct the technical review of the tender evaluation process. Our enquiry indicated that Shenton's services had been recommended to the City by Stantons. We reviewed the Shenton report and observed:

- The content and structure are not conducive to communicate the investigative outcomes and contain working papers with questions noted;
- It does not address any person or entity;
- Did not contain the scope of the technical review; and
- The observations and reasoning are not logically set out, the findings are ambiguous and difficult to understand.

Overall, we found the report was not at the professional standard that is capable of being relied on to gain assurance of the subject matter being investigated.

Our enquiry indicates that there was no engagement letter from the City, only a purchase order was issued for the service. It is not clear what was the objective and scope of Shenton's engagement and the nature of assurance, which they have purportedly provided.

Of concern, the Stantons' report stated:

*"...An independent technical review has been undertaken by an appropriately qualified independent expert, Shenton Aquatics, and the observations of Shenton Aquatics' review have been considered as part of this probity audit..."*

It is not clear what impact, if any, the Shenton's report may have had on the probity audit review performed by Stantons.

Implication

The City's responses to the CCC and Hydroquip may not be reasonable because the technical review was not performed by an appropriately qualified expert.

**3.4.2.5. Contract Management and Expenditure**

We noted that the City's Parks Unit Management and staff do not manage contracts and the related expenditures effectively. Interviews with the Park Manager and Coordinator revealed there is no sense of process ownership. The stakeholders interviewed did not consider it was their responsibility to manage the contract, as in the present case with *Contract 031 – 17/18*, it was the City's contract and someone else, other than them, is responsible for it. When questioned whose responsibility it is specifically, they were unable to identify the relevant stakeholder(s).

Management represented that expenditures on contract are not consistently monitored as other Business Units within the City also procure goods and services from the same supplier.

Implication

Without effective contract management, the City is exposed to the risks of the project not being completed on time, financial overruns, non-compliance with contract obligations by service providers and non-compliance with legal requirements.

Through an interview with the Contracts Administrator, we noted that the City promotes and allows cross-divisional purchasing of goods and services on contracts, irrespective of which Business Unit engaged the supplier.

We observed that the City does not have a Contract Management Framework in place to properly management contracts. A similar concern was also raised by the Directorate Accountant in the Parks Business Unit.

Through our interview with the Parks employees, it appeared that staff are not willing to take responsibility and / or accountability for managing the contracts, including monitoring of expenditures.

Implication

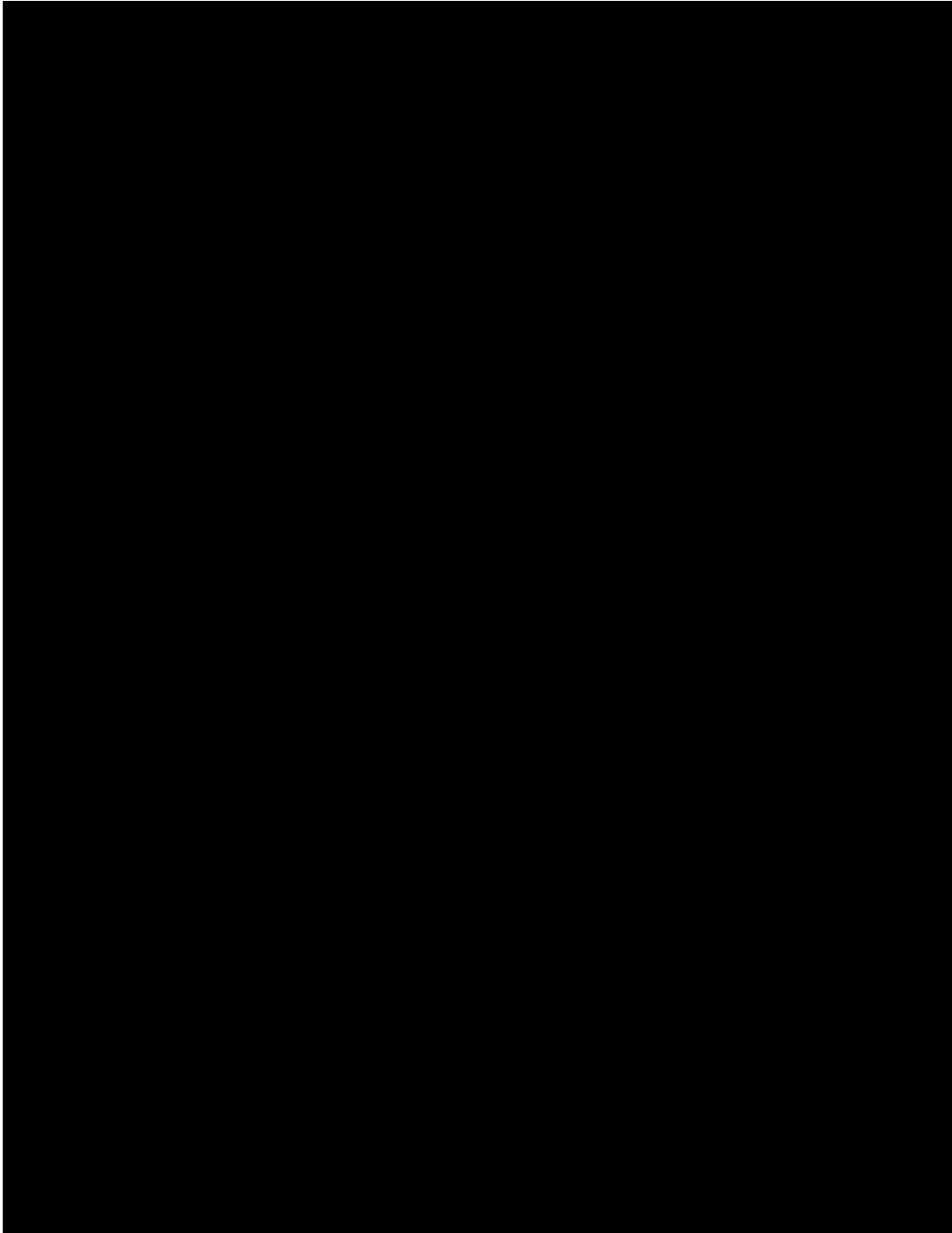
The lack of a Contract Management Framework may expose the City to not completing the project on time and on budget; not obtaining value for money.

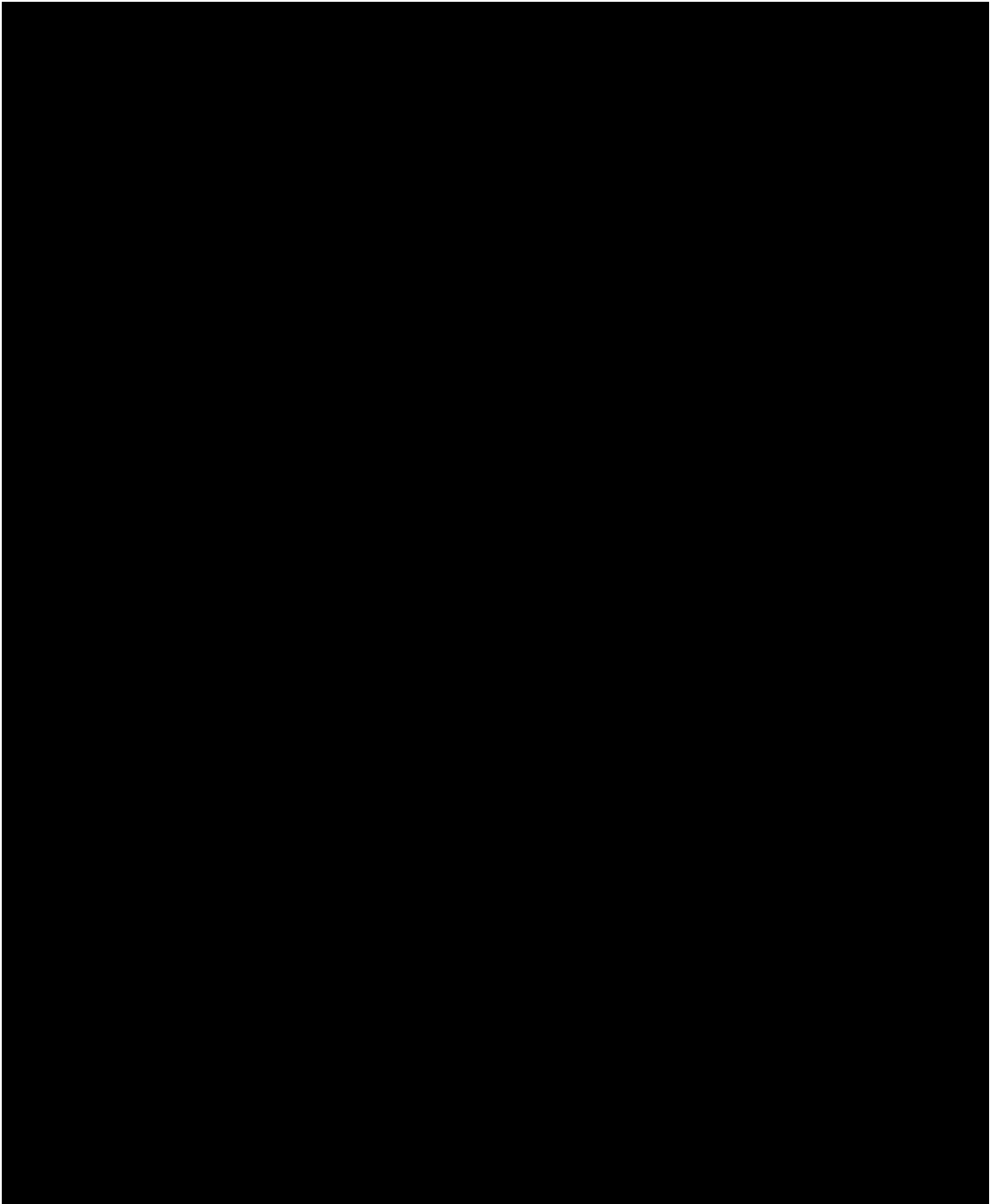
**3.4.2.6. Training - Mr Humble**

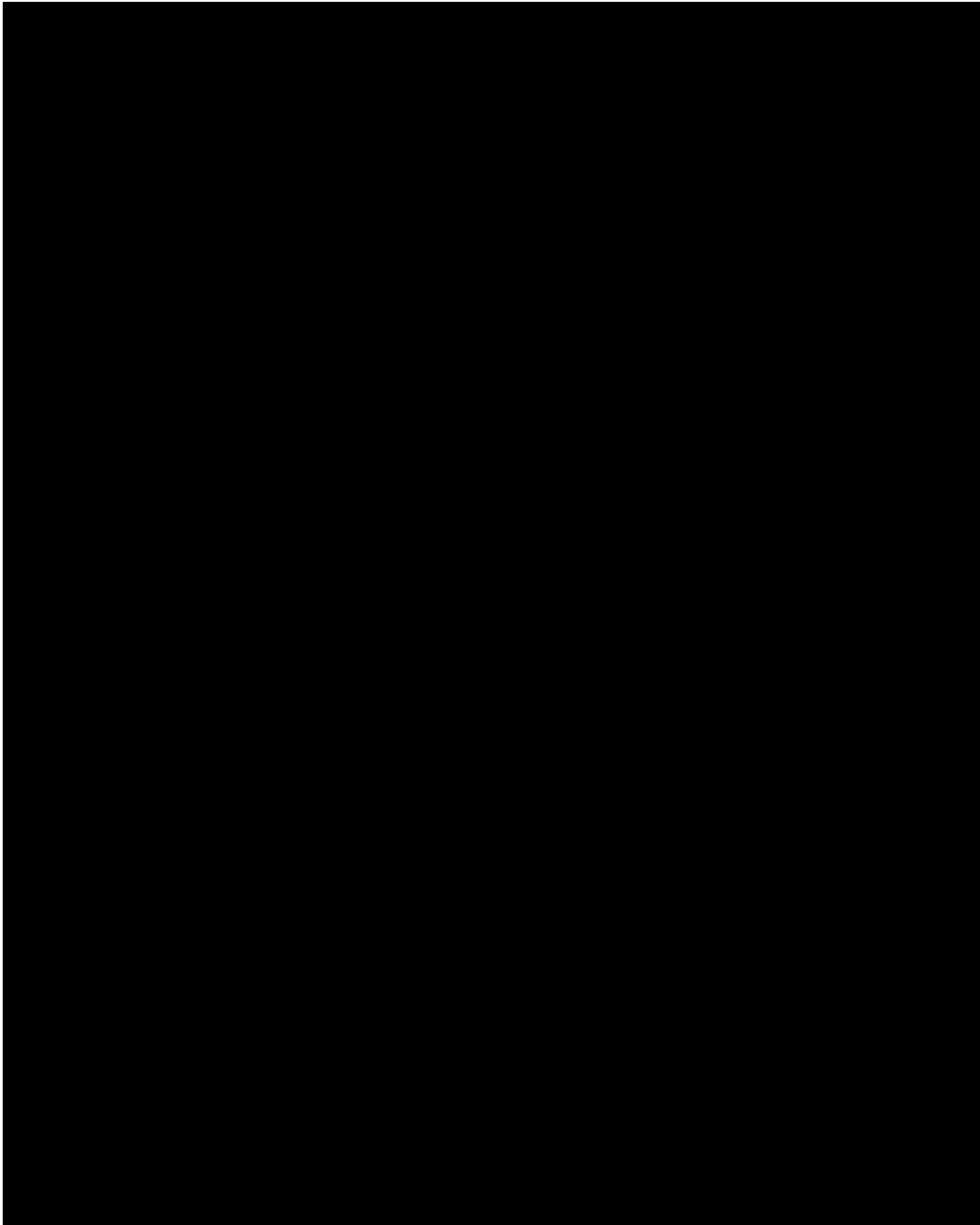
We noted that Mr Humble, *inter alia*, attended and completed the following education and training courses during his tenure at the City of Perth:

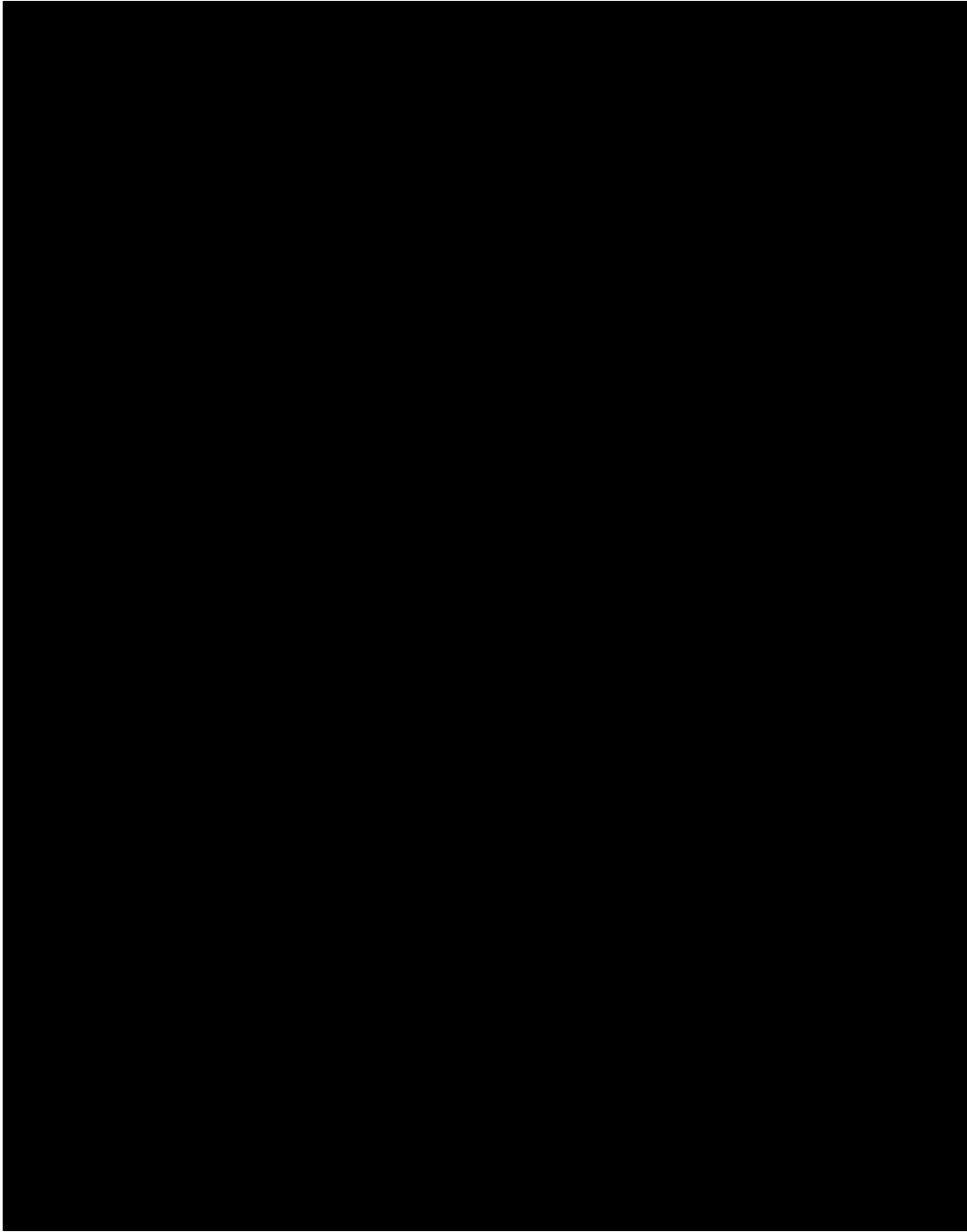
- Introduction to Local Government;
- The Local Government Act 1995;
- Code of Conduct;
- Fraud and Corruption Awareness; and
- Certified Irrigation Manager.

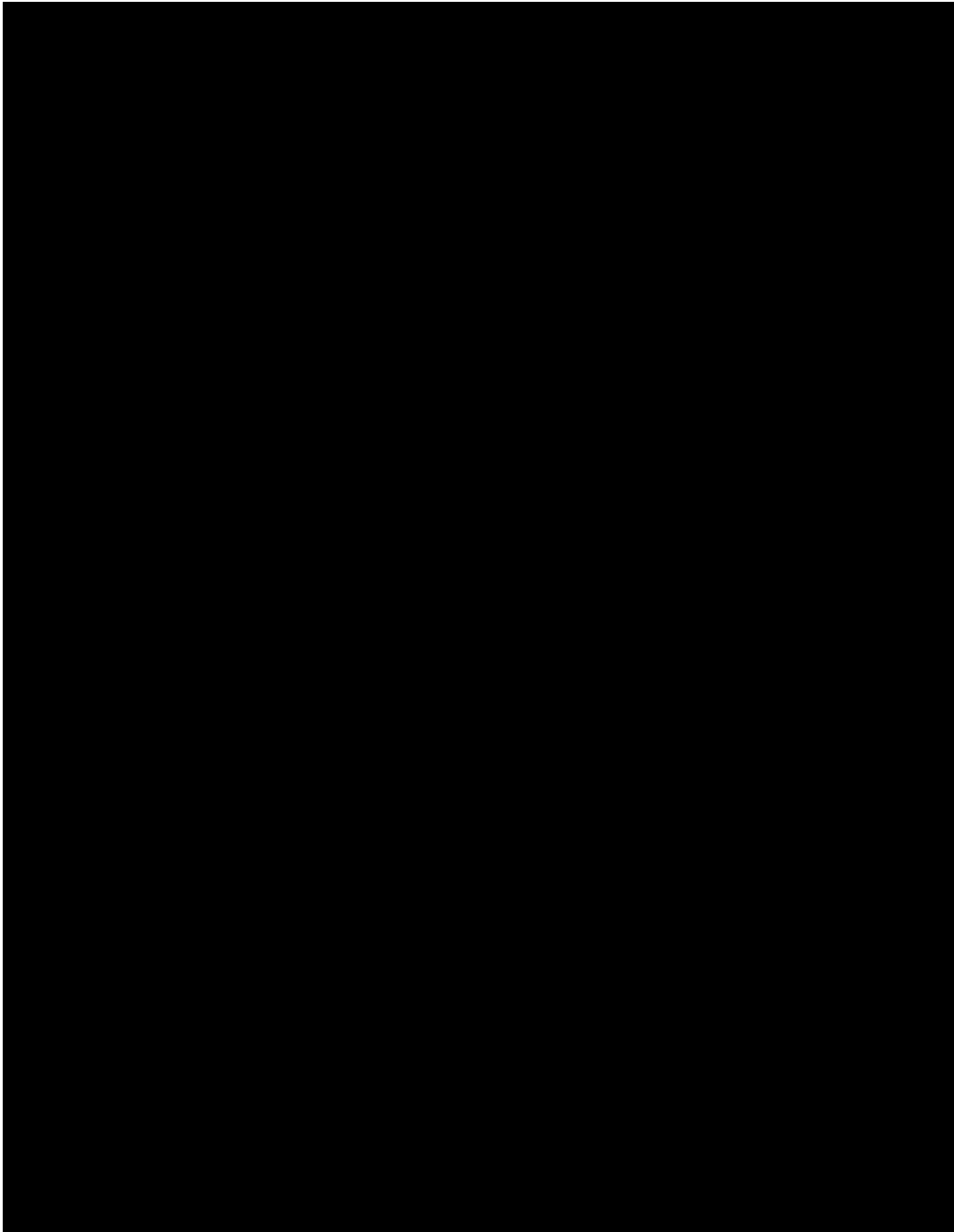
Mr Humble reasonably should have known that his conduct in the tender process was not appropriate.

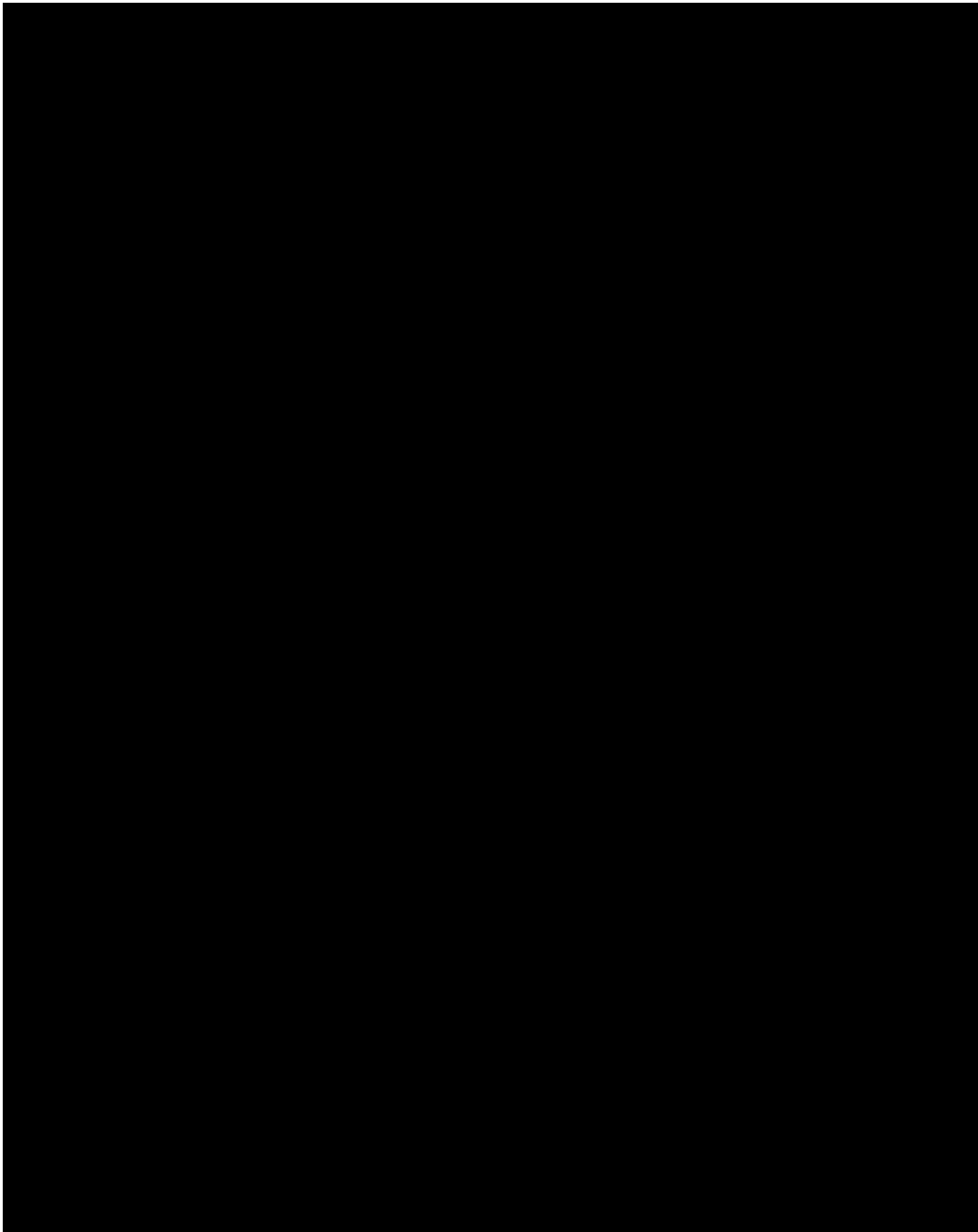


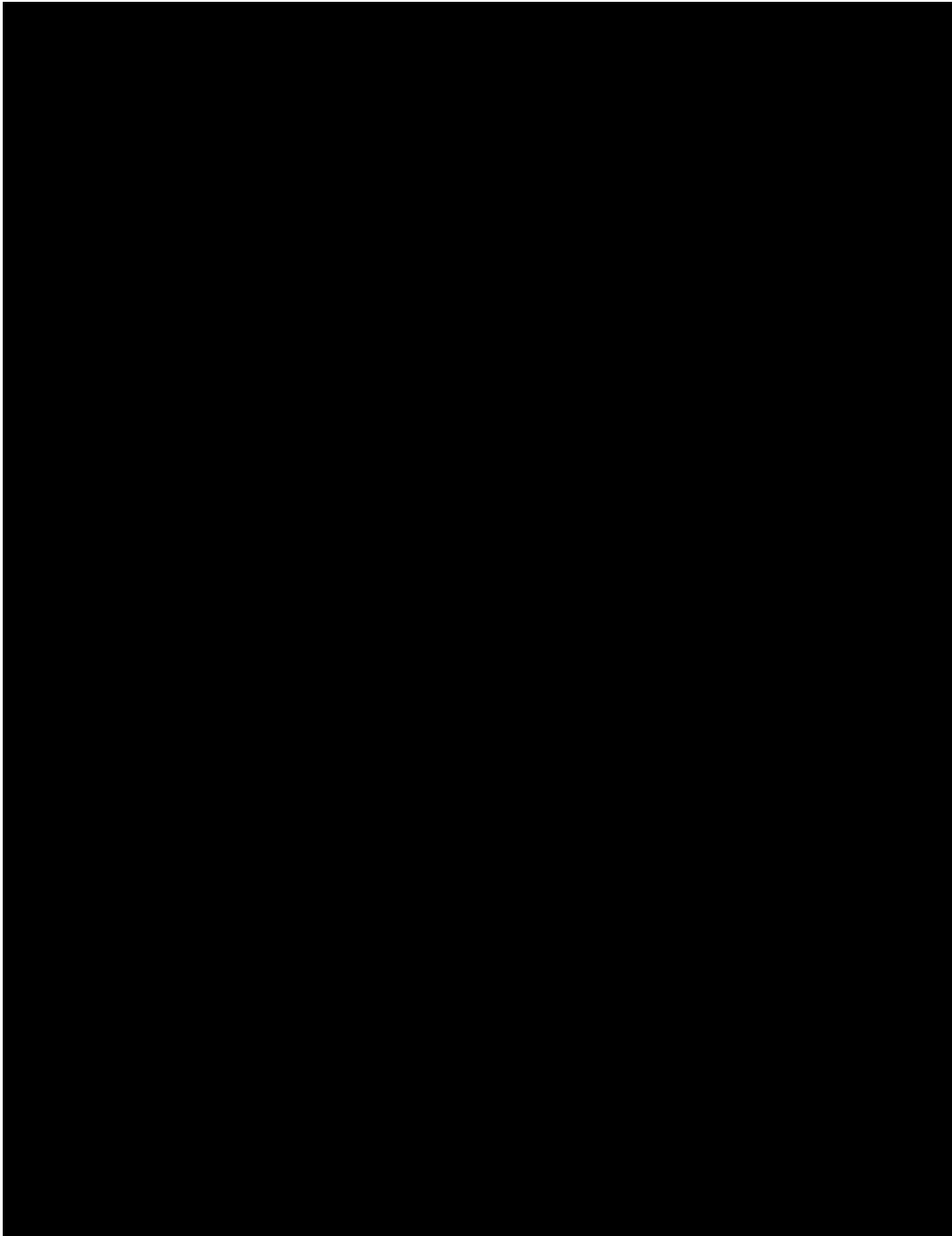


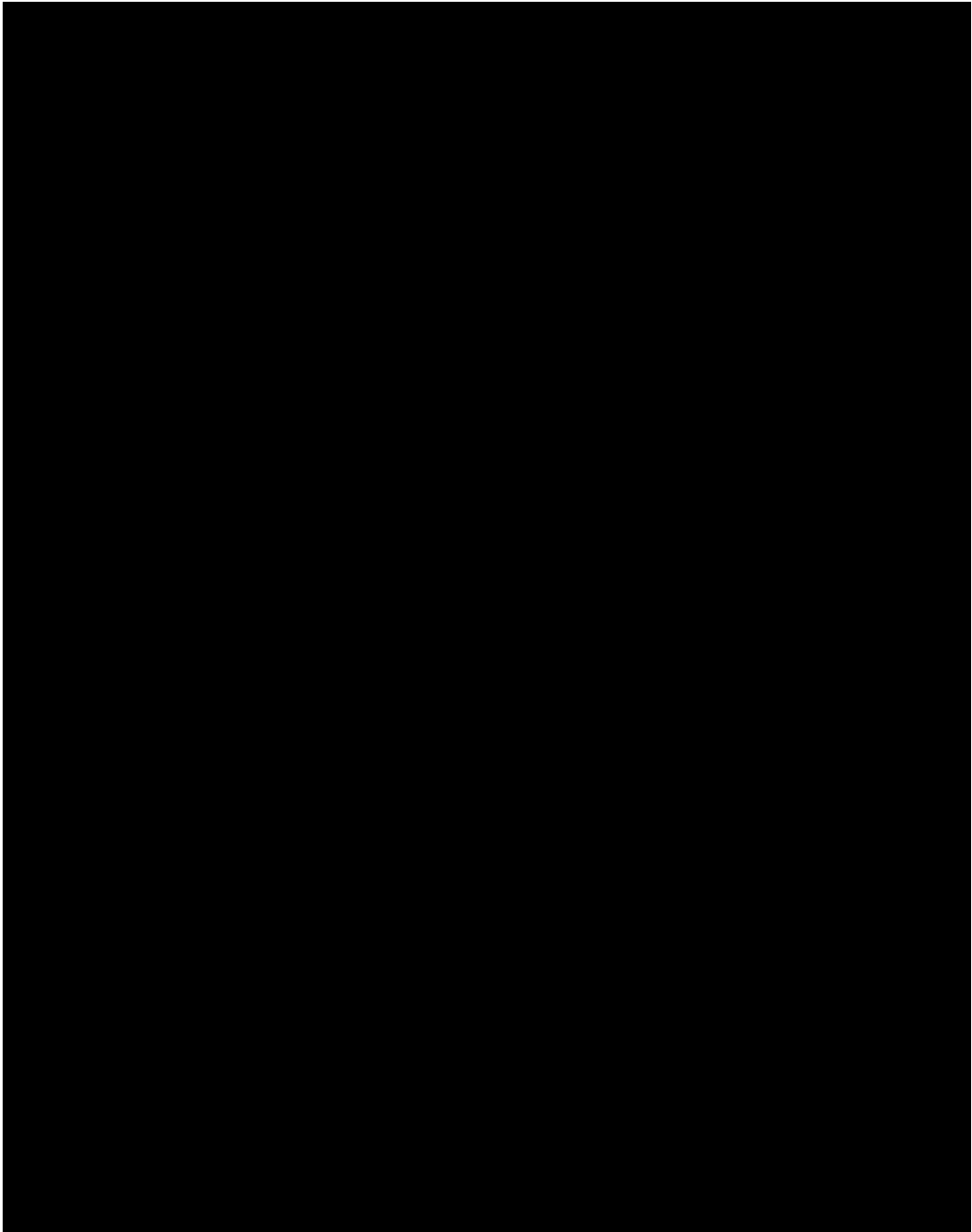


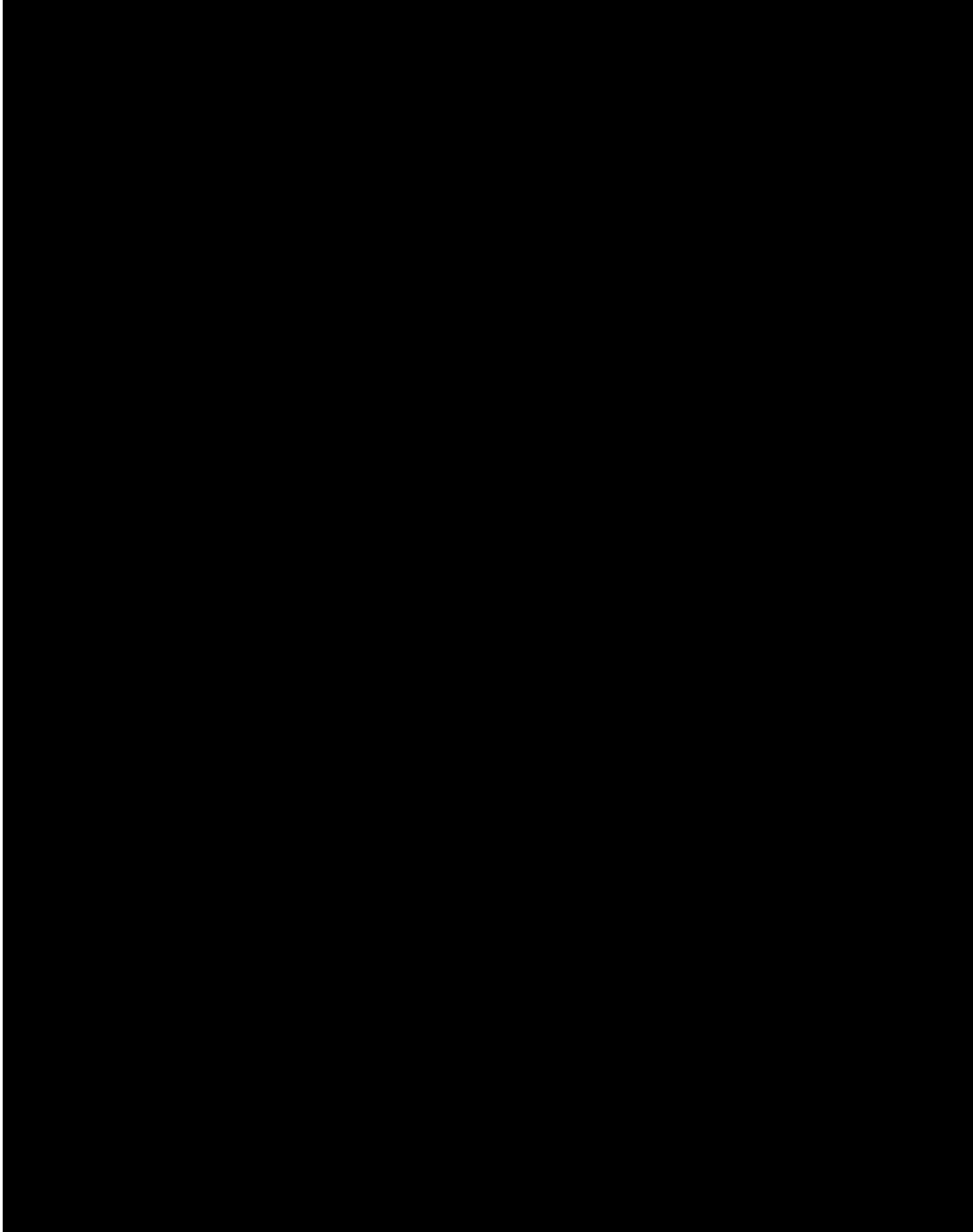












## 4. Grants and/or Sponsorship – Perth Public Art Foundation



Tabled below is a summary of the documents assessed and reviewed, together with interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• Council Report v1.2 Perth Public Art Foundation Inc – Three-year Sponsorship and Principal Partnership Agreement with the City of Perth – 2015 - 2018</li> <li>• Council Minutes Confirmation Date 30 June 2015, 9 June 2016</li> <li>• Council Minutes Confirmation Date 26 April 2016, 5 April 2016, Perth Public Art Foundation Incorporated – Revised Three Year Sponsorship and Partnership Agreement with the City of Perth 2015 – 2018</li> <li>• Revised Principal Partnership Agreement, 15<sup>th</sup> December 2016</li> <li>• Confidential Report to the Finance and Administration Committee, Perth Public Art Foundation Funding Review, Agenda Item 13.23</li> <li>• Addendum to the Funding Agreement, City of Perth – Perth Public Art Foundation Inc., September 2018</li> <li>• City of Perth Council Briefing by Nathan Giles, 13<sup>th</sup> June 2017</li> <li>• Council Policy CP 18.15 Grants</li> <li>• Council Policy CP 18.8 Provision of Sponsorship and Donations</li> <li>• Council Policy CP 18.13 Sponsorship</li> <li>• Cow Parade Project/Program Funding Letter, 27 July 2016</li> <li>• The Cow Parade – Perth Art Commission / Fundraising Budget Attachment 2</li> <li>• Cow Parade Perth 2016 Financial Acquittal</li> <li>• 2016 Cow Parade Perth Acquittal Report</li> <li>• Letter from Nathan Giles dated 22<sup>nd</sup> June 2016 re The 2016 Cow Parade – Perth – Partnership</li> <li>• Perth Public Art Foundation Financials for the year ended 30 June 2018</li> <li>• Perth Public Art Foundation Financial Statements for the year ended 30 June 2017</li> <li>• Perth Public Art Foundation Financial Statements for the year ended 30 June 2016</li> <li>• Perth Public Art Foundation Financial Statements for the year ended 30 June 2015</li> <li>• MS Excel Spreadsheet, Funds Transfer from City of Perth to the Perth Public Art Foundation</li> <li>• Perth Public Art Foundation Constitution</li> </ul> |
|-------------------------------|---|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Ms Tabitha McMullan, Manager Arts, Culture &amp; Heritage</li> </ul>   |

## 4.1. Context

Sponsorship is a business arrangement in which the sponsor agrees to have their name, products or services associated with the sponsored organisation's activities for a negotiated benefit in cash or kind, or a combination of both<sup>2</sup>. The typical risks that accompany any business activity are present under sponsorship conditions. However, fraud and corruption risks are increased by:

- the short-term nature of many sponsored projects;
- **individual and organisational conflicts of interest;**
- the potential for diffuse or unclear responsibility and poorly defined accountabilities;
- the difficulty in evaluating the benefits of the sponsorship to the sponsoring organisation;
- the potential for gifts and benefits to be offered to influence decisions can often clash between different organisational systems and cultures;
- the likelihood of unsolicited offers;
- the potential for sole supplier situations;
- the use of goods and services in-kind.

The City's Policy in respect of *Sponsorship and Grants* is outlined in **CP 18.13**.

## 4.2. Background – Genesis of the Perth Public Art Foundation (“PPAF”)

The following timeline highlights key events related to the development of the PPAF:

- February 1994 – the City approved, in principle, the dissolution of the Forrest Place Art Foundation to allow for the establishment of a City Art Foundation to oversee and implement a long-term strategy for public art in the Capital City.
- March 1995 – the City approved the creation of the “City of Perth Art Foundation” whose role was to:
  1. Develop a Public Art Strategy for the Capital City
  2. Implement the Public Art Strategy and Initiatives for the proposed City of Perth Sculpture Award
  3. Create links with the Corporate community
  4. Work with the City of Perth to identify and establish incentives for building developers to support public art.
- September 1996 – The PPAF was established on 26 September 1996 with Cr Judy McEvoy and Lord Mayor Dr Peter Nattrass (Patron) members of the establishing (‘interim’) committee.

The PPAF is a charity registered on the Australian Charities and Not-for-profits Register and, as such, is subject to the provisions of the *Australian Charities and Not-for-profits Commission Act 2012* (Commonwealth). It is included in the Register of Cultural Organisations of the Department of Communications and the Arts (where it is referred to as ‘Perth Arts Foundation Inc’) and entitled to receive tax deductible donations.

The PPAF Governing Board included the Lord Mayor (who is the Patron), one Councillor, officers of the City as well as representatives from the State Government, the art community and the corporate sector.

<sup>2</sup> Government of Western Australia, State Supply Commission, *Sponsorship in Government Guidelines*, July 2014

<sup>3</sup> City of Perth TRIM number 67807/06 - Foundation Committee minutes 27 August 1997.

#### 4.2.1. Analysis and Findings

*The City does not have policies, procedures and structures in place that provide mechanisms for managing the Perth Public Art Foundation (PPAF).*

*Value of the committed funding for the principal partnership agreement was more than \$800,000 over three years. When combined with the Cow Parade initiative, this amount exceeded \$1.2m. It is not conventional practice for a local government to spend this level of ratepayers' monies without an appropriate policy defining the nature of the expenditure. The majority of funding has not been audited.*

*The nature of the partnership agreement presents difficulties for the City to maintain the requisite standards of independence expected of a local government authority in its roles as a regulator, whilst a partner to a vehicle that sources corporate and private donations. Under the partnership agreement operating model, the City is vulnerable to the risk of a conflict of interest – actual or perceived – if there were a circumstance that involves the City exercising its discretionary powers in favour of a third-party that had contributed to the PPAF. Of concern is the ongoing failure to recognise this inherent conflict of interest for the City in its role as a local government authority.*

*The Cow Parade project highlighted material weaknesses in the City's management of the 'partnership-sponsorship' agreement with the PPAF. There was:*

- *an unclear policy position as to the nature of funding being provided;*
- *a lack of signed agreement either by an officer with appropriate level of delegation or evidence of Council authorising the project at the first place; and*
- *no evidence of an approved budget authorised by an Officer that has an appropriate level of delegation.*

*These governance issues, combined with inadequate due diligence on the financial acquittal of the Cow Parade and opaque 'agreement' conditions that resulted in further payments to PPAF in addition to the funding that they had already received, demonstrated the financial mismanagement by the City.*

##### 4.2.1.1. 'Partnership Sponsorship'

Our enquiries revealed, at the relevant time, there was no policy supporting the 'partnership sponsorship' agreement between the City and the PPAF. Neither the City's procurement policy nor grants and sponsorship policy were applied to the agreement.

When we enquired about the possible application of the funding limits identified in respect of the City's Policy CP18.13 Sponsorship and Grants, a management stakeholder stated:

*As regards the salary and operating expenditures relating to different initiatives or in-kind (accommodation for PPAF) this is under a Principal Partnership agreement, not a Sponsorship agreement. Partnerships are different from sponsorships and as such the sponsorship policy does not apply, but are at the discretion of Council\*.*

*\*Note: the City does not have an overarching Partnership Policy, however, this has been flagged as an issue by Commissioners and staff are currently working through developing a Partnership Policy for Council approval. [emphasis added]*

We consider this position to be unsatisfactory. It is not acceptable for the City to bypass the parameters of an existing policy by suggesting the activities are outside the scope and application of a policy instrument.

The terms describing the agreement, 'partnership sponsorship', are unusual because typically, the two concepts are different and cannot subjugate each other as they mean different things. The taxonomy of a "partnership" is distinguishable from that of a "sponsorship". In business terms, a *partnership*

means the relation which subsists between persons carrying on a business in common with a view of profit<sup>4</sup>. The State Supply Commission (WA) defines a *sponsorship*<sup>5</sup> as:

*'...the right to associate the sponsor's name, products or services with the sponsored organisation's service, product or activity, in return for negotiated and specific benefits such as cash or in-kind support or promotional opportunities....'*

It is likely that the concept of a "partnership" is used to imply the collaborative nature of the agreement. Based on enquiries with Officers, it appears that the words, 'partnership sponsorship', 'partnership', and 'sponsorship' have been used interchangeably to describe an arrangement whereby PPAF received funding to deliver the City's arts strategies and solicit corporate and private donations that the City was otherwise unable to undertake itself. Whether this arrangement is adequately captured either by the terms "partnership", "sponsorship", or both terms combined, is another matter for consideration.

Regardless of the objective behind the arrangements between the City and the PPAF, without a clear policy position defining the basis of the agreement, there is no reference point to effectively administer and manage the relationship with the PPAF.

#### Implication

In the absence of a lawful policy that defines the agreement with PPAF, the City may not be complying with relevant requirements of the Act (such as procurement) that otherwise maybe applicable.

We found the City's relationship with PPAF is more suitably characterised as a 'subsidiary' rather than a genuine "partnership" or "sponsorship" based on several factors:

1. The former PPAF entity, "City Art Foundation", was established circa 1995, by the City to implement and oversee a long-term strategy for public art in the Capital City;
2. The current Executive Officer of the PPAF is an employee of the City and remunerated from the City's payroll;
3. All the PPAF's operating expenses are funded by the City;
4. The principal place of business of the PPAF is Council House<sup>6</sup>; and
5. **Without ongoing financial support, it is unlikely the PPAF could exist independently as a going concern.**

The arrangement that existed posed a significant conflict of interest for the City, which has not been recognised. This in itself is symptomatic of the systemic failure that resides in the City's culture – the inability to recognise conflict of interest, whether perceived or actual.

A goal from the PPAF's 2015 *Business Plan* (Section 3.1) is:

*"...Developing partnership and implementing fundraising programs will form the core funding for projects undertaken by the PPAF..."*

[And]

*"...Some of the fundraising initiatives that will be implemented to support projects include [inter alia] corporate sponsorship – identify businesses that have a direct relationship with the project or the organisation to secure partnership..."*

<sup>4</sup> Western Australia Partnership Act 1895

<sup>5</sup> State Supply Commission – Sponsorship in Government Guidelines 2014

<sup>6</sup> Registered business address per the *Australian Charities and Not-for-Profit Commission*

Figure 1.1 below from Section 2.4 of the PPAF's 2015 *Business Plan* outlines the operating and funding model:



Figure 1.1: PPAF's Operating and Funding Model

It strikes at the heart of good governance and transparency to have an interposed entity in the manner of the PPAF, that solicits funding and donations from the private and corporate sectors and applies that funding, potentially, for the benefit of a local government authority.

For example, the City would have difficulty maintaining probity over the exercise of its regulatory power, if a Company donates a sizeable amount to the PPAF, say \$100,000, which the PPAF then applies towards certain arts initiative(s) in conjunction with the City; and the same Company makes a development application with the City.

The conflict of interest inherent in the operating model cannot be extinguished even if PPAF were to have an independent Board. This is because without the City's ongoing financial support, the PPAF is unlikely to exist as a going concern. In other words, PPAF is effectively a funded subsidiary of the City. As such, any form of solicitation of donations from the corporate and private sectors by the PPAF are incompatible with the City's functions as a local government authority.

#### Implication

The operating model exposes the City to significant conflict of interest in its role as an 'overseer' and beneficiary of donations and gifts from the corporate and private sectors.

#### 4.2.1.2. Financial Oversight

The following table sets out the funding provided to PPAF across three financial years:

| Time   | Particulars  | Value            |
|--------|--|------------------|
| Jun-15 | Three-year sponsorship and principal partnership agreement |                  |
|        | Employment of an Executive Director                        | \$333,000        |
|        | Administrative support                                     | \$60,000         |
|        | Bicentenary project  | -                |
|        | Strategic Development                                      | \$15,000         |
|        | <b>sub-total</b>   | <b>\$408,000</b> |
| Apr-16 | Review of funding agreement.                               | \$184,936        |
|        | <b>sub-total</b>   | <b>\$592,936</b> |
| Jun-18 | Additional funding request                                 | \$24,500         |
|        | <b>sub-total</b>   | <b>\$617,436</b> |
| Jul-18 | Review of funding agreement.                               |                  |
|        | 1 July 2018 to 30 June 2019                                | \$204,209        |
|        | <b>TOTAL</b>   | <b>\$821,645</b> |

Enquiries with management stakeholders revealed that:

1. Transactions related to PPAF have not been specifically audited in the accounts of the City; and
2. The PPAF entity has not been audited as the annual income is below the threshold requirements of the *Australian Charities and Not-for-Profit Commission*.

We observed that PPAF's constitution provides for the appointment of an auditor, however, it does not appear to be a mandatory requirement.

#### Implication

Without any form of audit ever been performed – internal and external, there are inadequate detective controls to ensure funds have not been misappropriated.

#### 4.2.1.3. Cow Parade

##### 4.2.1.3.1. Authorisation

The Cow Parade was coordinated by the City's Economic Development & Activation Directorate in 2016. We found there was no signed agreement between the City and the PPAF in respect of the initiative. Searches conducted by the City's Governance Unit failed to uncover evidence of formal approval of the project, either by an officer with appropriate delegation or from Council.

#### Implication

Without a formal instrument evidencing approval for the project, there was no authority for the City to instigate the Cow Parade initiative.

##### 4.2.1.3.2. 'Double-Dipping'

We observed that PPF charged the City a 10% 'service fee' for project management of the Cow Parade.

A management stakeholder was unable to explain the nature of the 10% service fee, which was set and agreed with the PPAF prior to their management tenure.

Our assessment is that this fee is a duplication of management expense that was otherwise met from the principal partnership agreement. We found there was no adequate explanation of the basis for the 10% service.

#### Implication

Given the City pays all of the operational expenses of PPAF under the principal partnership agreement for delivering the City's arts strategy, we consider the 10% service fee charged by the PPAF for project management of the Cow Parade to be double-dipping.

##### 4.2.1.3.3. Financial Acquittal

The following table summarises the expenditure and sources of funding in relation to the Cow Parade:

| Time   | Particulars                        | Value               |
|--------|------------------------------------|---------------------|
| Jun-17 | Final acquittal report             |                     |
|        | Total expenditure paid by the PPAF | \$360,667.94        |
|        | PPAF service fee                   | \$46,406.79         |
|        | <b>TOTAL</b>                       | <b>\$407,074.73</b> |
|        | <b>Funded by:</b>                  |                     |
|        | <b>City of Perth</b>               |                     |
|        |                                    | \$243,320.00        |
|        |                                    | \$26,388.87         |
|        |                                    | \$18,454.95         |
|        |                                    | \$26,510.91         |
|        | <b>sub-total</b>                   | <b>\$314,674.73</b> |

| Time | Particulars                         | Value               |
|------|-------------------------------------|---------------------|
|      | <b>Corporate Partnership income</b> |                     |
|      | [REDACTED]                          | \$46,750.00         |
|      | [REDACTED]                          | \$11,000.00         |
|      | [REDACTED]                          | \$5,500.00          |
|      | [REDACTED]                          | \$7,150.00          |
|      | [REDACTED]                          | \$3,850.00          |
|      | [REDACTED]                          | \$11,000.00         |
|      | [REDACTED]                          | \$7,150.00          |
|      | <b>sub-total</b>                    | <b>\$92,400.00</b>  |
|      | <b>TOTAL</b>                        | <b>\$407,074.73</b> |

Our enquiries indicated that an audit has not been performed, nor due diligence been conducted, on expenditures in respect of the Cow Parade (and the principal partnership agreement).

When combined with the funding through the principal partnership agreement, the overall funding to the PPAF across three years aggregated to \$1,228,719.73.

| Implication  |
|--|
| Without adequate financial scrutiny, expenses may have been incurred for purposes other than which they have purportedly been claimed. |

## 5. Internal Audit & Fraud Risk Management



Tabled below is a summary of the documents assessed and reviewed, together with interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• RiskWest, <i>Risk Management Framework Review and Maturity Assessment</i>, 10 October 2018</li> <li>• RiskWest, <i>Strategic Risk Review</i>, February 2018</li> <li>• City of Perth, Risk Management Framework, February 2017</li> <li>• CP19.1 Risk Management Policy</li> <li>• LGIS, <i>Organisational Risk Management Maturity Assessment Report</i>, 22 July 2016</li> <li>• City of Perth, Workplace Grievance Management Procedure PR0442</li> <li>• City of Perth Statement of Business Ethics</li> <li>• Internal Audit Charter</li> <li>• City of Perth's Benchmarking of the Internal Audit Function</li> <li>• Memorandum dated 3 August 2017 from Assistant Internal Auditor to the Director Corporate Services on <i>Local Government Internal Audit Benchmark Research</i></li> <li>• PSC and CCC, <i>Notifying Misconduct A Guide for Principal Officers of Notifying Authorities</i>, August 2018</li> <li>• City of Perth, Employment Issue Register</li> <li>• Governance Unit Business Plan</li> <li>• Audit and Risk Committee Meeting Minutes from 16 November 2015 to 11 December 2017</li> </ul> |
|-------------------------------|--|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Desmond Ngara – Risk Management Coordinator</li> <li>• Mark Ridgwell – Manager Governance</li> <li>• Mario Cheldi – Internal Auditor</li> <li>• Paul Gale – Manager Strategy &amp; Partnership</li> </ul>   |

## 5.1. Fraud and Corruption Risk Management

### 5.1.1. Context

While many definitions exist, the Institute of Internal Auditors (“IIA”) defines fraud as “any illegal act characterised by deceit, concealment, or violation of trust.” This definition captures the characteristic that makes it unique among risks: **intent**. Fraudulent acts involve people that intend to circumvent controls or exploit weaknesses in the organisation. The IIA definition also notes that “*frauds are perpetrated to obtain money, property, or services; to avoid payment or loss of services; or to secure personal or business advantage.*”

Three factors are consistently present when people commit fraud: pressure or incentive, perceived opportunity, and rationalisation.

**Pressure or Incentive** – An actual or perceived need that provides a reason or motive, such as:

- The need to achieve organisational performance targets or financial goals.
- Personal struggles or external stressors (e.g., financial problems, health issues, or addictions).
- The desire to gain power, influence, or esteem in the eyes of family, friends, colleagues, or management (e.g., computer hackers who commit fraud, intending to show off their capabilities rather than to cause harm).

**Opportunity** – A combination of circumstances or conditions that enable fraud to occur, such as:

- Poor control design, lack of controls, insufficient security or segregation of duties, or other circumstances that can enable a control failure.
- A level of trust, authority, knowledge of, and/or access to control processes that enables personnel to circumvent or override existing controls.
- Inadequate supervision, training, or communication regarding policies of professional conduct and the consequences of violations.

**Rationalisation** – A concocted, convincing, and plausible justification, such as:

- Feelings of entitlement due to organisational commitment (e.g., tenure, excessive unpaid hours worked, or unrewarded performance).
- Belief that actions are acceptable because “others probably do it too.”
- Belief that actions are acceptable because they are culturally commonplace or were considered acceptable in previous organisations.
- Belief that policies and procedures do not make sense or are not justified.
- Reasoning that actions are temporary and/or a one-time event (e.g., “borrowing money and will pay it back” or “just this once”).
- Belief that the action is victimless or so insignificant that no one would notice and/or care.

Of the three factors, **opportunity is the only one that organisations can control directly**. Management can design internal controls to try to prevent opportunities for fraud and to detect fraudulent activities if they occur.

### 5.1.2. Finding

**The operations of the City do not demonstrate that a single, aligned fraud and corruption risk management process is in place, universally understood or followed.**

Developing an effective fraud and corruption control program requires a comprehensive understanding of an organisation's risks and vulnerabilities. Risk assessment establishes an organisation's risk profile and the nature of the operating environment so that effective practices can be established to contain or minimise each risk.

The risk management process provides a logical development framework and methodology from which flow many of the elements of a fraud and corruption control plan — internal controls, reporting systems, the conduct of investigations, and training and awareness activities.

We found that the operations of the City do not demonstrate that a single, aligned fraud and corruption risk management process is in place, universally understood or followed. There are components of the Risk Management Framework ("RMF") that are working well, and parts that exist more in form than substance.






Our observations of the City's risk management maturity have been framed around the following elements.

| Risk Maturity Elements | Summary Statements  | Observations  |
|------------------------|---|---|
| <b>Culture</b>         | The focus is on the behaviour of the people within the organisation supporting risk management practice.  | <p>Interviews conducted indicate that from the top of the organisation there is an appearance of structure to the RMF and the activities that support it. However, across senior and middle-management there is limited respect for and support of the RMF as it relates to them and their needs within the organisation.</p> <p>Overall, the RMF is seen as perfunctory and providing limited value-add to end users.</p> <p>Staff across all functions who provide input into the (operational) risk registers and management actions captured by the corporate risk team do not understand the nature of the business wide material <b>inherent risks</b>. We observed that inherent risk or "gross risk" is absent from the Operational Risk Register. The Risk Management Coordinator explained that personnel did not understand or appreciate the concept of inherent risk.</p> <p>During the development of the Strategic Risk Register, elected members did not have an input into the process that generated the risks that require their monitoring and oversight.</p> |
| <b>Governance</b>      | The focus is on the approach for developing, supporting and embedding risk strategy and accountabilities. | Whilst the RMF articulates the principles of the '3 lines of defence' model, commonly accepted as the foundation of a good risk governance model, there appears to be confusion over the roles and responsibilities of risk ownership and the function of each line. Consequently, some high-risk items remain untreated for a long time because accountabilities were not clear.   |

| Risk Maturity Elements | Summary Statements  | Observations  |
|------------------------|---|---|
|                        |   | <p>There are no clear consequences impacting roles or performance ratings resulting from poor risk management behaviours. For example, we first observed the risk relating to asset management in the 16 November 2015 Audit &amp; Risk Committee minutes. The risk rating for asset management continues to be "high" with controls effectiveness assessed as "inadequate" even after several years have passed. The projected completion date for some treatment actions associated with asset management risk is June 2020.</p> <p>Risk strategy and policy is not integrated into the City's strategic planning or business objective setting processes. It exists in isolation in many ways as there is a lack of consistent understanding of the framework supporting risk management strategy and policy as indicated by the risk maturity assessments.</p>  |
| <b>Resources</b>       | The focus is on resources and planning allocated to the management of risk.                       | The Corporate Risk team (currently 1 FTE – Coordinator Risk Management) is under-resourced and lacks sufficient capabilities for embedding and providing ongoing support for the kind of business risk management function we believe the City should have in place to meet its objectives.   |
| <b>Process</b>         | The focus is on the process for identifying, assessing, evaluating, treating and monitoring risk. | <p>Currently, there are 30 operational risk registers and one strategic risk register. The sheer volume of operational risk registers not only represents a challenge to administer, but also impedes the City's ability to identify and report on any risk themes across the organisation.</p> <p>The RMF does not sufficiently differentiate between inherent and residual risk and the importance of cost/benefit analysis on controls. Whilst we appreciate the reasons for the City focussing on residual risks solely attributing to time and resource constraints, identifying and measuring inherent risk are critical in evaluating the impact of risk and the related prioritisation of controls.</p> <p>The purpose of a risk treatment plan is to specify how the chosen treatment options will be implemented so that arrangements are understood by those involved. Treatment plans should be integrated into management plans and processes of the organisation. The information provided in the treatment plan should include, for example:</p> <ul style="list-style-type: none"> <li>the rationale for selection of the treatment options, including the expected benefits to be gained;</li> <li>those who are accountable and responsible for approving and implementing the plan;</li> </ul> |

| Risk Maturity Elements | Summary Statements   | Observations   |
|------------------------|--|--|
|                        |  | <ul style="list-style-type: none"> <li>the proposed actions;</li> <li>the resources required, including contingencies;</li> <li>the performance measures;</li> <li>the constraints;</li> <li>the required reporting and monitoring; and</li> <li>when actions are expected to be undertaken and completed.</li> </ul> <p>In this regard, there is limited information:</p> <ul style="list-style-type: none"> <li>On the risk treatment plan with respect to the information elements described above; and</li> <li>No cost / benefit analysis conducted for major controls, nor any documented assessment made of the relative priority or 'cost benefit' between the approach to managing one risk or risk class, versus another.</li> </ul> <p>Furthermore, apart from a risk maturity assessment conducted periodically by external consultants, there is no structured evaluation process internally to identify the value of risk management or ideas for improvement.</p> |
| <b>Assurance</b>       | The focus is on establishing integrity and validity to bring confidence and support decision-making. | <p>We found the existing resources in the Internal Audit and Risk Management teams do not have the capabilities and experience to provide an adequate level of controls assurance across the business.</p> <p>Moreover, an assurance map has not yet been developed to assist in understanding the nature, scope and extent of assurance activities across the organisation.</p>   |

The diagram below outlines our observations of the City's risk management function:

| Maturity Areas | Fundamental   | Developed   | Systematic | Integrated | Advanced |
|----------------|---|---|------------|------------|----------|
| 1 Culture      |  |   |            |            |          |
| 2 Governance   |   |  |            |            |          |
| 3 Resources    |  |   |            |            |          |
| 4 Process      |   |  |            |            |          |
| 5 Assurance    |  |   |            |            |          |

From the fraud/corruption management perspective, there has been limited focus by the City despite the allegations levelled across all levels including elected members. As aforementioned, the City has not outlined its approach for conducting fraud risk assessments nor has it identified those factors that could influence fraud and corruption risks.

Line management is responsible for identifying, managing and mitigating fraud and corruption risks at operational level however, line management has not received training on identifying, mitigating, and managing fraud risks.

Risks related specifically to corruption have not been included in the City's risk registers. Business areas which are inherently subject to corruption risks have not been identified. These potentially include, but are not limited to:

- Local Laws Enforcement;
- Compliance;
- Statutory Planning and Building; and so on.

Existing assessment of fraud and corruption risks and mitigation strategies or controls indicate a largely detective and reactive approach has been adopted. Management has recently initiated several management reviews, which are detective in nature including data analytics around procurement, purchase orders and creditors invoice payment processes. This is a positive initiative by management to control fraud and corruption in a reactive manner. We observed however, that the details regarding development and implementation of a detective data analytics program have not been defined and described in any of the City's management practice documents.

The Association of Certified Fraud Examiners' reporting of common control weaknesses found that fraud typically occurred where there has been non-compliance with or overriding of controls. There is a strong link between the incidents of fraud and corruption and poor internal controls. Relevantly, Deloitte's *Organisational Capability and Compliance Assessment* report identified:

*"...while the City has an established policy framework, the majority have not been reviewed in the last five years. Some managers also reported issues with policies being inconsistent, and in some cases, conflicting. Without structured, consistent and comprehensive organisational policies, some managers reported that they are, at times, selectively compliant with policies, where they consider that the policy lacks relevance. Determination of relevance is a subjective process that varies between managers. For example, a manager reported that their team uses a number of workarounds to get things done where current policies and procedures are restricting their ability to react to community and stakeholder needs..."*

In the fraud management maturity scale below, we consider the City's fraud management function to be highly undeveloped and non-existent in parts.

| Area of Risk | Issue   | Policy & Procedures   | Control Environment   | Information & Communication   | Competence & Capability   | Monitoring & Review   | Response & Remediation  | Documentation & Evidence  |
|--------------|---|---|---|---|---|---|---|---|
| Overall      | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. |
| Strategy     | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. |
| Tactical     | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. |
| Operational  | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. |
| Review       | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. | The City's fraud management function is highly undeveloped and non-existent in parts. |

## 5.2. Internal Audit

### 5.2.1. Context

Internal audit provides independent, objective assurance and consulting to add value and improve business operations. It is a key element of good corporate governance in organisations and improves both financial and non-financial management and accountability. Corporate governance, ethics, fraud, risks, controls, regulations, communication, adding value – these issues are at the core of internal audit activities.

The International Standards for the Professional Practice of Internal Auditing states "*Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes*".

Combined Assurance – 3 Lines of Defence model can be used to provide assurance to the Executive Team and stakeholders that they are effectively governed.

The City has management controls and management of risk in place, these are said to be lines 1 and 2 in the 3-lines of defence.

- The 1st line of defence originates or initiates risk and is responsible for managing the risks and having in place mechanisms to demonstrate controls are working effectively.
- The 2nd line of defence monitors, reviews and tests effectiveness of 1st line control and management of risks.

The 3rd line of defence being Independent Assurance - **internal audit** is a key component in the assurance structure of an organisation. The City has an in-sourced internal audit function comprised of two staff members.

### 5.2.2. Finding

**The City's internal audit function is not responsive to the organisational challenges and provides limited support in strengthening governance, risk and control. Internal audit has primarily focused on compliance testing of controls and reported exceptions to management.**

### 5.2.3. Reporting

#### i. Strategic Insight

Internal audit is well positioned to strategically share insights from audit activity and organisational engagement with the Audit Committee and executive. Instead of reporting only on the outcomes of individual audits, themes-based reporting links the outcomes of internal audit activity and knowledge gained through engagement into higher-level themes, which provides a strategic organisational and systemic perspective.

This is not the case at the City of Perth.

Internal audit findings do not consistently embody a root cause analysis nor themes-based reporting that links the outcomes of internal audit activities. Internal audit reports are static in nature, focussing on instances of non-compliance and lack any strategic perspective.

Without conducting a root cause analysis and themes-based reporting, the underlying or systemic issues may not be identified. By focussing on the symptom rather than the causal factor, that is, addressing the issue at the superficial level only, the effects of such risk may be recurred in the future. Any resources deployed to neutralise the risk in the first instance would be a waste of effort.

Moreover, in the absence of an understanding of the systemic issue, the organisation would be unable to plan effectively for a solution that may require a capital investment.

#### ii. Five-point Reporting Elements

Leading practice suggests that, as a minimum, each internal audit issue identified should be reported addressing five information elements:

1. **Criteria** – These are the standards or measures used in making an evaluation;
2. **Condition** – The factual evidence found during the examination. This may be non-compliance with established law, regulation and management practice; or deficiency in the control structure;
3. **Cause** – The reasons for difference between expected (Criteria) and actual Condition;
4. **Consequence** – The risk or exposure the organisation experienced because the Condition is not consistent with the Criteria; and
5. **Corrective Action** – Recommended action to correct existing conditions or improve operations.

We found the City's internal audit report structure does not consistently feature all of these elements. There is limited analysis, if any, on the "Cause" of the identified issue. Additionally, the "Criteria" is not always visible for the reader to understand the object against which the "Condition" has been evaluated.

#### iii. A Risk-based Approach

None of the internal audit reports we analysed clearly articulate the risks in which the internal audit activities aimed to address. We raised this query with the City's Internal Auditor who confirmed that this has been an oversight by the Internal Audit function.

We found this deficiency to be extraordinary because risk-based reporting is a rudimentary capability that can be reasonably expected to exist in any professional Internal Audit function.

Considering the City's complex business arrangements and governance challenges, the City's Internal Audit function should have a rigorous process for capturing the risks, focussing internal audit activities and clearly reporting on those risks.

#### iv. Assurance

Under the IPPF, the concept of "assurance" involves the internal auditor's objective assessment of evidence to provide opinions or conclusions regarding an entity, operation, function, process, system, or other subject matters. Positive assurance implies a lot of responsibility and the highest level of evidence. Such assurance is supported by adequate, competent evidence in accordance with prescribed standards.

The City's internal audit reports, within the scope period of our examination, indicate that they typically feature the following conclusion:

*"...There is evidence to provide assurance that adequate controls exist over..."*

For example, the *Probity in Tendering Review December 2015* internal audit report states:

*"...There is evidence to provide assurance that, overall, tender processes and practices are adequately addressing probity issues..."*

On that specific report, the nature of the findings therein combined with the ongoing challenges inherent in procurement should have alerted the City that the conclusion *"tender processes and practices are adequately addressing probity issues"* is somewhat misleading.

More broadly though, there does not seem to be an appreciation by the City's Internal Audit function of the concept of 'assurance' and its implications. The risk exists that Business Units that received such affirmation may be encouraged to continue with their management practices and not adequately address systemic risk issues, when being "assured" that there are adequate controls in place over their functions, when the nature of findings and other risk indicators suggest a higher level of attention over the control structure is required.

#### Strategic Internal Audit Plan and Assurance Mapping

Within the context of *Standard 2000 – Managing the Internal Audit Activity – of the International Standards for the Professional Practice of Internal Auditing (Standards)*, internal audit planning involves the development of: (a) The Internal Audit Strategic Plan that relates the role of Internal Audit to the requirements of an organisation over the medium term; and (b) The Annual Internal Audit Plan which includes schedule for engagements, developed through a risk-based plan to determine the priorities of the internal audit activity.

**We found the City does not have a strategic Internal Audit Plan.** Interviews with relevant stakeholders suggest that internal audit activities are based on a 12-month plan, supplemented by ad-hoc reviews requested from management.

For Internal Audit to remain relevant, it must adapt to changing expectations and maintain alignment with organisational objectives. The Internal Audit strategy is fundamental to remaining relevant and provides visibility of the structure for planned assurance activities over the medium and long terms.

#### We also observed that the City does not have an Assurance Map.

The Assurance Map highlights the current state of an organisation's risk assurance profile, the extent of coverage and the stakeholders responsible. The following diagram provides an example of an assurance map:

| Processes                       | Three lines of defence assurance providers |                 |                   |                                |                   |     |            |                       |                |                   |                      |
|---------------------------------|--|-----------------|-------------------|--------------------------------|-------------------|-----|------------|-----------------------|----------------|-------------------|----------------------|
|                                 | First line of defence                      |                 |                   | Second line of defence         |                   |     |            | Third line of defence |                |                   |                      |
|                                 | Management-based assurance                 |                 |                   | Risk and legal-based assurance |                   |     |            | Independent assurance |                |                   |                      |
|                                 | Control self-assessment                    | Special project | Management review | Risk management                | Health and safety | SCM | Compliance | External audit        | Internal audit | ISO certification | Consulting engineers |
| <b>Strategic</b>                |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Cash/finance and treasury       |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Funding                         |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Sustainability                  |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Growth / mergers & acquisitions |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Alliances                       |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| <b>Operational</b>              |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Financial                       |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| IT                              |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Treasury                        |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Human resources                 |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Supply chain management         |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Quality                         |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Environment                     |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Customers                       |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |
| Products & services             |  |                 |                   |                                |                   |     |            |                       |                |                   |                      |

Without a Strategic Internal Audit Plan supported by an Assurance Map, the City has limited visibility in understanding and monitoring the extent of assurance activities covering the City's risk profile.

#### Independent Evaluation of the Internal Audit Function

The standards applied to Internal Audit are the 'International Standards for the Professional Practice of Internal Auditing' ("**Standards**") contained in the 'International Professional Practices Framework' ("**IPPF**") issued by the Institute of Internal Auditors ("**IIA**"). These require Internal Audit functions to develop and maintain a Quality Assurance and Improvement Program which includes a periodic independent Quality Assessment of Internal Audit at least once every 5 years [1312 – *External Assessments*].

A Quality Assessment is a comprehensive review that examines an Internal Audit function for:

- Conformance with mandatory internal auditing requirements, including the Standards;
- Whether Audit Committee and management expectations of Internal Audit are being met; and
- Opportunities for improvement.

External assessments may be accomplished through a full external assessment, or a self-assessment with independent external validation. The external assessor must conclude as to conformance with the Code of Ethics and the Standards; the external assessment may also include operational or strategic comments.

**Interviews conducted revealed that the City's internal audit function has not been independently assessed against the IPPF.** The City has not implemented internal self-assessments nor external assessments, and ongoing quality monitoring of the City's internal audit function does not exist.

A memorandum from the City's Assistant Internal Auditor to the Director of Corporate Services on 3 August 2017, purportedly, benchmarked the City's Internal Audit function against other Western Australian Local Government internal audit functions. The memorandum concluded that:

*The City of Perth Team completed eleven audits which is the equal highest number of audits completed by the Councils reviewed (refer attached spreadsheets). Other local governments who completed eleven audits did so with the assistance of outsourced providers/other Unit staff.*

*Achievement of the Internal Audit Plan by the City of Perth Team was at 92% (refer summary spreadsheet) which is only behind the City of Stirling. Full completion of the City of Perth Internal Audit Plan for 2016/17 was not possible due to circumstances outside of the control of the Internal Audit Team (refer attached detailed spreadsheet).*

*A review of internal audit reports has found that audits completed by the above local governments vary in terms of breadth and depth of scope. It has been demonstrated via content of internal audit reports that the scope of City of Perth audits are considered to be suitable in terms of breadth and depth.*

*This benchmarking exercise has provided evidence that the City of Perth Internal Audit Team is operating satisfactorily when compared to other local governments with an established internal audit function.*

By comparing the rates of completion of planned internal audit engagements with other local governments, it is only appropriate for the City to evaluate the **output** of its Internal Audit function but does not reasonably provide the basis for a conclusion on the operating **effectiveness** of the City's Internal Audit function.

Typically, the quality of an Internal Audit function is evaluated against the IPPF Standards. These standards are a set of principles and focused requirements for internal auditing. The Standards consist of both Attribute and Performance Standards.

**Attribute standards** address the characteristics of organisations and functions performing internal audit activities.

| IPPF Attribute Standards |   |
|--------------------------|---|
| 1000                     | Purpose, Authority and Responsibility     |
| 1100                     | Independence and Objectivity              |
| 1200                     | Proficiency and Due Professional Care     |
| 1300                     | Quality Assurance and Improvement Program |

**Performance standards** describe the nature of internal audit activities and provide criteria against which the performance of these services can be evaluated.

| IPPF Performance Standards |                                      |
|----------------------------|--------------------------------------|
| 2000                       | Managing the Internal Audit Activity |
| 2100                       | Nature of Work                       |
| 2200                       | Engagement Planning                  |
| 2300                       | Performing the Engagement            |
| 2400                       | Communicating Results                |

| IPPF Performance Standards |                                       |
|----------------------------|---------------------------------------|
| 2500                       | Monitoring Progress                   |
| 2600                       | Communicating the Acceptance of Risks |

We have considered the intent of the memorandum and reviewed the supporting workpapers. We found that the memorandum and associated analysis do not explicitly address, or adequately meet, the IPPF Attributes and Performance Standards for assessing the City's internal audit function.

#### Capability and Resource

The City's internal audit function is in-sourced, comprising of two staff members. A benefit of having in-house resource performing internal audit is the depth of knowledge and awareness of the culture of the organisation.

An appurtenant risk of the insourcing model is the lack of contemporary knowledge and specialist expertise (for example, cybersecurity, data analytics).

We found that the quantum of hours assigned to in-house Internal Audit activities annually (approximately 3000 hours) appears to be excessive considering the compliance nature of the program and the quality of the reports produced.

Interviews conducted with the City's Internal Auditor indicate that whilst he is an experienced practitioner with greater than 15 years of experience in the industry, his technical ability appears to be low, with a modest understanding of contemporary internal control concepts and theories, and has limited capability to influence change in the organisation.

Whilst no one person can be an expert on all matters, it is reasonable to expect that the right questions will be asked, with external assistance obtained as necessary to supplement any capability deficiencies. We found limited evidence of any external assistance sought from a professional service provider in respect of internal audit activities. This may, in part, explain some of the observations outlined above in relation to the deficiencies of the Internal Audit function of the City.

#### Biennial Review of Systems and Procedures (2016)

As required by Regulation 17 of the *Local Government (Audit) Regulations 1996*, a review of the appropriateness and effectiveness of systems and procedures in relation to risk management, internal control and legislative compliance is to be undertaken at least once every two calendar years [prior to amendment].

In respect of Risk Management, the review was conducted by Local Government Insurance Services (LGIS), which highlighted certain deficiencies.

A review of the systems and procedures regarding internal control and legislative compliance was performed by the City's Internal Audit function.

The overall conclusion from this biennial review (2016) was that the City had established appropriate and effective systems and procedures in regards to risk management, internal control and legislative compliance.

We found it difficult to reconcile with this proposition.

Risk Management existed more so in form than substance, driven by a compliance requirement rather than an authentic practice embodying a genuine desire to embed risk management in the decision-making process. Fundamental elements such as inherent risk and fraud and corruption risk management are notably lacking in the vernacular of the City's Risk Management Framework.

In terms of the internal control environment, the preceding sections highlighted both capability and technical weaknesses in the City's Internal Audit function. Separate independent reviews have identified a range of poor financial management practices and controls over an extended period. For

example, things have deteriorated to the extent that "Directorate Accountants" have been installed in different business units to support the function because of the lack of confidence in the City's financial management system and administration. We also observed asset management and capital budgeting represent areas where the City needs better controls and processes. Furthermore, other probity reviews, and the City's own admission, have identified a range of poor procurement practices.

In light of the self-identified issues and reviews by different consultants, we found the City's conclusion, as endorsed by Council, that it has established appropriate and effective systems and procedures in regard to risk management and internal control, not to be an accurate representation of the City's governance and internal control environment.

## 6. Termination Payments



Tabled below is a summary of the documents assessed and reviewed, together with interviews conducted during this audit:

|                               |  |
|-------------------------------|--|
| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>Termination payment calculation for [REDACTED]</li> <li>Termination payment calculation for [REDACTED]</li> <li>Termination payment calculation for [REDACTED]</li> <li>Termination payment calculation for Mr Michael Carter</li> <li>CP12.4 Payments Under Section 5.50 of the Local Government Act 1995</li> <li>Email response from Andrew Corke, <i>Follow Up Query – Termination Payments</i>, dated 3 May 2019</li> <li>Email response from Sophie Morrison, <i>Termination Payments</i>, dated 29 April 2019</li> </ul> |
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>Ms Alison Egan, Manager Human Resources</li> </ul>  |

## 6.1. Analysis and Findings

**Based on our sampled review of four termination payments, we found two instances of payment beyond the entitlements prescribed by the employment contract. The City was unable to supply documentary evidence to explain the nature of the amounts in question.**

**Whilst “Council Policy 12.4 – Payments Under Section 5.50 of the Local Government Act 1995”, provides for a severance payment in addition to any amount the employee is entitled to, there was no evidence such policy instrument was applied to any circumstances that we sampled. More broadly, the City confirmed that within the suite of steps for dismissing an employee, there was no mechanism to reference to the application of Council Policy 12.4 where required.**

### i. Michael Carter

Mr Michael Carter was appointed Director of Economic Development and Activation on the 11 August 2015. His employment contract commenced on 21 September 2015 and was to be concluded on 25 September 2020.

Following an unsatisfactory performance review, Mr Carter resigned on 1 February 2016. The City entered into a deed of settlement with Mr Carter on 26 February 2016.

The deed provided for the sum of \$30,061.79 made up as follows.

|  |             |
|--|-------------|
| (i) 5 weeks' pay in lieu of notice     | \$20,192.31 |
| (ii) Annual leave (accrued and unused) | \$8,254.10  |
| (iii) Time in lieu                     | \$1,615.38  |

We found an email from the former Manager of Human Resources to a payroll officer, at 3:03pm on 1 March 2016, instructing the payment for Mr Carter was 10 weeks plus his employee entitlements.

The City was unable to explain:

1. Why a deed of settlement was required to offer a mutual separation given that Mr Carter unsuccessfully completed his probation period. In any event, the terms above reflected the entitlement that was otherwise payable to Mr Carter under his employment contract.
2. Nothing in the deed provided for the 10 weeks settlement pay.

**Mr Carter received \$40,384.62 for the 10 weeks settlement.** The City was unable to provide the justification supporting the agreement entered into with Mr Carter. Our enquiries revealed that the former Manager of Human Resources and former Chief Executive Officer were responsible for the negotiation with Mr Carter.

*Council Policy 12.4 – Payments Under Section 5.50 of the Local Government Act 1995*, provides for a severance payment in addition to any amount the employee is entitled to under the contract of employment, award, industrial agreement, or order by a Court or Tribunal.

Clause 3 of Council Policy 12.4, states that “Nothing in this policy prevents the Council from deciding that an employee who is leaving may be paid an additional amount, provided the total value of additional payments to that employee do not exceed the value of the person’s final annual remuneration. If the Council decides to make such a payment, the details of the severance payment and benefits will be published in accordance with section 5.50(2) of the Local Government Act.”

We have not found any evidence that the payment to Mr Carter complied with the specific provisions of this policy.

ii.

██████████ was appointed to the position of ██████████ on ██████████. ██████████ employment contract commenced on ██████████ and was to be concluded on ██████████.

Following a restructure of the business unit and a period of consultation, the ██████████ ██████████ wrote to ██████████ on ██████████, confirming his acceptance of the redundancy of his position as ██████████.

██████████ payment includes a payment in lieu of notice of 4 weeks, equating to \$9,759.62; in conjunction with the redundancy amount of \$126,875 that represents 100% of 1 year of salary, pursuant to clause 17.5 of his employment contract.

Clause 17.5, inter alia states:

*“...The payment specified in this clause includes any payment in lieu of notice which may otherwise be due to the Employee and discharges the Employer’s maximum liability...”*

The effect of this clause is that the 52 weeks payable is inclusive of any payment in lieu of notice. In other words, there is no additional payment in lieu of notice required.

Therefore, ██████████ was overpaid to the extent of the 4-week in lieu of notice that the City otherwise does not have an obligation to make.

Similar to Mr Carter, we did not find any evidence that the additional payment to ██████████ complied with the provisions of Council Policy 12.4.

iii.

██████████ held the substantive role as ██████████

██████████ was stood down.

At the date of her dismissal, ██████████ was in an acting capacity as ██████████ and was in receipt of a higher duties allowance.

We observed that ██████████ termination amount has been calculated using the higher duties pay rate.

Email evidence indicates that the [REDACTED] provided an express directive to the payroll officer to process the payment amount, adopting the rate at the time of [REDACTED] suspension.

The City's Senior Employee Relations Advisor advised that the base rate should be used in accordance with the employment contract during stand down.

It is unclear from our analysis as to:

- The validity of the [REDACTED] directions;
- Whether any industrial or contract law may permit such discretion; and
- What level of documentation and administrative processes need to be fulfilled in regard to the application of any Council Policy that otherwise enable the exercise of such discretion.

#### Implication

The City may have made an overpayment in the three instances of termination payments. Alternatively, the City may not have complied with certain administrative processes in respect to the application of Council Policy, which provides the City with the powers to make additional payments to any amount the employee is entitled to under the contract of employment, award, industrial agreement, or order by a Court or Tribunal.

## 7. Budget and Financial Reporting



Tabled below is a summary of the documents assessed and reviewed, together with interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• Deloitte Organisational Capability and Compliance Assessment</li> <li>• Learning Horizons 2018 Performance and Capability Review</li> <li>• Tower Human Capital Group City of Perth Performance Analysis, Assessment and Review – HR</li> <li>• City of Perth – Annual Report 2015-2016</li> <li>• City of Perth – Annual Report 2016-2017</li> <li>• City of Perth – Annual Report 2017-2018</li> <li>• Guidelines for Preparation of Budget Review 2017/18 and Budget 2018/19</li> <li>• City of Perth – Annual Budget 2015-2016</li> <li>• City of Perth – Annual Budget 2016-2017</li> <li>• City of Perth – Annual Budget 2017-2018</li> <li>• Corporate Asset Management Plan 2014-2024</li> <li>• Corporate Asset Management Plan 2015-2025</li> <li>• Corporate Asset Management Plan 2016-2026</li> <li>• Corporate Asset Management Plan 2017-2027</li> <li>• Corporate Business Plan 2014-2018</li> <li>• Corporate Business Plan 2015-2019</li> <li>• Corporate Business Plan 2016-2020</li> <li>• Corporate Business Plan 2017-2021</li> <li>• Long term Financial Plan 2014-2024</li> <li>• Long term Financial Plan 2015-2025</li> <li>• Long term Financial Plan 2016-2026</li> <li>• Long term Financial Plan 2017-2027</li> <li>• Strategic Community Plan – May 2017</li> <li>• Strategic Community Plan – 2029</li> <li>• Workforce Plan 2014-2018</li> <li>• Workforce Plan 2015-2019</li> <li>• Workforce Plan 2016-2020</li> <li>• Workforce Plan 2017-2021</li> </ul> |
|-------------------------------|--|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Mr Dan Richards – Finance Manager</li> <li>• Mr Con White – Chief Accountant</li> <li>• Mr Robert Mianich – Director Corporate Services</li> <li>• Ms Christina Poerwanto – Assistant Financial/ Directorate Accountant</li> <li>• Ms Nina Vesnic – Directorate Accountant, Community &amp; Commercial Services</li> <li>• Samantha Yam – Senior Financial Management Officer, Construction &amp; Maintenance Office</li> <li>• Mr Jason Tan – Manager Asset</li> <li>• Mr Chris Kopec – Manager Construction</li> <li>• Mr Jason Hennevel – Coordination &amp; Design</li> <li>• Mr Desmond Ngara – Coordinator Risk Management</li> </ul>   |

## 7.1. Context

Financial monitoring and management is an important governance and management function in local governments. Councillors have three main roles in relation to financial monitoring and management:

- Plan through the approval of budgets.
- Monitor the financial performance of the organisation to ensure that targets are being met.
- Respond to financial results and indicators by making informed decisions to maintain the organisation's financial wellbeing.

Elected members and Management need to make informed decisions. To do so, the financial reports need to be tailored to provide the relevant information given the organisation's circumstances.

The financial reporting structure should have regard to the needs of various users of the financial reports. The needs of stakeholders vary, for example:

- A. Councillors need to be provided with reports to monitor the financial operations of the organisation to respond to financial indicators and to ensure targets are met.
- B. Managers need to be provided with reports to manage and monitor the results of operational programs within their control.

The financial reporting structure (e.g. chart of accounts, cost centres, budget structures etc.) needs to be established to enable the financial reporting requirements of all stakeholders to be met. The financial reporting structure should also be reviewed periodically as the circumstances of the organisation change.

Delegating responsibility to individuals for the maintenance of the financial systems requires control and oversight by senior management. Financial management policies outline the minimum standard for dealing with financial practices, and guides staff in their conduct and decision-making processes.

## 7.2. Analysis and Findings

***Sound financial stewardships and planning are required to ensure the City's financial management is not only aligned to public sector standards but also efficient and performs to the level that anticipates future growth of the City.***

***We observed the City's financial management is characterised by a transaction-based approach focussing on statutory compliance rather than an effective corporate services function providing valuable financial inputs into strategic decision-making.***

***What is clear is that the City's finance is beset with business plans not supported by appropriate capabilities, systems and processes to oversee the execution of strategies. Core capabilities such as procurement, contract management, probity management, fraud and corruption management, asset management, project management, risk management, internal audit, have not been adequate in some ways at certain points in time.***

## 7.3. Financial Management Manual

A local government Financial Management Manual is a series of actions conducted in a certain order or manner to give effect to the Financial Policy. The Financial Management Manual outlines the financial systems, practices and controls utilised in the financial management of the Council. It is a tool used to ensure compliance with relevant legislation, regulation and government policy while providing clear direction to ensure the efficient, effective and economical management of the Council's financial resources.

Whilst the City has various financial-related policies such as purchasing, borrowings, investments, assets, etc., we found that the City does not have a Financial Management Manual supporting the policies.

The following response was provided to us by the relevant management stakeholder as to whether the City has an Accounting Manual:

*"...Regarding 'does the City have an accounting manual' the specific answer is no, but like most if not all local governments in WA, we follow the Western Australian Local Government Accounting Manual Edition 3 as updated. This is a very comprehensive manual, drafted for local governments and which we made many contributions to as it was being drafted by Ex-City of Perth Treasurer, Ron Back."*

We found the explanation for this deficiency to be unsatisfactory and reflects a poor understanding of the organisational needs for a fit-for-purpose financial control environment that commensurate with the scale and scope of the City. The "*Western Australian Local Government Accounting Manual Edition 3 as updated*" provides high level guidance on certain accounting standards and templates for general purpose financial reporting relevant to the local government sector.

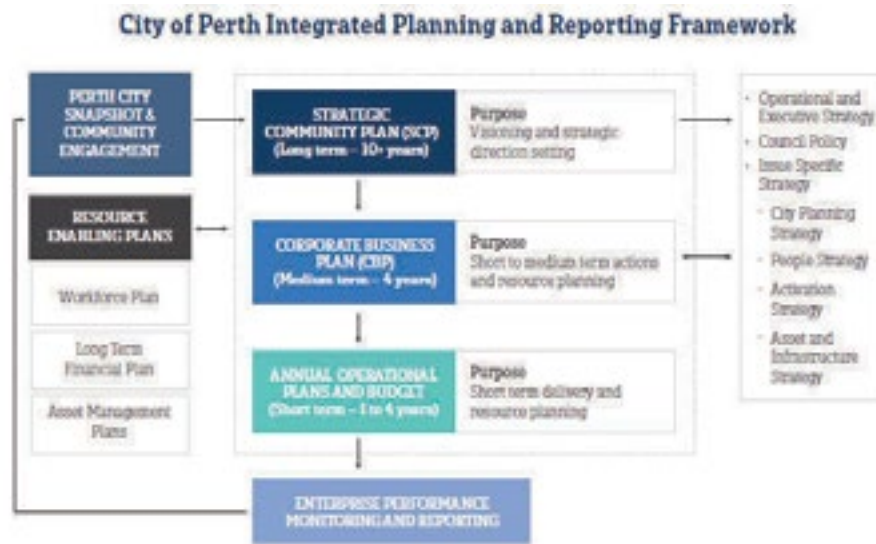
What is needed is a customised financial management manual that outlines the controls and financial systems tailored for the City's use. Without clarity in the City's formal business rules, staff with varying levels of experience applied their financial acumen in performing their duties. This involves discretionary decisions and a fair degree of interpretation of what are acceptable standards, which accentuate misconduct risks as transparency is absent, ineffective or can be avoided.

#### 7.4. Integrated Planning Framework at the City of Perth

In 2011, the Western Australian State Government introduced legislation requiring local governments to prepare an Integrated Planning and Reporting ("**IPR**") Framework. The Framework requires the development of a 'Plan for the Future', comprising a 10-year Strategic Community Plan, a four-year Corporate Business Plan and supporting informing strategies.

As part of the integrated planning process, local governments are required to consult with their communities to develop a long-term vision, examine the demographic, social, environmental and economic trends shaping the future of their area and align their activities and resources to address the community's aspirations expressed in this vision.

The diagram below illustrates the City's Integrated Planning and Reporting Framework:



## 7.5. Corporate Business Plan

The Corporate Business Plan is the Council's 4-year planning document. It gives effect to the first four years of the Strategic Community Plan and is pivotal in ensuring that the medium-term commitments are both strategically aligned and affordable. The Department of Local Government and Communities' (as it was known) *Integrated Planning and Reporting Framework Guidelines (September 2016)*, inter alia, requires the Corporate Business Plan to capture the local government's financial profile and link it to asset management plans and the workforce plan.

Whilst the way each local government lays out its Corporate Business Plan is highly discretionary, we found the City's Corporate Business Plan is devoid of key information, which does not enable ratepayers to understand how the City will fund its future commitments.

Whilst there is an overall financial forecast in the Long Term Financial Plan for each financial year, what is missing in the Corporate Business Plan is the analysis of cost for each strategy or enabling initiative. It appears this information was not included in the Corporate Business Plan because:

1. The lack of appropriate overhead allocation model;
2. Immature asset management; and
3. Inadequate input into the formulation of the Corporate Business Plan by relevant stakeholders.

Moreover, the Corporate Business Plan lacks detail about the workforce plan. (The Workforce Planning process informs the Corporate Business Plan, which is linked to the City's Strategic Community Plan). Our inquiries indicated that the City does not have the ability to accurately account for the FTE staff numbers.

By understanding the number and types of roles required to meet future demands, Workforce Planning informs other management imperatives, for example office accommodation needs, vehicle numbers and types, communications and related information technologies.

The 2015 and 2016 Corporate Business Plans did not have key performance indicators that enabled Council and the community to monitor progress and impact. For example, considering the strategic importance of the Elizabeth Quay Project, the Corporate Business Plan contained very limited analysis and accompanying narratives outlining details of the City's role in the future management of the precinct.

Whilst there is a generic reference stating that the financial details regarding the Elizabeth Quay Project are contained in the Long Term Financial Plan, the Corporate Business Plan should contain the requisite information elements in sufficient degree of granularity at one place, as required by the Department of Local Government and Communities' (as it was known) *Integrated Planning and Reporting Framework Guidelines* (September 2016), to enable the readers to appreciate the financial implications of the City's plans.

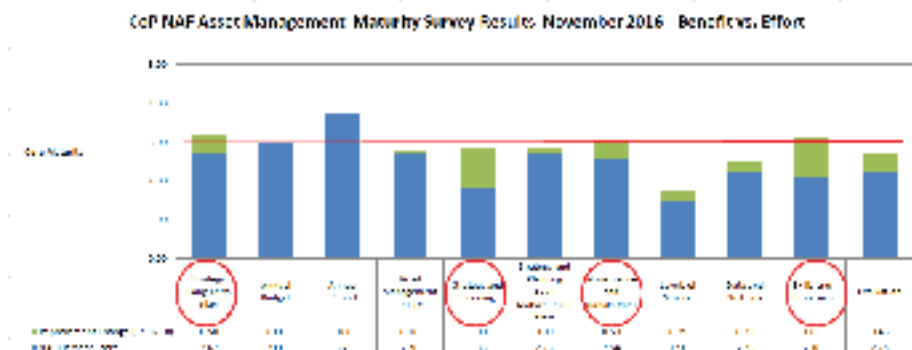
We consider the quality of the Corporate Business Plan is not commensurate with an operation of the scale and scope of the City, and not fully aligned to the intent of the requirements of the Integrated Planning and Reporting Framework.

## 7.6. Asset Management

In 2016/17, the City's Asset Management Unit undertook a self-evaluation to understand the current state of asset management practices at the City. The survey was conducted using the National Assessment Framework ("NAF"). The NAF provides a series of questions relating to the ten elements of the LGPMC Financial Sustainability Frameworks and consists of 76 questions under the 11 elements, to determine progress with implementation towards core maturity.

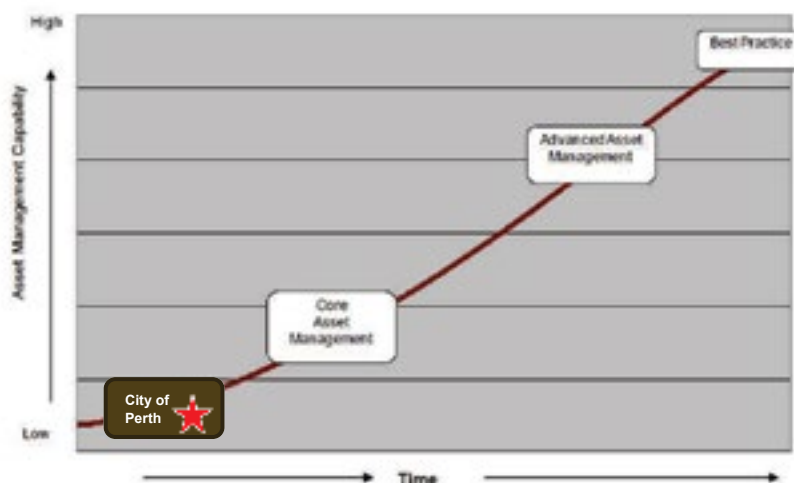
The survey result was an average maturity score of 2.51.

The diagram below shows the City's overall alignment status to the NAF elements (blue bars). The red line is an intermediate target of 3.



The four elements (circled in red) underpinned the deficiencies in the City's in asset management. These weaknesses reduce the City's ability to perform long term strategic asset planning with any degree of accuracy.

The City's overall achievement of core maturity is depicted below:



It is telling that the City's own analysis of the asset management framework identified the following snapshots (as at 30 June 2016) of the status of each asset management artefact:

| Tier | Title                            | Description   | City of perth's application  |
|------|----------------------------------|---|--|
| 1    | <b>Asset Management Policy</b>   | The Asset Management Policy outlines a local government's asset management objectives, targets and plans. It establishes a platform for service delivery and provides the framework that enables the Asset Management Strategy and Plans to be produced. The Asset Management Policy should support 'whole of life' and 'whole of organisation' approaches to asset management.   | <div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>80%</div> <ul style="list-style-type: none"> <li>✓ Policy adopted by Council</li> <li>✓ Reviewed annually</li> <li>✓ 'Whole of Life' and 'Whole of Organisation' focus</li> <li>✗ Strengthen the link to the Strategic Community Plan</li> </ul>  |
| 2    | <b>Asset Management Strategy</b> | As Asset Management Strategy is a document that: <ul style="list-style-type: none"> <li>i) Outlines how the local government's asset portfolio will meet the service delivery needs of its communities into the future</li> <li>ii) Enables the local government's Asset Management Policy to be achieved</li> <li>iii) Ensures that asset management is integrated with the Strategic Community Plan and Corporate Business Plan</li> </ul>  | <div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>60%</div> <ul style="list-style-type: none"> <li>✗ No existing Strategy. Currently in development, expected adoption by Council in 2017</li> <li>✓ Targets the integration with the Strategic Community Plan and Corporate Business Plan</li> <li>✓ Focuses on improvement areas: information, innovation, sustainability and accountability</li> </ul> |
| 3    | <b>Asset Management Plans</b>    | Asset management plans are documents developed for each asset class and define the processes used to manage that asset class. Asset Management Plans should include: <ul style="list-style-type: none"> <li>• Reference to an asset register</li> <li>• Defined levels of service</li> <li>• Demand forecasting</li> <li>• Risk management strategies</li> <li>• Financial information</li> <li>• Information on 'whole of life' costing including changes in service potential for assets</li> </ul> | <div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>70%</div> <ul style="list-style-type: none"> <li>✓ Asset management plans developed for all asset classes</li> <li>✓ Most requirements for the plans have been met</li> <li>✗ Some inconsistencies in data and formats between asset classes</li> <li>✗ Low detail in risk management, operational and maintenance strategies</li> </ul>                |

| Tier | Title                                  | Description  | City of perth's application  |
|------|--|--|--|
|      |  | <ul style="list-style-type: none"> <li>A schedule for asset performance review and plan evaluation</li> <li>An asset management improvement program</li> <li>Clear linkages to other strategic documents</li> </ul>  | <ul style="list-style-type: none"> <li>✗ Low detail in justification of forecasted budgetary requirements</li> </ul>   |
| 4    | <b>Evaluation of Process and Plans</b> | Asset management programs should include evaluation mechanisms to measure their effectiveness against their targets and outcomes annually. The mechanisms chosen should meet accounting standards and be independently audited. Organisational requirements such as those arising from workforce planning need to be included in the evaluation process. | <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>40%</div> <ul style="list-style-type: none"> <li>✓ Creation of a dedicated Asset Management Unit tasked with process improvements and evaluation</li> <li>✗ Consolidation of business standards, processes and procedures required</li> <li>✗ Definition and measurement of KPIs in line with AM Strategy required.</li> </ul> |

For optimal management of assets, the City collects and maintains asset data in order to plan and inform the acquisition, maintenance or disposal activities required. The completeness of the data (as at 30 June 2016) is also shown against each asset class in the table below. The ✓ symbol indicates full completeness, ✓ indicates partial completeness and ✗ indicates no notable progression towards this data set.

| Asset class         | Description  | Data completeness  |
|---------------------|--|--|
| <b>STREETSCAPES</b> | <p>This class includes the City's assets contained within the road reserves that the City owns and maintains. This includes the following asset sub-classes:</p> <ul style="list-style-type: none"> <li>Roads</li> <li>Footpaths</li> <li>Kerbs</li> <li>Drainage</li> <li>Street Lighting</li> <li>Street Furniture &amp; Signs</li> <li>Bridges</li> </ul> | <ul style="list-style-type: none"> <li>✓ Financial Valuations</li> <li>✓ Asset Registers in Asset Management System</li> <li>✓ Condition Assessment Data</li> <li>✓ Preventative Maintenance Plans</li> <li>✗ Community Consultation and Demand Drivers</li> </ul> |
| <b>LANDSCAPES</b>   | <p>This class includes the City's assets contained within the parks and reserves that the City owns and maintains. This includes the following asset sub-classes:</p> <ul style="list-style-type: none"> <li>Bridges</li> <li>Hard Landscapes</li> <li>Soft Landscapes</li> <li>Trees</li> <li>Park Lighting</li> <li>Riverbanks</li> </ul>                  | <ul style="list-style-type: none"> <li>✓ Financial Valuations</li> <li>✓ Asset Registers in Asset Management System</li> <li>✓ Condition Assessment Data</li> <li>✗ Preventative Maintenance Plans</li> <li>✗ Community Consultation and Demand Drivers</li> </ul> |
| <b>PROPERTIES</b>   | <p>This class includes the City's buildings and land assets that the City owns, maintains or leases to the public. This class includes the following asset sub-classes:</p> <ul style="list-style-type: none"> <li>Buildings</li> <li>Land</li> <li>Leasehold Improvements</li> <li>Leased Land</li> </ul>   | <ul style="list-style-type: none"> <li>✓ Financial Valuations</li> <li>✓ Asset Registers in Asset Management System</li> <li>✗ Condition Assessment Data</li> <li>✗ Preventative Maintenance Plans</li> <li>✗ Community Consultation and Demand Drivers</li> </ul> |

| Asset class                         | Description  | Data completeness  |
|-------------------------------------|--|--|
| <b>ARTS, CULTURE &amp; HERITAGE</b> | The Arts, Culture & Heritage asset class recognises the assets that provide artistic and heritage value to the City of Perth. This class includes the following asset sub-classes: <ul style="list-style-type: none"> <li>• Works of Art</li> <li>• Public Art</li> <li>• Memorabilia</li> </ul> | <ul style="list-style-type: none"> <li>✓ Financial Valuations</li> <li>✗ Asset Registers in Asset Management System</li> <li>✗ Condition Assessment Data</li> <li>✗ Community Consultation and Demand Drivers</li> </ul>   |
| <b>PLANT &amp; EQUIPMENT</b>        | The Plant & Equipment class is a broad asset class that comprises the following sub-classes: <ul style="list-style-type: none"> <li>• IT Equipment</li> <li>• Furniture</li> <li>• Plant and Fleet Equipment</li> <li>• Parking Equipment</li> </ul>   | <ul style="list-style-type: none"> <li>✓ Financial Valuations</li> <li>✓ Asset Registers in Asset Management System</li> <li>✓ Condition Assessment Data</li> <li>✓ Preventative Maintenance Plans</li> <li>✗ Community Consultation and Demand Drivers</li> </ul> |

## 7.7. Long Term Financial Plan and Annual Budgeting

Section 6.2 of the *Local Government Act 1995* requires each local government to prepare and adopt an annual budget for its municipal fund. The annual budget is guided by the Corporate Business Plan, which plays an important role in aligning the City's short-term activities to its longer-term goals and objectives.

The annual budget is an essential element of prudent management practices.

The City has a decentralised budgeting process whereby the individual Directorates and Business Units develop their own budget estimates within the guidelines established by Finance. Revenue and expenditure estimates are required to be developed using zero-based budgeting techniques so that every cost centre is re-evaluated from a neutral position.

The intended aim of this approach is that all budget estimates and forecasts, such as capital works and new proposals, are developed in line with the adopted Strategic Community Plan, Corporate Business Plan and Long Term Financial Plan.

The responsibility of assessing the current operations in relation to priorities within the Strategic Community Plan and Corporate Business Plan rests with the Directors and Business Unit Managers.

Operational budget estimates are limited by Council through the adopted budget parameters.

Interviews conducted with stakeholders indicate that, because of the limitations of asset management (aforementioned), and to a certain extent project management, the financial planning horizon is constrained to a **two years'** period. The required planning horizon of the Corporate Business Plan is **four** years and the Long Term Financial Plan is **10** years. Accordingly, the City does not have the ability to accurately forecast and manage capital plan beyond the short-term.

On the surface, the City's budgeting process is not too dissimilar to other local governments subject to the Integrated Planning and Reporting Framework. There are however, deficiencies in the integration and interface between the different business units and their relative priorities.

Other reviews undertaken by consultants identified that the Strategic Community Plan and the supporting Corporate Business Plan do not effectively capture the organisation's strategy. The Strategic Community Plan lacks a clear and complete articulation of the City's strategic choices, priorities and targets. A decision was previously taken to exclude "business as usual" activities from the Strategic Community Plan and the Corporate Business Plan. Consequently, the documents do not explicitly define the contribution of all business units to the organisation's strategic priorities, nor define and prioritise specific objectives for each business unit. The integration and linkage between the Strategic Community Plan, Corporate Business Plan and business unit level strategies is not explicitly articulated.

Effectiveness of capital budgeting activity at the City has been influenced by asset management and project management. Whilst investigations into these disciplines warrant a separate review of their own, enquiries with relevant stakeholders in these regards indicated ongoing reform, which highlight the challenges that the City experienced in accurately forecasting its capital program. A key risk in this respect is inadequate analysis, design, delivery and/or status reporting of initiatives, resulting in additional expenses, time delays or scope changes.

We obtained evidence which indicated that:

- The "Integrated Parking Management System" (IPMS) was proposed to be implemented over 2 financial years with \$6.5 million of expenditure in 2018/2019 and \$10.5 million expenditure in 2019/2020. Despite the significant cost of the IPMS, there was no reference to the IPMS within the City's Long Term Financial Plan.
- The following material adjustments were required to the City's Long-Term Financial Plan:
  - Additional Core Systems costs of \$13.5 million (over 4 years);
  - Increased costs of Peth Convention Centre Carpark subsidence works by \$5 million to \$25 million; and
  - Increased costs of IPMS by \$6 million to \$17.7 million.

When combined with other error adjustments, the reserves fell to \$27m from \$60m, and cash fell to a low of \$45m from \$80m. The magnitude of corrections is significant. On this trajectory, if not properly managed, the City is at risk of experiencing liquidity issues.

As demonstrated above, the consequences of inadequate financial planning could be high for an organisation of the scale, scope and complexity such as the City.

## 8. Other Matters



## 8.1. Fringe Benefits Tax

Fringe benefits tax (“**FBT**”) is paid by employers on certain benefits they provide to their employees or their employees’ family or other associates. The FBT year starts on 1 April and ends at 31 March.

The City paid approximately \$650,000 - \$700,000 of FBT each year across the three years of the terms of reference. About 50% to 60% of this FBT relates to motor vehicle expenses, predominately calculated under the “Statutory Method”. The statutory formula method calculates the taxable value of the motor vehicle benefit as a percentage of the car’s value, based on the number of days during the FBT year on which the car was available for private use. A log book is not required to be maintained for calculating the taxable value of motor vehicles under this approach.

It appears that the City does not reinforce the requirement for log books to be kept for motor vehicles as demonstrated from the predominate use of the Statutory Method. Without a requirement to maintain log books for motor vehicles, the City may be exposed to paying a higher FBT amount than otherwise required had the actual private use portion been determined.

Our enquiries revealed that the City never had an external independent review or advice in relation to its compliance with FBT legislations.

## 8.2. Finance Capabilities

Our research of the Human Resource records revealed that apart from the former Director of Corporate Services, during the terms of reference, the two senior finance officers – Chief Accountant and Finance Manager – do not hold either a CPA or CA qualification.

Within the accounting profession, these two designations indicate finance expertise and ongoing professional development to maintain the requisite technical accounting skills in leadership, strategy and business.

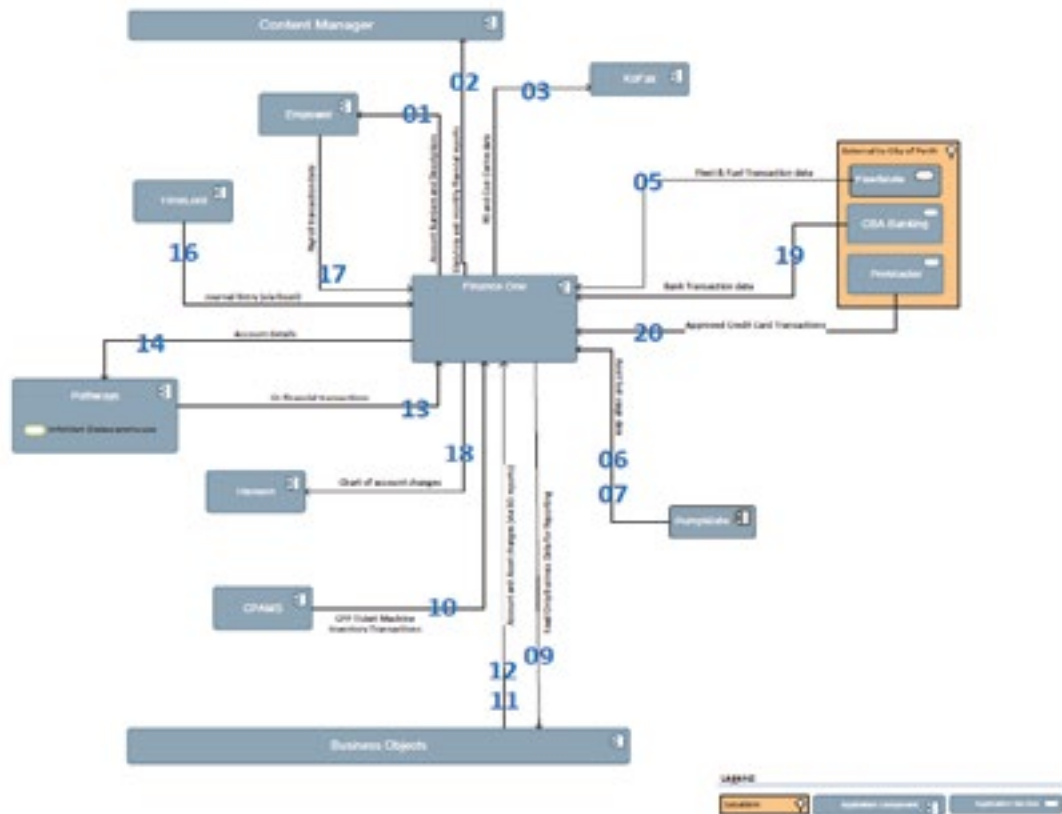
## 8.3. Finance Services Structure

Finance Services at the City is comprised of more than 30 personnel. This level of staffing is usually commensurate with a multi-billion-dollar enterprise. There appears to be a high level of inefficiencies arising out of inadequate organisational financial management and poor system uptake. For instance, the installation of Directorate Accountants across the City was inspired from concerns from other business units’ managers unable to obtain the financial information in a manner that supports their business requirements.

For the level of resources invested within Finance Services, the expected gains have not been realised by way of a high performing, responsive finance department that provides financial stewardship to the City.

## 8.4. Systems

The following diagram describes at a high level the different systems that interfaces with the City’s primary finance system, Finance One.



Our enquiries revealed that customisations of various systems for interfacing with Finance One had been carried out without specific risk assessment. Whilst there appears to be an understanding of the transactional impacts from those customisations, but without a proper risk assessment, the broader system implications may not be identified.

## 8.5. Office of the Auditor General (OAG)'s Management Letter

The OAG management letter in relation to the 2018 financial year, identified the following salient matters that aligned to our observations on the City's financial management:

- 17 assets totalling \$120,465 in value and \$1,690 in depreciation were erroneously excluded due to incorrect commission dates;
- Financial ratios' calculations were not consistent with the information contained therein or reporting requirements; and
- At the time of the audit, the City's accounting records, supporting schedules, and other documents were not finalised.

## 8.6. Financial Management Processes

Based on our enquiries, the following improvement opportunities have been identified by the Directorate Accountants in relation to financial management at the City. A selection of these issues is provided hereunder to provide a perspective of the challenges within Finances Services:

- Consistent management reports across the City (verified, easy to understand, formatted in a visually appealing way that aids decision-making).
- Upskilling of data extraction knowledge (in particular XLOne, Business Objects and Power BI). Once a team of people is upskilled, the maintenance of reports and dashboards can either be split or rotated.
- XLOne can be used to streamline a lot of processes that involve Finance One data extraction and further manipulation with pre-set formulas as well as to replace repetitive data extraction processes from Finance One.
- Project management old and new process – minimal data integration, double to triple handling of project status updates and not one source of truth at a moment in time.
- Enterprise Budgeting Tech One module has much greater potential than its current use and can provide efficiencies in many areas. Every 'model' set up in Enterprise Budgeting can extract live Finance One data, have input forms for any external qualitative or quantitative data, have formulas and syntaxes designed to create new information using the mixture of previously mentioned data and also load back to budget or forecast ledgers. All info in Enterprise Budget models can be extracted using XLOne in various custom formats as per requirement of Management.
- New revised chart of accounts is not aligned to services and also not aligned to optimal activity-based cost hierarchy.
- Activity based costing is not transparent and not used to cascade the cost of support units down to service units optimally and through use of mutually agreed cost drivers.
- Pathway processes are not clear and involve the City invoicing itself. In addition, there are various issues within the Health and Activities business unit issuing quotes estimates internally and externally which inflates recognised accrued revenue and can get significantly reversed in the following period(s). There are also issues with Parking Services infringements and apparent lack of knowledge about the consequences of corrections and the end interface to Finance One.
- Unreliable HR/payroll data management and inconsistent employment data (including position descriptions that cannot always easily be made consistent due to signed employment contracts) – all HR movements and changes are currently also being maintained by Directorate Accountants on a spreadsheet in order to have a reliable snapshot of the Directorate workforce at any point in time.
- Budget review employee costs are based on payroll extract and thus do not include vacancies that have to be added manually as well as workforce plan hours that might be different during temporary reductions such as in case of return from maternity leave or transition to retirement. In addition to this, many allowances have to be added manually per position at each budget review.
- Invoice approval reminders – raw data is manipulated in a 'Directorate focussed' format and sent out by various Directorate Accountants.
- Invoice approvals are currently processed through the content management system. Finance One has the ability to allow for segregation of duties approvals via decentralised purchase ordering and segregated receipting as well as auto invoice matching by AP team – this option could potentially lead to material time savings across the City.
- Current salaried time costing to capital works is a very cumbersome and manual process (particularly when it involves cross Directorate support as the temporary TimeLord timesheet system does not even cater for cross Directorate time costing). BU rates across the City have had an inconsistent base calculation. As part of the 19/20 budget justification template, consistent rates have been issued. However, as they are no longer average BU rates but per band level, this will create even more manual work until HRIS is implemented.

- Journals processed by finance do not include obtaining approval from the business unit that is being charged resulting in allocation of costs that can be inaccurate.
- Assets data does not appear to be readily available.
- Project retention fund information is not readily available to project managers and other key stakeholders.
- No clear service standards or guidelines published for processing time.
- Invoices generation and report writing is restricted to one person. This is considered high risk. Overloaded one person and long waiting time. Need to empower more staff with the skill;
- Lack of ability to see commitment against budget line items. Officer creates purchase orders and place orders with Contractor for future works however when we look at our budgets, Correct commitment are not showing. Also drill down against commitments does not work, showing whom commitments are with and for what works.
- Commitments breakdown is not available for Hansen related orders.

### 8.7. Response to Inquiry

We were disappointed with the quality and timeliness of information provided by the City to our enquiries, which reinforce the view of the level of dysfunction that exists. There have been occasions where:

- Irrelevant information of substantial quantity was provided to us, causing unnecessary commitment of analysis time;
- Extended delays to supply FBT information that should be readily available in the City's official recordkeeping system;
- Failure to address questions directly and succinctly; or ambiguous responses given; and
- 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.

## 9. Recommendations



In order to attain a transformative effect of its culture and operations, the City needs to change the foundation with which gave rise to the dysfunction. An ad hoc approach is likely to cause further stress on the organisation without significantly improving accountability and producing a culture of high performance that is needed, and very much expected, to manage the state's capital city. What is required is comprehensive reform which:

- addresses: people/capabilities; systems; and processes;
- identifies conflict of interest as principle to guide policy development; and
- recognises the complexities of the procurement environment and the misconduct risks attendant.

In that context, we make the following recommendations, which include considerations of matters in the extended scope of work.

| Recommendation 1  | Rationale  |
|---|--|
| <p>Conduct a functional review of the Finance Services area. The review is to identify the following:</p> <ul style="list-style-type: none"> <li>• Current capability and maturity assessment of the Financial services unit. A diagnosis of current performance, including "client" feedback and expectations.</li> <li>• Services and resource level comparison against similar local governments and industry benchmarks.</li> <li>• Adequacy of measures in place to ensure compliance with relevant local government financial regulations, including tax obligations such as Fringe Benefits Tax.</li> <li>• The potential impact of industry and technological changes.</li> <li>• Impact of the City's projected growth to be taken into account.</li> <li>• Key performance indicators to monitor ongoing performance.</li> <li>• Gap analysis and recommendations.</li> </ul> | <p>To ensure alignment of the City's finance functions, processes, systems, operations and organisational design to its legislative purposes and performance expectations.</p> |
| Recommendation 2  | Rationale  |
| <p>Key financial processes and systems need to be process mapped and documented to support consistent decision making and ensure accountability.</p>  | <p>To minimise business continuity risks and ensure consistency and transparency in decision-making.</p>   |
| Recommendation 3  | Rationale  |
| <p>A. Develop comprehensive, organisation-wide strategies to combat fraud and corruption including a review of policy and procedures to manage conflicts of interests and related-party transactions.</p> <p>B. Reiterate the importance of conflict of interest and a training program that reinforces the need to:</p>  | <p>To ensure the City has a robust framework to counteract misconduct and corruption risks.</p>  |

| Recommendation 3  | Rationale |
|---|-----------|
| <ul style="list-style-type: none"> <li>i. Declare all interests, whether a direct or indirect financial interest, a proximity interest or an impartiality interest;</li> <li>ii. Abstain from any decision-making forum associated with the subject matter that may present a conflict of interest;</li> <li>iii. Restrict the person's access to relevant information that is sensitive;</li> <li>iv. Divest the personal interest, which creates the conflict; and</li> <li>v. Provide education to individuals about identifying conflicts of interest.</li> </ul> |           |

| Recommendation 4  | Rationale  |
|---|--|
| <p>A. The City's procurement operating model should be underpinned by relevant skills, experience, people and governance systems. For high risk procurement, the City should consider the specific risks associated with that procurement in general (i.e. supply market considerations and business risk considerations), as well as risks particular to probity of the procurement process. This can assist in clarifying the specific role that the probity auditor and/or advisor will play and the particular issues that he/she may be required to address.</p> <p>B. The City should establish a centralised contract management function that aims to address the organisational-wide needs including measures that monitor payment (to avoid duplication), variation, out of scope work and overall expenditure (to ensure compliance with procurement policy). Contract management activities should include, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>o Establish, measure and monitor key performance indicators;</li> <li>o Conduct performance review of suppliers;</li> <li>o On-going integrity check and risk management e.g. insurance, registrations, licences, etc.;</li> <li>o Value testing and benchmarking; and</li> <li>o Manage contract variations as appropriate.</li> </ul> | <p>In a fiscal environment that is increasingly characterised by contracting resource availability and economic pressures and constraints, effective corruption and misconduct management is paramount to ensure value for money is obtained for ratepayers in all decision-makings.</p> <p>The City needs to demonstrate that it has the appropriate governance arrangements to support its procurement activities.</p> |

| Recommendation 5  | Rationale   |
|---|---|
| <p>The roles of probity auditor and probity advisor should be clearly distinguished.</p> <p>Where the procurement is complex and/or sensitive, a probity advisor should be engaged to establish the probity</p> | <p>The City did not appear to have a sound appreciation of the distinctions between probity auditors and probity advisors. This confusion not only had led to</p> |

| Recommendation 5  | Rationale   |
|---|---|
| management framework. A probity auditor should then be engaged to provide an independent scrutiny of the procurement process and express an objective opinion as to whether the prescribed probity requirements have been adhered to.   | advice by consultants that was coloured by self-review risks, but importantly, the City did not obtain the level of assurance that it thought it did.   |
| Recommendation 6  | Rationale   |
| Effective governance should enhance organisation performance, management and minimise risks. To this end, the City should reset the risk management and internal audit functions; and more broadly, governance; in their current form. A review should be conducted to identify whether the structure, skillset, output, delivery is commensurate with an organisation of the scale, scope and complexity such as the City. An evaluation should also be undertaken examining alternative internal audit models, which include outsource and co-source arrangements.              | Internal audit and Risk Management are important elements in assisting the management team to meet their responsibilities. Internal audit and Risk Management are an integral part of the corporate Governance framework that manage risks, identify process efficiencies and achieve objectives.   |
| Recommendation 7  | Rationale   |
| As part of the reform initiatives, the City should plan some culture training tailored to different stakeholders in the organisation with the objective of promulgating the importance of accountability, taking ownership for individual actions and lead by example. At the same time, the City should review its Human Resource regime and recalibrate its disciplinary approach to ensure its punitive measures are balanced and not having a deleterious effect on the culture of the organisation by deterring individuals from accepting responsibility for their actions. | In order for the City to attain a high performing culture, it is necessary for staff to take ownership and responsibility for their decision-making. Staff need to feel 'safe' when taking calculated risks in performing their roles. Mistakes will be made, and when they do, staff should have the confidence to accept and <b>learn</b> from the errors of their way. |

| Recommendation 8   | Rationale  |
|--|--|
| The City should ensure proper documentation and record keeping is maintained when applying <i>Council Policy 12.4 "Payments under section 5.50 of the Local Government Act 1995"</i> .   | To give effect to the policy, proper records need to be maintained to evidence the application of the policy.  |
| Recommendation 9   | Rationale  |
| Customisations of the Finance One system should be risk assessed to determine the broader implications in terms of stakeholders' engagement and overall integration and alignment with the organisational objectives.  | To ensure a strategic approach to implementing information technologies at the City.   |
| Recommendation 10  | Rationale  |
| Asset Management and Project Management represent core capabilities that are dependent upon for the delivery and management of the City's capital program. A comprehensive review should be conducted to determine whether these business units have the right capabilities, systems and processes necessary to support the delivery of the City's capital budget; and the structure is aligned to the organisation's operational requirements.  | Capital budgeting does not appear to accurately match the City's capacity to deliver. A holistic review is warranted to ensure alignment between the City's capability to deliver with its capital plan. |
| Recommendation 11  | Rationale  |
| <p>When engaging investigators and external consultants/advisors, the City should ensure that:</p> <ul style="list-style-type: none"> <li>• It identifies the nature of assurance it requires;</li> <li>• It ensures the service provider is appropriately qualified, and, seek evidence of that qualification and experience;</li> <li>• It ensures the investigator – whether internal or external – does not have a conflict of interest with the subject matter concerned;</li> <li>• It formalises the engagement with a term of reference that is signed by all parties;</li> <li>• Upon receipt of the deliverable such as a draft report, the City rigorously reviews the information paying careful attention to the quality of the finding, logic and supporting evidence; and</li> <li>• Weaknesses of governance and/or controls identified contribute to a 'lesson learnt' process as part of an intelligence-led internal audit function.</li> </ul> | To ensure the City appropriately commissions and obtains the right advice when conducting an investigation.  |



| Recommendation 14  | Rationale   |
|--|---|
| <p>In respect of grants, donations and sponsorships, the City should, for:</p> <ul style="list-style-type: none"> <li>A. Small one-off projects – request a report on achievements against objectives and financial acquittal when the project is completed.</li> <li>B. More complex projects and service delivery programs – conduct regular and rigorous review to determine progress and assess whether value for money has been achieved. This should include regular progress reports by the funding recipient against agreed performance measures or milestones and/or site visits by a representative from the City. A final acquittal report should include an independent financial audit accompanying the following information: <ul style="list-style-type: none"> <li>a. Acquittal certificate;</li> <li>b. Balance Sheet;</li> <li>c. Income and Expenditure Statement,</li> <li>d. Asset Register; and</li> <li>e. Performance Report.</li> </ul> </li> </ul> <p>Surplus funds should be returned to the City unless the recipient has made a formal application for funding retention. A regular review of monitoring, reporting and evaluation activities for funding programs should be scheduled in the City's internal audit plan.</p> | <p>To ensure ratepayers obtain value for money from the funding provided.</p> |

# Addendum



## 10. Perth Public Art Foundation Audit



## 10.1. Analysis and Findings

Our procedures involved, on a test basis, obtaining evidence that supports the payments made by the Perth Public Art Foundation (PPAF). Our sampled testing revealed, predominately, there are supporting documents demonstrating expenditures were incurred for business purposes.

We found several duplicate payments, and payment committed in errors with respect to the treatment of GST status of the payees. These mistakes are limited and appear to be an administrative oversight.

## 10.2. Debit Amounts

### 10.2.1. Coverage

The following table outlines the payment types and amounts per the bank statements of the business transaction account for the period **1 July 2015 to 30 June 2018**.

| Total        | Expenditure (Cheques and EFT)<br>as per Bank Statements | Automatic Credit Card Payments<br>as per Bank Statements | Banks Fees and<br>Charges |
|--------------|---|--|---------------------------|
| \$663,806.47 | \$628,844.94  | \$34,590.36  | \$371.17                  |

We conducted substantive testing of 179 invoices that represents \$565,268.77 in expenditures or 89.89% of payments made by cheques and electronic funds transfer.

Additionally, we reviewed a sample of 11 credit card transactions with the total value of \$3,784.67, which is approximately 11% of the total credit card payments.

### 10.2.2. Duplicate Payments

We observed the following instances of duplicate payments:

| Supplier Invoice |              |             |             |        |                   | Bank Statement    |               |                |
|------------------|--------------|-------------|-------------|--------|-------------------|-------------------|---------------|----------------|
| Supplier         | Invoice Date | ABN         | GST Charged | GST    | Amount (exc. GST) | Amount (inc. GST) | Cheque Number | Date Presented |
| ██████           | 20/10/2016   | 91085538674 | Y           | \$7.00 | \$70.00           | \$77.00           | 287           | 5/12/2016      |
| ██████           | 20/10/2016   | 91085538674 | Y           | \$7.00 | \$70.00           | \$77.00           | 298           | 5/12/2016      |

The following is a potential duplicate payment.

| Supplier Invoice   |              |             |             |     |                   | Bank Statement    |               |                |
|--------------------|--------------|-------------|-------------|-----|-------------------|-------------------|---------------|----------------|
| Supplier           | Invoice Date | ABN         | GST Charged | GST | Amount (exc. GST) | Amount (inc. GST) | Cheque Number | Date Presented |
| <i>Potential</i>   |              |             |             |     |                   |                   |               |                |
| ██████████████████ | 28/08/2016   | 90196775063 | N           | -   | \$1,420.00        | \$1,420.00        | 220           | 15/09/2016     |
| ██████████████████ | 28/08/2016   | 90196775063 | N           | -   | \$1,420.00        | \$1,420.00        | 219           | 19/09/2016     |

### 10.2.3. GST Issues

We observed the following errors with the treatment of supplier's GST status.

**PPAF paid an invoice amount that includes a GST component to a supplier who was not registered for GST and did not charge a GST on the Tax Invoice rendered.**

| Supplier Invoice |              |             | Bank Statement |     |                   |                   | ABN Lookup    |                |          |                |                |                  |
|------------------|--------------|-------------|----------------|-----|-------------------|-------------------|---------------|----------------|----------|----------------|----------------|------------------|
| Supplier         | Invoice Date | ABN         | GST Charged    | GST | Amount (exc. GST) | Amount (inc. GST) | Cheque Number | Date Presented | Amount   | ABN Registered | GST Registered | GST Registration |
| [REDACTED]       | 5/08/2016    | 93925079443 | N              | -   | \$375.00          | \$375.00          | 217           | 18/08/2016     | \$412.50 | Y              | N              | Never            |

**Suppliers charged GST on the Tax Invoice, but at the date of the invoice, was not registered for GST.**

| Supplier Invoice |              |             | Bank Statement |          |                   |                   | ABN Lookup    |                |            |                |                |                         |
|------------------|--------------|-------------|----------------|----------|-------------------|-------------------|---------------|----------------|------------|----------------|----------------|-------------------------|
| Supplier         | Invoice Date | ABN         | GST Charged    | GST      | Amount (exc. GST) | Amount (inc. GST) | Cheque Number | Date Presented | Amount     | ABN Registered | GST Registered | GST Registration        |
| [REDACTED]       | 13/09/2016   | 81337477930 | Y              | \$142.00 | \$1,420.00        | \$1,562.00        | 248           | 3/10/2016      | \$1,562.00 | Y              | N              | 08/01/2009 - 07/09/2016 |
| [REDACTED]       | 24/11/2016   | 81337477930 | Y              | \$142.00 | \$1,420.00        | \$1,502.00        | 306           | 1/12/2016      | \$1,502.00 | Y              | N              | 08/01/2009 - 07/09/2016 |
| [REDACTED]       | 14/09/2016   | 81337477930 | Y              | \$426.00 | \$4,260.00        | \$4,686.00        | 249           | 5/10/2016      | \$4,686.00 | Y              | N              | 08/01/2009 - 07/09/2016 |
| [REDACTED]       | 1/02/2017    | 81337477930 | Y              | \$50.00  | \$500.00          | \$550.00          | 345           | 31/03/2017     | \$550.00   | Y              | N              | 08/01/2009 - 07/09/2016 |
| [REDACTED]       | 4/12/2016    | 37919513833 | Y              | \$400.00 | \$4,000.00        | \$4,400.00        | 310           | 28/12/2016     | \$4,400.00 | Y              | N              | Never                   |
| [REDACTED]       | 11/01/2017   | 33074311495 | Y              | \$80.00  | \$800.00          | \$880.00          | 352           | 18/05/2017     | \$880.00   | Y              | N              | Never                   |
| [REDACTED]       | 4/10/2016    | 33074311495 | Y              | \$320.00 | \$3,200.00        | \$3,520.00        | 256           | 13/10/2016     | \$3,520.00 | Y              | N              | Never                   |

**Suppliers did not charge GST on the Tax Invoice, but at the date of the invoice, was registered for GST, therefore should have charged a GST for their services.**

| Supplier Invoice |              |             | Bank Statement |     |                   |                   | ABN Lookup    |                |            |                |                |                    |
|------------------|--------------|-------------|----------------|-----|-------------------|-------------------|---------------|----------------|------------|----------------|----------------|--------------------|
| Supplier         | Invoice Date | ABN         | GST Charged    | GST | Amount (exc. GST) | Amount (inc. GST) | Cheque Number | Date Presented | Amount     | ABN Registered | GST Registered | GST Registration   |
| [REDACTED]       | 28/11/2016   | 91881898836 | N              | -   | \$1,200.00        | \$1,200.00        | 280           | 9/11/2016      | \$1,200.00 | Y              | Y              | 01/11/16 - Current |
| [REDACTED]       | 5/12/2016    | 90196775063 | N              | -   | \$1,400.00        | \$1,400.00        | 323           | 20/02/2017     | \$1,400.00 | Y              | Y              | 08/03/17 - Current |
| [REDACTED]       | 28/08/2016   | 90196775063 | N              | -   | \$1,420.00        | \$1,420.00        | 220           | 15/09/2016     | \$1,420.00 | Y              | Y              | 08/03/17 - Current |
| [REDACTED]       | 14/09/2016   | 90196775063 | N              | -   | \$4,260.00        | \$4,260.00        | 255           | 11/10/2016     | \$4,260.00 | Y              | Y              | 08/03/17 - Current |

### 10.3. What we did not do

We were not provided with the general ledgers supporting the financial statements, and accordingly did not validate the disclosures of amounts appearing on the PPAF financial statements. Our focus

was primarily concerned with whether suitable evidence exists to support the payments made by the PPAF. Accordingly, our procedures did not involve an examination of the classification of these expenditures in PPAF's financial statements.

### 10.3.1. Credit Amounts

The following table summarises all the credit entries in the bank statements.

| Bank Statement |                               |              | Perth Public Art Foundation Invoice |  |                     |                    |                     |
|----------------|-------------------------------|--------------|-------------------------------------|--|---------------------|--------------------|---------------------|
| Date           | Description                   | Amount       | Date                                | Description  | Amount (exc. GST)   | GST                | Amount (inc. GST)   |
| 1/09/2015      | Transfer in Branch Innaloo    | \$221,672.78 |                                     |  |                     |                    |                     |
| 3/12/2015      | Direct Credit Artsource       | \$537.35     | 10/11/2015                          | Reimbursement - insurance associated with ROARY the baby dragon installation | \$537.35            | -                  | \$537.35            |
| 7/01/2016      | Direct Credit City of Perth   | \$22,000.00  | 8/12/2015                           | Partnership - Administrative Support Costs (\$60,000 over three years)       | \$20,000.00         | \$2,000.00         | \$22,000.00         |
| 29/07/2016     | Direct Credit City of Perth   | \$243,320.00 | 27/06/2016                          | 2016 Cow Parade Perth  | \$161,400.00        | \$16,140.00        | \$177,540.00        |
|                |                               |              | 27/06/2016                          | 2016 Cow Parade Perth - Additional Cow Costs                                 | \$46,800.00         | \$4,680.00         | \$51,480.00         |
|                |                               |              | 27/06/2016                          | 2016 Cow Parade Perth - Activation Strategy                                  | \$13,000.00         | \$1,300.00         | \$14,300.00         |
|                |                               |              | <b>Total</b>                        |  | <b>\$221,200.00</b> | <b>\$22,120.00</b> | <b>\$243,320.00</b> |
| 16/09/2016     | ██████████                    | \$11,000.00  | 5/08/2016                           | ██████████ Wagyu Partnership Package - Cow Parade Perth 2016                 | \$10,000.00         | \$1,000.00         | \$11,000.00         |
| 29/09/2016     | Direct Credit ██████████      | \$7,150.00   | 18/09/2016                          | ██████████ Hereford Cow Partner - Cow Parade Perth 2016                      | \$6,500.00          | \$650.00           | \$7,150.00          |
| 9/11/2016      | Cash/Cheque Deposit Fremantle | \$1,200.00   |                                     |  |                     |                    |                     |
| 10/11/2016     | Direct Credit City of Perth   | \$74,030.00  | 2/10/2016                           | Partnership - Payment as per Agreement July 2016 - June 2017)                | \$67,300.00         | \$6,730.00         | \$74,030.00         |
| 11/11/2016     | Direct Credit ██████████      | \$5,500.00   | 3/11/2016                           | ██████████ Sponsored Cow - Cow Parade Perth 2016                             | \$5,000.00          | \$500.00           | \$5,500.00          |
| 13/12/2016     | Direct Credit ██████████      | \$7,150.00   | 1/12/2016                           | AMILITA + the Winds from the West Artwork - Cow Parade Perth 2016            | \$6,500.00          | \$650.00           | \$7,150.00          |
| 19/12/2016     | Direct Credit ██████████      | \$46,750.00  | 2/12/2016                           | Purchase of 6 Cows/Artworks for the 2016 Cow Parade Perth                    | \$42,500.00         | \$4,250.00         | \$46,750.00         |
| 23/01/2017     | Direct Credit ██████████      | \$11,000.00  | 12/09/2016                          | ██████████ Wagyu Cow Partner - Cow Parade Perth 2016                         | \$10,000.00         | \$1,000.00         | \$11,000.00         |
| 31/01/2017     | Direct Credit City of Perth   | \$26,730.00  |                                     |  |                     |                    |                     |
| 31/03/2017     | Direct Credit City of Perth   | \$26,388.87  | 2/02/2017                           | Cow Parade 2016 Perth - various expenses                                     | \$23,989.88         | \$2,398.98         | \$26,388.87         |
| 28/04/2017     | Direct Credit City of Perth   | \$18,454.95  | 3/03/2017                           | Cow Parade 2016 Perth - various expenses                                     | \$16,777.23         | \$1,677.72         | \$18,454.95         |
| 9/05/2017      | Cheque Deposit ██████████     | \$3,850.00   | 12/09/2016                          | ██████████ Jersey Cow Partner - Cow Parade Perth 2016                        | \$3,500.00          | \$350.00           | \$3,850.00          |
| 31/05/2017     | Direct Credit City of Perth   | \$26,510.91  | 20/04/2017                          | 2016 Cow Parade Perth - Final Reimbursement                                  | \$24,100.83         | \$2,410.08         | \$26,510.91         |
| 31/07/2017     | Direct Credit City of Perth   | \$282.72     | 29/06/2017                          | Reimbursement REMIX Academy Perth 2017 - Conference Attendance               | \$257.02            | \$25.70            | \$282.72            |
| 29/12/2017     | Direct Credit City of Perth   | \$52,300.00  | 13/12/2017                          | Partnership 2018   | \$47,545.45         | \$4,754.55         | \$52,300.00         |
| 29/06/2018     | Direct Credit City of         | \$50,000.01  | 11/06/2018                          | Bicentenary Project - Funding  | \$45,454.55         | \$4,545.46         | \$50,000.01         |

| Bank Statement |             |        | Perth Public Art Foundation Invoice |             |                   |     |                   |
|----------------|-------------|--------|-------------------------------------|-------------|-------------------|-----|-------------------|
| Date           | Description | Amount | Date                                | Description | Amount (exc. GST) | GST | Amount (inc. GST) |
|                | Perth       |        |                                     |             |                   |     |                   |

#### 10.4. Partnership Agreement

Our analysis of funding received in respect of the Partnership Agreement is as follows:

##### 15 December 2016 Letter from PPAF, re. copy of executed agreement, 2015 – 2018 Principal Partnership Agreement

Funding total: \$592,936

Comprising of:

- \$429,036 (Executive Director salary)
- **\$163,900^ (PPAF funding)**

^The \$163,900 comprises:

- \$20,000 (already paid to PPAF as @ 15 December 2016)
- \$128,900\*
- \$15,000

The \$128,900\* comprises:

- \$24,300 (after the Agreement extension date)
- \$52,000 (after 1 July 2016)
- \$52,300 (after 1 July 2017)

**\*Note: these amounts total \$128,600 NOT \$128,900**

The following amounts were received in the bank statements.

| 7/01/2016  | \$22,000.00         |
|------------|---------------------|
| 10/11/2016 | \$74,030.00         |
| 31/01/2017 | \$26,730.00         |
| 29/12/2017 | \$52,300.00         |
|            | <b>\$175,060.00</b> |

According to the bank statements, PPAF received \$175,060 in partnership income between 1 July 2015 and 30 June 2018. Hence there is a **discrepancy of \$11,160** (being \$175,060 minus \$163,900) between the agreed amount of funding and the funding that they actually received.

## 10.5. Cow Parade

On 27 July 2016, the City formalised the partnership with the Perth Public Art Foundation to deliver the 2016 Cow Parade. Funding is made up of the following payments:

| Funded by:       |  |                     |
|------------------|--|---------------------|
| City of Perth    |  |                     |
| 29/07/2016       |  | \$243,320.00        |
| 31/03/2017       |  | \$26,388.87         |
| 28/04/2017       |  | \$18,454.95         |
| 31/05/2017       |  | \$26,510.91         |
| <b>Sub-total</b> |  | <b>\$314,674.73</b> |

| Funded by:                   |            |                     |
|------------------------------|------------|---------------------|
| Corporate Partnership income |            |                     |
|                              | 19/12/2016 | \$46,750.00         |
|                              | 16/09/2016 | \$11,000.00         |
|                              | 11/11/2016 | \$5,500.00          |
|                              | 13/12/2016 | \$7,150.00          |
|                              | 9/05/2017  | \$3,850.00          |
|                              | 23/01/2017 | \$11,000.00         |
|                              | 29/09/2016 | \$7,150.00          |
| <b>Sub-total</b>             |            | <b>\$92,400.00</b>  |
| <b>Grand Total</b>           |            | <b>\$407,074.73</b> |

We did not note an issue with payments received by the PPAF in relation to the Cow Parade.

## 11. Grants, Sponsorships and Donations



Tabled below is a summary of the documents obtained and reviewed, and interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• CP 18.8 – Provision of Sponsorship and Donations</li> <li>• CP 18.15 – Grants</li> <li>• CP 18.13 – Sponsorship and Grants</li> <li>• CP 18.14 – Donations</li> <li>• Local Government (Rules of Conduct) Regulations 2007</li> <li>• Finance One Extract of Expenditure – Chung Wah</li> <li>• Finance One Extract of Expenditure – Perth Fashion Concepts Inc</li> <li>• Finance One Extract of Expenditure – Fashion Council WA</li> <li>• Finance One Extract of Expenditure – [REDACTED]</li> <li>• Chung Wah Sponsorship Application – 7 September 2015</li> <li>• MSIEC Minutes of Meeting dated 10 November 2015</li> <li>• Council Minutes of Meeting dated 24 November 2015</li> <li>• Chung Wah Sponsorship Application – 5 September 2016</li> <li>• MSIEC Minutes of Meeting dated 29 November 2016</li> <li>• Council Minutes of Meeting dated 13 December 2016</li> <li>• Chung Wah Sponsorship Application – 2017</li> <li>• Council Minutes of Meeting dated 21 December 2017</li> <li>• MSIRC Minutes of Meeting dated 16 June 2015</li> <li>• Council Minutes of Meeting dated 30 June 2015</li> <li>• Elected member Gift Declaration – LM Scaffidi</li> <li>• MSIRC Minutes of Meeting dated 26 July 2016</li> <li>• Council Minutes of Meeting dated 9 August 2016</li> <li>• MSIRC Minutes of Meeting dated 23 May 2017</li> <li>• Council Minutes of Meeting dated 6 June 2017</li> <li>• PFF 2017 Assessment Report - Undated</li> <li>• Finance and Administration Committee Minutes of Meeting dated 16 February 2016</li> <li>• Council Minutes of Meeting dated 23 February 2016</li> <li>• Finance and Administration Committee Minutes of Meeting dated 31 January 2017</li> <li>• Council Minutes of Meeting dated 14 February 2017</li> </ul> |
|-------------------------------|---|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Mr Ben Fitzpatrick, Manager Marketing &amp; Business Sponsorship</li> </ul>  |

## 11.1. Context

The City of Perth (**"the City"**) provides grants, sponsorships and donations to individuals and organisations within the community to:

- Stimulate inner city cultural development, through support of cultural events and activities;
- Provide philanthropic support to community groups, whilst enhancing the delivery of services to the community, and visitors to, the City;
- Exploit opportunities to advance the corporate image of the City; and
- Empower the community to develop and deliver a wide range of projects and initiatives that build upon the social, cultural, environmental and economic life within the City.

Grants, sponsorships and donations are provided by the City in the form of cash and/or in-kind contributions (provision of goods and services including venue hire, waiving City fees and charges, etc.).

To provide a consistent, equitable, transparent and efficient framework for the administration of all funding programs, the City implemented the following policies:

- *Policy 18.8 – Provision of Sponsorships and Donations – Replaced on 13 December 2016 with CP18.13 – Sponsorship and Grants; and*
- *CP 18.15 – Grants - Revoked and replaced on 13 December 2016, with CP 18.14 – Donations.*

### 11.1.1. Definitions

#### Sponsorship – CP 18.13

*"Sponsorship is a commercial, negotiated arrangement in which the City provides cash and/or in-kind contributions to an entity in return for commercial leverage, promotion, activation or exposure to achieve defined outcomes from the City's Strategic Community Plan. Sponsorship is not philanthropic in nature and the Council expects to receive a reciprocal benefit beyond a modest acknowledgement. The sponsorship will provide tangible and mutual compensation for all parties in the arrangement."*

#### Grants – CP 18.13

*"Grants mean cash and/or in-kind contributions provided to a recipient for a specific, eligible purpose. This is as part of an approved grant program which ties into the City's Community Strategic Plan, with the understanding that there will be a defined outcome that directly or indirectly benefits the public, but with no expectation of a commercial return to the City. Grants are subject to conditions including reporting, accountability and a requirement for the funds to be expended for the direct purpose for which they were granted."*

#### Donations – CP 18.14

*"Donations by the City of Perth reflect its commitment to improve the wellbeing of the community within the City of Perth and the residents of Western Australia and Australia as a whole. The provision of a donation by the City of Perth is of a philanthropic nature to an organisation and the City does not seek a direct cost benefit to be returned."*

In this evaluation, we focused on the processes followed by the City in relation to the following samples:

- Chung-Wah Association Incorporated ("**Chung Wah**");
- Perth Fashion Festival ("**PFF**"); and
- [REDACTED]

## 11.2. Analysis and Findings

Records Management is the complete and accurate maintenance of records created and received by the City, as required to meet its obligations for accountability, whilst ensuring the protection of the rights and interests of the City, its staff, ratepayers and the community.

The proper maintenance of records also provides evidence that processes were conducted in a consistent, equitable, transparent and efficient manner, and that funds provided were used for the purposes that they were awarded.

The analysis revealed that the City did not maintain documentary evidence to justify its decisions in awarding funds, in the form of sponsorships and donations. This, not only highlights poor management but makes it difficult for the City to justify the decisions it has made, exposing the City to claims of bias, favouritism, misconduct and fraud.

We found the City's contravened its own policy *CP 18.8* in that they made full payment of a sponsorship instead of making progressive payments prior to the commencement or finalisation of the event.

Progressive payment methods mitigate the risk of sponsorship funds not being used for the intended purpose. In this case, the City may not have received the benefits from the sponsorship. This risk is exacerbated by the lack of documentary evidence of an appropriate acquittance process that ensured funds had been expended in accordance with the terms and conditions. In this respect, the City does not have a requirement for an independent financial audit of the recipient's financial results.

These factors revealed that the City did not have in place adequate controls when managing ratepayers' funds.

### 11.2.1. Chung Wah

Chung Wah, founded in 1909, is a Chinese organisation in Western Australia with approximately "3000 family members". Chung Wah is viewed as a *de facto* institution, representing the Western Australian Chinese community and serving as the main link for business and social networking between the Chinese community, governmental agencies and the business fraternities.

Since 2012, the City has provided "Event Sponsorships" to Chung Wah for the Perth Chinese New Year Fair.

The objective of event sponsorship is to financially assist organisations in staging and presenting free, or low-cost, activities in city-based public places. Event sponsorship is a cost-effective means of presenting events and activities for the City, thus the cost of sponsoring an event must be less than the cost for the City to produce and manage the event itself.

#### 11.2.1.1. Event Sponsorship and Expenditure

For the audit period, **1 October 2015 to 30 March 2018**, the City made the following payments to Chung Wah:

| No | Date             | Description                                      | Amount<br>(excl. GST) |
|----|------------------|--|-----------------------|
| 1  | 8 December 2015  | Sponsorship – Chinese New Year                   | 30,000.00             |
| 2  | 8 December 2015  | Sponsorship – Chinese New Year                   | 30,000.00             |
| 3  | 24 February 2016 | RFD Bond-Hire Northbridge Piazza Comm            | 2,250.00              |
| 4  | 8 April 2016     | Hire of Chinese Lanterns for Yum Cha in the Park | 200.00                |
| 5  | 11 April 2016    | Lion Dancers for Yum Cha in the Park             | 1,350.00              |

| No           | Date             | Description                            | Amount (excl. GST) |
|--------------|------------------|--|--------------------|
| 6            | 19 December 2016 | Sponsorship 2016-2017                  | 35,000.00          |
| 7            | 6 February 2017  | Sponsorship 2016-2017                  | 35,000.00          |
| 8            | 21 February 2017 | RFD Bond-Reserve Hire-Pth Chinese NY   | 650.59             |
| 9            | 4 December 2017  | Chinese New Year Fair 2018 Sponsorship | 30,000.00          |
| 10           | 12 January 2018  | Chung Wah CNY Performance              | 59.90              |
| 11           | 12 January 2018  | Chung Wah CNY Performance              | 599.00             |
| 12           | 28 February 2018 | Chinese New Year Fair 2018 Sponsorship | 30,000.00          |
| <b>Total</b> |                  |  | <b>195,109.49</b>  |

#### Chinese New Year Fair – 2016

On 7 September 2015, Chung Wah submitted, via email, an “*Event Sponsorship Application*” form to the City, applying for \$70,000.00 (excl. GST) event sponsorship for the 2016 Chinese New Year Fair, to be held on 14 February 2016 in Northbridge.

The application was assessed by the City’s Marketing and Events Unit who recommended that the Marketing, Sponsorship and International Engagement Committee (“**MSIEC**”) approve the sponsorship for an amount of \$60,000.00 (excl. GST). On 10 November 2015, the **MSIEC** approved the recommendation for Council consideration.

On 24 November 2015, Council approved the application for \$60,000.00 (excl. GST).

With regards to the payment and assessment of event applications, the City’s policy, “*CP18.8 Provision of Sponsorship and Donations - Section 4 Event Sponsorship*” states that:

#### 4.1 Eligibility

**4.1.5 Payments to successful applicants will be staggered to ensure delivery of the event prior to full payment of sponsorship monies by Council.**

#### 4.4 Assessment Process

4.4.1 Event sponsorship applications are assessed considering the degree to which the event achieves the objectives for each sponsorship category as detailed below:

- c. Events - The extent to which the event:
  - i. Contributes towards the achievement of one or more of the City’s marketing objectives;
  - ii Increases visitation to the City;
  - iii. Encourages use of the City’s public spaces.”

**We observed the following:**

- **No documentary evidence could be located on the assessment conducted by the Marketing and Events Unit to test the veracity of the recommendation to the MSIEC, and ultimately, to Council; and**
- **The City paid the full amount of \$60,000.00 (excl. GST) (two instalments of \$30,000.00 (excl. GST) each as per no 1 & 2 in the table above) to Chung Wah on 8 December 2015, which is prior to the event. This is in contrast with Section 4.1.5 of CP 18.8, which requires the City to make progressive payments to ensure that the event will be delivered.**

**It is worthy to note that in year 2017 and 2018, the City made progressive payments as required by Section 4.1.5 of CP 18.8**

With regards to the acquittal of funding, "CP18.8 Provision of Sponsorship and Donations - Section 4.1.6 states:

*"The applicant must commit to provide to the City of Perth a report which provides proof of delivery of all promised benefits (or explanation of variance) **within three months** of the presentation of the event."*

**On 25 May 2016, Chung Wah, via email, provided the City with an "Event Sponsorship Acquittal" report. The event took place on 14 February 2016 and Chung Wah was required to provide their acquittal report on or before 14 May 2016. Chung Wah submitted the acquittal report late, after the three-month period provided for in CP 18.8.**

**Furthermore, we could not locate documentary evidence that the City assessed and approved the acquittal report.**

#### Chinese New Year 2017

On 5 September 2016, Chung Wah submitted, via email, an "Event Sponsorship Application" form to the City, applying for \$80,000.00 (excl. GST) event sponsorship for the 2017 Chinese New Year Fair, to be held on 29 January 2017 in Northbridge.

The application was assessed by the City's Economic Development and Activation Directorate who recommended that the MSIEC approve the sponsorship for an amount of \$70,000.00 (excl. GST). On 29 November 2016, the MSIEC approved the recommendation for Council consideration.

On 13 December 2016, Council approved the application for \$70,000.00 (excl. GST).

**We could not locate documentary evidence on the assessment conducted by the Economic Development and Activation Directorate to confirm the veracity of the recommendation to the MSIEC, and ultimately, to Council.**

**Furthermore, we could not locate documentary evidence that the City assessed and approved the acquittal report received from Chung Wah on 2 May 2017.**

#### Chinese New Year 2018

During 2017 (exact date unknown), Chung Wah submitted an "Event Sponsorship Application" form to the City, applying for an event sponsorship (unknown amount) for the 2018 Chinese New Year Fair, to be held on 18 February 2018 in Northbridge.

On 7 November 2017, the MSIEC recommended the approval of a \$50,000.00 (excl. GST) sponsorship.

On 21 November 2017, Council increased, and approved, the sponsorship amount to \$60,000.00 (excl. GST) stating that: *"The Committee also determined that the Chung Wah Association sponsorship should remain at a similar amount to previous years' sponsorships."*

**We could not locate documentary evidence on the assessment conducted by the City to confirm the veracity of the recommendation to the MSIEC, and ultimately, to Council.**

**Furthermore, we could not locate documentary evidence that an "Event Sponsorship Acquittal" form was completed and submitted by Chung Wah and assessed by the City.**

### **11.2.2. Perth Fashion Festival**

Perth Fashion Festival Pty Ltd ("PFF") is contracted by Perth Fashion Concepts Inc. ("PFCI"), trading as Fashion Council WA ("FCWA"), to deliver the Perth Fashion Festival.

The Perth Fashion Festival comprises a variety of runway, community, industry and related events that foster some of Australia's most sought after creative talent and showcases Western Australian designers.

Between 2010 and 2014, the City sponsored the Perth Fashion Festival, through PFCI, as per the following table:

| Year         | Sponsorship Amount<br>(excl. GST) |
|--------------|-----------------------------------|
| 2010         | \$286,835                         |
| 2011         | \$285,500                         |
| 2012         | \$295,000                         |
| 2013         | \$305,000                         |
| 2014         | \$313,000                         |
| <b>Total</b> | <b>\$1,485,335</b>                |

In February 2014, the Perth Fashion Festival Advisory Board was established and has included City representatives since.

In April 2014, Telstra was announced as the naming rights partner for a period of five years. The contribution provided by Telstra consisted of cash and in-kind sponsorships.

The Lord Mayor, Lisa Scaffidi (**“LM Scaffidi”**), has been the Perth Fashion Festival Ambassador since 2009 and was a Board member between 2015 and 2017.

#### 11.2.2.1. Event Sponsorship and Expenditure

For the audit period, **1 October 2015 to 30 March 2018**, the City made the following payments to PFCI.

| No           | Date              | Description   | Amount<br>(excl. GST) |
|--------------|-------------------|---|-----------------------|
| 1            | 12 October 2015   | Perth Fashion Festival – Refund Bond Debtor             | \$2,700.00            |
| 2            | 16 February 2016  | WA Fashion Awards - Sponsorship                         | \$5,000.00            |
| 3            | 15 March 2016     | 2016 WA Fashion Awards x 2 tickets                      | \$298.64              |
| 4            | 15 March 2016     | 2016 WA Fashion Awards – Perth City Style Collaboration | \$15,000.00           |
| 5            | 12 April 2016     | WA Fashion Awards - Sponsorship                         | \$5,000.00            |
| 6            | 23 August 2016    | Perth Fashion Festival 2016/17 - Sponsorship            | \$135,000.00          |
| 7            | 26 September 2016 | Perth Fashion Festival 2016/17 - Sponsorship            | \$135,000.00          |
| 8            | 26 July 2017      | Sponsorship Fee   | \$70,000.00           |
| 9            | 1 August 2017     | Sponsorship Fee   | \$70,000.00           |
| 10           | 1 September 2017  | Sponsorship Fee   | \$70,000.00           |
| 11           | 7 September 2017  | Perth Fashion Festival City Ticketing                   | \$327.27              |
| 12           | 19 January 2018   | Sponsorship Fee   | \$42,247.80           |
| <b>Total</b> |                   |   | <b>\$550,573.71</b>   |

#### Perth Fashion Festival – 2015

In 2015 (exact date unknown), PFCI requested a sponsorship of \$320,190 (excl. GST) from the City for the Perth Fashion Festival, to be held in September 2015, and for the WA Fashion Awards ("WAFA"), to be held in early 2016.

On 16 June 2015, the Marketing, Sponsorship & International Relations Committee ("MSIRC") recommended a sponsorship amount of \$313,000.00 (excl. GST), which included \$10,000.00 (excl. GST) for the WAFA awards.

On 30 June 2015, Council approved the recommended sponsorship of \$313,000.00 (excl. GST).

On 22 December 2015, PFCI provided the City with a stakeholder report.

With regards to sponsorship, *CP18.8 Provision of Sponsorship and Donations – Section 4.3.2* states:

*"Applicants must submit an application which addresses the assessment criteria for the category of sponsorship for which they are applying together with any other information requested by the City".*

Section 4.4.1 states:

*"Event sponsorship applications are assessed considering the degree to which the event achieves the objectives for each sponsorship category".*

**In this regard, we were unable to confirm the veracity of the recommendation made to the MSIRC, and ultimately, to Council, as we could not locate evidence of the "Event Sponsorship Application" form and the application assessment documentation.**

**Furthermore, we could not determine if the City assessed the stakeholder report.**

#### Declaration of Gifts

Regulation 12 Gifts of the *Local Government (Rules of Conduct) Regulations 2007* states –

*"Notifiable gifts, in relation to a person who is a council member, means –*

*(a) A gift worth between \$50 and \$300; or*

*(b) A gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth between \$50 and \$300."*

*"Prohibited gifts, in relation to a person who is a council member, means –*

*(a) A gift worth more \$300 or more; or*

*(b) A gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth \$300 or more". [Emphasis added]*

*"A person who is a council member must not accept a prohibited gift from a person –*

*(a) Who is undertaking or seeking to undertake; or*

*(b) Who it is reasonable to believe is intending to undertake an activity involving local government discretion".*

*"A person who is a council member and who accepts a notifiable gift from a person —*

*(a) who is undertaking or seeking to undertake; or*

*(b) who it is reasonable to believe is intending to undertake, an activity involving a local government discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with subregulation (4)".*

On **23 March 2016**, LM Scaffidi declared the following gifts received from Perth Fashion Festival:

| Gift Accepted | Description  | Gift Value        |
|---------------|--|-------------------|
| 4 August 2015 | Attend the Perth Fashion Festival WA Designer Runway 1             | \$140.70          |
| 4 August 2015 | Attend the Perth Fashion Festival WA Designer Runway 2             | \$140.70          |
| 4 August 2015 | Attend the Perth Fashion Festival Ae'lkemi & Steph Audino          | \$140.70          |
| 4 August 2015 | Speech at the Perth Fashion Festival Opening Night                 | \$201.86          |
| 4 August 2015 | Speech at the Perth Fashion Festival Launch of Windows in the City | \$40.00           |
| 4 August 2015 | Attend the Perth Fashion Festival Closing Night                    | \$201.86          |
| 4 August 2015 | Attend the Perth Fashion Festival Myer Lunch                       | \$346.64          |
| <b>Total</b>  |  | <b>\$1,212.46</b> |

We observed the following:

- **LM Scaffidi did not declare the gifts within 10 days of accepting the gifts; and**
- **The value of the *Perth Fashion Festival Myer Lunch* exceeded the limit of \$300, rendering this a “Prohibited” gift. LM Scaffidi should not have accepted this gift.**

Furthermore, overall as there are “2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth \$300 or more”, all the gifts listed in the table above are deemed “Prohibited Gifts”.

#### Perth Fashion Festival – 2016

PFCI previously presented the Perth Fashion Festival. As part of its strategic direction, PFCI transferred its incorporation as an association under the *Associations Incorporation Act 1987* to a registered public company under the *Corporations Act 2001* – Fashion Council WA Limited (“**FCWA**”).

In 2016 (exact date unknown), FCWA requested sponsorship of \$359,315.91 (excl. GST) from the City for the Perth Fashion Festival to be held in September 2016. The total sponsorship requested comprised \$330,000.00 (excl. GST) cash and \$29,315.91 (excl. GST) in-kind.

On 26 July 2016, MSIRC recommended a reduced sponsorship amount of \$240,000.00 (excl. GST) in cash and \$29,315.91 in-kind. The reduction in the cash sponsorship was due to the City's determination that the Perth Fashion Festival “does not provide optimum level of commercial returns to the City when compared to its other major partnerships” and “the level of sponsorship requested is believed by the assessment panel to be excessive for a predominantly ticketed event”.

In this meeting, Councilor Janet Davidson (“**Cr Davidson**”) proposed to increase the approved cash sponsorship amount of \$240,000.00 (excl. GST) by \$30,000.00 (excl. GST), but the motion was not seconded.

On 9 August 2016, in a Council meeting, Cr Davidson again proposed to increase the cash sponsorship amount to \$270,000.00 (excl. GST). Council accepted Cr Davidson's proposal and approved a sponsorship amount of \$270,000.00 (excl. GST) as well as the in-kind sponsorship amount of \$29,315.91 (excl. GST) (totaling \$299,315.91 (excl. GST)).

On 20 December 2016, FCWA provided the City with an impact assessment.

With regards to sponsorship, *CP18.8 Provision of Sponsorship and Donations – Section 4.3.2* states:

*“Applicants must submit an application which addresses the assessment criteria for the category of sponsorship for which they are applying together with any other information requested by the City”.*

Section 4.4.1 states:

*"Event sponsorship applications are assessed considering the degree to which the event achieves the objectives for each sponsorship category".*

**With regards to the process followed by the City, we were unable to confirm the veracity of the recommendation made to the MSIRC, and ultimately, to Council, as we could not locate evidence of the "Event Sponsorship Application" form and the assessment documentation relating to the application.**

**Furthermore, we could not determine if the City had assessed the impact assessment provided by FCWA.**

**Perth Fashion Festival – 2017**

In 2017 (exact date unknown), FCWA requested triennial sponsorship of \$375,000.00 (excl. GST) per year – totalling \$1,125,000.00 (excl. GST) over a three-year period – from the City for the Perth Fashion Festival.

The assessment panel comprised the following people:

- Ms Annaliese Battista ("**Ms Battista**"), Director of Economic Development & Activation;
- Mr Ben Fitzpatrick ("**Mr Fitzpatrick**"), Manager of Business Support & Sponsorship; and
- Ms Peta Galloway ("**Ms Galloway**"), Sponsorship Officer.

We observed that in July 2016, Ms Battista, accepted Perth Fashion Festival's invitation to join the Perth Fashion Festival Advisory Board ("**PFFAB**").

The assessment panel recommended a decreased annual sponsorship of \$230,000.00 (excl. GST) for the following reasons:

*"With the event now firmly established in the Perth festival and event scene, it is appropriate for the City to reevaluate [sic] the level of funding provided in comparison to the outcomes provided by the event and benchmark this against other sponsorships the City undertakes."*

*"City funding for the event has increased steadily over recent years before a slight reduction in 2016, and the City's contribution is significant in the context of the overall sponsorship portfolio. The requested level of funding of \$375,000 represents 52% of the total Event Sponsorship budget for 2017/18."*

*"With a final panel assessment score of 65.2 out of 100, the application did not achieve the agreed threshold for triennial funding of a minimum score of 72 out of 100. The panel has unanimously agreed to provide funding under the Annual Event Sponsorship program with \$230,000 considered appropriate in comparison to other sponsorships in the City's portfolio and the expected return from the Festival."*

On 23 May 2017, the MSIRC approved the recommended annual sponsorship of \$230,000.00 (excl. GST) for Council's consideration.

On 6 June 2017, in a Council meeting, Cr Davidson again proposed to increase the annual sponsorship amount to \$250,000.00 (excl. GST) for the Perth Fashion Festival. Council approved the \$250,000.00 (excl. GST) annual sponsorship.

On 8 January 2018, FCWA provided the City with an impact assessment.

Section 11 of CP 9.5 Sponsorship of Perth City Activities states:

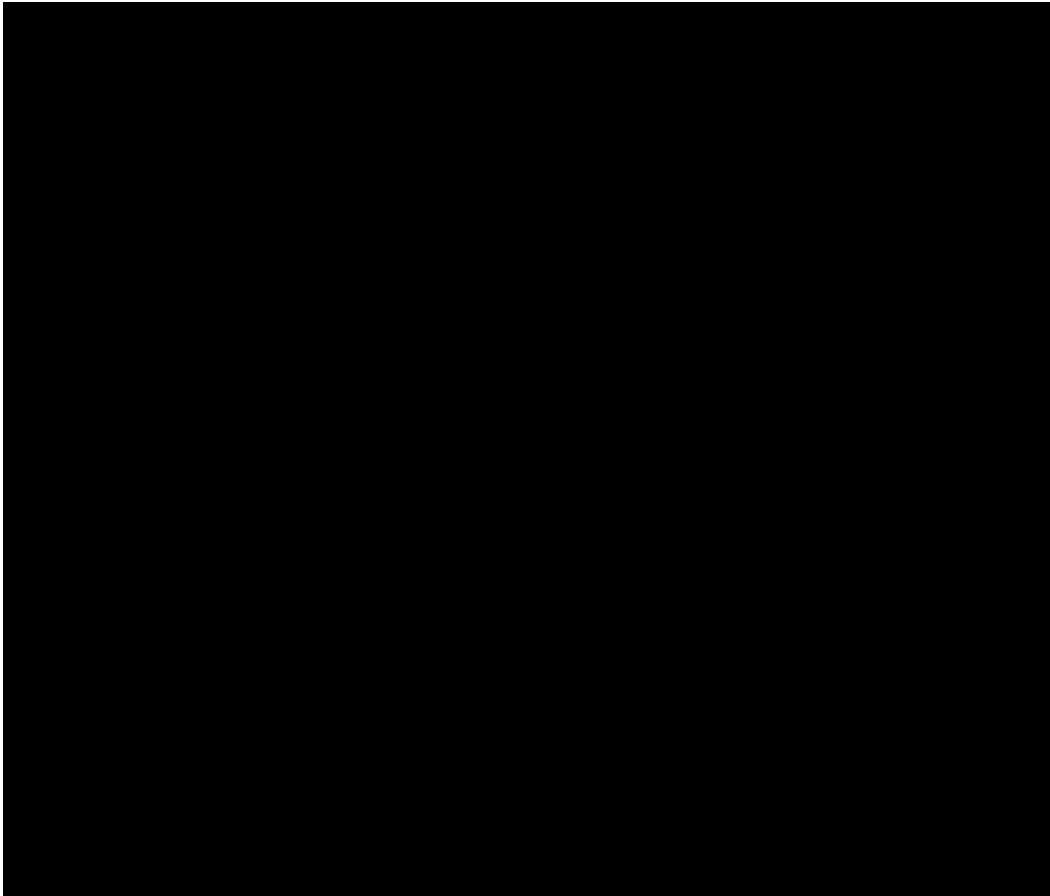
*“City employees and members of the Council must declare an interest if any person with whom they are closely associated as defined in section 5.62 of the Local Government Act 1995 is entering into sponsorship arrangements with the City”.*

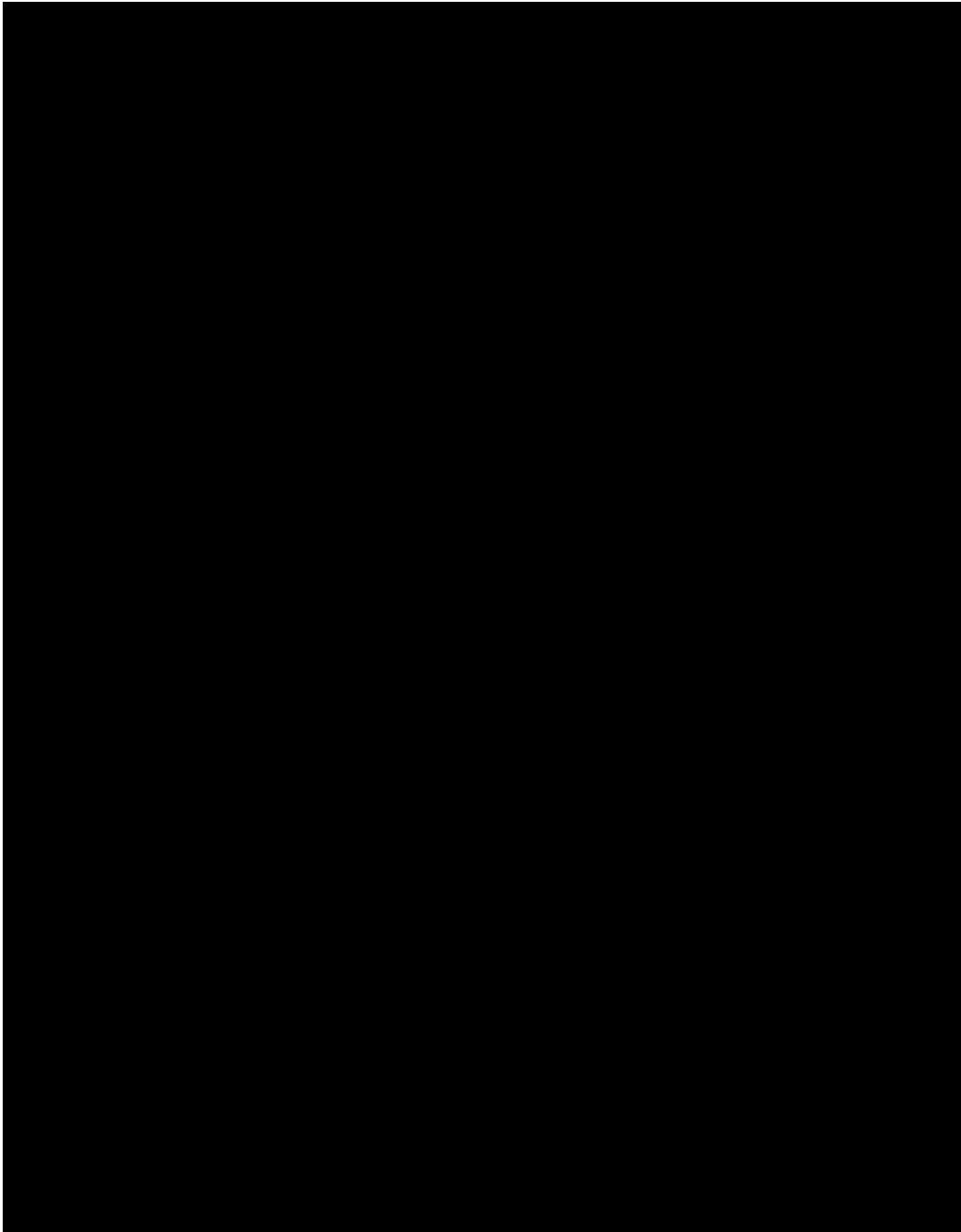
In this respect, we could not locate **“Declaration of Interest”** forms completed by the evaluation panel members.

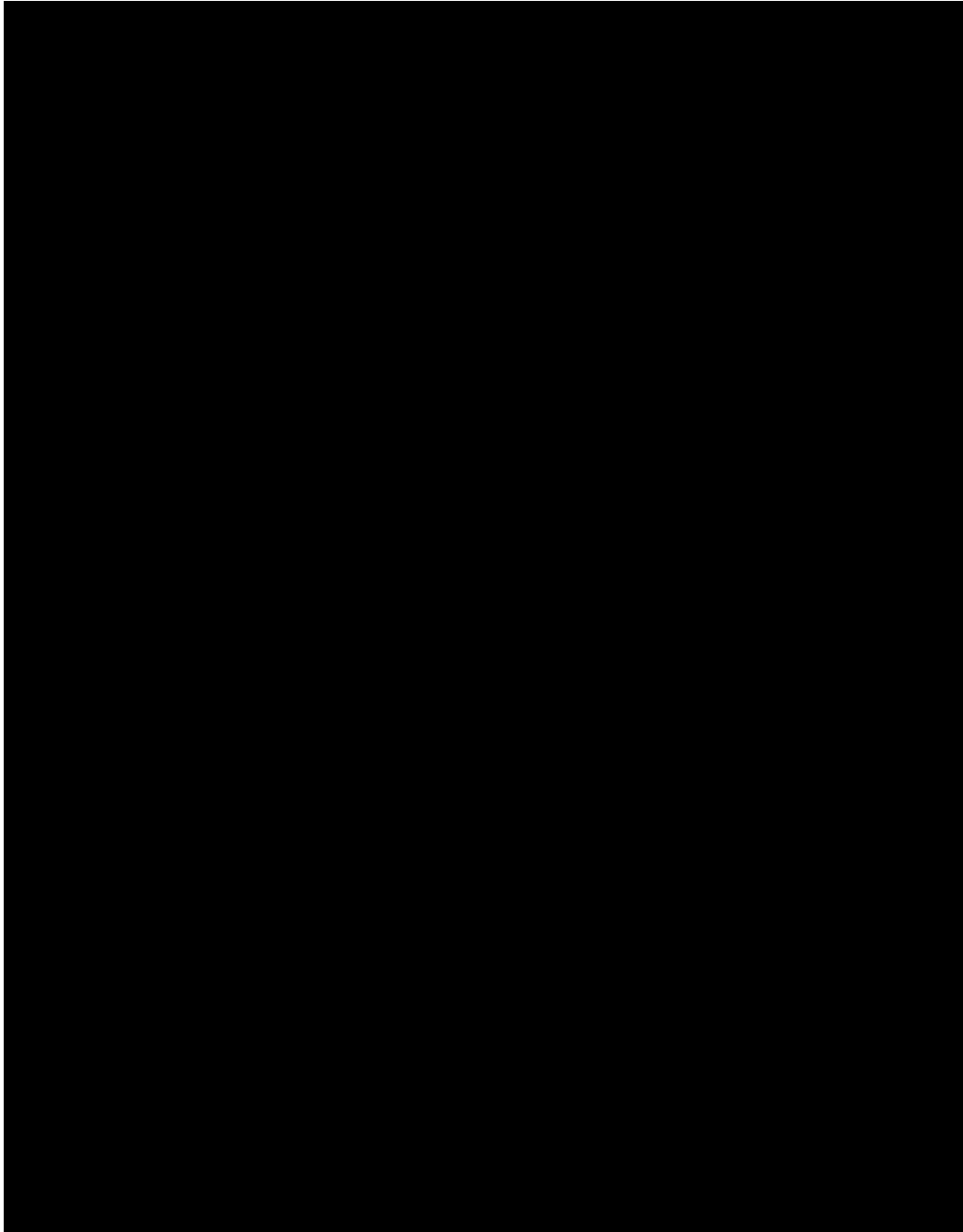
Section 10 of CP18.13 Sponsorship and Grants states:

*“All sponsorships and grants must be acquitted within four months of the completion of the project or prior to subsequent application of further funding, whichever comes first. The City will provide a pro-forma acquittal document within the online management portal that can be used”.*

With regards to the process followed by the City, we could not locate an **“Event Sponsorship Acquittal”** form as required by CP18.13 above or determine if the City had assessed the impact assessment provided by FWCA.







## 12. Parks Business Unit



Tabled below is a summary of the documents assessed and reviewed, and interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• CP 9.1 – Budgeting Policy</li> <li>• CP 9.7 – Purchasing</li> <li>• PR0559 – Construction and Maintenance (CMD) – Preparation of Parks Workforce Operating Budget</li> <li>• Parks Actual vs Budget Expenditure for 5 years Breakdown</li> <li>• 2015/16 Parks Material and Contracts Breakdown</li> <li>• 2016/17 Parks Material and Contracts Breakdown</li> <li>• 2017/18 Parks Material and Contracts Breakdown</li> <li>• Tender 022 13/14 - Tree Planting, Watering and Maintenance Services</li> <li>• Acceptance Letter dated 20 November 2013</li> <li>• Contract Extension Letter dated 15 October 2015</li> <li>• Tender 063-17/18 – Tree Watering and Maintenance Services</li> <li>• Council Minutes Dated 17 January 2018</li> <li>• Tender 041 11/12 -Street Tree Pruning and Associated Works</li> <li>• Contract Extension Letter dated 2 July 2015</li> <li>• Tender 164 16/17 – Tree Maintenance Services</li> <li>• Tender 019 13/14 – Water Feature Maintenance Service at Various Locations</li> <li>• Tender 008 15/16 - Water Feature Maintenance Service at Various Locations</li> <li>• Contract Expiry Letter dated 21 August 2018</li> <li>• Tender 061 12/13 – Supply and Delivery of Annual Plants</li> <li>• Contract Extension Letter dated 16 October 2015</li> <li>• Tender 056 17/18 – Supply and Delivery of Annual Plants</li> <li>• Contract Extension Letter signed on 21 November 2018</li> <li>• Tender 043 14/15 – Supply and Installation of Automatic Irrigation Systems</li> <li>• Acceptance Letter dated 11 December 2014</li> <li>• Tender 047 17/18 – Supply and Installation of Irrigation Systems</li> <li>• Acceptance Letter dated 30 November 2017</li> </ul> |
|-------------------------------|--|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Ms Samantha Yan (<b>Ms Yan</b>) – Senior Financial Management Officer</li> </ul>  |

## 12.1. Context

The City's Construction and Maintenance Directorate ("CMD") comprises six business units, including the Parks Business Unit ("the **Parks Unit**").

Each business unit prepares its own annual budget based on previous years' expenses, recurring work, maintenance and emergency forecasts and existing contracts. A consolidated budget template is prepared, reviewed by the CMD Director and Managers of each business unit, and uploaded into Finance One for preparation of Council approval.

After Council approval, CMD will circulate a quarterly "*Monthly Business Report*" to business unit Managers and Supervisors to review and monitor the progress on projects, employee movement and budget spend. Managers and Supervisors also extract monthly financial reports from Finance One to review and monitor its business unit's actual spend against its allocated budget.

With regards to the Parks Unit, who manage the City's parklands, road reserves, street trees, public places, mall horticultural presentations, boutique gardens and landscape maintenance and construction, the following budgets, per financial year ("FY"), were approved. The table also includes the actual spend per FY.

| Parks Business Unit |                 |                    |
|---------------------|-----------------|--------------------|
| Financial Year      | Approved Budget | Actual Expenditure |
| FY 2015/16          | \$8,098,093.00  | \$7,976,738.00     |
| FY 2016/17          | \$8,361,921.00  | \$7,903,556.00     |
| FY 2017/18          | \$8,262,380.00  | \$8,012,407.00     |

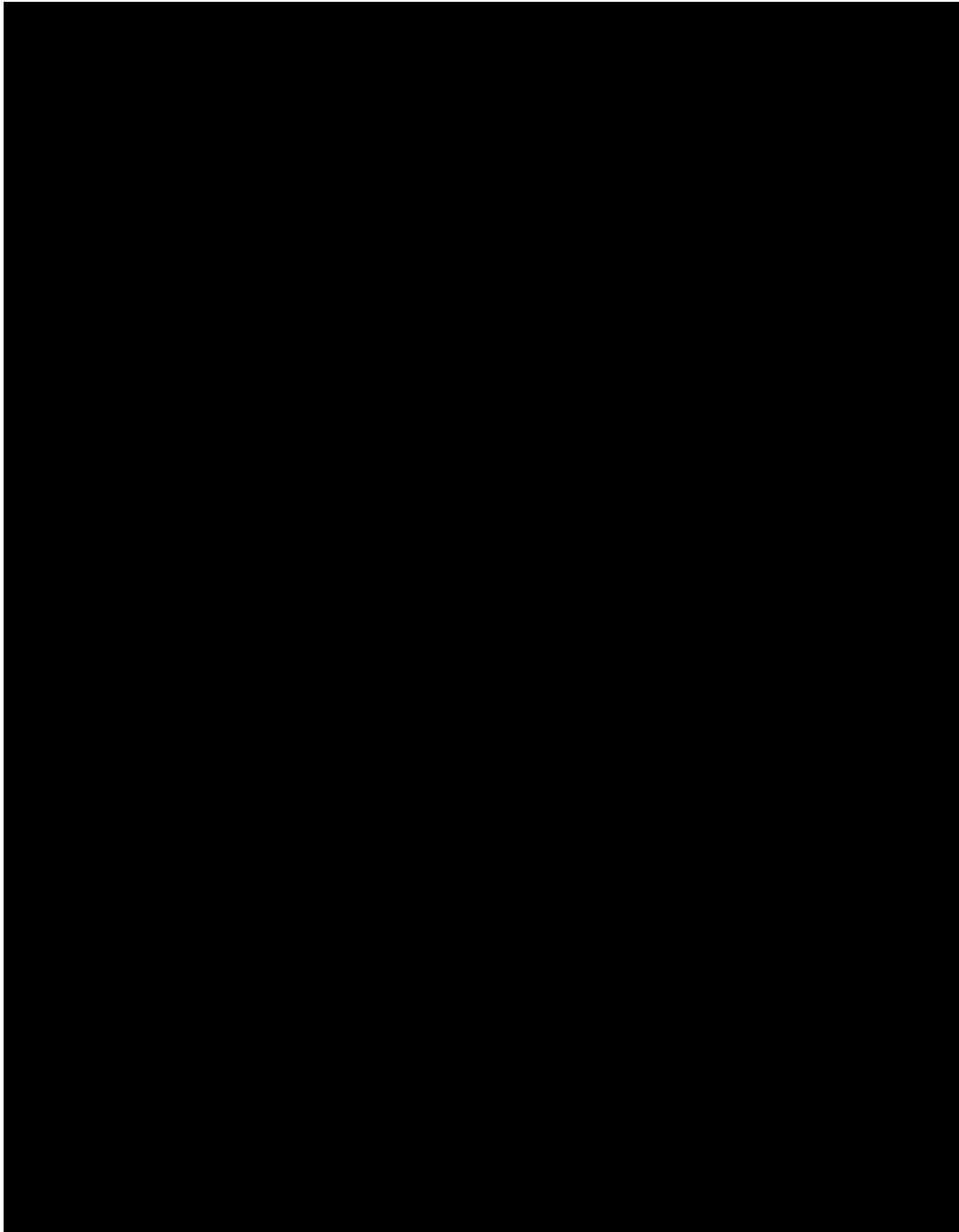
Approximately 60% of the approved budget relates to fleet, plant and workforce expenditure and the remaining 40% of the budget relates to "**material and contracts**".

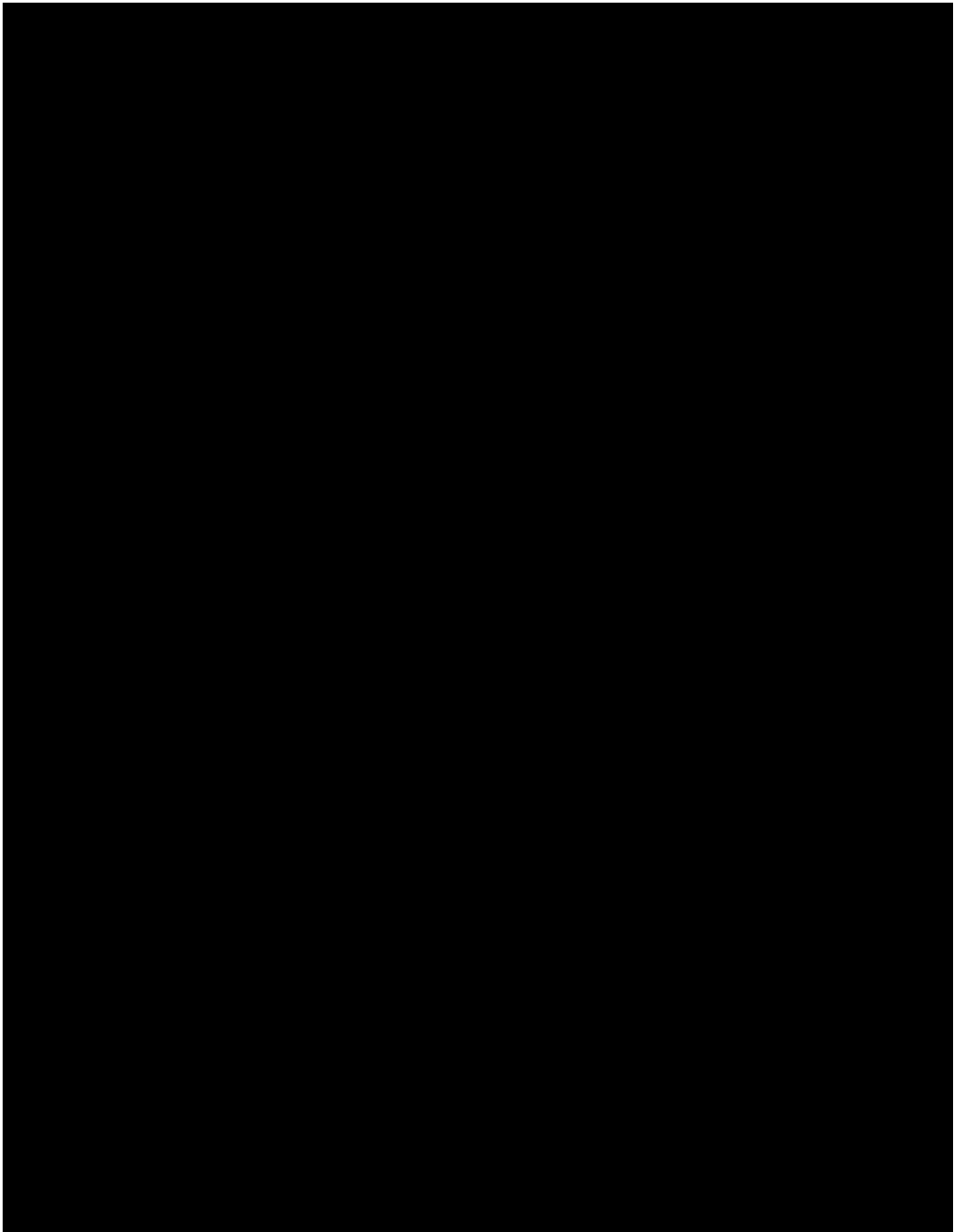
For the purpose of this review, to assess the Parks Unit's supplier spend and contract management, we focused on the Parks Unit's "**material and contracts**" budget (operational budget) and its actual spending against the budget. The "**material and contracts**" budget relates to the procurement activities undertaken by the Parks Unit.

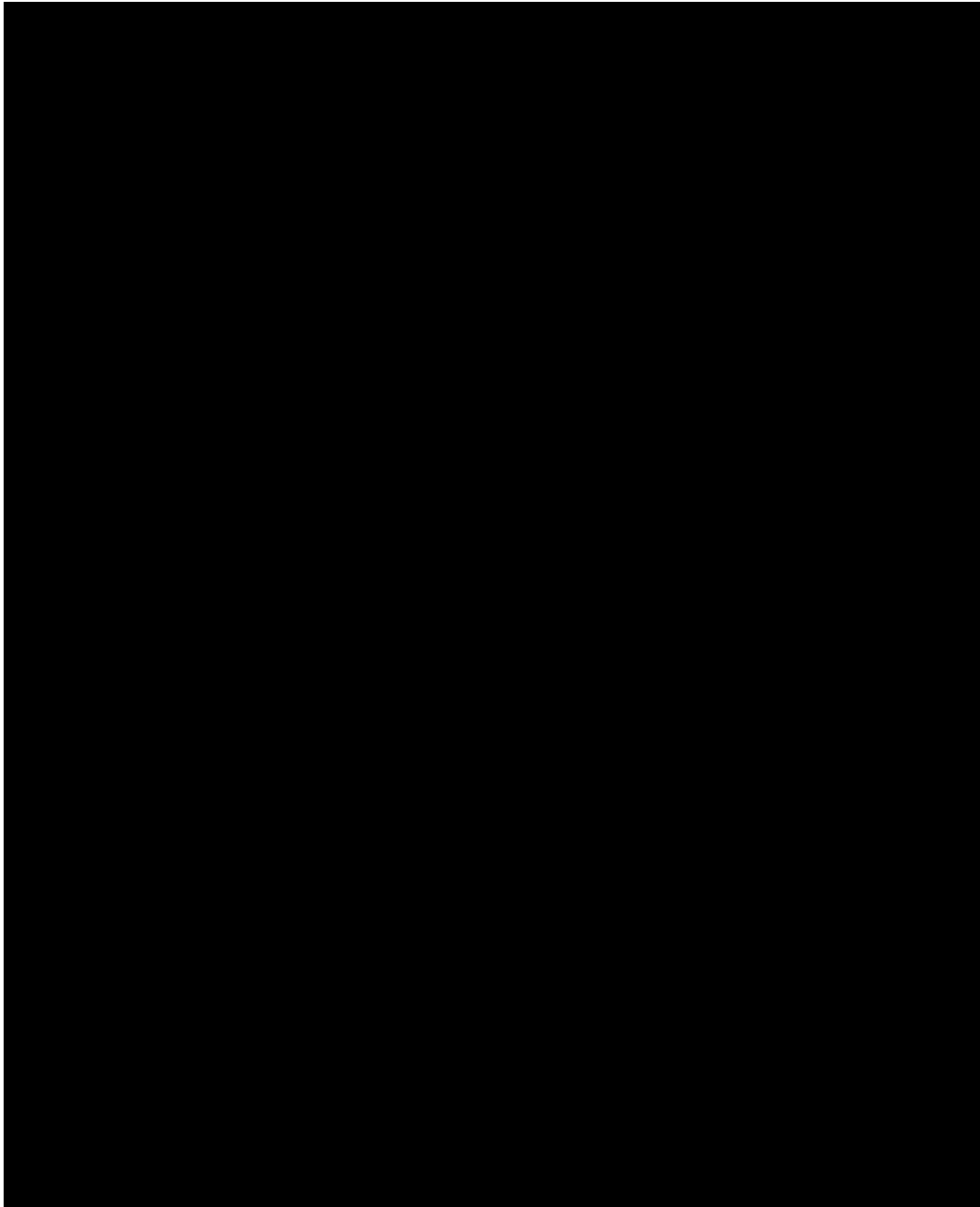
The table below indicate the Parks Unit budget, per FY, for "**material and contracts**", including the actual expenditure.

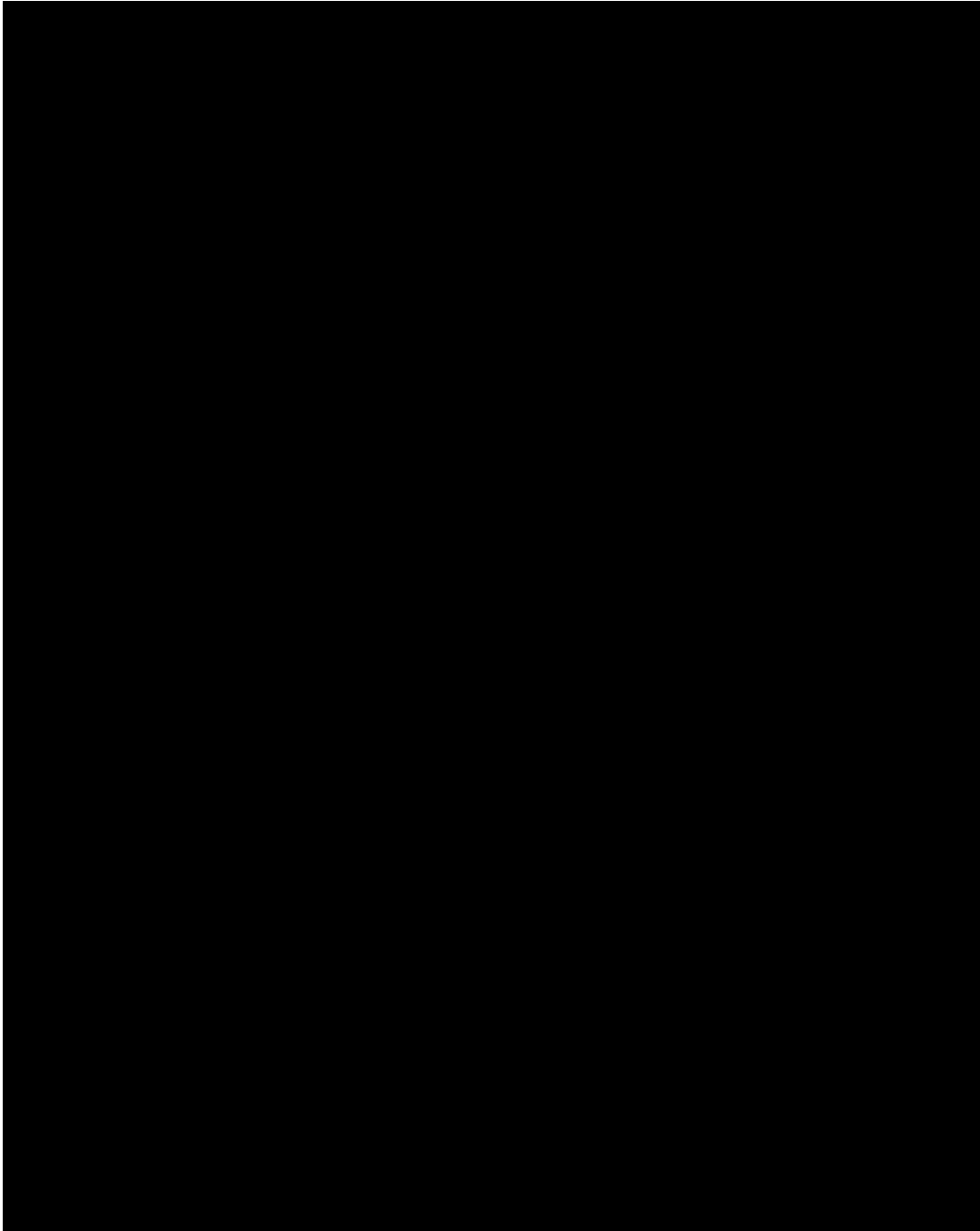
| Material and Contracts |                 |                    |
|------------------------|-----------------|--------------------|
| Financial Year         | Approved Budget | Actual Expenditure |
| FY 2015/16             | \$3,213,537.00  | \$3,157,171.00     |
| FY 2016/17             | \$3,343,544.00  | \$3,167,121.00     |
| FY 2017/18             | \$3,318,410.00  | \$3,163,527.00     |

For the FY periods above, we selected a sample of five suppliers who were engaged by the Parks Unit across all three FY's. We reviewed, on a high-level, the processes followed by the Parks Unit in the appointment of the suppliers and the management of the contracts and expenditure with each supplier.

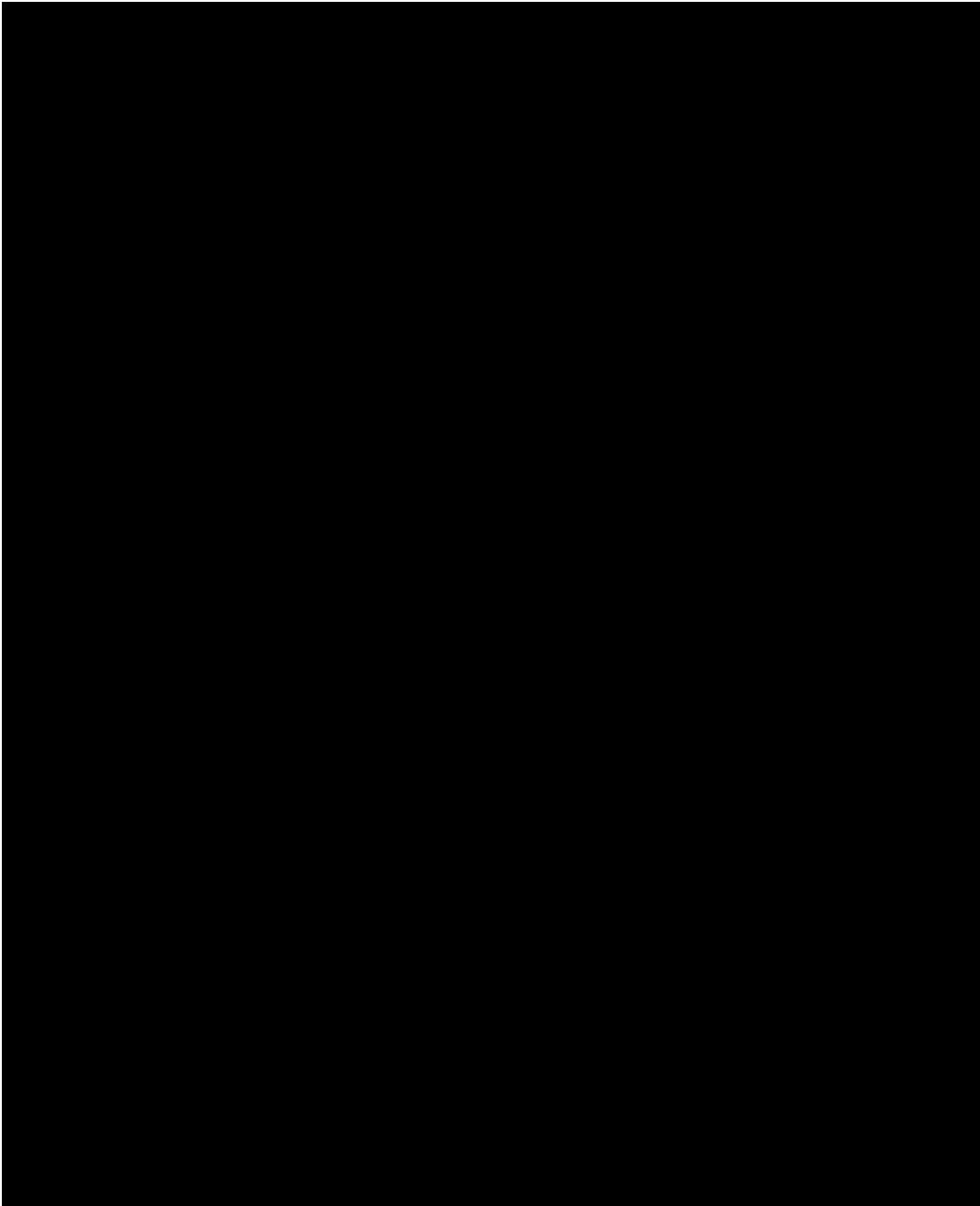


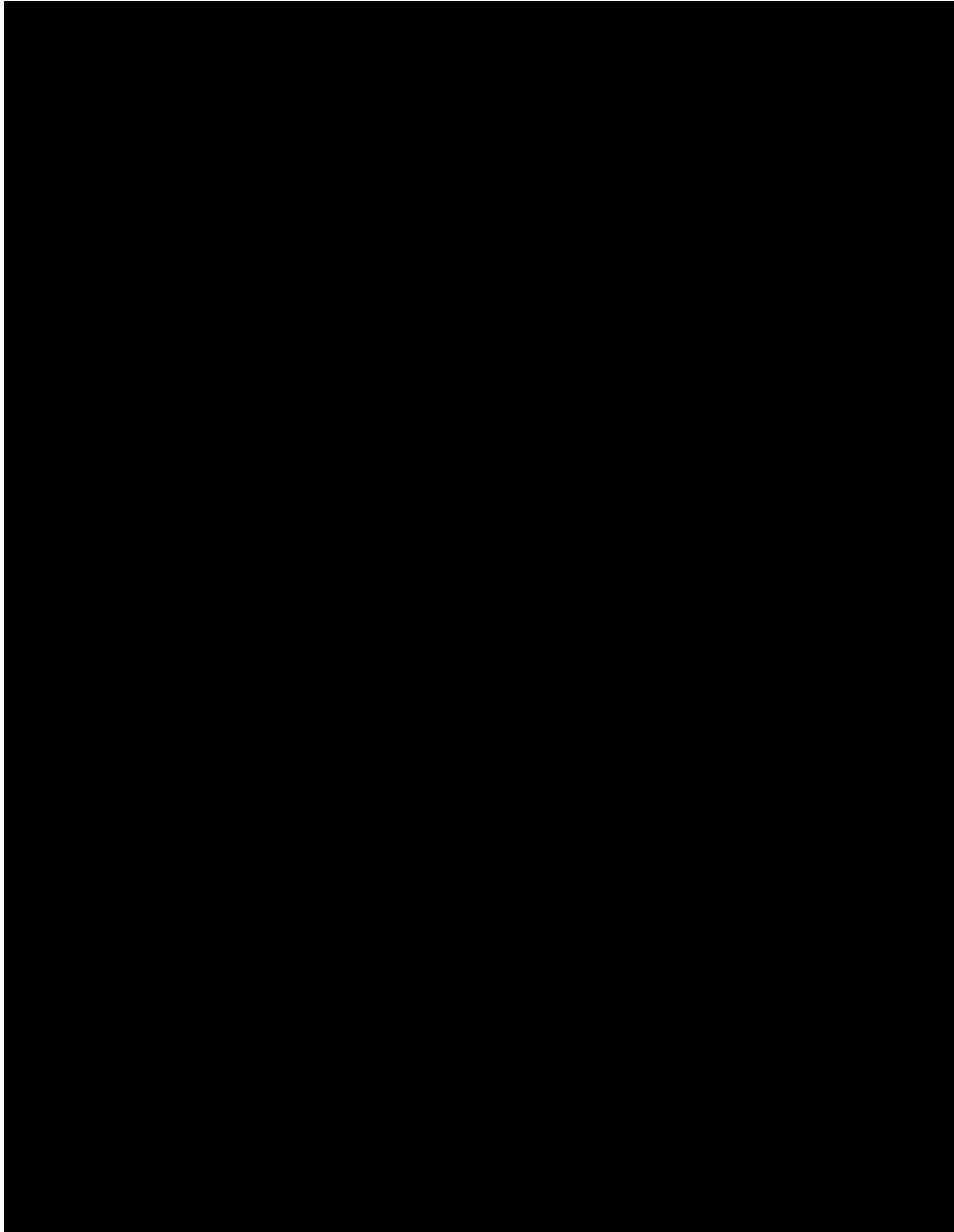


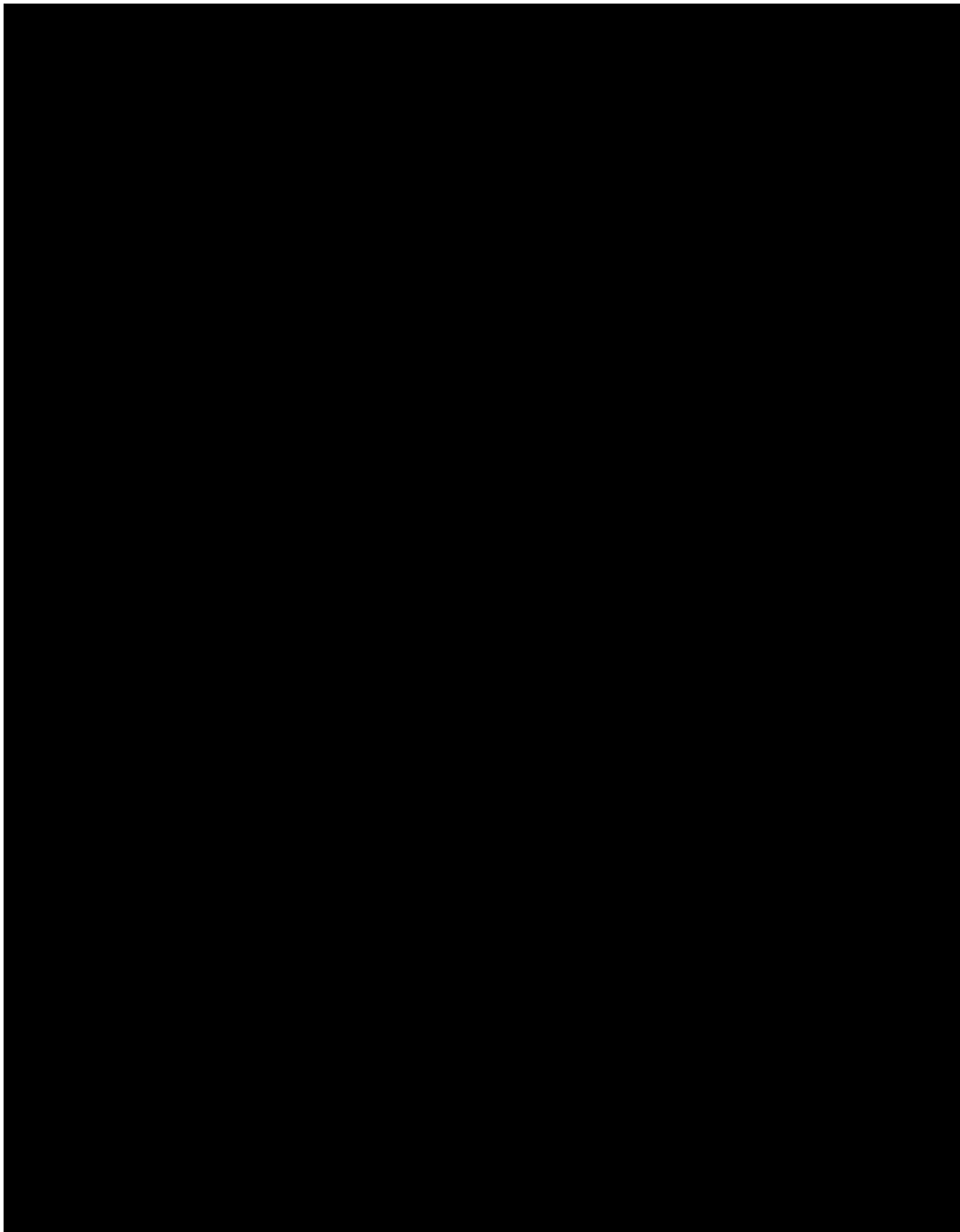


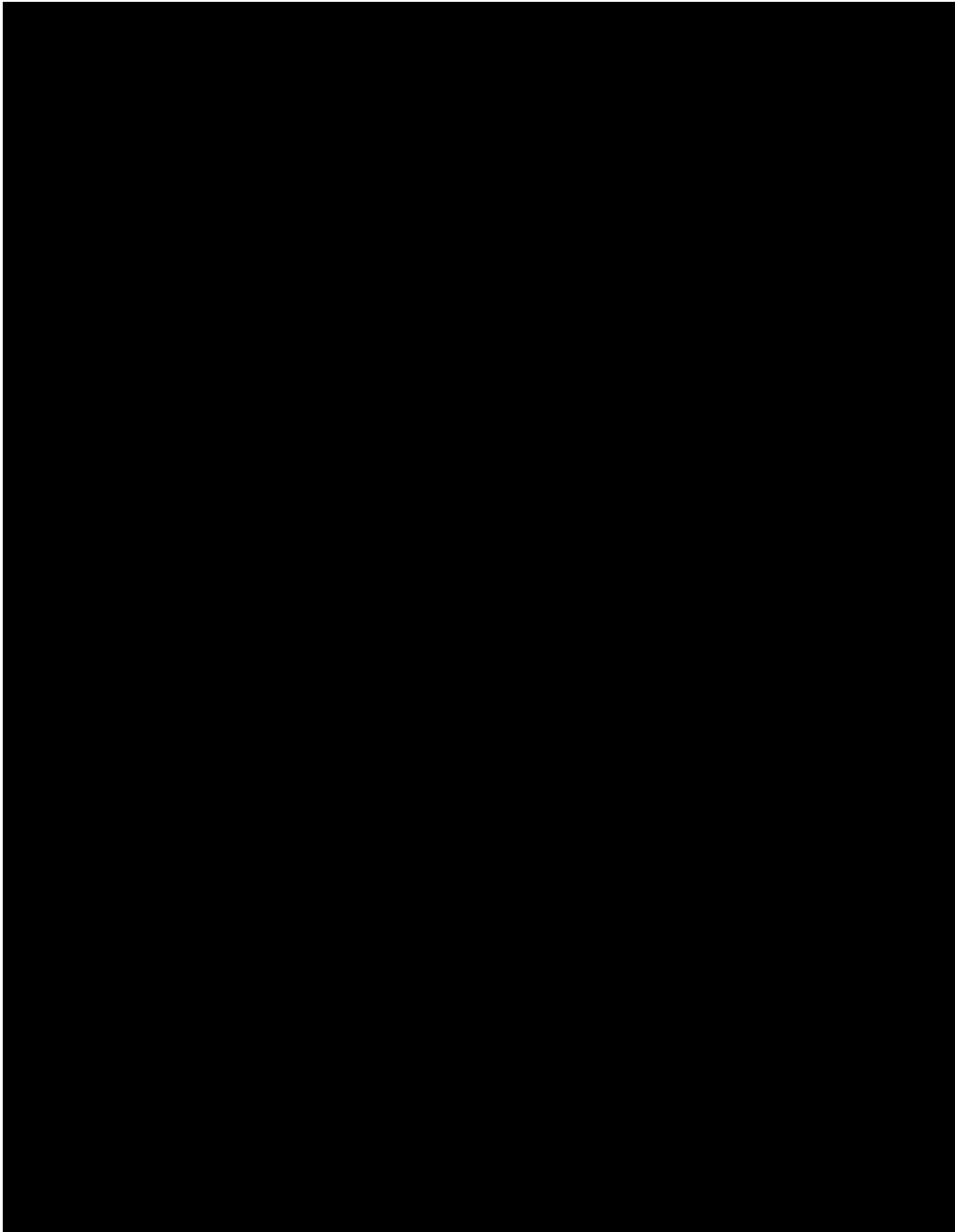


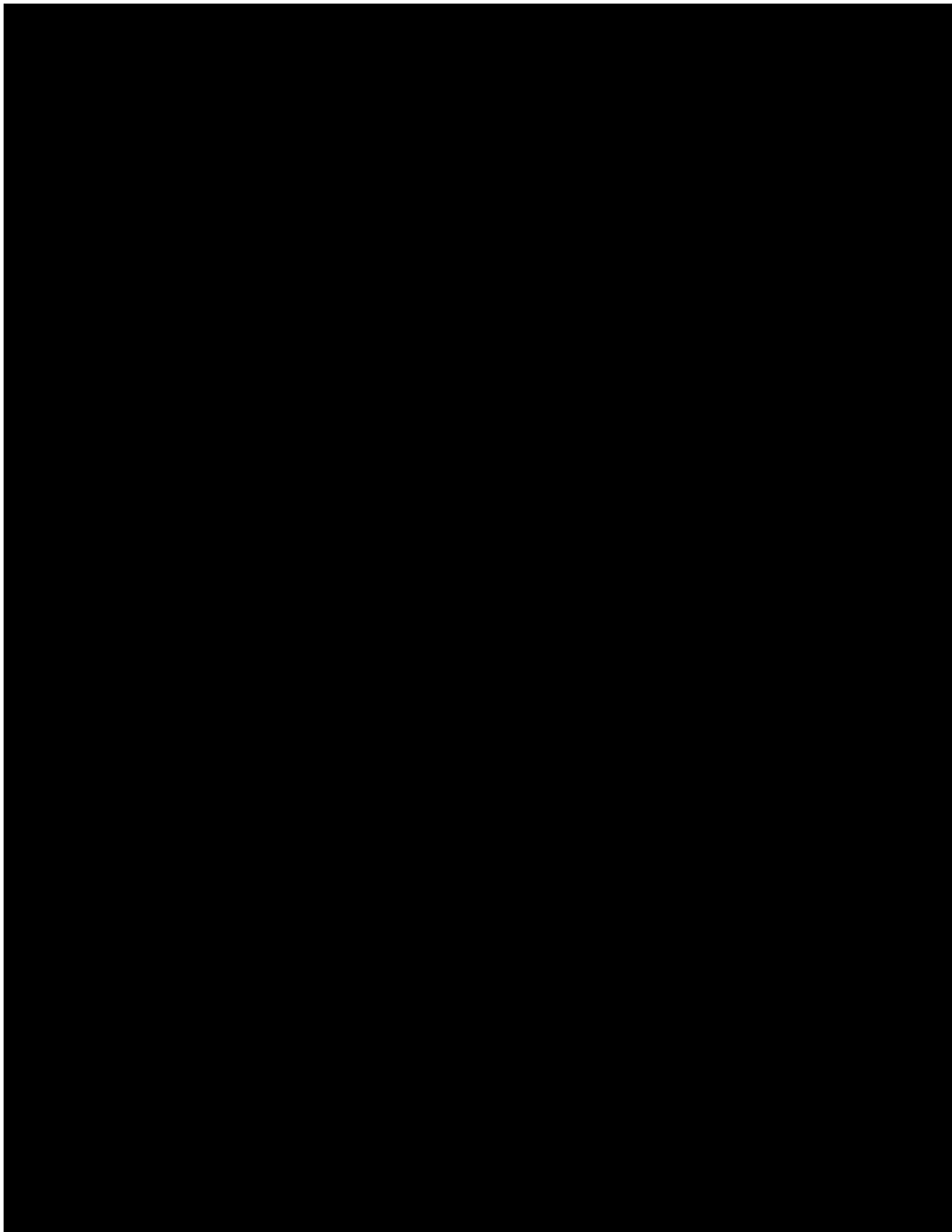


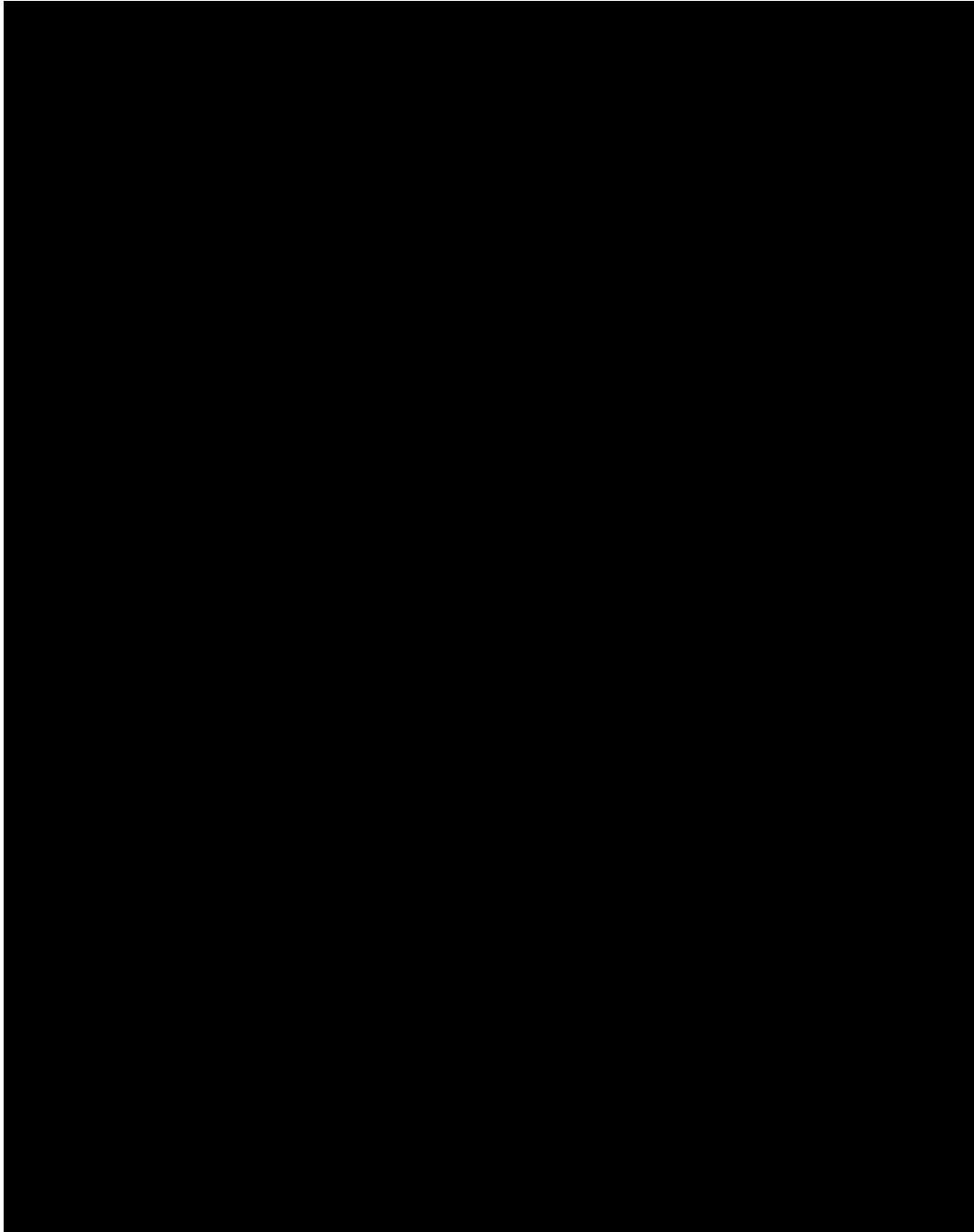


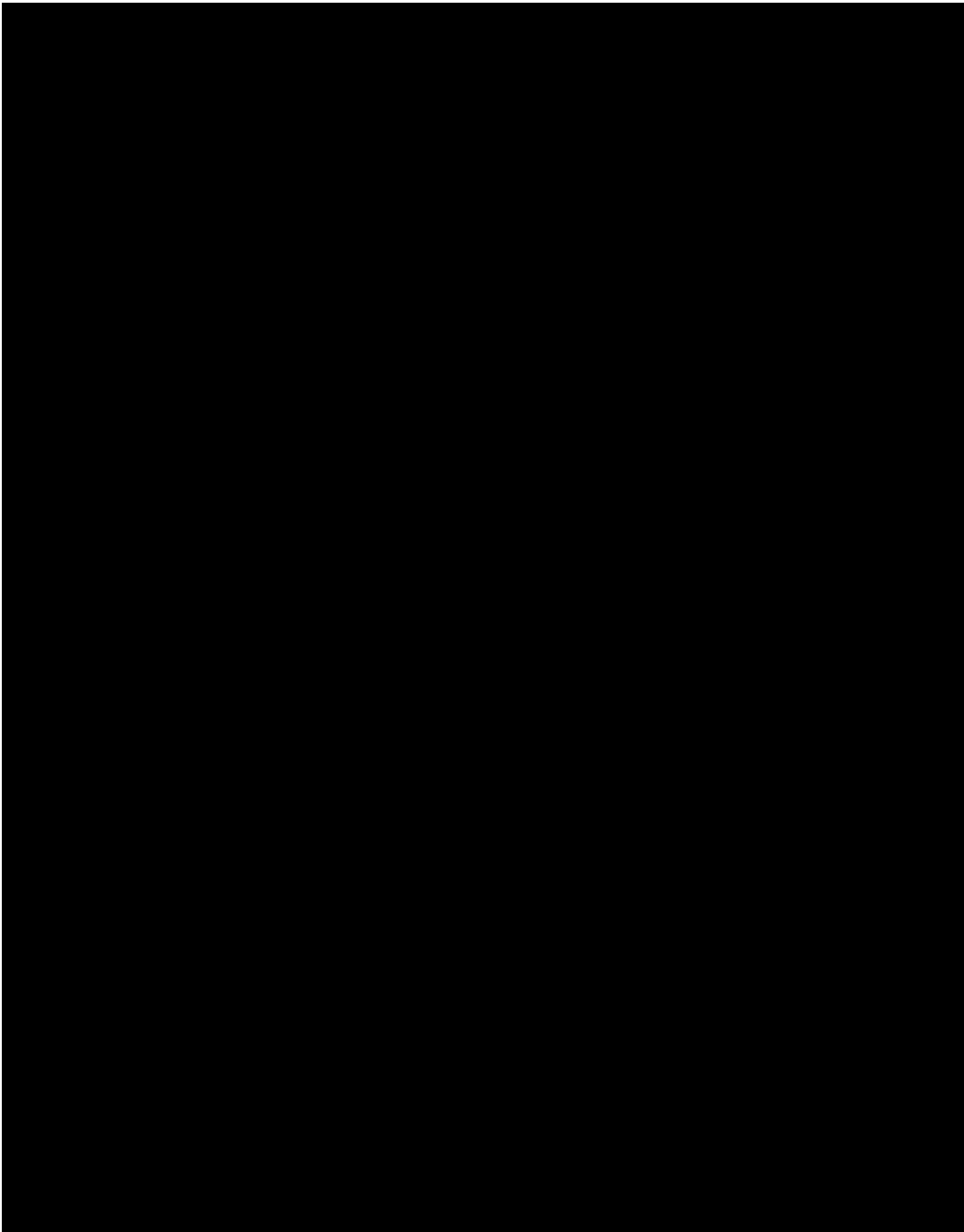


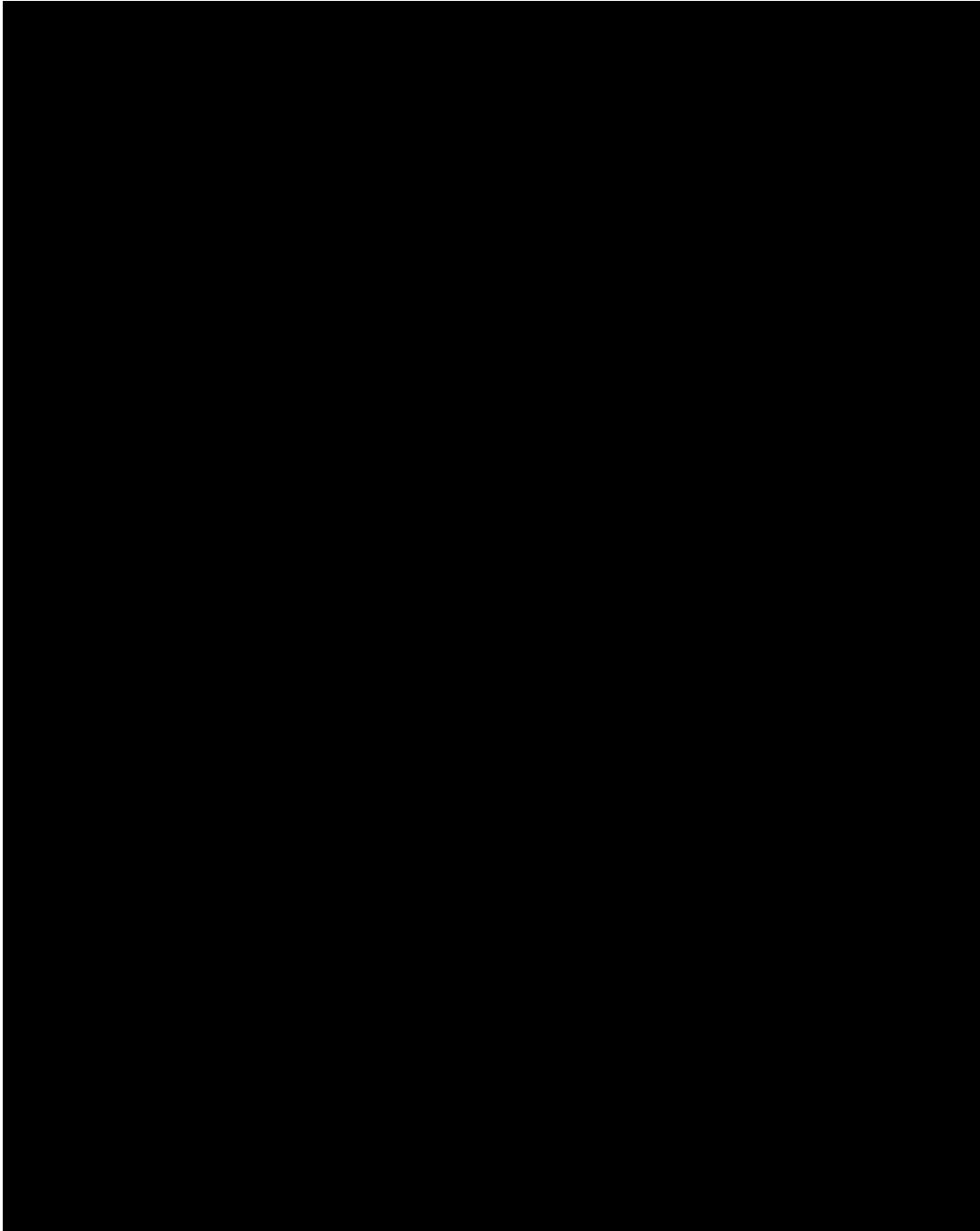


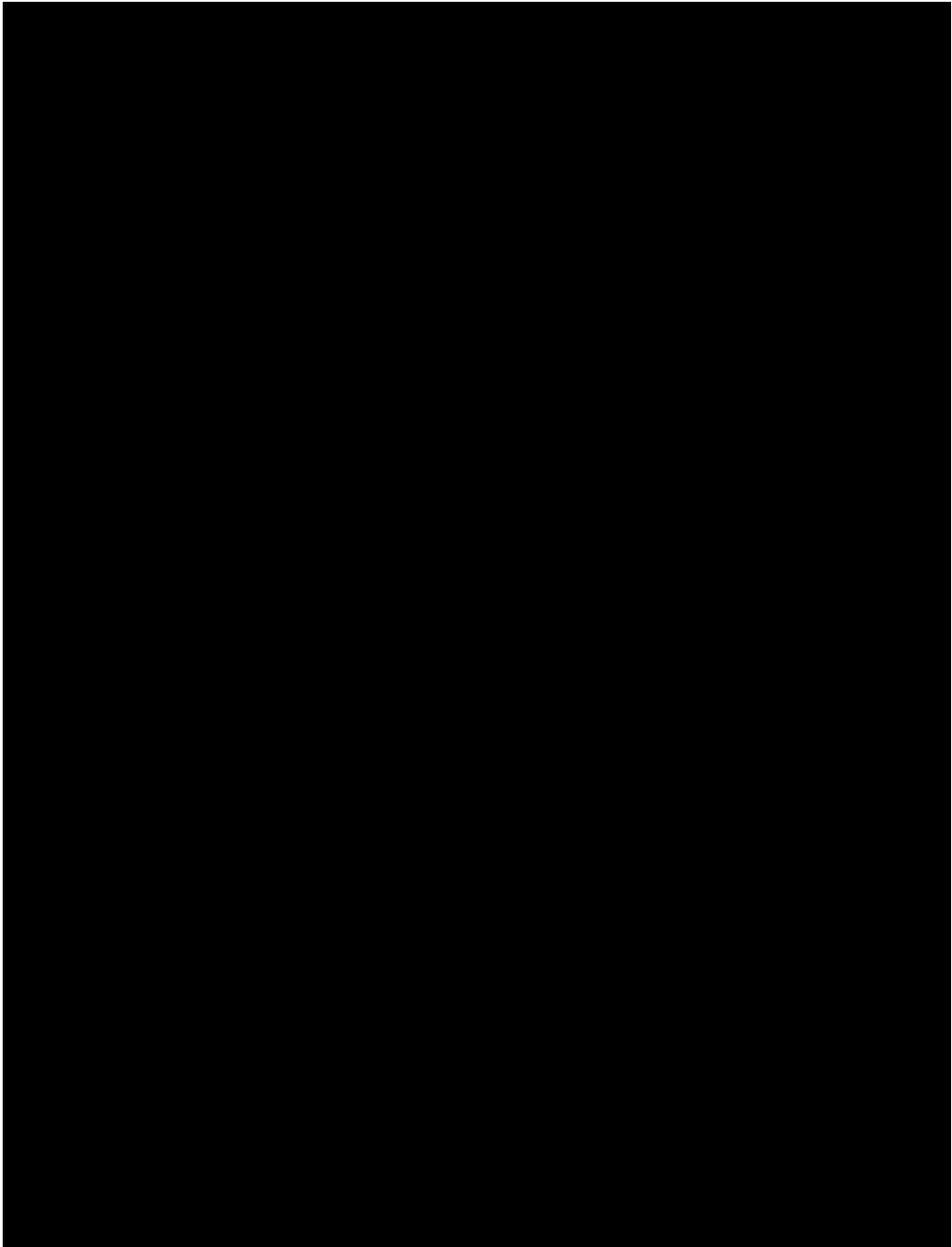


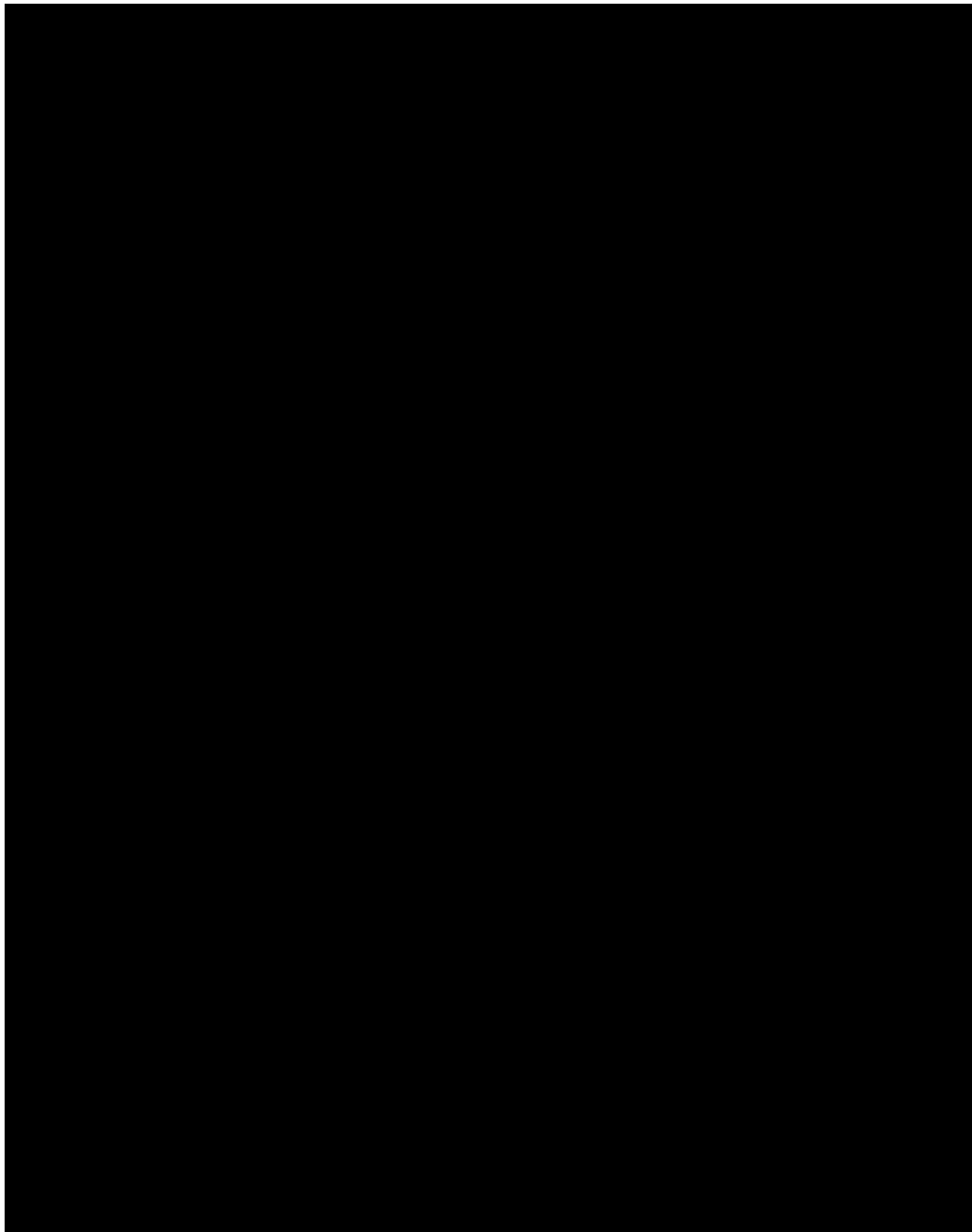












## 14. McLean Lane Enhancement Project



Tabled below is a summary of the documents assessed and reviewed, together with interviews conducted during this audit:

| <b>Documents Reviewed:</b>    | <ul style="list-style-type: none"> <li>• CP 9.7 – Purchasing Policy</li> <li>• CP 9.8 – Contract Variations: Authority to Incur a Liability</li> <li>• Forgotten Spaces Revitalising Perth's Laneways</li> <li>• Works &amp; Urban Development Committee WKS Minutes</li> <li>• Expenditure reports from Finance One</li> <li>• Council Minutes of Meeting held on 20 September 2016</li> <li>• Summary of Property and Business Interests</li> <li>• Local Government Act 1995</li> <li>• Local Government (Rules of Conduct) Regulations 2007</li> <li>• Council Minutes of Meetings held on 13 February 2018</li> <li>• Council Minutes of Meetings held on 21 July 2015</li> <li>• Council Minutes of Meetings held on 13 December 2015</li> </ul> |
|-------------------------------|--|
| <b>Personnel Interviewed:</b> | <ul style="list-style-type: none"> <li>• Ms Amanda Mannolini (Ms Mannolini) – Lead City Designer</li> <li>• Mr Chris Kopec (Mr Kopec) – Acting Manager Construction</li> <li>• Mr Daniel High (Mr High) – Acting Director Economic Development &amp; Activation</li> </ul>   |

## 14.1. Context

To improve vibrancy in the city, the City of Perth (the **City**) embarked on a revitalisation study of all the laneways in Perth's central core, through its Laneways Project Team: Strategy & Urban Development Units, in August 2007. Each laneway was assessed for its suitability to change.

The first phase of the laneway revitalisation study looked at the area encompassing the major retail and business core of the city bound by Wellington Street (north), Swan River (south), Pier Street (east) and Milligan Street (west).

The majority of the laneways in the study area were "*Right of Ways*" and in private ownership. Of the 34 laneways and "*Right of Ways*" in the study area, only 9 were owned (or part owned) by the City.

Priority laneways were identified to concentrate on first, namely:

- Prince Lane;
- Grand Lane;
- McLean Lane;
- Wolf Lane; and
- Howard Lane.

Wolf Lane was upgraded by the City in 2001 and used as a "benchmark" for the enhancement of the other prioritised laneways. In August 2008, the City formally adopted the strategy "*Forgotten Places – Revitalising Perth's Laneways*". The City commenced with the laneway enhancements as follows:

- Howard Lane – Work commenced in 2009;
- Grand Lane – Work commenced in 2010; and
- Prince Lane – Work commenced in 2012.

On 5 April 2016, Council approved the upgrade to McLean Lane, situated between Murray Street and Wellington Street. The works were undertaken in April 2017 following the completion of asbestos removal and roof replacement works in the Gaswork Building (337 Wellington Street) by the City and private footpath re-construction works by the owner of 100 Murray Street.

The City upgraded McLean Lane with new asphalt, drainage and lighting and commissioned professional artists or teams of artists to add art works.

The City also upgraded the luminaries along McLean Lane as part of the City's lighting strategy to improve security, energy efficiency and support for the night economy. Wifi hotspots were identified to facilitate the laneway activation strategy and promote small business development in the vicinity.

## 14.2. McLean Lane – The Site

McLean Lane functioned as a public walkway and service area for local businesses. The City owns three of the six buildings adjacent to the laneway: The Pier Street Car Park, Padlock building and Gasworks building.

The Padlock and Gasworks buildings were unoccupied at the time of the project and were undergoing minor maintenance work. The commercial building at 100 Murray Street was being refurbished, with a cafe on the ground level facing onto the lane. Access to this building's undercroft parking is via the lane.

There were two stages to the McLean Laneway enhancement project.

### Stage 1 – Laneway upgrade and installation of design features

In April the City commenced with a general upgrade of McLean Lane with new asphalt, drainage and lighting as well as design features including:

- Neon word art: a large scale written expression ("*I still feel giddy*") inspired by the site's history and realised in neon lighting, to be mounted high on the facade of the Pier Street Car Park;
- Deer heads: three illuminated steel deer heads to be mounted to the Pier Street carpark wall opposite the entrance to Ambar Nightclub; and
- Catenary lighting with colourful and eclectic anodised aluminium pendant lights, inspired by domestic lamp shades.

### Stage 2 – Installation of commissioned public artworks

Once the laneway upgrade works and design features were completed, Artists installed their works as approved in the detailed concept response phase. Following this stage, the City removed and installed new street lighting.



### 14.3. Analysis and Findings

- A lack of appropriate experience and knowledge, together with a siloed approach to plan and manage this project caused a delay in the finalisation of the McLean Lane Enhancement project resulting in a delay of a business outcome for the City and an increase in the estimated budget.

#### 14.3.1. McLean Lane Enhancement Project Expenditure

##### **Budget and Approval**

The McLean Lane enhancement project was approved by Council on 20 September 2016. An extract of the Council minutes reads as follows:

##### **“FINANCIAL IMPLICATIONS:**

|   |                           |
|---|---------------------------|
| Account No  | CW1966                    |
| Budget Item   | McLean Laneway - Gasworks |
| Budget page number                                  | 38                        |
| Budgeted amount                                     | \$1,276,500               |
| Amount spent  | \$ 119,162                |
| Proposed construction cost                          | \$1,008,622               |
| Proposed design & project Management cost (FY16/17) | \$ 148,716                |
| Proposed total cost                                 | \$1,276,500               |
| Balance   | \$0                       |

##### **“353/16 CITY LANEWAYS ENHANCEMENT PROJECT – MCLEAN LANE**

Moved by Cr Limnios, seconded by Cr Harley

That Council:

1. receives the results of the public consultation on the McLean Lane Enhancement - Draft Concept Plan as detailed in Schedule 5;
2. approves the final concept plan for implementation as detailed in this report and Schedule 6, noting that construction is scheduled to be completed by Friday, 30 June 2017; and
3. notes that stakeholder consultation on a proposed partial daytime closure of McLean Lane (Murray Street end) to facilitate alfresco dining will be postponed until an alfresco application is received from the new tenants of 100 Murray Street.

The motion was put and carried

The votes were recorded as follows:

For: The Lord Mayor, Crs Adamos, Chen, Davidson, Green, Harley, Limnios, McEvoy and Yong

Against: Nil”

### Project Expenditure

We performed an analysis of expenditures by supplier relating to the McLean Lane Enhancement project, which is tabled below.

| Item No      | Supplier Name (Vendor No) | Project Name | Quoted Amount         | Invoiced Amount Paid (As per Finance 1) | Under / (Over) Spent |
|--------------|---------------------------|--------------|-----------------------|---|----------------------|
| 1            | [REDACTED]                | [REDACTED]   | \$3,500.00            | \$3,500.00                              | \$0                  |
| 2            | [REDACTED]                | [REDACTED]   | \$26,909.92           | \$18,072.97                             | \$8,836.95           |
| 3            | [REDACTED]                | [REDACTED]   | \$5,400.00            | \$5,400.00                              | \$0                  |
| 4            | [REDACTED]                | [REDACTED]   | \$18,530.00           | \$18,530.00                             | \$0                  |
| 5            | [REDACTED]                | [REDACTED]   | \$40,000.00           | \$41,850.00                             | (\$1,850.00)         |
| 6            | [REDACTED]                | [REDACTED]   | \$145,000.00          | \$146,350.00                            | (\$1,350)            |
| 7            | [REDACTED]                | [REDACTED]   | \$56,470.00           | \$51,951.00                             | \$4,519.00           |
| 8            | [REDACTED]                | [REDACTED]   | \$702,490.08          | \$811,649.81                            | (\$109,159.73)       |
| 9            | [REDACTED]                | [REDACTED]   | \$12,885.00           | \$8,885.00                              | \$4,000.00           |
| 10           | [REDACTED]                | [REDACTED]   | \$3,500.00            | \$3,500.00                              | \$0                  |
| 11           | [REDACTED]                | [REDACTED]   | \$5,800.00            | \$5,800.00                              | \$0                  |
| <b>Total</b> |                           |              | <b>\$1,020,485.00</b> | <b>\$1,115,488.78</b>                   | <b>(\$95,003.78)</b> |

**All figures quoted in this table are exclusive of GST.**

The total expensed amount on the project was **\$1,115,488.78**, which is **\$161,011.22** less than the budgeted amount approved by Council.

Notwithstanding the underspend, the City, on three occasions (*items 5, 6 & 8 in the table above*), paid the supplier more than the amount quoted by that supplier.

Council Policy "CP 9.8 Contract Variations – Authority to Incur a Liability" – Section 1 states that:

*"Following the issue of a purchase order for the procurement of goods or services, the contract for purchase may be varied where:*

*1.2 Additional goods or services that were not, or could not have been, foreseen at the time the purchase order was issued are required;*

*1.5 The value of the additional goods or services required does not exceed the value of the initial contract by more than 10% or \$100,000."*

Section 2 states that:

*Contract variations that would result in the procurement of additional goods or services where the value of those additional goods or services would exceed the initial contract price by more than 10% or \$100,000 may, in exceptional circumstances, be approved by the Chief Executive Officer or a Director, subject to the variation not being contrary to the requirements of clause 1.2 above, and the reasons for the variation being documented and registered as a corporate record.*

We noted the following:

- Item 5 & 6 – The quoted amounts did not exceed the 10% threshold provided for in CP 9.8; and
- Item 8 – The quoted amount increased by 15.5%, which is outside the threshold provided for by CP 9.8 and a variation to the initial contract price required approval.

With regards to Item 8, on 21 November 2017, Council approved an additional **\$196,975.00 (excl. GST)**. The additional amount approved related to the discovery of unidentified services and asbestos by the Dowsing Group.

The Acting Director - Economic Development & Activation, in relation to the unidentified services within this project, informed us that the McLean Lane Enhancement project as a whole, was not properly planned and managed by the Urban Design Team (UDT) and that they did not have the appropriate skill set to perform these types of projects.

To further contribute to the enhancement of McLean Lane, the City also paid an additional \$36,000.00 in the form of Grants to shop owners and to the owner of 100 – 104 Murray Street, to enhance the façade of the shops and the entrance of the building.

#### Implication

The lack of adequate planning, experience and knowledge by the UDT resulted in an unexpected increase in the original budget approved by Council and a delay in the finalisation of the McLean Lane Enhancement project.

#### 14.3.2. Structural Design – Neon Artwork

- A. During 2016, the City sought proposals from professional Poets, Writers and Visual Artists (artists) to collaborate with the City's project design team to create a 'word artwork'.

Four submissions were received, and after the assessment and evaluation of the submissions, a panel with representatives from the Coordination and Design and Arts, Culture and Heritage units recommended the appointment of [REDACTED] **\$3,500 (excl. GST)**. The recommendation was approved on 19 August 2016 by the Acting Director Planning and Development.

- B. On 22 August 2016, the City requested quotations ("RFQ") for the "Structural Design Brief For Catenary Lighting & Other Light Fixings" from suppliers to design and document a number of lighting components to be fixed to building walls adjacent to McLean Lane. These lighting components included the neon artwork.

The RFQ stipulated, *inter alia* that "the Structural Engineer will need to provide advice and review the documentation drawings (to be produced by the CoP / ETC) for fixing of the neon artwork to the northern elevation of the Pier Street Car Park".

On 1 September 2016, [REDACTED] were appointed as the Structural Engineers to provide the structural design and documentation for the fixing of the neon artwork and other light fixings for an amount of **\$5,800 (excl. GST)**.

- C. At a meeting on 27 October 2016 between Development Approvals, Arts, Culture and Heritage, Planning and Development and Co-ordination & Design units, it was agreed that:

- The size and location of the artwork was acceptable (16018-A-SK09); and
- A plaque (150 X 210mm) to attribute the artwork would be mounted in the laneway.

On 29 November 2016, the Acting Manager Co-ordination & Design recommended the structural design and documentation for the fixing of the Neon Artwork drafted by [REDACTED] and to advertise this as part of a request for quotation process to a neon fabricator. The recommendation was approved by the Manager Development Approvals.

- D. During February 2017, the City requested quotations for the *"Neon Artwork Detailed Design & Fabrication"*.

Two submissions were received and on 3 March 2017, the submission of [REDACTED] for **\$56,470 (excl. GST)** was approved by the Acting Manager Co-ordination & Design.

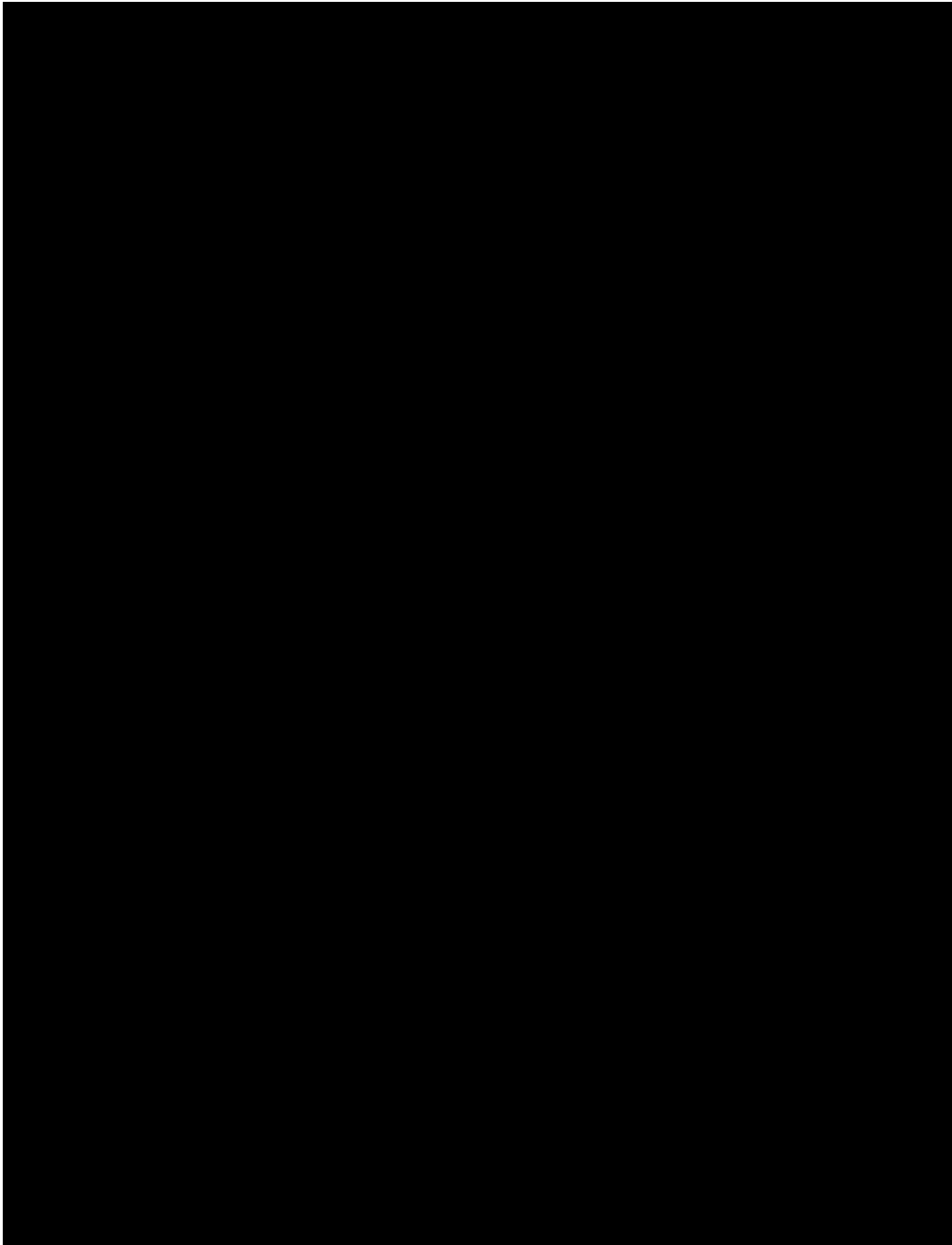
- E. On 14 March 2017, Council approved the award of the main tender – *"McLean Lane Enhancement Project Including Prefabricated Art Work Installation"* to the [REDACTED]. As part of this tender, [REDACTED] was responsible for the installation of the Neon Artwork.

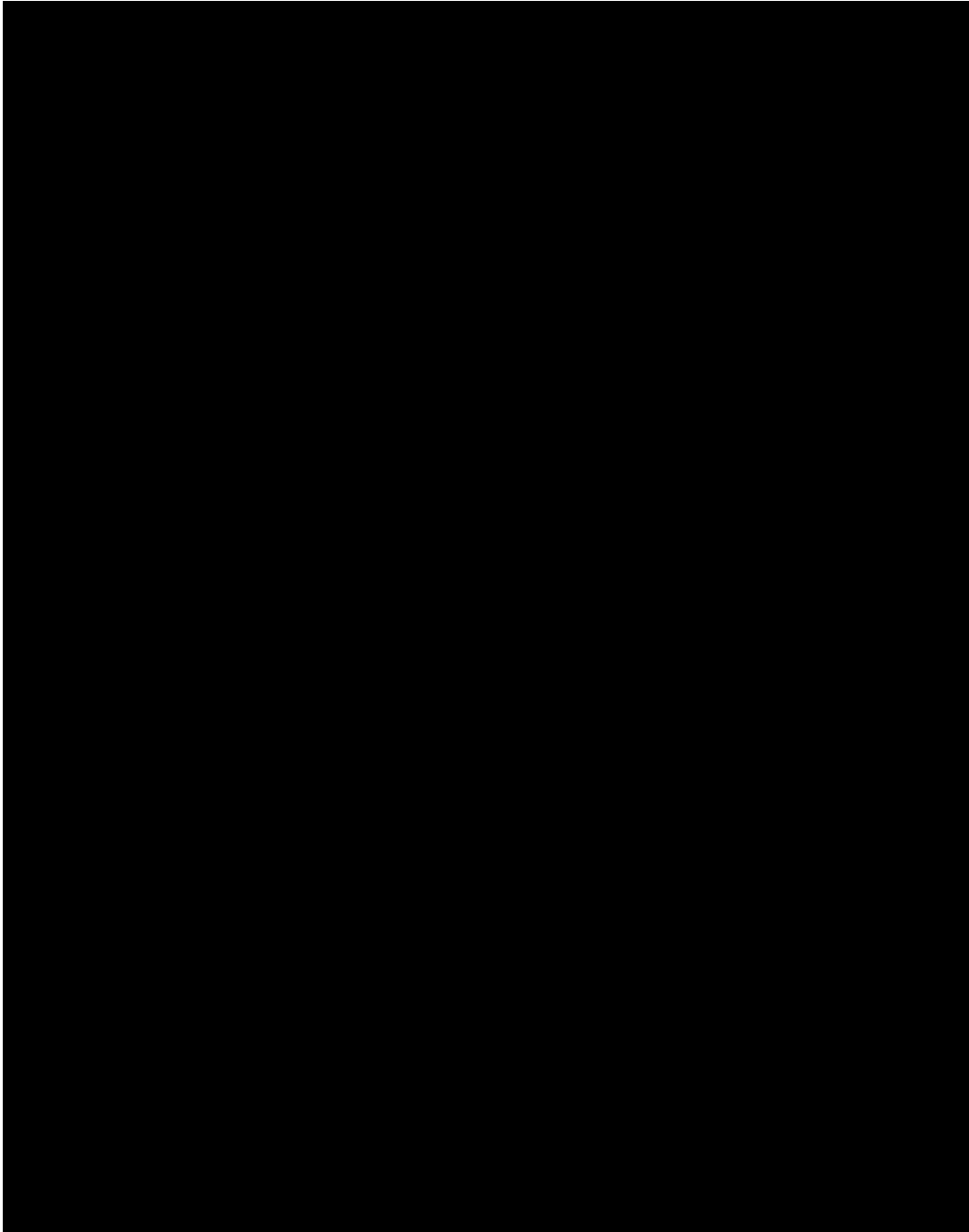
We noted that the Neon Artwork, after more than two years, has not been installed.

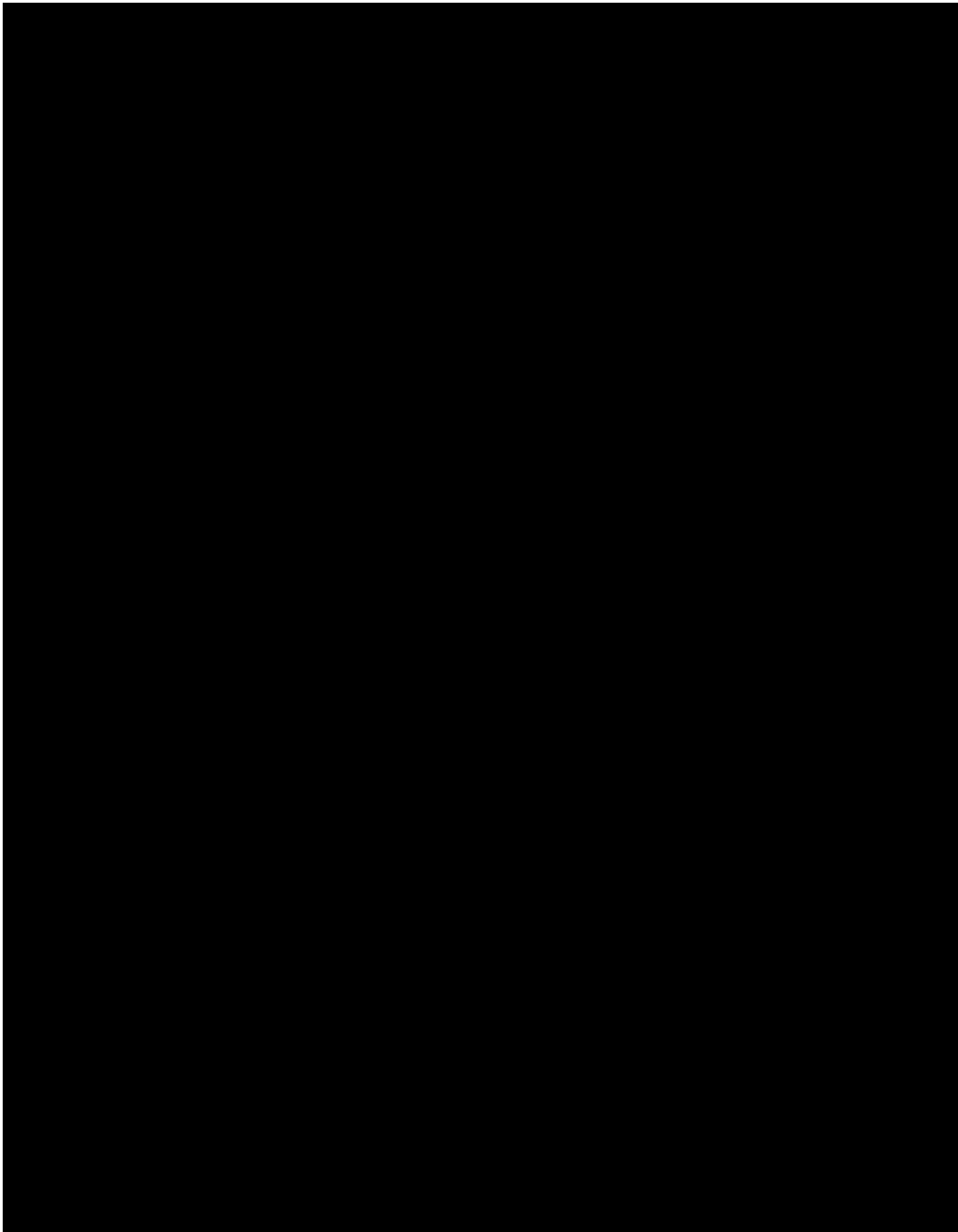
The Acting Manager - Construction advised that the Neon Artwork is currently in storage with [REDACTED]. The Neon Artwork was not installed as the City did not perform an "Engineering Assessment" on the area of the CPP building where the artwork was planned to be installed. An incorrect assumption was made by the previous Project Manager that the relevant area of the CPP building was adequate to hold the weight of the Neon Artwork, which weighed more than a tonne.

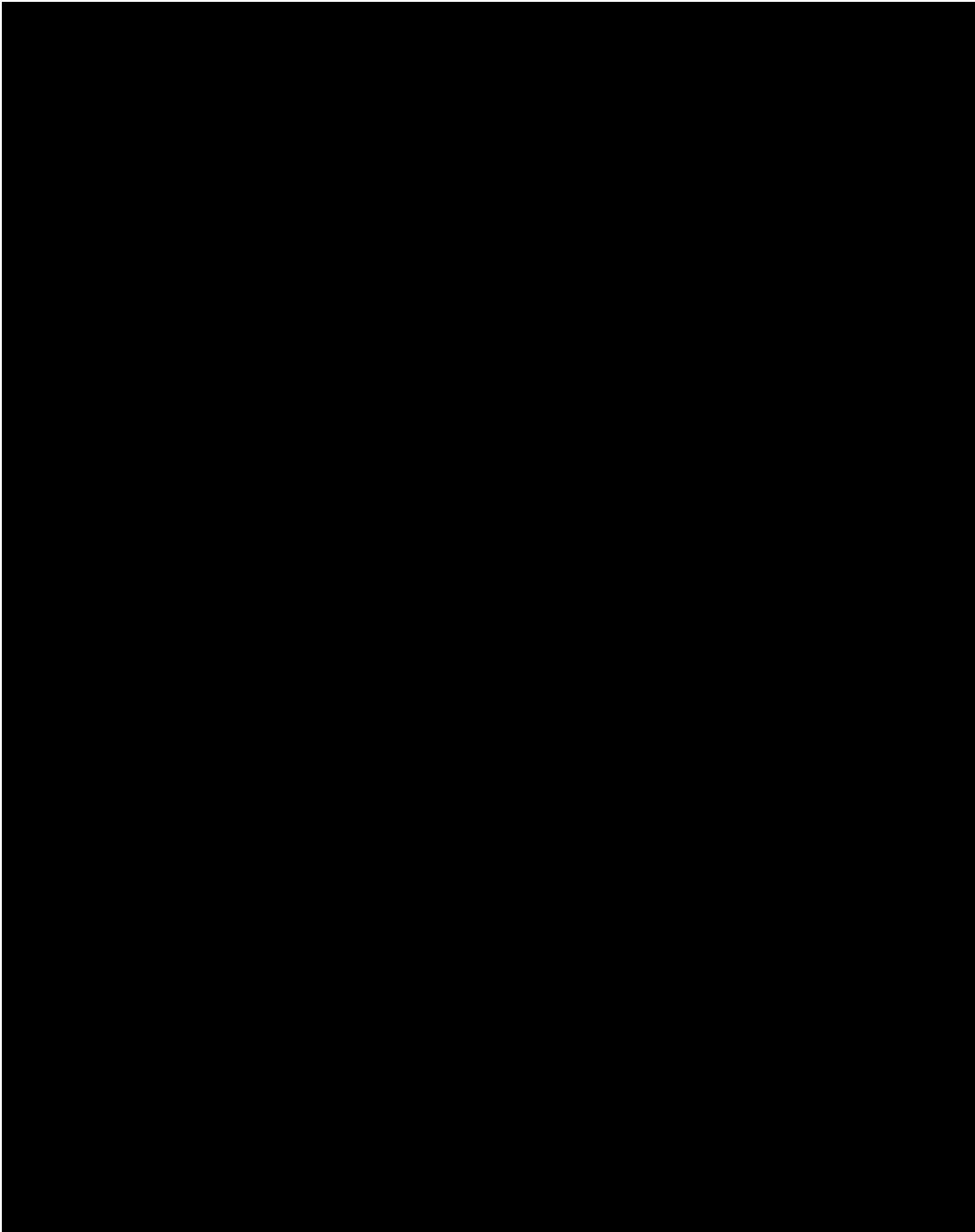
#### Implication

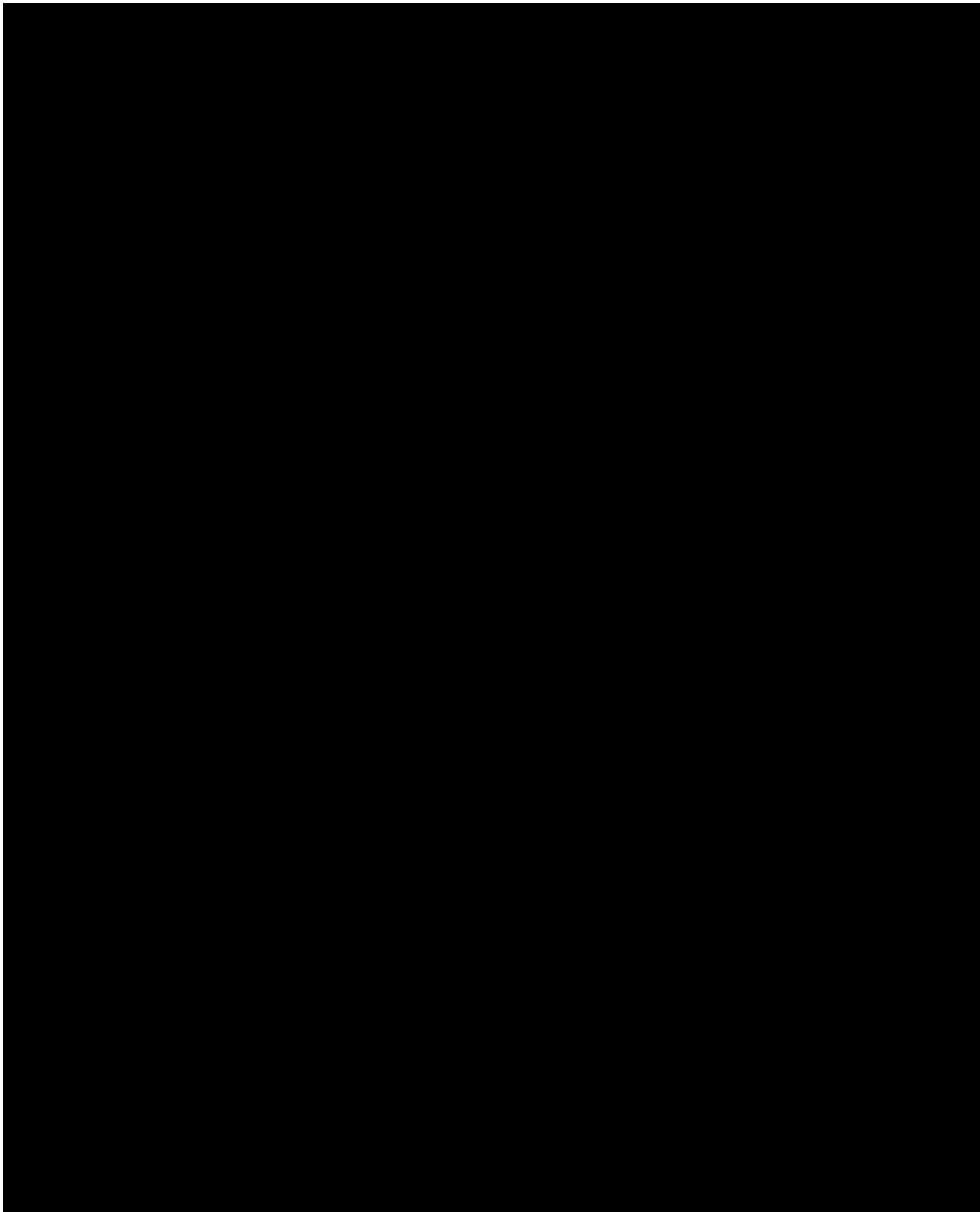
The lack of adequate project risk assessment, planning and project management by the City caused the City to engage different suppliers to resolve the issue with the installation of the Neon Artwork, resulting in an unnecessary commitment of time and money spent, and delays in achieving its business outcomes.

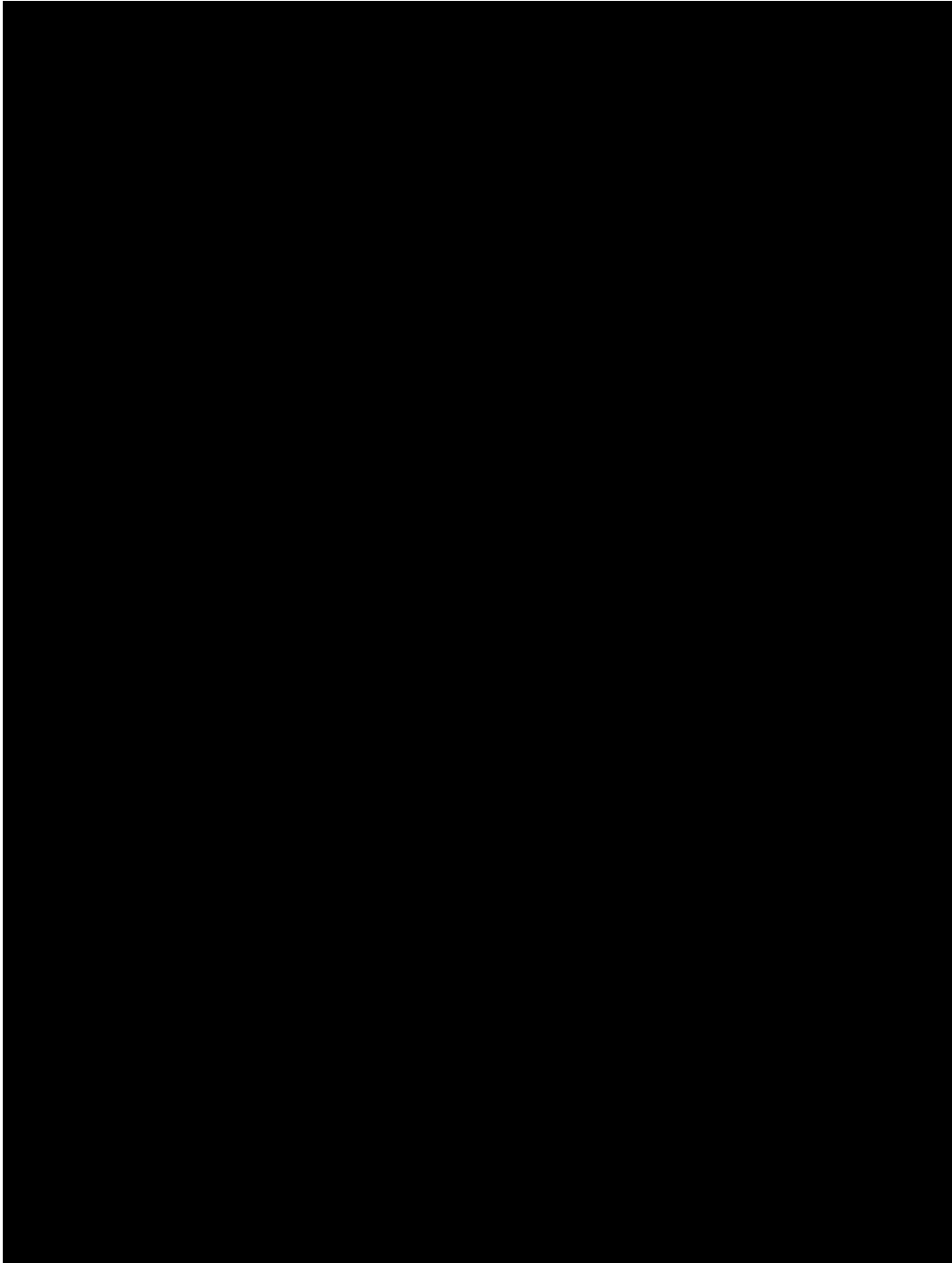












## 15. Workers' Compensation Expenditure



Tabled below is a summary of the documents assessed for this review:

| <b>Documents Reviewed:</b> | <ul style="list-style-type: none"> <li>Workers' Compensation Claim Register – 2016, 2017, 2018</li> <li>Workers Compensation Process</li> <li>Injury Management Related Process</li> <li>Workers Compensation Documentation Process</li> <li>LGIS Renewal Report, 2 June 2016</li> <li>LGIS Renewal Report, 8 June 2017</li> <li>LGIS Renewal Report, 6 June 2018</li> <li>Marsh Insurance Report</li> </ul> |
|----------------------------|--|

**From our analysis, we make the following factual observations:**

- There has been an upward trend of workers compensation claims, peaking in 2017 financial year;
- The City's claims consistently approached the maximum contribution levels;
- A change in insurer in 2018 financial year appears to have caused a decrease in premiums; and
- Claims financial data has not been accurately maintained by the City.

## 15.1. Context

LGIS was the City's insurer. Expenditure on the City's workers' compensation insurance premium was based on a performance rating policy. Under this arrangement, the City paid a minimum contribution at the start of the policy and the contribution amounts continued to be adjusted at a ratio of \$1.33 contribution for every \$1 paid claim until the maximum contribution was reached. Claims amount beyond the maximum contribution would be fully funded by the City's insurer, LGIS.

In November 2017, the City changed workers compensation insurer by moving to GIO.

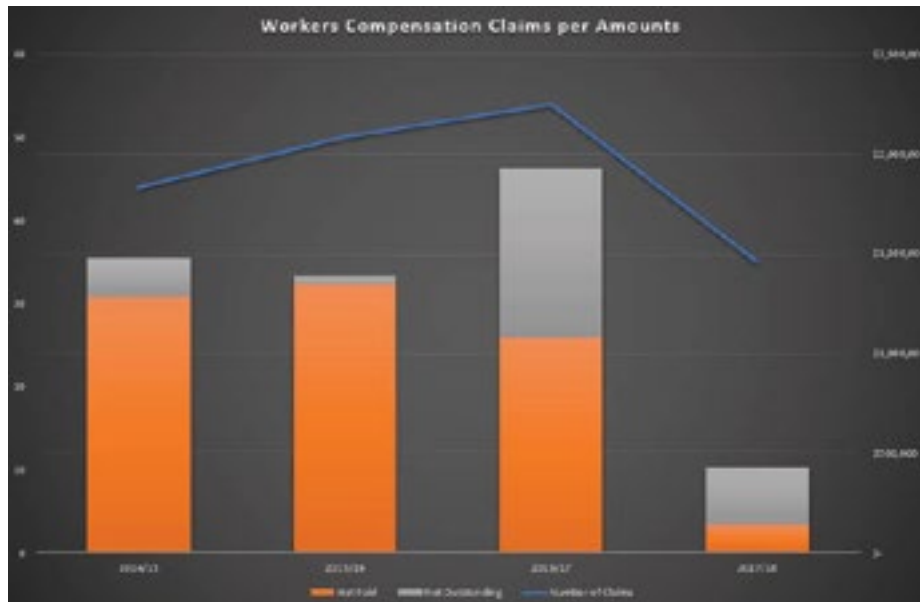
## 15.2. Analysis and Findings

The following table and accompanying graph highlight the City's claim history<sup>7</sup>.

| Period  | Number of Claims | Net Paid    | Net Outstanding | Total Net Incurred |
|---------|------------------|-------------|-----------------|--------------------|
| 2014/15 | 44               | \$1,279,225 | \$199,745       | \$1,478,970        |
| 2015/16 | 50               | \$1,341,086 | \$48,250        | \$1,389,336        |
| 2016/17 | 54               | \$1,076,532 | \$852,291       | \$1,928,823        |
| 2017/18 | 35*              | \$138,757   | \$288,136       | \$426,893          |

\*Claims include 3 months of LGIS and the balance with GIO.

<sup>7</sup> Marsh, City of Perth, Insurance Report, 30 June 2018 to 30 June 2019



As can be seen, the claims history for 2016/2017 escalated in line with the increased number of claims. According to the “Marsh’s Insurance Report”, this was due to late lodgment and significant claim development, i.e. injury claims developing into physiological claims. Although the long tail claims sit within the LGIS scheme, claim development and history affect the 5-year loss ratio and get taken into account when the City applied a rate at renewal.

Within the terms of reference, our analysis revealed the following information in respect of workers compensation expenditure:

| Financial Year | Workers Compensation Premiums | Contributions Paid                   | Maximum Contribution                 |
|----------------|-------------------------------|--------------------------------------|--------------------------------------|
| 2015/2016      | \$1,934,492                   | \$1,808,334                          | \$2,182,796                          |
| 2016/2017      | \$2,143,217                   | \$2,128,605                          | \$2,128,605                          |
| 2017/2018      | \$1,417,607                   | \$1,417,607*                         | \$1,417,607*                         |
|                |                               | *LGIS: \$591,700 +<br>GIO: \$825,907 | *LGIS: \$591,700 +<br>GIO: \$825,907 |

Based on the above information, we note the following:

- There has been an upward trend of workers compensation claims, peaking in 2017 financial year;
- The City’s claims consistently approached the maximum contribution levels; and
- A change in insurer in 2018 financial year appears to have caused a decrease in premiums.

### 15.3. Other matters

It appears the City's workers compensation claim related data have not been well managed. At the City's admission, we noted there were omissions of claims number in respect of the 2018 financial year. Our inquiry that from early 2017 to Sept 2018 there had been three different custodians overseeing the "*Workers Comp Spreadsheet*", which was used to monitor the workers compensation claims.

We further observe that there is no periodic reconciliation of claim numbers between the City's own records and that of the former insurer, LGIS, during renewals. Had this reconciliation been performed, the discrepancies now identified in the LGIS data would have been picked up.

Moreover, there are inconsistencies of claim data between LGIS and Marsh's reports. The City indicated that they concurred with Marsh's data.



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# 4.3

## City of Perth Declaration by Council Members

Regulation 13(1)(c) of the *Local Government  
(Constitutional) Regulations 1998*



CITY of PERTH

Local Government Act 1995

Local Government (Constitution) Regulations 1998

**Declaration by Elected Member**

I, LISA-MICHELLE SCAFFIDI of [REDACTED]  
[REDACTED] having been elected to the office of  
Lord Mayor of the City of Perth declare that I take the  
office upon myself and will duly, faithfully, honestly, and  
with integrity fulfil the duties of the office for the people in  
the district according to the best of my judgment and  
ability, and will observe the *Local Government (Rules of  
Conduct) Regulations 2007*.

Declared at: Perth Town Hall  
St Georges Terrace, Perth

On: 20 October 2015

By:

Before me:

COP Imaged Record - 24/05/2016



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, JIMMY ADAMOS of [REDACTED]  
[REDACTED] having been elected to the office of Councillor of  
the City of Perth declare that I take the office upon myself  
and will duly, faithfully, honestly, and with integrity fulfil the  
duties of the office for the people in the district according  
to the best of my judgment and ability, and will observe  
the *Local Government (Rules of Conduct) Regulations*  
*2007*.

Declared at: Perth Town Hall  
St Georges Terrace, Perth

On: 20 October 2015

By:

Before me:

## Form 7. Declaration by Elected Member of Council

[r. 13 (1)(c)]



City of Perth

*Local Government Act 1995**Local Government (Constitution) Regulations 1998***Declaration by Elected Member**

I, Alexis Louise Foster Barton of [REDACTED]  
 [REDACTED] having been elected to the office of Councillor of  
 the City of Perth declare that I take the office upon myself and  
 will duly, faithfully, honestly, and with integrity, fulfil the duties  
 of the office for the people in the district according to the best  
 of my judgment and ability, and will observe the *Local  
 Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
 St Georges Terrace, Perth

On: 24 October 2017

By:

Before me:

Form 7 Declaration by elected member of Council

[r. 13 (1)(c)]



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, Rob Butler  
full name  
of [REDACTED]  
current residential address

having been elected to the office of Deputy Lord Mayor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
St Georges Terrace, Perth

On: 22 October 2013

By: [Signature]

Before me: [Signature]

COP Imaged Record - 25/10/2013



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, LILY CHEN of [REDACTED] having been elected to the office of Councillor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: Perth Town Hall  
St Georges Terrace, Perth

On: 20 October 2015

By:

Before me:

COP Imaged Record - 24/05/2016



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, JANET ELIZABETH DAVIDSON of [REDACTED]  
[REDACTED] having been elected to the  
office of Councillor of the City of Perth declare that I take  
the office upon myself and will duly, faithfully, honestly,  
and with integrity fulfil the duties of the office for the  
people in the district according to the best of my judgment  
and ability, and will observe the *Local Government (Rules  
of Conduct) Regulations 2007*.

Declared at: Perth Town Hall  
St Georges Terrace, Perth

On: 20 October 2015

By:

J. E. Davidson

Before me:

Kerry Lane

Form 7. Declaration by Elected Member of Council

[r. 13 (1)(c)]



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, JEMMA MARIE GREEN of [REDACTED],  
[REDACTED] having been elected to the office of  
Councillor of the City of Perth declare that I take the office  
upon myself and will duly, faithfully, honestly, and with  
integrity fulfil the duties of the office for the people in the  
district according to the best of my judgment and ability,  
and will observe the *Local Government (Rules of Conduct)*  
*Regulations 2007*.

Declared at: Perth Town Hall  
St Georges Terrace, Perth

On: 20 October 2015

By:

Before me:

COP Imaged Record - 24/05/2016

## Form 7. Declaration by Elected Member of Council

[r. 13 (1)(c)]



City of Perth

Local Government Act 1995

Local Government (Constitution) Regulations 1998

## Declaration by Elected Member

I, Jemma Green  
full name

of [REDACTED]  
full residential address

having been elected to the office of Deputy Lord Mayor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
 27 St Georges Terrace, Perth

On: 24 October 2017

By:

Before me:

Form 7. Declaration by elected member of Council

[r. 13 (1)(c)]



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, **REECE HARLEY** of [REDACTED]  
having been elected to the office of Councillor of the City  
of Perth declare that I take the office upon myself and will  
duly, faithfully, honestly, and with integrity fulfil the duties  
of the office for the people in the district according to the  
best of my judgment and ability, and will observe the *Local  
Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
St Georges Terrace, Perth

On: 22 October 2013

By:

*Reece Harley*  
.....  
*[Signature]*  
.....

Before me:

COP Imaged Record - 25/10/2013

## Form 7. Declaration by Elected Member of Council

[r. 13 (1)(c)]



City of Perth

*Local Government Act 1995**Local Government (Constitution) Regulations 1998***Declaration by Elected Member**

I, Reece James Harley of [REDACTED]  
 [REDACTED] having been elected to the office of Councillor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
 St Georges Terrace, Perth

On: 24 October 2017

By:

Before me:

## Form 7. Declaration by Elected Member of Council

[r. 13 (1)(c)]



City of Perth

*Local Government Act 1995**Local Government (Constitution) Regulations 1998***Declaration by Elected Member**

I, Steven Jeffery Hasluck of [REDACTED]  
 [REDACTED] having been elected to the office of Councillor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
 St Georges Terrace, Perth

On: 24 October 2017

By:

Before me:



City of Perth

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1998*

**Declaration by Elected Member**

I, Dimitrios Athanasios Limnios of [REDACTED]  
[REDACTED] having been elected to the office of Councillor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
St Georges Terrace, Perth

On: 24 October 2017

By:

Before me:



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

I, **DIMITRIOS (KNOWN AS JAMES) A. LIMNIOS** of [REDACTED]  
[REDACTED] having been elected to the office of  
Deputy Lord Mayor of the City of Perth declare that I take  
the office upon myself and will duly, faithfully, honestly,  
and with integrity fulfil the duties of the office for the  
people in the district according to the best of my judgment  
and ability, and will observe the *Local Government (Rules  
of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
27 St Georges Terrace, Perth

On: 22 October 2015

By:

Before me:



CITY of PERTH

Local Government Act 1995

Local Government (Constitution) Regulations 1998

**Declaration by Elected Member**

I, JUDY MC EVOY of [REDACTED]  
having been elected to the office of Councillor of the City  
of Perth declare that I take the office upon myself and will  
duly, faithfully, honestly, and with integrity fulfil the duties  
of the office for the people in the district according to the  
best of my judgment and ability, and will observe the *Local  
Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
St Georges Terrace, Perth

On: 22 October 2013

By:  .....

Before me:  .....

Form 7. Declaration by elected member of Council

[r. 13 (1)(c)]



CITY of PERTH

Local Government Act 1995  
Local Government (Constitution) Regulations 1998  
**Declaration by Elected Member**

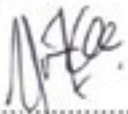
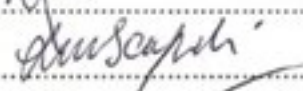
I, **KEITH YONG** of [REDACTED] having been elected to the office of Councillor of the City of Perth declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

Declared at: City of Perth Council Chambers, Council House,  
St Georges Terrace, Perth

On: 22 October 2013

By:

Before me:

  
.....  
  
.....

COP Imaged Record - 25/10/2013

# 4.4

## City of Perth Commissioned Reports

ATTACHMENT 13.26A

**Deloitte.**



**City of Perth**  
Organisational Capability  
and Compliance  
Assessment

6 June 2017

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## List of terms and definitions

|                          |  |
|--------------------------|--|
| 1995 Act                 | Local Government Act 1995  |
| 2016 Act                 | City of Perth Act 2016   |
| the Assessment           | the City of Perth Organisational Capability and Compliance Assessment                |
| CBP                      | Corporate Business Plan  |
| CEO                      | The Chief Executive Officer  |
| CPP                      | City of Perth Parking  |
| ELG                      | Executive Leadership Group   |
| SCP                      | Strategic Community Plan   |
| the Administration       | the part of the organisation City under the CEO                                      |
| the City                 | the City of Perth  |
| the Council              | the part of the organisation City that consists of elected members                   |
| the in-scope legislation | the most relevant and significant legislation as specified in the Terms of Reference |
| the organisation         | a synonym for the Administration   |

## Limitations of our work

### General Use Restriction

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Because of the inherent limitations of any internal control structure, it is possible that errors or irregularities may occur and not be detected. The matters raised in this report are only those which came to our attention during the course of performing our procedures and are not necessarily a comprehensive statement of all the weaknesses that exist or improvements that might be made.

Our work is performed on a sample basis; we cannot, in practice, examine every activity and procedure, nor can we be a substitute for management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities, including fraud.

Any projection of the evaluation of the control procedures to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

Recommendations and suggestions for improvement should be assessed by management for their full commercial impact before they are implemented.

We believe that the statements made in this report are accurate, but no warranty of completeness, accuracy, or reliability is given in relation to the statements and representations made by, and the information and documentation provided by City of Perth personnel. We have not attempted to verify these sources independently unless otherwise noted within the report.

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# 1 Executive summary

## 1.1 Purpose

The City of Perth (**the City**) has made a commitment to lead the Western Australian local government sector in the areas of governance, risk management, transparency and culture.

The independent Organisational Capability and Compliance Assessment (the **Assessment**) was commissioned to:

1. Build on the City's progress in reforming its governance and transparency
2. Provide a baseline for the City's performance in these areas
3. Identify opportunities across the City for further improvement.

Following consultation with the City to define the target outcomes of work, the Assessment was structured around three key focus areas: Legislative Compliance; Rigour and Transparency; and Capability and Value. The Assessment focused on providing a baseline of the City's performance in these areas, and was not designed as an audit.

By its nature, this report is a critical assessment of the City's operations. It focuses on identifying opportunities for improvement, in support of the City's goal to be a leader in the sector.

The findings are summarised below. A full explanation of the observations leading to each finding, as well as why it is important to the City, can be found in the main report.

## 1.2 Legislative compliance

The Legislative Compliance focus area reviewed the legislative compliance of the services currently delivered by the City.

Summary findings:

| No. | Finding   |
|-----|---|
| 1   | One instance of previously undisclosed non-compliance with in-scope legislation was identified. City of Perth Parking does not have a business plan, which is required under the Local Government Act 1995 for major trading undertakings.  |
| 2   | The majority of the City's services are discretionary in nature and not prescribed by legislation. Discretionary services are subject to the City's interpretation of the objects of legislation, which gives the City the ability to adjust scope and service levels to maintain a sustainable financial position. |
| 3   | The high degree of interpretation required means the City must rely on strategy and policy to guide decision making, however the City's current strategy and policy frameworks are insufficient in their current form.  |

### 1.3 Rigour and transparency

The Rigour and Transparency focus area sought to assess the rigour and transparency in the City's decision making, controls and risk management.

Summary findings:

| No. | Finding  |
|-----|--|
| 4   | Decision making processes vary across directorates, and are unclear to many internal stakeholders. Lack of clarity leads to excessive escalation and inefficient decision making.  |
| 5   | Certain corporate business controls are weak, leading to increased reliance on manual effort to maintain compliance and manage risk.   |
| 6   | Management reporting is inconsistent and does not provide the executive leadership with the information required to make effective decisions.  |
| 7   | Aspects of governance and risk are being improved through the development and rollout of new tools and frameworks.   |
| 8   | Compliance risks remain, particularly in the context of an unprecedented number of changes in the workforce. Awareness of compliance requirements is constrained by insufficient on-boarding, training and policy and procedure documentation. |

### 1.4 Capability and value

The Capability and Value focus area investigated whether the City has the right capabilities to deliver best value for its stakeholders.

Summary findings:

| No. | Finding  |
|-----|--|
| 9   | There is no clear alignment between organisational strategy and business unit strategies. Misalignment leads to conflicting priorities between business units.                           |
| 10  | The organisation is managing to overall budget, not to business outcomes. Prioritisation and decision making is not informed by consistent measures of value and performance.            |
| 11  | The City is limited in its ability to make informed decisions on workforce management. A complex position structure is limiting standardisation of roles and payroll classifications.    |
| 12  | New roles and responsibilities are not well understood across the organisation, particularly for processes that are executed across multiple business units.                             |
| 13  | Business processes are at varying stages of redesign and levels of maturity. Processes that involve multiple business units are not well defined, impacting efficiency and transparency. |
| 14  | Procurement spend could be optimised through improved sourcing, consolidation and contract compliance.   |

### 1.5 Transformational change

Further to the three focus areas described above, the assessment identified a fourth overarching issue impacting the City's compliance and capability into the future: the recent organisation restructure has initiated transformational changes in how the City operates, however some issues threaten the success of this change.

Summary findings:

| No. | Finding   |
|-----|---|
| 15  | While the restructure is nearing completion, other important elements of successful change have not yet been addressed, representing a major risk in terms of performance, culture and retention. |
| 16  | The ELG is insufficiently aligned to support successful transformation. While there is natural tension between competing priorities, unified sponsorship is required to manage the change.        |
| 17  | The ELG's capacity to shape and lead the change is constrained by a high proportion of time devoted to operational matters.   |

### 1.6 Recommendations

The organisation must now complete the transformation that began with the restructure. The next phase of the transformation should be sequenced so that critical questions of legislative framework, strategy and business model are addressed first. This approach will help to prioritise and align the City's various inflight and planned improvement initiatives to the strategic direction.

High level recommendations:

| No. | Recommendation   |
|-----|--|
| 1   | Clarify the City's Legislative Framework and Corporate Governance Framework to improve transparency in how legislative obligations and objectives are interpreted and applied. |
| 2   | Complete the development of a clear organisational strategy that makes explicit strategic choices on the City's priorities and how it balances competing expectations.         |
| 3   | Based on a clear organisational strategy, make deliberate choices about the organisation's future business model.  |
| 4   | Strengthen the City's operating model design, aligning in-flight and planned work towards a common and consistent target state.  |
| 5   | Align the leadership in support of the transformational change, supported by centralised program management and organisational change management.                              |

## 2 Context

### 2.1 The scope of local government services has broadened over time

The City provides services to its residents, ratepayers and visitors that are much broader than the traditional functions of local government. Consistent with other councils, the scope of these services have broadened over time.

According to the Commonwealth Grants Commission (2001), local government's functions have increased due to the following five factors:

1. *Devolution*: where another sphere of government gives local government responsibility for new functions
2. *Raising the bar*: where another sphere of government, through legislative or other changes, increases the complexity of or standard at which a local government service must be provided
3. *Cost shifting*: where there were two types of behaviour. The first is where local government agrees to provide a service on behalf of another sphere of government but funding is subsequently reduced or stopped, and local government is unable to withdraw because of community demand for the service. The second is where, for whatever reason, another sphere of government ceases to provide a service and local government steps in
4. *Increased community expectations*: where the community demands improvements in existing local government services
5. *Policy choice*: where individual local governments choose to expand their service provision.<sup>1</sup>

Further, local governments are not prevented from providing the same services that the State provides. Section 3.2 of the Local Government Act 1995 (the **1995 Act**) states: "The scope of the general function of a local government in relation to its district is not limited by reason only that the Government of the State performs or may perform functions of a like nature".

While there are a number of agreements between State and local government that affect service provision, there is often very little clarity around the funding arrangements for the provision of these services. Consequently, funding has not always kept pace with changes in demand and costs. The House of Representatives Standing Committee on Economics, Finance and Public Administration (2003) found that the "growth in local government's functions has far outstripped its financial capacity to discharge all those functions adequately."<sup>2</sup>

<sup>1</sup> Commonwealth Grants Commission, Review of the Operation of the Local Government (Financial Assistance) Act 1995, June 2001, pp. 52-3.

<sup>2</sup> House of Representatives Standing Committee on Economics, Finance and Public Administration, Inquiry into Local Government and Cost Shifting, February 2003, p. 10.

## 2.2 New legislation reflects the City's unique position as a capital city

City of Perth's role has also been broadened by The City of Perth Act 2016 (the **2016 Act**). The 2016 Act sought to lay down a legislative framework for the City recognising that it should play a unique role as the local government of the capital city of Western Australia.

The 2016 Act identifies its range of stakeholders including ratepayers, businesses, visitors and tourists, and paints a broad canvas of aspirational goals for the City and its stakeholders. However, it neither prescribes what activities should be undertaken nor how those activities should be undertaken.

The City is still subject to the 1995 Act, to the Department of Local Government and Communities and to the Minister for Local Government, as well as over 400 other identified pieces of relevant legislation.

## 2.3 Increased pressure on the City's capacity to deliver

The City's rate of revenue growth is not keeping pace with operating costs, placing the City's operating surplus under pressure that has not been previously experienced.

Instead of the traditional reliance on rates as the predominant source of revenue, the City has historically enjoyed a significant secondary revenue stream from on- and off-street parking. Over the period 2013/14 to 2016/17 (budget), revenue from parking has increased by \$5.2 million at a compound annual growth rate of 2.4%. Over the same period, expenditure assigned to parking bay licence fees, levied by the Department of Transport to all parking bays in the Perth Parking Management Area, has increased by \$6.4 million at a compound annual growth rate of 16.4%. The Parking Levy cost represented 15.5% of CPP's revenue in 2013/14, which has increased to 22.7% in 2016/17 (budget).

Since 2013/14, revenue growth has not kept pace with expenditure growth. During this period, the City's total revenue has increased at a compound annual growth rate of 4.0%, whilst total expenditure has increased at a compound annual growth rate of 6.6%. Other than the impact of the Parking Levy increase, part of this expenditure increase can be attributed to the organisational restructure, which occurred in April 2015. Compounding costs in the delivery of key services has placed the City's operating surplus under pressure that has not been previously experienced, as outlined in Figure 1 below.

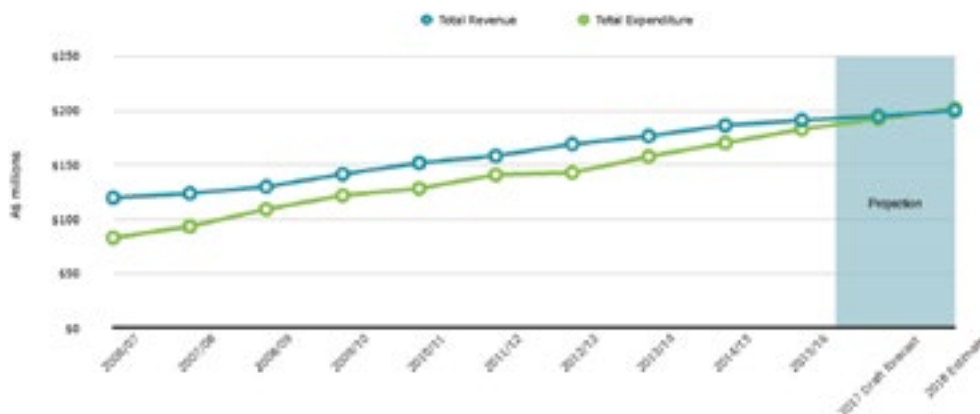


Figure 1: Total revenue versus total expenditure. (Source: City of Perth Long term financial analysis – Draft (Feb 2017))

In the context of a broadening role and increasing financial pressure, the City is left with the challenge of appropriately interpreting and implementing legislation, while balancing the competing interests of its various stakeholders in a financially sustainable manner.

## 3 Purpose and scope

### 3.1 Why did the City initiate the assessment?

The City recognises the importance of good governance and maintaining the highest levels of transparency in its operations, to protect and enhance its reputation as the capital city of Western Australia. The City has made a commitment to lead the Western Australian local government sector in the areas of governance, risk management, transparency and culture.

Since January 2016, the City has initiated and implemented a number of transparency measures and intends to build on these to better serve its residents, ratepayers and visitors. In order to demonstrate that it is meeting its respective obligations under State and Commonwealth legislation, the City must be in a position to understand its compliance with legislation and the effectiveness of its operations. Through a heightened level of rigour and transparency, the City intends to demonstrate that it is providing quality public services at competitive cost and optimum efficiency.

The independent Organisational Capability and Compliance Assessment was commissioned to:

1. Build on the City's progress in reforming its governance and transparency
2. Provide a baseline for the City's performance in these areas
3. Identify opportunities across the City for further improvement.

### 3.2 What did the assessment examine?

A Terms of Reference document was developed by the City to define the background, objectives and purpose of the Assessment. This was approved by Council on 21st March 2017.

The Terms of Reference outlined three key focus areas: Legislative Compliance; Rigour and Transparency; and Capability and Value around which the assessment was structured. Within each of these focus areas, the assessment sought to answer the following questions as outlined in Figure 2.



Figure 2: Focus area questions and scope. Source: Terms of Reference Assessment Terms of Reference

The Assessment focused on providing a baseline of the City's performance in these areas and was not designed as an audit.

### 3.3 Scope limitations

The Deloitte Governance Framework, Figure 3 below, defines the elements required for effective corporate governance. This figure is used to illustrate a number of scope limitations, described below.

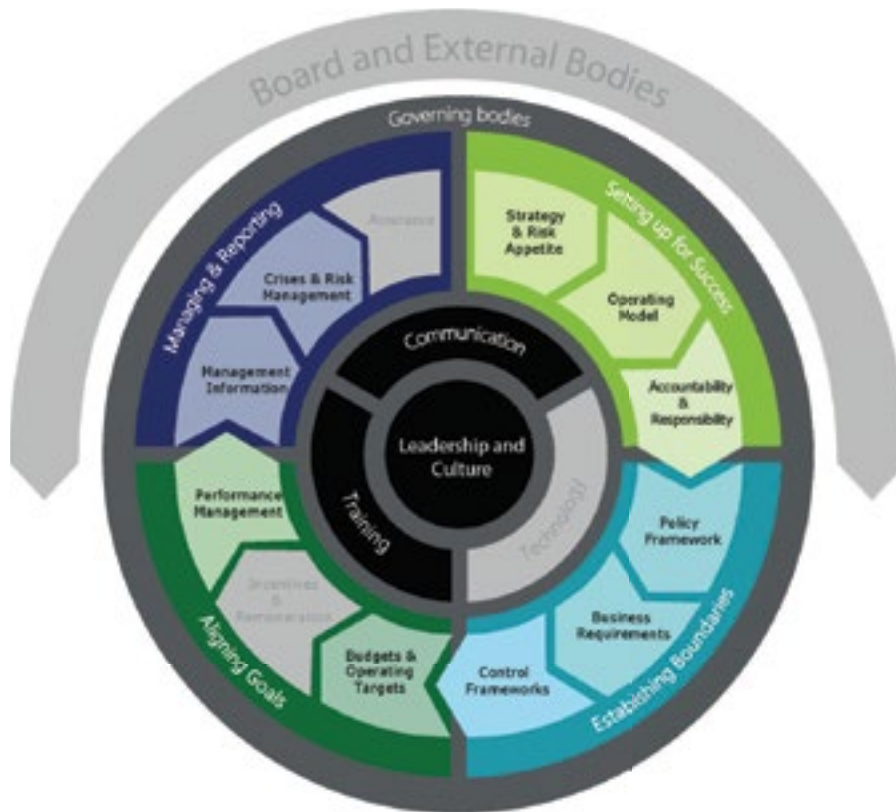


Figure 3: The Deloitte Governance Framework (Source: Deloitte)

The assessment focused on the City's governance and functions under the CEO (the **Administration**). With reference to Figure 3, the scope excluded:

- **Board:** The City's Council (the **Council**)
- **External Bodies:** Regulatory bodies relevant to the City, such as the Department for Local Government.

The assessment excluded three other elements:

- **Technology:** The City has recently completed a strategic review of its technology landscape, so the Assessment was instructed to avoid duplication of this work.
  - **Incentives & Remuneration:** The Assessment was focused on organisational capability maturity. It excluded assessment of the capability and performance of individuals and how incentives and remuneration are linked to governance outcomes.
  - **Assurance:** The scope excluded audit services, as the Assessment did not seek to replicate existing assurance processes. The Assessment reviewed whether the scope of the City's services are compliant with its legislative obligations, but did not seek to review all elements of legislative compliance.
- Finally, the Assessment cannot be construed as legal advice – the City is advised to seek legal advice if it wishes to test the assessment's findings further.

## 4 Approach

### 4.1 How was the assessment structured?

The Assessment was structured into six work packages. Three work packages were an organisation-wide assessment:

- Legislative compliance assessment
- Organisational capability maturity assessment
- Spend analytics.

These work packages were supplemented with more detailed diagnostic assessments in relevant areas:

- Governance
- Finance
- Procurement.

Figure 4 outlines how the work packages contributed to the three focus areas of the Assessment.

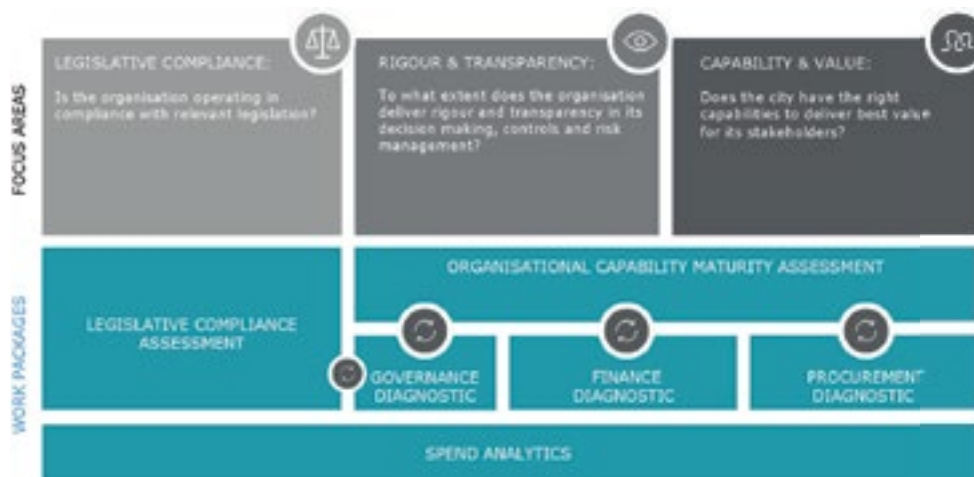


Figure 4: The work packages undertaken to complete the Organisational Capability and Compliance Assessment

## 4.2 How were the work packages delivered?

The key activities undertaken to deliver the assessment are outlined in Figure 5 below:

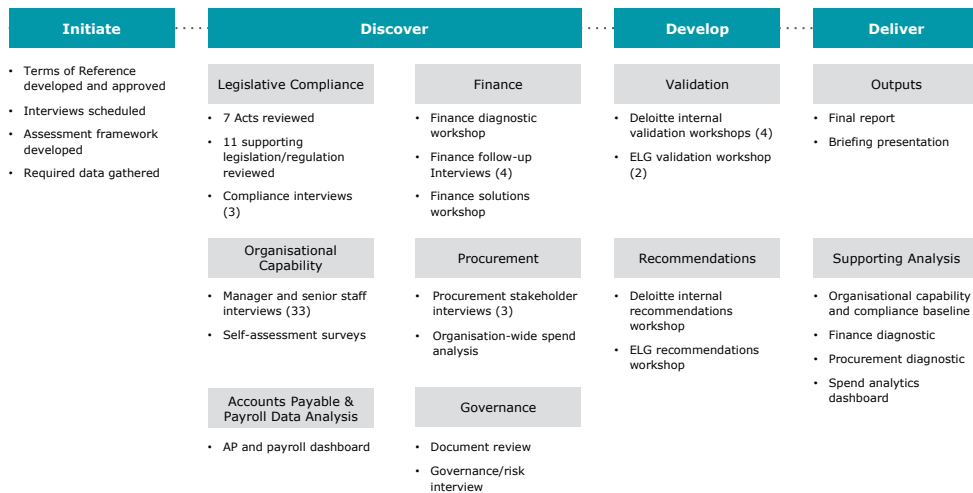


Figure 5: Assessment activities

The work packages were delivered using a range of methodologies and approaches, as outlined below.

### Legislative compliance assessment

The Assessment sought to determine what services the City must and must not provide from a legislative perspective, relative to what services the City actually provides. Legislative compliance was assessed against a selection of the most relevant and significant legislation, listed below in Table 1:

| In-scope legislation                | Additional legislation considered                            |
|-------------------------------------|--|
| City of Perth Act (2016)            | Environmental Protection Act (1986)                          |
| Local Government Act (1995)         | Building Act (2011)  |
| Planning and Development Act (2005) | Waste Resources and Recovery Act (2007)                      |
| Perth Parking Management Act (1999) | Food Act (2008)  |
| Health Act (1911)                   | Perth Parking Management Regulations (1999)                  |
| Local Government Regulations        | Building Regulations (2012)                                  |
|                                     | Local Government Regulations (1996)                          |
|                                     | Litter Act (1979)  |
|                                     | Food Regulations (2009)                                      |
|                                     | City Planning Scheme (2015)                                  |
|                                     | Other local laws, such as the Perth Parking Local Law (2016) |

Table 1: Legislation and regulation reviewed in this Assessment

See Appendix 1 for a list of all documents reviewed.

The City's legislative compliance obligations were ascertained by identifying and mapping key obligations against the City's policies and services. For example, where the City is legislatively required to perform a particular service, such as building control as mandated in the Building Regulations Act (2012), the City's relevant policies and services were assessed against that legislation. A gap analysis was then undertaken to ascertain any areas of non-compliance. The analysis was validated through a number of follow up interviews with relevant internal stakeholders as detailed in Figure 5 above.

This work produced a list of the City's services, and identified those that are mandated by legislation versus those that are discretionary.

### **Organisational capability maturity assessment**

The purpose of this work was to determine the capability maturity of each of the City's functions focusing on four dimensions:

- Strategy
- People and organisation
- Process
- Governance.

A standardised five point maturity rating scale was used, measuring the extent to which capabilities are defined, measured and managed across each of these dimensions.

The assessment captured evidence through manager self-assessment questionnaires and structured interviews, based on Deloitte's Organisational Assessment Framework. The results were validated by comparing the self-assessed ratings with the documentary evidence. Where the documentary evidence could not substantiate a self-assessed rating, the rating was adjusted.

### **Finance diagnostic**

The City's core Finance processes were assessed using feedback gathered through interviews of Finance's 'customers', inputs from two workshops, follow up interviews and a review of finance documentation including management reports and the chart of accounts.

This diagnostic defined the level of capability maturity in the City's Finance function, and an improvement initiatives roadmap outlining recommendations to bridge the current capability gaps.

### **Procurement diagnostic**

The Procurement Diagnostic incorporated a procurement maturity assessment and a spend opportunity assessment. To determine the maturity of the procurement function, interviews were conducted with staff involved in contracting and procurement from across the organisation. The existing procurement process was documented based on these interviews, along with pain points and issues. A gap analysis compared the existing process to leading practices as defined by Deloitte's standard procurement process definition.

The spend opportunity assessment analysed the City's procurement data and applied Deloitte's benchmark savings per spend category, which represent the savings typically realised from addressing the gaps identified. This analysis informed a high level estimate of the savings opportunity related to improvements in procurement practices.

### **Governance diagnostic**

Governance effectiveness was assessed using data gathered from workshops and manager interviews, discussions with governance stakeholders, and review of relevant documentation. The review conducted a gap analysis between leading practice as defined by Deloitte's Governance Framework and the current state.

### **Spend analytics**

The Spend analytics work package analysed the City's accounts payable and payroll data. The data was consolidated and mapped to create an interactive dashboard. This dashboard was

used as a source of reference for the Assessment, to guide prioritisation and focus of activities, and to inform the analysis of payroll and procurement processes.

A standard suite of Deloitte tests were also applied to the accounts payable and payroll data to identify potential evidence of weak controls and poor practice.

## 5 Legislative Compliance

### 5.1 Introduction

This focus area sought to determine whether the organisation's services are delivered in compliance with relevant legislation.

### 5.2 The legislative environment

#### Legislative compliance is complex and multilayered

As the City operates within a number of legislative, regulatory and commercial environments, it faces a broad range of compliance obligations. Some of these obligations are consistent across the local government sector, such as the provision of waste services, while others are specific to the City, such as biannual meetings of the City of Perth Committee, given its status as a capital city.

The City's legislation and associated regulations cascade under a legislative hierarchy. Within this hierarchy, there are the head acts, namely the 2016 Act and the 1995 Act, which provide the framework within which other forms of legislation are able to come into effect. Underneath the head acts, there are over 400 pieces of lower level legislation and regulation that have varying applicability and degrees of prescription to service delivery or provision.

Table 2 below provides an overview of the legislative hierarchy and documents reviewed for the purposes of the Assessment.

| Legislative Hierarchy        | What this means  | Legislation Examined  |
|------------------------------|--|---|
| Head acts                    | Legislation that defines the existence, functions and significance of the City | City of Perth Act (2016)<br>Local Government Act (1995)   |
| Enabling legislation         | Legislation that provides wide ranging powers to carry out functions           | Perth Parking Management Act (1999)<br>Planning & Development Act (2005)<br>Health Act (1911)<br>Environmental Protection Act (1986)                              |
| Service enabling legislation | Legislation that prescribes responsibility for particular services to the City | Building Act (2011)<br>Waste Resource and Recovery Act (2007)<br>Food Act (2008)  |
| Service defining legislation | Legislation that defines the services the City may perform                     | Perth Parking Management Regulations (1999)<br>Building Regulations (2012)<br>Local Government Regulations (1996)<br>Litter Act (1979)<br>Food Regulations (2009) |

| Legislative Hierarchy    | What this means  | Legislation Examined |
|--------------------------|--|----------------------|
| Operational requirements | Local laws, policies and schemes that define service provision and enforcement | (None reviewed)      |

Table 2: Legislative Hierarchy

### Head acts are non-prescriptive

The head acts are not prescriptive about the services and the extent of services to be delivered. Instead, these head acts give local governments wide ranging powers to carry out almost all functions.

For example, the 2016 Act states that the first objective of the City is “to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors”. Similarly, the 1995 Act states that the general function of local government in Western Australia is to “provide for the good government of persons in its district.”

### Enabling legislation and service enabling legislation can define what the City must and must not do

Only upon review of lower levels of the hierarchy does it become apparent what services the City must provide. Taking waste management as an example, the Waste Avoidance and Resource Recovery Act (2007) requires a local government to provide a waste service for the purpose of protecting human health or the environment. Local governments are required to comply with this obligation because of their responsibilities under the Environmental Protection Act (1986).

Other examples include the legislative requirement for the City to perform swimming pool and health inspections, which are prescribed in the Building Regulations Act (2012) and the Food Regulations Act (2009), respectively. The Building Regulations (2012) outline a local government’s responsibility to administer the State’s building regulations in accordance with the Building Code of Australia, relevant town planning requirements and local building laws.

However, the method by which such services are provided is sometimes up to the local government to decide. The City of Joondalup, for example, has chosen to substantially outsource its waste management service to a private contractor, whereas the City of Perth utilises a largely in-house workforce, supplemented by contractors and casual employees.

## 5.3 Findings

The legislative compliance assessment makes four key findings in relation to the City’s compliance obligations, the services it performs and how decisions (in relation to service provision) are made.

**Finding 1:** One instance of previously undisclosed non-compliance with in-scope legislation was identified

### Observations

Through a review of the in-scope legislation, as well as those mechanisms the City has in place to enable compliance, one instance of non-compliance was identified in relation to the failure to prepare a business plan for the City’s major trading undertaking. No further evidence of non-compliance with in-scope legislation was identified.

A review of the in-scope legislation revealed the minimum service requirements with which the City must comply. Examples of these requirements are summarised below:

- The 2016 Act and the 1995 Act are administrative in nature and give the City wide ranging powers to carry out almost any function
- The Health Act (1911) allocates responsibility to the City for the construction and maintenance of all drainage within its district
- The Perth Parking Management Act (1999) requires the City to apply for and pay an annual licence fee for parking bays within the Perth Parking Management Area
- The Planning and Development Act (2005) mandates that all land that the City is responsible for be subject to the City's Planning Scheme, which provides for the creation of precinct plans, planning policies and guidance around decision making.

Each year, every local government in Western Australia must complete a Compliance Audit Return (the Return) that is submitted to the Department of Local Government and Communities. The Return asks a local government representative to answer a number of questions pertaining to the City's administration and operations, relative to legislative obligations. In 2015/16, the City self-disclosed 26 instances of non-compliance through its Return. For example, the City identified five occasions where procurement values exceeded or were about to exceed the tender threshold. Other areas of non-compliance reported by the City related to employee and Elected Member disclosure of interest and the disposal of property.

The first section of the 2015/16 Return considers Commercial Enterprises by Local Governments, including major trading undertakings. Major trading undertakings are defined in section 3.59 of the 1995 Act and Part 3 (9)(10) of Local Government (Functions and General) Regulations, where it is stipulated that any major trading undertaking must be supported by a business plan.

In its 2015/16 Return, the City responded that there were no major trading undertakings in 2016. The City of Perth Parking (CPP), however, can be considered a major trading undertaking under the definitions of legislation. The City had previously considered that the requirements under these pieces of legislation would not apply to CPP, as CPP began operating as a major undertaking prior to the Act's introduction in 1995/96.

During the course of this assessment, the City found that there was a transitional provision clause, which stipulated that if a business were to continue as a major trading undertaking it could be done without a business plan for two years (if the business were to cease before the completion of the two years) or one year if the operation were to continue. The City has never had a specific business plan in place for CPP, which means that City has been in breach of this provision since 1997. The City's staff are intending to address this compliance issue via the development of a CPP business plan.

#### **Why is this finding important?**

Maintaining a high degree of compliance demonstrates that the City is obeying laws and regulations in both its administration and operations. An ability to demonstrate compliance provides the Council, ELG, management, ratepayers and broader stakeholders with a degree of confidence that the City is doing what it should in an accountable and transparent manner.

**Finding 2:** The majority of the City's services are discretionary in nature and not prescribed by legislation

### Observations

The City delivers 77 different services, represented in Figure 6 below. The legislative compliance assessment identified that 16 of these services are mandated as service requirements under relevant legislation (inner ring). Some services are able to be delegated by the State Government under legislation, such as affordable housing and pollution control (middle ring). Over time, the City's Council has chosen to provide other civic services beyond the mandated local government functions (outer ring).

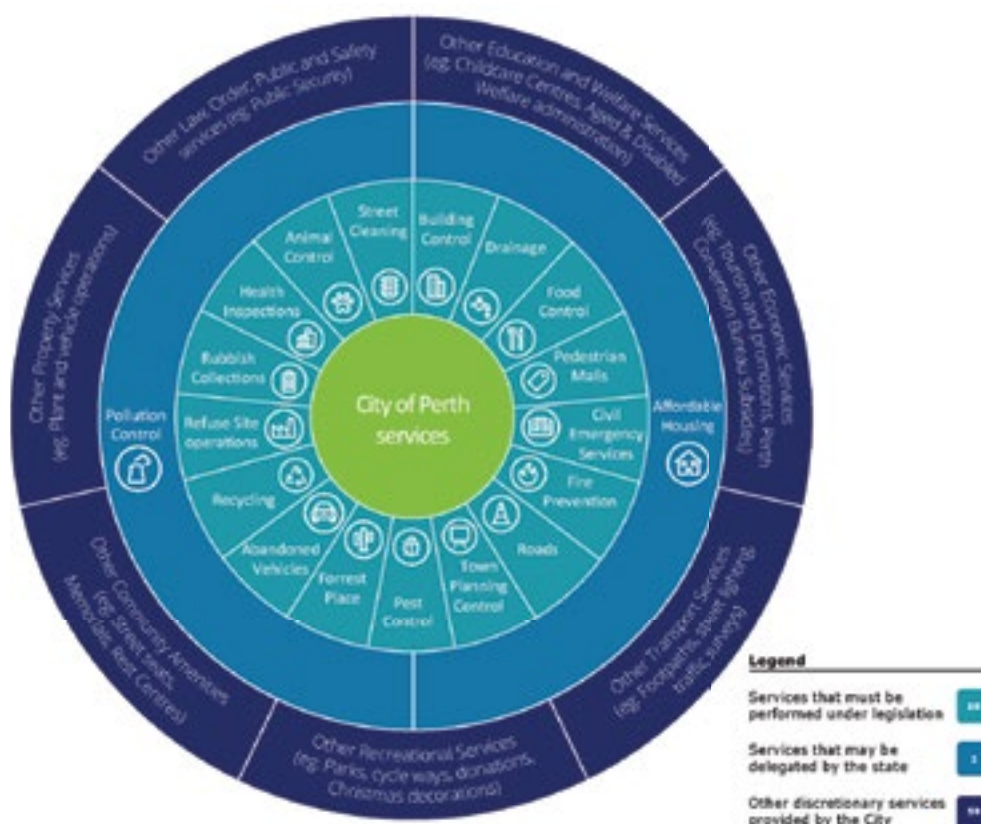


Figure 6: Services delivered by the City

It appears that a number of such discretionary services are provided on the basis of community demand. Further, the City is providing some services to a much wider group of service users than City residents and ratepayers. Social functions, such as management of homelessness, alcohol and drug problems, Skyworks, community safety and affordable housing are beyond the traditional scope of local government services. However the rationale, assumptions and benefits to ratepayers and stakeholders that underpin these services are not well documented, nor uniformly understood across the organisation.

The City does not have consistently and formally defined business requirements for its services; and where there are legislative obligations, these are not always reflected in policy and procedures. For example, the City's requirement to undertake inspections of food

premises, owing to its responsibility under the Food Regulations Act (2009), is referenced in the City's procedures, however, it is not reflected in a relevant policy. While there is no requirement for this legislative obligation to be reflected in policy, having a written Inspections of Food Premises policy in place would help clarify the City's position, whilst providing decision making requirements and guidelines on service provision.

#### Why is this finding important?

The City has an opportunity to enhance its governance framework by capturing legislative obligations under clearly defined service requirements. This view may take the form of a compliance management system or a regulatory compliance framework that defines the hierarchy of legislation, the City's resulting obligations and permissions, and its abilities to make choices on which services it will provide, including the extent of those services. By integrating legislative obligations with service requirements, the City will have a stronger foundation for making decisions on the services it provides, relative to its legislative obligations, financial capacity and organisational objectives.

Without a legal, social, economic and financial understanding of the implications associated with the provision of these services, the organisation is unable to quantify the funding and resources required to determine the sustainability of the service, and cannot inform decisions on service levels and trade-offs.

In current conditions, the City is managing its financial position with high scrutiny. The scope, service levels and level of subsidy of discretionary services are important levers in managing a sustainable operating surplus position for the City. Further, as State and Commonwealth governments pursue greater levels of fiscal austerity, it may be necessary for the City to undertake a business case to determine whether it is economically and socially feasible to take on additional services vacated by other spheres of government.

**Finding 3:** The high degree of interpretation required means the City must rely on strategy and policy to guide decision making, however the City's current strategy and policy frameworks are insufficient in their current form

#### Observations

With legislation prescribing only a subset of the City's services, it is up to the City's strategy and policy setting to direct the scope and extent of the services it delivers.

The organisation-wide strategy document for the City is the Strategic Community Plan (**SCP**). The SCP is published by the City every four years as a community facing strategy document that performs an important role in capturing the needs and priorities of the City. Underneath the SCP is the Corporate Business Plan (**CBP**), which defines the detailed implementation plan for services, key projects and capital investments over the next four years.

Previously, a decision was taken to exclude business-as-usual activities from these documents. Consequently, there are no priorities or targets set for business units such as Library Services and CPP. While this helps to focus the documents on the significant changes to the organisation, it has resulted in some of the City's business units being unable to rely on the SCP and CBP as the framework for detailed definition of their own services, priorities and operational targets, and demonstrating the contribution of these services to overall strategy.

While strategy should help inform discretionary choices and priorities, policies should define the mandatory business rules that business units must follow. There is a significant policy framework in place for the organisation, however as outlined below, the assessment identified some deficiencies in how the policies are risk rated and reviewed.

The City's Organisational Policy Manual defines a policy as a concise statement of strategic objectives, principles or specific operational activities that give effect to the City's obligations or objectives, minimise risk, guide subsequent decisions and actions and ensure that the community is served in an open, accountable, consistent and sustainable manner. Section 2.7(2)(b) of the 1995 Act states that the Council is to "determine the local government's

policies”, which are designed to provide direction for the ongoing management of City activities.

There are two policy categories at the City: firstly, a Council Policy, which is a policy required by legislation or a policy that governs a matter that affects the community and requires the approval of Council; and secondly, an organisational policy, which is a policy that affects the organisation’s day to day activities and does not require the approval of Council.

The City has developed procedures for both Council and organisational policies. According to these procedural documents, the objectives of the procedures are threefold: firstly, to ensure consistency in the formulation, approval and regular review of policies; secondly, ensure there is alignment between policies and the SCP; and finally, provide the approval mechanisms of the policies<sup>3</sup>. Through these procedures, the City has committed to initiating an annual review of each major policy (due to have commenced in January 2017).

#### Council policies

Since 2015, the City has been in the process of applying a risk-based approach to inform the frequency of the policy review period across Council and organisational policies. The City has initiated a risk-rating for the 109 Council policies, however at the time of our assessment, only 17 have been assigned a risk rating and a review period and a further four have been assigned a review period, but not a risk rating. Table 3, below, demonstrates the relationship risk-rating categories and policy review periods.

| Risk-Rating         |                          |                        |               |     |       |          |        |      |       |
|---------------------|--------------------------|------------------------|---------------|-----|-------|----------|--------|------|-------|
|                     |                          | No risk-rating applied | Insignificant | Low | Minor | Moderate | Medium | High | Total |
| Frequency of Review | No review period applied | 88                     |               |     |       |          |        |      | 88    |
|                     | Annual                   | 1                      |               |     |       |          |        |      | 1     |
|                     | Biennial                 | 2                      |               | 3   |       | 2        | 2      | 1    | 10    |
|                     | Triennial                |                        | 1             | 5   | 1     | 1        | 1      |      | 9     |
|                     | Every 4 years            | 1                      |               |     |       |          |        |      | 1     |
|                     | Total                    | 92                     | 1             | 8   | 1     | 3        | 3      | 1    | 109   |

Table 3: Risk-rating and frequency of review period for Council policies

Further, there appears to be a high degree of variance between risk categories and review periods. For example, a policy rated as “high” risk has the same biennial review period as a policy rated “low” risk. Similarly, a policy rated “medium” risk has the same triennial review period as a policy rated as “insignificant” risk.

In the City’s Risk Management Framework, four categories of risk are defined and applied to the risks captured in the City’s risk register: Low, Medium, High and Extreme. These categories are inconsistent when compared with the risk-rating categories used in the Council Policy Manual. For example, of the City’s 17 rated policies, there are five policies that do not have a risk definition as presented in the Risk Management Framework.

A broader review of the Council Policy Manual shows that 60% of policies are outdated as these have not been reviewed in the last five years. Examples of outdated policies governing

<sup>3</sup> Procedure – Council Policies, City of Perth, 24 October 2016; Procedure – Organisational Policies, City of Perth, 24 October 2016.

service provision include On-street Parking Policy (last reviewed in 2009), Road Safety Audits Policy (last reviewed in 2010) and Community Consultation Policy (last reviewed in 2002).

*Organisational policies*

The City has ten organisational policies in place, considered to be those which affect the organisation's day to day business and do not require the approval of Council. Four of these policies do not have a risk-rating. Those that are risk-rated, however, apply the same defined risk categories that are presented in the City's Risk Management Framework.

Six of the ten organisational policies have not been reviewed in line with the intended review dates.

**Why is this finding important?**

Without clarity in the City's strategic choices and business rules, it is difficult for the City to demonstrate transparency and strategic alignment in its decision making and resource allocation. Such a demonstration is particularly important in the absence of prescriptive legislative obligations.

While there is a substantial policy framework in place, clearer alignment with the legislative obligations that do exist, combined with an improved regime of risk rating and review, will help to maintain and demonstrate the currency and completeness of the City's policies.

## 6 Rigour and Transparency

### 6.1 Introduction

The second focus area sought to determine the extent to which the Administration delivers rigour and transparency in its decision making, controls and risk management.

### 6.2 The governance environment

#### Why is good governance important?

The Governance Institute of Australia states that ultimately, good governance is important "to ensure value is delivered to the community for the rates and other charges it pays and which form the foundation for sustainability in the future". Good governance provides the foundation for rigour and transparency in the City's decision making, controls and risk management.

#### How is good governance achieved?

The 1995 Act does not specify how good governance should be achieved, and it is up to local governments to interpret and apply governance practices for both Council and the administration. There are various sources for guidelines on effective governance. The Victorian Good Governance Advisory Group defines the fundamental components of good governance in local government as enabling:

- **Accountability** – being answerable for the consequences of decisions made
- **Compliance** – demonstrating compliance with relevant legislation and policies
- **Transparency** – clarity and openness in the decision-making process
- **Fairness and equity** – demonstrating that the decision-making process has considered the interests of all relevant members of the community
- **Efficiency and effectiveness** – putting resources to best use.<sup>4</sup>

#### What did the assessment examine?

For the purposes of this Assessment, Deloitte's Governance Framework was used to assess the City's governance. The framework, as depicted in Figure 7 below, is split into five distinct sections:

- **Governing bodies** – setting the tone of the organisation and level of oversight for critical activities
- **Setting up for success** – establishing the organisation's strategic plan and risk appetite, operating model and accountabilities/responsibilities
- **Establishing boundaries** – assessing the level of policy/regulatory requirements and establishing policy and control frameworks
- **Aligning goals** – aligning budgeting and planning, performance management and reward to the organisation's strategic plan
- **Managing & reporting** – assessing usefulness of management information, level of risk management and clarity of board assurance to assist with decision making.

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<sup>4</sup> Victorian Good Governance Advisory Group, *Good Governance Guide*, 2012.



Figure 7: Deloitte Governance Framework (Source: Deloitte)

### 6.3 Findings

The Organisational Capability Maturity Assessment identified five priority findings in relation to the City's rigour and transparency.

**Finding 4:** Decision making processes vary across directorates, and are unclear to many internal stakeholders

#### Observations

Each directorate and business unit has its own decision-making groups with varying meeting cadence, informal schemes of delegation and escalation triggers.

While the City has a documented scheme of delegation, the Assessment did not find evidence of formally defined, clearly communicated terms of reference for each internal decision-making group, nor were there consistently defined processes for decision making.

Decision making was reported to be more effective within directorates, however where decision making crossed organisational boundaries, interviewees reported a number of challenges such as:

- Delays and inefficiencies in resolving decisions, including a high degree of escalation to ELG to resolve decisions
- Lack of awareness of meeting forums, their intent and authority to make decisions
- Challenges with scheduling and availability of interested parties given the large number of internal stakeholders
- Relevant stakeholders not being consulted early enough in a process

- Increasing instances of managers only including a subset of relevant stakeholders in the decision-making process.

#### **Why is this important?**

In the absence of defined decision making rights and processes, the organisation suffers unnecessary friction, delays and escalations. Formalising decision rights in role descriptions and terms of reference will help to improve the rigour, transparency and efficiency of decision making, while reducing the unnecessary operational burden on the ELG.

#### **Finding 5: Certain corporate business controls are weak**

#### **Observations**

Review of compliance documentation and interviews confirmed that internal controls are defined and measured across the organisation. However, the effectiveness of some controls appears to be weak as outlined below.

##### *Organisational policy and procedure*

Finding 3 (above) identified that while the City has an established policy framework, the majority have not been reviewed in the last five years. Some managers also reported issues with policies being inconsistent, and in some cases, conflicting. Without structured, consistent and comprehensive organisational policies, some managers reported that they are, at times, selectively compliant with policies, where they consider that the policy lacks relevance. Determination of relevance is a subjective process that varies between managers. For example, a manager reported that their team uses a number of workarounds to get things done where current policies and procedures are restricting their ability to react to community and stakeholder needs.

##### *Information systems*

The City's information management systems are not seen as enabling effective and automated controls. Managers reported issues including:

- Limited workflow and automation leading to heavily manual processes
- Semi-automated processes which could be redesigned to be fully automated
- Transfer of data between systems requires manual extraction of data from source systems into spreadsheets, manipulation and re-entering into receiving systems
- Limited access to operational data which should be shared across business units to increase the visibility of operations.

To address this, there are a number of in-flight IT initiatives planned for delivery between 2017 and 2021, such as replacement of ageing systems and investment in new capabilities.

##### *Supplier spend management*

The City's approach to supplier and contract management is decentralised, with responsibility at the project or business unit level. There are limited controls in place to facilitate compliance with the City's Purchasing Policy (CP 9.7 Purchasing, 2015) and the 1995 Act, which articulates quotation/tender thresholds which apply to the procurement of goods and services.

Interviews suggested that most spend owners have little awareness of suppliers' cumulative spend. While the Contracts and Procurement team generates a monthly Contracts Expenditure Report listing cumulative supplier spend over \$75,000, interviews indicated this report is not consistently reviewed by business units, and does not provide visibility of spend under this threshold nor spend that is not under contract.

##### *Payroll accuracy*

A suite of automated tests were applied on the payroll data as part of the Assessment. This analysis flagged a number of transactions that the City should validate and or further investigate to confirm their accuracy and validity. These preliminary observations may reflect weak controls or data quality issues, or may be valid scenarios that are not self-evident in the data examined.

There are acknowledged issues with the accuracy of payroll and the manual controls put in place to mitigate errors. There is extensive use of handwritten forms in the payroll process, which require manual verification, a time intensive activity.

Payroll errors and near misses have been formally tracked since December 2016. During the period December 2016 to March 2017, 44 errors and near misses, which originate in both business units and payroll, were identified and recorded. These issues are outlined in Table 4 below.

|                                      | Issues generated in business units | Issues generated by payroll | Total     |
|--------------------------------------|------------------------------------|-----------------------------|-----------|
| <b>Number of Payment Errors</b>      | 19                                 | 20                          | 39        |
| <b>Number of Payment Near Misses</b> | 5                                  | 0                           | 5         |
| <b>Total</b>                         | <b>24</b>                          | <b>20</b>                   | <b>44</b> |

Table 4: Summary of issues found in Payroll (Source: City of Perth)

The manual preventative control of having managers individually review and sign off their team's pay at each pay run appears ineffective, with many managers reporting that they were not in a position to vouch for the accuracy of the data.

Non-standard payments, such as overtime, carry the highest risk of error. For example, calculations related to overtime are recorded on employee summary sheets, outside the payroll system. There are no controls to validate the data recorded in the payroll system to ensure that all overtime items are in line with the relevant Enterprise Bargaining Agreement (EBA) and business rules.

In 2015/2016 overtime payments at double time (or greater) accounted for \$1.76 million (77% of total overtime and 2.2% of total payroll). Potentially, this cost could be reduced through consistent interpretation and application of overtime rules across business units as well as more effective workforce management practices to reduce the requirement of employees to undertake overtime hours.

The City is aware of the payroll issues outlined above and there is a planned initiative to address these through replacement of the payroll system as part of a larger Human Resources Information System project.

#### *Invoice approvals*

Finance reported that the proportion of invoices that remain unauthorised at month-end has increased substantially, from a long-term average of around 400 per month, to 900 per month in the last four to five months. Finance attributed this increase to new managers who were not familiar with the accounts payable process and associated deadlines.

Non-compliance with the invoice approval process impacts month-end close timelines as Finance must follow up with authorised approvers, and post month-end accruals where no action is taken. The value of accruals posted as a result of unapproved invoices at month-end is approximately \$1.3 million. Posting month end accruals is time consuming and increases the risk of variance in the City's financial projections.

#### *Accounts payable*

A suite of automated validity tests was applied on the accounts payable data as part of the Assessment. This analysis flagged a number of transactions that the City should further investigate to confirm their accuracy. These may reflect weak controls or data quality issues, or may be valid scenarios that are not self-evident from the data examined.

#### *Lease management*

Management of parking bays is split across CPP and the Properties Business Unit, due to inclusion of parking in lease arrangements. Interviewees identified that there are insufficient controls in place to prevent leases from lapsing, and changes to the parking capacity of leased properties is not consistently identified and applied, impeding the ability to accurately report on the total number of active parking bays.

#### **Why is this finding important?**

Internal controls are critical in the delivery of rigorous and transparent processes. The gaps identified should be addressed to provide improved assurance to the City's management and its stakeholders that the City is operating in a compliant and effective manner.

**Finding 6:** Management reporting is inconsistent and does not provide the executive leadership with the information required to make effective decisions

#### **Observations**

The quality of management information available to directors and managers was consistently reported to be poor, particularly reports provided by the Finance and Human Resources (HR) business units.

#### *Finance reporting*

Many interviewees commented on inconsistency in financial reporting. Directors and managers raised concerns about the scope, format, accuracy and timeliness of regular budget reporting. Several directors also provided examples of management reports that they have developed locally to supplement reporting provided by Finance.

Finance faces challenges in providing consistent and useful reporting, due to the lack of standardised, automated reports, the complex structure of the City's chart of accounts, and the insufficient integration across the City's various information systems.

Interviewees reported widespread support for the Directorate Accountants – a new role created to support each Directorate with financial analysis. However the quality of reporting is impacted by the high degree of manual effort, leading to a lack of confidence in the analysis provided.

#### *Human Resources reporting*

Finance and HR systems are not configured to provide an integrated view of workforce data. Generation of workforce reports is a manual, time consuming process with inputs from a mix of systems-based data and information provided by individual business unit managers.

Furthermore, the ELG reported discrepancies in the data provided in the HR monthly report and indicated they were reluctant to rely on it to make decisions given the inaccurate information.

#### **Why is this finding important?**

Unnecessary effort is spent on compiling data and reconciling differences, rather than using reports to draw insight. The lack of reliable and efficient management reporting impacts the City's ability to maintain oversight of operations and make informed and timely decisions.

**Finding 7:** Aspects of governance and risk are being improved through the development and rollout of new tools and frameworks

#### **Observations**

The Governance business unit supports the City by providing an advisory service in the fields of Risk, Strategy, Corporate Planning and Corporate Governance. The stated purpose of the City's Governance Business Unit is to "establish effective and efficient systems and processes

to ensure compliance, accountability, fairness and transparency to all of its stakeholders” (Governance Business Unit 2016/17 Business Plan).

New compliance tools that the Governance Business Unit has recently developed include:

- Corporate Compliance Calendar: a tool that identifies legislative compliance tasks to be completed by the City on a continuous basis. In time, the calendar is expected to help managers actively manage their compliance tasks
- Compliance Accountability Listing: a tool that is designed to identify legislative requirements (and other instruments) that apply to an individual and/or business unit
- Take Action Notice: through the use of a paralegal, the City identifies legislative changes captured in the Gazette, which is then communicated through to the management team
- Document Control Box: an addition to the City’s Policy template, to provide a consistent record of the policy custodian, any compliance requirements, risk rating and review frequency.

These tools are considered to be consistent with good practice and the City should continue to roll-out and embed them.

The City launched its new Risk Management Framework in early 2017. This framework has been developed and maintained by the Governance Unit to support the City to be more effective in recognising and managing its key risks at both the strategic and operational level. It also serves to further educate managers and staff on the value of effective risk management.

The City recognises that there is more work to be done to implement a truly effective and responsive risk management framework throughout the organisation. Such an approach will better equip the City to make risk-based decisions and to help prevent major incidents. For example, the City needs to develop a consistent approach for escalating and addressing significant risks identified by operational staff, such as asset condition risks and car park customer safety risks.

#### **Why is this finding important?**

Effective corporate governance plays a key role in maintaining rigour and transparency of the City’s operations, and provides reassurance to stakeholders that it is meeting their expectations. The City will benefit from a continued commitment to further develop and embed its corporate governance practices.

**Finding 8:** Compliance risks remain, particularly in the context of an unprecedented number of changes in the workforce

#### **Observations**

The City’s recent organisational restructure has had a number of impacts on the City’s operational environment. The restructure established one new directorate and a number of new and significantly changed business units. This restructure also led to a large change in the City’s workforce with the appointment of 158 new (permanent and fixed term) and departure of 152 employees since April 2015, as illustrated in Figure 8 below.

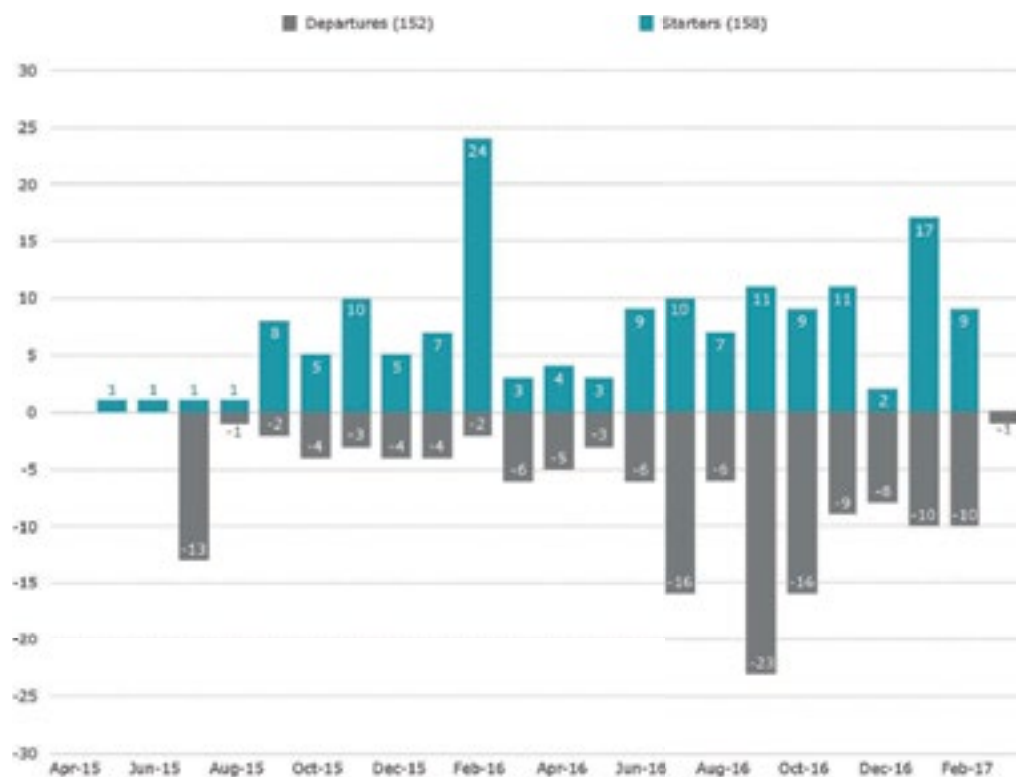


Figure 8: Timeline of starters and departures since April 2015 (Source: City of Perth)

These organisational changes have increased the risk of non-compliance, loss of organisational knowledge with staff leaving and new staff joining the organisation, often from outside of the local government sector.

Interviews identified that the on-boarding program had not proved sufficient in training new staff in compliance. Combined with outdated policy and procedure documentation, this omission has led to a reliance on existing employees to educate new starters about the City's ways of working, such as the navigation and application of legislative obligations, policies and procedures, systems and execution of daily activities.

The ELG voiced concerns about the potential for this organic approach to on-boarding inadvertently reinforcing poor behaviours and causing incorrect execution of tasks through adoption of a 'this is how we have always done it' mindset. The ELG also highlighted the need for existing employees to regularly refresh their knowledge of the City's responsibilities, restrictions and the legislation under which it operates.

#### Why is this finding important?

A concerted effort is required to refresh all staff on the City's policies in order to align ways of working to the obligations as set out in these policies.

## 7 Capability and Value

### 7.1 Introduction

The third focus area set out to determine the extent to which the City has the right capabilities to deliver best value for its stakeholders.

### 7.2 The organisational environment

This focus area set out to assess the organisation's capability maturity, meaning the extent to which its capabilities are defined, measured and managed. The current state of the City's organisation provided important context to the assessment, as summarised below.

#### **Organisation structure is new and stabilising**

The City is in a state of transition, having recently undertaken a significant restructure. Many business units are still embedding the resulting changes to their structures, teams and services, including defining roles, processes and procedures.

#### **Large proportion of managers and employees are new to the City**

158 permanent and fixed term employees have joined the organisation since the announcement of the restructure from various industries, bringing innovative ideas to the City. This change has introduced new diversity of expertise and talent but risks diluting organisational understanding of public service operations, with a number of managers new to local government.

### 7.3 Findings

The Assessment identified six findings regarding the City's capability maturity.

**Finding 9:** There is no clear alignment between organisational strategy and business unit strategies

#### Observations

The City's Integrated Planning and Reporting Framework, outlined in Figure 9, shows the interaction between plans, informing strategies and strategic enablers.



Figure 9: Integrated Planning and Reporting Framework (Source: City of Perth)

Interview feedback from directors and managers, combined with a review of existing plans and enablers, revealed that the SCP and the supporting Corporate Business Plan (CBP) do not effectively capture the organisation's strategy. Three specific issues were identified – absence of business as usual activities, insufficient target setting, and a lack of integration between the various strategy and planning documents. These issues are outlined below.

The Strategic Community Plan (SCP) is the organisation-wide strategy document for the City. The SCP is a community facing strategy document that is refreshed every four years. Its purpose and function is formally defined in Regulation 19C of the Local Government (Administration) Regulations 1996. As the SCP is necessarily an external facing document, it does not fulfil the role of an internal business strategy for the organisation. Specifically, it lacks a clear and complete articulation of the City's strategic choices, priorities and targets.

A decision was previously taken to exclude business as usual activities from the SCP and the CBP. Consequently, the documents do not explicitly define the contribution of all business units to the organisation's strategic priorities, nor define and prioritise specific objectives for each business unit. The Community and Commercial Services Directorate reported the most concern that it cannot align to the SCP. Its business units, including Community Services, Library, Parking Services and Commercial Parking among others, have independently developed strategies to fulfil their operational requirements, but these strategies cannot demonstrate explicit alignment to the SCP.

The majority of business units do not have specific targets included within the SCP or the CBP. Managers consequently tend to see the SCP and CBP as too broad, not directly actionable or irrelevant to their operations.

The integration and linkage between the SCP, CBP and business unit level strategies is not explicitly articulated. In addition, there is insufficient integration between business unit strategies. Managers reported that their business unit strategies and plans have been developed in isolation, with limited or no collaboration with other areas of the organisation. This exacerbates coordination problems for the organisation, as the trade-off between competing business unit priorities is not explicitly resolved. For example, best practice urban design and sustainability can conflict with maximising parking revenue; while innovation in capital works design can clash with standardisation and efficiency of ongoing maintenance.

Consequently, the current suite of strategy and planning documents does not provide the clarity needed for leaders to make business decisions within the organisation.

#### **Why is this finding important?**

In the absence of a clearly defined organisational strategy, the organisation cannot effectively prioritise and manage its portfolio of services and investments. The lack of clarity in the purpose and priorities of the City has led to competing strategic imperatives, and significant effort invested in resolving escalated issues.

**Finding 10:** The organisation is managing to overall budget, not to business outcomes

#### **Observations**

The most common performance metric used by business units in monthly financial reports and project reporting was actual versus budgeted expenditure. However, the City does not have mechanisms in place to measure benefits realisation or return on investment.

Consequently, investment prioritisation and approval decisions are made without a consistent view of projected benefits and how these align to target outcomes. The Economic Development and Activation Directorate reports that there is a current initiative implementing tools for measuring economic and social return on investment, which will be delivered by December 2017.

Commercial Parking and Waste and Cleansing business units have indicated that they manage to a Profit & Loss (P&L) statement. Both business units are able to articulate their break-even point and can clearly communicate the financial benefit delivered for the City. Furthermore, Waste and Cleansing has adopted a strategy to transition from a subsidised to a cost recovery charging model, by growing its commercial waste business.

While a P&L statement may not be the most appropriate tool for all business units, regular monitoring of cost to serve, value and/or quality is expected. Approximately 14 of the business units reported having no metrics or performance indicators in place. Most business units that had metrics stated that they developed their own indicators with limited linkage to corporate strategy and objectives.

#### **Why is this finding important?**

The City has limited, high level metrics to understand business performance and inform decision making. Finer grain measures of costs and outcomes per service or project are increasingly important to optimally manage constrained resources and demonstrate how the City is delivering value.

**Finding 11:** The City is limited in its ability to make informed decisions on workforce management

**Observations**

The Assessment has identified four workforce management gaps: providing an accurate and stable estimate of the organisation's establishment; management reporting on workforce; the structure of the position hierarchy; and development of key performance indicators.

The City of Perth Workforce Plan outlines "the required resources, capabilities and competencies the City requires to deliver against its objectives, as well as to continue to service the community." This plan defines the full time equivalent establishment number (i.e. the approved workforce size) for each directorate, but there is no guidance for managers as to how this data was put together or how they should use it to guide their resourcing decisions. Directors reported that establishment figures for their directorates do not seem stable, which makes operational recruitment decisions difficult without a confident understanding of the approved capacity for their directorate.

Human Resources is currently unable to support business unit managers with timely data to optimise the workforce. The process for reporting workforce information is manual and time intensive, collating data and information from a number of sources. The first of these reports was produced in February 2017 with January data. Issues with the accuracy of the data provided have been identified by the ELG leading to a lack of trust and reducing the likelihood of use to support decision making at a senior level.

For example, eight business unit managers are seeking to hire new talent to fill perceived staffing gaps, without sufficient information to confidently determine if their team is working at full utilisation or on strategically aligned activities. Managers appear unable to accurately assess critical resourcing decisions such as whether it would be in the financial interest of the City to hire additional staff members or if it would provide greater cost benefit to upskill or cross skill current team members to fill capability gaps and improve productivity.

There is no explicit management of a position hierarchy, resulting in a high number of unique positions and payroll classifications. The City's workforce for 2016/17 is approximately 756.5 full time equivalent staff, for which there appear to be 530 unique positions and over 185 payroll classifications. The complex position structure makes it difficult to provide peer to peer comparisons, which are required to inform salary decisions and market analysis. In addition, the complex structure is a barrier to introducing and maintaining role-based IT system controls, a core element of many modern organisational compliance regimes.

The performance framework implemented by HR in 2016 has not been consistently rolled out to all business units across the City and there is not yet a shared understanding of the framework across the manager cohort, making it difficult to fairly benchmark employee performance. In addition, a number of interviewees reported that they have not had a performance review for a number of years.

**Why is this finding important?**

At this critical juncture when the organisation is trying to embed a new structure, lack of timely HR information is inhibiting the City from making informed decisions about resourcing. Without this information, the organisation is more likely to see inefficient use of human capital and associated payroll expenditure.

Without consistent employee performance metrics, there is a limited evidence base to use in measuring the performance and effectiveness of staff in delivering value that is aligned to corporate strategy.

**Finding 12:** New roles and responsibilities are not well understood across the organisation, particularly for processes that are executed across multiple business units

### Observations

The new organisational structure increased directorates from four to five and business units from 20 to 30. Figure 10 below illustrates the level of change experienced by the City as a result of the restructure.

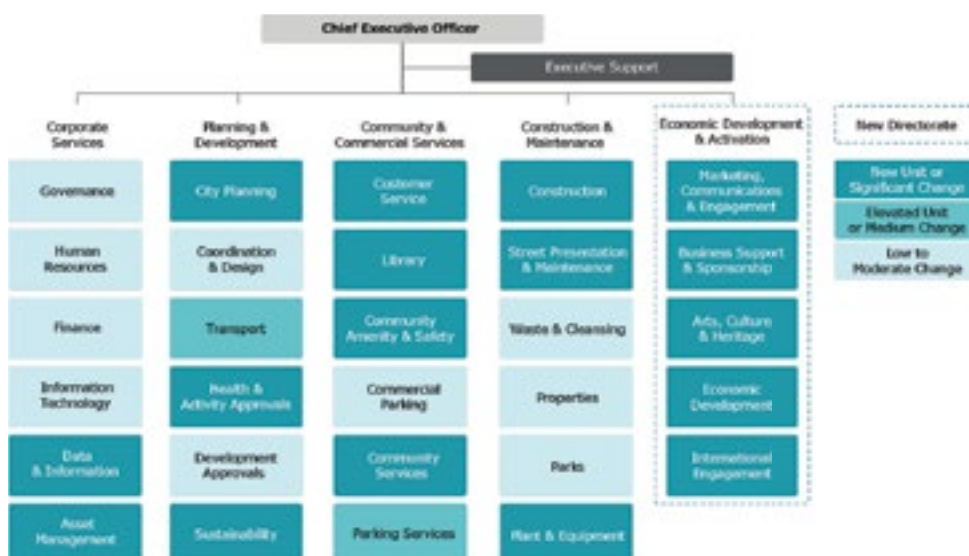


Figure 10: Levels of change since restructure

The restructure was implemented independently within business units, with managers responsible for designing their own structure based on an allocated headcount. The new structure and the approach to its implementation has led to additional complexity, and increased silos between business units and directorates. The new structure requires more consultation and collaboration between business units; however, new roles and their responsibilities are not sufficiently defined nor understood outside of their business units.

Managers have indicated that there is some duplication of roles and responsibilities between business units, potentially increasing complexity and costs, while reducing productivity. For example, analysis of the City's payroll data identified that there are 20 finance-focused roles and 14 procurement-focused roles spread across business units, in addition to the Finance business unit and the directorate accountant business partnering model. While this design may be justifiable, there is no explicit operating model design that defines the rationale and how these roles interact.

Delivery of capital works projects is proving a particular pain point within the new structure. Business units involved across various stages of the project delivery lifecycle reported a significant level of rework of detailed designs. Lack of consultation between the Planning and Design, Construction, Street Presentation & Maintenance and Parks business units has, in some cases, led to unworkable designs. In one significant example, a completed project in a public space needed to be replaced because of materials that were not fit for purpose had been used.

#### Why is this finding important?

The lack of organisation-wide clarity and shared understanding of roles and responsibilities is causing indecisiveness, wasted effort and unconstructive tension between teams. Siloes are deepening due to ineffective team collaboration, which left unchecked may impact staff morale and retention of talent.

#### **Finding 13:** Business processes are at varying stages of redesign and levels of maturity

#### Observations

The Assessment identified that some business units have well documented procedures – particularly those with higher occupational health and safety risk exposure, as well as those closely regulated by legislation. Managers of these business units place significant importance on their team's compliance with procedures to mitigate risks to individuals.

While there is activity underway to further define processes following the restructure, there is limited evidence of business units working together to define cross-silo dependencies and hand over points. Various business units including Street Presentation and Maintenance, Community Services, Commercial Parking and Library stated that staff members are redefining processes and procedures within their individual business units. This siloed approach is degrading performance in cross-directorate processes such as Development and Health Approvals, according to relevant interviewees.

#### Why is this finding important?

The new structure has encouraged greater specialisation of roles, which means clearly documented process design is increasingly important to maintain clarity in dependencies between roles and efficiency in process execution. Leading practice business process design typically takes a top down approach, working from overall outcomes to processes and roles. A coordinated effort to map business processes would provide greater alignment between business units, more effective consultation, clearer roles and responsibilities, and enable greater efficiency in utilisation of staff.

#### **Finding 14:** Procurement spend could be optimised through improved sourcing, consolidation and contract compliance

The assessment identified the following issues which are constraining the value that the City is delivering through its procurement activities:

- Process execution is inconsistent with insufficient governance and transparency to drive compliance
- There is limited evidence of category management, reducing the potential to achieve economies of scale
- There is no formal framework for procurement collaboration across business units, meaning similar procurements can be duplicated
- There is no consistent and rigorous market testing to ensure that purchases are achieving best value.

As part of the Assessment, accounts payable data for the period March 2016 – February 2017 was analysed to identify the potential value of improved procurement processes. The data was grouped into spend categories to identify the most material areas of procurement spend. Savings benchmarks, based on similar procurement reform initiatives, were then applied to each category to determine the potential savings opportunity at the City.

#### Why is this finding important?

By optimising procurement spend through improved sourcing practices, consolidation of contracts and improved contract compliance, the City has the opportunity to reduce total

operational spend by 2%-6%. Such a saving would result in an approximate savings range of \$2 million - \$5 million per annum.

## 8 Transformational change

### 8.1 Introduction

This theme arose from the findings of the other three focus areas.

During the course of the Assessment, it became apparent that a common theme was arising from all the work packages: the restructure has initiated a transformational change, which must be completed in order to achieve a valuable outcome.

### 8.2 A transformational restructure

The restructure was planned and initiated under the previous CEO in 2015. Project initiation documentation reviewed as part of the Assessment states that the objectives of the new structure were to bring Economic Development and Activation to the fore, as well as to implement the previous CEO's vision for the organisation as a structure without silos. Those ELG members who were in post under the previous CEO reported that implementing the new structure was prioritised in the interests of speed, against the backdrop of the State Government's local government reform agenda at the time. However, other elements of transformational change – such as refreshing strategy, processes and policy – were intended to be addressed once the restructure had been completed.

### 8.3 Findings

**Finding 15:** While the restructure is nearing completion, other important elements of successful change have not yet been addressed, representing a major risk in terms of performance, culture and retention

#### Observations

Deloitte's Enterprise Model, outlined in Figure 11 below, identifies the dimensions that need to be considered when designing and implementing transformational change. Consistency and top-down alignment is important in effective design, while the sequencing and management of change is critical to achieving a purpose-driven, successful and sustainable transformation.

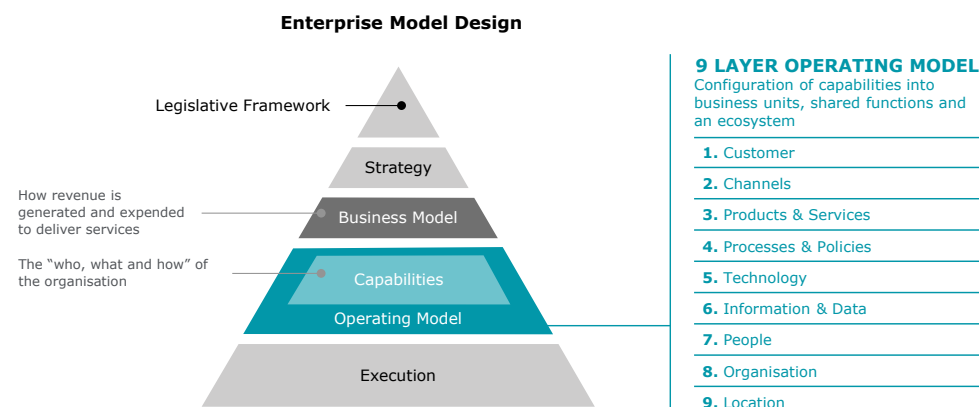


Figure 11: Deloitte's Enterprise Model

The restructure was supported at the outset with detailed planning and consultation, as evidenced by the document review, which included a substantial body of design work and project initiation documentation completed during the early phases of the restructure. However, the City's transformation focussed on restructuring of people and organisation first, rather than starting with a clear strategy and business model design.

Further, the organisational change was not delivered under a clear and widely understood purpose. Interviews identified that many managers now seem unclear about the restructure's intent and benefit. Only the longest serving managers were able to articulate that the new structure was intended to reduce the silos between directorates and business units.

Interviews gathered considerable qualitative evidence that the organisation is currently experiencing the typical negative side effects of transformational change delivered without a strategically-aligned change program grounded in a clear purpose. Issues were raised across all directorates relating to productivity, culture, leadership and low employee engagement. In particular, as the restructure was implemented in a devolved manner, it appears that the silos the restructure set out to reduce have deepened.

Examples of operational issues that have been caused or exacerbated by the restructure include:

- Critical knowledge and relationships have been lost via staff turnover
- Problems are experienced with executing processes that require cross-directorate collaboration, such as Planning and Health Approvals
- Challenges are reported with signing off new designs for capital works projects due to a lack of clarity over roles and decision rights between operational business units
- Operational business units such as Parks and Street Presentation & Maintenance reported frustrations with the structural separation of strategy and operations, as they have insufficient influence over design decisions for assets that they then become responsible for maintaining.

There are currently a large number of in-flight and planned initiatives addressing other layers of the enterprise model, including strategy refresh, process definition, role definition and technology investment. But projects remain devolved with no evidence of a single, coherent top down design.

#### **Why is this finding important?**

The full impact of the current, partially-transformed state is hard to quantify in the absence of performance indicators. However, a coherent, top-down program structure would increase the likelihood of successfully delivering the transformation.

**Finding 16:** The ELG is insufficiently aligned to support successful transformation

#### **Observations**

There are natural tensions between the goals of the City's various services, and consequently, debate within the ELG is to be expected and welcomed. However, in the absence of an organisational strategy that articulates clearly prioritised strategic objectives, conflict arising from competing priorities is difficult to resolve and is visible to staff.

In contrast, successful transformation requires strong and unified sponsorship. PROSCI is a change method which identifies three important sponsor roles that were not evident in the

case of the restructure. Table 5 outlines the three main roles of the executive sponsorship coalition and the gaps identified in the execution of the restructure to date.

| Sponsor Role  | Gaps identified   |
|---|---|
| <b>Participate actively and visibly throughout the project</b>  | Implementation of the restructure was devolved to business unit managers without a central organisational design defined by ELG (Finding 13, section 7.3) |
| <b>Build a coalition of sponsorship with managers and peers</b> | Managers were unable to articulate the purpose and target outcomes of the restructure (Finding 16, section 8.3)   |
| <b>Communicate effectively with employees</b>                   | Internal communications were handled locally by business unit managers (Finding 13, section 7.3)  |

Table 5: Sponsor role gap analysis (Source: PROSCI)

#### Why is this finding important?

A strong sponsorship coalition is the most important critical success factor in delivering transformation. Active and unified leadership, supported by a centralised investment in organisational change management will help to provide a purpose-driven, leader-led change.

**Finding 17:** The ELG's capacity to shape and lead the change is constrained by a high proportion of time devoted to operational matters

#### Evidence

Deloitte's Four Faces of Leadership Model defines the four diverse roles that executive leaders are expected to play: shaping strategy and direction (strategist); leading change (catalyst); managing risk (steward); and managing efficient and effective operations (operator). Balancing these facets is important in delivering stakeholder expectations.

Engagement with ELG, as well as the manager interviews, identified that a high proportion of directors' time is currently spent managing operational issues, and that this is a barrier to them spending more time on higher value roles in strategy and change.

Figure 12 shows an average of the directors' self-reported allocation of time between the four different roles of the executive. It compares the estimate of actual of time versus what they believe is required to best deliver the transformation and the expectations of their role.

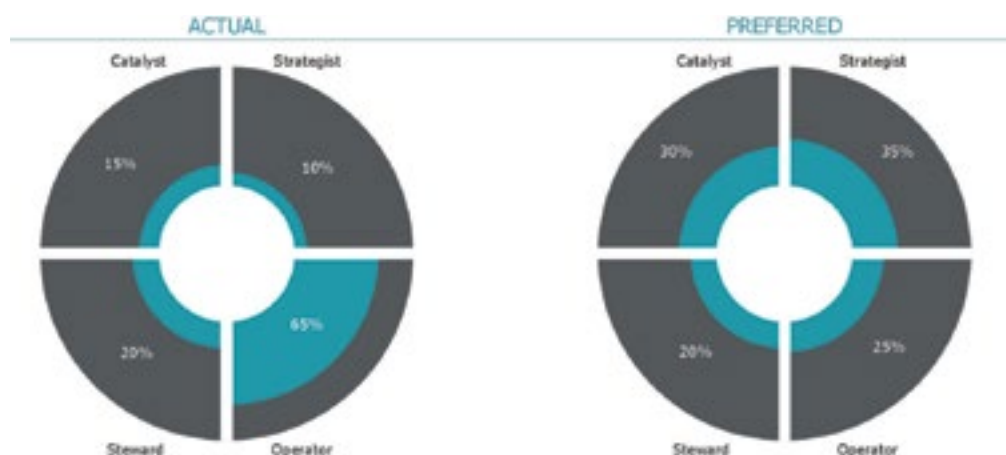


Figure 12: Actual and preferred ELG work priorities

The interaction between Council and the Executive was not an in-scope element of this assessment. Nevertheless, discussions with ELG identified that there may be potential to reduce its operational workload by clarifying and streamlining the relationship between Council and ELG. Such a protocol should be considered as part of future work to clarify the City's governance framework.

#### Why is this finding important?

The City is currently an organisation focussed on change, while seeking to maintain the levels of operational performance expected by its stakeholders. It will remain hard for ELG to commit sufficient energy to strategy and change unless it can manage down the volume of operational commitments.

## 9 Recommendations

The findings outlined above identify a number of potential improvements with respect to compliance, governance, capability maturity and embedding change.

Five summary recommendations are presented below, which represent the priority areas of focus for the City to consider in support of its goal to be a leader in the sector with respect to governance and transparency and to deliver best value for its stakeholders.

**Recommendation 1:** Clarify the City's Legislative Framework and Corporate Governance Framework to improve transparency in how legislative obligations and objectives are interpreted and applied

A high degree of interpretation is required to translate the City's legislative obligations and permissions into strategy, policy and procedure. This interpretation often requires specific legal advice, which the City procures from law firms through its Legal Services Contract.

The City should further clarify its Legislative Framework (which forms part of the broader Corporate Governance Framework currently being developed) to improve transparency in how legislative obligations and objectives are interpreted and applied. The Legislative Framework should identify and define the hierarchy of legislation, the City's resulting obligations and permissions, and its abilities to make choices on which services it will provide, including the extent of those services.

To make best use of the Legislative Framework, the City should also establish guidelines and policies on the interpretation of legislation, including when further legal advice should be obtained.

In finalising its Corporate Governance Framework, the City should draw from existing good practice developed within and for the local government sector, such as the Good Governance Guide prepared by a consortium of Victorian local government stakeholders, the Governance Institute of Australia's Good Governance Guide for Local Government and local references such as the City of Joondalup's Governance Framework. City of Joondalup is an example of good practice in local government corporate governance because it has similarly pursued an agenda of increased transparency, rigour and effectiveness, with a sustained investment in implementing good corporate governance practices.

**Recommendation 2:** Complete the development of a clear organisational strategy that makes explicit strategic choices on the City's priorities and how it balances competing expectations

The SCP performs an important role, as defined in the Integrated Planning and Reporting Framework, in capturing the needs and priorities of the City. The process for its ongoing development is well defined and must continue. However, as the SCP is necessarily an external facing document, it does not fulfil the role of an internal organisational strategy.

ELG has been working since November 2016 to refresh the City's strategy. This work should be prioritised and consider:

- The organisation's purpose, values and aspirations, how these inform priorities and strategic choices, and how best to communicate these within the organisation
- How the organisation can best respond to the various external challenges and competing expectations it currently faces
- Clear and principled prioritisation of the organisation's strategic objectives and targets to help resolve conflicts and day to day decision making in areas such as design and place making, operational service delivery, customer service and financial sustainability
- How management reporting based on key performance indicators that cascade through all levels of the business can be utilised to enable better decision making and measure the performance of strategy execution.

**Recommendation 3:** Based on a clear organisational strategy, make deliberate choices about the organisation's future business model

The majority of the services delivered by the City can be considered to be discretionary in nature. The City therefore has a considerable degree of freedom to decide whether, how and how much of these services the organisation should deliver.

Each service should be explicitly defined to understand its rationale and optimal delivery model, including consideration of key issues such as:

- Its legislative position – understanding constraints and obligations, and addressing the key question "Must we deliver the service in the way it is currently done?"
- The expectations of service users/customers and wider stakeholders
- Current and forecast demand
- Current and required service levels
- The strategic, financial, economic and social outcomes of the service and the impact if service delivery were changed, reduced or stopped
- The availability and maturity of alternative service delivery models, such as commercial or not for profit providers
- The charging model, whether that be wholly public funded, subsidised, cost neutral or for profit to subsidise other services.

**Recommendation 4:** Strengthen the City's operating model design, aligning in-flight and planned work towards a common and consistent target state

Considerable work has already been completed against several layers of the operating model – customer, channels, technology, information and data, people and organisation – as well as many current and planned projects. To make sure that these initiatives deliver maximum impact and value, they must now be structured and prioritised into a second phase of transformation to deliver a cohesive operating model.

The work must:

- Define the what, who, why and how of the future organisation
- Demonstrate clear alignment with the organisational strategy
- Logically sequence the change to support successful implementation.

Existing and planned initiatives that do not contribute to the new operating model design can be deprioritised or stopped.

Cross-organisational processes and decision rights should be prioritised when designing the new operating model.

The new cohesive operating model will address issues caused by devolved organisational design and provide clarity and efficiency in how the City delivers to its operational obligations and expectations.

**Recommendation 5: Align the leadership in support of the transformational change**

In order to give the next phase of transformation the best chance of success, the program will need to be actively managed. This phase should include:

- Active and unified leadership from ELG
- Targeted interventions, led from the top, to refresh the organisational culture, aligned with organisational purpose, values and aspirations
- A centralised program management capability to facilitate planning and prioritisation, reporting and governance, and benefits management
- Targeted communications, training and support to maintain stakeholder and employee engagement through the transformation.

This approach will bring together the piecemeal projects addressing individual layers of the operating model, with explicit definition of strategic contribution and improved control and visibility over cost and quality.

# Appendices

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## **Appendix 1**

### **– List of documents reviewed**

|  |  |
|--|--|
| ALGA Submission to the Productivity Commission Childcare Inquiry (Feb 2014)        | City of Perth Operational Report for Elected Members                                       |
| Audit and Risk Committee Minutes – 8th Aug 2016                                    | City of Perth Procedure – Accounts Payable   |
| Audit and Risk Committee Report – Cash Handling Review                             | City of Perth Risk Management Framework  |
| Budget Manual 2011-12  | City of Perth Safe City Strategy 2016-2020   |
| Child Care Services Agreement 2013   | City of Perth Waste Strategy 2014-2024+  |
| Child Care Services Wage Schedule 2013   | City of Perth Workforce Plan 2016-2020 (Vision 2029)                                       |
| City of Joondalup – Governance Framework   | Corporate Business Plan 2016-2020  |
| City of Perth – Corporate Induction (2017)   | Corporate Induction Slide Pack (2017)  |
| City of Perth – Corporate Learning and Development Calendar 2017-2018              | Council Policy Suite   |
| City of Perth – Learning and Development Strategy Update - January 2017            | CPA Australia – Excellence in Governance in Local Government (2005)                        |
| City of Perth – Performance Shaping Memo ELG 6 December 2015                       | Crisis & Business Continuity Management Framework – 31 October 2016                        |
| City of Perth Act (2016)   | DLGC Local Government Operation Guidelines Elected Member Induction (Number 4 – June 2011) |
| City of Perth Annual Budgets 2012/13 – 2016/17                                     | Draft - ELG Rules of Engagement  |
| City of Perth Annual Reports 2012/13 – 2015/16                                     | Draft – Organisational Change Management Plan  |
| City of Perth Code of Conduct Acknowledgement Declaration                          | Economics and Industry Standing Committee – Growing WA through Innovation                  |
| City of Perth Delegated Authority Register (Dec 2013)                              | Finance Diagnostic   |
| City of Perth HR Report – March 2017   | Finance In Flight Initiatives  |
| City of Perth Human Resources – Organisational Restructure – Next Steps (May 2016) | Finance One Chart of Accounts  |
| City of Perth Human Resources – Organisational Restructure 2015 FAQ                | Finance One Reports List (May 2017)  |
| City of Perth Intranet – New City of Perth Restructure Update (June 2015)          | Finance Organisational Chart (March 2017)  |
| City of Perth Leadership and Development Strategy (Jan 2016)                       | Financial Management Task Force – Report Feb 2017  |
| City of Perth Leadership Development Program Info                                  | Financial Management Task Force – Reporting Timetable March 2017                           |
|  | Fortnightly Payroll Checklist (April 2017)   |
|  | Health (Miscellaneous Provisions) Act (1911)   |
|  | Health Act (1911)  |
|  | HRIS Review Project – Business Requirements – Payroll                                      |
|  | Invoices Accrual (Mar 2017)  |
|  | List of current contracts  |

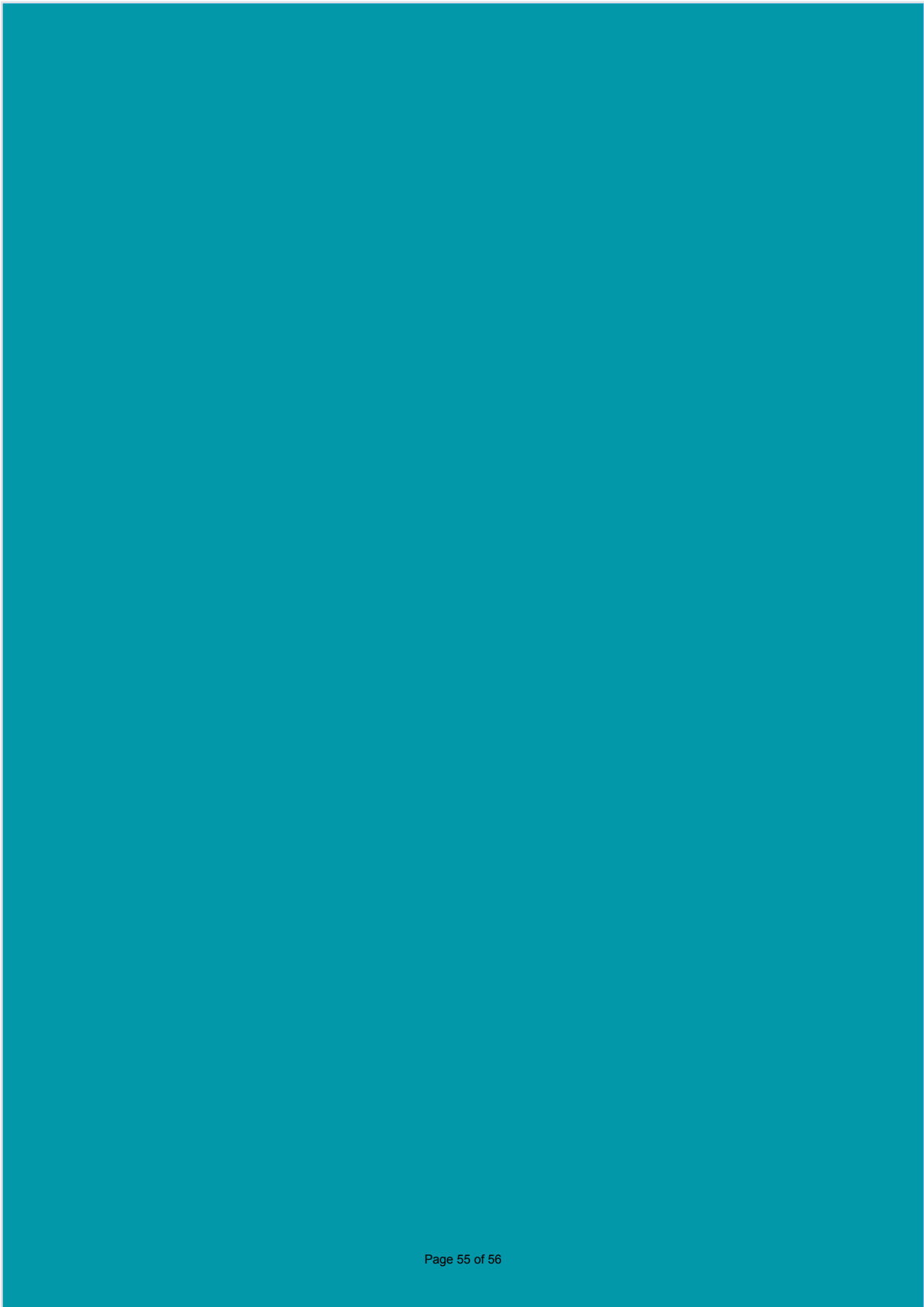
|   |   |
|---|---|
| List of Payroll Errors and Near misses  | (October 2016) Salaried Officers Agreement 2014   |
| Local Government (Administration) Regulations (1996)  | Salaried Offices Wage Schedule 2016   |
| Local Government (Financial Management) Regulations (1996)  | Standing Committee on Economics, Finance and Public Administration – Inquiry into Local Government and Cost Shifting (Feb 2003) |
| Local Government (Functions and General) Regulations (1996)   | Standing Committee on Economics, Finance and Public Administration – Official Committee Hansard (Feb 2003)                      |
| Local Government (Miscellaneous Provisions) Act (1960)  | Strategic Community Plan – Vision 2029+   |
| Local Government (Rules of Conduct) Regulations (1996)  | Termination Checklist – Payroll   |
| Local Government (Uniform Local Provisions) Regulations (1996)  | The New City of Perth – Transition Approach (May (2016)   |
| Local Government Act (1995)   | The New City of Perth (May 2015)  |
| Long term financial analysis – Draft (Feb 2017)   | Timetable of Monthly Accounts   |
| Management Report by ORG CODE Period 8 2016/17  | WALGA - Public Library Services in Western Australia in 2025 (June 2015)  |
| Management Report by UNIT Period 8 2016/17  | Waste Avoidance and Resource Recovery Levy Act (2007)   |
| New Starter Checklist – Payroll   | Waste Avoidance and Resource Recovery Levy Regulations (2008)   |
| Organisational Policy Suite (24 Feb 17)   | Waste Avoidance and Resource Recovery Regulations (2008)  |
| Outside Workforce Enterprise Bargaining Agreement – Updated Wage Schedule 2016                              |   |
| Outside Workforce Enterprise Bargaining Agreement 2012-2015   |   |
| Perth Parking Local Law (2017)  |   |
| Perth Parking Management (Taxing) Act (1999)  |   |
| Perth Parking Management Act (1999)   |   |
| Perth Parking Management Regulations (1999)   |   |
| Perth Parking Policy (2014)   |   |
| Planning and Development Act (2005)   |   |
| Public Health Act (2016)  |   |
| Public Sector Commission – Accountability Map   |   |
| Public Sector Commission – Good Governance Guide: Checklist   |   |
| Public Sector Commission – Misconduct management arrangements at the City of Perth: Final evaluation advice |   |

## **Appendix 2**

### **– List of interviewees and workshop attendees**

A/Director Economic Development & Activation  
A/Director Planning & Development  
A/Manager Coordination & Design  
A/Manager Customer Service  
A/Manager Street Presentation & Maintenance  
Accounts Payable Officer  
Accounts Receivable Officer  
Budget and Capital Accountant  
CEO  
Chief Accountant  
Construction and Maintenance  
Contracts Officer - CPP  
Contracts & Procurement Specialist  
Corporate & Business Strategy Consultant  
Director Community & Commercial Services  
Director Construction & Maintenance  
Director Corporate Services  
Directorate Accountant  
Finance & Customer Service Head – CPP  
Financial Accountant  
Funds Management Officer  
Internal Auditor  
Manager Arts, Culture and Heritage  
Manager Asset Management  
Manager Business Support & Sponsorship  
Manager City Planning  
Manager Commercial Parking  
Manager Community Amenity & Safety  
Manager Community Services  
Manager Construction  
Manager Data and Information  
Manager Development Approvals  
Manager Economic Development  
Manager Executive Support  
Manager Finance  
Manager Governance  
Manager Health and Activity Approvals  
Manager Human Resources  
Manager Information Technology  
Manager Library

Manager Parking Services  
Manager Parks  
Manager Plant and Equipment  
Manager Properties  
Manager Sustainability  
Manager Transport  
Manager Waste & Cleansing  
Marketing and Communications  
Payroll Specialist  
Risk Management Coordinator  
Senior Business Analyst  
Senior Contracts Officer  
Senior Management Accountant  
Senior Rates Coordinator  
Senior Waste Management Officer  
Supervisor Day St/Clean Waste Management



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# City of Perth

## 2018 Performance and Capability Review

### Making a Difference



## Introduction

The City has utilised the Australian Business Excellence Framework (ABEF), which is an internationally recognised and benchmarked best practice leadership framework, to conduct an external evaluation and performance review. For the benefit of the City the European Quality Framework was also referenced to ensure the appropriate areas of leadership and delivery practices were all understood in terms of organisational sustainability. These frameworks are underpinned by agreed international proven leadership principles.

As well as measuring improvement to performance and providing a capability and sustainability baseline, output from the performance review can be used to prioritise and plan for improvements to integrate within the business planning process over the four years of the Corporate Business Plan, which will assist in strengthening the organisation's capability to achieve their outcomes through strategic and operational excellence.

This feedback report has been produced as a result of an evaluation carried out during November 2018.

It is our hope that the comments contained in this report will both confirm many things that you may already know about the City as well as provide new perspectives to plan for improvement.

## Approach

This feedback report has been prepared following an evaluation and assessment. The process incorporates a number of key steps including:

1. **Planning** – Desktop analysis and understanding of City approaches, plans and systems
2. **Executive Assessment** – Executive interviews
3. **Manager Assessment** – Two Guided Focus Groups
4. **Employees' Assessment** – Five Guided Focus Groups
5. **Review and Prioritisation** – Executive Team Workshop to be actioned in January

This report is structured according to the 7 Categories and 16 Items of the current Australian Business Excellence Framework. It contains a list of the practices currently in place and the opportunities for improvement that have been determined during the review.

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## Findings

The City of Perth is an organisation with a renowned and proud history. An organisation that has recently performed well under extraordinary circumstances, displaying areas of innovation and continued service delivery as reflected in the community survey. This is due to the passion and commitment of past and present employees. Employees at all levels have contributed their time and energy to providing a baseline analysis and insight into areas of opportunity. They now look to the leadership team to action and strengthen the capability of the organisation in the future.

The review and analysis of quantitative and qualitative data revealed that the City has displayed strengths to build upon in some key operational and technical areas. However it is important to understand that the future challenges of the Capital City, and changing requirements of future Councils, Stakeholders and Communities, will demand an aligned integrated “One City” strategic approach which is adaptive, responsive and capable.

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## Findings

The future leadership challenge for the executive is to build aligned strategic direction, improved team alignment and consistency in delivery. Delivery must focus on efficiency as well as reducing complexity and variation in practices. The team must work to create an aligned and integrated one organisational system with a thorough understanding of interdependencies and connections. It will be important to understand what is currently in place to build on, discard or create new practices and ensure a united team approach.

Currently the City appears to work as independent siloed areas within a decentralised model with central control, without a corporate integrated plan defining accountabilities and budget. There isn't a clear line of sight for the leadership team to services and business areas which is creating duplication, rework, considerable cost and independent directorate decision making. End-to-end processes are not clear and current processes are dependent on structure and relationships versus clear process handovers. Currently the culture is one of competition, tension and lack of trust. This is a reflection of the organisational system design and practices.

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## Considerations for Leadership Review

It must be noted that in the future the leadership team will continue to be challenged as caretakers of our Capital City, with an increasing population and growth demands, changing stakeholder and community expectations and demand for resources. It will be important for the team to focus on the following risks in order to continue to build a sustainable and agile organisation:

- A 'One City' approach will ensure leaders at all levels hold an organisation wide stewardship and commitment.
- Build a cohesive leadership approach of the whole City versus the functions and components, focusing on an aligned direction and strengthening leadership accountabilities. Future leaders need to be proud to be part of the Capital City of Perth, building consistency and stability.
- Create capacity through reduction of complexity, waste, rework and aligned consistent processes with a focus on simplicity.
- Strengthen the culture of organisational stewardship and accountability with a focus on improvement and performance driving efficiency and effectiveness of outcomes.

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## Priorities for Leadership Consideration

Whilst improvements have been identified in each of the 16 items of the framework, it's vital that the leadership team focus on the critical few to ensure organisational capability. The future focus of consistency and integration will demand that leaders are aligned in their priorities and building on improvements already in place.

The following are seen to be the most urgent priorities for leadership consideration:

- Strengthen leadership accountabilities and transparent, delegated decision making within an integrated planning and reporting process, aligned to budget, driving strategic alignment and direction.
- Organisational structure realignment allowing functional consolidation, centralisation, clarity of roles and improving end-to-end processes.

*Continued...*

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## Priorities for Leadership Consideration cont...

- Continue to review strategy, developing a supporting set of strategies (centrally managed) that support the City's 'positioning' and service roles. Currently there is no clarity on roles when it comes to:
  - Optimising identified areas of opportunity
  - Strategically addressing demands and issues
  - Influencing discussions with external stakeholders (who are currently independently managed within Business units).
- Ensure stakeholders and customer interactions/experiences are identified, prioritised and centrally managed to build a 'One City' approach to relationships and advocacy.
- Develop a 'systems view' and a business process model identifying core customer journeys and processes with a focus on alignment, seamless service and knowledge retention.
- Prioritise technology, data analysis, business improvement and innovation to ensure the City is equipped for the future by increasing agility and responsiveness.

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## ABEF Framework

The Australian Business Excellence Framework relates to whole organisations, no matter what industry sector they represent or how they are organised internally. The framework is a tool for any organisation to monitor its progress towards achieving its own long-term goals.

Assessment is based on performance with respect to Approach, Deployment, Results, and Improvement. The Categories cover all key management processes. The Items allow for analysis and measurement of success at a more detailed level.

Helen Hardcastle has analysed the City of Perth's approach and performance against each item and provided recommendations for focused improvement moving forward.



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## ABEF Items

- 1.0 LEADERSHIP**
  - 1.1 Leadership and governance throughout the organisation
  - 1.2 Leading the organisational culture
  - 1.3 Society, community and environmental responsibility
- 2.0 STRATEGY & PLANNING**
  - 2.1 Strategic Direction
  - 2.2 The Planning Process
- 3.0 INFORMATION AND KNOWLEDGE**
  - 3.1 Generating, collecting and analysing the right data to inform decision-making
  - 3.2 Creating value through applying knowledge
- 4.0 PEOPLE**
  - 4.1 A great place to work
  - 4.2 Building organisational capability through people
- 5.0 CUSTOMER AND MARKET FOCUS**
  - 5.1 Gaining and using knowledge of customers and other stakeholders
  - 5.2 Effective management of customer and other stakeholder relationships
  - 5.3 Customers and other stakeholders' perception of value
- 6.0 PROCESS MANAGEMENT, IMPROVEMENT & INNOVATION**
  - 6.1 Identification and Management of Processes
  - 6.2 Process improvement and innovation
- 7.0 RESULTS AND SUSTAINABLE PERFORMANCE**
  - 7.1 Measuring and communicating organisational results
  - 7.2 Achieving sustainable performance

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## 1. Leadership Focus

This category explores how organisations develop and use leadership concepts, business processes and management systems, how they develop cultures that are consistent with their values and how they support their communities and the environment.

### Key Issues:

- How the organisation defines direction and communicates its purpose, vision and goals.
- How the organisation develops and promotes an effective leadership system.
- How good governance and role modelling is a day to day occurrence.
- How it develops a culture and supports behaviours which are consistent with its values.
- How it encourages creativity and innovation and provides for organisational adaptation.
- How the organisation contributes to the community, environment and demonstrates social responsibility and ethical behaviour.

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### 1.1 Leadership & governance throughout the organisation

| Practices in Place:   | Improvement Opportunities:   |
|---|--|
| <ul style="list-style-type: none"> <li>Executive minutes are available supported by CEO feedback. Some executive and managers provide cascading information regular feedback.</li> <li>Leaders are supportive and approachable.</li> <li>Governance processes in place with defined financial delegations.</li> <li>Managers are supported in decisions.</li> </ul> | <ul style="list-style-type: none"> <li>Further develop an aligned purpose and strategic direction.</li> <li>Consistently communicate leadership direction through defined cascading team briefs that are consistent and transparent, building a 'one team' approach.</li> <li>Review structure to ensure functional alignment and integration.</li> <li>Review leadership meeting structures and intent (strategic, tactical and operational).</li> <li>Strengthen Governance through the review of Council Policy, defined organisational policy, management practices, standardised templates and review of all delegations and supporting audit ensuring legislation and standards are met.</li> <li>Develop leadership accountabilities and expectations. Review delegation of decisions. Currently executive and manager decisions are functionally focused.</li> <li>Develop an organisational management system (systems view) to drive clarity of organisational policy, practices and documentation.</li> </ul> |

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## 1.2 Leading the Organisational Culture

| <i>Practices In Place:</i>  | <i>Improvement Opportunities:</i>  |
|---|--|
| <ul style="list-style-type: none"><li>• Employees are passionate about their services. There is a willingness to contribute and learn.</li><li>• Values are defined and referred to in the recruitment process and position descriptions.</li><li>• Code of Conduct has been developed.</li></ul> | <ul style="list-style-type: none"><li>• Build on the leadership culture to rebuild identity with supporting behaviours aligned to the values.</li><li>• Build a culture of organisational stewardship, accountability and improvement focusing on the purpose of improving service to the community.</li></ul> |

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## 1.3 Society, community and environmental responsibility

| <i>Practices In Place:</i>   | <i>Improvement Opportunities:</i>  |
|--|--|
| <ul style="list-style-type: none"><li>• Environmental Plan and strategies have been developed.</li><li>• The City contributes to local community and business groups</li></ul> | <ul style="list-style-type: none"><li>• Review Capital City Act to define the City's future leadership role.</li><li>• Further develop and centralise community engagement Policy, strategies and practices.</li></ul> |

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## 2. Strategy and Planning

This Category explores how the organisations establish systems to set strategic directions (where the organisation has come from, where it is going and how it will get there) and how they deploy plans to achieve those strategies.

### Key Issues:

- How the organisation defines strategic position and applies and communicates its purpose, vision and goals.
- How it prepares itself for sustainable organisational success.
- How the organisation selects and creates strategic relationships.
- The way in which the organisation turns direction into actionable plans that are aligned and measured for performance.
- How the organisation performs gap analysis to achieve organisational goals and ongoing system improvement.

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### 2.1 Strategic Direction

| <i>Practices In Place:</i>   | <i>Improvement Opportunities:</i>   |
|--|---|
| <ul style="list-style-type: none"> <li>The Strategic and operational risks and practices have been developed.</li> <li>Land use strategy (City Planning Strategy) is developed and integrated</li> <li>Share to Shape process engaged with broad range of stakeholders to create Community Vision driving the development of the Strategic Community Plan.</li> <li>Supporting research and context underpins the development of strategy</li> </ul> | <ul style="list-style-type: none"> <li>Review and develop organisational strategy to ensure the role of the City is defined. Support through the development of agreed definitions and templates</li> <li>Continue to build an understanding of the City's role as a Capital City.</li> <li>Integrate all plans, strategies, informing plans including capital, and align actions into the Corporate Business Plan.</li> <li>Review and integrate the Asset planning strategy, Workforce Plan and Long term Financial Plan to ensure financial modelling assists in decision-making.</li> <li>Develop a centralised prioritised approach and accountability to shared partnerships, MOUs, agreements and advocacy to benefit the organisation.</li> </ul> |

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## 2.2 The Planning Process

| Practices In Place:   | Improvement Opportunities:  |
|---|---|
| <ul style="list-style-type: none"> <li>Functional areas have developed business unit plans, however each directorate is working at a different maturity and development is within business unit discretion.</li> <li>Asset management plans are functionally developed with central control.</li> <li>Whilst there is a Corporate Business Plan there are no reporting mechanisms excepting within some directorates to the executive member.</li> <li>Currently the planning process doesn't drive budgetary decisions.</li> </ul> | <ul style="list-style-type: none"> <li>Continue to integrate all plans, strategies, informing plans including capital, and align actions into the Corporate Business Plan. The yearly planning process against budget will identify priorities and services and accountabilities. Currently this process is bottom up with no planning reprioritisation.</li> <li>Continue to define asset service levels with clear definitions of costs.</li> <li>Continue to build an understanding of service role, capability and level with the review of service plans, budget and workforce.</li> <li>Identify and align KPIs for reporting and review from Council, executive, team and to the individual.</li> <li>Improve project management practices for reporting.</li> </ul> |

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## 3. Information and Knowledge

This category focuses on the effective application of the information and knowledge required to achieve the organisation's objectives and the need for efficient and effective processes to acquire, analyse, apply and manage the information and knowledge.

### Key Issues:

- How the organisation determines what data is required, how it is collected, analysed and shared to enhance the achievement of organisational goals.
- How the organisation integrates a variety of information from various sources and uses that information in decision making at all levels.
- How the organisation addresses the impact of variation to its operation.
- How the organisation defines and addresses its knowledge requirements.
- How the organisation uses knowledge in its activities and to improve organisational performance.
- How the organisation maximises its strategic advantage by harnessing the knowledge available.

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### 3.1 Generation, collecting and analysing the right data to inform decision making

| Practices In Place:   | Improvement Opportunities:   |
|---|--|
| <ul style="list-style-type: none"> <li>Operational data is available in some areas.</li> <li>Safety and financial reporting.</li> <li>Monthly and quarterly qualitative and financial reporting against projects and key initiatives in some directorates.</li> </ul> | <ul style="list-style-type: none"> <li>Develop an aligned central ICT Governance Framework and Digital strategy building service capacity. Ensure the inclusion of Smart Technology.</li> <li>Continue to integrate Customer (CRM) and stakeholder strategies across the City.</li> <li>Further define what data is to be reported monthly and quarterly. Ensure this data is reviewed to assist decision making and improvement practices.</li> <li>Build integrity and validity of data whilst improving the employee skills and central support of data use, analytics and information analysis.</li> <li>Review IT systems and support – currently systems are not integrated, appear complex and proving to be time consuming with staff using manual workarounds.</li> </ul> |

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### 3.2 Creating value through applying knowledge

| Practices In Place:  | Improvement Opportunities:   |
|--|--|
| <ul style="list-style-type: none"> <li>Records are stored.</li> <li>Some areas have procedural work instructions but currently there is no consistency.</li> </ul> | <ul style="list-style-type: none"> <li>Build the management system aligned to process model to identify the hierarchy of documents and to capture and store work practices and knowledge. Currently knowledge management is a high risk.</li> <li>Review records capture to ensure consistency of storage and improved efficiency for retrieval.</li> <li>Support knowledge capture through mentoring and coaching across the organisation.</li> <li>Systematically facilitate 'Lessons Learnt' to ensure project information capture with a focus on learning and improvement.</li> </ul> |

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## 4. People

This Category explores how organisations acknowledge that people are essential and are to be valued, and how they create great places for people to work by attracting the right people, developing their skills, engaging them and retaining them. Appropriate policies, systems, processes and tools ensure that people are engaged and make a meaningful contribution to organisational improvement, goals and success.

Key Issues:

- How the organisation maximises potential of people through the culture that encourages performance, trust & respect, promotes strong relationships.
- The organisation maintains communication mechanisms that support an open environment that allows all directional communication.
- How the organisation provides a work environment conducive to maximising the potential of its people, and which recognises well being as a critical component of business success.
- How the organisation aligns its people objectives with other objectives and enables the full potential of all people to be realised.
- How all people are encouraged, monitored and recognised for contributing to achieving organisational goals and continually improving the organisation.

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### 4.1 A great place to work

| <i>Practices In Place:</i>  | <i>Improvement Opportunities:</i>  |
|---|--|
| <ul style="list-style-type: none"> <li>• Operational and toolbox team meetings are held in most areas.</li> <li>• Executive feedback to managers and newsletters in most directorates.</li> <li>• OHS Policy, a supporting committee with training and data reporting in place.</li> <li>• Grievance Policy and process.</li> <li>• Health and Wellbeing Plan.</li> </ul> | <ul style="list-style-type: none"> <li>• Develop consistent cascading and cross functional communication practices.</li> <li>• Engage employees with input into yearly service planning, reporting, data review and improvement.</li> <li>• Further develop cross functional teams to support projects working towards a 'one organisation' approach.</li> </ul> |

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## 4.2 Building organisational capability through people

| Practices In Place:  | Improvement Opportunities:   |
|--|--|
| <ul style="list-style-type: none"> <li>Recruitment and Induction processes established.</li> <li>HR Policy in place.</li> <li>HR practices supported through directorate specialists.</li> <li>Annual performance reviews conducted with training needs identified.</li> <li>Training supported with defined budgets.</li> <li>Onboarding processes being reviewed.</li> </ul> | <ul style="list-style-type: none"> <li>Further develop workforce plan, service requirements, accountabilities and roles. Identify current and future workforce capability and skills requirements to develop a mobile, flexible and diverse workforce for the future.</li> <li>Identify opportunities to simplify structure increasing span of control.</li> <li>Review HR policy, role and practices.</li> <li>Review the annual performance feedback (Performance Shaping) approach and practices. Ensure employee KPIs are aligned to the business planning process and performance expectations.</li> <li>Ensure employee performance is recognised and valued.</li> </ul> |

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## 5. Customers and Other Stakeholders

This Category explores how organisations analyse their customers and other stakeholder requirements, how they use this knowledge, how they manage their relationships and how they deliver increasing value to customers and other stakeholders.

Key Issues:

- How the organisation ensures an on-going understanding of the needs and expectations of present and potential customers and other stakeholders.
- How the organisation manages and evaluates relationships with its customers and other stakeholders with respect to the value it creates for them.
- The process for gathering customer feedback on its customer and other stakeholder relationship management practices.
- How the organisation measures customers and other stakeholders perception of value and achievement of its goals for satisfaction.

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## 5.1 Gaining and using knowledge of customers and other stakeholders

| Practices In Place:   | Improvement Opportunities:  |
|---|---|
| <ul style="list-style-type: none"> <li>A Stakeholder management framework is being developed.</li> <li>The community has input into the Strategic Planning process and City Planning Strategy.</li> <li>Stakeholder feedback and engagement is sought at service and project levels.</li> </ul> | <ul style="list-style-type: none"> <li>Further develop a central prioritised approach to Community and Stakeholder interactions providing coordination and facilitation support with a focus on seamless interfaces. Currently it is perceived that the community are 'over consulted'.</li> <li>Ensure customer and stakeholder information is centrally stored and available for use in design, codesign or business planning. A Stakeholder database has been developed together with the CRM but not embedded, integrated or deployed.</li> </ul> |

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## 5.2 Effective management of customer and other stakeholder relationships

| Practices In Place:   | Improvement Opportunities  |
|---|--|
| <ul style="list-style-type: none"> <li>Customer guidelines and charter developed both internal and external.</li> <li>Centralised customer service has been established with a digital CRM system to assist in tracking and reporting customer feedback and work requests.</li> </ul> | <ul style="list-style-type: none"> <li>Deploy and embed a Customer First culture improving customer experiences through the customer guidelines and charter to ensure consistency in practice. Review guidelines for consideration in management of all stakeholders.</li> <li>Continue to centralise customer service channels through supporting information, sharing and training to increase efficiency and standardised customer management, with a focus on seamless service and the customer experience.</li> <li>Develop an understanding of end-to-end customer journeys and workflow to identify digital solutions, improve efficiencies of handovers, management of complex issues and understanding of major internal 'blockers'.</li> </ul> |

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## 5.3 Customers and other stakeholders perception of value

| <i>Practices in Place:</i>  | <i>Improvement Opportunities:</i>   |
|---|---|
| <ul style="list-style-type: none"> <li>Customer perceptions survey conducted yearly.</li> </ul> | <ul style="list-style-type: none"> <li>Further develop and understand all customer and stakeholder feedback and data to report and analyse with a focus on improvement.</li> <li>Develop an approach to capturing priority stakeholder feedback across the organisation.</li> </ul> |

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## 6. Process Management, Improvement & Innovation

This Category explores the processes organisations use to supply value to stakeholders. It also examines how they encourage innovation and improvements to these processes and, therefore, improve the quality of their products and services.

Key Issues:

- The organisation's systems for identifying, defining, measuring and managing its end to end processes to meet stakeholder requirements.
- Methods and support for innovation and improvement of the processes used by the organisation to achieve its goals.
- Utilisation of measurement to control variation and involving staff in improvement of processes.
- Methods for determining the quality of products and services as delivered to the customer.
- Comparative performance of the organisation's products and services.

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## 6.1 Identification and management of processes

| <i>Practices In Place:</i>  | <i>Improvement Opportunities:</i>   |
|---|---|
| <ul style="list-style-type: none"> <li>Some areas have documented procedures and practices.</li> <li>Internal audit in place</li> </ul> | <ul style="list-style-type: none"> <li>Develop a 'systems view' or a management system that identifies end-to-end customer journeys and documented supporting processes. Develop glossary of terms and definitions and supporting standardised templates together with ownership.</li> <li>Review and develop processes, procedures or work practices with a focus on simplicity as needed to reduce risk and complexity.</li> <li>Review and centralise procurement and contract management. Standardise and centralise MOU, partnership, sponsorship, grants and donations agreements.</li> <li>Review audit to ensure compliance, standards, legislation and risk controls are monitored.</li> </ul> |

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## 6.2 Process improvement and innovation

| <i>Practices In Place:</i>   | <i>Improvement Opportunities:</i>   |
|--|---|
| <ul style="list-style-type: none"> <li>There is a focus on review and improvement in some areas but this is leadership dependent.</li> </ul> | <ul style="list-style-type: none"> <li>Develop an approach to improvement and innovation, using customer feedback and trends to focus on the critical few.</li> <li>Continue to review service levels and challenge service delivery models with a focus on improvement.</li> </ul> |

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## 7. Results and Sustainable Performance

This Category explores the method an organisation uses to monitor and demonstrate how well it is performing and how well it is likely to perform in the future. The organisation must have clear and appropriate measures against their objectives and their stakeholder requirements that enable it to undertake review and improvement.

Key Issues:

- How management measures and communicates the performance against the organisation's purpose and goals from a holistic perspective.
- How well the organisation is performing as shown by its key performance indicators and other measures.
- Indicators and other information the organisation uses to handle risk and organisational capability for sustainability of its success into the future.
- How the organisation considers its relevance to stakeholders.

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### 7.1 Measuring and communicating organisational results

| <b>Practices In Place:</b>  | <b>Improvement Opportunities:</b>  |
|---|--|
| <ul style="list-style-type: none"><li>• Financial reporting occurs.</li><li>• Safety data is reported on.</li><li>• Annual report reflects progress against plan.</li></ul> | <ul style="list-style-type: none"><li>• Continue to develop a measurement framework against Plan to report, review and share success with stakeholders including the leadership team, staff and Councillors.</li></ul> |

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## 7.2 Achieving sustainable performance

| <i>Practices In Place:</i>  | <i>Improvement Opportunities:</i>   |
|---|---|
| <ul style="list-style-type: none"><li>• Long term Financial Plan developed.</li><li>• Asset Management and Workforce Plans in place for ongoing review.</li></ul> | <ul style="list-style-type: none"><li>• Review the Long term Financial Planning process ensuring the inclusion of asset costs and prioritized projects.</li><li>• Develop future sustainability measures including further integration of strategic risk, knowledge capture and reviews of Asset and Workforce plans.</li></ul> |

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## Performance Methodology

The Australian Business Excellence Framework has been used as the basis for this assessment.

The Business Excellence Principles underpin the design of the Framework and the assessment process considers how effectively the implementation of the Categories and Items aligns to the concepts embedded in the Principles.

The Principles are summarised as follows. They are considered to be governing laws which can be used as a basis for predicting and reasoning and they can be interpreted through the 7 Categories and 16 Items which form the Australian Business Excellence Framework.

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## Performance Methodology cont.

1. Clear direction and mutually agreed plans enable organisational alignment and a focus on the achievement of goals.
2. Understanding what customers and other stakeholder's value, now and in the future, enables organisational direction, strategy and action.
3. All people work *in* a system. Outcomes are improved when people work *on* the system and its associated processes.
4. Engaging people's enthusiasm, resourcefulness and participation Improves organisational performance.
5. Innovation and learning influence the agility and responsiveness of the organisation.
6. Effective use of facts, data and knowledge leads to improved decisions.
7. Variation impacts predictability, profitability and performance.
8. Sustainable performance is determined by an organisation's ability to deliver value for all stakeholders in an ethically, socially and environmentally responsible manner.
9. Leaders determine the culture and value system of the organisation through their decisions and behaviour.

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## ADRI

The ADRI assessment dimensions, which are used for scoring, for each item, form a learning cycle and the assessment considers:

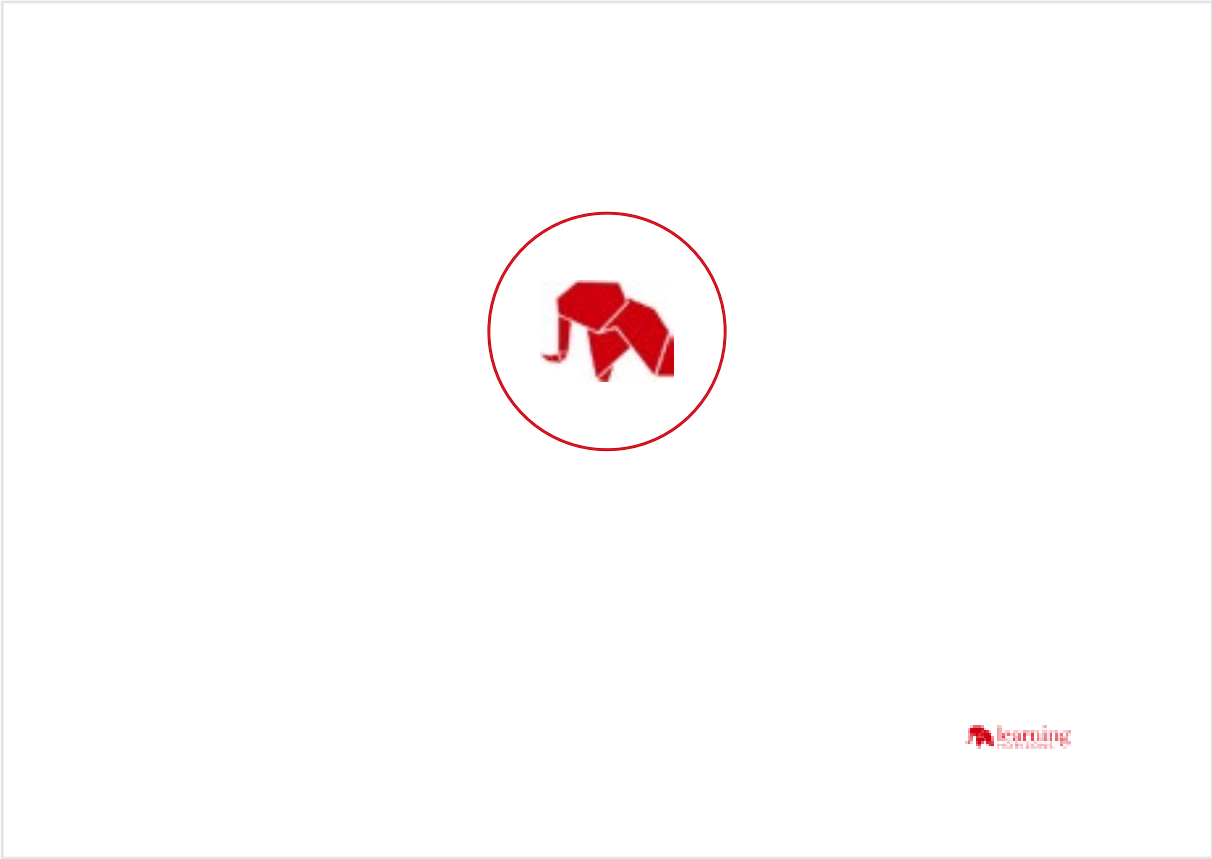
- How thinking, planning, structures and processes i.e. the **APPROACH** aligns with the Principles.
- How the **DEPLOYMENT** of the **APPROACH** aligns with the Principles.
- How the measuring and monitoring of the **RESULTS** of the **DEPLOYMENT** of the **APPROACH** aligns with the Principles
- How **IMPROVEMENT** through learning and adapting aligns with the Principles

As such the dimensions of 'ADRI' are aligned in assessing organisational performance against each item of the ABEF. The scores reflect the level of maturity and future capability of the City to achieve its outcomes. This assessment has identified the Strengths and Opportunities for Improvement for each of the 16 Items and they are detailed in this report.

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# **REPORT TO THE CITY OF PERTH STAKEHOLDER ENGAGEMENT AND CORPORATE COMMUNICATIONS**

Andy Farrant  
Linda Wayman  
December 2018



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## EXECUTIVE SUMMARY

***“Increasingly, reputation, identity and the perceived quality of place determine where talent, capital and tourism flow.” ResonanceCom (an international company that measures the reputation of global cities)***

It is clear from the investigations by the consultants that external stakeholders and City staff alike are concerned that Perth’s reputation has been severely damaged over the past 18 months. Both cohorts referenced the City of Perth Act (2016) and feel that the City does not necessarily follow the intent of the Act, that instead the City is insular and lacks the macro view required of a capital city.

To achieve the synergies required by the Act (which states that the City of Perth must “engage and give regard to not only its ratepayers, residents and property owners, but all citizens that visit, work or have an interest in the future of Western Australia’s Capital City) much needs to be done by the City, not least to more effectively engage with its wide-ranging stakeholders.

This begins with the City’s own fundamental processes, practices and structure and then extends to its culture, where the concept of “customer service” is inconsistent. For example, it is clear that the advantages of a CEO (or a leadership group through the CEO) having direct access to communications professionals is not being effectively leveraged by the CEO’s office to add value to the leadership function of the City and protecting and promoting the City’s reputation generally.

It should be noted that there are good people on the City’s staff, and like external stakeholders they too are constantly frustrated by myopic thinking, red tape, silos and a lack of direction and collegiate spirit by leaders.

All stakeholders are looking for the City’s culture that seeks to solve problems, rather than one of conflict and dispute. There is a general desire for the City to “elevate its thinking”.

City has competitors not partners or collaborators, yet many of the staff desire for a change in this attitude as their professional outputs as well as their own personal job satisfaction relies on a culture of collaboration both internally and with external agencies and stakeholders.

All external stakeholders and senior staff see the Commissioners being in charge representing an opportunity to rebuild the City of Perth. A “business as usual” scenario for the City in the context of this report will attract significant risk for the organisation and will be perceived as a lost opportunity. The recommendations - both internal and external – therefore should be closely considered in this context.

The Commissioners are in a strong position to empower the City to seize this once-in-a-generation opportunity to take the lead and develop a Perth Brand in line with its Act. The City is well positioned to achieve a positive and agreed outcome for the whole State of Western Australia.

The effectiveness and impact of the Corporate Communications and Stakeholder Engagement functions are influenced by actions and engagement with many of the City’s business units. In this report, examples of these have been included to illustrate these relationships and opportunities for change that will improve the City’s communications, engagement and ultimately reputation - internally and externally.

## SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

| KEY FINDINGS   | RECOMMENDATIONS   |
|--|---|
| External stakeholders are concerned that the City is not complying with the intent and terms of the City of Perth Act.   | 1. City's obligations and performance under the City of Perth Act should be reviewed for compliance and an action plan implemented where there are stakeholder engagement shortfalls  |
| There is a lack of systemised engagement at a high level with external stakeholders which adversely impacts on effective and meaningful relationships with all stakeholders.   | 2. Set up a high level governance framework with major projects and long term strategic stakeholders which will transcend political cycles and also reduce the risk in relying solely on personal relationships. (A major project cannot rely on personal relationships – a formal one is more enduring). |
| The City's strategic and operational relationship with the Public Transport Authority is limiting the economic opportunity of the city.  | 3. The consultants see the repair of the City's relationship with the Public Transport Authority as a priority.   |
| The City of Perth has no activation plan that aligns with the intent of the City of Perth Act and the City's Strategic Community Plan. This ultimately adversely impacts on the vibrancy and attractiveness of the city. | 4. Create a comprehensive Activation Plan that should span two years and have an appropriate budget and outcomes.   |
| The City and most State Government Departments and agencies do not have effective relationships required by a capital city.  | 5. There should be an overall stakeholder engagement strategy specifically tailored to the City's relationship with State Government agencies. This must then be imbedded into the culture with the Directors taking the lead and it being reflected in their KPIs.                                       |
| There are specific issues regarding the City's responsibilities and engagement with external stakeholders on major infrastructure projects.  | 6. The Commissioners review and establish the most effective way for the City to work in partnership with major development projects throughout the term of the development and that timely responses would be measured and tracked throughout the project.   |
| There is no tourism or destination marketing strategy that has been developed with industry stakeholders.  | 7. That the City of Perth takes the lead on developing a destination marketing working group with the tourism and retail sectors.   |
| There appears to be no comprehensive scope of works used in the development of the website and there are issues around the project's value for money.  | 8. The website project needs to be reviewed for fit-for-purpose for the City's many strategic objectives and for communications with stakeholders. Further, it should be world's best practice for capital city websites.   |
|  |   |

|  |   |
|--|---|
| The City of Perth has not clearly identified the opportunities for partnerships for events and activations.  | 9. Consider outsourcing community-based activations to Activate Perth so the City can focus on larger events and activations.   |
| While the stakeholder engagement framework is sufficient in how to engage with some stakeholders, there is no thought given to strategic engagement. This means that there is no differentiation of stakeholders and therefore no recognition at the importance and impact on the City's strategic goals by high-level stakeholders. | 10. Stakeholders are mapped and segmented into tiers so it is clear who owns the relationship and what is the best way to engage.   |
| Business units do not have continuity of contact with engagement with their stakeholders to the detriment of the City's success.   | 11. Directors and the CEO become the responsible officers for stakeholder engagement that relate to their directorate/work teams and that performance and evaluation of these form part of director KPIs. They should also undertake a 2 hour Stakeholder Engagement Decision Maker training program that is available. |
| The "one size fits all" stakeholder engagement function and centralised process has created a bottle neck and has led to inconsistent engagement.  | 12. The stakeholder engagement function moves to Corporate Communications and becomes an advisory and support role delivered by skilled staff.  |
| Corporate Communications is not being used effectively by the City's leadership.   | 13. More structured use of the functions of Corporate Communications. Including the Manager in all Executive meetings.  |
| There is little demonstrated informed understanding by the Executive of issues-management and media relations which is having an adverse impact on the City's reputation.  | 14. Create an Issues Management Plan and ensure the timely involvement of the Senior Media Advisor in media relations.  |
| Concern and commentary from external stakeholders on the lack of a Perth brand is a major issue.   | 15. The City of Perth takes the lead in developing a Brand for the City.  |
| There is a major opportunity in both recruitment and structural changes within the Directorate of Economic Development and Activation.   | 16. To ensure best practice in recruitment of Director and Marketing Manager.   |
| There is no strategic documentation for marketing the City and its services to its external stakeholders.  | 17. Review the structure of the Marketing Business Unit.  |
| By constraining the Economic Development Unit from driving partnership outcomes derived from engaging consistently with its own strategic stakeholders, economic development opportunities are being lost, including with organisations such as Study Perth, Historic Heart and the Property Council.                                | 18. Develop a Strategic Marketing Plan that focuses on local stakeholders and includes an events strategy.  |
|  | 19. The EDU should be allowed to develop its own stakeholder engagement strategy with clear linkages to its economic development directions paper.  |

## INTERNAL ENVIRONMENT

The City of Perth has for some time lacked stable, authentic leadership with no clear articulated vision and little commitment to the organisation's values displayed by the leadership team. It is perceived by external stakeholders as dysfunctional, isolated, overly bureaucratic, and arrogant.

Put simply, the organisation needs to elevate its thinking to become a capital city and live up to the City of Perth Act. This has the opportunity to be an inspirational message for staff. At the same time, the culture must ensure this aspiration is supported by customer service and collaboration with stakeholders.

There is evidence that many of the staff see the organisation in a similar way with a silo mentality isolating entire teams from each other and limiting commitment to the City's purpose. There is evidence that they work well in their teams, but overall staff have responded to the lack of vision, leadership and direction by keeping their heads down.

Many of the officers on the ground have been described by external stakeholders as "keen and proactive", but when they go back to the office they meet barriers that mean they can't deliver. The City of Perth was described by one stakeholder as a "Reverse Tardis". Everything is possible on the outside, but back within the City walls, nothing happens. This must be dispiriting for the proactive officers whose enthusiasm is being squashed and whose talent is being squandered by the organisation.

External stakeholders say they only get information from the City of Perth's relevant officer/manager if they seek it out themselves. For many, notably the membership bodies, often they do not know which question to ask, so therefore cannot engage at the point of policy review/formulation relevant to their members.

As a result of working in an environment where no one has the courage or commitment (two of the organisation's values) to make decisions, staff are anxious, risk adverse and they do not feel confident in a "toxic" workplace. This has created an unsustainable 20% staff turnover as people at all levels vote with their feet.

The lack of commitment to its values by the organisation's leaders has fragmented the culture. This has been compounded by direction from the Executives as being confusing. There is a focus on process to the cost of outcomes that limits achieving outcomes. The Executive meeting has as much as 250 pages in it. Agenda items can be up to 30 pages long. This is a real governance issue and needs to be urgently addressed by the CEO and Commissioners. This is possibly a symptom of Managers being too frightened to make decisions so they push the paperwork up to the Directors with the outcome of the City becoming dysfunctional which in turn impacts on stakeholders.

Stakeholders' negative perception of the City impacts on staff's own perceptions of the City has been compounded by the negative publicity over the Lord Mayor and councillors.

It is clear that the Directors are not empowered to make decisions or drive engagement that will achieve outcomes. Rather, there is a focus on internal processes. The impact on City customers - internal and external - has damaged individual and organisational reputations.

It is important that stakeholders are mapped and segmented into tiers so it is clear who owns the relationship and what is the best way to engage. The stakeholder framework can work, but some stakeholders are more sophisticated and require a bespoke engagement plan.

## Findings

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| The culture of the City of Perth is seen by both staff and stakeholders as “toxic”   |
| The Executive does not meet regularly and its meetings are almost entirely operational with a huge volume of information. This does not leave room for discussion around strategy or meaningful decision-making and represents a governance issue. |
| Staff and stakeholders are unsure of what the future holds in terms of Council or Commissioners. This has adversely impacted on behaviours, particularly in the leadership group.  |
| There is little evidence that staff understand who their customers are, how to discuss customer needs or lead conversations with customers that are responsive, provide clarity and manage expectations.   |
| There is much red tape and an old-fashioned compliance mentality that limits the City’s agility and adversely impacts on City’s achievements and engagement with external stakeholders.  |

## Recommendations

1. The Executive has a vital role to play. It should:
  - (a) Hold a series meetings with staff to talk about the purpose of the City – including the City of Perth Act and the organisation’s values.
  - (b) Hold a strategy day devoted solely to seeking ways to improve the culture and change Directors’ behaviours. Finish with a compact between Directors that seek to improve adverse behaviours, including a better understanding of customer service.
  - (c) Demonstrate the teamwork value and act in a collegiate way.
  - (d) Identify opportunities to celebrate success.
  - (e) Use the last staff survey/research to identify opportunities for better communications and other issues. These should be put on the agenda to find solutions on the strategy day.
  - (f) Create a big hairy idea for staff to rally around. The consultants’ recommendation: driving a Perth Brand.
2. Steps required include:
  - (a) Executive meetings held fortnightly.
  - (b) Set an agenda with standing items including stakeholder engagement.
  - (c) The Corporate Communications Manager is included in the meeting.
  - (d) Agenda items are no more than three pages.
  - (e) Directors receive training on how to run a high level meeting.
  - (f) The current CEO uses his experience to revamp the meeting format.
3. Ensure that there is a structure and culture that can transcend political cycles
4. It is important that stakeholders are mapped and segmented into tiers so it is clear who owns the relationship and what is the best way to engage. The Stakeholder Framework can work, but some stakeholders are more sophisticated and require a bespoke engagement plan.
5. Independently review approvals and compliance processes and identify where they act as barriers and where they can be improved to change the intent to solving problems rather than creating them (overcoming the ‘no’ culture).

### Strategy And Partnership Unit

The City of Perth stakeholder engagement function was formally established in March 2017. Since that time a Stakeholder Engagement Framework and a Stakeholder Engagement Plan Template (Engagement Plan) have been written. The stakeholder engagement function was moved to Strategy and Partnership Unit (SPU) in March 2018.

These two stakeholder engagement documents inform the City's engagement processes. They have been further supported by training which has been undertaken by Managers in business units across the City who are Project Owners. The training has introduced the principles and processes of the International Association for Public Participation (IAP2) – the benchmark for stakeholder engagement.

The Strategy Partnership Unit is supported by core documentation that requires review and upgrade. There are significant gaps in strategic stakeholder engagement and the need to reflect sensitive engagement processes with differing cultural groups including Aboriginal, Culturally and Linguistically Diverse communities. Additional steps are required in the Engagement Plan document to fully complete the engagement 'contract' with stakeholders, particularly in the close-the-loop and evaluation actions require focus as these are not being carried out well at the moment.

SPU has only approved three Engagement Plans in the period August – December 2018 when compared to the "dozens" signed off by the Officer in the previous year. This small number indicates that there are considerable unmoderated stakeholder engagements taking place given the number of live projects the City will have.

This function currently only relates for formally approved Council decisions, master plans, revitalisation programs and other matters, possibly due to resourcing levels. There is an equally important function of stakeholder engagement that should take place at business unit level, EG: The Avenue Case Study.

The preferred SPU benchmark for Engagement Plan preparation is six weeks. This gives time for the Project Owner to gather relevant data, scope and structure planning and stakeholder identification can be undertaken. The sign-off process by SPU can be over two months, which delays the start time of projects. The consultants were told of one signoff that took over four months.

Support and advice by SPU is delivered to Project Owners who are Managers and Officers in business units. The Project Owners have come to see the SPU approval process as compliance rather than support. This damages and under-values the significant benefits of engagement and reduces willingness for Project Owners to use the engagement tools fully to achieve strong community outcomes.

The five days IAP2 training are made up of three core modules plus any two of five one-day elective courses to achieve the Certificate of Training. Many Managers have undertaken some of the three core modules available. Use of the training should be undertaken immediately the training is completed as techniques and tools are easily lost in the rush of other day to day work.

SPU staff have limited IAP2 training. Actions by the Manager and the capacity of the one Stakeholder Engagement Officer has limited SPU's capacity to fully meet its brief as advisor and supporter.

SPU only reviews and updates the Engagement Plan Template annually. There is no indication that new external resources like the Small Business Development Corporation publication [Supporting Small Business During Works Projects](#) are suggested to Project Owners or stakeholders as additional resources.

The SPU Manager has regularly engaged in a stakeholder working party related to the CBD upgrade of Forrest Place with building owner ISPT. This is at the heart of Perth's retail malls. The engagement process has been a priority external process for SPU. However, a description of how this project was progressing by SPU staff differs substantially from that of the stakeholder representative (See Case Study).

Currently SPU, nor the any other City officer has a role in the engagement processes for infrastructure works taking place over the next 12-18 months along the full length of Roe St Northbridge. These works will involve the Water Corporation, Main Roads, PTA and MRA among others. The works will impact on business and major activation events including Fringeworld, Chinese New Year and Perth Festival. Water Corporation is leading the stakeholder engagement process, but there is not visible input on the engagement process from the City. Advice from the City's Construction staff is that the work does not enter the City's brief until there is a project handover. The timing of this is unknown. This means the City may inherit a stakeholder engagement problem, not of its making if Water Corporation staff do not consider the City's interests as well as its own. The consultants are unsure how they could.

#### Completed Engagement Plans

The consultants have examined a number of Engagement Plans. Two provide useful comparisons. The Wellington Square redevelopment engagement plan is comprehensive, it engaged a diverse group of local residents, workers, community organisations, service groups, property and business owners. A comprehensive engagement process was prepared and outcomes from it informed the planning, heritage usage and design considerations. It also included service providers for the considerable number of homeless people in the area. The Masterplan for this redevelopment was approved by Council in September 2018. It is unclear whether there has been a full project close-the-loop for stakeholders and evaluation process completed once approval was achieved.

In contrast the East End Revitalisation Engagement Plan attracted a small number of responses. An earlier engagement process was undertaken 3 years ago. The responses received during this 2018 engagement plan are disappointing. There were just 31 responses, 62 people attended information sessions. There appears to be very limited engagement from local workers and businesses. Surprisingly, 289 people viewed the You Tube animation of the proposed changes to one area of the masterplan. This however, does not appear to be a value for money exercise.

The Engagement Plan was approved in July 2018 and the consultation documented in October of the same year. This contrasts with the 15 month duration of the Wellington Square consultation. This second plan leaves the reader less convinced of its rigor and use of correct engagement tools. There is no evidence that senior staff considered the volume or quality of the responses was enough to demonstrate that a desired engagement process had been completed, or if it offered a critical mass of support for the proposed developments.

### Stakeholder Engagement Principles

The City does not differentiate between stakeholders and there is no recognition of the difference of need and opportunity for the City when considering different types of stakeholder. These could be broken into three tiers: High, Medium and Low. A process of first principles should identify who stakeholders are and:

- What level the stakeholder is in?
- Who in the City owns the stakeholder relationship?
- What actions are required by the owner to realise the objectives of the relationship and its outcomes?

The use of the Engagement Plan will differ depending on the level and nature of the relationship. For instance; the high level relationship between the City and the Director General of the Department of Premier and Cabinet would be owned by the CEO. This Engagement Plan would be prepared with a three to five year time frame and will require elements not included in the Engagement Plan Template.

The terms, actions and outcomes from a medium level relationship with stakeholders such as Activate Perth, Tourism WA, AHA and Kings Park would be over a shorter time frame and with different objectives/outcomes. The owner would be the appropriate Director who would oversee actions and engagements by themselves or staff. A low level engagement plan includes stakeholders that will be affected by a masterplan, substantial or minor projects that will involve diverse groups and individuals. Each plan will involve working towards the project objectives, testing and clarifying steps and content with the stakeholders in a variety of forums. The owner of this relationship may also be a Director or Manager and have a timeline measured in months or one or two years.

Each of these levels requires a different level owner, to receive input and responses to inform the City's objectives. Adopting a structure like this will assist the City in establishing a structured, responsive and appropriate timelines for the relationship to develop.

| Findings  |
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| Not all SPU staff have undertaken stakeholder engagement the training.  |
| Engagement Plans vary greatly in their degree of success. Even those well executed and where stakeholders are fully engaged the final steps in the engagement plan are not fully completed and few learnings are considered or applied. |
| Staff turnover and role changes mean that a number of Project Owners have not undertaken training and others have not completed the full five day three unit training.  |
| Engagement often is process driven, narrow in scope, inconsistent and has led to, in one instance, an extremely poor stakeholder outcomes for a major CBD development (see case study).   |
| The SPU is only evaluating engagement plans that are Council approved and that other engagement is being carried out with our without engagement plans.   |
| Time taken by SPU to sign off submitted engagement plans is inconsistent and there is no KPI.   |
| The City has no facility to input or check planned stakeholder engagement by external infrastructure projects that impact on Perth's businesses, community and activation programs. Potential for reputation damage is high.            |
| Qualified stakeholder engagement resources are inconsistent across diverse work teams.  |

### Recommendations

1. The Stakeholder Engagement function should be fully devolved to business units so that stakeholders can have continuity of contact with Project Owners and their staff.
2. Directors and the CEO become the responsible officers for stakeholder engagement that relate to their directorate/work teams and that performance and evaluation of these form part of director KPIs. They should also undertake the training.
3. The City continues to train staff in stakeholder engagement so the full certificate qualification can be achieved.
4. The advisory and support role currently fulfilled by SPU is required by the City, but it should be moved to Corporate Communications with proper resourcing.
5. Employ two experienced stakeholder engagement specialists with an IAP2 qualified external panel member providing advice to the recruitment process. The first, on a full time basis, the second on an 18 month contract to help build in-house skills and confidence of Project Managers.
6. The City adopts measures that ensure that the quality of the outcomes from stakeholder engagement is what counts. (Did it meet the stakeholder's needs while offering value for the City?)
7. A City-driven review of appropriate tiers of stakeholders be implemented, owners allocated, objectives identified and timelines established. The role for Directors in the leadership and management of these relationships will need to form part of their KPIs.

### Corporate Communications

The City of Perth's communications – both internal and external - are inconsistent. The City has a fundamental problem; it lacks a sophisticated understanding of a 'customer.' Since stakeholders are also customers, there are lost opportunities in the formation of relationships and partnerships due to the overall lack of a positive exchange between the City and its stakeholders. Just as customers in the narrow sense of the word have expectations in a transactional relationship, stakeholders' expectations are opportunities for collaboration, innovation and outcomes greater than the sum of its parts.

The opportunities lost from not forming stakeholder partnerships for the City is contrary to its own stated goals in its Strategic Community Plan. This states that Perth is a City "that builds effective partnerships between its community, business and government bodies to create a great place to be."

Moreover, failure to effectively engage widely and build synergies is contrary to the City of Perth Act which says the City of Perth must "engage and give regard to not only its ratepayers, residents and property owners, but all citizens that visit, work or have an interest in the future of Western Australia's Capital City".

The Corporate Communications Unit (CCU) was originally in the Marketing and Economic Development Directorate but as the result of a Deloitte report recommendation 18 months ago, it was moved to the CEO's office, with the Corporate Communications Manager reporting directly to the CEO.

This is in line with most large organisations these days as this structure recognises the strategic value of Corporate Communications in promoting and protecting the corporate brand.

For the City, corporate communications is critical to the protection and promotion of the City's reputation. It is a major tool to achieving the strategic objectives of the City of Perth Act which aims to recognise, promote and enhance the special social, economic, cultural, environmental and civic role that the City plays because Perth is the capital of Western Australia.

The CCU is a major contributor to the City of Perth's reputation through its engagement with ratepayers, the media and in the creation of corporate communications tools for the City.

According to the CCU's Business Plan, the unit provides three key benefits to the City and its stakeholders which are:

1. Confident internal clients that are well equipped to communicate and engage with their audiences.
2. Informed stakeholders with quick and easy access to the information they need and want.
3. Supportive stakeholders that are empowered to be part of creating Perth's future and understand the City of Perth's decisions.

The CCU is a well-resourced full service team with 10 staff including digital and design capacity. Its stated purpose is to develop and maintain "a constructive and engaging conversation between the City of Perth and its stakeholders". The CCU regards its own stakeholders as (a) the City's internal business units which it helps to engage with their own specific stakeholders and (b) ratepayers.

CCU has a media relations function and it sees itself as also providing a key service of "reputation management." The consultants suggest that reputation management is a critical function of Corporate Communications but one that is not sufficiently emphasised or understood by senior management.

It is clear that the advantages of a CEO (or a leadership group through the CEO) having direct access to communications professionals is not being effectively leveraged by the CEO's office or protecting and promoting the City's reputation generally.

One obvious example is the fact that the Corporate Communications Manager is not included in the Executive meetings where the Manager can identify opportunities for proactive promotions and media issues.

A Crisis Communications Protocol document was created by Corporate Communications after the Skyworks tragedy in January 2017, there is no Issues' Management Plan with guidelines on how to approach a potential or real-time media issue.

The risk of inadequate media relations is contained in the City's Risk Management Plan made in August. The risk controls were assessed as "adequate". There was an Inquiry Communications Plan was being formulated for approval by late November, but this has not yet been sighted by the consultants.

Overall, however, the evidence indicates that the CEO or Executive do not utilise the Senior Media Advisor effectively with examples that the Advisor is rarely given the chance to actually "advise" in managing the media, at the critical moments. While the CEO/Executive is respectful of the Senior Media Adviser, there is no real sophisticated understanding of the media management function.

The Corporate Communications Manager's expertise in marketing and corporate communications is a separate and specialised skill and should be recognised as such. While lawyers might tell you what not to say, a good media advisor will tell you what you need to say. There are examples when not saying anything results in extending an adverse media cycle another 24 hours at least.

Nor is there any indication that the CEO or the City of Perth have a sophisticated understanding of the strategic value of the corporate communications business function in Brand/Reputation management outside of operational functions such as consultation with ratepayers, and providing support to business units. These are important areas where the CCU excels. There needs to be a clear recognition of Corporate Communications as an important element in the City of Perth's reputation value chain.

The City of Perth Act states that one of the City's objectives is "to represent the community and encourage community participation in decision-making".

The City's Strategic Community Plan states that: "A city that involves community, citizens and stakeholders in its future direction. Citizens have trust in the City of Perth and comfort knowing they collaborate with community, governments and businesses alike, working in an open and transparent manner. People feel connected, listened to and engaged with their City."

While the above aligns with Corporate Communications Unit's purpose, a comprehensive study – called the Perth Perception Study – released earlier this year indicates that only 38% of the community and its citizens (business community) is satisfied with the City's engagement with them.

The CCU engages with the community through various ways including the quarterly City News delivered electronically and by direct mail. However, the City's primary communications vehicle is its website, notably the Engage Perth website which also links to the corporate website – [perth.wa.gov.au](http://perth.wa.gov.au). The [Engage Perth](#) URL offers ratepayers and the general public an opportunity to provide specific feedback on City projects.

One of the CCU's self-described benefits is it ensures "informed stakeholders with quick and easy access to the information they need and want". This implies there is an up-to-date website and an efficient portal for stakeholders such as ratepayers to access.

The corporate website has recently undergone a major rebuild and is essentially a portal for corporate/council matters; a destination marketing role (under the [vistperth.com.au](http://vistperth.com.au) website address) and a feedback site. "Future Perth" (investment attraction) is also an important part of the corporate/council website and the Engage Perth function will also sit within the portal. Currently under development is a website targeting local businesses where they can "list" their business and offer promotional opportunities. Also, sitting separately within Economic Development and activation sits an [Invest Perth](#) microsite.

Phase one – the destination marketing ("Visit Perth") component of the website was developed by an advertising agency under the aegis of the Marketing Business Unit. There is evidence that there was little consultation internally, no governance or adherence to the City's style guide. (The Director of Economic Development and Activation overrode objections from the CCU Manager on this). The result is that phase one of the website's development cost \$800,000; a "value for money" question. Phase two has now been handed to Corporate Communications to deliver. There are questions around the website's actual capability. If you Google "Perth"; "City of Perth" or "visit Perth", you are currently taken to a landing page and

then directed to an “archive” page. If this continues for too long, it has the potential to damage the reputation of the city.

Issues around finishing the website include:

- Only one person in the CCU to manage the project;
- The need to scope the second phase and assess what cap-ex funds are needed;
- The potential need to go to tender to deliver the second phase (preferable given there are significant issues around deliverables and value for money in the first phase and ;
- The Brand Agency still holds the platform licence for another two years.

The fact that there has been little consultation with other internal stakeholders raises questions around the website’s current fit-for-purpose status and the issue now around “retro-fitting” a consultation process into the completion of the website.

### Digital Platforms

The City of Perth has a Facebook page run by Marketing, which also runs the City’s Instagram account. CCU runs Twitter and LinkedIn pages. The Economic Development Unit appears to have its own LinkedIn page. The Facebook page features only those posts the Marketing Unit deems “engaging”. Community services, for instance, have been told their communications are “too boring” as have Corporate Communications. Instead, a local wine bar, for instance, gets to post its latest deal on the City’s Facebook page, while a city-owned child-care service, or a possible post informing ratepayers of a corporate matter, are not allowed.

Social media can be a powerful communications tool and requires creativity to ensure engaging content. However, the consultants question if it is being used effectively to reach its full potential for the City’s stakeholder engagement across the spectrum. Other capital cities, such as the City of Brisbane, have Facebook pages that incorporate messaging for disparate target audiences.

### Internal Communications

Internally, CCU predominantly provides a suite of marketing services to the business units which are part of the value chain for stakeholder engagement. However, the Stakeholder Engagement Framework does not calibrate the tiers of stakeholders and therefore can overlook who should have real ownership of the stakeholder. For example how does the City communicate parking changes to the public? Who “owns” the messaging in this case? The difficulty for CCU is that its outputs are reliant on the performance of other business units to deliver information or even recognise a stakeholder.

While the CCU is responsible in the creation of “supportive stakeholders that are empowered to be part of creating Perth’s future and understand the City of Perth’s decisions”, it is unclear how the City decides priorities of resources and ensure that the other business units are actually “owning” their stakeholders?

### Findings

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| The Executive is not receiving the advantages of having Corporate Communications reporting directly to the CEO. These skills are not fully utilised by the Executive to improve its message effectiveness or appropriately management the City's reputation.   |
| Corporate Communications is not properly understood by Commissioners, CEO and Directors and as such is not being effectively leveraged at the City to add value to the leadership function of the City of Perth or advancing the City's reputation generally.  |
| Documentation, evaluation, planning and execution of communications meets a high standard.   |
| CCU has a Business Unit Plan, it evaluates projects and outcomes; it is proactive in relation to Council meetings and in trying to anticipate outcomes for management and news releases. It is hampered by not being included in the information circle in a timely fashion or consulted at critical points of management of an issue. |
| CCU has taken over the second phase of the City's website to review functionality and content and introduce more effective internal consultation processes.  |
| There is no co-ordinated approach to the website and it is unclear where the decision to rebuild it was made, its scope or strategic objectives documented.  |
| Senior Media Advisor is not used strategically or treated as an equal player during discussions of sensitive matters. This role is one of an advisor who speaks when he's spoken to.   |
| There is no Issues Management Plan.  |
| There are many City good news stories not being told. These don't appear to be sought consistently by CCU and it's not clear from in-house interviews that managers and staff would know which of their work achievements would make a good news story.  |
| The Corporate Communications Unit policies and procedures are not complied with consistently as Directors overrule CCU decisions that are based on these policies.   |
| There were six staff in the digital team in marketing. Three of these: Videographer and two digital officers moved to CCU so that 'non-event' activities across the City including core City work can be promoted via digital platforms for residents and workers in the city.   |

### Recommendations

1. The Corporate Communications Unit's purpose is reworded to make it clear to the organisation they have reputation management as part of their remit which in turns gives them authority to discuss strategic issues that impact on reputation with Directorates.
2. More structured use of the functions in the CCU including:
  - (a) The Corporate Communications Manager is included in the Executive where the Manager can identify opportunities for proactive promotions and equally importantly, potential issues.
  - (b) Corporate communications and issues are included in the Executive agenda as a standing item to encourage Directors to think of external communications matters.
  - (c) Structured work in progress between the CCU Manager and the Senior Media Adviser identifying media opportunities or potential issues.
  - (d) While the CCU Manager is included in Agenda Settlement meetings, the Senior Media Advisor should also attend these to anticipate any media issues or opportunities.
  - (e) "Talking points" for CEO/Commissioners should be created for looming major issues as an outcome of any of the above meetings.
3. Commissioners, CEO and Directors are (a) 'educated' on both the importance of corporate communications generally and issue management being a critical leadership skill; and (b) undergo media training.
4. An issues management plan is created rather than rely on just a risk assessment.

5. Senior Media Advisor involved in CEO/Commissioner meetings at the outset on major decisions that could attract media attention.
6. An internal steering group across the relevant Directorates is created with the brief that finishing the website is a high priority. This group should consider best practice with other capital cities' websites around the world. The consultants cannot emphasise enough how important an information-rich, easily navigable website is to stakeholder engagement and the City of Perth's reputation.
7. The City of Perth reviews its social media strategy (or creates one) taking into account the needs of different Directorates and effective messaging. This should be done by both Marketing and Corporate Communications together with consultation of Community Services; Economic Development; and arts and culture.
8. Stakeholders are mapped, segmented and prioritised – IE, put into tiers. This will assist in prioritising time spent on the engagement plan and identify ownership of the stakeholder and their strategic value to the City.
9. The stakeholder engagement function is moved to the CCU and regarded in the context as a support function to the Directorates which are appropriately resourced to do this.
10. Directorates are empowered to lead and drive engagement with stakeholders and held accountable.

#### Economic Development and Activation

The Economic Development and Activation Directorate represents one of the City of Perth's biggest opportunities. Its functions are almost entirely outward-facing; its team is dominated by young professionals from disparate backgrounds, several of whom in key positions have only been with the City of Perth for two years or less. They bring fresh perspectives to the organisation.

The majority of these staff members are well aware of the City of Perth's obligations under the City of Perth Act and use this as a guiding light. This Directorate can make a difference in boosting the City's reputation through high level stakeholder engagement if their activities are focused and promoted and the organisation does not limit them with red tape and overly bureaucratic processes.

The Marketing Business Unit has been hampered by an internal perception of not consulting properly. This is directly attributable to a Marketing Manager who appeared to operate unilaterally on a number of projects, the most high profile (and costly) being the website.

The three Co-ordinators who reported into the Marketing Manager, cover activation, events and campaign. The three work well together more due to the collegiate styles of all three, than good management. The Campaign Co-Ordinator is currently the Acting Marketing Manager.

Two of the three have worked for the City of Perth for one year or less. Neither has received an induction and it has been left to chance for them to understand what people internally do or what the City's procedures are. These staff have relied on advice from the third member of the team as to who to go to for support in approvals, for instance, and have been building their own relationships in order to get things done.

This modus operandi has also applied to external stakeholders as they have attempted to build relationships with City stakeholders from Dexu in Kings Square to the MRA and Cathedral Square stakeholders.

There is no mapping or definitive list of stakeholders relevant to the Directorate.

There is no strategic thinking when it comes to events, activations and marketing campaigns aimed at retailers and businesses. Moreover, there is no integration of service delivery to ratepayers and Perth businesses; nor is there rigorous research undertaken to identify success (or otherwise) of the City's campaigns, events or activations. As a result of the lack of integration and research of stakeholder (or customer) satisfaction, the residual effect of much of the City's marketing activities is unknown.

There is no real differentiation between events and activations, so while the officers understand the difference, no one outside of the Directorate probably does. Events should drive visitation to the City while activations contribute to the vibrancy of a City. Both enhance the visitor experience and the City's Brand; and both generate significant benefits to stakeholders from business to ratepayers. Events and activation were recently split out but this can reduce the opportunity for an integrated approach in developing a destination marketing profile as well as place making generally.

Both areas experience significant internal barriers, notably from the approvals process which can cause failures in events in particular. There is a large approvals team but evidence from both the City's events team and from external stakeholders such as Activate Perth indicate that the Approvals Unit (in a different directorate) does not have a strong sense of customer service to either internal or to external events being sponsored by the City or by external organisations.

This lack of flexibility creates barriers in achieving outcomes for events or activations. There is no real understanding outside of the ED&A Directorate that it can disadvantage the City's vibrancy and Brand. For example, the City charges events' organisers according to cost per person, so there is no incentive to attract record numbers (the event Colour Run is an example). Without flexibility, the City will lose events as it did with a waterslide event/attraction. It has gone to the City of South Perth where it will attract visitors and add vibrancy to the South Perth foreshore throughout summer.

The City of Perth's escalating costs for managing events means even city-owned events are hampered by the same processes. The Anzac Day Parade was charged \$120,000 for 'in-kind' services by the City. It was easier for the Economic Development and Activation Directorate to give the RSL a cheque for \$100,000 so it could pay the City of Perth Approvals Unit.

Beyond the operational level, the consultants have failed to find a marketing strategy developed by the City; an events strategy; an events calendar; or an events policy with a criteria that drives visitation or supports the City Brand. There appears to be no events feasibility analysis to provide transparency in decision-making which in turn will assist stakeholders in the process.

Nor is there any measurement of most events. The City doesn't have an insight as to the value-for-money delivered by an event, yet at the same time it appears to make decisions in isolation without consulting the community. For example: the City cut the New Year's Eve event in Northbridge, but there was no evidence to support the decision or ascertain its impact on stakeholders.

It appears there are no funds to do an overall events strategy and there is nothing in the Corporate Business Plan for events. There is no branding. Yet the City of Perth spends significant amounts of money on events – Skyworks alone costs more than \$1million – but the City really doesn't understand why it is doing it in the context of its obligations under the

City of Perth Act. Yet events can be a powerful tool, not least in engendering community pride and strengthening cultural ties; they support the Brand and attract visitation to the city.

The City stages seven marketing campaigns a year, but again there appears to be a lack of integration with other marketing activities such as aligning activations with campaigns.

Stakeholders aligned with tactical campaigns are the food and beverage, entertainment, and retail sectors. There is no systemised engagement with these segments such as a direct email that can inform them of what the City is planning by way of campaigns so stakeholders can participate. Businesses can promote on the City website which in turn promotes the 'experience' of being in Perth. There is an opportunity for these stakeholders to understand the value of what the Marketing Business Unit can do for their business and get engaged with the campaigns with offers and promotions. There has been no consistency of engagement with these stakeholder groups.

An example of this type of stakeholder engagement is "Let's Thursday like its Friday" which worked well in the first year, but then it fell back in year two because no one had the time to freshen it up.

In summary, City marketing needs a clear direction and strategy which can transcend the current situation where the three co-ordinators and their teams work together to achieve outcomes virtually in isolation. These officers are "just getting on with it".

Digital platforms such as Facebook and Instagram should support the marketing activities of the City as well as the community activities. There seems to be a lack of involvement from most facets of the organisation with either the website or the digital platforms.

The former Marketing Manager was responsible the development of a new website with the Digital Co-Ordinator leading the project. It was two years in development and yet without real internal consultation or any oversight, given the huge cost. There appears to be no digital strategy which should sit in the Marketing Strategy.

#### Economic Development Unit

The Economic Development Unit (EDU) is being held back by the current structure of a centralised stakeholder engagement function. The EDU knows who its stakeholders are and has a good strategic direction for how the City can facilitate economic development through connecting networks of the City's many stakeholders.

This involves an extensive scope of stakeholders from bodies such as Study Perth, to developers including the Property Council, to corporates to small business.

The EDU also provides advice and support to new business entrants as well as "providing investment and business-to-business opportunities for existing businesses through promotion of local providers to international networks and trade delegations."

In other words, active and sophisticated stakeholder engagement is critical for the success of the EDU and if there was ever an argument for the segmentation of stakeholders and the empowerment of a business unit to engage directly, then the EDU is it.

However, the consultants feel that the City has tied itself to complex and limiting internal procedures. As a result it is not engaging at the right level and at the right time, so economic development opportunities are lost.

Despite the elaborate procedures, stakeholders are confused. An example is where the Economic Development Unit developed a three-year funding agreement with Historic Heart, including getting the legal aspects lined up. Then Strategy and Planning got involved and EDU waited for four months for an approval of the contract from Strategy and Partnerships (as part of the engagement management plan). When EDU finally thought they make contact with Historic Heart, EDU discovered that the City's Manager of Strategy and Partnerships had been meeting with the Historic Heart's Executive Director. This lack of communication and appropriation of stakeholders (and the hard work already done) by Strategy and Partnerships erodes trust between business units. It also wastes time.

This creates confusion with stakeholders and begs the question; who owns the relationship?'

By not having a clear direction and a high level of ownership of stakeholders, the City lacks an advocacy and priority platform for policies and issues such as the cable car or an Aboriginal Cultural Centre at Elizabeth Quay, Perth Convention and Exhibition Centre expansion, or the Bicentennial. Who will own these visionary projects and who will proactively lead them?

It appears that business units tend to develop their own channels to reach stakeholders – in the EDU's case, a micro investment site was created, but there was no consistent branding because the Unit undertook the work on its own.

Having such a website address as a major communications and engagement channel with business is critical in assisting the ED&A Directorate achieve outcomes such as promoting Perth as an ideal business and investment destination and connecting local businesses with international businesses to take advantage of potential export opportunities. In this instance, the microsite <https://invest.perth.wa.gov.au/> has been successful in delivering a significant benefit in advocacy and relationship building through increased online engagement. As well as more than 33,000 website sessions and 93 enquiries submitted via the website, the EDU has gained 35% increase in its LinkedIn audience.

Critical to developing an effective City-based business eco-system is a specific stakeholder engagement plan for EDU, including a digital strategy. Another important role of the City is to encourage the diversification of Perth's economy and support growth in the tourism and international education sectors and the EDU has carriage of this.

The City's Economic Directions Paper highlights the need to drive a more collaborative approach to tourism industry development in Perth by private and public sectors. It also addresses the growing demand from overseas visitors for "new authentic experiences, particularly in regards to Aboriginal and cultural tourism" adding that "there is a clear opportunity for the City to work with key stakeholders to increase the number of Aboriginal tourism businesses and cultural experiences located within Perth."

There is evidence that the EDU is active in addressing issues with business stakeholders as they arise such as lobbying internally to get alfresco fees and regulations reduced. The result is less cost and compliance for businesses and increased vibrancy for the city.

At the same time, Economic Development should be at the table as the City develops policies that impact on business stakeholders. For instance the City doesn't yet have a clear policy on Airbnb. This represents a dichotomy that has resulted after the City has spent five years incentivising hotels. The AHA raised this issue as well.

Arts and culture are an important element of economic development and the activation of a city and is addressed in the community section.

The game-changer for the City of Perth in the attracting tourists, investment or talent, would be focussing on an over-arching Brand and a Destination Marketing Strategy for the City. There has been much discussion about this in the media and with stakeholders: the City of Perth should take the lead.

| Findings   |
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| The Economic Development Unit has a clear direction, but is often stymied by “cookie cutter” stakeholder engagement which is not necessarily focused on specific outputs.  |
| Economic Development has a huge range of stakeholders with which it needs to engage, but there is a lack of mapping of stakeholders overall.   |
| There is often no clear ownership of the relationship with a stakeholder.  |
| There is concern that there is no oversight of the consultation process of the development of the Customer Relationship Management software with the result there is a risk that it is not necessarily “fit for purpose” for all business units.   |
| City of Perth is reactive, not proactive when it comes to economic development and marketing itself.   |
| There is no stable senior leadership in the Directorate which can consistently drive advocacy and partnerships.  |
| The EDU is very active in the international space with activities ranging from hosting large trade delegations, sharing best practices with sister cities and world energy partners, to sponsoring the PCB, Destination Perth and Study Perth.   |
| The City of Perth does not have a Destination Marketing Strategy which defines Perth’s Brand and supports investment attraction, tourism and international education. This should be created in consultation with the lead stakeholders listed in the recommendations contained in the Tourism section of this report.       |
| Red tape can kill innovation or give competitors an advantage.   |
| There appears to be no overall Marketing Plan for the City.  |
| There is no events strategy with supporting policies, feasibility analysis, research, or budget.   |
| There is no year-round events and Cultural Activities Calendar.  |
| There is no digital strategy.  |
| Activation and Events Business Units have been separated, having once worked together. In the process synergies appear to be lost.   |
| There are no overall Place Activation or Place Management Plans.   |
| There is little integration of campaigns and activation where activations can support campaigns and give them more weight.   |
| Groups like Activate Perth are nimble and as long as they are aligned to the City’s strategic objectives, should be supported.   |
| Internally, there has been no formal inductions with new staff who have had to make their way through the City’s maze of finding the right people to help them get approvals for events or activations.  |
| There is limited research linking post campaign reports, events and other activities and which can inform further strategies and plans.  |
| Marketing is planning to establish an opinion panel and use the direct feedback from retailers which began in early 2018, but appears to have stalled. Only 5 businesses have signed on. This initiative still appears on the website as the lead story in the Initiatives section – signalling a failed engagement process. |
| Tension between the Marketing and Corporate Communications Business Units is disadvantaging the City.  |
| The Marketing Unit runs on collegiate spirit and personal relationships with no apparent formal vision or purpose.   |

## Recommendations

1. The City of Perth takes the lead in developing a Brand for the City. It should create a working group including representatives from tourism (Destination Perth, PCB, TWA, and the Tourism Council); membership bodies such as the Property Council and the Committee for Perth; other stakeholders in State Government (including the Department of Premier and Cabinet) and relevant City staff.
2. At the same time the City develops a Destination Marketing Strategic Plan working with industry stakeholders and local businesses to develop a narrative for the City, a visual identity, style guide and so on. This piece of work should support and add value to point 1, as well as give direction for the City's Marketing Plan which would focus on local stakeholders.
3. Economic Development and Activation plays a more proactive role in economic advocacy matters for the City which align with its obligations under the City of Perth Act and identifies opportunities to take the lead on driving outcomes for the City and its stakeholders.
4. Good recruitment of the two key vacant roles in ED&A is vital. To ensure best practice in recruiting a new Director of ED&A, it is recommended there be an independent person such as the CEO of the Committee for Perth on the recruitment panel. The recruitment panel for the Marketing Manager role should also have a well-respected marketing professional on the panel.
5. A clear map or list of ED&A's stakeholders and a specific Stakeholder Engagement Plan which makes clear who "owns" the relationship.
6. The EDU is empowered to take on its own stakeholder engagement on the basis there is a Stakeholder Engagement Strategic Plan with KPIs that the Director and Manager will report against.
7. Stakeholders within the City should be segmented and "tiered" to identify the complexity of each one because different stakeholders need different approaches.
8. International relationships are more clearly communicated and leveraged with a report on trade delegations and conferences more regularly promulgated.
9. Strategic Marketing Plan focusing on local stakeholders developed which includes an events strategy for the City (including taking in the development of an Events Policy and Budget).
10. The structure of the marketing team is reviewed with consideration given to how best to integrate its activities to create improved synergies across all the marketing disciplines.
11. An events and cultural calendar created and promulgated.
12. A digital strategy created which addresses the need for a fit-for-purpose and information-rich website, as well as consistency of policy around the use of the other digital platforms. This should be done as an internal working group across the major stakeholders such as Corporate Communications, Community Services and Arts and Culture.
13. The website development to be led by Corporate Communications due to their resourcing and governance processes, but marketing and economic development are an important part of the internal steering group.
14. Approvals specifically for events and activations moved into the ED&A with one experienced person also providing assistance in shepherding customers/stakeholders through the approvals process.
15. EDU, Marketing and Corporate Communications develop a plan specifically promoting the activities and achievements of the Economic Development Business Unit – both internally and externally. (The City of Perth needs to find ways of more effectively marketing itself on a wider stage).
16. Strategic issues and policies which have the potential to impact on Economic Development and Activation stakeholders, such as the Airbnb example, should be an ongoing item on the agenda for the Executive. So should the Perth Brand.

17. Outsource activations under \$100,000 to Activate Perth with an agreement that ensures their activities align with the directorate's strategic objectives.

### Coordination and Design

There is a mismatch in the current working relationship between Coordination and Design and the Construction Business Units. These two City functions are required to work closely, however there appears to be stakeholder engagement confusion and a low level of customer service caused by an internal change in the City's structure.

There was a time when the Coordination and Design Unit (CDU) team would be attached to construction projects for the life of the project. CDU undertakes the frontend consultation with stakeholders and also prepares the Engagement Plan, Construction completes the back end including the engagement process.

The structural change means that CDU currently has approximately a 15% view of the project before it is handed over to Construction (different Directorate). This change has had a detrimental impact on the stakeholder engagement process.

For the stakeholder, there is no end-to-end engagement perspective.

There appear to be variable engagement skills among construction staff and it is unclear that these staff use the Engagement Plan that has been prepared by CDU.

CDU has experienced challenging workflow timelines as the process of Engagement Plan approval by the Strategy and Partnership Unit has been overly lengthy in some instances. The structural change has also thrown up lack of consistency for projects that involved Wadjuk stakeholders.

### Findings

From a stakeholder engagement perspective there are many positives for there to be a complete project overview by City staff that offers continuity and confidence in the City's relationship with stakeholders.

Steps need to be taken to address confused workflows in the interactions (or not) between Planning and Development and Construction and Maintenance staff.

The CDU team is one of a number across the City that have had issues with the timely signoff to Engagement Plans.

There is an opportunity to improve engagement with aboriginal people who are stakeholders in construction projects.

### Recommendations

1. The relationship between Coordination and Design Unit and Construction requires review with customer service as a principle-measure and adjustments made to relevant position descriptions are required.
2. Examine ways in which the two work teams can deliver effective customer service and engage with stakeholders as one entity.

## EXTERNAL ENVIRONMENT

### State Government Agencies

To be successful the City of Perth needs to have strong and close relationships with a number of State Government departments and agencies. While there is evidence of some successful work taking place at officer level, the much needed strategic alliance is in poor shape.

One telling observation came from the Director General of the Department of Premier and Cabinet who noted, that since the McGowan Government was elected there had been no contact from the City to the Director General's office.

"Given the considerable change of policy, focus on tourism and the potential considerable role the City could play in the economic, social and cultural life for Western Australians and visitors for this state, the City has been surprisingly silent." The Director General indicated that he would welcome a long and positive relationship with senior City representatives and that the State would benefit significantly from this.

There are other State Government stakeholder relationships that are central to the City's operations. One is a close working relationship with the Department of Local Government, Sports and Cultural Industries. Staff see opportunities for the City in this relationship in particular, but this view has not been matched with proactive engagement by Executive members.

It is clear from the consultants' interviews with State Government stakeholders that there is universal frustration at the lack of engagement by the City.

The consultants have focussed the following critical areas.

### Planning and Infrastructure

Planning and infrastructure is a capital city's core business. The City of Perth's goal is to have "an exceptionally well designed, functional and accessible city" that has "accessible public and private spaces".

According to senior staff of the State Planning Department and the Chairman of the WA Planning Commission (WAPC), the City of Perth has not taken a leadership role in the vision for the City. As such, it has missed opportunities for the planning of the city. Perceptions are that the City does not "have skin in the game" and as a consequence, Perth lacks an integrated vision.

Currently, the only real interface that the WAPC has with the City is the Central Perth Planning Committee. WAPC has sought to have a MoU between it and the City on its local planning strategy, but this has not borne fruit.

City officers do respond to stakeholders but across the business units there is inconsistency. For instance, in property, there is limited and infrequent engagement; in heritage, there is good engagement. However, overall processes are done well by officers who are "getting on with the work". Yet there is no underlying strategy and as a result there is a level of anxiety by stakeholders wondering when the City of Perth will function properly again. One comment was: "it's as if they have accepted that they have been sidelined".

The Department and Planning Commission believe that this period of disruption is the ideal time to scrutinise existing processes and aim for transparency in the City’s planning vision and decisions to instil confidence in stakeholders.

#### Metropolitan Redevelopment Authority

The MRA also strongly believes there is no strategic vision by the City of Perth that anchors objectives with strategies for the greater good.

In fact, the only thing the City of Perth and the MRA seem to agree upon is that the relationship between the two organisations is “terrible”.

The MRA said that it deals with five local government entities. The relationship with four of the five is positive, while the relationship with the City is poor and has been inconsistent over the years.

In its work, the MRA is conscious of both community objectives and that what it leaves behind local government has to run.

“We try to keep focused on the end point but even when we sometimes think we have alignment with the City, it loses sight of the objective,” commented a senior MRA staff member.

An example where engagement between the MRA and a local government authority has worked well is the Scarborough foreshore development with the City of Stirling where a steering committee was formed and the precinct was handed over in a phased way.

Another high benchmark for collaboration in major projects appears to be the development of a new high school in the City of Subiaco on Kitchener Park. The City of Subiaco has set up a Precinct Liaison Committee for the project with the Subiaco Mayor and CEO and the Departments of Sport and Recreation, Planning and Education. It has become an information-sharing portal with sub-groups such as transport. The result is a governance framework which formalises the engagement. It informs everyone but does not preclude separate, more informal relationships and it allows a genuine relationship that is both interpersonal but also entity to entity.

Projects with the City that have the MRA leading include the Perth City Link; New Northbridge; Claisebrook; Riverside project; Yagan Square; Elizabeth Quay and the Cultural Centre.

According to the MRA, not many projects have worked in terms of relationship between the two organisations. An exception was the CCTV/safety issue addressed in the Cultural Centre where cross-coordination of that work was effective, but more because “it was a necessity”.

#### Public Transport Authority

Public transport is a critical service for any capital city. The City of Perth Act relates directly to the City’s responsibility to be “continuously improving the services and facilities that the City of Perth provides to the community and to local, interstate and international visitors”.

The City's Strategic Community Plan states that its goal is to be a city where there is "the ability to move freely and easily... in a safe and efficient manner" thereby creating "a strong sense of place that can be enjoyed by all."

Unfortunately, the City of Perth has a poor relationship with the Public Transport Authority. The PTA sees the City as myopic in respect to parking and public transport. Ongoing conflict between the City of Perth Manager responsible for engaging with the PTA has led the PTA Managing Director to lodge a complaint with the City's former CEO.

The perception is that because the City's revenue from parking is a third of its budget, it runs the parking strategy as a commercial enterprise without consideration of public transport needs.

This short term opportunism is seen as limiting city revitalisation and therefore impacting on the city's economic growth.

As one external stakeholder observed that "the City of Perth is concerned about the tobacconist on the corner and has no macro-view. This is preventing the city from reaching its full potential."

At the operational level, the PTA's bus contractors which deliver national and international contracts, find the City of Perth difficult to deal with. The PTA itself says its relationship with the City is the "worst of any local government."

Both the PTA and the Committee for Perth cite examples where Councillors failed to understand the importance of public transport to a city and their responsibility to consider public transport beyond the City's boundaries.

The most telling example communicated by the CEO of the Committee for Perth relates to light rail and the City's concern that it would ruin the look of Hay Street mall. Light Rail became a political campaign based purely on aesthetics, not on community was the comment. It ignored PTA reports and even when information came to light, Councillors ignored that.

The perception of external stakeholders is that the City stopped a project that would have benefited the whole state.

The PTA has an informative DVD with evidence-based research on the fact the public "want public transport," but when the PTA invited Councillors to view the DVD, they refused to see it.

#### Findings

Major infrastructure projects are changing the face of Perth, but the City of Perth does not have an integrated vision that leverages Perth's uniqueness despite, it being articulated in the Strategic Community Plan.

The City is not attuned to the fact that big issues are defining the City. For example: retailing is changing; the need for activation of the exciting new spaces around the city; the use of City-owned infrastructure such as the Concert Hall.

The City needs to recognise the leadership role of being a capital city, but temper it with the understanding that credibility and respect are earned not imposed.

The City seems to have ceded any real involvement in the overall planning vision of the city including public transport planning.

The City of Perth has a poor relationship with both the MRA and the PTA with engagement being either non-existent or 'toxic'.

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| Some areas of planning or approvals get into the detail of saying “no” instead of having positive dialogue with stakeholders.  |
| The City does not understand that it has a role for the region which requires across-boundary co-operation.  |
| The City needs to take control of Elizabeth Quay and other spaces in terms of activation.  |
| Governance for important State government relationships is poor. MRA has an MoU with the City, but no-one in the City appears to know it.  |
| In the case of Elizabeth Quay, it is not clear what the City of Perth budgeted for operating costs before the rates revenue from the hotels and apartments come on line, though this could explain its reluctance to take the handover.  |
| When considering public transport, the City of Perth is myopic and its decision making and vision do not extend beyond its boundaries.   |
| There are several examples where the City of Perth has not made a decision on transport matters in a timely fashion including Jewel Lane in East Perth (two and half years); the closing of Moore Street crossing near Royal Perth Hospital (three years); and in the past, a second exit into Roe Street for the Perth Bus Station. |
| The City feels like it is competing with the MRA and does not work in partnership.   |
| There have been such significant breakdowns in communications and engagement between the City and the State Government, to the extent that the Committee for Perth was asked by Government “how to speak to the City of Perth”. The outcome of this frustration was the Perth City Summit.   |
| For large developments there is no one unit within the City operations where developers can establish a working relationship with a suitable staff member who is briefed to be the internal advocate for the project. Such a role would provide continuity for the developer and act to solve project problems in a timely manner.   |

| RECOMMENDATIONS  |
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| 1. Establish a high level governance framework with major projects which will transcend political cycles and also reduce the risk of relying solely on personal relationships. (A major project cannot rely on personal relationships – a formal one is more enduring).  |
| 2. In the case of the MRA and City relationship, there should be an MoU which signals intent and an engagement process that works for both parties.  |
| 3. There should also be a formal MoU between the City and the WAPC to ensure there is a more integrated vision for planning in the capital city and which guarantees engagement between State and local government.  |
| 4. The City of Perth will gain from being a more active participant of central committees and working groups, such as Central Perth Planning Committee, MRA and the Public Transport Working Group (participation). This should be part of the relevant Director’s KPI to ensure accountability.                     |
| 5. The consultants have identified the repair of the City’s relationship with the PTA as a priority.   |
| 6. The City of Perth’s attitude to public transport and the need for it to have a macro view should be tested.   |
| 7. The City of Perth should develop an overarching activation plan which in turn plans activations for major projects as these are completed. A plan could span two years, have an appropriate budget and have outcomes that align with the intent of the City of Perth Act and the City’s Strategic Community Plan. |
| 8. An overall stakeholder engagement strategy is required that is specifically tailored to the City’s relationship with State Government agencies. This must then be imbedded into the   |

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| culture with the Directors taking the lead and performance being reflected in Director's KPIs.  |
| 9. Scrutinise existing City's planning processes and identify actions to give transparency to planning vision and decisions to instil greater confidence in stakeholders.   |
| 10. The City's CEO and that of the MRA should engage regularly and the MRA/Landcorp Chair and CEO should brief Council periodically.  |
| 11. The Commissioners review and establish the most effective way for the City to work in partnership with major development projects throughout the term of the development and that timely responses measured and tracked throughout the project. |

## Tourism

Perth is recognised as the most remote capital on the globe and it is certainly the furthest from any other Australian capital. These geographical facts alone should be a compelling reason for the City to have a highly developed tourism strategy that is the base of strong relationships with local national and international partners. The City has helped secure new hotels, but there are still shortfalls in relationships that drive this sector.

One of its stated goals in the City's Strategic Community Plan is to develop a city "that is recognised internationally and locally as a leader in the Indian Ocean Rim for diversity and excellence in business, tourism, education, technology and trade."

It is therefore critical that the City engage well with tourism bodies, notably Tourism WA, and membership stakeholder bodies such as the Australian Hotels Association. As part of this project, the consultants interviewed senior staff at TWA and the AHA.

Recent sector appointments have resulted in a new TWA Managing Director and a CEO (who is also Director-General of the Department of Jobs, Tourism, Science and Innovation), as well as a new CEO and Chairman of Destination Perth. These appointments mean the tourism agency landscape has changed, creating opportunity for the City.

All external tourism stakeholders see the City's role as promoting and developing a world class destination, one that is vibrant, diverse and attractive for tourists and visitors.

However, aside from some positive engagement in the past on hotel development and bonus ratios, overall tourism industry sector stakeholders describe their engagement with the City of Perth as "ad hoc and superficial".

In the case of the AHA, it claims the only "regular communications" has been limited to City newsletters. It notes that even advice on important policy changes or reviews that impact on their members has been ad hoc or discovered as the result of an AHA query.

In terms of destination development, engagement with the City's Planning directorate on the development of hotels several years ago was good. An example was the Westin (2011 – 2015) when senior TWA staff were meeting with the City's Martin Mileham on a regular basis. At the time, the City showed flexibility with the plot-ratio bonus and gave incentives. This was considered a significant benefit to the tourism sector because at the time the biggest barrier was lack of hotels.

However, in recent years, engagement between the City and TWA in terms of destination development has been viewed as "hit and miss" and taking a long time. The AHA and the Property Council note that plot ratio incentives were due for review, but there has been little or no engagement on this matter by the City.

The AHA gave the example of the long-standing review of the Northbridge Noise Management Act. While this is State government legislation, it is city-led but the AHA says it has not had any consultation on the matter since 2017. TWA has been talking to the City of Perth for five years on the topic. In one case, the officer with carriage of the noise management review for a decade left the City, but the AHA only found out eight months after she had left.

Noise Management Legislation is a critical factor in planning a vibrant place for inner city residents. It will be of particular relevance to Elizabeth Quay as the apartment buildings and hotels are completed.

Further examples were raised with the consultants on policy reviews such as outdoor dining where the AHA noted a lack of clarity of the recommendations. A food truck trial was scheduled to run for 12 months, but council said a review wasn't necessary and it would adopt a policy without the trial. AHA members found that the City of Perth website had no links to the Engage Perth website which, the AHA claims is "designed to give an impression of engagement".

Both TWA and AHA senior staff made the comment that each was aware of a new "engagement team" established 18 months ago, but neither group have met the Manager of the team.

#### Findings

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| Despite clear goals in the City's Strategic Community Plan, it has not taken a leadership role to make Perth a vibrant city.   |
| The City of Perth Executive is seen as dysfunctional with the structural changes made some time ago (the SPU) having minimal impact on the City's performance in engagement with tourism stakeholders.                                       |
| The City of Perth needs to be an enabler for the visitor experience. However, it has taken a middle space on this - not a leadership role.   |
| Perth is not a 24-hour/seven day destination. The City must identify opportunities to make the city hum – whether identifying precincts such as the Cultural Centre or working with stakeholders to create activities such as night markets. |
| There needs to be better promotion and subscription services to update industry, either on the website or through direct engagement.   |
| Key stakeholders in the tourism sector have requested a forum where they can meet the Commissioners, to discuss policy issues or ask questions.  |

#### RECOMMENDATIONS

1. That the City of Perth takes the lead on tourism in the city. It could create a working group encompassing TWA, AHA, the Tourism Council, Destination Perth, Perth Convention Bureau and other relevant tourism industry stakeholders to provide an ongoing forum for engagement aimed at raising policy issues as well as proactively identifying opportunities and enablers for the visitor experience in Perth.  
**Note:** the Destination Marketing Strategy included in the Economic Development recommendations should be developed with these stakeholders.
2. Establish a regular forum for the Commissioners to speak directly to tourism industry stakeholders.
3. Ensure the website is up to date and contains relevant tourism industry information that industry leaders in the sector can access and disseminate.
4. Information should be promulgated in a timely way either by direct email or newsletter and every opportunity is taken to promote the [Visit Perth](#) website. The website should be

content-rich and ensure there are clear links between the newly developed City website and other relevant tourism links such as [westernaustralia.com](http://westernaustralia.com) and [experienceperth.com](http://experienceperth.com).

### Brand Perth

A Perth Brand is an opportunity that has been repeatedly raised by stakeholders with the consultants in their interviews.

The City of Perth Act states the City's role is "to maintain and strengthen the local, national and international reputation of the Perth metropolitan area as an innovative, sustainable and vibrant global city that attracts and welcomes everyone."

However, while the call for the development of a "Perth Brand" at State Government level is gaining momentum, the City of Perth has failed to take the lead, to the frustration of its stakeholders and staff. Several stakeholders see that the City has "never had a vision for its Brand". This is a major drawback in attracting investment, visitors and international students and generally constraining the City's economic development.

Stakeholders with a national outlook are concerned that the reputation of the City has been badly damaged by the controversies around the Lord Mayor and the circumstances surrounding the Council's suspension.

Yet at the same time, there is unprecedented infrastructure coming on line in Perth. Some of these developments such as Yagan Square, Elizabeth Quay, Optus Stadium and the new museum as well as the city's enhanced connectivity, add significantly to the visitor experience and the enjoyment of Perth by people in their city.

This changing face of the city can act as a catalyst for the City of Perth to work with stakeholders to identify the City's unique selling points and develop a compelling and unifying narrative of what Perth means. The result could be a fully integrated Brand and a city whose reputation is well and truly restored.

The Commissioners are in a strong position to empower the City to seize this once-in-a-generation opportunity to take the lead and develop a Perth Brand in line with its Act. With proactive staff and close interface with a wide variety of stakeholders, the City is well positioned to achieve a positive and agreed outcome for the whole State of Western Australia.

### Community: Business and Ratepayers

The City of Perth and the Local Government Acts each require engagement with the City's community. The City of Perth Act states as one of its Objects (8.1(b)) "*to represent the community and encourage community participation in decision-making*". The City's formal stakeholder engagement began in 2017 and led to the creation of a Stakeholder Engagement Framework and an Engagement Plan Template. The opportunity contained within these documents has not been fully used in a way that meets the needs of stakeholders. To some degree the documents reflect a 'tick the box' mentality. Stakeholder engagement with the City's communities and businesses is inconsistent, selective and in many cases has led to poor outcomes.

### Activate Perth

Activate Perth is a not-for-profit association formed as the result of the recommendations of the Perth Summit convened by John Carey MLA in August, 2017. Its mission is to create a community connection in the City of Perth by “facilitating novel partnerships and projects between business, the community and government”.

Activate Perth is comprised of residents and businesses who want to be actively engaged with the City of Perth at a grassroots level. Activate Perth states that it will “champion the renewal and activation of our city, partner and co-create with the community, City of Perth property owners and businesses, to bring streets and public spaces to life through a series of activations, events and projects, as well as bring life to vacant buildings.”

Activate Perth has sought to fill a vacuum at a community engagement level. It aims “to promote the interests of the local communities by facilitating activation projects and partnerships that make it a more vibrant place to live, work and play”.

It has recently submitted a funding proposal to the City of Perth including neighbourhood and community programs. Its focus in the neighbourhood arena includes managing agreed initiatives across two or more neighbourhoods/precincts.

Activate Perth’s approach was agreed by its board, separately with the City’s previous Director of Economic Development and Activation and John Carey MLA. It was also endorsed by the City, as policy in February 2018.

Activate Perth’s ability to collaborate with stakeholders and act in a collegiate manner with the City is a great opportunity to deliver on its own strategic goals to “build effective partnerships between its community, business and government bodies to create a great place to be”.

Currently, Activate Perth has a good relationship with the City at officer level. The previous Director was an ex-officio member of the Activate Board.

However, like other stakeholders, Activate Perth has found that while there is good intent from one directorate with which they work closely, ultimately the ‘wonderful’ staff are “completely disempowered due to discrete silos”.

The consultants have been told by a number of people that the Perth Festival Giants almost foundered because the City of Perth introduced so much red tape. The City of Perth should be an enabler of vibrancy in the city, not a barrier.

### Findings

|  |
|--|
| Activate Perth’s activities offer an opportunity for the City of Perth to build communities.   |
| The City seems to have precinct plans, but no activation plan (as already identified in the section on Infrastructure).  |
| Activate Perth can deliver community activations worth of \$100,000 while above that sum the City of Perth should be undertaking the event. An example is that Activate Perth is currently working with Raine Square corporates and the Department of Planning to deliver activations in the Raine Square space. |
| Activate Perth is agile while the City of Perth is not.  |
| Red tape can kill innovation and opportunities for vibrancy.   |

### Recommendations

1. Review approval processes and if not already in place, establish KPIs to measure the timeliness of service for permits to be issued.
2. Consider outsourcing community-based activations to Activate Perth and the City to focus on larger events and activations.
3. Adopt a customer focus where the City can enable activations for the benefit of the community.
4. Formulate a neighbourhood development strategy.

### Customer Relationship Management

The City has been trialling a Customer Relationship Management solution which should assist in informing the above processes. The project is led by the Director of Community and Commercial Services and has been trialled over six months in the Customer Service Business Unit. A gap analysis was undertaken and part of its scope was for the CRM to remain fit for purpose for the City for the next five years.

An App has been developed to connect with the CRM to make it user-friendly and able to be updated from mobile devices.

Within two weeks of the trial beginning Customer Service staff recognised the great benefit of the data the system was gathering and these staff now receive a large number of internal requests for information that are resolved in seconds rather than hours. The consultants understand that this is now working live for all City staff, with much of the take up by staff yet to be achieved. For Customer Service staff the CRM has delivered major benefits that is driven by the consolidated data it generates for internal and external City customers.

There is potential for the CRM to be important for both Corporate Communications and Stakeholder Engagement as it provides opportunities to segment established relationship hierarchies and cross reference information for high, medium and low level stakeholders. There are associated security measures that differentiate these segments.

Further work to come includes refining the problems the CRM will address for the City and its customers and also how data input can be adopted by staff in a way to support and build strong internal culture across the Directorates. Experience in other workplaces provide evidence that this can be achieved if properly instigated.

### Homelessness

Capital cities the world over are challenged by homeless residents. The Property Council believes that the City of Perth should take the lead on homelessness. One City Director believes the State Government should be leading this space and the City playing its part.

The City's staff say they are focusing on homelessness and are working hard to maintain relationships with the homeless sector including hosting forums with service providers.

There is a Homelessness Framework Committee with 40 organisation members and three working groups.

However, staff do not fully understand what the City's role should be. The City has other local governments seeking information on how they can deal with this issue.

There is an opportunity for the City of Perth to take the lead and be a player with the already active service organisations and the State Government. The City should be clear on where in its structure, the ownership sits for addressing this important stakeholder matter.

#### Perth's Wudjuk People

The City has had a difficult start with the Reconciliation Action Plan, but has appeared to have worked to rebuild relationships with the Wadjuk working party and other Aboriginal groups. A number of workshops were held and the then CEO met with community elders. The RAP was launched in April 2018.

An external reference group with *Bridiyas* (bosses) and a terms of reference for the group that was drawn up in consultation with the *Bridiyas* will be established for future work.

Other local governments are now asking the City how to do it. This is commendable.

All Community Service team members have undertaken cultural awareness training, which is mandatory for this staff cohort.

The Community Service team has worked with WALGA to develop local government protocols for consultation including developing a toolkit.

The Community Services team has developed a social strategy which identified needs such as youth and senior sectors however, prioritisation is difficult. Community leadership level is not decisive. The leaders endorse the priorities, then change their minds, then shift again.

Community Services' work is integrated across the organisation and this team is assisting other business units in engagement with this community.

**Note:** The City's broader relationship with Aboriginal people appears to be confused. One stakeholder noted that the City does not fly the Aboriginal flag at Council House, even on Sorry Day. Issues like sit-ins at Heirisson Island are treated as law and order problems rather than community issues.

#### Arts and Culture

A rich and active life in a modern City is driven by the creative industries. This important cultural and economic driver excels when it establishes partnerships. Investment in these activities offers a very high rate of return in financial, social and cultural measures because they attract people from outside as the activities reflect the culture and imagination of a place. The model of collaboration and partnerships, led by the City, can also be adopted by other business and community sectors.

The consultants heard about significant external and internal frustration with the City's lack of clear vision and leadership about what the arts and culture sector offers. As one arts stakeholder noted: "The City does not recognise its value, the opportunities and does not take it seriously." The City does not have to do it all, but it does however need to change how it interacts with and supports arts and culture.

Two of the City's greatest visitor attractors are arts organisations: the Perth Festival and Fringeworld. These two highly professional organisations say they are treated as mendicants by staff. Both have reported attending post-event debriefings where City staff have talked at them, rather than the discussion being a meeting of equals.

The Festival and Fringeworld are just two organisations that say each would greatly welcome the opportunity to collaborate more with City to expand and position mid-year arts events aimed at bringing people into the CBD.

One stakeholder noted that: “If attitudes by City’s staff improved, there is a great likelihood that the City, its residents, visitors and businesses would all gain. And the City’s reputation as proactive and can-do organisation would be so much better.”

Activation through events would see the City gain from additional parking fees, new customers at local businesses and an enlivened and more liveable destination. In the words of one senior State Government officer; “The State Government is investing over \$400m in a new Museum in the cultural centre, surely the City can invest some of the money it earns from parking into the activities that happen nearby.”

Perth has a great diversity of arts and cultural organisations. Perth Festival, Fringeworld, Activate Perth, and small organisations including Awesome Festival, WA Youth Theatre Company, WritingWA, WA Music Association and State Cultural Agencies to name a few.

These organisations and others should be asked for feedback on the City’s draft Cultural Development Framework.

Another beneficial step would be with partnering with leading think tanks that have a deep understanding of the contribution the arts can make including the Committee for Perth and Chamber of Culture and Arts.

#### Findings

The specialist knowledge, networks, skills and experience of arts and cultural organisations will add great value to the City’s arts and activation offerings across the year. It will also add to the vibrancy of the city.

There appears to be little engagement by the City’s Executive with the Department of Local Government Sports Cultural Industries or arts and culture organisations. As a result there are many missed opportunities in the arts and culture space.

The City’s current arts and activation staff work across many internal business units to secure services and approvals. Internal and external customers have described dealing with approvals and compliance business units was like “hostage negotiation”.

#### Recommendations

1. Executive members engage more fully with arts organisations within the City and appropriate State Government Departments.
2. The City needs to take a greater leadership role in arts and culture as well recognising the value of its own arts and culture business function within the organisation.
3. Assess the feasibility utilising the skills and experience of arts organisations to a greater degree for City events.

## APPENDIX

### CASE STUDIES

#### Forrest Place Redevelopment

Currently there is a large redevelopment of the City's prime retail district adjacent to Forrest Place by Investment Superannuation Property Trust (ISPT). When asked about the stakeholder engagement process the ISPT representative stated that: "it had been the most frustrating process of my career. The process had been beset with City officers who could not make a decision, staff didn't have the information required to inform questions being asked by us. It's been an exercise in frustration."

"The revolving door of City staff resignations meant that Arts and Heritage Coordinators did not feel confident that they could make any decisions that were permanent. So all decisions were delegated to officer level and these officers insisted on a Development Application for each item of place making around the development, rather than a combined DA. Absolutely no common sense was used."

One of the City's existing leases with commercial tenants has cost the project over \$500,000 in legal fees for Supreme Court appearances because the City's approval of the DA for the development did not take into account lease terms the City had with existing cafes. This has meant that the developers cannot open a prime food retail outlet until 2021/22. The future income loss and the cost of legal fees will be enormous.

"The \$100m project was held up because the City's arborist would not allow a tree to be trimmed."

"If this project did not have deep pockets, it would have failed some time ago."

#### Matagarup Bridge and Carpark Jazz

An activated (augmented reality) art walk in East Perth was created to complement the opening of the Matagarup Bridge and the connection of East Perth to Optus Stadium. There were 12,000 people using the bridge for major events so the PTA and Activate Perth thought it would benefit business and ensure dispersal of the crowds if there was a walking trail established. The City of Perth had not responded to requests about being involved, so PTA and Activate Perth went ahead. The consultants were told that after two meetings between the parties, City officers "looking grumpy" and said the City had already installed red and black posts as trail markers.

However, both Activate Perth and the City's officer wanted to do something innovative but despite the enthusiasm of the City's Wayfinding Manager, the then CEO and relevant Director decided against further involvement by the City of Perth. As a result the Department of Transport reallocated the project money they had originally earmarked for the City to Activate Perth to get the project done.

There were 17 art locations and the City required a Development Application for each site. It took six weeks of full-time work for a volunteer to get the approvals. The city said it wanted original titles for each location so the same volunteer paid for them herself.

Along the route she had to deal with the City; WA Planning Commission; MRA; Swan River Trust, Heritage; and put in place a MoU with the West Australian Cricket Association. The City could have facilitated this but instead made it as difficult as possible to deliver an innovative activation. When the artwork walk got up, the City took the positive step and videoed it and put on social media and its website.

Consistent feedback is that there seems to be culture of “no” by City of Perth staff, so stakeholders seeking permits for small activations just won’t bother as it is too hard (and expensive).

This sort of perception among stakeholders ultimately creates risk of them bypassing the City of Perth processes. An example was “Carpark Jazz” with the WA Youth Jazz orchestra which wanted to try acoustics in unusual places. Activate Perth saw it as an opportunity to “surprise and delight” the East Perth community by utilizing the Regal Place carpark. The East Perth neighbourhood group applied for a City grant of \$2,500 as a stipend for the orchestra, and the use of the carpark.

The event organisers went to Approvals (Directorate of Community Services) for a permit. After waiting three and a half weeks, the City requested \$2,000 for use of the carpark (not used on Sundays) which represented 80% of the \$2,500 the City had given the event as a grant.

After three days filling in the paperwork for the permit and answering questions, the relevant Director wanted Activate Perth to cancel the event. The organisation had to escalate it to the CEO and finally approvals were given at 3pm, two hours before the event was due to start.

### The Avenue, Nedlands

Soon after changes to the City’s western boundaries were legislated by the State Government, the City’s Transport Business Unit surveyed the Nedlands/Crawley area that had been added to the City. In a proactive move, staff identified The Avenue, Nedlands as an unsafe area used as a “rat-run” by drivers taking a shortcut to Stirling Highway. The Transport Unit scoped out a study project and contracted a well-regarded external engineering and traffic specialist consultancy to examine safety options and to undertake stakeholder engagement.

The City’s preferred solution and the one most liked by local residents, was to block off a section of The Avenue. Unfortunately this option was announced by the contractor as a *fait accompli* rather than a proposal ‘in consideration’. The announcement was slammed by the local media. Nedlands City criticised Perth City, other stakeholders spoke strongly against the proposal and the Transport Unit beat a tactical retreat.

Upon investigation, City staff discovered that while the contractor had undertaken stakeholder engagement, it had only engaged with the residents of houses along The Avenue and not a wider group including the local member Bill Marmion MLA, the University of WA, other local government, the sailing clubs in the area or local businesses. No-one in the City’s Transport team had checked the proposed engagement plan of the external contractor. The contractor’s failings ultimately damaged the City’s reputation.

Stakeholder engagement was undertaken, but not to the extent that the project required. What began as a proactive initiative by the City of Perth had turned into an own-goal.

Early in 2018 a new process of consultation was started to address the safety issue. This time the City used the City's Engagement Plan Template. This document provided a thorough overview of stakeholders beyond the immediate area and as far away as the QEII Medical Centre.

The scope expanded to include cycling links to local destinations, improved walking access, upgraded signage and the potential to increase street parking.

The Engagement Plan was created by Transport staff and supported by the City's Stakeholder Engagement Officer. It was well structured, identified diverse stakeholders and offered the best opportunity to achieve the safety improvements sought. The Engagement Plan noted "the consultation would work towards repairing the relationship with various stakeholders." In the instance of this second consultation, the options considered by stakeholders did not include closing The Avenue.

This project has now moved from concept to detailed design. A local group of residents who meet regularly have provided feedback on these designs including input on elements of creating car bays between street trees.

Before the results of the consultation were made public, Perth City staff wrote to and held a telephone conversation with the Director of Technical Services of The City of Nedlands as a briefing on the outcome of the consultation process. There was much surprise when just three days later the contents of that briefing appeared in the local press as a letter to the editor from a Nedlands Councillor. The community however was silent. Clearly their expectations had been met by the proposed changes.

What is yet to be completed in stakeholder engagement is a close-the-loop process on the project so that stakeholders understand when changes will be made, any information related to construction and a predicted project completion date.

Given the degree of interest by local stakeholders the Project Owner may wish to consider some statistics of the project including amount/weight/length of materials used, work hours to complete the project and other facts that may be of interest to those close to the project. A full project evaluation is also yet to be undertaken. This will be done once all construction and engagement activity is completed. A road safety audit will also be undertaken 6-8 weeks after the completion to ensure that the original safety issue has been properly addressed.

### Elizabeth Quay

The MRA says that in the Elizabeth Quay project it has been "excruciatingly painful" getting the City on board for a formal handover. The City's view, however, is that the MRA "does not want to follow due process, just hand it over".

Both parties agree that the City of Perth has had limited involvement with Elizabeth Quay with the City noting that the Executive group has not seen or heard from Elizabeth Quay for "12 to 18 months".

A comment from one MRA source is that in 11 years, they can't think of one decision Council has made to help progress Barrack Square or Elizabeth Quay. According to the MRA, it should have been an easy one for the City to engage with, but "we are not there yet". The counter comment from the City is that the MRA is "still not clear" on who is responsible for activation

at Elizabeth Quay (which would explain why the space is attracting criticism in the media as being “dead”).

The State Government created the MRA as a vehicle to re-generate urban spaces and then hand it over. In the case of Elizabeth Quay, no MoU or steering committee was set up, so in the end, the MRA appears to have taken the attitude of “let’s just get on with it” and City became irrelevant. MRA did try to form a steering committee with the City at the outset of the project “but it didn’t work”.

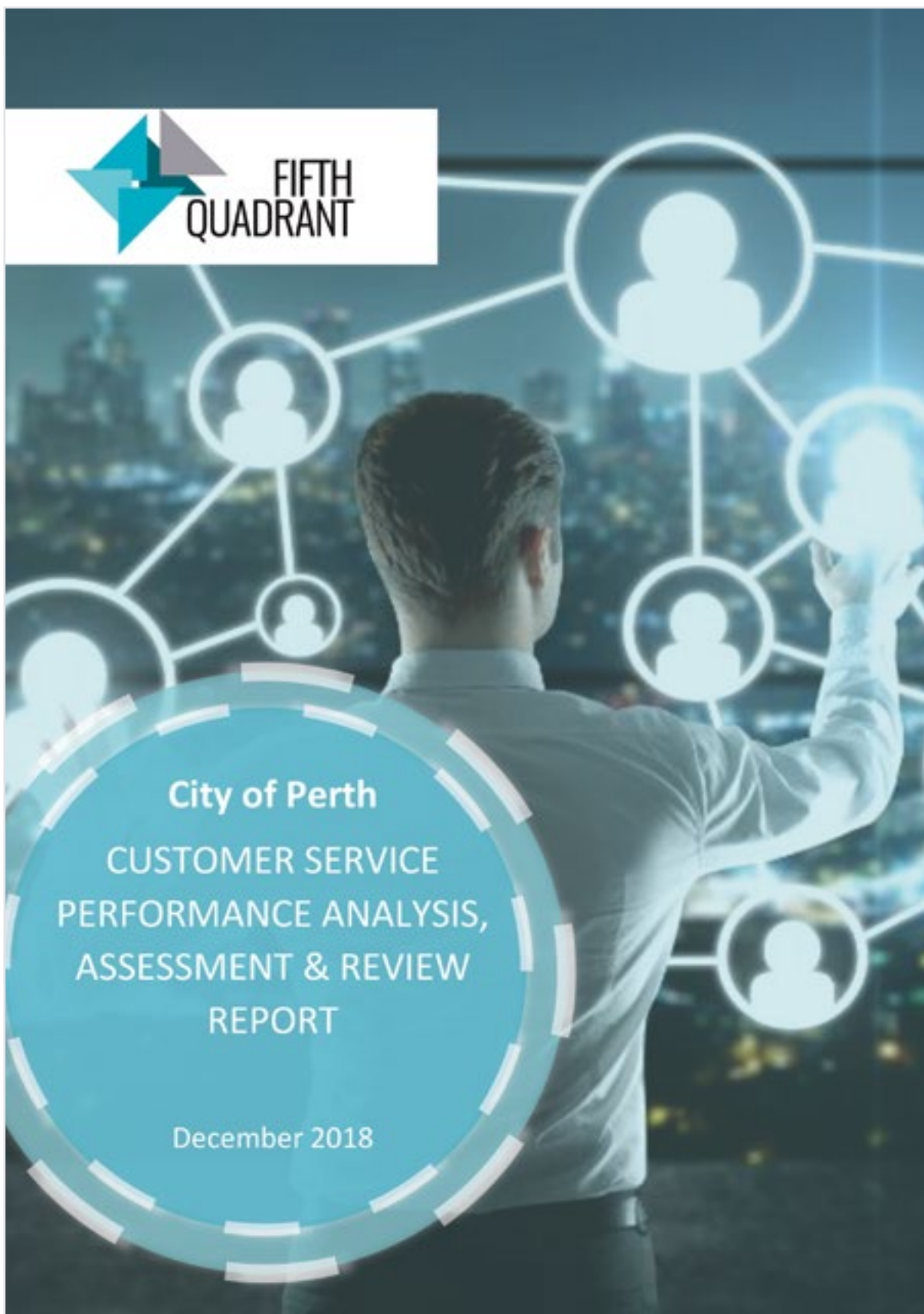
The City said that when the project was started, the City appointed an engineer to work with the MRA on creating specifications, but the City eventually removed the officer because it was not productive. What resulted were unfavourable outcomes that could have been avoided if there was a better relationship between the two organisations. One example cited is the MRA’s use of a granite covering for the paving that the City had used in St Georges Terrace and found it cracked in a short length of time.

## Methodology

The consultants undertook desk top research reading widely on City documents, including the Strategic Community Plan, City of Perth Act, Frameworks, Templates Business Unit Engagement Plans, Program Evaluations and the City’s websites. Interviews were undertaken with the external stakeholders identified by the Commissioners as well as over 20 City staff from the A/CEO to Officers who were undertaking work relevant to the project brief.

As the report was in development call backs were made to clarify points raised during the interviews.

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## Executive Summary

The City of Perth Council engaged Fifth Quadrant, an independent Customer Experience Consulting and Research organisation to conduct an independent review of the City's corporate performance in the area of customer service.

The objective of the project was to provide an independent review of the City's Customer Service functions and the effectiveness within the culture of the organisation, having regard to the following:

1. Customer service standards, charters and other relevant policies and procedures
2. Customer request management (CRM) processes, monitoring and reporting systems
3. Interconnectedness between customer service standards and CRM monitoring and reporting systems;
4. Engagement and commitment of the Executive Leadership Group in leading the City's service performance
5. Engagement and commitment of the Management Group in guiding, directing and reinforcing the City's service performance
6. How staff members generally rate their own internal and external customer service effort
7. Where service sits in the hierarchy of organisational culture in the opinion of staff members
8. How genuinely and effectively is "commitment to excellent service" embedded in the cultural fabric of the City

The key stages of the methodology utilised to conduct the review were:

1. Project Initiation
2. Document and Data Review
3. Stakeholder Interviews
4. On-site Observations
5. Performance Benchmarking
6. Cultural Health Check Survey
7. Customer Service Performance Analysis, Assessment & Review Report

### **Current State Assessment Key Findings**

An independent and evidence-based current state assessment and analysis of City of Perth's current customer service operations including performance benchmarking was conducted as part of this program of work in the areas of Strategy, Multi-Channel, People, Workforce Optimisation, Technology, Operational Efficiency & Effectiveness and Customer Experience. A summary of the key findings are provided below:

#### **Areas of Good Performance**

1. Defined organisational strategy includes customer centric goals and KPIs
2. Good practice defined customer charters
3. Defined customer service strategy and implementation plan
4. Good range of customer interaction channels available
5. Greater proportion of enquiries handled via self-service than benchmark
6. Professionally presented front counter environment
7. e-portal provides good self-service functionality and allows tracking of progress
8. Business case for web chat developed
9. Mobile application mock up developed
10. Higher than benchmark probationary success
11. Lower than benchmark sick leave
12. Higher than benchmark on-going training days
13. Good range of staff benefits offered
14. Defined reward and recognition program
15. All CSOs trained to handle phone and digital interactions
16. Lower than benchmark number of desktop applications
17. Greater than benchmark channel response targets
18. Greater than benchmark phone response performance
19. Good practice QA monitoring framework
20. Lower than benchmark proportion of customer complaints

### Areas of Opportunity

16 areas of opportunity to further optimise customer service performance were identified during the current state assessment as follows:

1. Lower than benchmark assignment of budget to technology
2. Greater proportion of enquiries handled via email than benchmark
3. Lower than benchmark proportion of outbound contacts
4. Variable number of direct reports to each Team Leader
5. Higher than benchmark staff turnover
6. Higher than benchmark speed to competency
7. Lower than benchmark use of e-learning
8. Long term forecasts not in place
9. Staffing based on budget rather than required FTE
10. Email not currently included in forecasts
11. Forecast accuracy not tracked
12. No formal real time management plan
13. CSO's targeted on call answering KPI
14. Lower than benchmark number of contacts monitored for QA
15. Less than benchmark frequency for customer measurement program
16. Lower than benchmark customer feedback response rate

City of Perth's current performance was benchmarked against contact centres of a similar size, the government sector and the wider contact centre sector. The summary findings of the performance benchmarking results for City of Perth are provided below:

|  | City of Perth |
|--|---------------|
| Number of areas at or above benchmarks | 14            |
| Number of areas below benchmarks       | 10            |

### Cultural Health Check Survey Insights

A short culture health check survey was designed to allow City of Perth staff to confidentially provide feedback with regard to the current organisational culture. The survey was available online and in hard copy for employees to complete.

The survey included statements that participants could agree or disagree with as follows:

1. Strongly Agree
2. Agree
3. Neither Agree Nor Disagree
4. Disagree
5. Strongly Disagree

A total of 139 council employees completed the culture health check survey during November 2018. This is approximately 20% of total City of Perth employees.

The most positive results were provided for:

- 'My role includes customer service' (93% agreed or strongly agreed)
- 'I feel proud to provide customer service to the community (90% agreed or strongly agreed)
- 'I know the City's email and contact phone number' (73% agreed or strongly agreed)

The least positive results were provided for:

- 'There is communication at team meetings around customer service performance' (38% disagreed or strongly disagreed). The Economic Development and Activation Unit and Corporate Services Unit had the highest rate of disagreement towards communication of customer service performance with 50% and 48% of the respondents indicating they disagreed or strongly disagreed.
- 'Council employees are encouraged to participate in Customer Service Training' (36% disagreed or strongly disagreed). The Economic Development and Activation Unit had the highest proportion of respondents that stated they were not encouraged to participate in customer service training with 58% indicating they disagreed or strongly disagreed.
- 'I am aware of the Internal and External Customer Charters' (35% disagreed or strongly disagreed). The Economic Development and Activation Unit had the least awareness with 84% indicating they disagreed or strongly disagreed.

### Stakeholder Interview Quantitative Insights

Representatives from the Management and Executive Leadership Group were interviewed as part of this review to determine engagement and commitment towards service. A total of 8 stakeholder interviews were conducted. Participants were asked to provide a rating for the following three statements:

1. A commitment to excellent service is embedded in the organisation
2. The Executive team work together to improve the customer experience
3. Customer needs are included in all our decision making

Utilising the same rating scale as the cultural health check survey of 1-5, the results were as follows:

Of the 8 participants, 50% agreed (4) that a commitment to excellent service is embedded across the organisation, 2 neither agreed nor disagreed and the remaining 1 participant strongly disagreed.

3 participants agreed that the city's executive team work together to improve the customer experience whilst an equal number (3) disagreed and the remaining participant neither agreed nor disagreed.

6 participants (75%) either agreed or strongly agreed that customer needs are included in all decision making whilst the remaining 2 participants either disagreed or neither agreed or disagreed.

### Performance Analysis & Assessment Summary

The City of Perth Customer Service function has transformed significantly over the previous year with the creation of the Customer Experience Centre to provide a centralised operating model for customer contact. The centralisation of customer contact is still in progress with other areas of Council to be transitioned into the centre over the coming months.

The City of Perth aspires to provide a best in class local government customer experience to allow customers to engage easily with the city via their channel of choice. The transformational journey to achieve this aspiration is in progress with the current customer service offering performing to industry benchmarks and best practice in 14 of the 24 primary measures.

To support City of Perth to continue their journey to achieve a best in class customer experience, it will be critical to focus on and invest in the following areas:

1. Strategy: Alignment of all areas of Council to a common customer experience vision and objectives is required to support customer centric transformation.
2. Technology: To provide a seamless multi-channel experience that will allow greater personalisation a single view of the customer is required across all interaction channels. Investment in an enterprise wide CRM and Knowledge Management System (KMS) are integral

to this objective. An intuitive KMS is a pre-requisite for the implementation of AI/Chatbots in the future which could significantly reduce operating costs.

3. Customer Channels: To ensure customers can interact with Council via their channel of choice and receive a seamless experience, the digital platform needs to be self-service enabled with additional channels implemented to increase channel choice (e.g. Web chat and a Mobile Application).
4. Workforce Planning: To ensure the appropriate number of staff are trained and available to handle customer contact as additional areas are transferred to the Customer Experience Centre, the implementation of workforce planning processes are required to accurately calculate the number of resources required to achieve defined service outcome targets. As new channels are introduced and customer channel preferences continue to change, it is important to ensure a future forecast is developed for all interaction channels.

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## SECTION 1. Introduction



## 1.1 Project Background

Perth, the capital city of Western Australia, has grown rapidly and seen tremendous revitalisation boosted by strong industry sector growth as well as population growth. The City of Perth is a local government area and body, within the Perth metropolitan area. The City covers the Perth city centre and surrounding suburbs.

The City of Perth provide services to more than 27,000 residents as well as the daily influx of over 150,000 workers and visitors into the area playing a vital role in the development of the state's largest and most thriving business hub. The City's urban landscape continues to transform as major development projects, like Elizabeth Quay, Perth City Link and Waterbank, come to completion.

The City of Perth Council engaged Fifth Quadrant as an external consultancy to conduct an independent review of the City's corporate performance in the area of customer service.

As a dedicated customer experience research, design and consulting organisation with deep expertise in performance analysis and review, Fifth Quadrant is very well positioned to support the City of Perth with this critical program of work.

## 1.2 Project Objectives

The objective of the project is to provide an independent review of the City's Customer Service functions and the effectiveness within the culture of the organisation, having regard to the following:

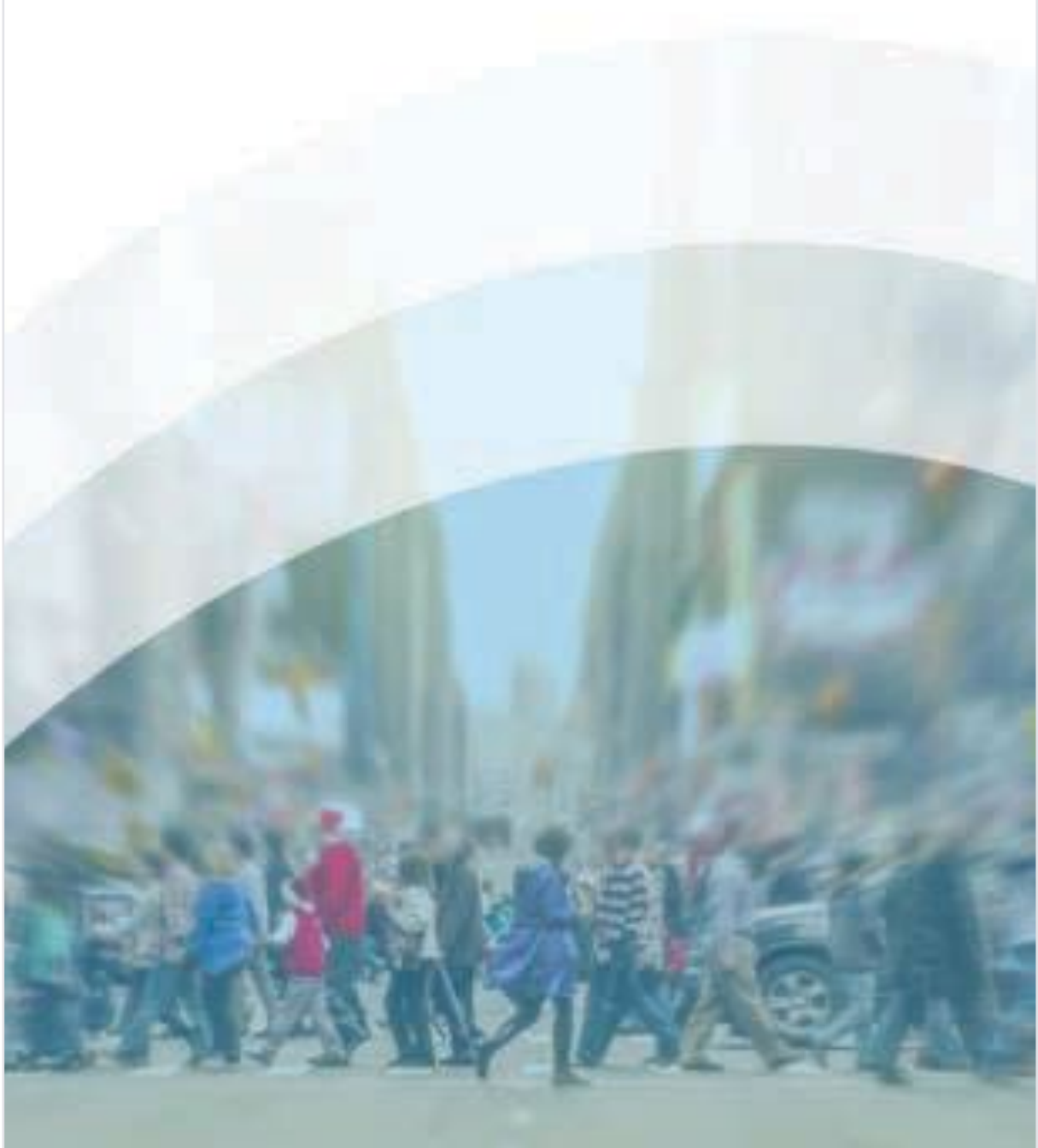
- Customer service standards, charters and other relevant policies and procedures
- Customer request management (CRM) processes, monitoring and reporting systems
- Interconnectedness between customer service standards and CRM monitoring and reporting systems;
- Engagement and commitment of the Executive Leadership Group in leading the City's service performance
- Engagement and commitment of the Management Group in guiding, directing and reinforcing the City's service performance
- How staff members generally rate their own internal and external customer service effort
- Where service sits in the hierarchy of organisational culture in the opinion of staff members
- How genuinely and effectively is "commitment to excellent service" embedded in the cultural fabric of the City

### 1.3 Structure of this Report

This report is structured as follows:

1. Introduction
2. Current State Customer Service Performance Analysis Assessment
3. Performance Analysis Key Findings
4. Cultural Health Check Survey Results
5. Appendix

## **SECTION 2. Current State Customer Service Analysis & Assessment**



## 2.1 Introduction

This section of the report provides an independent and evidence-based current state assessment and analysis of City of Perth's current customer service operations including performance benchmarking in the following areas:

- Strategy and Operating Model
- Multi-Channel Capability
- People Capability: Skills, Experience and Capacity & Recruitment, Learning and Development and on-boarding of staff
- Workforce Optimisation
- Technology & Telephony – Multi-Channel, CRM, KMS, WFM, Telephony
- Operational Process efficiency and effectiveness
- Customer Experience Performance

The analysis of findings and summary results of the current state assessment can be found in section 3 of this report.

## 2.2 Strategy Assessment

This section of the report provides an assessment of the current organisational strategies as context.

### 2.2.1 Organisational Strategy Assessment

The City developed a strategic community plan 'Shaping our Capital City' during 2017. This is the community's vision for Perth City.

In 2013, the City of Perth undertook extensive consultation to develop the first Strategic Community Plan. The Strategic Community Plan now provides the blueprint for the City to achieve what the community most values in its operations. After three years of the plan being in place, the City undertook early in 2017 to have another meaningful dialogue with the community and stakeholders about the vision for the City.

City of Perth is working towards becoming a leader in Open Government through actively listening and collaborating with its citizens, community and stakeholders in the development of the Strategic Community Plan.

City of Perth has a defined corporate business plan for 2017-2021. The key areas of focus are shown in the figure below:

**Figure 1: City of Perth Corporate Plan Areas of Focus**



A vision statement is supported by areas of focus that are aligned with goals.

The next figure shows the corporate plan's goals

**Figure 2: City of Perth Corporate Plan Goals**



The vision goals and values are shown in the figure below

**Figure 3: City of Perth Corporate Plan Vision, Goals and Values**



The areas of the corporate plan that relate to customer service are shown in the figure below.

Figure 4: City of Perth Corporate Plan Goal 8



The City of Perth's defined organisational strategy is a good practice example of a community focused council business plan that includes specific strategic objectives relating to service delivery. The operational initiatives associated with the key results areas of creating a customer centric organisation and having efficient and effective systems and processes to support performance and growth are defined and include measurement KPIs to track progress and outcomes.

### 2.2.2 Customer Charter Assessment

Customer charters are usually public documents developed in consultation with employees, stakeholders and customers that set out the standards of customer service customers can expect. A charter should be a strong performance measurement and accountability tool as it focuses on customer outcomes. A customer charter will typically include:

#### External Factors

- Services offered
- Customer promise
- What you can expect from us
- What we value
- Standards
- What to do if there is a problem

#### Internal Factors

- Descriptor of Customer Experience culture
- Behaviours
- Service attributes
- Measures

City of Perth developed internal and external customer charters that were launched in 2018 as shown in the figures below.

Figure 5: City of Perth Internal Customer Service Charter



The internal customer charter includes values, commitments to customer service and standards of service for phone and email.



### 2.2.3 Customer Contact Strategy Assessment

In order to ensure a contact centre is aligned to and supports the overarching organisational strategy, it is essential that a contact centre strategy is defined as part of a wider multi-channel strategy and plan.

Key elements of a contact centre strategy include:

1. Defined commercial and organisational objectives
2. Multi-Channel strategy and plans
3. KPIs aligned to organisational strategy
4. Operating Model and Budget
5. Long term contact volume forecasts and resource requirements
6. Customer Experience goals and objectives
7. Efficiency and Effectiveness goals, objectives and plans
8. Employee Engagement, reward and recognition plans
9. Succession plan & Training and Development strategy
10. Innovation and continuous improvement plans
11. Technology and telephony plan
12. Environment and facilities plan

A Customer Service Strategy was developed by Deloitte in July 2016 for the City of Perth that has been utilised to further develop action plans to guide and optimise service delivery across the City. Key elements of the Customer Service Strategy are provided in the following figures.

Figure 7: City of Perth Customer Service Strategy



Figure 8: City of Perth Customer Service Strategy



Figure 9: City of Perth Customer Service Strategy



The customer service strategy provides a defined approach to the implementation of quick wins through to the achievement of good levels of customer experience maturity over a 2+ year period for the City; however the City acknowledged the strategy didn't consider the current culture and systems in place.

A Customer Service Project Team was established to drive these deliverables based on the current state. The following guiding principles provide direction for the Customer Experience Centre.

#### Continuous Improvement

Reviewing processes to ensure we stay at the top of our game and customer satisfaction is always our prime focus.

#### Key Goals

- Provide the highest standard of customer service by consistently reviewing and adapting processes to meet customer needs and expectations

#### Dedication to Excellence

City of Perth employees are committed to providing the tools and resources to ensure information is up-to-date and customers are given accurate and timely responses.

#### **Key Goals**

- Create effective and efficient customer experiences by offering seamless self-service technology solutions
- Utilise tools to build upon inclusive and accessible customer service
- Use data collected from tools and resources to identify further opportunities to improve

#### **Shaping the Future**

Proactively engaging and collaborating with units, directorates and people across the organisation to build a strong and vibrant future for the customers of the City.

#### **Key Goals**

- Embrace a culture of change across the organisation
- Educate staff to understand and appreciate ‘experience service’ and the objectives behind ‘every interaction is customer service’

#### **Experience Unit Action Plan 2018-2020**

The Experience Service Framework aims to outline the ongoing commitment by the City to not only the staff that provide the community with a customer service experience, but with a focus on transforming and adapting to customer’s needs, while at the same time meeting operational requirements. The City aims to shape the experience for customers upon a service culture that works to build foundations of understanding and knowledge.

At the time of this review, the implementation of the customer service strategy has been developed into a business plan for the customer service unit and included a situational analysis (SWOT) to further shape the implementation of the business plan. The implementation is progressing well with many initiatives fully implemented. The following initiatives have been completed or are in progress:

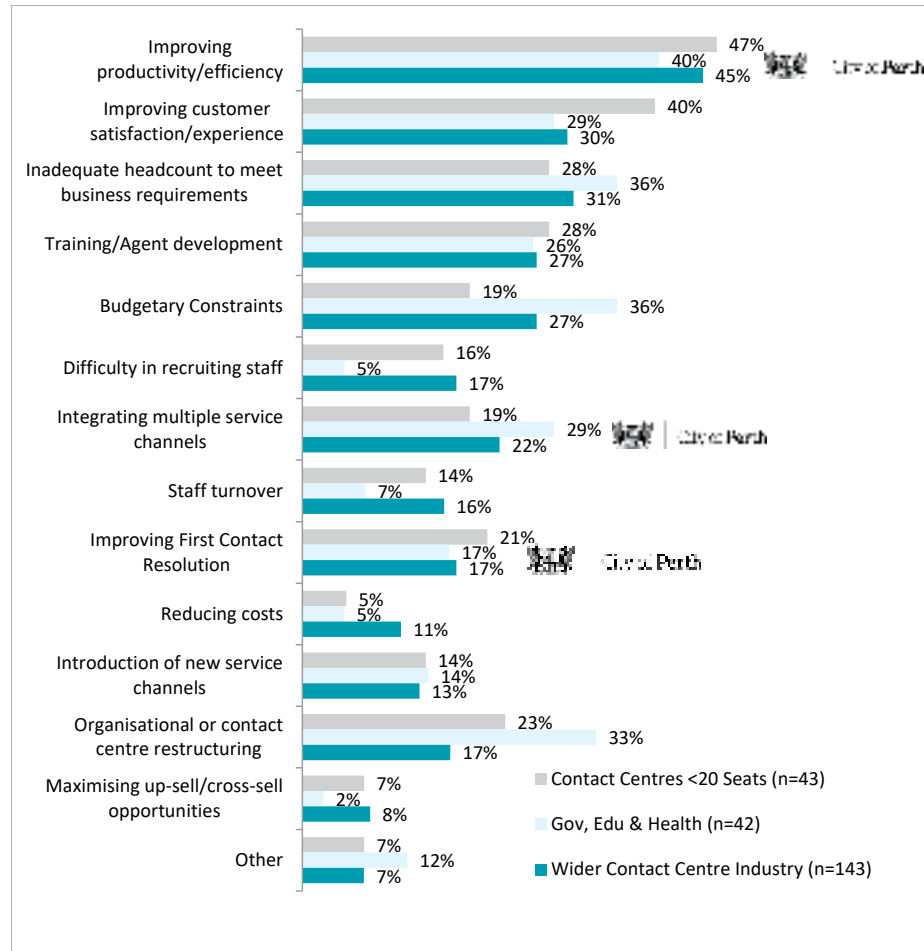
**Table 1: Customer Service Unit Business Plan Initiatives Progress**

| Initiative  | Deadline   | Status                        |
|---|------------|-------------------------------|
| <b>Recruitment and Induction</b><br>Current position descriptions modified to identify the new vision and direction for Customer Service in the future<br>Standards of service expectations to be added to the objectives and accountabilities for each officer   | June 2018  | Complete                      |
| <b>External Customer Charter</b><br>Draft and implement a new External Customer Charter that is built upon the guiding principles outlined on our Experience Service strategy   | June 2018  | Complete                      |
| <b>Internal Customer Charter</b><br>Draft and implement a new Internal Customer Charter that is built upon the guiding principles outlined on our Experience Service strategy   | June 2018  | Complete                      |
| <b>Culture Program - Experience Service</b><br>Develop and implement a cultural program that encourages the entire organisation to support a long-term customer service strategy<br>The program will include intranet page devoted to Customer Service, discussion forums, recognition of customer service and e-learning modules related to Experience Service | June 2019  | In progress                   |
| <b>Customer Service Training Program</b><br>Develop and implement a new induction program for roll-out to existing and new Customer Service staff across soft and technical skills.<br>Engage staff in online, e-learning modules across disability awareness, customer service behavioural skills and unit processes   | June 2019  | In progress                   |
| <b>Consolidate Phone System</b><br>Review and map current phone system to determine where improvements can be made to simplify call routing and handling<br>Utilise new licences to route administration duties to quantify workload and workforce requirements   | June 2019  | In progress ETA February 2019 |
| <b>Customer Satisfaction Survey</b><br>Building upon the 2017 Customer Satisfaction Survey, the next customer survey will aim to identify and quantify the improvements and success of the Experience Strategy and its action plan  | March 2019 | In progress RFQ released      |

## 2.2.4 Challenges & Objectives

The figure below shows the challenges indicated by research participants in comparison to City of Perth.

**Figure 10: Contact Centre Challenges**



City of Perth indicated that the biggest challenges for the next financial year are:

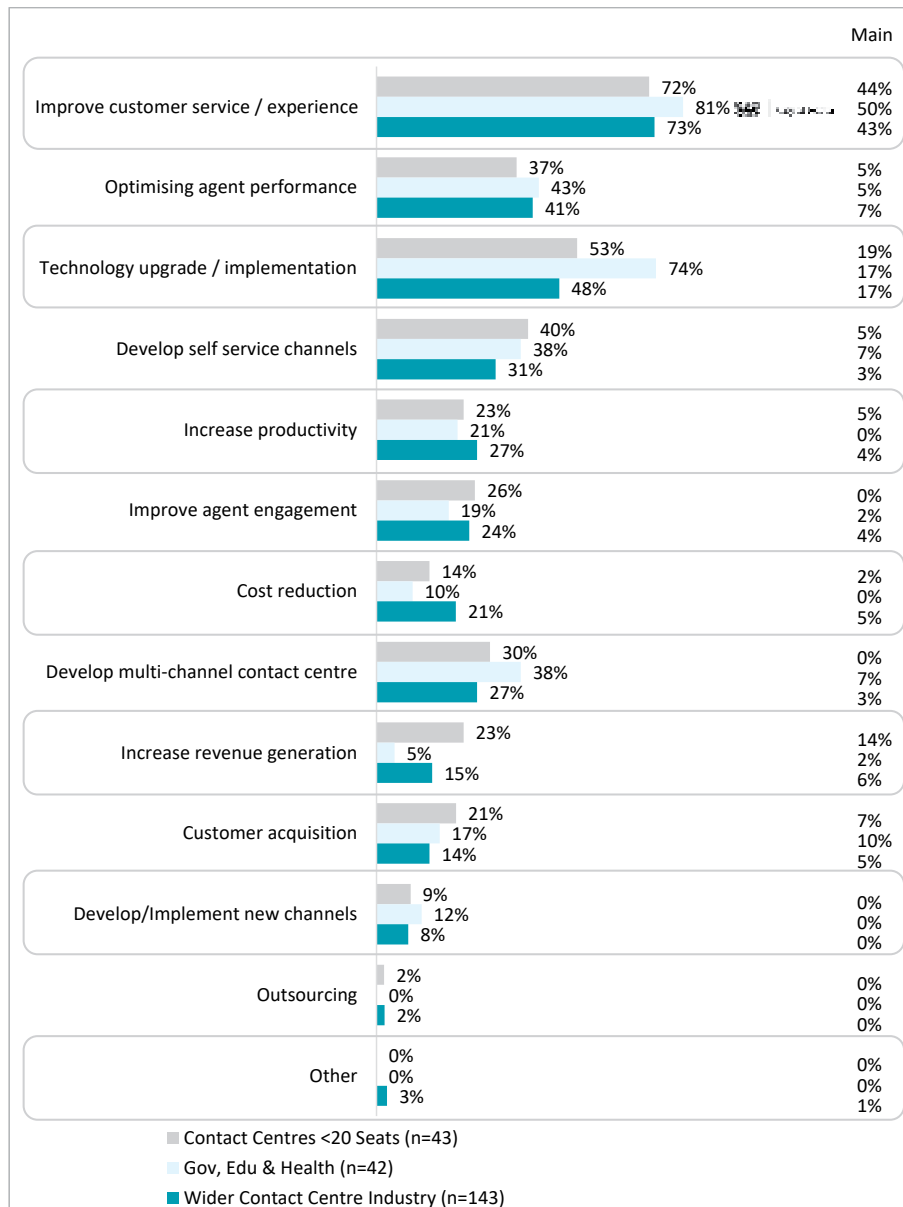
- Improving first contact resolution rates (similar to 17% of the government sector)
- Integrating multiple service channels (similar to 29% of the government sector)
- Improving productivity / efficiency (similar to 40% of the government sector)

The top three challenges for the government sector include:

1. Improving productivity/efficiency (40%)
2. Inadequate headcount to meet business requirements (36%)
3. Budgetary constraints (36%)

The following figure shows the strategic objectives indicated by research participants in comparison to City of Perth.

**Figure 11: Strategic Objectives**



The primary strategic objective for City of Perth over the coming financial year is to improve the customer experience which is consistent with 72% of centres of a similar size and 81% of the government sector. City of Perth also indicated that other strategic objectives include:

- Improve customer service / experience
- Technology upgrade / implementation
- Develop customer self-service channels
- Increase productivity
- Optimising agent performance
- Improving agent engagement
- Developing a multi-channel contact centre
- Developing/implementing a new channel

The top three strategic objectives for the government sector include:

1. Improve customer service (81%)
2. Technology implementation or upgrade (74%)
3. Optimising agent performance (43%)

## 2.2.5 Budget Breakdown

The following table below shows the breakdown of contact centre budgets as indicated by research participants in comparison to City of Perth

**Table 2: Budget Breakdown**

|  | City of Perth | Contact Centres <20 Seats | Gov, Edu & Health | Wider Contact Centre Industry |
|--|---------------|---------------------------|-------------------|-------------------------------|
| n=   | 1             | 23                        | 27                | 71                            |
| Human Resources (incl. salary, benefits, recruitment/training costs)   | 98%           | 67%                       | 70%               | 68%                           |
| Technology   | <1%           | 9%                        | 9%                | 10%                           |
| Telecommunications   | <1%           | 9%                        | 11%               | 10%                           |
| Real estate (incl. allocated budget under a lease or rental agreement, or for occupying physical contact centre space) | 0%            | 8%                        | 5%                | 7%                            |
| Other (incl. electricity, stationery, other miscellaneous costs, etc.)   | <1%           | 6%                        | 5%                | 6%                            |

98% of The City of Perth's customer contact budget is assigned to human resources which is a greater proportion than all other industry sectors. City of Perth assigns much less of their budget to technology (less than 1%) in comparison to the government sector (9%) however this may be attributed elsewhere within the City's budgets.

The following table below shows the anticipated change to budget for the next financial year as indicated by research participants in comparison to City of Perth.

**Table 3: Change to Budget next FY**

|                                     | City of Perth | Contact Centres <20 Seats                   | Gov, Edu & Health                          | Wider Contact Centre Industry               |
|-------------------------------------|---------------|---|--|---|
| n=                                  | 1             | 16  | 34   | 97  |
| Increase (by what percentage ___ %) | 1.5%          | 52% will increase budget by a median of 3%  | 41% will increase budget by a median of 5% | 37% will increase budget by a median of 5%  |
| Remain the same                     |               | 39%   | 56%  | 49%   |
| Decrease (by what percentage ___ %) |               | 10% will decrease budget by a median of 10% | 3% will decrease budget by a median of 3%  | 13% will decrease budget by a median of 10% |

The budget for City of Perth’s customer contact is expected to increase by 1.5% over the coming financial year, which is in line with 41% of the government sector, however the expected increase in the government sector is greater at 5%.

Overall, contact centres are most likely to retain the same budget as this year (49%); however 37% of the wider industry is expecting to increase their budgets by 5%. This can be attributed to an improved and ongoing focus on improving customer experience and continued investment in contact centre channels.

## 2.2.6 Contact Centre Interactions

The table below shows the type of contact centre interactions as indicated by research participants in comparison to City of Perth

**Table 4: Type of Contact Centre Interaction**

|                                | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--------------------------------|---------------|------------------------------|----------------------|----------------------------------|
| n=                             | 1             | 43                           | 42                   | 143                              |
| Customer Service               | 76%           | 83%                          | 90%                  | 80%                              |
| Inbound Sales                  | 23%           | 7%                           | 5%                   | 9%                               |
| Outbound Sales / Telemarketing |               | 7%                           | 3%                   | 6%                               |
| Other                          |               | 3%                           | 1%                   | 5%                               |

City of Perth handle a total of 76% of interactions that are customer service related which is lower than the government sector (90%) as a result of a higher proportion of inbound contacts being sales related (23%).

## 2.3 Multi-Channel Capability Assessment

This section of the report provides an assessment of City of Perth's current multi-channel capability with performance benchmarking to industry, as appropriate to identify opportunities to improve channel capability.

In Australia, over the previous 2-3 years a total of 74% of interactions were handled via phone channels which has slowly started to reduce to 71% this year as a result of an increase in usage of self service and digital channels however the increased usage of non-phone channels is increasing at a slow pace of around 1% per annum. The proportion of contacts handled via phone channels has decreased at a slower rate than expected in recent years (3% decrease since 2014), showing an ongoing preference for voice interaction by Australian consumers.

Organisations expect phone interactions to decrease by around 9% over the next 12 months with a corresponding increase to web chat, social media and self-service channels. This would theoretically result in a slightly lower cost to serve as a result of self-service channels not requiring human interaction, however with the introduction of additional channels, the majority of organisations report an overall increase to contact demand as customers utilise multiple channels rather than change from using the phone channel to an alternate.

Next year, organisations are predicting a greater decrease in phone interaction that would see a reduction to 63% of total interactions. This will be as a result of an increased focus on providing self-service functionality with 53% of organisations offering self-service next year in comparison to 38% currently. In addition, 14% of organisations expect to introduce chat bots in 2018 compared to 2% of organisations this year. Web chat and social media are also expected to increase slightly by 1-2%.

With the most significant proportion of contacts still being managed via phone channels it is critical that organisations balance the investment into lower cost channels such as self-service with continued investment in phone channels to ensure the customer experience is not degraded in contact centre managed channels.

As consumer behaviour continues to evolve and channel preferences change, the resulting channel mix will increase the time per interaction as more simplex enquiries are handled via self-service channels. This is likely to result in a static cost to serve for the next 3+ years as the net difference will be insignificant as handling times and complexity increase.

It is predicted that the phone channel will continue to be the primary contact channel for the next 2-3 years however as further investment is made in self-service channels and across the multi-channel environment, this is expected to reduce at a greater rate within the next 5 years. The most significant impact to costs in the contact centre environment will be driven by an increase in self-service and chat bots in the future.

As interactions transition to lower AHT and self-service channels whilst human interaction channels will increase in complexity and therefore AHT, the resulting changes to overall cost to serve may actually increase over the next 2-3 years as customers continue to engage through multiple channels.

Multi-channel infers offering multiple channels for customers to interact with an organisation. Omni-channel experience is defined as the design of the customer experience through your customer's eyes to provide an integrated, seamless and consistent customer experience across all channels including face to face, mobile, digital and voice. Omni-channel anticipates that customers may start in one channel and move to another as they progress to a resolution or purchase.

It is therefore critical that the transition between channels for customers is easy, doesn't require the repetition of information and has the same look, feel and consistency of information regardless of the channels utilised. With the transition to an Omni-channel environment and customer expectations for immediacy of response, it will be critical for Defence Bank to define their channel transition plans to further enhance the existing digital strategy and to measure and track the results.

The complexity of defining, implementing and measuring the success of channel transition plans includes the following considerations:

1. What are customer's channel preferences per interaction type? Typically, for more complex interactions higher touch human interaction channels are preferred, whereas self-service channels are generally a preference for simplex transactions
2. Will offering additional channels promote greater interaction with customers / potential customers rather than change the channel of interaction? i.e. Overall contact volumes across channel may not immediately decline but customer advocacy may increase
3. How will customer advocacy be impacted if human interaction is reduced?

The 11 major channels that customers can use to interact with an organisation include:

1. Face-to-face
2. Phone
3. Web self-service
4. Social Media
5. Email
6. Other Correspondence (Letter or Fax)
7. Web chat
8. Video chat
9. SMS/Text
10. Mobile Smartphone Application
11. Chatbot

### 2.3.1 Customer Contact Channel Assessment

The following table shows the percentage of interactions per channel this year as indicated by research participants in comparison to City of Perth.

**Table 5: Percentage of Interactions Per Channel**

|  | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--|---------------|------------------------------|----------------------|----------------------------------|
| n=   | 1             | 42                           | 42                   | 142                              |
| Phone (mainly handled by agent after call routing) | 48%           | 66%                          | 73%                  | 64%                              |
| Email  | 29%           | 20%                          | 12%                  | 16%                              |
| Phone (mainly handled by IVR)                      | 10%           | 4%                           | 2%                   | 6%                               |
| Self-Service/online                                | 8%            | 2%                           | 5%                   | 5%                               |
| Web chat/ video chat                               | 0%            | 1%                           | 2%                   | 2%                               |
| Social media                                       | <1%           | 1%                           | 1%                   | 1%                               |
| SMS/ Instant Messaging                             | <1%           | 1%                           | 0%                   | 1%                               |
| Phone (mainly handled by speech recognition)       | 0%            | 0%                           | 0%                   | 1%                               |
| Smartphone app                                     | 0%            | 0%                           | 0%                   | <1%                              |
| Chatbot  | 0%            | 0%                           | 0%                   | <1%                              |
| Other*   | 4%            | 5%                           | 5%                   | 4%                               |

\*Includes counter and letter

This year in the government sector a total of 75% of interactions were handled via phone channels, followed by 12% via email with the remaining 13% handled across self-service, web chat, social media and other channels.

City of Perth handles 58% of enquiries via phone which is lower than the government sector and the wider contact centre industry (71%). As result of the lower proportion of phone interactions at City of Perth, more enquiries are handled via email (29%) than the wider industry (16%) and government sector (12%). A focus on reducing the proportion of email enquiries handled by the City would improve operational efficiency as the handling times for email interactions are typically greater than phone interactions. City of Perth also currently handles a greater proportion of enquiries online (8%) than all other industry sectors (5%), demonstrating a greater level of digital maturity.

The following table shows the expected percentage of interactions per channel for next year as indicated by research participants in comparison to City of Perth.

**Table 6: Future Percentage of Interactions Per Channel**

|  | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--|---------------|------------------------------|----------------------|----------------------------------|
| n=   | 1             | 42                           | 41                   | 137                              |
| Phone (mainly handled by agent after call routing) | 45%           | 58%                          | 62%                  | 55%                              |
| Email  | 28%           | 19%                          | 11%                  | 15%                              |
| Self-Service/online                                | 11%           | 6%                           | 10%                  | 9%                               |
| Phone (mainly handled by IVR)                      | 9%            | 4%                           | 4%                   | 7%                               |
| Web chat/ video chat                               | 1%            | 3%                           | 4%                   | 4%                               |
| Social media                                       | 2%            | 2%                           | 2%                   | 2%                               |
| Smartphone app                                     | <1%           | 1%                           | 1%                   | 1%                               |
| SMS/ Instant Messaging                             | 0%            | 0%                           | 0%                   | 1%                               |
| Phone (mainly handled by speech recognition)       | 0%            | 1%                           | 0%                   | 1%                               |
| Chatbot  | 0%            | 1%                           | 1%                   | 1%                               |
| Other*   | 4%            | 4%                           | 4%                   | 4%                               |

\*Other includes front counter and letters

City of Perth is expecting 54% of interactions to be handled via the phone channel next year which is a 4% reduction from this year (58%) which is less than the expected decline amongst the government sector (9%). City of Perth is expecting to increase self-service by 3% next year which will continue to place City of Perth ahead of industry counterparts in the provision of digital self-service.

City of Perth is expecting to introduce web chat next year and anticipate this channel will handle 1% of customer interactions. This is slightly lower than the government and wider industry contact centre sectors (4%) however as a new channel is introduced, customer usage of web chat is likely to further increase during the following year.

City of Perth expects to slightly increase its level of social media enquiries from less than 1% to 2% next year which is in line with the government and wider industry's expected increase.

City of Perth expects to maintain the proportion of counter and letter enquiries next year at 4% of total interactions.

Overall, the City of Perth's expected change to channel usage next year shows a good balance of self service and human interaction channels available, however as per the comments with regard to the

proportion of enquiries handled this year via email, City of Perth should continue to focus on reducing the proportion of email enquires via the promotion and optimisation of lower cost channels, such as web chat, phone and self-service.

#### 2.3.1.1 Counter Channel Assessment

The City of Perth counter service is located at Council House in the main council building. The serviced hours are 8am to 5pm, Monday to Friday. Two Customer Service Officers are scheduled onto the front counter each day; opening shift from 7.30am - 3.30pm closing shift from 9am-5.30pm. The Customer Service Officers are responsible for face to face enquiries, answering internal calls and actioning emails from the customer service email queue. Customer Service Officers scheduled onto the front counter are also responsible for managing cash including reconciling of float, assistance with on-site events and signing for courier deliveries.

The Customer Service Counter serviced by Customer Service Officers was implemented in July 2018. Prior to this there were two separate services; concierge was responsible for signing in and directing visitors to the Council House and the Customer Service team for dealing with face to face enquiries and taking payments however did not have the technology infrastructure or training to complete several queries at first point of contact.

The following figure shows average monthly counter volume for City of Perth from 2013 to 2017.

**Figure 12: Counter Volume Trend 2013-2017**

| CUSTOMERS | Avg for Year |
|-----------|--------------|
| 2013-2014 | 2012         |
| 2014-2015 | 2140         |
| 2015-2016 | 1973         |
| 2016-2017 | 1996         |

This high level data suggests that the volume of counter enquiries is declining slightly each year as alternate channels are developed and available to customers to interact via their channel of choice.

The counter environment is presented professionally and is well designed to allow visitors to easily approach the counter to seek guidance and advice.

### 2.3.1.2 Phone Channel Assessment

The City of Perth advertises a principle telephone number for customers (08) 9461 3333 on the website and collateral with the following operating hours: Monday to Friday, 8:00 am-5:00 pm (local time).

Calls are routed to the dedicated SME Customer Service Officer (CSO) based on the IVR option selected by the caller. If the dedicated CSO is unavailable the call will be routed to the next available member of the Customer Service team.

Outside of the Customer Service team operating hours, an out of hours message is played and includes the following options; press one for parking and ticket information and press two for all other enquiries. Option 1 is directed to the offsite parking customer service team until 7am where this is routed to the Customer Service CPP (team 2) call queue. Option 2 is directed to the security and surveillance business unit.

Additional information regarding the call queues and routing can be found in section 2.5.2 of this report.

The following figure shows average monthly call volume for City of Perth from 2013 to 2017.

**Figure 13: Call Volume Trend 2013-2017**

| CONTACT CENTRE CALLS | Monthly Avg for Year |
|----------------------|----------------------|
| 2013-2014            | 2340                 |
| 2014-2015            | 2489                 |
| 2015-2016            | 2834                 |
| 2016-2017            | 2915                 |

Call volume has increased each year suggesting that there is an increasing scope and volume of the community that is serviced by the City of Perth customer service team as a result of the establishment of the Customer Experience Centre.

It is good practice to advertise a single telephone number to avoid customers directly contacting other areas of Council and to allow a consolidated view of customer contact demand.

The table below shows inbound versus outbound interactions as indicated by research participants in comparison to City of Perth.

**Table 7: Inbound vs. Outbound Interactions**

|          | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|----------|---------------|------------------------------|----------------------|----------------------------------|
| n=       | 1             | 43                           | 42                   | 143                              |
| Inbound  | 99%           | 83%                          | 94%                  | 84%                              |
| Outbound | 1%            | 17%                          | 6%                   | 16%                              |

City of Perth handles 99% inbound contact which is slightly higher than the government sector (94%). The government sector is now handling 6% of overall contacts as outbound interaction, whereas City of Perth is handling only 1% of interactions via outbound contact.

### 2.3.1.3 Email Channel Assessment

The City of Perth advertise an email address [info@cityofperth.wa.gov.au](mailto:info@cityofperth.wa.gov.au) on the footer of each webpage as well of the 'Contact us' page of the website.

The inbound emails flow through to an Outlook inbox and are recorded in Microsoft Dynamics CRM. All Customer Service Officers members have access to this inbox. The inbox utilises the tagging functionality to determine allocation of emails to officers. At the commencement of each day, Team Leaders will delegate emails according to volume and capacity. At mid-day Team Leaders will check the CRM to ensure emails are tracking to initial target and will move resources according to email volume.

Microsoft Dynamics CRM has been integrated with Outlook since January 2018. This has enabled personalised auto responses to customers and the recording of all email/surface mail correspondence (including Spam, Dial Before you Dig, Internal Requests) in the CRM preventing emails being deleted or moved to processed without action. Once the Customer Service Unit has access to a full year for data, email will be included into the workforce management processes.

The following figure shows average monthly email volume for City of Perth from 2013 to 2017.

**Figure 14: Email Volume Trend 2013-2017**

| EMAILS      | Average |
|-------------|---------|
| 2013-2014   | 32      |
| 2014-2015   | 22      |
| 2015-2016   | 14      |
| 2016 - 2017 | 45      |

This high level data would indicate that email volumes to the City have been variable in recent years. Tracking of email volumes prior to January 2018 was manual and required several business units input and therefore may not be accurate.

#### **2.3.1.1 Website/ Self-service Channel Assessment**

The City of Perth Customer Service team has identified online self-service as a priority and have included actions in this regard in their Experience Service Action Plan 2018 -2020 recognising the benefits digitalising and automating processes will bring to both the Council and customers.

The City of Perth website can be used by customers to address queries through information provided or via the e-services portal.

Customers can access information on the website using the search function or via the menu matrix. There is also a feedback question to determine usefulness of information on each page at the footer. This feedback is provided to the Corporate Communications team to identify areas of improvement.

Customers can also make requests through the e-service portal which is integrated to the CRM. The following actions can be made via the portal;

- Applications - Road and footpath, events, CCTV.
- Customer Service – Request heritage forms, provide feedback, subscribe or register to newsletters, rate enquiry, bin request, animal registrations, building approvals, business licence renewals, Town Hall bookings, weddings, report city issues and health approvals.
- Licencing – Food vendor, food business approval, health approval.
- General enquiry – Access to advertised applications.
- Payments – Rates, infringements, debtor payments, application payments, pet registration, private property registration.

Customers can also access the progress of requests made on the e-portal. This is a significant feature as it will support a reduction of inbound enquiries through the phone and email channels as customers can self-serve to check progress.

The City of Perth Customer Service Unit have prepared a business case and mock up for a “My City” mobile app to improve customer engagement and increase self-service as shown in the figure below.

**Figure 15: Mobile App Mock Up**



Less than 1% of the wider industry has implemented a mobile App. City of Perth would therefore be ahead of the industry and especially the government sector if they proceed with the development of a mobile app.

The City of Perth also prepared a business case to recommend the introduction of live chat on the website.

#### **2.3.1.2 Social Media Channel Assessment**

Social Media is used as a channel is used by City of Perth for outgoing messages and to reply to incoming contact from customers. The social media options available include Facebook, Instagram, Twitter and Linked In. Corporate Services own all social media channels through Hootsuite and record queries or feedback in the CRM for the Customer Service team to action.

As social media continues to grow it is important to consider the potential increase to customer enquiries via this channel and the processes required to ensure consistency of response across the channel environment.

Organisations that are successful in delivering customer service through social media typically have:

1. An overarching service charter and principles for internet based service delivery
2. Agents with developed Social Media skills
3. Agents with authority to make service based decisions

4. A clear escalation process and supporting business processes
5. CRM information at the desktop
6. Social Media monitoring, analytics and routing software
7. Social Service KPIs and reporting frameworks
8. Workforce planning of the Social Media channel
9. Quality monitoring of the Social Media channel
10. A tested Risk Management strategy

## 2.4 People Capability Assessment

This section of the report provides an assessment of the people capability of City of Perth's customer service team with performance benchmarking in the following areas:

- Organisational Structure
- Staff Tenure, Turnover and Absence
- Recruitment
- Staff Training
- Staff Wages and Incentives
- Staff Engagement
- Reward and Recognition

### 2.4.1 Organisational Structure Assessment

The following section provides an assessment of the current City of Perth Customer Service Unit organisational structure.

The following figure shows the current executive level organisational chart.

**Figure 16: Organisational Structure**



The CEO has five key reporting groups; Corporate Services, Planning and Development, Community and Commercial Services, Construction and Maintenance and Economic Development and Activation. The Director of Community and Commercial Services has seven key reporting groups; Customer Service, Parking Services, Commercial Parking, Library, Community Amenity and Safety, Community Services and Healthy and Activity Approvals. The Manager of Customer Service reports directly into the Director of Community and Commercial Services.

The structure of the Customer Service unit is shown in the figure below:

**Figure 17: Customer Service Organisational Structure**



The Manager of Customer Service has four direct reports; two Team leaders, a Project and Research Officer and a Contractor for Microsoft Dynamics CRM.

Of the two teams, one has 5 members reporting to a Team Leader and the other team has 10 members reporting to the second Team Leader.

The best practice ratio of Supervisor or Team Leader to frontline team members is 1:12 to allow sufficient time to complete management, coaching, quality assurance, contact centre management and administration tasks to a good practice standard. To allow a more balanced work load between the Team Leaders, City of Perth may want to consider assigning an equal number of direct reports to each Team Leader.

The following table shows the percentage breakdown of contact centre roles as indicated by research participants in comparison to City of Perth.

**Table 8: FTE percentage breakdown of Contact Centre Roles**

| Average number of employees in each category                                    | City of Perth | Contact Centres <20 Seats | Gov, Edu & Health | Wider Contact Centre Industry |
|---|---------------|---------------------------|-------------------|-------------------------------|
| n=  | 1             | 42                        | 42                | 140                           |
| Contact Centre Manager  | 7%            | 7%                        | 3%                | 2%                            |
| Team Leaders/Supervisors  | 14%           | 9%                        | 9%                | 8%                            |
| Contact Centre Agents   | 71%           | 69%                       | 78%               | 84%                           |
| Rostering/Forecasting/Scheduling/Workforce Analysts or Managers                 |               | 1%                        | 2%                | 1%                            |
| Quality Monitoring/Quality Assurance Analysts/Managers                          | 7%            | 3%                        | 2%                | 2%                            |
| Trainers  |               | 2%                        | 1%                | 1%                            |
| Contact Centre dedicated IT support   |               | 0%                        | 1%                | 0%                            |
| Administrative support  |               | 4%                        | 1%                | 1%                            |
| Other (specify) e.g. Reporting Analyst, Knowledge Manager, Business Improvement |               | 2%                        | 3%                | 1%                            |

City of Perth currently assigns 71% of the contact centre workforce to frontline agent roles, which is lower than the government sector (78%) and wider industry (84%), however is aligned to contact centres of a similar size (69%).

City of Perth currently assigns a higher proportion of staff to quality assurance roles (7%) in comparison to similar sized contact centres (3%) and the government sector (2%); however this is one dedicated FTE.

City of Perth has a higher proportion of contact centre Team Leaders in the organisational structure at 14% compared to contact centres of similar size (9%).

City of Perth does not currently have any staff assigned to training or workforce management roles. These activities should be defined and assigned within the position descriptions of the contact centre leadership team to ensure appropriate processes are in place to support the centre.

The next table shows the percentage of home based agents as indicated by research participants in comparison to City of Perth.

**Table 9: Home Based Agents**

|  | City of Perth | Contact Centres<br><20 Seats  | Gov, Edu &<br>Health   | Wider Contact<br>Centre Industry  |
|--|---------------|---|--|---|
|  | n= 1          | 42  | 42   | 142   |
| Percent of agents home based                   | 1%            | 12% have Home Based Agents.<br>On average 19% of agents are home based                          | 5% have Home Based Agents. On average 1% of agents are home based                              | 16% have Home Based Agents. On average 8% of agents are home based                              |
| Percent of home based agents in next 12 months | 1%            | 21% will have Home Based Agents in 12 months' time. On average 25% of agents will be home based | 24% will have Home Based Agents in 12 months' time. On average 8% of agents will be home based | 37% will have Home Based Agents in 12 months' time. On average 14% of agents will be home based |

City of Perth currently has 1% of the workforce working from home and expects this to remain at the same level next year. 5% of the government sector currently has home based agents which equates to 1% of the workforce and is expecting this to increase to 8% next year.

The contact centre of the future will require frontline team members to have a broader skill set than in previous years with the capability to handle interactions across multiple channels as the usage of non-phone channels is expected to increase over the next 2-5 years. At the same time, organisations will have to deal with new demands from the next generation of workers who don't want to work long shifts in centralised operations. In order to recruit and retain the best talent, organisations will have to identify and adapt working environments and arrangements.

The ability to attract and retain appropriately skilled talent in the contact centre industry has consistently been a challenge for many organisations. In order to adapt to the changing needs of workers, many organisations are utilising a work at home model to increase the available candidate pool, allow for flexible working arrangements and increase the retention of staff.

## 2.4.2 Staff Tenure, Turnover & Absence Assessment

The following table shows the average tenure of roles in the contact centre as indicated by research participants in comparison to City of Perth.

**Table 10: Average Tenure**

|                          | City of Perth       | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--------------------------|---------------------|------------------------------|----------------------|----------------------------------|
| n=                       | 1                   | 51                           | 30                   | 103                              |
| Agents – full-time       | 5 years, 4.5 months | 3 years, 8 months            | 6 years, 6 months    | 3 years, 9 months                |
| Agents – part-time       | 12 years            | 3 years 2 months             | 4 years, 0 months    | 3 years, 3 months                |
| Team Leaders/Supervisors | 2 years             | 4 years, 9 months            | 5 years, 4 months    | 5 years, 1 month                 |
| Contact Centre Managers  | 2 years             | 4 years, 2 months            | 4 years, 7 months    | 4 years, 10 months               |

Full time agents at City of Perth have an average tenure of 5 years and 4.5 months which is greater than contact centres of a similar size (3 years, 7 months) and slightly less than the government sector (6 years, 6 months). Part time Agents at City of Perth however have a much greater tenure than all other industry sectors.

The tenure for City of Perth Team Leaders is 2 years which is significantly less than contact centres of a similar size (4 years, 9 months) and the government sector (5 years, 4 months). The tenure of the Contact Centre Manager is also lower at 2 years than all other industry sectors.

The tenure of the team is reflective of the changes that have been implemented for the Customer Service Unit.

The table below shows the agent turnover in the contact centre as indicated by research participants in comparison to City of Perth.

**Table 11: Agent Turnover**

|                          | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--------------------------|---------------|------------------------------|----------------------|----------------------------------|
| n=                       | 1             | 34                           | 32                   | 105                              |
| Full time agent turnover | 33%           | 12%                          | 8%                   | 19%                              |
| Part time agent turnover |               | 9%                           | 7%                   | 15%                              |

The full time agent turnover at City of Perth is 33% which is much greater than the government sector (8%) and the wider industry (19%) and is reflective of the changes occurring across Council and within the Customer Service Unit.

High levels of staff turnover reduce overall operational efficiency and effectiveness and add cost as new staff require sufficient time to be trained and to achieve competence.

The next table below shows the reasons for leaving the contact centre as indicated by research participants in comparison to City of Perth.

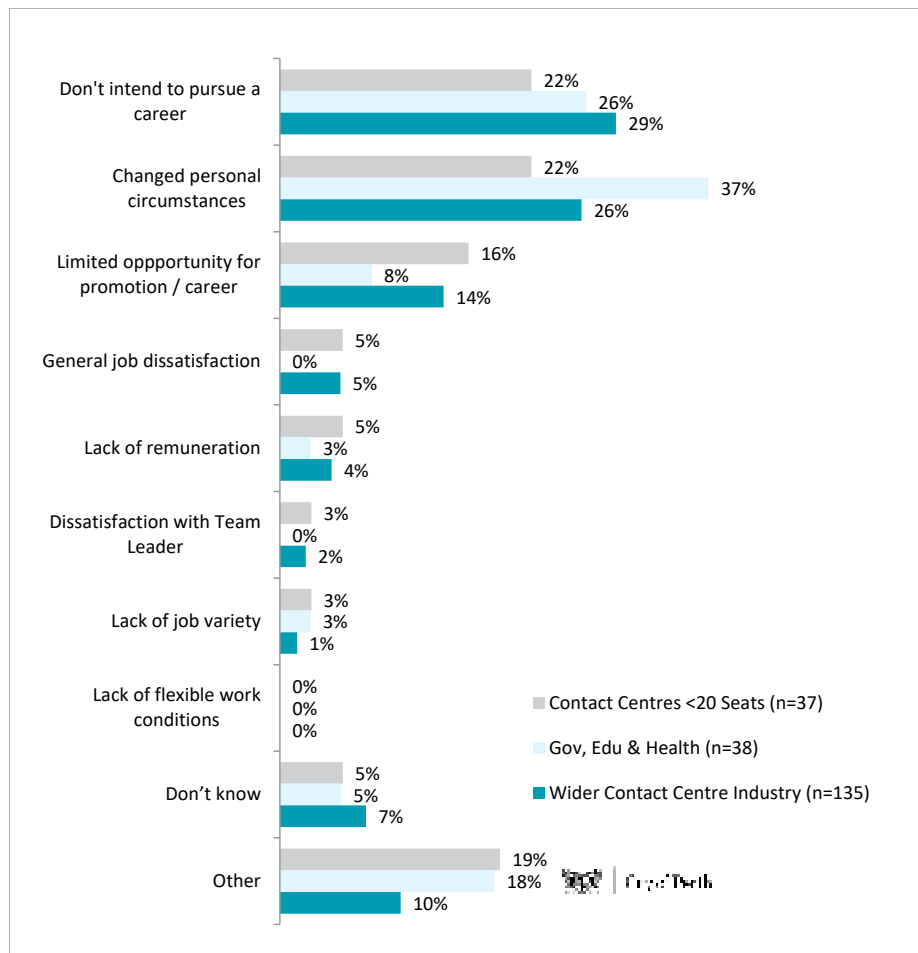
**Table 12: Reasons for Leaving**

|  | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--|---------------|------------------------------|----------------------|----------------------------------|
| n=   | 1             | 100                          | 38                   | 135                              |
| Resigned                                   | 40%           | 51%                          | 43%                  | 48%                              |
| Transferred to other parts of the business |               | 31%                          | 37%                  | 30%                              |
| Were dismissed/retrenched                  | 20%           | 8%                           | 4%                   | 9%                               |
| Did not renew contract                     | 20%           | 5%                           | 7%                   | 4%                               |
| Retired                                    | 20%           | 2%                           | 7%                   | 3%                               |
| Other                                      |               | 3%                           | 2%                   | 6%                               |

For City of Perth, 40% of staff leaving customer service was a result of resignation and the remaining 60% of staff were either dismissed, did not have a contract renewed or retired. City of Perth dismissed a greater proportion of staff leaving (20%) than the government sector (4%) and wider industry (9%). City of Perth didn't transfer any staff from the Customer Service Unit to other areas of the organisation, which is common practice in the government sector (37% of leavers) to retain knowledge and skills in the organisation.

The following figure shows the primary reasons for leaving the contact centre as indicated by research participants in comparison to City of Perth.

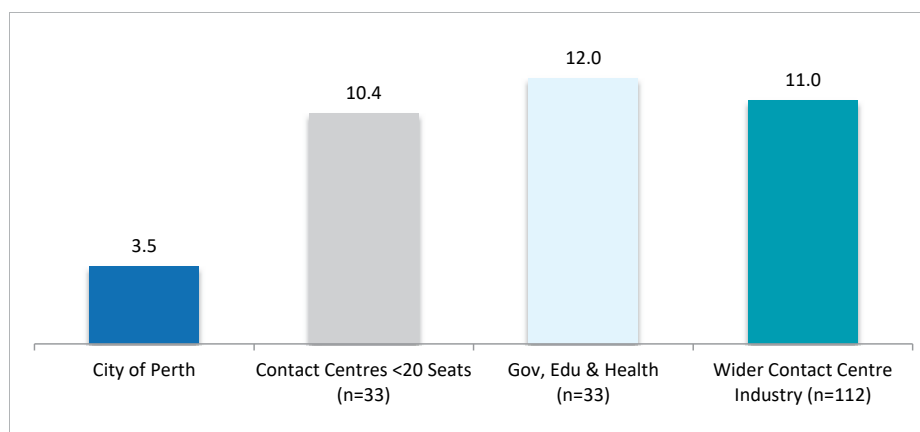
**Figure 18: Primary reason for leaving**



The primary reasons for staff leaving City of Perth customer service was a result of organisational change. The primary reason for leaving in the government sector is a change of personal circumstance (37%).

The figure below shows the average sick leave days for contact centres as indicated by research participants in comparison to City of Perth.

**Figure 19: Sick Leave**



Sick leave for City of Perth Customer Service Unit for the last financial year was 3.3 days which is much lower than all other industry sectors.

### 2.4.3 Recruitment Assessment

When recruiting for a contact centre and customer service roles it is best practice to ensure the recruitment process allows for the opportunity for potential new staff to demonstrate their customer service and contact centre skills and associated competencies. It is typical practice to conduct assessments and testing during recruitment in addition to competency based interviews to assess customer facing competencies and organisational fit.

A typical recruitment process for contact centre roles includes:

1. Identify all core competencies, minimum skills and experience required for Multi-Channel roles
2. Advertise
3. Short List candidates based on core competencies, minimum skills and experience
4. Phone screen short listed candidates to assess communication and telephone skills
5. Group Assessment including customer service role plays and competency assessment

6. Interview: Competency based questions, provide further detail of the role, understand previous experience and team fit
7. Test: Numeracy, Literacy and computer skills
8. Final Short List
9. Offer

The recruitment process for City of Perth Customer Service Unit is as follows:

1. Recruitment will commence when the Customer Service Manager completes a 'Request to Recruit' form this is signed off by the Director of Community and Commercial Services. Currently recruitment can be applied for if there is a resignation, change of circumstances of current FTE (for example maternity leave) or if business case is put forward with sufficient budget associated.
2. Upon sign off for recruitment, the Customer Service Manager will liaise with Human Resources to advertise the role(s) for on the City of Perth website and SEEK.
3. The advert prompts the applicant to submit a CV detailing employment history, educational qualifications and contact details and a summary outlining relevant experience and achievements, relatable to all of the selection criteria outlined in the 'Position Description' document shown in the figure below.

**Figure 20: Selection Criteria for Customer Service Officers**

| Selection Criteria |   |
|--------------------|---|
| <b>Essential</b>   | <ul style="list-style-type: none"><li>▪ Experience in front line customer service across a range of contact channels</li><li>▪ Experience in providing first contact resolution</li><li>▪ Understanding standards of service and key performance indicators (KPI's)</li><li>▪ Ability to work in a fast-paced and flexible environment</li><li>▪ A positive 'can-do' attitude</li><li>▪ Ability to multi-task and prioritise while working under minimal guidance</li></ul> |
| <b>Desirable</b>   | <ul style="list-style-type: none"><li>▪ Experience in local government contact centre environment</li></ul>   |

Applicants are required to submit documentation through the City of Perth careers portal or SEEK portal.

4. Once the recruitment advertisement expires, the Customer Service Manager and Team Leaders will review all applications and shortlist candidates based on application data and screening content. Team Leaders may call applicants to clarify details and compile a more comprehensive profile of the application.

5. Applicants will be contacted if they have been selected for the next stage of the recruitment process and will be invited to a face to face interview. Interviews consist of 8 questions with the interviewer writing commentary and providing a rating of 1-5. Included are a mix of experience, competency and opinion based questions. A sample of the interview questions is provided in the figure below however these are changed regularly upon the discretion of the Customer Service Leadership team.
6. Team Leaders will contact the successful candidates nominated referees and background checks will be completed.

There is currently assessment or testing completed for service staff prior to an offer of employment. It is typical practice in the customer service industry to conduct assessments and testing during recruitment in addition to competency based interviews. A phone screen prior to the face to face interview would allow City of Perth to assess phone and communication skills which would further support a good practice recruitment approach.

#### 2.4.4 Staff Training Assessment

A staff on-boarding check list is in place for new starters to the contact centre as follows:

##### BEFORE THE EMPLOYEE'S START DATE

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Outcome: *This is a welcoming work environment with informed colleagues and a fully-equipped work space; new employees feel "settled in" on their first day.*

##### Schedule and Job Duties

- Call employee:
  - Confirm start date, time, place, parking, dress code, etc.
  - Identify computer needs and requirements.
  - Provide name of their on boarding buddy.
- Send welcome video
- Prepare employee's calendar for the first two weeks.
- Plan the employee's first assignment.
- Advise concierge of time and date of employee's arrival and who to contact

##### Socialisation

- Email Commercial Parking group. Include start date, employee's role, and bio.
- Set up meetings with critical people for the employee's first few weeks. Employee could attend management meeting if appropriate.
- Arrange for lunch with the appropriate person or buddy for the first day and during first week.
- Select the buddy.
- Meet with the buddy, and provide suggestions and tips
- Arrange for car park visits. LPR, boom gated and open air car park.

### Work Environment

- Put together welcome packet from the department and include: job description, welcome letter, contact names and phone lists, parking and transportation information, mission and values of the Directorate, information on the unit etc.
- Clean the work area, and set up office space with supplies.
- Order business cards if required and name plate.
- Add employee to relevant email lists.
- If employee has delegated authority, request relevant authorisation rights on Content Manager and Finance One e.g. if they have a finance budget
- Employee may also need a 'red card' if they are an 'authorised person'. The card is issued to CPOs, CPTLs, Technicians and Unit Manager to carry
- Employee may need access to car parks, an access card may be issued(dependent on role)
- Set up in Time Lord
- Ensure IT authorisations are in place e.g. if the new employee will be managing a team, the employee will need to have the correct permissions on ESS to authorise leave etc.

### Technology Access and Related

- Arrange for login details
- Arrange for access to common drives.
- Arrange for phone installation.

### FIRST DAY

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*Outcome: Employee feels welcome and is prepared to start working; begins to understand the position and performance expectations.*

### Schedule, Job Duties, and Expectations

- Clarify the first week's schedule, and confirm required and recommended training e.g. record keeping, EEO, OHS.
- Provide an overview of the functional area – its purpose, organisational structure, and goals.
- Review job description, outline of duties, and expectations.
- Describe how employee's job fits in the department, and how the job and department contribute to the unit.
- Review hours of work. Explain policies and procedures for overtime, use of annual leave, flexi and sick time etc.

### Socialisation

- Be available to greet the employee on the first day.
- Introduce employee to others in the workplace.
- Introduce employee to his/her buddy.
- Take employee out to lunch.
- Provide details of social club

#### **Work Environment**

- Take employee to Properties Unit to collect building access card.
- Provide specific safety and emergency information i.e. where the Assembly area is, fire exits, first aid kit, first aiders, safety rep, toilets, kitchen
- Take employee on a tour.
- Explain how to get additional supplies and where stationery cabinet is located.

#### **Technology Access and Related**

- Provide information on setting up voicemail and computer.
- Explain how to log onto printers for first time
- Set up email signature
- Provide employee with laptop/mobile phone etc. as required

#### **FIRST WEEK**

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Outcome: *New employee builds knowledge of internal processes and performance expectations; feels settled into the new work environment.*

#### **Schedule, Job Duties, and Expectations**

- Give employee his/her initial assignment.
- Debrief with employee after he/she attends initial meetings, attends training, and begins work on initial assignment. Also touch base quickly each day.
- Explain the annual performance review and goal-setting process.
- Review the process related to the probationary period.

#### **Technology Access and Related**

- Ensure employee has fully functioning computer and systems access and understands how to use them.
- Depending on role of the employee, it may be useful for them to sit with each work area for an overview of that particular area and how they interface with their role/function
- Content Manager training
- Finance One training (dependent on role)
- Hansen Training (dependent on role)
- How to raise an IT service request
- How to use ESS
- Time Lord
- Add employee to meetings,
- Add employee to relevant email groups e.g. CPP, CPP Admin Group, Commercial Parking etc.
- Ensure employee is familiar with internal/external arrangements

#### Car Park Visits

- Visit the three car parks, Licence Plate Recognition, boom gated car park and open air car park. Explain how they all work and their differences.

An induction booklet is also documented that includes the following;

- Summary of the council's vision, values, executive team, culture, team standards, code of conduct, and customer experience model
- Team Culture: The Customer Experience Centre Leadership Team, purpose and aims of the Customer Service Centre, Customer Service Centre's team values, rules concerning annual leave, start and finish times and what does a day in the life of a Customer Service Officer look like
- Customer Service standards: In person, phone, email, social media and internal customer.
- Corporate Systems: Pathways, Empower, Bank Manager Hansen, Cisco, Intramaps, Outlook and TRIM
- Rates: Roles and responsibilities, legislation, LGA regulations for requests for property owner details, role as a collection point for the emergency services levy, pensioner rebates and penalties.
- Waste: roles and responsibilities, landfill, recycling and commercial services particulars, footpath and street cleaning schedules, creating a Hansen request and managing enquiries.
- Parking: Roles and responsibilities, commercial, car park and kerb side particulars, product details, management of parking offices, creation of Hansen requests and managing enquiries.
- Public Health: Roles and responsibilities, purpose of Health registration/certification applications, health compliance, Council's role of enforcements and fees and changes and administration of applications.
- Legal Compliance and Infringement Services: Processes, fine values and registry.
- Building Services: site plan details, certifications, building requirements, fee structure, building fee calculator and certification services

This booklet acts as an induction guides as well as a refresher resource for Customer Services Officers.

The induction process is well documented and provides a consistent learning experience for new starters, however it is noted a new training program will be developed as an initiative included in the Customer Service Unit business plan scheduled for June 2019.

The following table shows the number of days training assigned to contact centre staff as indicated by research participants in comparison to City of Perth.

**Table 13: Staff Training**

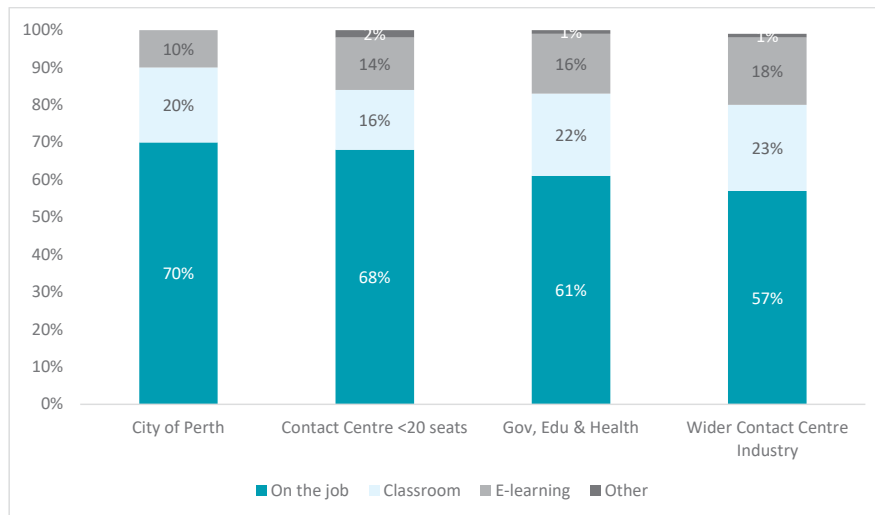
|   | City of Perth    | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|---|------------------|------------------------------|----------------------|----------------------------------|
| n=  | 1                | 41                           | 41                   | 140                              |
| NEW EMPLOYEES   |                  |                              |                      |                                  |
| Number of days training – New Inductees               | 20 days          | 15 days                      | 13 days              | 15 days                          |
| Speed to competency – New Inductees (weeks)           | 12 weeks         | 9 weeks                      | 8 weeks              | 9 weeks                          |
| Proportion of new employees pass probationary period  | 100%             | 94%                          | 97%                  | 92%                              |
| EXPERIENCED EMPLOYEES                                 |                  |                              |                      |                                  |
| Number of days training per year – Experienced agents | 15 days per year | 9 days per year              | 10 days per year     | 9 days per year                  |

New starters at City of Perth receive 20 days of induction training which is more than the wider industry (15 days) and the government sector (13 days). City of Perth reported that 75% of new staff in a recent intake took approximately 12 weeks to achieve competency following induction training which is more than the government sector (8 weeks) and the wider industry (9 weeks).

For ongoing training, City of Perth plan for 10 hours of training per person, per month (on average) which equates to 15 days per annum, which is more than all other sectors. This is normally one full day and additional shorter sessions. Inter-departmental training is also completed for five working days at a time (where a team member sits with another team).

The figure below shows the methods of training delivery for contact centre staff as indicated by research participants in comparison to City of Perth.

**Figure 21: Staff Training Methods**



City of Perth primarily utilise on the job training (70%) complemented by e-learning (10%) and classroom training (20%). The government sector also primarily utilise on the job training (61%), and a similar amount of classroom training (22%), however the government sector is utilising more e-learning (16%) than City of Perth (10%). It is noted that further e-learning modules will be included in the development of a new training program.

## 2.4.5 Staff Wages & Incentives Assessment

The table below shows the average staff wages for roles in the contact centre as indicated by research participants in comparison to City of Perth.

**Table 14: Staff Wages**

|   | City of Perth | Contact Centres<br><20 Seats  | Gov, Edu &<br>Health            | Wider Contact<br>Centre Industry |
|---|---------------|-------------------------------|---------------------------------|----------------------------------|
|   | n= 1          | n=4-38                        | n=5-34                          | n=15-115                         |
| FULL TIME EMPLOYEES   |               |                               |                                 |                                  |
| Contact Centre Manager  | \$125,000     | \$97,578<br>(Median \$95,000) | \$108,764<br>(Median \$104,000) | \$112,274<br>(Median \$105,000)  |
| Team Leaders / Supervisors                                    | \$83,310      | \$67,606<br>(Median \$65,000) | \$75,913<br>(Median \$79,000)   | \$72,721<br>(Median \$74,000)    |
| Full time Agents  | \$70,252      | \$55,674<br>(Median \$55,000) | \$60,802<br>(Median \$60,500)   | \$55,210<br>(Median \$55,000)    |
| Rostering / Forecasting / Scheduling /<br>Workforce Manager   |               | \$57,000<br>(Median \$62,500) | \$77,130<br>(Median \$74,000)   | \$73,209<br>(Median \$74,500)    |
| Quality Monitoring / Quality Assurance<br>Analysts / Managers | \$74,587      | \$58,143<br>(Median \$68,000) | \$73,607<br>(Median \$72,000)   | \$67,443<br>(Median \$70,000)    |
| Trainers  |               | \$63,500<br>(Median \$60,000) | \$73,903<br>(Median \$73,500)   | \$71,768<br>(Median \$70,000)    |
| Contact Centre dedicated IT support                           |               | \$64,000<br>(Median \$70,000) | \$72,600<br>(Median \$75,000)   | \$71,800<br>(Median \$72,000)    |
| Administrative support  |               | \$48,500<br>(Median \$52,500) | \$62,810<br>(Median \$59,000)   | \$59,277<br>(Median \$58,500)    |
| PART TIME EMPLOYEES   |               |                               |                                 |                                  |
| Contact Centre Manager  |               | -                             | -                               | -                                |
| Team Leaders / Supervisors                                    | \$38.25       | \$20.67<br>(Median \$29)      | \$43.80<br>(Median \$41)        | \$34.10<br>(Median \$35)         |
| Contact Centre Agents   | \$31.25       | \$30.91<br>(Median \$31.38)   | \$33.10<br>(Median \$34)        | \$30.70<br>(Median \$29)         |
| Rostering / Forecasting / Scheduling /<br>Workforce Manager   |               | \$35.00<br>(Median \$35)      | \$35.00<br>(Median \$35)        | \$34.20<br>(Median \$35)         |

City of Perth remunerate full time agents \$70,252, which is more than the median for the wider industry (\$55,000) and the median for the government sector (\$60,500).

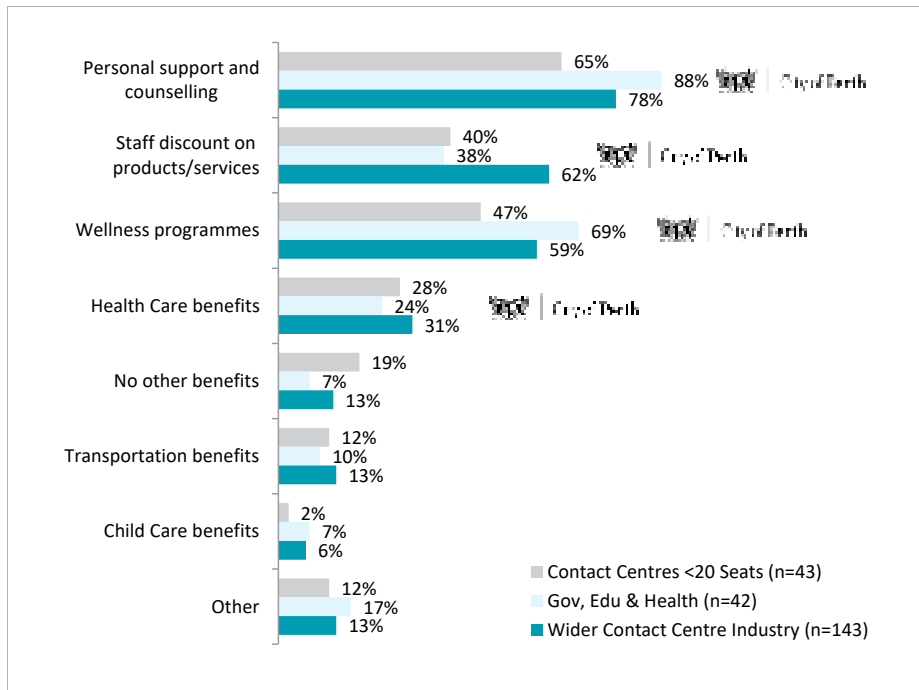
Team Leaders at City of Perth are remunerated \$83,310, which is more than the median for the wider industry (\$74,000) and the government sector (\$79,000).

The City of Perth Contact Centre Manager is also remunerated at a higher rate than all other industry sectors.

City of Perth's Quality Assurance staff are remunerated at \$74,587 which is similar to the median in the government sector (\$72,000).

The following figure shows the staff benefits offered by the wider contact centre industry as well as the government sector and centres of a similar size.

**Figure 22: Staff Benefits**



The government sector most commonly provides personal support and counselling (88%) and wellness programmes (69%). City of Perth offers health care benefits, staff discounts, wellness programmes and personal support and counselling, which is a good range of staff benefits.

## 2.4.6 Reward and Recognition Assessment

A good practice approach to the definition of a reward and recognition program within the customer service industry is to identify behaviours and the associated measurable KPIs that enable organisational success. Typically, this will include areas that an individual and/ or team can contribute directly towards and recognises their achievements.

Rewards may not always need to be monetary and can include opportunities to spend time with another area of the business, additional break time, shadowing a superior or an interview/lunch with a senior executive. Recognition can be in the form of team based praise, cards, awards and trophies.

The City of Perth has an organisation wide Reward and Recognition program inflight which is based on a nomination scheme. There are four types of rewards recognised;

- The Safety recognition award administered monthly by OSH and rewarded with a certificate and acknowledgement in the Inside City Newsletter.
- Business Unit award for outstanding performance rewarded at the Business Unit Manager's discretion. Awardees receive an award up to the value of \$50 (chosen by recipient) and \$54 for the end of year function.
- CEO Recognition award for outstanding performance administered by Human Resources. A total of two recipients per annum who receive \$500 Red Balloon voucher, certificate and letter from CEO and feature in the Inside City Newsletter.
- CEO Perth Star Annual award for transformational individual performance administered by Human Resources. A total of five recipients are awarded at the end of year event and receive \$1000 Red Balloon voucher, certificate and letter from CEO, addition of phone to 'Hall of Fame' in Council House Foyer and a showcase on social media (subject to permission from the employee).

The criteria for the awards include collaboration, improvement ideas and service which support customer service best practice.

The City of Perth has a process and definition document for the Reward and Recognition program that is reviewed bi-annually. The Customer Service Unit should continue to promote engagement towards this program as the unit continues to experience process and operational change to continue to support employee engagement.

## 2.5 Workforce Optimisation Assessment

This section of the report provides an assessment of the workforce optimisation capability at City of Perth including:

- Workforce Management
- Agent Assignment & Multi-skilling
- Data and Reporting

### 2.5.1 Workforce Management Assessment

Workforce Management (WFM) is the practice of ensuring that the optimum numbers of staff are available to respond to customer interactions at the appropriate time and through their preferred channels, whilst ensuring service levels and KPI's are achieved. This requires highly accurate staffing forecasts and the management of work schedules on a day-to-day basis.

The key stages of a WFM process can be found in the figure below:

**Figure 23: Workforce Management Process Model**



A workforce management cycle includes 8 critical steps:

1. Gather and analyse data – capture historical volume data and AHT for all channels by interval, daily, weekly and monthly to create a forecast
2. Forecast staff workload – using historical call volume and AHT to calculate workload
3. Calculate base staff requirements – using an Erlang C calculation to determine phone base staff required and workload calculation for all other channels
4. Understanding staffing trade-offs (service levels) and costs – consider preferred service level goals and implications to costs
5. Calculate shrinkage – identify all paid non workload activities including annual leave, training, meetings and coaching sessions
6. Calculate total required staff – add shrinkage onto base staff to determine required staff
7. Consider scheduling options – identify scheduling options available to match required staff and support EA guidelines
8. Track and manage daily performance – track expected performance to actual performance on the day and implement reaction strategies

#### 2.5.1.1 Contact Centre Forecasting

In order for basic workforce management principles to be applied and for the calculation of staffing requirements, contact volumes and average handle time (AHT) data across all channels and skills is required.

The starting point for the forecasting process assumes that history is a good predictor of the future. It is therefore necessary to ensure that all historical data is captured and maintained. Data required to complete any forecast includes:

- Volume by interval (30 minute or 1 hour intervals), daily, weekly and monthly for all channels and skills – including interactions offered, answered and abandoned
- Average Handle time by interval, daily, weekly and monthly for all channels and skills

In the forecasting processes, it is critical to know what a normal volume is before any unusual events. It is also important to understand when and what variations may exist. Variations are events or situations that are different from a normal day but happen frequently. This includes days before and after public holidays, business drivers such as marketing campaigns and regular events.

All data should be reviewed in a timely matter to ensure the data that has been captured is accurate or identify if data is missing. Any data that appears unusual in comparison to a typical period is referred to as abnormal data. Abnormal data should be stored for repeatable events or normalised or discarded for forecasting purposes.

Forecasting for all channels is essential to predict future volumes which are then used to understand overall staffing requirements. Once all data is available a forecast model needs to be created. A

forecast needs to incorporate trends and seasonality and is required for short, medium and long term planning.

**Short term forecasting** – A short term forecast provides daily and intraday volume and average handle time for a 3 month period with particular focus on the coming two weeks to provide visibility of expected performance so plans can be put in place to ensure service performance levels are achieved.

**Medium term forecasting** – A medium term forecast provides a 3 month, volume and average handle time forecast by day. A medium term forecast allows for longer term leave and shrinkage planning. The medium term forecast should be reviewed on a monthly basis for a rolling 3 month period and should include a review of the previous month.

**Long term forecasting** – A long term forecast includes monthly volume and average handle time for a 12 to 18 month period. Long term forecasting provides the estimated number of staff required month by month and allows for strategic and budget planning and for longer term recruitment and resourcing plans to be defined. The long term forecast should be updated on a monthly basis for a rolling 18 month period, with a strong focus on the 4 to 5 month period for recruitment decisions.

All forecasts once created should be reviewed on a regular basis for accuracy and effectiveness.

With a short, medium and long term forecast created for all channels and skills, the next step in the WFM process is to determine how many resources are required to handle the expected workload.

Staff workload is made up of volume of work and average handle time which are both outcomes of the forecasting process and agreeing on service level goals for each channel.

A different calculation is required to determine staffing base requirements for each channel. This is due to the nature of the work. To determine email and outbound calls base requirements a workload calculation would be required. For inbound calls and web chat, due to the random nature that calls/chats arrive a model called Erlang C is necessary.

City of Perth has a short-term forecast in place for the phone channel and front counter based on the same day of the previous year. Once 12 months of data is captured in the CRM, due January 2019, an email forecast will also be created. The current forecast considers the number of FTE as an input based on actuals rather than an output as a calculation of staffing requirements. The Customer Service unit do not have medium to long-term forecasts in place that take into account all channels and the expected shift in inbound volume for each channel over time.

To support the continuing success of the Customer Service Unit, a focus on longer term forecasting to calculate staffing needs should be in place to ensure the ongoing achievement of service outcomes as additional contacts are incorporated into the scope of the team.

#### 2.5.1.2 Contact Centre Resourcing and Scheduling

Creating schedules is a process that is designed to match the available workforce to the actual staff requirements. The biggest challenge in this process is the difference between what Consultants want and are available to work compared to what the business requires the Consultants to work based on when customers are expected to contact the organisation.

Creating schedules also needs to consider the working arrangement or employee agreements of all Consultants. Areas for consideration include:

- Maximum days worked per day and per week
- Hours worked with and without break times
- Variance in start and stop times per day
- Covering operating hours
- Required consecutive days off

Schedules need to be communicated to Consultants in a timely manner to ensure all Consultants are aware of what time they need to start and what time any activities will take place on any given day.

The Customer Service Unit resourcing plan is based on FTE requirements for 1 hour intervals and is completed via an in-house custom built excel spreadsheet. It utilises call volume data from CICSO for the previous year and requires AHT, occupancy and Agent calls per hour to be inputted. The output is a FTE requirement per hour interval and a Service Level projection. This information is used to schedule the Customer Service Officers to shifts.

City of Perth Customer Service team is currently resourced by 11 full-time Customer Service Officers in two teams;

- Team 1: Six Customer Service Officers.
- Team 2: Five Six Customer Service Officers (transferred from the Parking Services Unit and City of Perth Parking Office. This team was integrated into the Customer Services Department in June 2018.)

Team 1 assigns two Officers to the front counter with the following shift times;

- 7.45pm -4.15pm
- 9.00am – 5.30pm

The remaining team members will be scheduled on shifts with a start time of 8.00am, 8.30am or 9.00am. If all three starting times are utilised (one-to-one training or leave) then the 4<sup>th</sup> resource will be scheduled on to 8am start time to 10.00am. CSOs will be scheduled for the same shift time for a full fortnight. Rosters are created at the minimum a month in advance and released to Customer Service Officers 4 weeks in advance, which is good practice.

### 2.5.1.3 Shrinkage Management

Shrinkage is any paid activity that needs to take place but takes the agent away from handling a customer interaction. All shrinkages should be planned in advance whenever possible to ensure activities are taking place during lower workload intervals. Shrinkage should also be applied to overall FTE calculations to ensure the total number of staff required includes all activities.

Typical shrinkage activities that can be planned include:

- Annual Leave
- Sick leave and other paid leave
- Team Meeting
- Coaching and Development
- Training
- Paid breaks
- Completing other follow-up channel work
- Unproductive / Non work time

Once full visibility of all off-phone or unproductive activities are developed, it can be identified which shrinkage activities can be used to assist with managing volume peaks and troughs through the planning process. Examples of shrinkages that can be used to manage monthly and daily volume peaks and troughs include annual leave, meetings, coaching and development and unproductive activities.

In addition to capturing the actual shrinkage, analysis of actual shrinkage and a review of the budget shrinkage should be completed on a regular basis. An example of a best practice budget shrinkage calculation (based on a full time employee) can be found in the figure below:

**Figure 24: Proposed Budget Shrinkage**

| Shrinkage                                  | Calculation                                | Hours p/a  |
|--|--|------------|
| Annual Leave                               | 8 hours x 20 days                          | 160        |
| Sick Leave                                 | 8 hours x 12 days                          | 96         |
| Paid Breaks                                | 2 x 15 minutes per day x 5 days x 48 weeks | 120        |
| Meetings                                   | 60 minutes every month                     | 12         |
| Coaching                                   | 30 minutes every week x 48 weeks           | 24         |
| Training/Compliance                        | 9 days per annum                           | 72         |
| Performance Review                         | 1 hour twice per annum                     | 2          |
| Unexplained                                | 30 minutes per day x 5 days x 48 weeks     | 120        |
| Non Productive                             | 15 minutes per day x 5 days x 48 weeks     | 60         |
| <b>Total Shrinkage hours</b>               |  | <b>666</b> |
| Available hours based on 40 hours per week |  | 2080       |
|  |  | <b>32%</b> |

The current average shrinkage across the wider contact centre industry is 32% and may vary depending on sick leave entitlements, hours worked per day and other coaching, training and development activities.

The City of Perth does not include shrinkage activities in the workforce management process to calculate overall staffing requirements or manage resourcing.

#### 2.5.1.4 Real Time Management

The last step of the Workforce Planning process is managing performance on the day, in real time. This involves proactive monitoring on the day and comparing what was expected to happen based on the forecast created and comparing this to what is actually happening. A real time management framework should include a reaction strategy to support quick decision making and reduce any impact to the customer experience.

It is best practice for a reaction strategy, once agreed by Team Leaders and management to be communicated to all team members to ensure all roles, responsibilities and expectations are clearly articulated to eliminate delays in actions taking place. A reaction strategy should be specific for each channel.

A reaction strategy should be specific for each channel. An example of a reaction strategy for phone and email is as follows:

Figure 25: Inbound Calls Real Time Management Reaction Strategy

| SEVERE<br>SL 60% - 70%   | SL 70% - 75%  | SL 75% - 80%      | SL 80% - 85%     | SL 85% - 90%   | SL 90%+ 90%   |
|--|---|-------------------|------------------|--|---|
| <b>Reactions:</b><br>• Team Meetings<br>• Training<br>• Coaching<br>Increase Part Time<br>or Temp<br>Utilise resources<br>from other channels<br>if possible | Defer other<br>enquiries<br>Identify available<br>capacity from other<br>channels | Optimise workflow | Normal Operation | Speed up relevant<br>tasks<br>Review workflow in<br>other channels | Allocate resources to<br>other channels<br>Consider training<br>Consider sending<br>Temp home |

Figure 26: Email Real Time Management Reaction Strategy

| SEVERE<br>SL 100% - 100%   | SL 100% - 100%  | SL 100% - 100%<br>STRATEGY<br>WORKING<br>BUT NOT<br>BEING FOLLOWED | SL 100% - 100%<br>STRATEGY<br>WORKING<br>BUT NOT<br>BEING FOLLOWED | SL 100% - 100%<br>WORKING<br>BUT NOT<br>BEING FOLLOWED            | SL 100% - 100%<br>ENQUIRIES IN<br>QUEUED  |
|--|---|--|--|---|---|
| <b>Reactions:</b><br>• Team Meetings<br>• Training<br>• Coaching<br>Increase Part Time<br>or Temp<br>Utilise resources<br>from other channels<br>if possible | Defer other<br>enquiries<br>Identify available<br>capacity from other<br>channels | Enquiries backlog  | Normal Operation   | Schedule external<br>back<br>Review workflow in<br>other channels | Allocate resources to<br>other channels<br>Consider training<br>Consider sending<br>Temp home |

As forecasting is currently limited for the City of Perth Customer Service Unit, there is limited opportunity to implement formal real time management strategies. The process is managed informally by the leadership team with several Customer Service Officers being utilised across phone and email channels as required to assist with achieving service levels across both channels.

The Customer Service Manager and Team Leaders in the Customer Service team monitor the call and email queues in the morning, midday and before close of business and advise Customer Service Officers to prioritise channels accordingly.

Once City of Perth has formal long, medium and short term forecasts in place and the appropriate number of staff based on required service outcomes with the inclusion of shrinkage, a real time management plan can be developed to support the achievement of service levels and a good customer experience.

#### 2.5.1.5 Workforce Management Technology

Workforce management (WFM) is the process of ensuring an organisation has the right amount of adequately trained employees, with the necessary skills across all channels and workload to handle customer enquiries. A WFM system provides an organisation with the functionality to automate all workforce management processes and to manage resources as effectively as possible across all channels and areas. Features of a WFM system include:

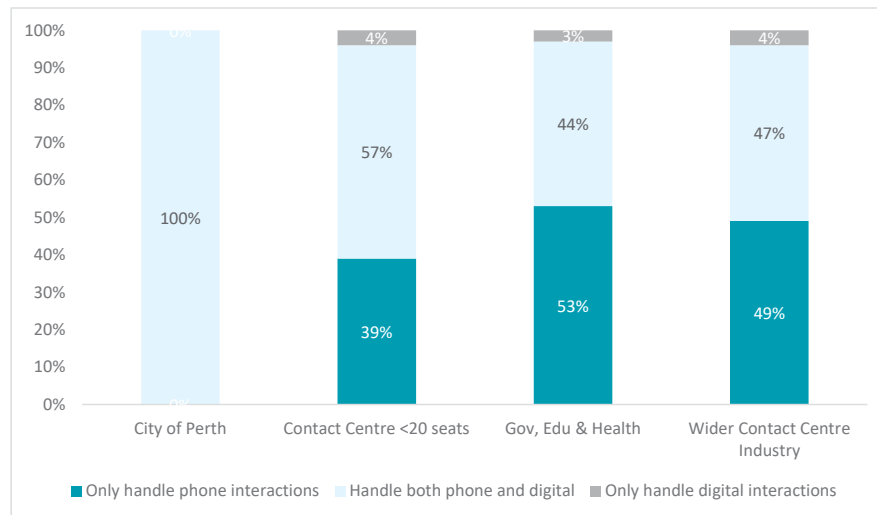
- Data feeds being captured from all workload channels
- Based on historical data, forecasts are created to determine future resource needs
- Rostering available resources to match expected requirements identified through the forecasting process
- Providing employees with visibility to view their rosters
- Scheduling of breaks and other activities including team meetings, coaching and training
- Capturing paid and unpaid leave including annual leave and sick leave
- Real time management to view what was expected to happen compared to actual performance real time (by the second)

City of Perth do not currently utilise a WFM system. All workforce planning is completed via excel spreadsheets and word documents which is not as efficient or effective as an automated WFM system and processes.

## 2.5.2 Agent Assignment & Multi-Skilling Assessment

The following figure shows the status of multi-skilling in the contact centre as indicated by research participants in comparison to City of Perth

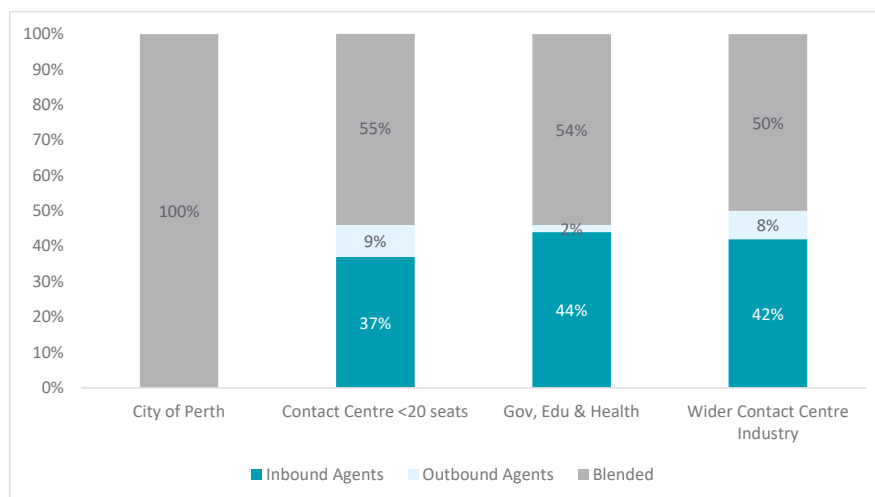
**Figure 27: Multi-Skilled Agents**



City of Perth has skilled 100% of frontline agents to handle both phone and digital interactions which is a greater than the wider contact centre industry (47%) and provides optimum flexibility to manage changes to contact demand across the channel environment.

The figure below shows the percentage of staff assigned to inbound and outbound activity in the contact centre as indicated by research participants in comparison to City of Perth.

**Figure 28: Dedicated and Blended Agents**



All of City of Perth's frontline agents are skilled to handle both inbound and outbound contacts which is a greater proportion than all other industry sectors, which also provides greater operational flexibility.

### 2.5.3 Data and Reporting Assessment

With so many measurements available in the contact centre environment, it is critical to ensure the appropriate measures are identified and reported on to allow the evaluation of performance to defined targets. Performance reporting is a critical element to any organisation to provide visibility and insight into performance drivers and trends to manage the continuous improvement of the customer experience and overall organisational performance.

City of Perth Customer Service produces several reports for internal stakeholders and the wider organisation.

The projections for telephone service is available via an excel spreadsheet dashboard as shown in the figure below.

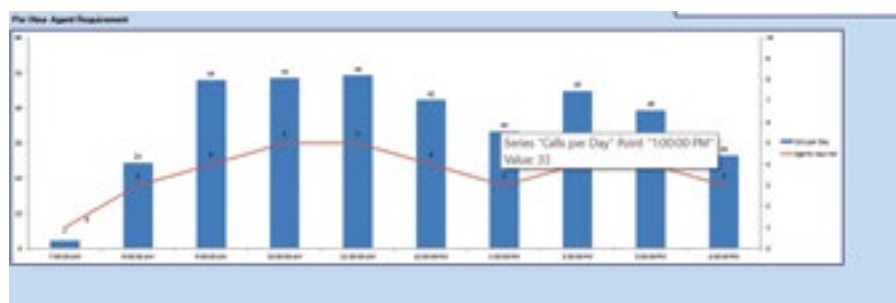
**Figure 29: Telephone Performance Dashboard**



The dashboard provides a snapshot view of call volume and service level per interval at a monthly level.

The dashboard also provides a per interval view of agents required and forecast calls per day as shown in the figure below.

**Figure 30: Telephone Performance Dashboard**



A similar dashboard is also in place for counter enquiries. Both dashboards are used by the Customer Service Leadership team to determine resource allocations during the day.

The Customer Service team also produce several ongoing reports for other Business units, ELG and the Commissioners. These include;

- Customer Service Unit Monthly Report
- Customer Service Unit Summary YTD
- Daily Chief Executive Daily Inbox Report
- CSC Monthly Feedback Report

The Customer Services Unit Report is a word document distributed to the other Business Units and ELG at the end of each month. The following information is included;

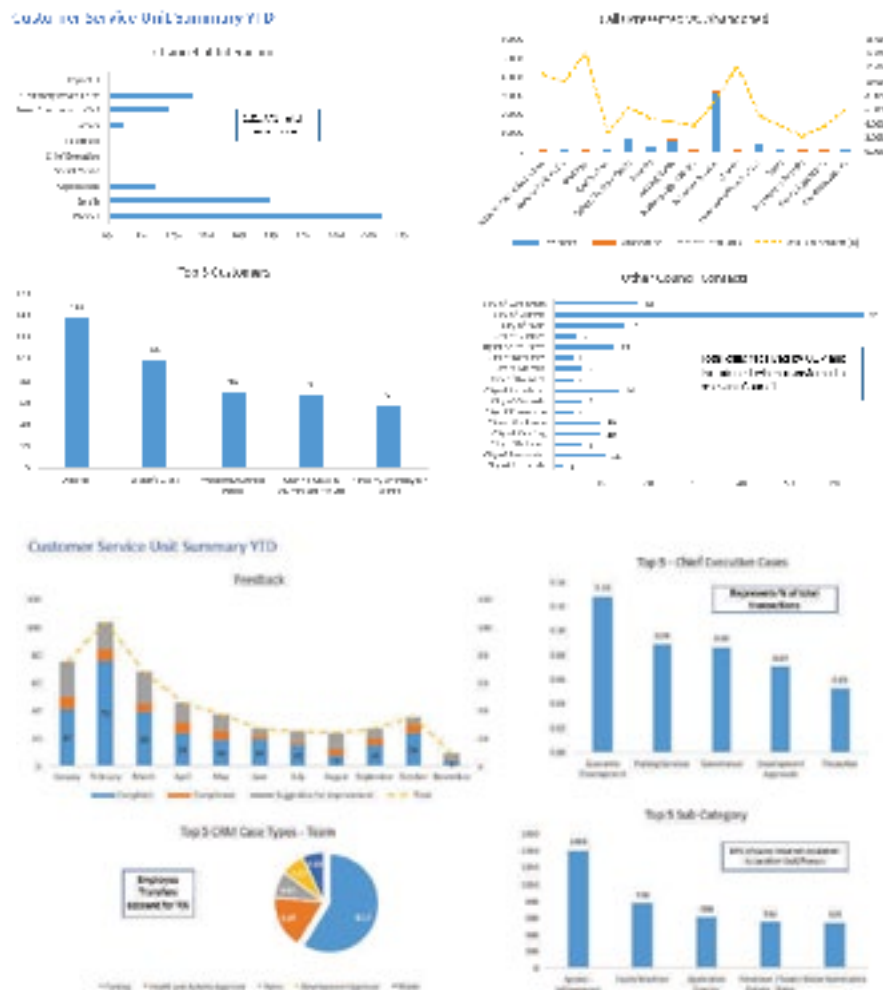
- a) Team Overview
- b) Human Resources Update: FTE count and budget, vacancies, resignations
- c) Utilisation: cost per transactions rate based on FY17/18
- d) Operation and Capital Budget
- e) Project Status Reports
- f) KPIS and performance in FY17/18 and previous month
  - a. Inbound calls: Service level, average abandonment rate, average time in queue, FCR, average speed of answer, adherence, average time in queue, AHT, cost to serve
  - b. Email: Service level, average response time
  - c. Social Media: Service level, average response time, FCR
- g) Total number of transactions (YTD)
- h) Feedback: Average time to resolve, % feedback items resolved in 10 days, number of compliments

The Customer Service graphs presented in PowerPoint provide a high level summary for Customer Service, ELG, BU's and the Commissioners. The following information is included in this report;

- a) Channels of Interaction YTD volume
- b) Calls presented vs. Call abandoned
- c) Top 5 customers
- d) Other council contacts
- e) Key escalations to specific units
- f) Incident locations image
- g) CRM cases created by month
- h) Feedback YTD volume
- i) Top 5 Chief Executive cases
- j) Top 5 CRM case types by team

A snap shot of the Customer Service Graphs are shown in the figure below.

**Figure 31: Customer Service Graphs**



The Daily Chief Executive Daily Inbox Report is a CRM generated report that gives a daily update of inbound emails to the Chief Executive Inbox and the status. The CSC Monthly Feedback Report to ELG provides a qualitative summary of the feedback process and highly quantitative analysis of monthly feedback included type and channel received.

Customer Service also generates a number of automated reports through CRM that are sent to specific delegates including parks analysis and parking.

To ensure engagement amongst the greater organisation including ELG and other business units, it is important that reports are succinct, align to the business units KPIs and current projects and provide a level of context through trend data (target and previous results).

When assessing the most appropriate KPIs for a contact centre it is important to identify the key performance areas that either directly contributes to or are enablers to the achievement of organisational outcomes. In addition, customer experience measures are also required to monitor the efficiency and effectiveness of service delivery.

The following key metrics are typically reported on a daily, weekly and monthly cycle:

#### **Inbound calls**

- Service level target versus actual (e.g. 80% of calls to be answered in 30 seconds)
- Average abandonment rate (calls abandoned before answering)
- Average time in queue (total wait time of answered calls / no. answered calls that waited in the queue)
- Average talk time (talk + hold)
- First contact resolution (percentage of calls closed first call)
- Average wrap time (after call work time)
- Average speed of answer (total wait time of calls answered / no. calls answered)
- Occupancy rate (handling time / log in time)
- Average time in queue before abandon (average amounts of time per Abandoned call the customer waited to be answered before abandoning the call)
- Average hold time (the amount of time an answered call is put on hold by an agent)
- Average handling time (talk time+hold+wrap time)
- Utilisation rate ((handling time + available time) / (paid time))

#### **Outbound Calls**

- % of right party connect (connecting to the right person the first time)
- Average talk time (talk + hold)

#### **Email**

- Service level target versus actual (e.g. 100% of emails resolved within 24 hours)
- Average speed of response (total time required to process and respond to email)
- First contact resolution (percent of contacts closed first email)
- Number of email interactions before an enquiry resolved

## 2.6 Technology and Telephony Assessment

The following section provides an assessment of City of Perth technology and telephony capability.

### 2.6.1 Technology Assessment

The following table below shows the current technologies in place in contact centres as indicated by research participants in comparison to City of Perth.

**Table 15: Current Technology**

| Currently have a system and planning to upgrade / have a system and no plans to upgrade | City of Perth                                | Contact Centres <20 Seats | Gov, Edu & Health | Wider Contact Centre Industry |
|---|--|---------------------------|-------------------|-------------------------------|
| n=  | 1  | 43                        | 42                | 143                           |
| Speech recognition applications   | Don't have a system and no plans to purchase | 0%                        | 5%                | 10%                           |
| SMS   | Don't have a system but planning to purchase | 49%                       | 36%               | 52%                           |
| Speech analytics  | Don't have a system and no plans to purchase | 7%                        | 10%               | 13%                           |
| Biometric Identity Verification   | Don't have a system and no plans to purchase | 2%                        | 2%                | 3%                            |
| Predictive Dialler  | Don't have a system and no plans to purchase | 19%                       | 21%               | 29%                           |
| Voice & data recording & quality monitoring tools                                       | Have and plan to upgrade                     | 33%                       | 45%               | 57%                           |
| Web chat  | Don't have a system but planning to purchase | 37%                       | 40%               | 50%                           |
| Performance management  | Don't have a system but planning to purchase | 40%                       | 38%               | 45%                           |
| Call (voice-only) recording system  | Have but no plans to upgrade                 | 53%                       | 67%               | 77%                           |
| Email   | Have and plan to upgrade                     | 35%                       | 43%               | 51%                           |
| Unified Communications  | Have and plan to upgrade                     | 35%                       | 31%               | 37%                           |
| E-Learning System   | Have but no plans to upgrade                 | 58%                       | 64%               | 73%                           |

|   |   |     |     |     |
|---|---|-----|-----|-----|
| Workforce Management tools  | Don't have a system and no plans to upgrade | 35% | 50% | 57% |
| Customer Contact/Customer Relationship management (CRM)           | Have but no plans to upgrade                | 70% | 69% | 71% |
| Customer Survey tools (includes IVR, Email and web based systems) | Have and plan to upgrade                    | 51% | 62% | 65% |
| Social media monitoring   | Have but no plans to upgrade                | 42% | 45% | 45% |
| Automatic Call Distributor (ACD)                                  | Have and plan to upgrade                    | 58% | 71% | 73% |
| Interactive Voice Response (IVR)                                  | Have but no plans to upgrade                | 67% | 81% | 77% |
| Knowledge/Content Management System                               | Have but no plans to upgrade                | 60% | 74% | 65% |
| Video based contact centre  | Have but no plans to upgrade                | 7%  | 10% | 8%  |
| Virtual Hold/Automatic Call Back                                  | Have and plan to upgrade                    | 44% | 60% | 45% |

The City of Perth utilise the Cisco telephony system.

The City of Perth are planning to implement web chat and performance management technologies in addition to upgrading virtual hold, ACD, customer survey tools, email management, a voice / data recording & quality monitoring tool.

The City of Perth recently trialled Microsoft Dynamics CRM with the intent to roll out the CRM across the enterprise to provide a single view of the customer across all departments and channels.

The key aim of the pilot was to address requirements in the following areas:

- Contact/Relationship Management
- Case Management
- Telephony/Email Integration

Following successful delivery of the pilot solution, a decision was made to continue development of the CRM to address additional key areas of business value with additional functions to be developed.

The following table below shows the number of desktop applications used by contact centres as indicated by research participants in comparison to City of Perth.

**Table 16: Desktop Applications**

| Average                        | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--------------------------------|---------------|------------------------------|----------------------|----------------------------------|
| n=                             | 1             | 39                           | 40                   | 135                              |
| Number of desktop applications | 2             | 4                            | 6                    | 5                                |

The number of applications utilised by the City of Perth frontline team is 2 (CRM & Pathway), which is less than the wider industry (5) and the government sector (6).

The number of systems used impacts the quality of records within each system and influences the time required in training to learn each system in addition to impacting speed to competency for new agents and operational efficiency.

## 2.6.2 Telephony Assessment

The City of Perth advertises 12 phone numbers on their website and corresponding collateral. The following figure shows the contact numbers provided on the website.

Figure 32: City of Perth Contact Page

**Contact Customer Service**

- [info@cityofperth.wa.gov.au](mailto:info@cityofperth.wa.gov.au)
- (08) 9461 3333

**ABN NUMBER**  
The City of Perth ABN number is 83 780 118 628

**Quick Contact List**

| CONTACT                                     | PHONE NUMBER   |
|---|----------------|
| City of Perth Library                       | (08) 9461 3268 |
| Security, surveillance & after hours issues | (08) 9461 9811 |
| Emergency security contact                  | (08) 9461 9999 |
| Development approvals                       | (08) 9461 3299 |
| Recycling & Rubbish (Waste management)      | (08) 9461 3277 |
| Rates enquiries                             | (08) 9461 3296 |
| Parking infringements                       | (08) 9461 3296 |
| Scaffolding                                 | (08) 9461 3296 |
| Perth Town Hall                             | (08) 9461 3055 |
| Tenders                                     | (08) 9461 3247 |
| Media enquiries                             | (08) 9461 3425 |

**Customer Service Line**

Please direct all enquiries related to events, promotions, approvals, bookings, general questions and feedback to our Customer Service Line:

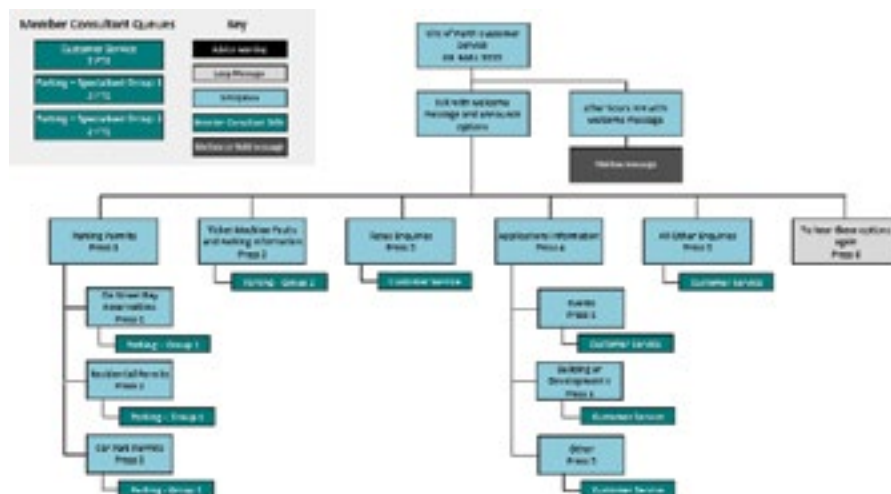
(08) 9461 3333

The Customer Service number, (08) 9461 3333 is advertised as the lead contact number on the footer of the website and is also provided at the top and bottom of the contact us page along with operating hours. The hours of the specialised contact numbers are not communicated clearly.

All calls received to the customer service number are directed to City of Perth via the CISCO Finesse system. Call lines are open Monday to Friday 8.00am- 5.00pm.

The following figure shows the structure of the IVR for City of Perth’s customer service line.

**Figure 33: High level IVR Structure for (08) 9461 3333**



Upon selecting an option, the caller will navigate through the IVR options. There are three additional layers for options 1 and 4, whilst there is only one additional layer for options 2, 4 and 5.

Once callers have navigated through the IVR by selecting options, calls are routed to a Customer Service Officer depending on their queue skill. Within the Parking Permits layer, calls to options 1 and 2 are queued to three specialised CSOs, and calls to option 3 are queued to another 2 specialised FTE. All other IVR options are routed to the customer service skill group. Once CPP and PSU units have completely integrated into the Customer Service Unit it is expected that all Customer Service Officers will handle all call queues.

IVR design should be as simple as possible for the caller to be connected to an appropriately trained CSO. Options within an IVR should correspond to different skill sets within the contact centre, as creating additional options for the customer to select complicates navigation, and is unnecessary as calls are ultimately routed to the same group of CSOs.

As City of Perth continue to consolidate customer interaction into the Customer Service Unit, the additional telephone numbers should be retired to simplify connection for customers and to provide City of Perth with greater visibility of customer contact demand and performance across all touch-points in Council.

## 2.7 Operational Efficiency and Effectiveness Assessment

This section of the report provides an assessment of City of Perth operational efficiency and effectiveness including performance benchmark comparisons where appropriate to inform the implementation of best practice contact centre operations.

### 2.7.1 Interactions Per Week

The following table shows the average number of interactions handled by contact centres as indicated by research participants in comparison to City of Perth.

**Table 17: Total Interactions Per Week**

|                       | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health     | Wider Contact<br>Centre Industry |
|-----------------------|---------------|------------------------------|--------------------------|----------------------------------|
| n=                    | 1             | 107                          | 42                       | 139                              |
| Interactions per week | 4,113         | 2,474<br>(Median 1,500)      | 10,367<br>(Median 4,400) | 13,959<br>(Median 4,900)         |

City of Perth currently handles an average of 4,113 interactions per week, which is greater than contact centres of a similar size (median 3,000).

## 2.7.2 Service Level Targets Assessment

The table below shows the service level targets in place for contact centres as indicated by research participants in comparison to City of Perth.

**Table 18: Service Level Targets**

|               | City of Perth                                       | Contact Centres <20 Seats   | Gov, Edu & Health   | Wider Contact Centre Industry   |
|---------------|---|---|---|---|
|               | n= 1  | 43  | 42  | 143   |
| Inbound calls | 90% in 15 seconds<br>(internal target)              | 80% of calls answered under 30 seconds<br><b>42%</b>  | 80% of calls answered under 30 seconds<br><b>45%</b>  | 80% of calls answered under 30 seconds<br><b>37%</b>  |
| Emails        | 100% emails resolved within 24 hrs                  | 100% emails resolved within 24hrs or less <b>39%</b>  | 100% emails resolved within 48 hrs or less <b>38%</b>   | 100% of emails resolved within 48 hours or less <b>57%</b>  |
| Webchat       | N/A   | We do not set a target <b>25%</b> . Of those that set a target the highest is 100% of webchat enquires resolved within 2 hrs ( <b>50%</b> ) | We do not set a target <b>36%</b> . Of those that set a target the highest is 100% of webchat enquires resolved within 2 hrs ( <b>45%</b> )     | We do not set a target <b>40%</b> . Of those that set a target the highest is 100% webchat enquiries resolved within 2 hours ( <b>31%</b> ) |
| Social Media  | 100% social media enquiries resolved within 2 hours | 100% social media enquiries resolved within 2hrs ( <b>38%</b> )   | We do not set a target ( <b>38%</b> ). Of those that set a target the highest is 100% of webchat enquires resolved within 24 hrs ( <b>31%</b> ) | 100% of social media enquiries resolved within 2 hours ( <b>32%</b> )   |

City of Perth currently set an internal target for inbound calls of 90% of calls answered in 15 seconds, which is much higher than the most common target in the government sector (80% answered in less than 30 seconds).

City of Perth targets responding to 100% of emails within 24 hours, which is a more responsive target than the government sector (100% within 48 hours).

For social media, City of Perth target 100% of enquiries to be responded to within 2 hours, which is more responsive than the government sector where the most common target is 100% resolved within 24 hours (31%).

The table below shows the KPIs at a centre level for City of Perth.

**Table 19: Overall Customer Service (TL and CSM) KPIs**

| Description            | KPI  |
|------------------------|--|
| <b>Answering Calls</b> | 90% of calls answered within 15 seconds                        |
|                        | 100% of calls answered within 30 seconds                       |
| <b>Abandoned</b>       | Less than 5% abandoned calls                                   |
| <b>Quality</b>         | 5 assessments per person, per week completed                   |
| <b>Meetings</b>        | Minimum two coaching/one on one sessions per person, per month |
|                        | Minimum two team meetings per month                            |
| <b>Forecasting</b>     | No more than 10% variance to call forecast each month          |

#### Quality Indicators

- AHT of 3 – 4 minutes
- Hold Time up to 30 seconds per call on average

The City of Perth target very high levels of performance for call handling that are above benchmarks for all sectors. Whilst this can be seen as a greater level of service responsiveness and therefore a positive standard for City of Perth, achieving such high levels of service within the contact centre can only be achieved through lower levels of staff utilisation to ensure a staff member is available to answer calls more quickly and therefore potentially adds to the cost to serve.

AHT as a metric is a critical input to the calculation of resources required during the workforce planning process, however good practice contact centres do not target frontline CSO's on their AHT as this can drive unwanted behaviours to reduce call duration and not provide a good customer experience. Typically AHT will be tracked at an individual and team level within an acceptable range target. Once a range is established, performance can be tracked to identify outliers either above or below the range to provide coaching and assistance to return to the accepted range.

### 2.7.3 CSO Target Assessment

Whilst each organisation has unique organisational drivers and objectives, KPIs for frontline agents should include areas within their span of control that contribute to the centre level and will typically include a balance of efficiency and effectiveness measures:

1. **Efficiency** – Contacts per hour; Contacts per day; Adherence to schedule
2. **Effectiveness** – Quality Assurance; First contact resolution; Customer satisfaction

City of Perth frontline CSO's have a scorecard in place with defined KPIs as shown in the following figure.

**Figure 34: CSO KPIs**

| Description             | KPI  |
|-------------------------|--|
| <b>Availability</b>     | 80% of logged in time in Available Status  |
| <b>Answering Calls</b>  | Calls answered within 8 seconds  |
| <b>On-Time</b>          | Logged into system in order to take first call at designated start time (95%)            |
| <b>Quality</b>          | Average quality score of 80% or more each month  |
| <b>Customer Data</b>    | 80% of CRM Cases completed   |
| <b>Customer Charter</b> | Adherence to external and internal customer charter standards of service                 |
| <b>Turnaround</b>       | Deliver 90% of applications as per agreed time period stated in the terms and conditions |

CSO's are targetting on availability, call answering, on time to start shift, QA result measures, customer data, customer charter standards and turnaround. The CSO KPIs are a combination of efficiency and effectiveness measures, however answering calls within 8 seconds as a measure at CSO level is not advisable as this is not an area within the control of the CSO, rather an outcome of the accuracy of workforce management practice to ensure the right number of people are available at the right time to answer call demand.

## 2.7.4 Operational Performance Assessment

The following table shows the current operational performance for contact centres as indicated by research participants in comparison to City of Perth's YTD results.

**Table 20: Operational Performance Benchmarks – Phone**

|   | City of Perth        | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|---|----------------------|------------------------------|----------------------|----------------------------------|
| n=  | 1                    |                              |                      |                                  |
| INBOUND CALLS   |                      |                              |                      |                                  |
| Percentage of inbound calls answered within the <b>Service Level Target (SLA)</b>   | 81% (within 15 secs) | 82%                          | 75%                  | 76%                              |
| Average abandonment rate (calls abandoned before answering)   | 4%                   | 6%                           | 11%                  | 9%                               |
| Average time in queue (total wait time of answered calls / no. answered calls that waited in the queue)   | 18 seconds           | 70 seconds                   | 115 seconds          | 81 seconds                       |
| First contact resolution (percentage of contacts closed first contact)  | 83.81%               | 74%                          | 78%                  | 76%                              |
| Average speed of answer (total wait time of calls answered / no. calls answered)  | 17 seconds           | 54 seconds                   | 100 seconds          | 73 seconds                       |
| Occupancy rate (handling time / logged in time)   | 87.23%               | 79%                          | 80%                  | 80%                              |
| Inbound conversion rate (percentage of total inbound calls that were converted to an actual sale)   | N/A                  | 31%                          | 6%                   | 31%                              |
| Average time in queue before abandon (average amounts of time per abandoned call the customer waited to be answered before abandoning the call) | 70 seconds           | 80 seconds                   | 84 seconds           | 109 seconds                      |
| Average handling time (talk time + hold + wrap time)  | 115 seconds          | 232 seconds                  | 349 seconds          | 360 seconds                      |
| Utilisation rate ((handling time + available time) / (paid time))   | -                    | 85%                          | 77%                  | 81%                              |
| OUTBOUND CALLS  |                      |                              |                      |                                  |
| n=  |                      | Min 4                        | Min 2                | Min 21                           |
| % of right party connect (connecting to the right person the first time)  | N/A                  | 83%                          | 80%                  | 79%                              |
| Outbound conversion rate (percentage of total outbound calls that were converted to an actual sale)   | N/A                  | 33%                          | 33%                  | 28%                              |

City of Perth is currently achieving a service level for inbound calls of 81% versus the target of 90% of calls answered within 15 seconds. The government sector is currently achieving a service level for inbound calls of 75% versus the most common target of 80% answered in less than 30 seconds, which means City of Perth are outperforming the government sector for inbound call responsiveness.

The average call abandonment rate at City of Perth is currently 4%, which is less than the government sector (11%) and the wider industry (9%).

The average time in queue for City of Perth is currently 18 seconds which is also much lower than the government sector (115 seconds) and the wider industry (81 seconds).

City of Perth are achieving a first call resolution rate of 83.81% which is greater than the government sector (78%) and the wider industry (76%).

The average speed to answer for calls at City of Perth is currently 17 seconds, which is also significantly lower than the government sector (100 seconds) and the wider industry (73 seconds).

The occupancy rate for City of Perth is 87.23 %. This is higher than contact centres of the similar size (79%) and the wider industry (80%).

The average time in queue before abandon for City of Perth is 70 seconds which is less than the government sector (84 seconds) and the wider industry (109 seconds).

City of Perth has an average handling time for calls of 115 seconds which is much less than the government sector (349 seconds) and the wider industry (360 seconds).

The table below shows the current operational performance for email KPIs as indicated by research participants in comparison to City of Perth

**Table 21: Operational Performance Benchmarks – Email**

|  | City of Perth   | Contact Centres<br><20 Seats   | Gov, Edu &<br>Health  | Wider Contact<br>Centre Industry                                  |
|--|-----------------|--|---|---|
|  | n= 1            | Min 18   | Min 4   | Min 23  |
| Percentage of emails answered within the <b>Service Level Target (SLA)</b>   | 80.7%           | 89%<br>(Median 98)   | 87%<br>(Median 97)  | 91%<br>(Median 95)  |
| Average speed of response for email transactions (total time required to process and respond to emails / total number of emails received; excluding automated email responses) | 5 hours 45 mins | 2,346 seconds<br>(39 minutes)<br><br>(Median 14.7 minutes or 885sec) | 1,613 seconds<br>(26 minutes)<br><br>(Median 7.5 minutes or 450sec) | 2,959 seconds<br>(49 minutes)<br><br>(Median 10 minutes or 600ec) |
| First contact resolution for email transactions (percentage of contacts closed first email)  | Not measured    | 71%<br>(Median 75)   | 70%<br>(Median 80)  | 78%<br>(Median 80)  |

City of Perth reports that 80.7% of emails are answered within the target of 100% within 24 hours. The government sector is currently responding to 87% of emails within the most common target of 100% emails resolved within 48 hrs or less.

The next table below shows the current operational performance for Webchat KPIs as indicated by research participants.

**Table 22: Operational Performance Benchmarks – Webchat**

|  | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health       | Wider Contact<br>Centre Industry |
|--|---------------|------------------------------|----------------------------|----------------------------------|
|  | n= 1          | Min 2                        | Min 6                      | Min 13                           |
| Percentage of webchat enquiries answered within the <b>Service Level Target (SLA)</b>  | N/A           | 97%<br>(Median 100)          | 96%<br>(Median 100)        | 92%<br>(Median 95)               |
| Average speed of response for webchat transactions (total time required to process and respond to Web Chat / total number of Web Chats received; excluding automated Web Chat responses) | N/A           | 35 seconds<br>(Median 35)    | 257 seconds<br>(Median 70) | 1,500 seconds<br>(Median 60)     |
| First contact resolution for webchat transactions (percentage of contacts closed first chat)   | N/A           | 85%<br>(Median 85)           | 95%<br>(Median 100)        | 88%<br>(Median 90)               |

The government sector is currently responding to 96% of webchats within the most common target of 100% of webchat enquiries resolved within 2 hrs.

The following table shows the current operational performance for social media KPIs as indicated by research participants.

**Table 23: Operational Performance Benchmarks – Social Media**

|   | City of Perth | Contact Centres<br><20 Seats   | Gov, Edu &<br>Health               | Wider Contact<br>Centre Industry |
|---|---------------|--------------------------------|------------------------------------|----------------------------------|
|   | n= 1          | Min 3                          | Min 4                              | Min 11                           |
| Percentage of Social Media enquiries answered within the <b>Service Level Target (SLA)</b>  | 100%          | 84%<br>(Median 90%)            | 87%<br>(Median 100%)               | 93%<br>(Median 99%)              |
| Average speed of response for Social Media transactions (total time required to process and respond to Social Media enquiries / total number of Social Media enquiries received; excluding automated responses) | 30 minutes    | 41.6 minutes (or<br>2,500 sec) | 46.6 minutes (or<br>2,798 seconds) | 25 minutes (or<br>1482 seconds)  |
| First contact resolution for Social Media transactions (percentage of contacts closed first chat)   | 100%          | 75%<br>(Median 90%)            | 79%<br>(Median 98%)                | 86%<br>(Median 93%)              |

City of Perth is achieving a service level of 100% of social media enquiries responded to versus the target of 100% social media enquiries resolved within 2 hours which is in line with the median for the government sector (100%) and the wider industry (99%).

City of Perth has an average speed of response for Social Media transactions of 30 minutes, which is less than the government sector (46.6 minutes) however slightly more than the wider industry (25 minutes).

The first contact resolution rate for City of Perth social media enquiries is 100% which is higher than the government sector (median 98%) and wider industry (median 93%).

### 2.7.5 Operational Effectiveness Assessment

This section of the report provides an assessment of City of Perth's operational effectiveness in the area of Quality Assurance.

Quality assurance in the contact centre environment is critical to ensuring procedural and industry compliance and to support the delivery of a good customer experience. Quality Assurance is a process which allows for regular evaluation of the effectiveness of all interactions between an organisation and their customers. A quality assurance program would typically involve reviewing and evaluating a sample of interactions across all channels against defined scoring criteria. These results are then used to inform coaching and development plans for frontline staff and should align with the results received from customer experience measures.

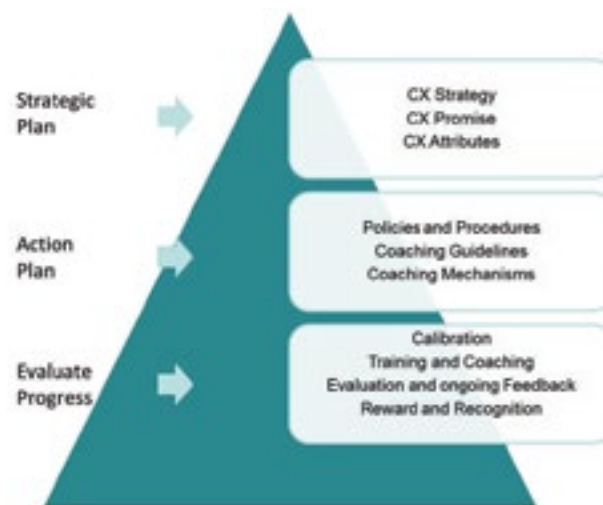
Best practice considerations for a Quality Assurance Program are as follows:

1. Establish Quality Assurance guiding principles including:
  - a. Strategic Plans
  - b. Actions and Programs, and
  - c. Evaluation Programs
2. Establish weighting of all customer experience and compliance attributes
3. Determine the number of enquiries/interactions to be monitored
4. Conduct calibration sessions at least monthly
5. Establish evaluation criteria and scoring systems
6. Establish evaluation form sections / categories
7. Create reporting that aligns to key business objectives
8. Provide formal and ongoing feedback coaching and development

9. Provide input to staff training:
  - a. Expectations set during induction
  - b. Alignment of measured areas with training materials
10. Include quality evaluation results as part of KPIs and recognising and rewarding achievements

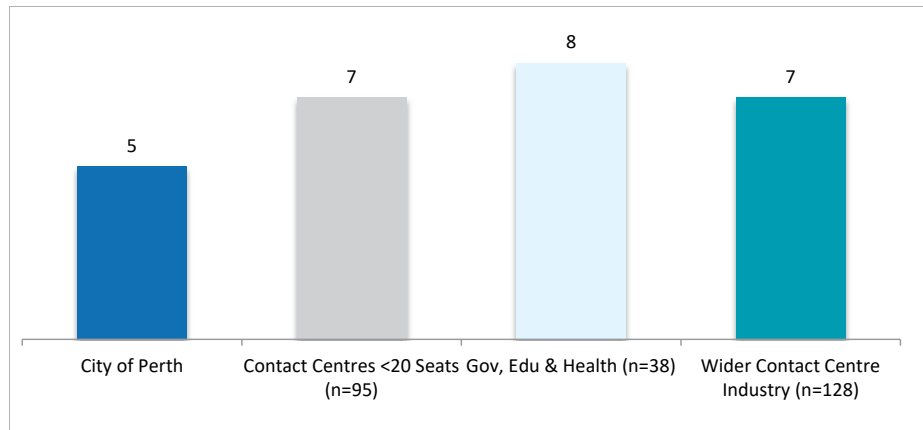
The model below shows the key elements in the Quality Assurance framework:

**Figure 35: Quality Assurance Framework**



The figure below shows the average number of interactions monitored for quality assurance purposes per Agent per month as indicated by research participants in comparison to City of Perth

**Figure 36: Number of interactions monitored per Agent for QA**



City of Perth stated that they monitor 5 interactions per CSO per month which is less than the government sector (8 per month) and wider industry (7 per month). Only phone interactions are formally monitored with email and front counter assessed on an ad hoc basis. To drive superior quality assurance monitoring interactions across all channels is critical.

The Quality Assurance process is driven by the Complaints and Quality Officer. Each call is assessed by the Customer Service Officer and Team Leader using the template shown in the figure below.

Figure 37: QA Phone Assessment

| Customer Quality Assessment  |   |           |          |
|------------------------------|---|-----------|----------|
| <b>TRANSACTION DETAILS:</b>  |   |           |          |
| Transaction Date:            |   |           |          |
| Transaction ID:              |   |           |          |
| Time of Call:                |   |           |          |
| Monitoring Date:             |   |           |          |
| Agent Name:                  |   |           |          |
| Evaluator Name:              |   |           |          |
| Program:                     | Customer Experience Centre  |           |          |
| Site:                        | City of Perth - St Georges Terrace                                      |           |          |
| <b>QUALITY SCORE:</b>        |   |           |          |
| Customer Service             | 0   | PASS/FAIL |          |
| Business Objectives:         | 0   | PASS/FAIL |          |
| Overall Passing              | 0   | PASS/FAIL |          |
| <b>CALL ATTRIBUTES</b>       |   |           |          |
| <b>Customer Service</b>      |   |           |          |
| PASS/FAIL                    | <b>1.1 Customer Focus</b>   |           |          |
|                              | Used Standard Greeting  | 2         |          |
|                              | Identified Caller   | 2         |          |
|                              | Used Caller's Name  | 2         |          |
|                              | Actively Listened to Customer   | 5         |          |
|                              | Identified importance of issue to customer                              | 2         |          |
|                              | Displayed proper amount of empathy                                      | 5         |          |
|                              | Demonstrated an interest in assisting the caller                        | 5         |          |
|                              | Clear pitch and pace  | 1         |          |
|                              | Used terms the customer could understand                                | 5         |          |
|                              | "Owned the call" - Call resolved  | 5         |          |
|                              | Transferred call appropriately  | 5         |          |
|                              | <b>TOTAL</b>  | <b>39</b> | <b>0</b> |
| PASS/FAIL                    | <b>1.2 Provided Customer Accurate Information</b>                       |           |          |
|                              | Asked Relevant Questions  | 5         |          |
|                              | Used tools/resources effectively to find correct information            | 5         |          |
|                              | Provided Correct Information to Customer                                | 5         |          |
|                              | Provided clear instructions on process after request                    | 5         |          |
| <b>TOTAL</b>                 | <b>20</b>   | <b>0</b>  |          |
| PASS/FAIL                    | <b>1.3 Call Control</b>   |           |          |
|                              | Call was controlled   | 2         |          |
|                              | Knowledge of content lead to timely action                              | 2         |          |
|                              | Sense of urgency to resolve Customer's request                          | 2         |          |
|                              | Hold Time was appropriate   | 2         |          |
|                              | Completed relevant steps before transfer                                | 2         |          |
|                              | Appropriate activity during call and including not ready time           | 1         |          |
| <b>TOTAL</b>                 | <b>11</b>   | <b>0</b>  |          |
| <b>Business Objectives:</b>  |   |           |          |
| PASS/FAIL                    | <b>2.1 System Inputs</b>  |           |          |
|                              | All data entry correct  | 5         |          |
|                              | Correct Systems used for collection/transmission of call data           | 5         |          |
| <b>TOTAL</b>                 | <b>10</b>   | <b>0</b>  |          |
| PASS/FAIL                    | <b>2.2 Followed policies to avoid lost revenue or unnecessary costs</b> |           |          |
|                              | Escalated/Transferred call to correct department                        | 5         |          |
|                              | Relevant data collected and processed to correct department             | 5         |          |
| <b>TOTAL</b>                 | <b>10</b>   | <b>0</b>  |          |
| PASS/FAIL                    | <b>2.3 Was Call Resolved</b>  |           |          |
|                              | Call resolved within Guidelines   | 10        |          |
| <b>TOTAL</b>                 | <b>10</b>   | <b>0</b>  |          |
| <b>Business Intelligence</b> |   |           |          |
|                              | <b>2.3 Was the customer dissatisfied?</b>                               |           |          |
|                              | <b>2.1 Systems / Tools</b>  |           |          |
|                              | Website   |           | Comment  |
|                              | Application   |           |          |
|                              | <b>2.2 Service Issues</b>   |           |          |
|                              | Self service option limitation  |           |          |
|                              | Payment Methods/ Options  |           |          |
|                              | Customer Service Staff- Call Centre                                     |           |          |
|                              | Long queue/ hold time to get through to an agent                        |           |          |
|                              | Repeat Call   |           |          |
|                              | Other (Please add notes)  |           |          |
|                              | <b>2.3 Company Process or Policy</b>                                    |           |          |
|                              | Timeframe   |           |          |
|                              | Process   |           |          |

The assessment is broken down into three categories; customer service and business outcomes which are scored and business intelligence which is used to capture opportunities for process and technology improvement. The customer service category consists of customer focus, customer accuracy of information and call control and represents 70% of the assessment scoring. The business objectives category consists of system inputs, policy and resolution and represents 30% of the assessment scoring. Each call attribute field can be populated with either a pass or fail and are assigned a value for weighting. All call attributes add to a total of 100. The pass mark is 80% to pass the assessment.

Team Leaders will address identified coaching needs in their fortnightly 1:1s with CSO's.

A weekly calibration session between the Quality and Complaints Officer and Team Leaders is carried out to ensure consistency across evaluations and discuss common themes in call listening, training needs and opportunities for process improvement. Process improvements will be raised with the Customer Service Project Team.

The QA process is well defined and includes a good practice balanced approach to scoring with the addition of calibration sessions to identify improvement opportunities.

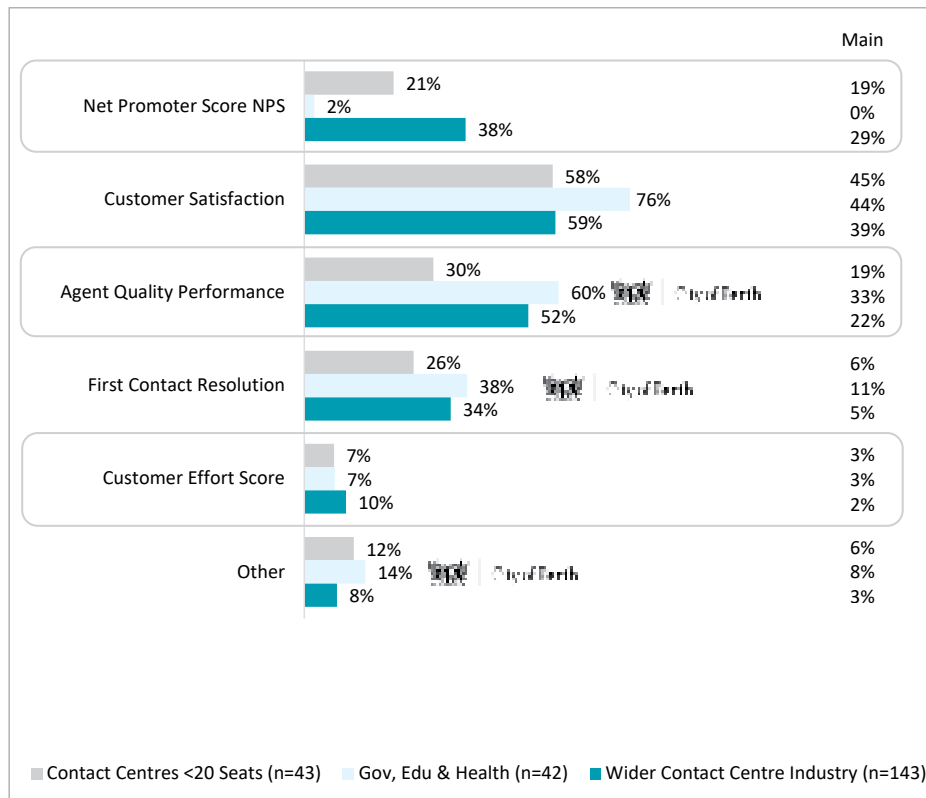
## 2.8 Customer Experience Performance Assessment

This section of the report provides an assessment and performance benchmarking of City of Perth's customer experience measurements and performance.

### 2.8.1 Customer Experience Measurement Assessment

The figure below shows the customer experience measures currently utilised by contact centres as indicated by research participants in comparison to City of Perth.

**Figure 38: Customer Experience Measures**



The City of Perth currently measure first contact resolution and agent quality to measure the customer experience, in addition to completing a bi-annual customer survey.

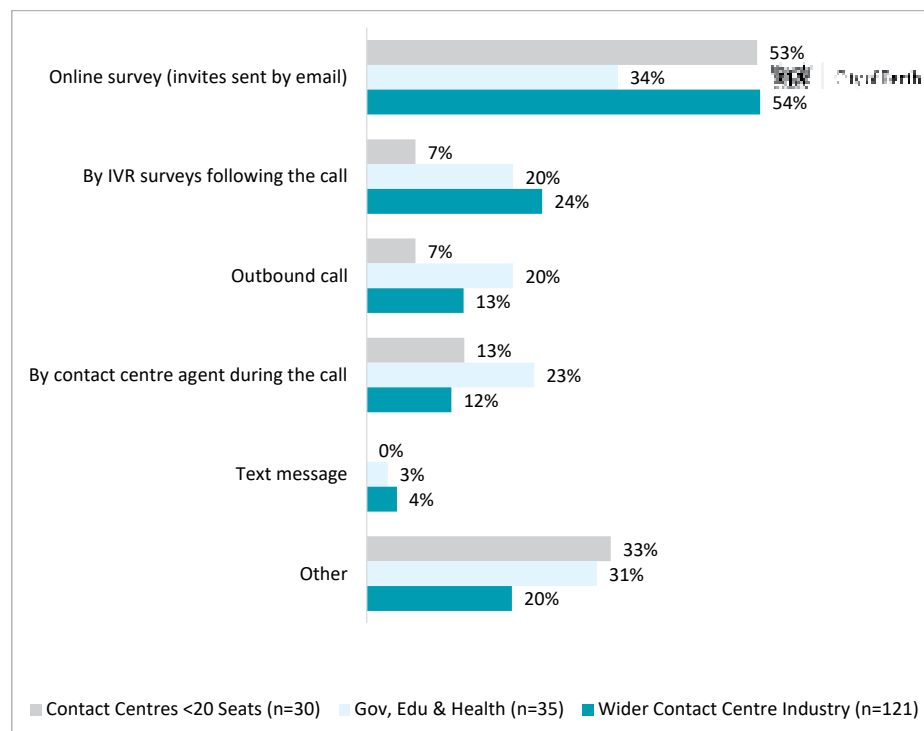
The primary customer experience measures used by the government sector include:

1. Customer Satisfaction (76%)
2. Agent Quality Performance (60%)
3. First Contact Resolution (38%)

An RFQ was issued during October 2018 for a new customer satisfaction research program, as an initiative within the Customer Service Strategy.

The next figure shows the customer experience measurement methods currently utilised by contact centres as indicated by research participants in comparison to City of Perth.

**Figure 39: Customer Experience Measurement Method**



The City of Perth distributes customer surveys via online surveys. The most common methods in the government sector are also online surveys (34%), IVR post call surveys (20%) and other (31%) which includes market research, 3rd party surveys via mail or email.

The following table shows the proportion of contacts requested to provide customer experience feedback by contact centres as indicated by research participants in comparison to City of Perth.

**Table 24: Proportion of Requests for Customer Feedback and Response Rate**

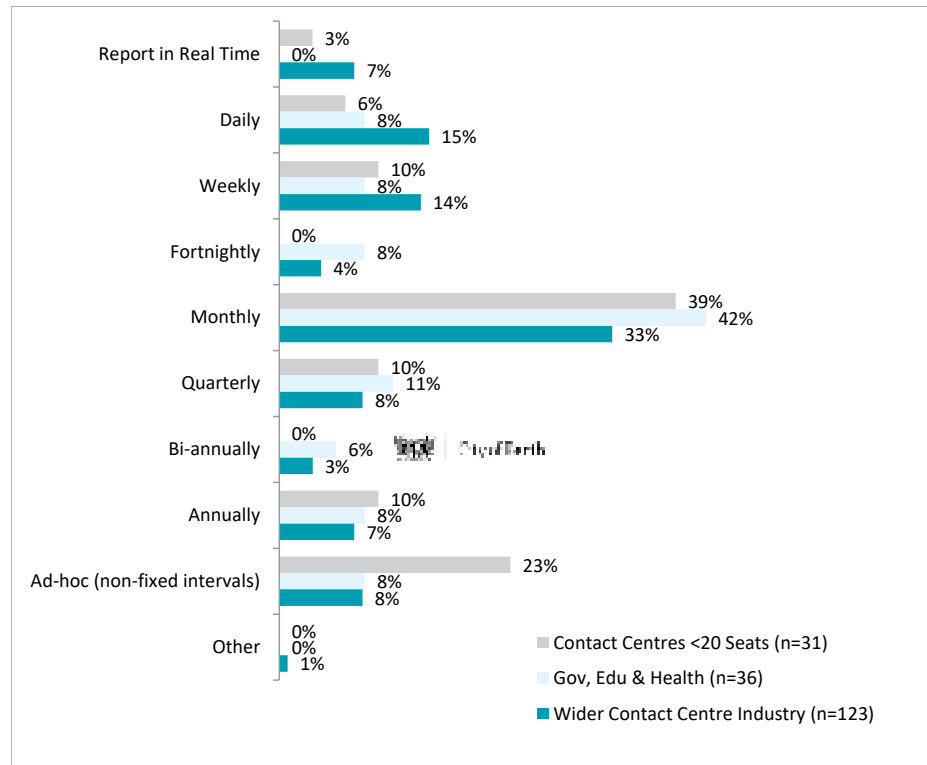
|  | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|--|---------------|------------------------------|----------------------|----------------------------------|
| n=   | 1             | 27                           | 26                   | 88                               |
| Proportion of contacts do you request feedback | 35%           | 30% Median                   | 10% Median           | 50% Median                       |
| Actual response rate                           | 14.7%         | 35% Median                   | 40% Median           | 23% Median                       |

The City of Perth contact 35% of customers who have made contact in the last 12 months. The actual response rate is 14.7%.

The City of Perth are requesting feedback from a greater proportion of customers (35%) than the government sector (10%), however the response rate is much lower at 14.7% in comparison to the government sector (40%).

The figure below shows the frequency of customer experience reporting currently utilised by contact centres as indicated by research participants in comparison to City of Perth.

**Figure 40: Frequency of Customer Experience Reporting**



City of Perth currently report on customer experience performance on a bi-annual basis which is in line with 6% of the government sector and 3% of the wider industry.

The most common frequency for reporting customer experience is currently monthly, however 10% of the wider industry is now reporting in real time to allow immediate root cause analysis and continuous improvement efforts.

## 2.8.2 Customer Complaints Assessment

In March 2017, City of Perth Customer Service conducted a survey to collect perceptions of the City from residents, rate payers, business owners, city workers and visitors. One of the key insights delivered was with regard to the dissatisfaction of the community towards the handling of feedback and complaints. As a result, the department designed and delivered a feedback framework and policy.

Customers can lodge a complaint over the phone, in person, written letter and via various digital channels including email, online form on social media.

The resolution process includes the following steps;

1. Customer Service Officer will endeavour to seek a first contact resolution
2. If customer is not satisfied with result or Customer Service Officer cannot resolve, the complaint is referred to the dedicated Complaints Officer.
3. If customer is not satisfied with result or Complaints Officer cannot resolve, the complaint will be referred to the applicable unit manager.
4. As a last resort, customer can elect to take their unresolved complaint to the City of Perth Ombudsman service.

A representative from each business unit has been nominated to act as a contact point between their unit and the Customer Service Unit when the complaint cannot be resolved in steps 1 or 2.

Complaints are tagged and tracked within the Microsoft Dynamics CRM and are reported monthly with exceptions if the complaint is related to a staff member or of an urgent nature.

The following table shows the percentage of customer complaints for contact centres as indicated by research participants in comparison to City of Perth.

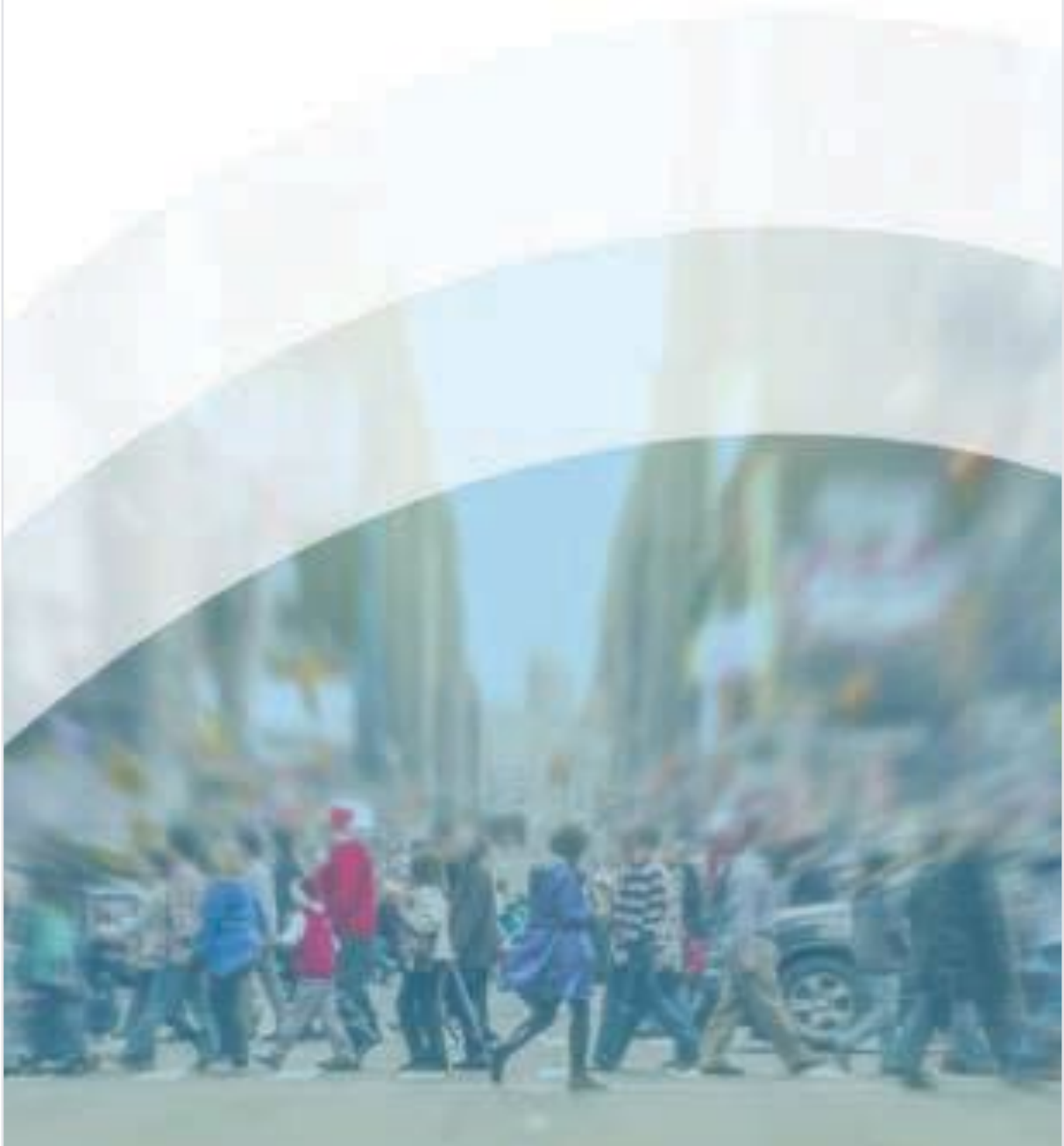
**Table 25: Customer Complaints**

|                                   | City of Perth | Contact Centres<br><20 Seats | Gov, Edu &<br>Health | Wider Contact<br>Centre Industry |
|-----------------------------------|---------------|------------------------------|----------------------|----------------------------------|
| n=                                | 1             | 61                           | 24                   | 83                               |
| % of interactions were complaints | 0.002%        | 5%                           | 4%                   | 5%                               |

The City of Perth reports that less than 1% of interactions are complaints which is significantly less than the government sector (4%) and the wider contact centre industry (5%).

## **SECTION 3.**

# **Customer Service Performance Analysis Key Insights**



### 3.1 Introduction

This section of the report provides key insights from the performance analysis and assessment completed for this review and context with regard to contact centre best practice.

### 3.2 Contact Centre Best Practice

The Contact Centre industry in Australia has evolved from traditional call centre operations handling voice interactions to include multiple customer interaction channels and back office processing over the previous five to six years. Today's contact centre operations are highly complex with multiple functions and channels operating to support the customer experience goals and objectives of an organisation. The strategic objectives and performance goals of contact centres vary considerably based on the industry sector and drivers of customer outcomes. To achieve best practice in contact centre operations, these nuances need to be considered, however at the core of achieving best practice, the following figure shows the key attributes required to be considered as performing in the top quartile of the industry.

**Figure 41: Contact Centre Best Practice Attributes**



### **3.2.1.1 Best Practice: People**

In an industry that is heavily reliant on people capability, the most critical element for contact centres to achieve best practice is an optimised and engaged workforce. Best practice contact centres utilise effective workforce management practices to ultimately ensure the right number of trained people are available to effectively handle contact demand across the channel environment. Maintaining a trained and competent workforce is imperative to operational performance therefore best practice contact centres have low attrition rates and a highly engaged workforce with strong leadership and support roles including Workforce Management/Reporting, Quality Assurance and Training to ensure the effective management of operations. Best practice contact centres will consistently achieve performance targets with an optimised workforce.

### **3.2.1.2 Best Practice: Technology**

Technology is critical enabler of operational efficiency and effectiveness. For contact centres to achieve best practice technology solutions need to provide the most operationally efficient and effective support based on the needs of the organisation. Frontline teams need to have simple technology interfaces that allow efficient contact handling rather than having to navigate multiple technologies and use a customer relationship management (CRM) and knowledge base (KMS) that is consistent across both the internal users and customer interaction channels. Critical to all best practice contact centres is also the effective utilisation of workforce management systems to ensure an optimised workforce is maintained and a QA system to support ongoing improvement of operational effectiveness.

### **3.2.1.3 Best Practice: Process**

To enable best practice, contact centres need to design processes that are customer centric, reduce effort and are operationally efficient. To support ongoing improvement, continuous process review and re-engineering is required to ensure processes are optimised and effective. Best practice contact centres will also utilise real time customer feedback to investigate root cause issues and implement rapid solutions to enhance the customer experience.

To ensure the quality of the customer experience, best practice contact centres will utilise a robust multi-channel quality assurance program that will ensure service effectiveness is measured and that support and coaching is targeted to improve performance. On-going training for frontline teams needs to also be planned and delivered to support the ongoing optimisation of individual performance.

The most critical element for all best practice contact centres is the workforce management process that should be used to inform financial budgets and planning to ultimately ensure the right number of people are available to handle contact demand to defined performance goals.

### 3.3 Customer Service Performance Analysis Summary

A summary of City of Perth's performance analysis and benchmarking can be found in the table below.

**Table 26: City of Perth Areas of Good Performance and Areas of Opportunity Summary**

| Performance Area                | Area of Good Performance   | Area of Opportunity   |
|---------------------------------|--|---|
| <b>Strategy</b>                 | <p>Defined organisational strategy includes customer centric goals and KPIs</p> <p>Good practice defined customer charters</p> <p>Defined customer service strategy and implementation plan</p>  | <p>Lower than benchmark assignment of budget to technology</p>  |
| <b>Multi-Channel Capability</b> | <p>Good range of customer interaction channels available</p> <p>Greater proportion of enquiries handled via self-service than benchmark</p> <p>Professionally presented front counter environment</p> <p>e-portal provides good self-service functionality and allows tracking of progress</p> <p>Business case for web chat developed</p> <p>Mobile application mock up developed</p> | <p>Greater proportion of enquiries handled via email than benchmark</p> <p>Lower than benchmark proportion of outbound contacts</p>   |
| <b>People Capability</b>        | <p>Higher than benchmark probationary success</p> <p>Lower than benchmark sick leave</p> <p>Higher than benchmark on-going training days</p> <p>Good range of staff benefit offered</p> <p>Defined reward and recognition program</p>  | <p>Variable number of direct reports to each Team Leader</p> <p>Higher than benchmark staff turnover</p> <p>Higher than benchmark speed to competency</p> <p>Lower than benchmark use of e-learning</p> |

|   |   |  |
|---|---|--|
| <b>Workforce Optimisation</b>                   | All CSOs trained to handle phone and digital interactions   | Long term forecasts not in place<br>Staffing based on budget rather than required FTE<br>Email not currently included in forecasts<br>Forecast accuracy not tracked<br>No formal real time management plan |
| <b>Technology</b>                               | Lower than benchmark number of desktop applications   |  |
| <b>Operational Efficiency and Effectiveness</b> | Greater than benchmark channel response targets<br>Greater than benchmark phone response performance<br>Good practice QA monitoring framework | CSO's targeted on call answering KPI<br>Lower than benchmark number of contacts monitored for QA   |
| <b>Customer Experience</b>                      | Lower than benchmark proportion of customer complaints  | Less than benchmark frequency for customer measurement program<br>Lower than benchmark customer feedback response rate   |

Details of each assessment area can be found in section 2 of this report.

A summary of City of Perth's key performance benchmark metrics compared to the wider contact centre industry, similar sized centres and the government sector can be found in the table below.

**Table 27: City of Perth Performance Benchmarking Results**

|                          |   | City of Perth       | Similar Size Contact Centres | Government Sector | Contact Centre Industry |
|--------------------------|---|---------------------|------------------------------|-------------------|-------------------------|
| Multi-Channel Capability | Proportion of customer interactions handled via phone | 58%                 | 69%                          | 75%               | 71%                     |
|                          | Proportion of inbound contacts                        | 99%                 | 86%                          | 94%               | 84%                     |
|                          | Future self-service (% of total interactions)         | 11%                 | 10%                          | 10%               | 9%                      |
| People Capability        | % of home based agents                                | 1%                  | 9%                           | 1%                | 8%                      |
|                          | Agent Tenure (full time)                              | 5 years, 4.5 months | 4 years, 2 months            | 6 years, 6 months | 3 years, 9 months       |
|                          | Staff Turnover  | 33%                 | 16%                          | 8%                | 19%                     |
|                          | Sick Leave p.a  | 3.3 days            | 10 days                      | 12 days           | 11 days                 |
|                          | Number of days training provided - induction          | 20                  | 14                           | 13                | 15                      |
|                          | Number of days training provided - ongoing            | 15                  | 9                            | 10                | 9                       |
|                          | Speed to competency                                   | 12 weeks            | 9 weeks                      | 8 weeks           | 9 weeks                 |

|                         |   | City of Perth                      | Similar Sized Contact Centres       | Government Sector                   | Contact Centre Industry             |
|-------------------------|---|------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Tech                    | Number of desktop applications                | 2                                  | 5                                   | 6                                   | 5                                   |
|                         | Target SLAs – Phone                           | 90% of calls within 15 seconds     | 80% of calls answered in 30 seconds | 80% of calls answered in 20 seconds | 80% of calls answered in 10 seconds |
| Operational Performance | Performance to SLA Target – Phone             | 81%                                | 76%                                 | 75%                                 | 76%                                 |
|                         | First Contact Resolution – Phone              | 83.81%                             | 76%                                 | 78%                                 | 78%                                 |
|                         | Target SLAs – Email                           | 100% emails resolved within 24 hrs | 100% emails resolved within 48hrs   | 100% emails resolved within 48 hrs  | 100% emails resolved within 48 hrs  |
|                         | Performance to SLA Target – Email             | 80.7%                              | 91%                                 | 97%                                 | 91%                                 |
|                         | First Contact Resolution – Email              | Not measured                       | 78%                                 | 80%                                 | 78%                                 |
|                         | Performance to SLA Target – Social Media      | 100%                               | 99%                                 | 100%                                | 99%                                 |
|                         | First Contact Resolution – Social Media       | 100%                               | 90%                                 | 98%                                 | 91%                                 |
|                         | Occupancy Rate                                | 87.23%                             | 79%                                 | 80%                                 | 80%                                 |
|                         | Number of calls monitored per agent per month | 5                                  | 8                                   | 8                                   | 7                                   |

|                     |   | City of Perth | Similar Sized Contact Centres | Government Sector | Contact Centre Industry |
|---------------------|---|---------------|-------------------------------|-------------------|-------------------------|
| Customer Experience | Frequency of customer satisfaction / experience reporting | Bi-annual     | Monthly                       | Monthly           | Monthly                 |
|                     | Customer feedback response rate                           | 14.7%         | 25%                           | 40%               | 23%                     |
|                     | Percent of customer interactions are complaints p.a       | 0.002%        | 6%                            | 4%                | 5%                      |

The summary findings of the performance benchmarking results for City of Perth are provided below:

**Table 28: City of Perth Performance Benchmarking Summary**

|  | City of Perth |
|--|---------------|
| Number of areas at or above benchmarks | 14            |
| Number of areas below benchmarks       | 10            |

A comprehensive analysis of all performance benchmark metrics can be found throughout section 2 in this report.

### 3.4 Current State Assessment Summary

The City of Perth Customer Service function has transformed significantly over the previous year with the creation of the Customer Experience Centre to provide a centralised operating model for customer contact. The centralisation of customer contact is still in progress with other areas of Council to be transitioned into the centre over the coming months.

The City of Perth aspires to provide a best in class local government customer experience to allow customers to engage easily with the city via their channel of choice. The transformational journey to achieve this aspiration is in progress with the current customer service offering performing to industry benchmarks and best practice in 14 of the 24 primary measures.

To support City of Perth to continue their journey to achieve a best in class customer experience, it will be critical to focus on and invest in the following areas:

1. **Strategy:** Alignment of all areas of Council to a common customer experience vision and objectives is required to support customer centric transformation.
2. **Technology:** To provide a seamless multi-channel experience that will allow greater personalisation a single view of the customer is required across all interaction channels. Investment in an enterprise wide CRM and Knowledge Management System (KMS) are integral to this objective. An intuitive KMS is a pre-requisite for the implementation of AI/Chatbots in the future which could significantly reduce operating costs.
3. **Customer Channels:** To ensure customers can interact with Council via their channel of choice and receive a seamless experience, the digital platform needs to be self-service enabled with additional channels implemented to increase channel choice (e.g. Web chat and a Mobile Application).
4. **Workforce Planning:** To ensure the appropriate number of staff are trained and available to handle customer contact as additional areas are transferred to the Customer Experience Centre, the implementation of workforce planning processes are required to accurately calculate the number of resources required to achieve defined service outcome targets. As new channels are introduced and customer channel preferences continue to change, it is important to ensure a future forecast is developed for all interaction channels.

## **SECTION 4. Cultural Health Check Survey Results**



## 4.1 Introduction

A short culture health check survey was designed to allow City of Perth staff to confidentially provide feedback with regard to the current organisational culture. The survey was available online and in hard copy for employees to complete.

The survey included statements that participants could agree or disagree with as follows:

1. Strongly Agree
2. Agree
3. Neither Agree Nor Disagree
4. Disagree
5. Strongly Disagree

The questions included in the survey were as follows:

- Q1. Community perception of Council's customer service is positive
- Q2. Who is responsible for customer service at the City of Perth?
- Q3. The Customer Service Unit is well perceived in Council
- Q4. I know what the City's Customer Service Unit does. Please list below:
- Q5. The Customer Service Unit assists you/your team in providing your services
- Q6. I am aware of the Internal and External Customer Charters
- Q7. I know the City's general email and contact phone number
- Q8. Council employees are encouraged to participate in Customer Service training
- Q9. There is communication at team meetings around our customer service performance
- Q10. My role includes customer service
- Q11. I feel proud to provide customer service to the community

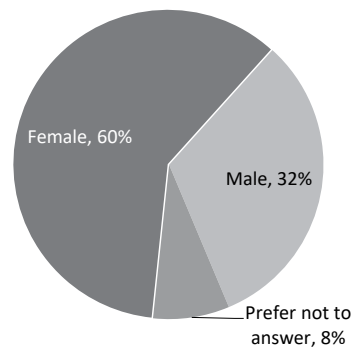
## 4.2 Cultural Health Check Respondents

A total of 139 council employees completed the culture health check survey during November 2018. This is approximately 20% of total City of Perth employees.

Results from the survey were then analysed to provide scores for each question, by group or department and at an aggregate whole of Council level. Results for each group were published if considered significant.

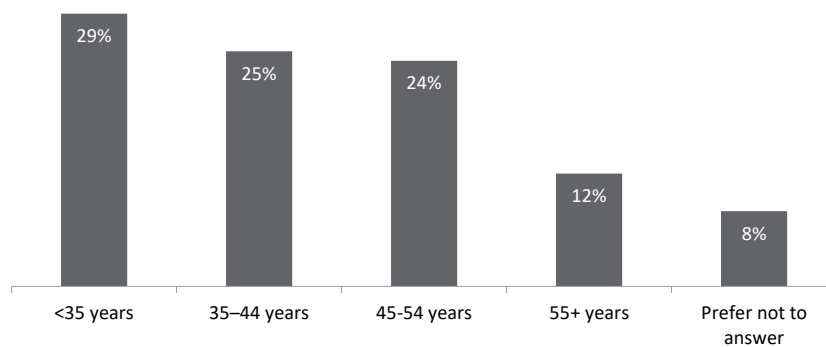
Of the 139 respondents to the culture health check survey, 83 were female, 48 were male and 12 preferred not to answer.

**Figure 42: Gender of Respondents**



The figure below shows the breakdown of the age of survey respondents.

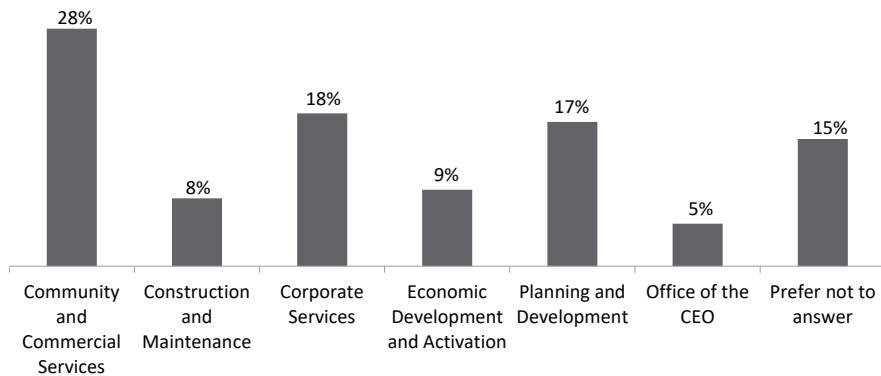
**Figure 43: Age of Respondents**



Of the 139 respondents, 127 provided their age bracket. 29% of survey respondents are within the <35 years old group.

The following figure shows the breakdown of respondents by department.

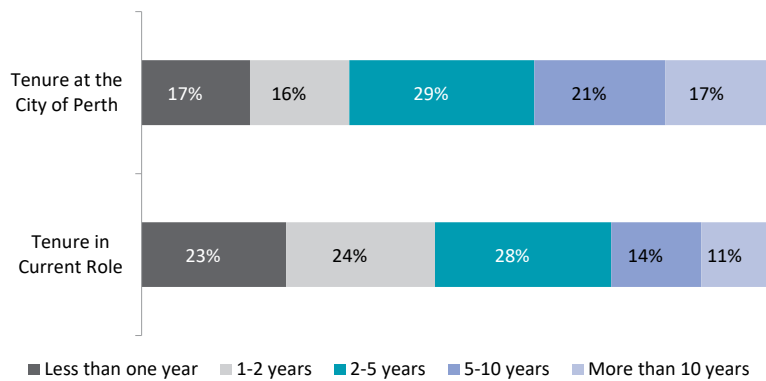
**Figure 44: Department of Respondents**



Of the 139 respondents, 39 stated they currently work in Community and Commercial Services which was the largest respondent group followed by Corporate Services of which 25 employees completed the survey. 21 respondents preferred not to state the department they currently worked in.

The following figure shows the breakdown of respondents by tenure at the City of Perth Council and in their current role.

**Figure 45: Tenure of Respondents**



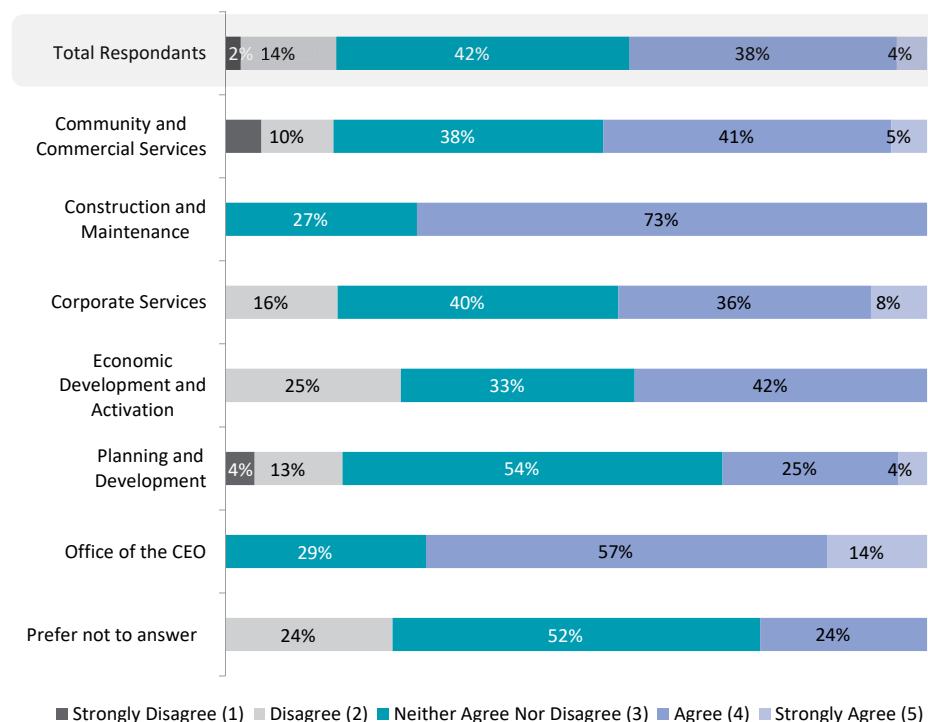
Of the 139 respondents, 40 have been at the council for 2-5 years, 23 have been at the council for less than one year and 23 have been at the council for more than 10 years. Tenure in role has a similar respondent pool size in the 2-5 years as tenure at council however had more respondents in the less than one year category (32) and less respondents in the more than 10 years category (15) indicating some movement of resources across departments.

### 4.3 Cultural Health Check Survey Results

This section of the report provides insights from the City of Perth culture health check survey. Respondents were asked to rate each statement from 1 to 5.

The figure below shows the City of Perth's employee's responses.

**Figure 46: Community perception of Council's customer service is positive**



Overall, of the 139 respondents, 58 (42%) either agreed or strongly agreed that the community's perception of the Council's customer service was positive and the same amount of respondents neither agreed nor disagreed (58). A total of 22 respondents (16%) disagreed or strongly disagreed

that the communities' perception of the Council's customer service was positive. The Construction and Maintenance department were most likely to agree or strongly agree (73%) closely followed by the Office of the CEO (71%). Respondents who preferred not to state their department were most likely to be agnostic or disagree with the statement (76%).

The next question asked respondents, "Who is responsible for customer service at the City of Perth". This was a free text response field. 120 of the 139 respondents referenced "all" or "everyone". Commentary provided from respondents who believed customer service was the responsibility of everyone included;

*"All employees, not just those in direct client facing roles that are responsible for servicing the public"*

*"Everyone that works with the City of Perth in some way or other either with external customers or internal customers is responsible. The main responsibility lies with people that deal directly with customers."*

*"Everybody! We are all internal customers and we are all responsible for providing a service to the city's ratepayers, visitors, businesses, residents and workers externally."*

Respondents who provided commentary that indicated customer service was not a shared responsibility included;

*"Manager Customer Service"*

*"I don't know. There doesn't seem to be a clear outline of responsibilities or processes for customer service queries (external)."*

*"Contact centre"*

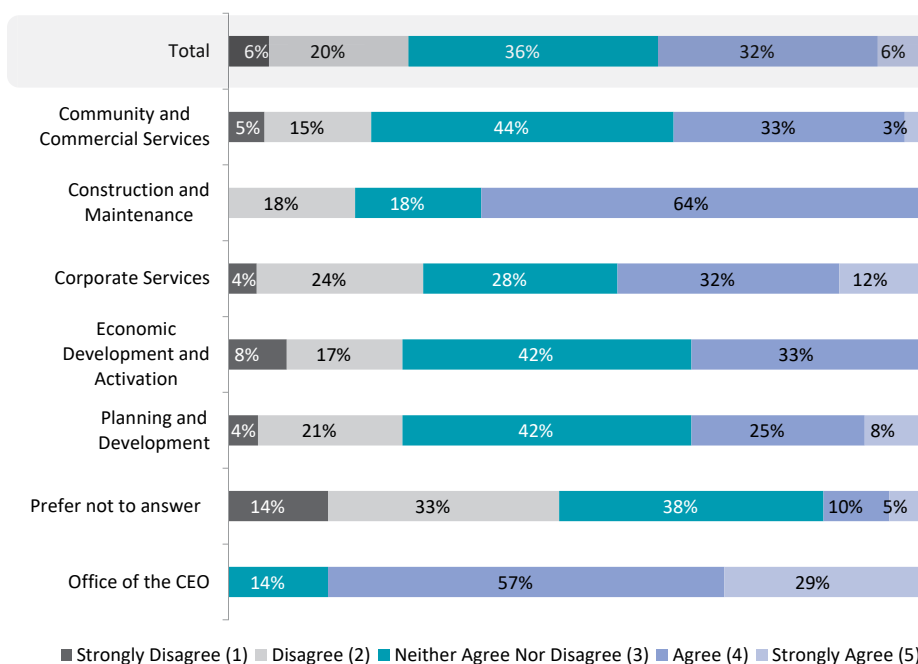
*"Customer services section"*

*"The Community Services Directorate - Customer Service Unit"*

*"Community and Commercial Services"*

The following figure shows the perception of the Customer Service Unit at the City of Perth.

**Figure 47: The Customer Service Unit is well perceived in Council**



Overall, of the 139 respondents, 53 agreed or strongly agreed (38%) that the Customer Service Unit was perceived well in the Council while 50 neither agreed nor disagreed (36%). 36 respondents disagreed or strongly disagreed (26%) that the Customer Service Unit was perceived well in Council.

The Office of the CEO and Construction and Maintenance Units had the highest proportion of respondents that agreed or strongly agreed with the statement (86% and 64% respectively). The category, 'prefer not to answer' and the Corporate Services Unit were most likely to disagree with the statement (47% and 28% respectively).

The next question asked respondents, "What does the Customer Service Unit do?" This was a free text response field. Commentary provided from respondents that indicated sound knowledge of the Customer Service Unit's role included;

*"Lead the organisation's engagement and service of community. First line of contact developing processes that ensure customers have a positive experience when dealing with the City. Managing the customer contact centre. Major stakeholder in CRM system" – Non Customer Services Employee*

*“First contact for customers via email, in person and over the phone. Triage enquiries to relevant units. Residential parking applications. Register Hansen/Pathways requests. Manage and coordinate customer feedback on behalf of the City. Payments. Inbox for CEO/Commissioners. Info. City emails. Parking permits. Assist with visitor system.” - Commercial and Community Services Employee*

*“First point of contact to answer queries for the city's ratepayers, visitors, businesses and residents.”  
– Non Customer Service Employee*

*“Assist with customer queries via counter, email and phone. Direct any queries to the appropriate departments” - Non-Customer Service Employee*

*“Represents the organisation as a one stop shop to provide information and support to both external and internal customers” – Non Customer Service Employee*

Commentary provided from respondents that indicated limited or negative knowledge of the Customer Service Unit's role included;

*“My experience to date is that they act as an interface between the public and the organisation (City), but there is a limited understanding of the work of the various business units and that enquiries from the public are sometimes misdirected or not appropriately triaged / dealt with before they are escalated to Business Units.” -Non- customer service employee*

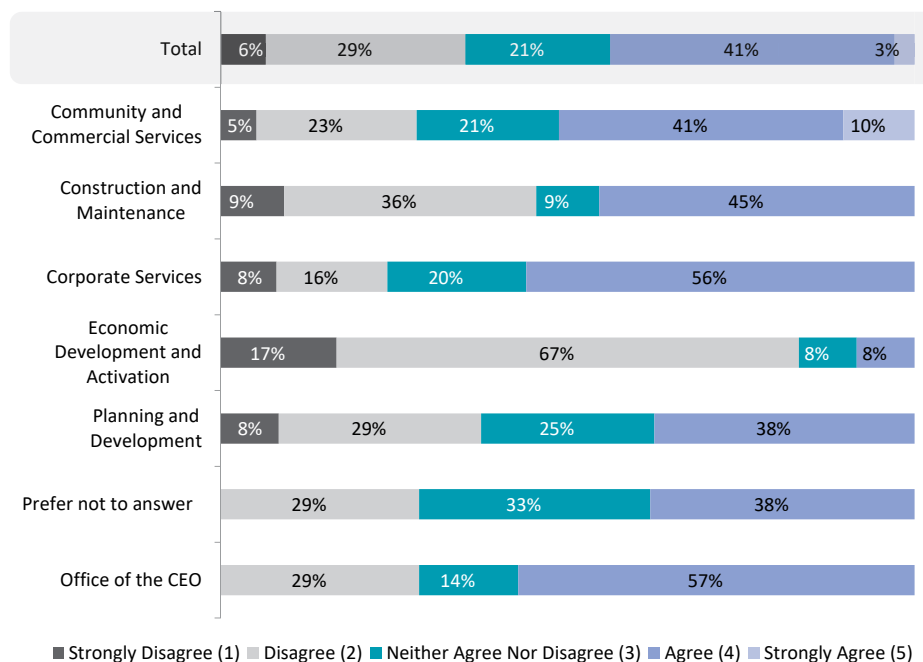
*“I don't know. They seem to pass external callers through to anyone who will pick up the phone, without a clear understanding of what the customer is asking (or that they are putting them through to the correct unit).” -Non-Customer Service Employee*

*“Take payments Phone Calls - but put through to wrong people Emails - but put through to wrong people.” -Non-Customer Service Employee*

*“Apart from looking after visitors at the ground floor entrance, I'm not really sure.” –Non Customer Service Employee*

The following figure shows the breakdown of responses to awareness of the City of Perth’s internal and external customer charters.

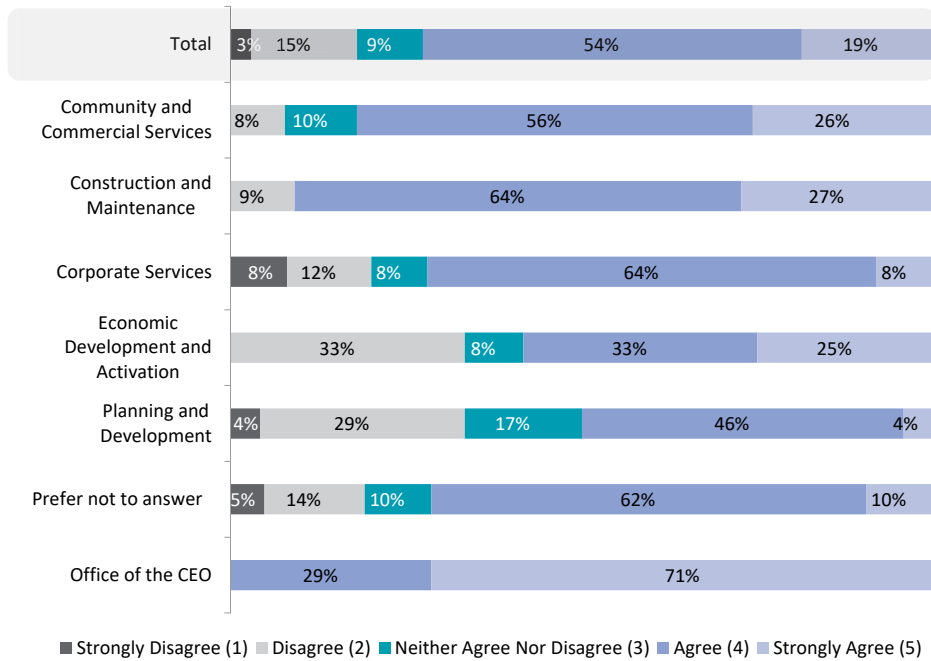
**Figure 48: I am aware of the Internal and External Customer Charters**



Overall 61 of the 139 respondents (44%) stated they agreed or strongly agreed that they were aware of the Council’s customer charters. 49 of the 139 respondents (35%) stated they strongly disagreed or disagreed that they were aware while 29 neither agreed nor disagreed (21%). The Office of the CEO and Corporate Services had the greatest awareness of the customer charters with 57% and 56% respectively stating they either agreed or strongly agreed that they were aware of the customer charters while the Economic Development and Activation Unit had the least awareness with 84% indicating they disagreed or strongly disagreed.

The following figure shows the breakdown of responses to awareness of the City of Perth's email and contact phone number.

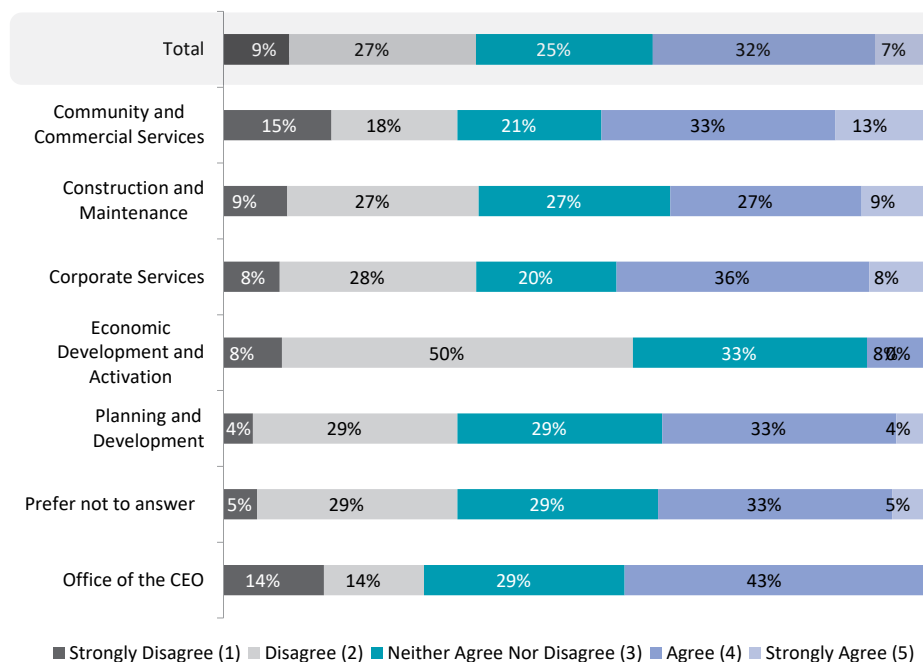
**Figure 49: I know the City's email and contact phone number**



Overall 87 of the 139 respondents (73%) stated they agreed or strongly agreed that they know the City's email and contact number. 25 of the 139 respondents (18%) stated they strongly disagreed or disagreed that they were aware while 12 neither agreed nor disagreed (9%) that they know the City's contact details. The Office of the CEO and Construction and Maintenance had the greatest awareness of the City's contact details with 100% and 91% respectively stating they either agreed or strongly agreed; while the Economic Development and Activation Unit and Planning and Development Units had the least awareness of the contact details with 33% of the respondents indicating they disagreed or strongly disagreed.

The following figure shows the respondents perception of encouragement to participate in customer service training at the City of Perth.

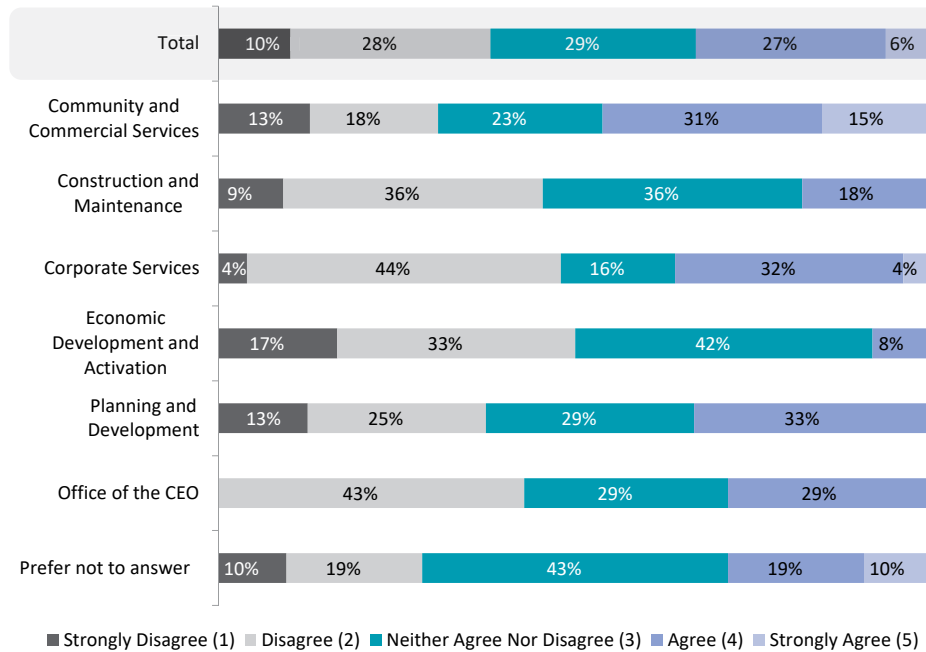
**Figure 50: Council employees are encouraged to participate in Customer Service Training**



Overall, 64 of the 139 respondents (39%) stated they agreed or strongly agreed that they are encouraged to participate in customer service training, 25% of respondents neither agreed nor disagreed and the remaining 36% of respondents disagreed or strongly disagreed. The Economic Development and Activation Unit had the highest proportion of respondents that stated they were not encouraged to participate in customer service training with 58% indicating they disagreed or strongly disagreed.

The following figure shows a breakdown of responses in regards to communication around customer service performance at team meetings.

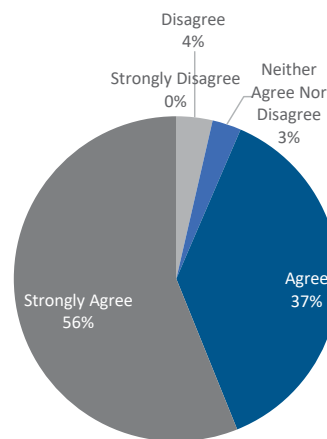
**Figure 51: There is communication at team meetings around customer service performance**



Overall, 46 of the 139 respondents (33%) stated they agreed or strongly agreed that there is communication around customer service performance at team meetings. 52 of the 139 respondents (38%) stated they strongly disagreed or disagreed that there was communication while the remaining 40 neither agreed nor disagreed (29%). Community and Commercial Services had the greatest agreement around communication of customer service performance with 46% stating they either agreed or strongly agreed. The Economic Development and Activation Unit and Corporate Services Unit had the highest rate of disagreement towards communication of customer service performance with 50% and 48% of the respondents indicating they disagreed or strongly disagreed.

The following figure shows the responses to the question, 'My role includes customer service'.

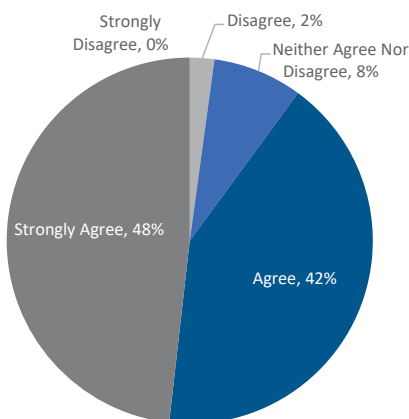
**Figure 52: My role includes customer service**



A significant majority of respondents, 130 of the 139 respondents (93%) stated they agreed or strongly agreed that their role includes customer service. 5 the 139 respondents (4%) stated they disagreed that their role included customer service and 4 stated they neither agreed nor disagreed that their role included customer service (3%).

The figure below shows the degree to which the respondents feel proud to provide service to the community.

**Figure 53: I feel proud to provide customer service to the community**



The greatest proportion of respondents, 126 of the 139 (90%) stated they agreed or strongly agreed that they felt proud to provide customer service to the community. 2% of respondents stated they strongly disagreed or disagreed and the remaining 8% stated they neither agreed nor disagreed that they felt proud to provide customer service to the community.

The final question asked respondents if they have any comments regarding the culture at Council or any results captured in this survey. Of the 139 respondents that completed the survey, 89 provided additional commentary.

Themes included performance of the Customer Service team and internal customer service. A snapshot of responses have been included below.

*“There has been a perceptible difference in the approach to customer service from the Customer Service Unit in the past year and this is setting the bar high for the rest of the organisation. Customer service are a delight to deal with and I feel there is work to be done for the entire organisation. Every single business unit should recognise customer service as part of their role both for internal and external stakeholders) and we each should be concerned with being as helpful as possible to ensure we represent the City well.” –Non Customer Service Employee*

*“Personally I think CSC is doing a great job but for reasons that I am unaware of the perception in the Council is that they aren't. Maybe this is because they have recently undergone a massive change in centralising customer service and there have naturally been some challenges with this.” –Non Customer Service Employee*

*“The culture from a customer service perspective is to be helpful and provide good customer service. I don't think this has changed recently - my opinion is that the City staff have been quite focused on good service since I started here long before the past 4 year crisis period. Unfortunately the culture and team spirit has and is still affected by the unsuccessful restructure (in terms of execution and outcomes). On an executive level it has been quite disastrous and also the huge turnover for the whole organisation has been a problem. Unfortunately the exorbitant time taken to resolve the process has not helped and is to blame for the slow recovery. However there are positive signs.” - Commercial and Community Services Employee*

*“Customer service internally could still use work as individuals can be protective and defensive about what they contribute. Or are defensive because they are hiding that they don't contribute anything. There is also very little accountability for work which crosses between units & directorates as nobody wants to get the blame if things go south.” –Non Customer Service Employee*

*“I find at times there a significant amount of time for inquiries to reach the appropriate person, which can be somewhat annoying from a customer and staff perspective. Priorities across units also means what is important for one person may not seem as important to the other so at times officers can be left waiting, this can then impact staff who are needing to respond to external stakeholders. I think there could be an improvement of service between internal stakeholders. At times, there is also a lack of people wanting to take responsibility / ownership for phone calls.”*

## 4.4 Cultural Health Check Survey Key Insights

The following table shows the summary results for each of the ranked statements included in the culture survey.

**Table 29: City of Perth Culture Survey Summary Results**

| Statement  | Agree or Strongly Agree | Neither Agree or Disagree | Disagree or Strongly Disagree |
|--|-------------------------|---------------------------|-------------------------------|
| The community's perception of the Council's customer service was positive    | 42%                     | 42%                       | 16%                           |
| The Customer Service Unit is well perceived in Council                       | 38%                     | 36%                       | 26%                           |
| I am aware of the Internal and External Customer Charters                    | 44%                     | 21%                       | 35%                           |
| I know the City's email and contact phone number                             | 73%                     | 9%                        | 18%                           |
| Council employees are encouraged to participate in Customer Service Training | 39%                     | 25%                       | 36%                           |
| There is communication at team meetings around customer service performance  | 33%                     | 29%                       | 38%                           |
| My role includes customer service  | 93%                     | 3%                        | 4%                            |
| I feel proud to provide customer service to the community                    | 90%                     | 8%                        | 2%                            |

The most positive results were provided for:

- 'My role includes customer service' (93% agreed or strongly agreed)
- 'I feel proud to provide customer service to the community (90% agreed or strongly agreed)
- 'I know the City's email and contact phone number' (73% agreed or strongly agreed)

The least positive results were provided for:

- 'There is communication at team meetings around customer service performance' (38% disagreed or strongly disagreed). The Economic Development and Activation Unit and Corporate Services Unit had the highest rate of disagreement towards communication of

customer service performance with 50% and 48% of the respondents indicating they disagreed or strongly disagreed.

- 'Council employees are encouraged to participate in Customer Service Training' (36% disagreed or strongly disagreed). The Economic Development and Activation Unit had the highest proportion of respondents that stated they were not encouraged to participate in customer service training with 58% indicating they disagreed or strongly disagreed.
- 'I am aware of the Internal and External Customer Charters' (35% disagreed or strongly disagreed). The Economic Development and Activation Unit had the least awareness with 84% indicating they disagreed or strongly disagreed.

## 4.5 Stakeholder Interview Quantitative Results

Representatives from the Management and Executive Leadership Group were also interviewed as part of this review to determine engagement and commitment towards service and to clarify information provided via the Request for Information. The structured interviews included both quantitative and qualitative questions that assessed:

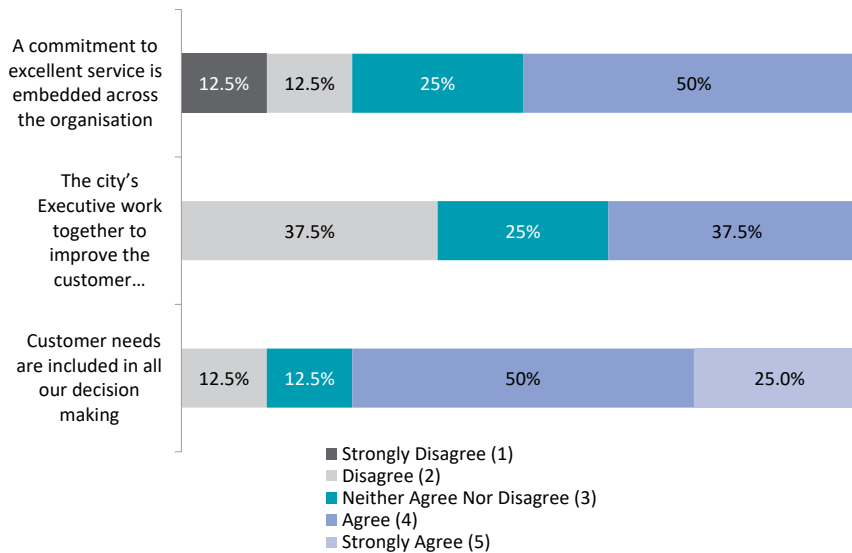
- Engagement and commitment of the Executive Leadership Group in leading the City's service performance
- Engagement and commitment of the Management Group in guiding, directing and reinforcing the City's service performance

A total of 8 stakeholder interviews were conducted. Participants were asked to provide a rating for the following three statements:

1. A commitment to excellent service is embedded in the organisation
2. The Executive team work together to improve the customer experience
3. Customer needs are included in all our decision making

Utilising the same rating scale as the cultural health check survey of 1-5, the results were as follows:

**Figure 54: Stakeholder Interview Question Ratings**



Of the 8 participants, 50% agreed (4) that a commitment to excellent service is embedded across the organisation, 2 neither agreed nor disagreed and the remaining 1 participant strongly disagreed.

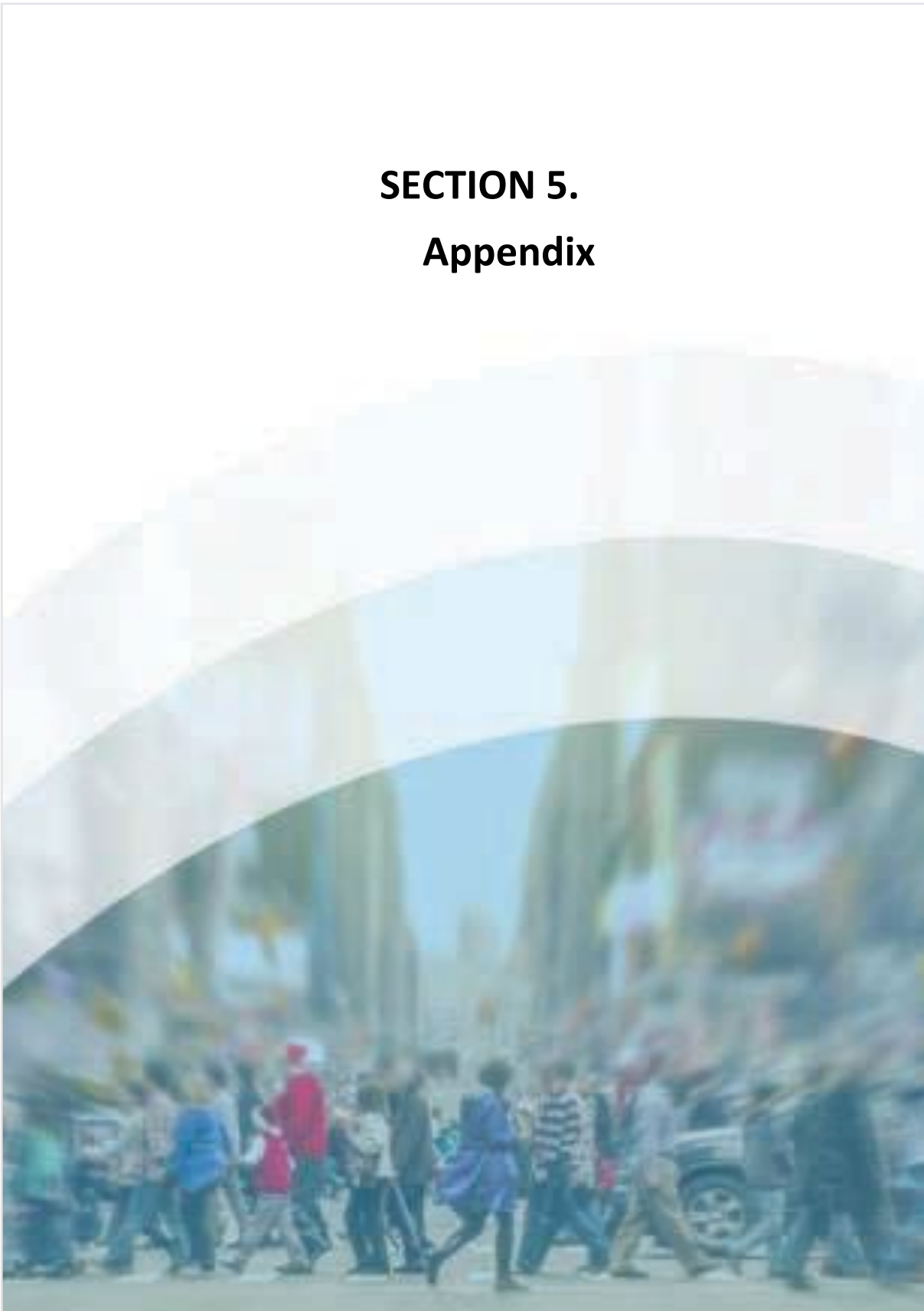
3 participants agreed that the city's executive team work together to improve the customer experience whilst an equal number (3) disagreed and the remaining participant neither agreed nor disagreed.

6 participants (75%) either agreed or strongly agreed that customer needs are included in all decision making whilst the remaining 2 participants either disagreed or neither agreed or disagreed.

A summary of the comments from the stakeholder interviews can be found in the appendix of this report.

## **SECTION 5.**

### **Appendix**



## 5.1 Project Methodology

The high level approach and methodology to achieve the objectives of this program are detailed below:



Further details of the approach are detailed in the following section of this report.

### 5.1.1 Project Initiation

At the commencement of the project, a workshop was facilitated by Fifth Quadrant with key City of Perth stakeholders with the following purpose and objectives:

1. Project briefing to all project team members
2. Gather initial feedback, ideas and suggestions
3. Agree project resources and refine timelines
4. Agree project governance and reporting
5. Identify project risks, mitigations and interdependencies

Fifth Quadrant works collaboratively with our clients to ensure mutual success for our engagements. During the project initiation meeting we will agree an appropriate frequency and format for project governance and for engagement with the City of Perth team that may include weekly or fortnightly project status reports and meetings, the establishment of a steering committee and formal project management approaches. The project initiation meeting will be conducted via telephone conference to establish the program of work prior to site visits.

### 5.1.2 Document and Data Review

Fifth Quadrant issued a Request for Information (RFI) to City of Perth on Friday, 19<sup>th</sup> October in order to leverage existing research and documentation.

Documents reviewed include:

1. Organisational strategy
  - a. City of Perth Strategic Community Plan
  - b. City of Perth Corporate Business Plan
  - c. Deloitte Report – OCCA
2. Customer experience strategy and roadmap
  - a. Customer Service Timeline Report Q3 and Q4 17/18 FY
  - b. Timeline Report Q3 and Q4 17/18 FY
  - c. Memo – Update Customer Service Project
  - d. CEC Final
  - e. Experience Service Action Plan
  - f. CSC Business Unit Planning 18/19
  - g. Inside City July 2018
  - h. Inside City August 2018
  - i. Deloitte – Customer Service Strategy
  - j. COP – ELG Presentation Deloitte Review
  - k. COP Costing Estimate
  - l. Quick Wins
3. Omni-Channel strategy and plans
  - a. My City – Inspiring Community Engagement
  - b. Screenshots – Prototype
  - c. Corporate Communications Strategy
  - d. Re-allocation of Capital Works – Ground Floor
  - e. Interior Concept 1
  - f. Interior Concept 2
  - g. Ground Floor
  - h. Briefing Note – Ground Floor
  - i. Council House Accessibility Report
  - j. Council Counter
  - k. Proposed Contact Centre

- I. Live Chat Proposal
- 4. Digital strategy and plans
  - a. DAI Strategy Paper 2017-18
  - b. IBM Smarter Cities Communication
  - c. DAI Business Plan 2018-2019
  - d. Digital Workplace Business Case
- 5. Customer charter and/or promise
  - a. Customer Charter – ELG Endorsement Report
  - b. Customer Charter – Organisation Feedback
  - c. Internal Customer Charter
  - d. External Customer Charter
- 6. Existing customer experience research, insights, personas and customer journey maps
  - a. Memo – Self Service
  - b. Extended Hours – Optus Stadium
  - c. Customer Service Operating Hours
  - d. After Hours - Insight
  - e. Pilot Plan for Afterhours
  - f. Minutes – Pilot for Afterhours
- 7. Customer satisfaction measurement framework and performance
  - a. City of Perth Perceptions Survey
  - b. City of Perth Perceptions Survey – Qualitative Feedback
  - c. City of Perth Perceptions Survey Results
  - d. Topline Findings
  - e. City of Perth Perceptions Survey Questionnaire
  - f. Winter Parking Promo Survey Results
  - g. RFQ – Customer Satisfaction Survey
  - h. City of Perth Customer Satisfaction Discussion Guide
  - i. Customer Survey Update
  - j. ELG Report – Feedback Framework
  - k. Service Feedback Policy
  - l. Feedback Process
  - m. ELG Report – Feedback Update
  - n. CSC Monthly Feedback Report

- o. Introduction to Customer Feedback
  - p. Escalation Process
  - q. Feedback Decision Process
- 8. Previous 13 months multi-channel performance reports at intra-day and interval level
  - a. City of Perth – CS (including WFM and Trends)
  - b. City of Perth – CS (2) – (including WFM and Trends)
- 9. Multi-Channel contact volume forecast & AHT's
  - a. Multi-channel Report (Pilot – to date)
- 10. Current enquiry, interaction and transaction details, per channel
  - a. Customer Service Centre – Stats Update
  - b. Customer Service Centre – FY 17/18 Stats Update
- 11. Current SLAs, KPI's and measures
  - a. Customer Service KPIs
- 12. Workforce management process and practice
  - a. Memo to Director – Foodbank Volunteer
  - b. Current Roster – October 2018
  - c. Previous Roster Example
  - d. Onboarding Checklist
  - e. Induction Training Schedule
  - f. Induction Booklet
- 13. Operational process and procedure documentation
  - a. CRM
    - i. CRM – Case Management
    - ii. CRM – Allocate Cases
    - iii. CRM – Creating Reports Using Advanced Find
    - iv. CRM – How to create a Knowledge Article
    - v. CRM – Missing Details
    - vi. CRM – Searches
    - vii. CRM – Shortcuts
    - viii. CRM – What to do with spam
    - ix. CRM – When to create a contact vs. account
    - x. CRM Training – Adding a person to an Organisation
    - xi. CRM Training – Duplicate Record

- xii. CRM Training Guide
- xiii. CRM Training Outline and Plan
- xiv. CRM Training – Including Trainer Notes
- xv. CRM Training
- xvi. CRM Training Searching using Wildcards
- xvii. CRM Usage Guide
- xviii. CSC Form – Learner Experience Feedback
- xix. How to book feature lighting
- xx. How to book banners
- xxi. How to create a busking permit
- b. Chief Exec Inbox
  - i. Chief Executive Process
  - ii. Commissioner Communication Infographic
  - iii. Transfer of Chief Executive Inbox
  - iv. CEE Handover Process
- c. Review Reports
  - i. Banner and Flag Hire Review
  - ii. Banner and Flag Hire Draft Guidelines
  - iii. Transfer of Info.City and Surface Mail to Customer Service
  - iv. Info.City and Surface Mail
  - v. Info.City and Surface Mail Review Update – ELG
  - vi. CSC Unit Procedures Review
- d. Cash Handling
  - i. Cash Reconciliation Forms
  - ii. Beginning of Day Checklist
  - iii. End of Day Checklist
  - iv. Daily Reconciliation
  - v. Cumulative Totals
  - vi. Cash Handling
  - vii. Receipt Reversal
  - viii. Supervisor Receipt Reversal
- e. Customer Service
  - i. Attaching documents to Pathway

- ii. CAS Animal Registration
- iii. CAS Dog Registration
- iv. Citizenship Ceremony
- v. CISCO Phones
- vi. Compliance Statement Form
- vii. CPP Permits Officer
- viii. CPP Faulty Ticket Machine
- ix. CPP Bonus Parking Cards
- x. CPP Raising CPP Invoices
- xi. CPP Hansen Service Requests
- xii. CPP Staff Access Cards
- xiii. CPP Parking Cards
- xiv. CPP Accounts
- xv. CPP Credit Card Refund
- xvi. Event Enquiries
- xvii. WAC Missed Bin Services
- xviii. WAC Street Sweeping
- xix. WAC Bin Repair
- xx. Reservations – On-Street Parking
- xxi. Infringement Withdrawal Forms
- xxii. Mail Deliveries
- xxiii. Mall Access Applications
- xxiv. Graffiti Requests
- xxv. Graffiti Inbox
- xxvi. Government House Right of Way
- xxvii. SPM Street Signs and Parking Bay Maintenance
- xxviii. SPM Street Furniture
- xxix. SPM Road Maintenance
- xxx. SPM Footpath Maintenance
- xxxi. Settlement Enquiries
- xxxii. Pathway Work Instruction – Kerbside Permits
- xxxiii. PSU Mall Access (Urgent)
- xxxiv. PSU Invoicing and Job Sheets

- xxxv. PSU Adding Additional Bays
- xxxvi. PSU Debtor Bookings
- xxxvii. PSU Reservations Process
- xxxviii. Parks Furniture Maintenance
- xxxix. Parks Footpaths
  - xl. Parks Rubbish Collection
  - xli. Parks Trees
  - xl. Parks Irrigation
- xl. Rates Training Workbook 2018
- xliv. Residential Parking Permits
- xlvi. Report It
- xlvi. Customer Requests
- xlvi. CSC Call Handling
- xlvi. Wedding Hire Guide 2018

14. Quality assurance framework and performance

- a. TM Fault Assessment
- b. Quick Reference Listening Assessment
- c. Monthly Learning Log
- d. Learning Summary
- e. Intramaps Assessment
- f. Hansen Assessment
- g. Call Quality Assessment Template
- h. Face to Face Observation Assessment
- i. CM Assessment
- j. Rates Training – Learner Experience Feedback
- k. CRM Training Assessment

15. Technology architecture, strategy and plans

- a. DCS Presentation – Core Systems Upgrade
- b. CRM Demo
- c. ELG Report – CRM Pilot to Production
- d. CRM Pilot to Production – As Built
- e. CRM Pilot to Production – P2S
- f. CRM Functional Requirements

- g. CRM System Testing Functionality
- h. Regression Testing Template
- i. Jira Process and Artefacts
- j. Customer Service Bookings Feasibility
- k. CRM Requirements – HAA
- l. DSDM Agile Development Approach
- m. DSDM Agile Management Approach
- n. DSDM Agile Solution Architecture Definition
- o. CRM Business Case
- p. City of Perth – Contractor Report
- q. City of Perth – Email Notification
- r. City of Perth – Operations Support Guide
- s. City of Perth – Price List Updating Procedure
- t. City of Perth – Solution Specification Booking System
- u. City of Perth – Test Case Banners
- v. City of Perth – Test Case Busking
- w. City of Perth – Test Case Feature Lighting
- x. COP Booking System Fields
- y. XperiDo Quickstart
- z. CSC Memo for Approval – Bookings CRM
- aa. City of Perth – 0365 Dynamics
- bb. City of Perth – 0365 Dynamics
- cc. Business Case and Plan
- dd. Project Charter
- ee. Visitor Management System RFQ
- ff. Work Breakdown Structure
- gg. ITAC Report – Visitor Management System
- hh. Quality Check Scenarios
- ii. VMS Risk Register
- jj. Implementation Memo – VMS
- kk. Induction Video for Council House
- ll. City of Perth Test Software Quality Assurance
- mm. High Level Presentation – Exec

- nn. TPO Report – City of Perth
- 16. Telephony structure and call routing configuration
  - a. IVR 2017
  - b. LMDRF IVR – Restructured
  - c. Phone Line Assessment IVR vs. No IVR
  - d. IVR Proposed
  - e. Parking IVR Version 2
- 17. Organisational structure and position descriptions
  - a. Management Structure
  - b. Customer Service Organisation Chart – October
  - c. Transition to CSC
  - d. Customer Service Quality and Complaints Officer
  - e. Customer Service Team Leader
  - f. Project Support Officer
  - g. Reviewed Customer Service
  - h. Reviewed Parking Permit and Reservations
  - i. Manager Customer Service
- 18. Employee engagement results
  - a. Open Responses – Staff Survey
  - b. DCC Culture Survey Feedback
  - c. Whole Organisation
- 19. Employee Enterprise Agreement
  - a. Salaried Officers Agreement

### 5.1.3 Stakeholder Interviews

Fifth Quadrant completed stakeholder interviews with key City of Perth personnel on Thursday 8<sup>th</sup> November and Friday 9<sup>th</sup> November. Interviews were conducted with the following personnel:

1. Paul Gale
2. Alison Egan
3. Ben Fitzpatrick
4. Simone Holmes-Cavanagh
5. Robert Mianich

6. Rebecca Moore
7. Erica Barrenger (rescheduled to phone conference call on the 23<sup>rd</sup> November)
8. Paul Crosetta
9. Alyce Higgins

The purpose of the stakeholder interviews was to clarify information provided via the Request for Information and fully explore the drivers for current performance.

#### 5.1.4 Onsite Observations

A Fifth Quadrant Consultant also spent time on-site to conduct an evaluation of the current practice and procedure, through side-by-side monitoring with key operational personnel. The purpose of the on-site observation was to gain an understanding of:

1. Current enquiries
2. Enquiry handling processes per channel
3. Current service, sales and multi-channel skill capabilities
4. Use of technology across channels
5. Evaluate current customer experience provided

The observations took place on Thursday 8<sup>th</sup> November and Friday 9<sup>th</sup> November with frontline and Team Leader staff.

#### 5.1.5 Performance Benchmarking

Fifth Quadrant has produced annual contact centre benchmarking reports for over 13 years, focused on the Australian contact centre sector that provide rich evidence based data and insights into the current performance and trends of the industry. Fifth Quadrant will utilise our exclusive benchmarking database to provide City of Perth with a quantitative assessment of their current customer service performance.

City of Perth will be invited to complete Fifth Quadrant's performance benchmarking questionnaire to provide a comparison against our extensive database. Areas included are as follows:

1. Contact Centre Industry Profile
2. Challenges and Objectives
3. Operating Costs & Budget Breakdown
4. Outsourcing
5. Contact Centre Interaction Breakdown
6. Multi-Channel including breakdown of interactions per channel; Inbound versus Outbound
7. Organisational Structure & Staff Ratios

8. Home based Agents
9. Employee Tenure, Turnover, Reasons for leaving and Absence
10. Recruitment
11. Staff Training: Induction, Ongoing, Speed to competency
12. Employee Remuneration per role
13. Employee Benefits & Reward and Recognition
14. Workforce Optimisation: Dedicated and Multi-skilled agents
15. Technology: Current and planned; desk top applications
16. Performance Management: Service Level Targets per channel; performance per channel;
17. Customer Experience including Quality Assurance and Complaint Handling

The results were benchmarked against the following sectors:

1. Similar sized contact centres
2. Government Sector (Local, State and Federal)
3. Whole of contact centre industry

### 5.1.6 Culture Health Check

A short culture health check survey was designed to allow City of Perth staff to confidentially provide feedback with regard to the current organisational culture. The survey was available online and in hard copies for employees to complete.

### 5.1.7 Synthesis

The data and information collated from the prior phases of work will be analysed and synthesised in order to provide a performance analysis, assessment and review of the City of Perth's Customer Service.

### 5.1.8 Customer Service Assessment and Review Report

The final Customer Service Assessment and Review Report includes the following:

1. Executive summary and key findings of City of Perth's customer service assessment
2. In depth assessment of overall customer service performance and capability
3. Quantitative and qualitative analysis of information gathered from document and data review, stakeholder interviews, onsite observations and culture health check survey

## 5.2 Cultural Health Check Survey Data

Data collected by Fifth Quadrant for the cultural health check survey is provided to City of Perth in a separate data file.

## 5.3 Stakeholder Interview Summary Comments

The following comments are provided from the 8 stakeholder interviews conducted as part of this review.

- **What is your view on the customer service currently provided by Council?**

*“For public facing customer service it has improved over the last 12 months. The changes have impacted positively.”*

*“I think the team have developed significantly over the last 12 months – going in the right direction with a big improvement in complaint handling and resolution.”*

*“Internal customer service isn’t so good. People don’t respond to emails or reply and don’t answer calls. There’s no baseline or framework for dealing with internal stakeholders so people don’t respond.”*

*“There’s no script for answering the phone internally.”*

*“It varies depending on the area – People think only the customer service unit are responsible. Some areas could improve.”*

*“It’s significantly better than what it was. Alyce has done a great job.”*

*“We have too many sources of information and too many disparate systems – no single of customer but now have CRM. “*

*“Ethos of customer service is not across the organisation.”*

*“Budget to increase resources is needed.”*

*“Customers provide information to frontline and then transferred cold so annoying to customers.”*

*“I think its exceptional – improved a lot; good leadership; customer issues are being dealt with well.”*

*“Centralisation has alleviated problems – better co-ordinated than previously.”*

▪ **How well do all departments work together to deliver a good customer experience?**

*“There isn’t a co-ordinated approach.”*

*“The customer charter sets out the guidelines but greater visibility is needed across the organisation.”*

*“We need more training for all Officers that are customer facing.”*

*“We should think from the customer perspective rather than policy.”*

*“It could be improved a lot – between teams and sub teams in the same directorate it’s good but across directorates there’s more difference in opinion.”*

*“It’s better than I’ve experienced elsewhere – room for improvement and we are going in the right direction.”*

*“There’s room for improvement. No joined up approach.”*

*“Not too well I don’t think. We don’t have a stakeholder management framework across council.”*

*“Not joined up - customers can call other areas.”*

*“We need somewhere to view all customer info across council.”*

*“There’s a long way to go. Roles and responsibilities need clarification.”*

▪ **How would you describe the culture?**

*“We’ve had some issues. We’ve had 5 CEOs in 11 months which has impacted on the city’s reputation and then on to staff.”*

*“Talk about re-structure causes concerns.”*

*“At a Unit level it’s fantastic. At the Directorate level it can be combative and obstructive.”*

*“It’s transitional but I think it will improve. A lot of work has been completed – values created by the team they live by them and could quote.”*

*“We’ve been doing a lot of work but can’t change overnight.”*

*“8 departures from Exec team of 15 in last few months. People are voting with their feet.”*

*“A bit frustrated – changes in leadership, lack of clear decision making.”*

*“It has got a lot better - this is the path we’re on and the dates we’re going to meet.”*

*“People are questioning what the culture is all about. Attrition is now 22% across the organisation. So much change – re-structure caused more problems.”*

▪ **Are there any barriers to delivering a good customer experience? If so, please describe**

*"No clear framework regardless of change to Exec to support decision making."*

*"Yes, legislative and compliance - need to be risk focused."*

*"We need to do some work on processes and procedure to move away from paper based."*

*"Different systems don't talk to each other. We need to consolidate as this is a major impediment to the 'customer function'."*

*"Different units are doing different things."*

*"How do we get customers connected to the team they need to talk to?"*

*"I think there's a lack of prioritisation – not strategic top down approach – needs to be established to ensure everyone is aligned to the same priorities."*

## 5.4 Performance Benchmarking Questionnaire

The questionnaire completed by City of Perth for the performance benchmarking analysis can be found in this section of the report.

### CONTACT CENTRE PROFILE

So we can establish trends in the contact centre industry, we will ask you to provide some information regarding the size of your contact centre operations over the next couple of questions.

- A1.** How many contact centres and contact centre seats do you currently operate?  
If you are unsure, please provide your best estimate. (Please see table below)
- A2.** How many contact centres and contact centre seats did you operate 12 months ago?  
If you are unsure, please provide your best estimate. (Please see table below)
- A3.** How many contact centres and contact centre seats do you expect to operate in 12 months' time?  
If you are unsure, please provide your best estimate. (Please see table below)

|                                      | A1. currently | A2. 12 months ago | A3. In 12 months' time |
|--------------------------------------|---------------|-------------------|------------------------|
| Total number of contact centres      |               |                   |                        |
| Total number of contact centre seats |               |                   |                        |
| Don't Know                           |               |                   |                        |

- A4.** Thinking about your total organisation, approximately what percentage of all customer interactions are conducted via the following channels? If unsure, please provide your best estimate.

|                                  |             |
|----------------------------------|-------------|
| Contact Centre managed channels  | ____%       |
| Online                           | ____%       |
| Branch/Retail/Other Face to Face | ____%       |
| Other (please specify _____)     | ____%       |
| Don't know                       |             |
| <b>TOTAL</b>                     | <b>100%</b> |

## OUTSOURCING

IF YOU ARE A CONTACT CENTRE OUTSOURCING PROVIDER, PLEASE GO TO C1

**B1. Approximately what percentage of your total contact centre functionality is currently outsourced to third party providers? If unsure, please provide your best estimate.**

1. \_\_\_\_\_ %
2. None **GO TO C1**
3. Don't know **GO TO C1**

**MULTIPLE RESPONSE**

**B2. What contact centre functions do you currently outsource? Please select all that apply.**

|   | Function(s) currently outsourced |
|---|----------------------------------|
| 1. Customer Service                                 |                                  |
| 2. After Hours Contacts                             |                                  |
| 3. Overflow   |                                  |
| 4. Technical Support (Help Desk)                    |                                  |
| 5. Inbound Sales Contacts (Order Taking & Tracking) |                                  |
| 6. Outbound Sales/Telemarketing/ /Lead Generation   |                                  |
| 7. Collections                                      |                                  |
| 8. Reservations/Ticketing                           |                                  |
| 9. Claims   |                                  |
| 10. Other (specify) _____                           |                                  |

**MULTIPLE RESPONSE**

**B3. In which countries are outsourced agents located? Please select all that apply.**

|                          | Locations currently outsourced |
|--------------------------|--------------------------------|
| 1. Australia             |                                |
| 2. India                 |                                |
| 3. Indonesia             |                                |
| 4. Malaysia              |                                |
| 5. New Zealand           |                                |
| 6. Philippines           |                                |
| 7. South Africa          |                                |
| 8. Other (specify) _____ |                                |

***In the remainder of the survey, we would like you to focus on the functions you manage in-house and do not outsource.***

## CONTACT CENTRE INTERACTIONS

PLEASE ANSWER C2 IF NUMBER OF CONTACT CENTRES YOU CURRENTLY OPERATE IS BIGGER THAN 1:

- C1. For the purpose of this study, when we refer to contact centre, we are referring to the contact centre functionalities and seats you are responsible for either at one location or across multiple sites.

How many contact centre seats does this include?

1. \_\_\_\_\_
2. Don't know

- C2. Approximately, how many customer interactions does this contact centre handle in an average week, including all interaction types? If unsure, please provide your best estimate.

1. \_\_\_\_\_ interactions per week
2. Don't know

- C3. What proportion of these interactions are self-service or assisted interactions?

|   |        |
|---|--------|
| Fully self-service interactions                     | _____% |
| Assisted interactions (partially or fully by agent) | _____% |
| Don't know  | X      |

- C4. What percentage of these transactions are through the channels listed below?  
If unsure, please provide your best estimate. (Please see table below)

- C5. What percentage of these transactions do you expect in 12 months' time to be through the channels listed below? If unsure, please provide your best estimate. (Please see table below)

|  | C4. Current transactions |            | C5. Transactions expected in 12 months |            |
|--|--------------------------|------------|--|------------|
| Phone (mainly handled by agent after call routing) | _____%                   | Don't know | _____%                                 | Don't know |
| Phone (mainly handled by IVR)                      | _____%                   | Don't know | _____%                                 | Don't know |
| Phone (mainly handled by speech recognition)       | _____%                   | Don't know | _____%                                 | Don't know |
| Email  | _____%                   | Don't know | _____%                                 | Don't know |
| Social media                                       | _____%                   | Don't know | _____%                                 | Don't know |
| Web chat/ video chat                               | _____%                   | Don't know | _____%                                 | Don't know |

|                                       |             |            |             |            |
|---------------------------------------|-------------|------------|-------------|------------|
| SMS/ Instant Messaging                | ____%       | Don't know | ____%       | Don't know |
| Smartphone app                        | ____%       | Don't know | ____%       | Don't know |
| Chatbot                               | ____%       | Don't know | ____%       | Don't know |
| Self-Service/online                   | ____%       | Don't know | ____%       | Don't know |
| Other, please specify _____           | ____%       | Don't know | ____%       | Don't know |
| <b>TOTAL(xx%) +Don't know (xx%) =</b> | <b>100%</b> |            | <b>100%</b> |            |

**C5a.** Which functions do your Chatbot/s currently support?

|                             |             |
|-----------------------------|-------------|
| Customer Service            |             |
| Sales                       |             |
| Other, please specify _____ |             |
| Don't know                  |             |
| <b>TOTAL</b>                | <b>100%</b> |

**C6.** Overall what percentage of your contact centre interactions are inbound vs outbound?  
If unsure, please provide your best estimate.

|              |             |
|--------------|-------------|
| Inbound      | ____%       |
| Outbound     | ____%       |
| Don't know   |             |
| <b>TOTAL</b> | <b>100%</b> |

**C7.** What proportion of your agents handle outbound vs inbound contacts, including all channels?  
If unsure, please provide your best estimate.

|                                     |       |
|-------------------------------------|-------|
| Inbound only agents                 | ____% |
| Outbound only agents                | ____% |
| Blended inbound and outbound agents | ____% |
| Don't know                          |       |

|              |             |
|--------------|-------------|
| <b>TOTAL</b> | <b>100%</b> |
|--------------|-------------|

**C8. Approximately, what percentage of your contact centre's total customer interactions are composed of the following categories? If unsure, please provide your best estimate.**

|                              |             |
|------------------------------|-------------|
| Customer service             | ____%       |
| Inbound sales                | ____%       |
| Outbound sales/telemarketing | ____%       |
| Other, please specify        | ____%       |
| Don't know                   |             |
| <b>TOTAL</b>                 | <b>100%</b> |

**C9. What percentage of your agents fall into the following categories? If unsure, please provide your best estimate.**

|   |             |
|---|-------------|
| Only handle phone interactions (inbound or outbound)                      | ____%       |
| Only handle digital interactions (e.g. social media, webchat, email etc.) | ____%       |
| Handle both phone and digital interactions                                | ____%       |
| Don't know  |             |
| <b>TOTAL</b>  | <b>100%</b> |

#### PERFORMANCE MANAGEMENT

##### SINGLE RESPONSE

**PLEASE ONLY ANSWER IF YOU HAVE INBOUND CONTACTS (AT C9 INBOUND IS NOT 0%)**

**D1. What is your current Service Level Target (SLA) for inbound calls?**

1. 90% of calls answered in 10 seconds
2. 90% of calls answered in 20 seconds
3. 90% calls answered in 30 seconds
4. 80% of calls answered in 10 seconds
5. 80% of calls answered in 20 seconds
6. 80% of calls answered in 30 seconds
7. 70% of calls answered in 10 seconds
8. 70% of calls answered in 20 seconds
9. 70% of calls answered in 30 seconds

10. Other please specify \_\_\_\_\_  
11. We do not set a target

**SINGLE RESPONSE**

**PLEASE ONLY ANSWER IF YOU HAVE INBOUND EMAIL ENQUIRIES (AT C7 EMAIL IS NOT 0% AND AT C9 INBOUND IS NOT 0%)**

**D2. What is your current Service Level Target (SLA) for inbound email enquiries?**

1. 100% of emails resolved within 2 hours
2. 100% of emails resolved within 4 hours
3. 100% of emails resolved within 24 hours
4. 100% of emails resolved within 48 hours
5. 90% of emails resolved within 24 hours
6. 90% of emails resolved within 48 hours
7. 80% of emails resolved within 24 hours
8. 80% of emails resolved within 48 hours
9. Other please specify \_\_\_\_\_
10. We do not set a target

**SINGLE RESPONSE**

**PLEASE ONLY ANSWER IF YOU HAVE WEBCHAT ENQUIRIES (AT C7 WEBCHAT IS NOT 0%)**

**D3. What is your current Service Level Target (SLA) for webchat enquiries? (E.g. 90% of webchat enquiries resolved within 48 hours)**

1. 100% of webchat enquiries resolved within 2 hours
2. 100% of webchat enquiries resolved within 4 hours
3. 100% of webchat enquiries resolved within 24 hours
4. Other please specify \_\_\_\_\_
5. We do not set a target

**SINGLE RESPONSE**

**PLEASE ONLY ANSWER IF YOU HAVE SOCIAL MEDIA ENQUIRIES (AT C7 SOCIAL MEDIA IS NOT 0%)**

**D4. What is your current Service Level Target (SLA) for social media enquiries? (E.g. 90% of social media enquiries are resolved within 48 hours)**

1. 100% of social media enquiries resolved within 2 hours
2. 100% of social media enquiries resolved within 4 hours
3. 100% of social media enquiries resolved within 24 hours
4. 100% of social media enquiries resolved within 48 hours
5. Other please specify \_\_\_\_\_
6. We do not set a target

**D5. For each of the following Key Performance Indicators (KPIs) for telephone interactions, could you please indicate your contact centre's actual performance for the past financial year? If unsure, please provide your best estimate.**

| INBOUND CALLS (ANSWER YOU HAVE INBOUND CALLS)   | Performance                                    |
|---|--|
| Percentage of inbound calls answered within the <b>Service Level Target (SLA)</b> ASK IF SET A TARGET (D1=1-10) | _____ %<br>Don't know                          |
| Average abandonment rate (calls abandoned before answering)   | _____ %<br><input type="checkbox"/> Don't know |

|   |   |
|---|---|
| Average time in queue (total wait time of answered calls / no. answered calls that waited in the queue)   | _____seconds<br><input type="checkbox"/> Don't know |
| First contact resolution (percentage of contacts closed first contact)  | _____ %<br><input type="checkbox"/> Don't know      |
| Average speed of answer (total wait time of calls answered / no. calls answered)  | _____seconds<br><input type="checkbox"/> Don't know |
| Occupancy rate (handling time / logged in time)   | _____ %<br><input type="checkbox"/> Don't know      |
| Inbound conversion rate (percentage of total inbound calls that were converted to an actual sale) ASK IF INBOUND SALES IN C11 IS NOT 0          | _____ %<br><input type="checkbox"/> Don't know      |
| Average time in queue before abandon (average amounts of time per abandoned call the customer waited to be answered before abandoning the call) | _____seconds<br><input type="checkbox"/> Don't know |
| Average handling time (talk time + hold + wrap time)  | _____seconds<br><input type="checkbox"/> Don't know |
| Utilisation rate ((handling time + available time) / (paid time))   | _____ %<br><input type="checkbox"/> Don't know      |
| <b>OUTBOUND CALLS (ANSWER IF YOU HAVE OUTBOUND CALLS)</b>   |   |
| % of right party connect (connecting to the right person the first time)  | _____ %<br><input type="checkbox"/> Don't know      |
| Outbound conversion rate (percentage of total outbound calls that were converted to an actual sale)   | _____ %<br><input type="checkbox"/> Don't know      |

**ANSWER ONLY IF HAVE EMAIL (C7 EMAIL NOT 0%)**

D6. For each of the following KPIs for email interactions could you please indicate your contact centre's actual performance for the last financial year? If unsure, please provide your best estimate.

| EMAIL KPIs   | Performance   |
|--|---|
| Percentage of emails answered within the <b>Service Level Target (SLA)</b> – ASK IF SET A TARGET   | _____ %<br>Don't know                               |
| Average speed of response for email transactions (total time required to process and respond to emails / total number of emails received; excluding automated email responses) | _____seconds<br><input type="checkbox"/> Don't know |
| First contact resolution for email transactions (percentage of contacts closed first email)  | _____ %<br><input type="checkbox"/> Don't know      |

**ANSWER ONLY IF HAVE WEBCHAT (C7 WEBCHAT NOT 0%)**

D7. For each of the following KPI's for Webchat interactions could you please indicate your contact centre's actual performance for the last financial year? If unsure, please provide your best estimate.

| WEB KPIs  | Performance   |
|---|---|
| Percentage of webchat enquiries answered within the <b>Service Level Target (SLA)</b> - ASK IF SET A TARGET   | _____ %<br>Don't know                               |
| Average speed of response for Web Chat transactions (total time required to process and respond to Web Chat / total number of Web Chats received; excluding automated Web Chat responses) | _____seconds<br><input type="checkbox"/> Don't know |
| First contact resolution for Web Chat transactions (percentage of contacts closed first chat)   | _____ %<br><input type="checkbox"/> Don't know      |

**ASK ONLY IF USE SOCIAL MEDIA (C7 SOCIAL MEDIA NOT 0%)**

**D8.** For each of the following KPI's for Social Media interactions could you please indicate your contact centre's actual performance for the last financial year? If unsure, please provide your best estimate.

| Social Media KPIs   | Performance  |
|---|--|
| Percentage of Social Media enquiries answered within the <b>Service Level Target (SLA)</b>  | _____ %<br><input type="checkbox"/> Don't know       |
| Average speed of response for Social Media transactions (total time required to process and respond to Social Media enquiries / total number of Social Media enquiries received; excluding automated responses) | _____ seconds<br><input type="checkbox"/> Don't know |
| First contact resolution for Social Media transactions (percentage of contacts closed first chat)   | _____ %<br><input type="checkbox"/> Don't know       |

**ANSWER ONLY IF YOU USE CHATBOT (AT C7 CHATBOT NOT 0% OR DON'T KNOW)**

**D9.** What are your current KPIs and performance for your Chatbot?

| KPI | Target | Performance |
|-----|--------|-------------|
|     |        |             |
|     |        |             |
|     |        |             |

**QUALITY ASSURANCE**

**E1.** On average, how many interactions per agent per month are listened to / reviewed by quality monitoring staff / team leaders / managers for quality assurance purposes? If unsure, please provide your best estimate.

|   |                                    |
|---|------------------------------------|
| Number of contacts reviewed (including calls, emails, social media interactions and webchats) | 1. _____ contacts<br>2. Don't know |
|---|------------------------------------|

**CUSTOMER EXPERIENCE**

**MULTIPLE RESPONSE**

**F1.** What specific measures does your contact centre use when measuring customer satisfaction or experience? Please select all that apply.

1. Customer Satisfaction
2. Net Promoter Score (NPS)/Recommendation
3. Customer Effort Score
4. First Contact Resolution
5. Agent quality performance
6. Other (please specify) \_\_\_\_\_
7. Don't measure (GO TO G1)

**SINGLE RESPONSE**

**F1a. What is your main customer satisfaction/experience measure?**

1. Customer Satisfaction
2. Net Promoter Score (NPS)/Recommendation
3. Customer Effort Score
4. First Contact Resolution
5. Agent quality performance
6. Other (please specify) \_\_\_\_\_

**F1b. What is your most recent score for the customer satisfaction/experience KPIs you measure?**

|  | Score/Description |
|--|-------------------|
| Customer Satisfaction                    |                   |
| Net Promoter Score (NPS)/ Recommendation |                   |
| Customer Effort Score                    |                   |
| First Contact Resolution                 |                   |
| Agent Quality Performance                |                   |
| Other (please specify _____)             |                   |

**SINGLE RESPONSE**

**F2. How often does your contact centre formally report on the customer satisfaction or experience results?**

1. Reporting in real time/near real time
2. Daily
3. Weekly
4. Fortnightly
5. Monthly
6. Quarterly
7. Bi-annually
8. Annually
9. Ad-hoc (non-fixed intervals)
10. Other (please specify) \_\_\_\_\_

**MULTIPLE RESPONSE**

**F3. How does your contact centre currently measure its customer satisfaction or experience? Please select all that apply.**

1. By contact centre agent during the call
2. By IVR surveys following the call
3. Outbound call
4. Text message
5. Online survey (invites sent by email)
6. Other, please specify \_\_\_\_\_
7. Do not currently assess customer satisfaction/experience

**SINGLE RESPONSE**

**F4. And which one is your main method?**

1. By contact centre agent during the call
2. By IVR surveys following the call
3. Outbound call
4. Text message
5. Online survey (invites sent by email)
6. Other, please specify \_\_\_\_\_
7. Do not currently assess customer satisfaction/experience

**F5. What proportion of your contacts do you request feedback from? If unsure, please provide your best estimate.**

1. \_\_\_\_\_%
2. Don't know

**F6. What is the response rate to your customer satisfaction/experience surveys? If unsure, please provide your best estimate.**

1. \_\_\_\_\_%
2. Don't know

**COMPLAINTS HANDLING**

**G1. For the last financial year, approximately what percentage of your contact centre's customer interactions were complaints (inbound and outbound)? If unsure, please provide your best estimate.**

1. \_\_\_\_\_
2. Don't know

## PEOPLE

Over the next few questions, we would like to ask you about the staff involved in the daily running of your contact centre.

- H1. How many staff involved in the daily running of your contact centre belong to the following classifications? Please indicate the number of full-time and part-time/casual staff for each role. If unsure, please provide your best estimate.

| Role   | Number of full-time staff | Number of part-time/casual staff | Number of FTE staff |
|--|---------------------------|----------------------------------|---------------------|
| a) Contact Centre Manager  | Don't know                | Don't know                       | Don't know          |
| b) Team Leaders/Supervisors  | Don't know                | Don't know                       | Don't know          |
| c) Contact Centre Agents   | Don't know                | Don't know                       | Don't know          |
| d) Rostering/Forecasting/Scheduling/Workforce Analysts or Managers                 | Don't know                | Don't know                       | Don't know          |
| e) Quality Monitoring/Quality Assurance Analysts/Managers                          | Don't know                | Don't know                       | Don't know          |
| f) Trainers  | Don't know                | Don't know                       | Don't know          |
| g) Contact Centre dedicated IT support   | Don't know                | Don't know                       | Don't know          |
| h) Administrative support  | Don't know                | Don't know                       | Don't know          |
| i) Other (specify) e.g. Reporting Analyst, Knowledge Manager, Business Improvement | Don't know                | Don't know                       | Don't know          |

- H2. As a proportion of the total number of agents in your contact centre, what percentage of your agents are home-based agents? And what percentage of your agents do you expect to be home based agents in 12 months' time?

The term home-based agent refers to agents who work from home with real time telephone and computer access to information required to handle customer enquiries as part of a virtual contact centre team.

|                      | Current % of Home-based agents | % of home-based agents in 12 months' time |
|----------------------|--------------------------------|---|
| Percentage of agents | 1. _____%<br>2. Don't know     | 1. _____%<br>2. Don't now                 |

- H3. What is the average length of tenure (total months of employment) of staff in your contact centre?

For the purpose of this study, please calculate the average length of tenure as the average number of months that your employees have been employed by your organisation.

|                    | Tenure (in months) |
|--------------------|--------------------|
| Agents – full-time | Months Don't know  |

|                          |        |            |
|--------------------------|--------|------------|
| Agents – part-time       | Months | Don't know |
| Team Leaders/Supervisors | Months | Don't know |
| Contact Centre Managers  | Months | Don't know |

**H4. For the last financial year, what was your contact centre's average level of agent turnover?**

For the purpose of this study, please calculate average level of agent turnover as the number of staff who have left (agents who resigned, transferred to other parts of the business, agents who did not renew contracts, were dismissed, retired, and retrenched from the contact centre) divided by average number of staff in the last financial year.

|                          | Turnover (%) | Don't know |
|--------------------------|--------------|------------|
| Full time agent turnover | ____%        |            |
| Part time agent turnover | ____%        |            |

**H5. Of all the agents who left employment with your contact centre during the last financial year, what percentage...?**

1. Resigned \_\_\_\_\_%
  2. Transferred to other parts of the business \_\_\_\_\_%
  3. Did not renew contract \_\_\_\_\_%
  4. Were dismissed/retrenched \_\_\_\_\_%
  5. Retired \_\_\_\_\_%
  6. Other, please specify \_\_\_\_\_%
- Sum to 100%**

**SINGLE RESPONSE**

**H6. What was the primary reason why agents left your contact centre during the last financial year?**

1. Changed personal circumstances
2. Limited opportunities for promotion/ career development
3. Lack of remuneration
4. Dissatisfaction with Team Leaders/Supervisors
5. Lack of job variety
6. Lack of flexible work conditions
7. General job dissatisfaction
8. Do not intend to pursue a career in contact centres
9. Other, please specify \_\_\_\_\_
10. Don't Know

**H7. For the last financial year, what was the average number of days per annum a full-time agent was not present in your centre due to sick leave? If unsure, please provide your best estimate.**

|   |                  |
|---|------------------|
| Average number of days a full time employee for not present due to sick leave last year | 1. ____/365 days |
|   | 2. Don't know    |

#### TRAINING AND CAREER DEVELOPMENT

- I1. How many days training do new inductees receive prior to starting work in the contact centre?  
If unsure, please provide your best estimate.**
1. \_\_\_\_\_ days
  2. Not sure
- I2. For new inductees, after they have completed their induction training, what is the Average Speed to Competency (number of weeks it takes for new employees to become competent in terms of meeting set performance targets)? If unsure, please provide your best estimate.**
1. \_\_\_\_\_ weeks
  2. Not sure
- I3. How many days per year do your experienced agents (after completing induction) receive training (including on the job training, external/internal classroom training, e-learning, etc.)?  
If unsure, please provide your best estimate.**
1. \_\_\_\_\_ days per year
  2. Not sure
- I4. Of the total days of training per year for experienced agents, what proportion of training is offered through the following methods? If unsure, please provide your best estimate.**
- |   | Training offered (%) |
|---|----------------------|
| a) On the job training                  | _____ %              |
| b) External/internal classroom training | _____ %              |
| c) E-learning                           | _____ %              |
| d) Other, please specify _____          | _____ %              |
| e) Not sure                             | _____ %              |
| Total                                   | 100%                 |
- I5. What proportion of your new employees successfully pass their probationary period?  
If unsure, please provide your best estimate.**
1. \_\_\_\_\_ %
  2. Don't know

#### WAGES & INCENTIVES

- J1. On average, what is the annual base wage of your full-time contact centre staff (excluding on-costs and any allowances)?**

| Role  | AUD | Not sure |
|---|-----|----------|
| a) Contact Centre Manager                                 |     |          |
| b) Team Leaders/Supervisors                               |     |          |
| c) Full time Agents                                       |     |          |
| d) Rostering/Forecasting/Scheduling/Workforce Manager     |     |          |
| e) Quality Monitoring/Quality Assurance Analysts/Managers |     |          |
| f) Trainers   |     |          |
| g) Contact Centre dedicated IT support                    |     |          |
| h) Administrative support                                 |     |          |

- J2. On average, what do you pay your part-time/casual contact centre agents per hour (excluding on-costs and any allowances)?**

| Role  | AUD per hour | Not sure |
|---|--------------|----------|
| a) Contact Centre Manager                                 |              |          |
| b) Team Leaders/Supervisors                               |              |          |
| c) Full time Agents                                       |              |          |
| d) Rostering/Forecasting/Scheduling/Workforce Manager     |              |          |
| e) Quality Monitoring/Quality Assurance Analysts/Managers |              |          |
| f) Trainers   |              |          |
| g) Contact Centre dedicated IT support                    |              |          |
| h) Administrative support                                 |              |          |

- J3. What percentage is added to the agent's base salary for...**

|  | Percentage added | Unsure |
|--|------------------|--------|
| a) Overtime and shift allowances   | _____ %          |        |
| b) On-costs (includes provision for sick leave, payroll tax, superannuation or pension fund and insurance. Excludes premises costs which are typically rent, power, cleaning etc.) | _____ %          |        |
| c) Financial incentive payments  | _____ %          |        |

#### MULTIPLE RESPONSE

- J4. What other benefits are provided to agents as part of their employment?**

Please select all that apply.

- Health care benefits
- Staff discounts on products/services
- Child care benefits
- Wellness programmes
- Personal support and counselling
- Transportation benefits
- Other (specify) \_\_\_\_\_
- No other benefit

#### COST OF OPERATIONS

**K1. What is the total operating budget for your contact centre for the last financial year (including all HR, technology, telecommunications, rent and other costs associated with operating the contact centre)?**

If unsure, please provide your best estimate.

|                        |             |
|------------------------|-------------|
| Total operating budget | _____ (AUD) |
| Not sure               |             |

**K2. What is the approximate percentage breakdown of your budget (last financial year) for the following categories? If unsure, please provide your best estimate.**

|  |         |
|--|---------|
| Human Resources (incl. salary, benefits, recruitment/training costs)   | _____ % |
| Technology   | _____ % |
| Telecommunications   | _____ % |
| Real estate (incl. allocated budget under a lease or rental agreement, or for occupying physical contact centre space) | _____ % |
| Other (incl. electricity, stationery, other miscellaneous costs, etc.)   | _____ % |
| Not sure   |         |
| Total  | 100%    |

**K3. In the next financial year, will the total operating budget for your contact centre ...?**

- 1 Increase (by what percentage \_\_\_\_ %)
- 2 Remain the same
- 3 Decrease (by what percentage \_\_\_\_ %)
- 4 Not sure

#### REVENUE GENERATION

**L1. For the last financial year, what was the total revenue generated by your contact centre? Please provide an estimate if not sure of the exact figure.**

1. \$ \_\_\_\_\_ AUD
2. Not sure
3. Not applicable – no sales opportunities at this centre

- L2. For the last financial year, of the total revenue generated by your contact centre, what percentage was generated from inbound contacts and what percentage was generated from outbound contacts? If unsure, please provide your best estimate.**

|                   |             |
|-------------------|-------------|
| Inbound contacts  | ____%       |
| Outbound contacts | ____%       |
| Not sure          |             |
| <b>TOTAL</b>      | <b>100%</b> |
|                   |             |

#### TECHNOLOGY

- M1. For each of the technologies below, please select which ones you currently have in place in your contact centre and which ones are you going to purchase or upgrade this financial year?**

|  | Don't have a system and no plans to purchase | Don't have a system but planning to purchase | Have a system and planning to upgrade | Have a system but no plans to upgrade | Don't know |
|--|--|--|---------------------------------------|---------------------------------------|------------|
| Automatic Call Distributor (ACD)<br>(System that distributes and reports on incoming calls based on user configurable business rules)  |  |  |                                       |                                       |            |
| Interactive Voice Response (IVR)<br>(Uses a pre-recorded database of voice messages to present options to a user. User input is retrieved via touch-tone key presses)  |  |  |                                       |                                       |            |
| Virtual Hold/Automated Call Back<br>(A telephone system feature whereby the caller is provided with an option to request a call back whilst maintaining their place in the queue)  |  |  |                                       |                                       |            |
| Predictive Dialler<br>(Phone numbers in a database are automatically dialled. Once a connection is made with a person, the call is routed to an agent. Calls where there is no answer, busy, or answering machine picks up are detected and handled intelligently) |  |  |                                       |                                       |            |
| Email<br>(Email management system that routes emails to agents based on agent skills, and reports email statistics such as handle times, response  |  |  |                                       |                                       |            |

|  |  |  |  |  |  |
|--|--|--|--|--|--|
| times and first contact resolution rates)  |  |  |  |  |  |
| Customer Contact/Customer Relationship Management (CRM) tools<br><br>(Desktop application that manages customer data)                                      |  |  |  |  |  |
| E-Learning system<br><br>(Agent training that is fully or partially delivered online, commonly direct to the agent desktop)                                |  |  |  |  |  |
| Knowledge/Content Management System<br><br>(Systems that collect and manage organisational data, and make the data available to agents)                    |  |  |  |  |  |
| Call (voice-only) recording system<br><br>(Records the audio from telephone calls)   |  |  |  |  |  |
| Voice & data recording & quality monitoring tools<br><br>(Workstation screen action is captured alongside the recorded audio from telephone interactions)  |  |  |  |  |  |
| Workforce Management tools<br><br>(Application that forecasts, schedules and tracks agent activity)  |  |  |  |  |  |
| SMS<br><br>(Systems that enable a contact centre agent to send/receive SMS messages)   |  |  |  |  |  |
| Web chat<br><br>(Customers can chat live online with agents in real time, excludes online forums, MSN or other chat programs)                              |  |  |  |  |  |
| Customer Survey tools<br><br>(Includes IVR, email, and web-based systems that survey and analyse customer satisfaction after an interaction with an agent) |  |  |  |  |  |
| Speech recognition applications<br><br>(System that enables callers to interact directly using spoken words, without requiring an                          |  |  |  |  |  |

|  |  |  |  |  |  |
|--|--|--|--|--|--|
| agent or touch-tone input)   |  |  |  |  |  |
| Speech analytics<br>(Speech recognition technology is used to automatically capture, organise and analyse calls)   |  |  |  |  |  |
| Performance Management<br>(Business Intelligence systems that provide users with direct access to contact centre data via real-time scorecards, interactive charts and data drill-down tools)  |  |  |  |  |  |
| Biometric Identity Verification<br>(Technology that uses voice identification and verification techniques which compares the voice, of say a customer, with a voice print stored in a system, for the purpose of authenticating the person's identity)                   |  |  |  |  |  |
| Social media monitoring / channel technology<br>(Technology that monitors social networking websites such as Facebook, Twitter, etc. and supports customer interaction)  |  |  |  |  |  |
| Unified Communications (UC)<br>(Customer contact via multiple channels (inbound voice, outbound voice, email, fax, web chat etc.) is managed by a single system, using common business rules, and delivered to the agent through a single desktop. Does not require CTI) |  |  |  |  |  |
| Video-based contact centre<br>(Technology that allows the customer to interact via video conferencing with an agent)   |  |  |  |  |  |

**M2. How many different applications do customer facing staff members use to resolve customer enquiries?**

|                        |  |            |
|------------------------|--|------------|
| Number of applications |  | Don't know |
|------------------------|--|------------|

#### CONTACT CENTRE CHALLENGES

##### MULTIPLE RESPONSE, ALLOW FOR MAXIMUM 3 RESPONSES

**N1.** For the 2017-2018 financial year, what will be the 3 most significant challenges facing your contact centre?

|   |  |
|---|--|
| a) Difficulty in recruiting staff                                 |  |
| b) Staff turnover   |  |
| c) Inadequate headcount to effectively meet business requirements |  |
| d) Training/Agent development                                     |  |
| e) Organisational or contact centre restructuring                 |  |
| f) Introduction of new service channel(s)                         |  |
| g) Integrating multiple service channels                          |  |
| h) Improving customer satisfaction / experience                   |  |
| i) Improving First Contact Resolution                             |  |
| j) Maximising up-sell/cross-sell opportunities                    |  |
| k) Budgetary constraints/Expectation to do more with less         |  |
| l) Reducing costs   |  |
| m) Improving productivity/efficiency                              |  |
| n) Other (specify)  |  |
| o) None   |  |

#### STRATEGY AND FUTURE TRENDS

##### MULTIPLE RESPONSE

**O1.** What are the main strategic objectives for your contact centre in the 2017-2018 financial year?

##### SINGLE RESPONSE

**O2.** And what is your main objective?

|  | O1. Objectives | O2.<br>Main objective |
|--|----------------|-----------------------|
| a) Cost reduction                            |                |                       |
| b) Customer acquisition                      |                |                       |
| c) Improve customer service / experience     |                |                       |
| d) Technology upgrade / implementation       |                |                       |
| e) Develop customer self-service channels    |                |                       |
| f) Increase revenue generation               |                |                       |
| g) Increase productivity                     |                |                       |
| h) Optimising agent performance              |                |                       |
| i) Improving agent engagement                |                |                       |
| j) Outsourcing                               |                |                       |
| k) Developing a multi-channel contact centre |                |                       |
| l) Developing/implementing a new channel     |                |                       |
| m) Other (specify _____)                     |                |                       |

## About Fifth Quadrant

Established in 1998, Fifth Quadrant is a Customer Experience Consulting, Research & Design organisation. We provide strategic and operational customer experience management consulting, research and design services.

We have one of the largest bodies of customer experience related research in Australia that allows us to provide rich, evidence based recommendations and an unrivalled level of knowledge and subject matter expertise.



Some of our **clients** include:



# CONFIDENTIAL REPORT

## City of Perth

### Performance Analysis, Assessment and Review – HR

December 2018



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### Acronyms used

|      |  |
|------|--|
| BP   | Business Partner                         |
| BU   | Business Unit                            |
| CCC  | Corruption & Crime Commission            |
| CEO  | Chief Executive Officer                  |
| COP  | City of Perth                            |
| EBA  | Enterprise Bargaining Agreement          |
| EEO  | Equal Employment Opportunity             |
| ELG  | Executive Leadership Group               |
| EMS  | Employee Management System               |
| ER   | Employee Relations                       |
| HR   | HR                                       |
| HRIS | HR Information System                    |
| HRM  | HR Manager                               |
| IPRF | Integrated Planning Reporting Framework  |
| IT   | Information Technology                   |
| KPI  | Key Performance Indicator                |
| L&D  | Learning & Development                   |
| MLG  | Management Leadership Group              |
| NPS  | Net Promoter Score                       |
| OCCA | Organisational and Compliance Assessment |
| OD   | Organisational Development               |
| OSH  | Occupational Safety & Health             |
| PS   | Performance Shaping                      |

### Survey rating scale

Survey respondents were asked to rate questions 1-76 in terms of: a) how important they are to the employee; and b) their perception of the current level of performance. Rating scales were from 1 to 5:

#### Level of importance:

1. No Importance
2. Somewhat Important
3. Average Importance
4. Important
5. Very Important

#### Level of performance:

1. Poor
2. Below Average
3. Average
4. Above Average
5. Very High

## Executive summary

## Executive summary

- Tower Human Capital (Tower) was appointed to conduct a Performance Analysis, Assessment and Review of the HR function on 17 September 2018
- The Review was conducted utilising a mix of processes and methodologies including staff interviews, employee survey and desktop review. A blended approach has contributed to achieving a wide cross-section of staff feedback. 43% of the City's staff participated in the staff survey. Of the 9 areas covered in the survey, the average score for level of importance was High and the average score for level of performance was Average. 54 interviews were conducted including Directors, Managers, first reports to Managers and terminated employees
- HR is not broken. The function has had 3 HRMs over the last 3 years. The HR team is in a state of flux; it is reactionary and is still trying to consolidate as a team, as well as bed down their own Operating Model in a performance- and resource-stretched environment
- Key strategies around cultural change require the total engagement and the leadership of the CEO and the Executive. HR have been playing a key role to support individual initiatives but do not have the power to drive the direction
- The current organisational positioning of HR reporting to the Director Corporate Services does not recognise or allow the function the level of influence required to drive major strategies or change

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## Executive summary & key findings

### A review of the capacity and effectiveness of systems and procedures in dealing with grievances and complaints

#### Finding

COP has comprehensive procedures in place for the management of grievances, with further support for Managers being provided by HR BPs and the ER team. 4 of the 5 matters ranked as highest importance by staff were related to grievances, despite COP being viewed as performing averagely in all 4. Ongoing education programs with Managers, Coordinators, Team Leaders and HR staff are currently taking place to increase knowledge and capability surrounding the grievance processes. Further investigation would need to be undertaken to fully understand and verify employees' specific concerns and dissatisfaction with the processes currently in place.

### The ELG's response to concerns raised within the recent Catalyse Survey

#### Finding

- The ELG is not driving response activity as an Executive team. The ELG response has been largely individually generated in own Directorates
- The HR team have been the key drivers for action from the Survey

### An employee assessment of the HR and OD performance of the City

#### Finding

In most of the elements of HR and OD activity, on average, the function is performing to an Average level of performance. The ER and L&D areas are performing above average in interview feedback but Average in survey feedback.

### The effectiveness of the City's health and safety functions and appurtenant wellness programs and support services

#### Finding

OSH performance is above average and staff feedback in interviews and survey response is, in most instances, positive. The function is creative in its approach and has robust policies and processes. Activity, reporting and results are highly transparent. There is trust and confidence in the support provided by the function.

Wellness and mental health programs and initiatives have been prioritised and have been well received. Employees also see these areas as a priority and are calling for continued and increased focus on the programs, as well as action to stop leadership practices and behaviour that negatively impact wellness and mental health.

## Executive summary & key findings

### The effectiveness of performance management, annual performance appraisal and professional development and training across the organisation

#### Finding

Performance management, including PS (appraisal), has satisfactory procedures and guidance around process, and is performing to an average standard. The continuation of improvement around the framework and expectations will serve to improve the process experience for users. PS integration with COP values, capabilities and competencies will assist in the alignment of focus and performance of staff.

Training and L&D was rated as a strength in the survey's free response section. L&D has accountability for many activities classified as organisational development. Robust plans and processes are in place. The L&D function is acknowledged as performing well and is maturing in career and succession management. The function has a high interface with staff and BUs and is respected.

### Assessment of the NPS analysis undertaken within the Catalyse Survey

#### Finding

There is no evidence that the City conducted any specific further analysis of the NPS following the Survey, although actions initiated as part of wider activities around values and employee engagement may also be expected to impact this score if successful. This Review's NPS outcome from the survey conducted is not a mirror replica of the Catalyse Survey, however comparatively the outcome represents a deterioration in NPS performance.

### HR's overall performance

#### Finding

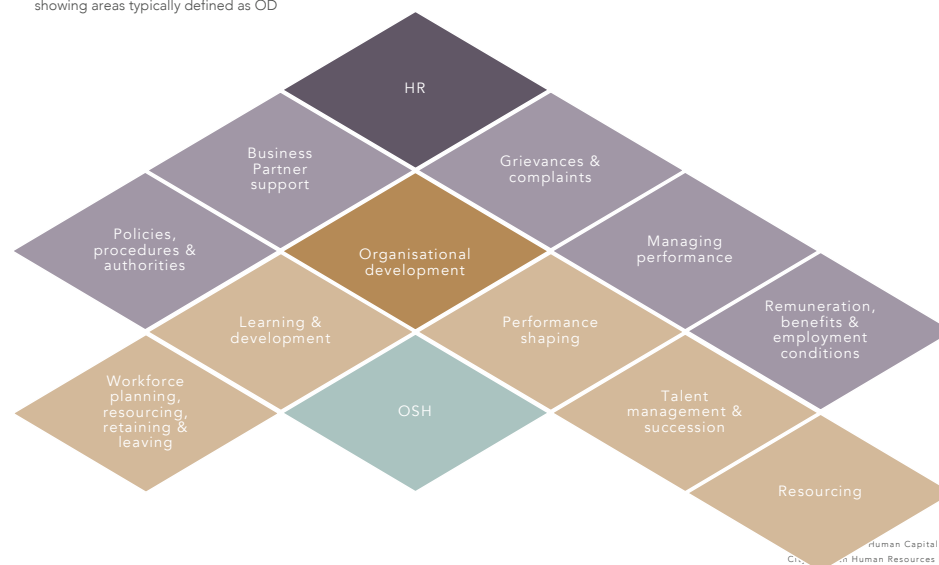
HR is not broken; it is seen to be performing at an Average level in difficult circumstances. However, a more strategic, planned and disciplined approach to its own planning and execution is required as is greater interface and transparency.

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## Assessment of the HR and OD performance of the City – elements of the Review

- OD can be defined differently between organisations
- OD is typically a sub-function of HR
- For the purpose of this Review, the following diagram may assist in showing areas typically defined as OD

• Note: OSH does not report to HR and reports to the Corporate Services Director



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## Actions for consideration

### HR function & team

- Consider structural change with HR reporting directly to the CEO
- Regular structured reporting to the ELG
- Assessment of establishment requirements in a go-forward environment
- Actions to consolidate as a team, develop collaboration and understand effective interfaces
- A modified version of the HR Report for release on the intranet, also covering HR projects and progress on key activities

### The role & purpose of HR in COP

HR is seen as an important function and staff want HR engagement. There is an opportunity to:

- Share and communicate a version of the HR and L&D Plans, reporting and other appropriate strategies – via intranet / employee communication sessions
- Clearly define the roles and responsibilities of HR and their key stakeholders: BU Managers, Directors, CEO and others as required
- Prioritise and resource key projects that will positively impact on performance: HRIS and policy review

### HR strengths & issues

HR is not broken. HR has a number of positive strengths which provide a good basis for continuing improvement and performance. However there are several issues; many are around poor policies & processes, issues of trust and fairness, and lack of communications, visibility and exposure.

- Prioritise the Policy & Procedure project and plan communications and education
- Potential for employee catch-up and focus sessions to drive engagement and understanding of role

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## Actions for consideration

### Policies, procedures & authorities

- Prioritise the Policy & Procedure project
- Allocation of resources to a tightly defined project timeline to assess and complete core policies
- Review the governance around who has authority to change and make amendments and processes for change i.e. Council versus an Administration policy

### Workforce planning, resourcing, retaining & leaving

- Reinforce processes for conflicts of interest and disclosure of pre-existing relationships in the recruitment processes
- Review potential to investigate issues of suspected nepotism/conflicts of interest in recruitment
- Develop clear scope around the City's establishment reporting requirements to support HRIS implementation
- Development of retention strategies and identification of high-risk/high-impact roles
- Review processes for selection of preferred recruitment providers

### Remuneration, benefits & employment conditions

Seen as competitive.

- Strategies to leverage and better communicate the current benefit structure
- Review the equality of benefits for "outside" staff
- Review the practice of fixed-term employment to ensure fair application
- Assess the current salary increment practice and viability to align to performance

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## Actions for consideration

### Grievances & complaints

Effective policies & procedures are in place but there is a need to reinforce the integrity of processes and outcomes to improve staff confidence.

- Continue/refresh communications and education to ensure understanding and to manage expectations
- Review confidentiality and procedures around the Register
- Consider external complaint processes – 3<sup>rd</sup> party other than CCC
- Conduct an audit of selected matters over the last 12 months
- EEO and bullying related documentation is reviewed as a matter of priority
- Report bullying and discrimination matters separately and not bundled under Workplace Issues

### L&D

- Develop a Change Management approach for COP to support cultural initiatives and their implementation and measurement including any upcoming survey
- Complete the Talent Management & Succession Strategy and develop implementation strategies
- L&D is known for the programs it provides but other roles and contributions are less understood. There is a need to establish linkages:
  - Educate and communicate alignment of activities – training link to COP capability requirements and competencies
  - Improve process & communications around the annual Training Plan

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## Actions for consideration

### Performance management & shaping

PS processes are maturing and are integrated with values and competencies. There is preparedness to simplify processes and customise to the needs of different workforce levels and this will improve outcomes.

Processes for the management of employee performance issues are in place but there are concerns about integrity of process and equality of treatment.

- Continue/refresh communications & education to ensure understanding & manage expectations
- Further staff education to raise confidence in conducting will support improvement
- Consider a selective audit of performance management matters that have become a grievance or complaint
- Continue to re-shape PS processes to support improved utilisation in BUs

### OSH & employee wellness

OSH was the highest ranked area in the survey. It is respected and trusted and receives strong support from the ELG.

Robust policies and plans are in place, supported by accessible policies and procedures, an action orientation, performance monitoring and reporting. The function has high visibility and is highly transparent in the way it shares plans and performance.

- Maintain proactivity and level of engagement
- Potential partnering with L&D to integrate matters around mental health and well being being integrated in to wider general programs and inductions
- Strategies to address practices and behaviours that generate employee issues should be initiated and managed as a matter of priority

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## High performance organisation assessment – summary findings & key high level next steps

### Processes and systems

The HR function has immature systems and processes. Issues are more pronounced due to the variable standard and accuracy of foundation policies and procedures.

A lack of standard internal HR processes leads to variable and inconsistent outcomes.

- Strong executional disciplines are required

Expectations for the new HRIS are high amongst HR as well as Managers.

- The effective implementation is dependent on robust and accurate policy and process definition, and requires stronger accountability of the function to complete

### Strategic objectives

HR have a Plan but not an integrated functional Strategy. An L&D Strategy is in place and a Talent Management & Succession Strategy is being finalised.

There is not a consistent view of the role of HR or priorities across Managers, staff or the HR team.

- Clarity of role and service level expectations is required

There is low awareness and transparency of HR strategies and plans across COP. HR strategies are not necessarily owned by the ELG.

- Verification and endorsement of strategic direction and plans
- Establish joint leadership ownership

### Resources

Resources are currently strained; a combination of a high level of activity, turnover of HR team members, developing capability, and poor HR process and procedural frameworks contribute to this.

- Clarify roles, responsibilities and service expectations for BPs
- Review interfaces across the HR team and sub-functions



### Organisation structure

There are a number of wider organisational issues around structure arising from the restructure 3 years ago. Failure to deal with general structural enablers, leadership, accountability and behaviour issues arising from these is impacting the organisation's performance as well as having a fundamental impact on culture. Many also see resolving structural issues as an HR accountability.

- Operating Model review is required

HR structure is based on principles of Business Partnership and Centers of Excellence and is a contemporary model.

The BP model is supported by Managers.

- Further maturity of processes and resources should strengthen the ability of HR to deliver successfully but will require a planned and structured approach

### Culture

Successive surveys repeat a common set of messages. The majority of the negative contributors to culture are generated by perceptions of poor or inadequate leadership and behaviours, concerns about fairness and mistrust around some key employee processes.

The values and work around the launch was generally recognised and valued.

- Real ownership is required by the ELG
- Reinvigorate culture reboot strategies and stay on the path
- Set a date for the Catalyse Survey before the end of 2018
- Focus internally, ahead of external benchmarking
- The HR team requires consolidation, effective tools and confidence to grow as a strong & effective team

### Learning

The L&D sub-function has a strong approach to measuring performance outcomes, benchmarking and improvement.

- Key skill and knowledge requirements of the HR and COP are being challenged by turnover and requires strategies to identify key areas/roles of high risk and impact
- Managing change effectively and embedding it quickly can be supported by a standard and disciplined approach to change management across COP
- Succession planning will be important to managing key dependency on individuals as well as unplanned turnover, risk of knowledge/skill loss and opportunities for career development

## Background & scope

## Background & purpose

In May 2018, the COP Council resolved that the City would seek proposals from suitably qualified consultants to undertake a Review of the City's corporate performance in the area of HR and OD. Tower was selected to undertake the Review in September 2018.

A key purpose of the Review is to provide the Commissioners with an accurate, fair and objective understanding of the City's overall HR and OD performance and capability.

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## Scope of the Review

The Review required inclusion of:

- a. A review of the capacity and effectiveness of systems and procedures in dealing with grievances and complaints
- b. A review of the ELG's response to concerns raised within the recent "Catalyse" Survey
- c. An employee assessment of the HR and OD performance of the City by way of confidential survey, personal meetings and other appropriate means
- d. A review of the effectiveness of the City's health and safety functions and appurtenant wellness programs and support services
- e. A review of the effectiveness of performance management, annual performance appraisal and professional development and training across the organisation
- f. A follow up assessment of the NPS analysis undertaken within the Catalyse Survey
- g. Analysis, review and comment that can provide the Commissioners with an accurate, fair and objective understanding of the City's overall HR and OD performance and capability

In conducting interviews and a survey with staff other areas of feedback were received and have been included in this report.

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## Key phases of the Review

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### Key phases of the Review, methodology & interviews

1  
Planning, preparation  
& interviews with  
Commissioners &  
desktop review

2  
Survey

3  
Interview

4  
Collate & report

COP specified a mix of processes and methodologies: staff interviews and survey and desktop review. A blended approach has contributed to achieving a wider cross section of staff feedback.

Interviews and the employee survey were conducted concurrently

#### Interviews

A key objective of the Review was to enable the participation of a wide cross-section of COP staff in 1:1 confidential meetings with a Tower representative. The purpose of discussions was to gain perspectives and opinions of staff as to current HR support arrangements, issues and potential needs going forward. As such, discussions were at a relatively high level. It was not the intention of the Review to conduct a detailed audit of the HR function.

A COP interview format was developed for the Review to provide consistency in the questions asked and was tailored to reflect the different employee demographics and levels. *Attachment 1 – Interview template.*

Categories of interview questions were:

- HR in COP
- Capability
- Grievance & complaint processes
- Performance management
- Development & training
- Culture & communications
- Health, safety & wellness
- All out

Executive and Manager interviews were conducted face-to-face at COP. Other staff had an opportunity to also meet at Tower's premises in St Georges Terrace or via telephone or Skype.

3 Directors and all Managers participated in the interview process. All other staff including HR staff were invited to participate through employee communications issued by the COP on 18 October and by emails to all staff from Tower on 19 October.

Interviews were conducted with 54 staff in accordance with the requirements as specified in the request to quote.

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## Interviews

COP required a cross section of staff to be provided with an opportunity to participate in the interviews. Below is a summary of interview participation:

| Organisational level      | # of interviews |
|---------------------------|-----------------|
| CEO                       | -               |
| Director                  | 3               |
| Manager                   | 31              |
| First report to a Manager | 7               |
| Other                     | -               |
| HR & OSH                  | 9               |
| Terminated staff          | 4               |
| <b>TOTAL</b>              | <b>54</b>       |

Participants were asked to give their perspectives in an open and honest way. A commitment was made that all feedback would be confidential and that at no stage would any comments be attributed to an individual. The majority of interview participants had over 12 months' service with COP.

**Note:** Although communications emphasised confidentiality and provided processes for discrete arrangements of interviews in Tower premises, we believe that the low incidence of interviews from general staff was impacted by a lack of trust of anonymity.

### In summary

- There was a high degree of cooperation and openness in the interview process
- Very few people appeared to enter the interview with an "agenda in mind"
- Overall there is support and some degree of defensiveness towards the performance of HR
- There are strong views that leadership is lacking across the City. Leadership is described by most as the performance of the ELG
- There are some clear differences in the responses to similar questions across the interviews and the survey

A summary of interview responses is provided in Attachment 2.

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## Staff survey

Tower designed and administered an online survey which was sent to all staff via their COP email addresses. In addition, Tower developed a paper based format following a request by COP to facilitate responses from staff who have limited access to computers\*.

The survey was wider in scope than the interview process and requested responses from staff in a number of categories of HR and OSH activity. The table below outlines these categories and summarises the overall ratings and rankings for each area:

| Survey section (ranked by level of performance)     | Average rating of level of importance | Ranking | Average rating of level of performance | Ranking |
|---|---------------------------------------|---------|--|---------|
| OSH & wellness                                      | 4.53                                  | 3       | 3.36                                   | 1       |
| PS processes  | 4.36                                  | 8       | 3.22                                   | 2       |
| L&D   | 4.28                                  | 9       | 3.1                                    | 3       |
| EEO, harassment & bullying                          | 4.5                                   | 4       | 3.02                                   | 4       |
| Employment processes including internal recruitment | 4.5                                   | 5       | 2.93                                   | 5       |
| Grievance & complaint management                    | 4.59                                  | 1       | 2.93                                   | 6       |
| HR policies & procedures & employment conditions    | 4.39                                  | 7       | 2.91                                   | 7       |
| HR general  | 4.56                                  | 2       | 2.89                                   | 8       |
| Culture   | 4.45                                  | 6       | 2.56                                   | 9       |

\* Of the 25 paper surveys that were returned, 7 were missing every second page due to a photocopying error by COP.

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## Staff survey

In addition, staff were given an opportunity to provide responses to a number of “free response” questions. Key question areas were around OSH & Wellness, HR and a general questions section.

All staff were invited to participate in the survey. 343 (43%) staff responded. Importantly, only 14 Managers and Directors participated, making up 4.1% of survey participants. This contributed to a different blend of responses to similar questions asked of Managers in their interviews.

As with interview responses, the survey outcomes have been drawn upon to develop the report.

Despite the fact that COP and Tower communicated heavily that the survey was confidential and anonymous there remained a high level of suspicion that this was not the case.

*It should be noted that the report draws from the content of the discussions with selected staff to provide data and allow conclusions and recommendations to be made for the purpose of developing the report. It is not possible for Tower to vouch for the validity and accuracy of participant comments and feedback.*

| Directorate                                   | Total staff | BU                                     | BU staff |
|---|-------------|--|----------|
| <b>Office of the CEO</b>                      | <b>37</b>   | Corporate communications               | 12       |
| % of Directorate to participate in the survey | 81% (30)    | Executive support                      | 4        |
|   |             | Governance                             | 16       |
|   |             | Office of the CEO                      | 5        |
|   |             | Commercial parking                     | 66       |
| <b>Community &amp; commercial</b>             | 36% (116)   | Community & amenity                    | 41       |
|   |             | Community & commercial services office | 6        |
|   |             | Community services                     | 61       |
|   |             | Customer service                       | 14       |
|   |             | Health & activity approvals            | 27       |
|   |             | Library                                | 44       |
| <b>Construction &amp; maintenance</b>         | 33% (58)    | Parking services                       | 61       |
|   |             | Construction                           | 6        |
|   |             | Construction & maintenance office      | 8        |
|   |             | Parks                                  | 55       |
|   |             | Plant & equipment                      | 13       |
|   |             | Properties                             | 11       |
| <b>Corporate services</b>                     | 49% (55)    | Street presentation & maintenance      | 37       |
|   |             | Waste & cleansing                      | 48       |
|   |             | Asset management                       | 6        |
|   |             | Corporate services office              | 2        |
|   |             | Data & information                     | 32       |
|   |             | Finance                                | 28       |
| <b>Economic development &amp; activation</b>  | 49% (33)    | HR                                     | 17       |
|   |             | Information technology                 | 27       |
|   |             | Arts, culture & heritage               | 18       |
|   |             | Business support & sponsorship         | 6        |
|   |             | Economic development                   | 13       |
|   |             | Marketing & activation                 | 25       |
| <b>Planning &amp; development</b>             | 58% (46)    | City planning                          | 11       |
|   |             | Co-ordination & design                 | 23       |
|   |             | Development approvals                  | 25       |
|   |             | Planning & development office          | 4        |
|   |             | Sustainability                         | 7        |
|   |             | Transport                              | 9        |
|   | <b>793</b>  |  |          |

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## Staff survey insights

- The Community & Commercial Services Directorate and Office of the CEO tended to rate both importance and performance higher than other Directorates
- The Planning & Development Directorate tended to rate both importance and performance lower than other Directorates
- Newer employees (0-2 years' tenure) consistently gave higher ratings, whilst employees with 3-10 years' tenure tended to give the lowest scores

### Most important areas

- All but 1 of the highest importance scores were around Grievance & Complaint Management
- Highest importance ranking was Very Important (4.81) – Q40. “Everyone being treated the same no matter who they are”
- All areas were rated Average for performance
- The Office of the CEO rated importance higher than other Directorate for these 5 areas

### Highest performing areas

- The majority of top performing areas are within OSH & Wellness (4 of 5 top ranking responses related to the function)
- Highest level of performance ranking was Above Average (3.61) – Q27. “Having a copy of my PS document”

### Lowest performing areas

- Bottom performing areas were largely within Culture (4 of 5 bottom ranking)
- Lowest score for performance was Below Average (2.23) – Q57. “COP managing change well”
- NPS (“Q60. My recommending COP as a good place to work to a friend, colleague or family member”) was the 3<sup>rd</sup> lowest performance ranking
- Community & Commercial Services Directorate consistently rated performance higher than other Directorates, elevating the average score. The average discrepancy between the highest and lowest score between Directorates was 0.82

- The Survey Report is provided in Attachment 3
- Free response question summary and detailed feedback is provided in Attachment 4

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## The HR function

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### The HR function & team

What staff said ...

Detracting

Promoting

They're at  
pressure point

Great  
experiences  
with the team

Need  
Leadership  
support but can  
get "blamed"

Turnover is a  
problem

Don't feel they  
have the  
support of the  
Execs or  
Commissioners

Don't trust  
them

Bend over  
backwards to  
support me  
Helpful & try  
hard

ER and L&D teams  
are focused,  
professional and  
customer driven.  
They are the  
saving grace for  
the department

I trust my  
advisor, I have  
the relationship

Not helpful,  
pass issues on  
to others

Approachable,  
but come from  
a Management  
support  
perspective

Team can  
better support  
each other

HR too  
frightened to  
speak up

Action oriented  
and provide a  
good service

Advice is hit  
and miss  
depending on  
advisor

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## The HR function & team

### Managers see HR as trying hard to deliver under adverse conditions

- The HR team has faced 3 changes in Leadership over the last 4 years as well as significant internal turnover
- New team members, many of whom are entering from outside of the sector, have been challenged by pressured and busy environments, coupled with a need to onboard and come up to speed quickly with the sector, practices and processes of COP
- BUs and team's experience of the BP influence their wider perceptions of HR
- Although there were some issues identified in the Manager level interviews, there is strong support for the efforts of the HR team and empathy for their current position which is perceived to be "stretched" and not always supported by Leaders.
- The negative legacy of the restructure still impacts the perception of HR in the minds of many
- Confidence in and perceptions of the competence of the team are impacted by HR's ability to respond to matters quickly, along with the quality and consistency of advice
- The HR team has been in a state of flux; it is reactionary and is still trying to consolidate as a team, as well as bed down their own Operating Model in a performance- and resource-stretched environment

### HR Business Plan

HR develops an annual Plan in accordance with the IPRF. See Strategic objectives.

### HR reporting

Monthly Reports are produced by the department as confidential documents and are not distributed beyond the ELG. Reports cover:

1. Workforce planning: active recruitment by Directorate, new starters, turnover (including reasons) and exit survey feedback
2. Leave liability: excess annual leave, flexi accruals, time in lieu, self funded leave and absenteeism
3. Equity and diversity: gender, age and diverse work groups
4. L&D: study assistance, attendance at corporate learning events, e-learning completions and L&D projects
5. ER: grievances, disciplinary activity and employee issues
6. Workers compensation

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## The HR function & team

### Overall, HR is seen as doing an average job

#### Interview messages

##### Upside

- Support recruitment well
- Approachable & willing to help, supportive
- Seen as having different strengths & experiences
- Knowledge on day-to-day activity good
- Committed
- New team members bring new approaches and perspectives
- For some Managers trust was in place for others trust is still developing as relationships with the BP and Advisor are built

##### Downside

- Turnover is high
- The team are not as strong on the strategic elements of HR
- Lack of accessibility when needed
- They are directive because they are uncertain of policy application
- There is disunity in the team and some internal issues
- Lack of internal COP experience in the team and gap in knowledge transfer
- Perceived as having a lack of set processes for operational tasks
- Uncertainty about maintaining confidentiality and treating people impartially
- Varying experience and capability levels in the team but building
- Requirement of HR training on HR processes and practices
- Frustration when BPs have to defer to others for answers

##### Implications:

- Experience of the Advisor and wider perceptions influence responses
- Staff want a level of engagement with HR but many are not experiencing the level they would like
- Varied experience levels and workload are impacting effectiveness of support
- HR needs to work to influence the wider perceptions with employees

#### Survey messages

##### Upside

- It is important for employees to be able to get support from HR when they need it; 90% said it was Important/Very Important – Q50
- Employees want to be able to go to HR to raise issues or ask for assistance; 95% said it was Important/Very Important – Q49
- Designated HR representatives for each Directorate are very helpful & positive
- Specific HR Advisors are commended for being very helpful to their units
- Resilient amongst so much uncertainty
- Manage a very heavy workload
- Kind

##### Downside

- Performance of the HR team and function was rated Average (2.8) – Q48 & 49 – with nearly 40% of staff seeing HR performing Poor or Below Average
- 38% believe that the function's performance is Below Average/Poor – Q51
- In response to "Q85. How does HR provide support to you", 16.4% of employees in the free response said HR provides no support
- Discrepancy in advice amongst Advisors, can be hit and miss
- Under resourced and need more people
- There is a lack of respect for what they do
- Diminished trust in HR
- Some people don't know who their unit or Directorate HR representative is

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## The HR function & team

*HR has been carrying a lot of the baggage of the past restructure*

### Challenges

- HR is caught between a highly operational support environment and a need to focus and deliver a more strategic agenda
- HR does not have a voice at the ELG meetings and does not report regularly on HR agenda matters or projects at this level. Reporting to the ELG is done through the Director of Corporate Services
- HR turnover is disruptive for BUs but also for HR's ability to build a solid and aligned team
- Differing levels of capability and knowledge of COP practices
- Resources are stretched
- Perceived as complying to Directors' wishes to avoid the consequences of not doing so
- Whether staff would go to HR with an issue is variable
- Lack of trust impacts whether people will take an issue to HR
- Perceived impartiality of HR
- Bridging the gap to meet employee expectations of "supporting them"

### Opportunities

- The new CEO has an ability to "reset" HR, its mandate and priorities, as well as emphasising support for the function
- Confidence in the team is improving
- Confirm roles, interfaces and accountabilities between BPs and ER
- Accelerate internal HR team onboarding into COP
- Build a solid HR team, not just in the sub-functions
- To be more transparent, share & communicate more of the HR agenda, progress, achievement & reporting – learning from OSH

### Recommendations:

- Consider structural change with HR reporting directly to the CEO
- Regular structured reporting to the ELG
- Assessment of establishment requirements in a go-forward environment
- Actions to consolidate as a team, develop collaboration and understand effective interfaces
- A modified version of the HR Report for release on the intranet

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## The role, purpose & performance of HR

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## The role & purpose of HR in COP

What staff said ...



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## The role & purpose of HR in COP

The purpose of HR is to provide "strategic and operational support to the COP by assisting teams in making informed and robust decisions in the management and development of its organisational capabilities" (HR Plan 18/19)

The current HR Plan (developed by a Alison Egan as the new HRM just after her appointment) outlines the key focus for 2018/2019 as:

- Delivery of the HR Service Model to the whole business
- Training Matrix and delivery of comprehensive training programs
- Implementation and promotion of the Reward and Recognition Program
- Overhaul of the onboarding procedure including candidate profiling, induction processes and management of probationary periods
- Cultural reboot: embedding the new company values into all aspects of HR and wider business function
- Addressing the 3 key issues raised from the employee survey:
  - Elected Members' behaviour (being in line with the Code of Conduct)
  - ELG providing inspirational leadership
  - Strong team spirit across the COP

A copy of the HR Plan is included in Attachment 5 – Audit of Plan status, and provides further details of anticipated service development and change across the planned timeline.

Very few Managers were aware that there was an HR Plan although some

acknowledged that the HRM did provide regular updates on activity in the MLG and Directorate meetings, and that BPs also provided updates in some instances. No Manager had seen the HR Plan.

- The following operational services and strategies are listed in the plan:

| Operational services                     | Integrated strategies and plans  |
|--|--|
| Recruitment                              | Organisational culture – development & cultural change                 |
| Employee lifecycle management            | Leadership model & leadership development                              |
| Performance management & development     | Mentoring program  |
| L&D                                      | Talent management & succession planning                                |
| ER                                       | Reward & recognition program   |
| Remuneration & benefits                  | Onboarding procedure   |
| Reward & recognition                     | Workforce planning   |
| HRIS                                     | Organisational design – capability assessment & structural development |
| HR services                              | Organisational culture – development & cultural change                 |
| Injury management (return to work)       |  |
| Diversity & equal employment opportunity |  |
| Recruitment                              |  |

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## The role & purpose of HR in COP

### The role of the BP in practice

The role of BPs is largely operationally focused.

The BP model was described consistently by BUs and HR as providing advice, guidance, coaching and supporting Line Management on people related matters including: recruitment, performance & grievance management, and interpretation and application of policies & procedures – “Supporting Line Management to make good people decisions”.

It is a maturing model and to be effective requires BPs to be capable from a technical perspective as well as having a high level of knowledge of policies, procedures, EBA arrangements and “the way things are done in COP”.

- The current BP model was highly supported by Line Management and HR
- There is variable BU/Directorate accountability. BUs exercise varying degrees of accountability and decision making for people and people related matters in their units. HR decision making in many areas had been pulled up to Director level for even very routine-based activity including higher duties, and authority to recruit below first reports to Managers
- HR BPs are considered part of the wider Directorate teams and participate in monthly Directorate meetings and weekly unit meetings. Structured one-to-one meetings are held in most Directorates on a fortnightly basis
- HR guides decision making rather than making the decisions

- HR assists Managers to act rather than HR “doing it all”
- Implementation and delivery was largely seen as a Management responsibility

### Future growth potential:

Areas such as those below were not identified often and provide growth opportunities for Business Partnership:

- Organisation design
  - Determining more effective organisation design and structure
- Change Management
  - Planning, impact assessment
  - Assisting line to manage and lead people through change
- Talent management
- Engagement
- Culture
- Communications
  - Developing proactive, transparent processes
  - Circumventing miscommunication

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## The role & purpose of HR in COP

### Staff want more from HR than transactional services

#### Interview messages

##### Upside

- Day-to-day support and issue management
- Support Managers in decision making
- Provide clear and consistent advice
- Managing policy, procedures
- Advising on ‘how the City works’
- The keepers of culture
- L&D
- Onboarding
- Developing capacity, capability and succession planning
- Recruitment
- Having the right people to implement the strategy and support the Managers

##### Downside

- There are different views about what HR means
- HR’s role is not well understood
- Role has changed and that causes confusion
- No awareness of the HR Plan or Agenda

#### Survey messages

- Be a confidential, trustworthy and unbiased tool for staff
- Attracting and retaining talent
- Nurturing employee engagement
- Company culture
- Increasing productivity
- Encouraging teamwork and collaboration
- Being an advocate for employees – at all levels
- Ensuring processes and procedures are delivered with clarity throughout the organisation
- Providing support
- Overstretched because of the high turnover and therefore most of their time is spent in recruitment, forgoing other roles
- Not everyone understands what their role is, and where it ends

#### Implications:

- There is wide variability in how the role of HR is perceived
- There is a need to clarify the role of HR more broadly: what it is accountable for and how it meets those accountabilities
- HR is generally described as transactional
- Many survey respondents want HR to provide more support and be more connected to them

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## The role & purpose of HR in COP

*Having a clear understanding of what the role of HR is and what its key objectives are is important for managing expectations*

### Challenges

- Very low awareness of the HR Plan or agenda
- Heavy transactional and administrative load
- Operational priorities take up all of available time
- Core foundation activities are not getting completed e.g. policy project
- More strategic matters get pushed to the back of the queue
- Manual and paper-based systems
- Ongoing delays in the HRIS project
- Lack of system integration e.g. with payroll
- Consistency of advice
- Getting some Managers to take a higher level of ownership of activities and decision making
- HR's level of influence
- HR's level of engagement with the organisation
- Still some legacy of the restructure – association with exit of large numbers of people
- Perception that HR is aligned with Management

### Opportunities

- Confirming and communicating with COP Leaders regarding what the BP structure is accountable for and how it will deliver
- Consolidating and building HR as one team
- To be more transparent in sharing their plans, progress & outcomes
- HRIS implementation to reduce administrative burden
- Less reactive, more planned approach
- To be more strategic approach
- To have more of an OD focus
- Support of Leadership

### Recommendations:

- Share and communicate a version of the HR and L&D Plans, reporting and other appropriate strategies – via intranet / employee communication sessions
- Clearly define the roles and responsibilities of HR and their key stakeholders: BU Managers, Directors, CEO and others as required
- Prioritise and resource key projects that will positively impact on performance: HRIS and policy review

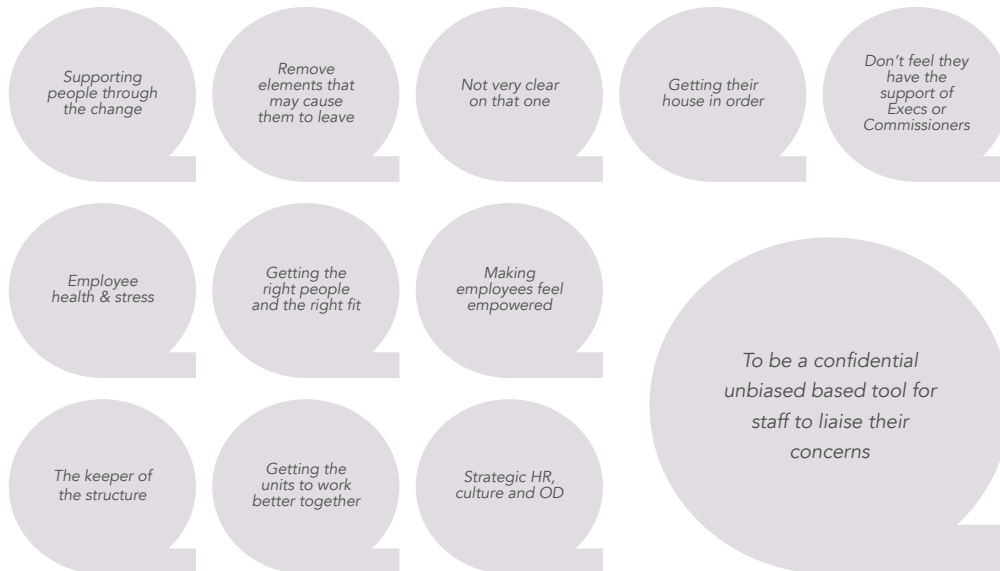
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## Priorities, strengths & issues

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## HR priorities

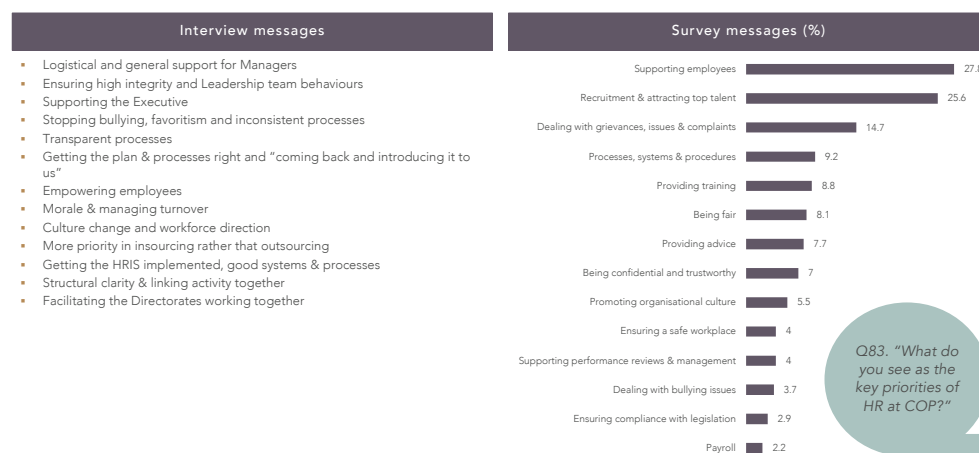
What staff said ...



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## HR priorities

There is a significant divergence in the perceived HR priorities between Management interview feedback and survey feedback



Q83. "What do you see as the key priorities of HR at COP?"

### Implications:

- Priorities as identified in the HR Plan were not highly identified in interviews. HR do have a Plan but there is minimal transparency of the Plan amongst Management
- Wider workforce and people management strategies are not well communicated or understood. Engagement of Leaders and staff in the Agenda will require improved communications and purposeful effort
- Interviewed staff talked about the support of HR to Managers and ELG, but not about their support for other officers

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## HR priorities

### Challenges

- Absence of CEO leadership and sponsorship of the HR function and Agenda
- Lack of Leadership stability
- Lack of consistency in the role and priorities of HR
- A lot of issues need to be Leader led
- HR resourcing

### Opportunities

- Greater HR Plan transparency and engagement of Management in the Agenda
- Getting buy-in from the peer group

### Recommendations:

- Confirm the HR Plan and priorities. Gain ELG alignment and support. Share and communicate a version of the HR and L&D Plan, reporting and other appropriate strategies – via intranet / employee communication sessions

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## HR – strengths

What staff said ...

Detracting

Promoting

What they achieve is remarkable

They support people but no one supports them

Urgent recruitment is handled quickly

Resilience in the face of uncertainty

Doing the best it can given the hierarchy of people involved in issues and complaints

Respond in a timely manner

[BPs] Designated representative to each Directorate, this provides focal point of contact but also help HR to understand business

Professional and dedicated HR Team

Knowledge and technical expertise

Good at following up

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## HR – strengths

Individual HR team members were identified frequently in interview discussions



Q.83 "What do they HR team do well?"

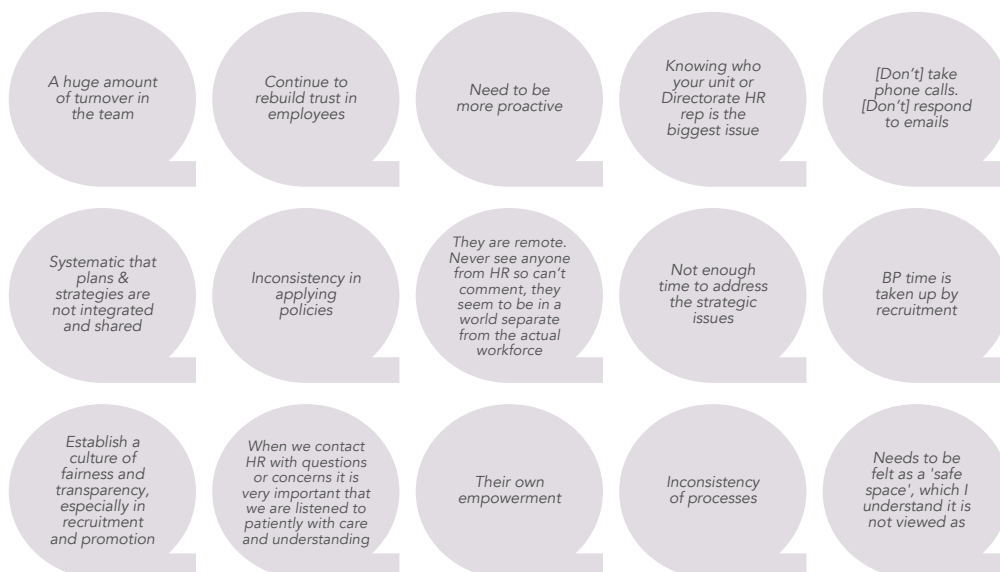
### Implications:

- Staff perceptions of strengths will vary with their experience of HR
- The strengths cover the key pillars of HR: Business Partnership, L&D and ER

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## HR – issues

What staff said ...



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## HR – issues

### Key findings

#### Interview messages

- Variable COP background and experience in HR team
- Lack of visibility of the HR Plan
- Policies out of date
- Mistakes are being made – e.g. wrong contracts
- More robustness needed in ensuring the right people, not just any people are employed
- Lack of resources and availability of BP
- Inconsistency of HR decision making, process, support & application of policies
- High turnover of the HR team, multiple changes in Advisors
- Trust in getting the right information is sometimes low
- HR also have issues in delivering in a timely manner and getting the right information to make decisions
- Workers comp. needs further resourcing
- Needs more assistance facilitating activity between the BUs
- Better understanding of what Managers need
- Disparity of role descriptions
- Poor systems and technology
- More support is needed for employees

#### Survey messages (%)



Q84. "What could the HR team do better?"

#### Implications:

- Improvement needed with policies, processes and procedures and their application which is not always consistent
- Issues raised in the survey around favouritism towards Management and ELG
- Recruitment is an issue including HR's ability to attract and retain the right talent. Staff turnover is a consistent concern amongst employees

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## HR – strengths & issues

#### Challenges

- HR hold default accountability for: poor process implementation and execution; leadership and behavioural issues that are not managed appropriately; lapses of policy; and cultural issues more widely
- HR staff turnover
- The function is still evolving
- The number of initiatives HR are working on
- HR needs to be a role model, sometimes seen as not following the policies themselves – e.g. favouritism in recruitment
- MLG is not a forum for exploring Managers' needs & issues

#### Opportunities

- Continue to develop BPs in handling issues to reduce reliance on ER specialists
- Build employee trust
- Improve general HR communication and interaction with the wider workforce

#### Recommendations:

- Prioritise the Policy & Procedure project
- HR to reflect on outcomes versus where they want to be
- Potential for employee catch-up and focus sessions to drive engagement and understanding of role

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## Core elements of HR

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### HR policies, procedures & authorities

What staff said ...

Detracting

Promoting

Out of date

Now up to date

Waiting to be reviewed

Hidden & not easy to find

Should develop a Manager handbook

Not really policies

They're there but it's the interpretation that's the issue

Too grey and lead to inconsistencies

Easy to understand

Opportunity to consolidate the policies

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## HR policies, procedures & authorities

*Clear and updated policies & procedures are a key foundation of HR but are letting the function down*

Whilst many policies and procedures are in place and accessible, many are also out of date and require review. Some have been repealed for a number of years and have not yet been replaced.

Policy effectiveness is impacted by many being out of date and in some cases inconsistent with each other. This has the potential to create inconsistency in application of policies by both HR and Leadership and diminishes users' confidence in applying the policies. The project review has not delivered effective outcomes and must be prioritised.

- There is no "one stop shop" for policies and procedures; they are fragmented and exist in different places on the intranet
- There is high level of awareness that policies are on the intranet but locating them is an issue for many
- Many Managers have a lack of confidence in the accuracy and currency of HR Policies
- HR team members, particularly those more recent to COP and Local Government, also share frustration around outdated, inaccurate or a lack of policy and procedure documentation
- Management, staff Leaders and HR team members are concerned about making mistakes and are less confident in directing their own staff decisions without reference to HR
- Uncertainty of policy and procedures can negatively impact decision making, disempower Management and staff, and create dependency on HR

- HR policy and procedure review is in process to support the implementation of the new HRIS
- Authority limits for decision making in HR processes are also variably understood – some saying they are very aware and others the opposite

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## HR policies, procedures & authorities

*Access to policies and procedures has improved with new intranet page but content is disappointing*

### Interview messages

#### Upside

- Accessible on the intranet
- Easy to find but not easy to find the answers
- New "lifecycle" on the intranet is an improvement
- Reasonably up to date

#### Downside

- Not very accessible, hidden & not easy to find
- Out of date
- Would not be able to navigate them without the BP
- Inconsistent interpretation & application e.g. in regards to flexitime
- The rules keep changing even if there is a policy
- Procedures come in emails and memos
- Not communicated when they change
- Unfairness in application
- A preference for fewer policies and guidelines for Management decision making
- They sit in different places, some are missing
- Uncertain if they are current or not
- Managers have little authority and in some cases are uncertain about their level of authority in HR approval processes

### Survey messages

#### Downside

- Not equitable – their application is being applied inconsistently
- In the application of policy, 44% of respondents don't believe employees are treated consistently, even though 66% consider this Very Important – Q6
- Policies & procedures are not user friendly
- Performance rating for the accessibility and legibility of HR policies & procedures was Average (2.8). 34% of respondents considered it Poor or Below Average – Q1
- 38% of survey respondents said training and communications related to policy and procedures was Poor or Below Average – Q2
- 15.7% of survey respondents said that the HR team could develop better policies, processes & procedures when asked "What could the HR team do better?" – Q48

#### Implications:

- There is average at best confidence in policy documentation and the consistency of interpretation and application
- A considerable portion of staff do not find them user-friendly
- Authority levels are not consistently clear

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## HR policies, procedures & authorities

### Challenges

- Completing the review of existing policies, procedures and documentation
- Applying the policies & procedures to the issues
- Some Managers will continue to go to HR first
- The concern about consistent application can diminish the opportunity for Manager discretion around interpretation
- HR team are still in learning mode
- Outdated policies can diminish trust in HR and continue to drag HR into unnecessary routine matters and disempower Managers

### Opportunities

- Consolidate HR policies in one location
- Potential to re-launch the policies and communicated expectations
- Simplify and streamline
- Develop a convention for policies & procedures – what should be or needs to be a policy and procedure and what does not; what they should look like
- Conduct an audit of all HR related policies & procedures
- Develop guidelines to assist Managers in applying and policies and procedures and for decision making support

### Recommendations:

- Prioritise the Policy & Procedure project
- Allocation of resources to a tightly defined protect timeline to assess and complete core policies
- Review the governance around who has authority to change and make amendments and processes for change i.e. Council versus an Administration policy

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## Workforce planning, resourcing, retaining & leaving

What staff said ...

Detracting

Promoting

We see our co-workers pushed out of the organisation by cruel Managers

Need to move people to permanent roles

People can be in acting roles for 1 or 2 years and then just get appointed into the role

HR fearful of doing the wrong thing – diversity recruitment

Workforce planning is run by finance, not what we need to fulfill the plan

Not supporting Managers sufficiently in retention, managing turnover

We don't attract or retain talent that can elevate our productivity

Nepotism is very obvious and some staff are being protected and looked after and given opportunities based on who they know

Equal opportunities are not made available to all staff

Managers should be managed on their turnover

Current internal position recruitment system is full of favouritism, bias and nepotism. It's to say the least disgraceful and corrupt

Where exit interviews were conducted, it appears that the information provided was not passed on/acted on

Staff are promoted, or change roles, regardless of their qualifications

No transparency in the process

Not just about getting talent to join your organisation. You need to know how to engage and retain them

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## Workforce planning, resourcing, retaining & leaving

*Recruitment & “getting the right staff” was ranked as a high priority in interviews and the top strength for HR in the survey*

### Workforce plan

The City's Workforce Plan 2018-2022 has been developed in response to the key strategic objectives within the City's IPRF and draws from strategies developed under the L&D Strategy.

The Plan outlines the resources, capabilities, and competencies the City requires to deliver against its objectives. It is designed to align to the organisation's strategic direction to enable effective future planning and outlines:

- Key organisational considerations: suspension of Council, current reviews and inquiry and culture agenda
- Current organisational structure
- Workforce profile: strengths and challenges
- Workforce requirements now and for the future: resourcing capabilities and competencies
- Workforce strategies: natural attrition, strategies for building human capital and risk mitigation for critical roles

Workforce Planning is a key objective in the HR Plan: “The implementation of a more structured approach and regular reporting/analysis for workforce planning with defined Human Capital increases for subsequent years determined & directly aligned with budget forecasts”. The HR Plan also noted that improved reporting was dependent on the HRIS implementation.

- The development of the Plan is a collaborative activity for the HR and Finance areas
- The HR Report provides monthly reporting on workforce metrics

### Establishment management

The COP Establishment Procedure was repealed in 2015.

The absence of effective establishment management was identified in the Deloitte Report:

*“The City is limited in its ability to make informed decisions on workforce management.”*

*“The Assessment has identified four workforce management gaps: providing an accurate and stable estimate of the organisation's establishment; management reporting on workforce; the structure of the position hierarchy; and development of key performance indicators.”*

Organisational establishment processes and reporting was in place prior to the restructure. All departments had an agreed establishment number – the required resourcing for the unit. Recruitment and resourcing was managed to the budgeted establishment levels. The process was maintained by HR manually. HR does not currently have an HRIS and relies on payroll data for workforce information. The establishment system was discontinued following the restructure at this time due to the complexity of maintaining it.

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## Workforce planning, resourcing, retaining & leaving

The absence of a more detailed establishment management process was also identified by a number of Managers as an area of high frustration. An example of feedback received is below:

*“Workforce planning is a massive issue”  
“Do not have a system. All talk a difference language. No consistency of approach. Don't know what the establishment is. Laborious process. No profiles on the team – multiple systems – empower, BI – there is no single source of truth”*

### Recruitment & attraction

- The Resourcing Strategy is the accountability of the L&D Centre of Excellence. A Draft Talent Acquisition, Identification, Management & Succession Planning Strategy is currently being prepared by the Senior L&D Advisor and is planned to be implemented in 2019. Execution of recruitment activity is the responsibility of the respective BU Managers supported by HR BPs
- There is a high level of criticism for recent recruitment freezes and the impact these have had on HR resourcing to recruit staff
- This financial year the team on average have 35 roles in the process of recruitment. This excludes activity conducted by external recruitment firms
- There are no specialist recruiters in COP and BPs have accountability for supporting recruitment in their respective Directorates

- The ability to attract staff to COP roles was raised in feedback as a potential area of concern in the current environment

### Onboarding

COP has recently implemented new onboarding processes as part of the new City Learn platform. Staff now complete their online induction prior to commencing with the City. New starters have averaged 22 per month since July, with a spike in September of 43.

### Retention

There are no specific retention strategies in place.

### Leaving

- Turnover for the rolling 12 months is 21%, representing 153 departures
- Exit interviews are conducted for voluntary exiting staff. The top 3 reasons for turnover are: staff gaining a new opportunity outside of the COP, leadership style and team culture
- COP turnover performance is reported monthly as part of the HR Report. Voluntary turnover (resignations) for the last 6 months is running at a rate of around 7% or 56 staff (AA Oct), compared to All turnover of 10%

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## Workforce planning, resourcing, retaining & leaving

Perception of recruitment and its effectiveness varies between the interview and survey groups

### Interview messages

#### Upside

- Do a good job of recruitment
- New onboarding processes are good
- Responsive. Urgent recruitment is handled quickly
- Add value to the interview panel
- Guide on application of policies
- Very proactive and supportive and deliver in a timely matter

#### Downside

- Processes around the selection and usage of preferred recruitment providers
- Use of short-term appointment and contractors – extending them and not making them permanent
- Turnaround times are sometimes too long
- Takes up a large slab of the Advisor's role
- More understanding of diversity and regulatory environment/processes for recruitment & selection
- Improved focus needed on selection of the "right" people
- The current environment is impacting on the City's employment brand
- High turnover

### Survey messages

- Recruitment is seen as both a strength and an area for improvement; respondents were varied in their opinion of Recruitment, Onboarding & Induction processes
  - 12.4% said that the HR team managed Recruitment well, and 3.5% said Onboarding & Inductions – free response
  - However, 11% said that they could do Recruitment better, and 4.2% said the same of Onboarding & Inductions – free response

#### Downside

- The issue of nepotism was raised 16 times in the free response section of the survey
- 31% feel employees are not treated fairly & equally in recruitment opportunities – Q19
- 40% see the accessibility & understanding around policies and procedures for recruitment, internal appointments & promotion as Below Average/Poor – Q18
- 89% of employee responses ranked effective induction as Important/Very Important but 65% ranked performance as Average or below – Q20
- Lack of transparency in the process
- Qualifications and experience are not always taken into consideration when comparing role appointments
- People leave because they cannot see internal opportunities for growth
- Work needs to be in staff retention

#### Implications:

- Irrespective of whether it is accurate or not, there is a perception amongst the workforce that processes are "not fair" and that COP processes are not being followed
- HR have an opportunity to measure the effectiveness of new COP induction processes as well as those applying to individual Directorates and BUs

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## Workforce planning, resourcing, retaining & leaving

### Challenges

- Turning around perceptions of lack of fairness in the process
- Reestablishing a discipline approach to establishment management

### Opportunities

- Alignment of salary increases to performance to support retention and development
- Develop improved understanding of career progression
- Focused retention strategies to protect high risk roles, key skills and knowledge

#### Recommendations

- Reinforce processes for conflicts of interest and disclosure of pre-existing relationships in the recruitment processes
- Review potential to investigate issues of suspected nepotism/conflicts of interest in recruitment
- Develop clear scope around the City's establishment reporting requirements to support HRIS implementation
- Development of retention strategies and identification of high-risk/high-impact roles
- Review processes for selection of preferred recruitment providers

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## Remuneration, benefits & employment conditions

What staff said ...

Detracting

Promoting

Source various other staff benefits/wellness programs and benchmark against other organisations

The flexible working environment (start and end hours) and flexi time accrual provides a fantastic work life balance for me

End short-term contracts for staff working on a full-time basis

A lot of benefits and programs are set at council house, and those of us who are customer-facing are often unable to attend or take advantage

Pays well and benefits are good

I think the HR team could better reiterate the existing benefits to staff as I think some employees forget about them

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## Remuneration, benefits & employment conditions

*COP remuneration is generally considered to be competitive*

- All staff, other than the CEO, Directors and Managers, are employed under EBAs which specify salaries, allowances and conditions of employment
  - COP provides some additional benefits to those under the EBA including Healthy Life-Style benefits – e.g. optical allowance
- Manager classification and levels were reviewed in June 2017. Key criteria used for evaluating classification levels included:
  - BU financial control – budget and operating expenditure
  - BU size
  - Unit importance to the City
  - Complexity of the function
- In August 2017 the City conducted a benchmarking review of Manager remuneration utilising data sourced from other local government authorities. The review resulted in some adjustments being made to individual Managers
- Feedback was received that some staff do not fully understand the benefits that they receive as part of their employment at the City

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## Remuneration, benefits & employment conditions

### Interview messages

#### Upside

- Competitive salaries
- Good benefits

#### Downside

- Salary increments are automatic and not performance-based
- Some benefits are not as readily accessible to outside staff who are not based at Council House
- Frustration around the practice of using fixed term contract rather than ongoing employment arrangements
- Many employees do not realise or forget some of the benefits that they do receive
- Salary banding does not allow effective career growth for individuals
- There is a wide gap between Manager remuneration and that of the Directors

### Survey messages

#### Upside

- Staff value the new reward and recognition program as a good initiative
- Healthy lifestyle rebate
- Flexible working environment and flexi time accrual

#### Downside

- 85% of staff believe recognising & rewarding high performing employees as Important or Very Important but only 21% believe that COP does a good job – Q7
- 31% don't believe they have a reasonable workload, although 93% rated it as Very Important/Important – Q5
- Lack of incentives (rewards & discounts)
- End short-term contracts for staff working on a full-time basis

#### Implications:

- If employees do not understand the benefits they receive then the City is getting minimal value out of providing them

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## Remuneration, benefits & employment conditions

### Challenges

- Fixed versus permanent appointments

### Opportunities

- Alignment of salary increases to performance and goal achievement
- Further communications on the City's suite of employment benefits and conditions
- Ensuring equity of employment benefits

#### Recommendations:

- Strategies to leverage and better communicate the current benefit structure
- Review the equality of benefits for "outside" staff
- Review the practice of fixed-term employment to ensure fair application
- Assess the current salary increment practice and viability to align to performance

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## Grievances & complaints incl. bullying, harassment & EEO

What staff said ...

Detracting

Promoting

You have to be neutral and work through the process

Would have to be pretty bad for me to report it

Untouchables and poor behaviour is not addressed

People expect and want an investigation

It's very easy to lodge a grievance

If it's with HR the battle is lost

Every complaint should be handled through due process

Told by the then Manager of HR that certain members of ELG were untouchable because of their close relationship with the CEO

Process needs to help individuals resolve themselves

Processes are much better now

Their Manager confronted them after someone in that team put a bullying complaint against him

Directors can interfere and influence the direction

Not comfortable or well supported by the system

COP has a reputation for being a soft touch

Complying with policy doesn't mean the right outcomes are achieved

Directors not held to account

My co-workers who have lodged complaints have had them really poorly handled - one who ultimately got bullied into resigning

HR team don't support the individual complaints of employees and favour Management, breaching confidentiality and trust of officers

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## Grievances & complaints incl. bullying, harassment & EEO

Good processes and procedures are in place and training & education in processes is ongoing

- As at the date of this report, there were 37 active complaints comprising 16 grievances, 20 disciplinary and 1 absenteeism matter. Following reporting, complaints are subject to substantiation and investigation
- 5 of the grievances were identified as a bullying allegation
  - Visits to EAP services for the period July 2017-June 2018 specified alleged Bullying matters on 7 occasions compared to 11 in 2016
- There is a high degree of variability of Managers' level of capability & and in some instances, belief that they can take ownership of the grievance process. Some Managers have a high degree of dependency on their Advisors, driven by an uncertainty of how the process should operate or concern for doing it properly and not making mistakes

### Documentation, policies & procedures

- The Workplace Grievance Management Procedure applies to all grievances and complaints, including those arising from a bullying, EEO or harassment, disciplinary or performance related matter. The procedure is a current document and was last reviewed in July 2017
- Some other documents, such as The Prevention and Management of Workplace Bullying – Information Guide for Workers and Information Guide for Managers, refer to earlier and now superseded versions of Grievance Procedures and related documents
- The Bullying Guide and the EEO policy have both been identified for

review by the HR department

- The majority of Managers are aware of procedures and believe matters are managed in accordance with the procedures

### Training

- Regular training is conducted internally by the Senior ER Advisor. The ER team have prioritised training for Managers and in 2019 will extend training to Coordinators and Team Leaders
- Training has also been conducted with HR Advisors to ensure understanding and familiarity of the City's processes. Many BPs are new to the City and are still developing familiarity and competence in acting as effective Advisors to Managers, as distinct from guardians of the procedure and process
- Feedback from interviews across Management and HR was that the training was useful and of a high standard

### Complaint management

- The procedures encourage individuals to try to deal with issues themselves in the first instance and then to escalate the matter through the various stages of the procedure if necessary. HR's role in the process is support and guidance. Managers are accountable for the management and oversight of issues within their units. Once a matter involves an external party (Fair Work, Union), the ER team will assume management

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### Grievances & complaints incl. bullying, harassment & EEO

- COP utilises external investigators in some instances where the matter has a higher level of sensitivity or complexity. This often results in lengthening the time frame of the process

#### Issue register

- All matters raised as a grievance or complaint are supposed to be entered into the Grievance and Complaints Register (Register), however some matters assessed to be highly sensitive by the HRM and Senior ER Advisor are not documented on the Register
- The Register is overseen by the Senior ER Advisor. Other BPs are responsible for entering the matter into the Register
- Although the Bullying Information Guide specifies that incidents are recorded in one central location as an OSH incident, this is not accurate as bullying incidents are recorded by HR in the Register

#### Reporting & governance

- Grievances and complaints are reported to the ELG on a monthly basis as part of the HR Report. Matters are classified as a grievance, disciplinary matter or workplace issue. Bullying and discrimination matters are classified as workplace issues and are not separately defined. A disadvantage of this treatment is that Senior Management are not necessarily made aware of these issues. It should be noted though that complaints of bullying or discrimination made by an employee may not be sustained following investigation
- Annual reporting is also made to the Public Sector Commission through the Governance Manager
- Interview and survey feedback reported concerns about breaches of

confidentiality as well as fear that if they did report matters they would not be treated confidentially

- During the interviews there were several matters raised including the following:

#### Complaints made to HR:

- Anonymous – matters were not dealt with and were suppressed

#### Bullying complaints:

- Anonymous – terminated employee. Made in writing to HR – not recorded in register
- Anonymous – complaint raised and was not investigated despite being told it was. Was never interviewed. Had a meeting with the CEO and he said that the matter had been closed out. Involved a Director
- Anonymous – advised HR and was asked to make a verbal statement. Was not asked to put in writing. Believed the person was trying to handle it well. Received no feedback, was not interviewed. Involved a Director
- Anonymous – an informal complaint to the CEO – did “not go anywhere”

- The above is a small sample. To understand these matters and any wider issues around them, further investigation would be required. Given all employees interviewed have requested anonymity, this may not be possible for these issues

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### Grievances & complaints incl. bullying, harassment & EEO

#### External complaints

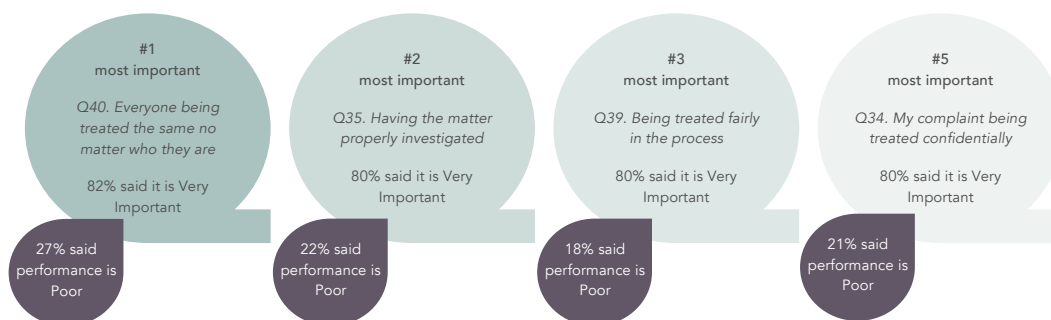
- An employee can also make a claim with the Fair Work Commission directly (if they choose to do so)
- Staff can also report matters of misconduct to:
  - Designated Public Interest Disclosure Offices. These are designated internal staff members – e.g. the Governance Manager
  - Public Sector Commission
  - CCC

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## Grievances & complaints incl. bullying, harassment & EEO

### Survey response

4 out of 5 of the **most important** areas for staff related to grievances and complaints, however all were **rated Average for performance**.



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## Grievances & complaints incl. bullying, harassment & EEO

### Perceived failings in fairness of process undermines its integrity

| Interview messages  | Survey messages   |
|---|---|
| <p><b>Upside</b></p> <ul style="list-style-type: none"> <li>ER support through the process is generally very good</li> <li>Awareness that there are procedures and where to find them</li> <li>Some Managers take a high level of accountability and initiate in their unit and manage utilising HR as advisors and support</li> <li>Processes are generally followed</li> <li>All complaints are logged on the Register</li> <li>Managers generally felt supported through the process</li> <li>Briefing sessions run by ER are valued</li> </ul> <p><b>Downside</b></p> <ul style="list-style-type: none"> <li>Processes can take a long time</li> <li>Level of familiarity of the policies is varied</li> <li>Belief that people are not treated uniformly across COP &amp; is influenced by who the person is and their level</li> <li>Concerns about confidentiality and leakage</li> <li>Scripting of conversations by HR not always well received</li> <li>HR managing matters with employees is more difficult because of employee expectations</li> <li>Many issues arise out of performance management and bullying processes</li> <li>Communications and feedback during the processes is sometimes slow</li> <li>Managers are still learning and developing confidence around processes</li> <li>Some individuals with bullying issues are turning to colleagues and not HR</li> <li>Some Managers feel that if they involve HR early it can get accelerated</li> </ul> | <p><b>Downside</b></p> <ul style="list-style-type: none"> <li>45% of employees do not believe everyone is treated the same in the process, even though this was ranked as the most important concern – Q40</li> <li>Free responses show employee perceptions that the HR team don't support the individual complaints of employees &amp; favour Management, breaching confidentiality &amp; trust of officers</li> <li>People are scared to speak up; 44% of employees said they do not feel comfortable making a complaint – Q15 &amp; Q33</li> <li>25% said they wouldn't know who to go to with an EEO, harassment or bullying issue – Q14</li> <li>34% don't find the policies &amp; procedures for raising grievances &amp; complaints accessible – Q29</li> <li>32% don't think that complaints are/would be managed to the policy – Q32</li> <li>Almost half (47%) of staff don't trust that their issue/complaint is/would be properly investigated – Q50</li> <li>Some individuals mentioned co-workers being "bullied out"</li> <li>Seems to be multiple issues of officers who feel they are being bullied by their Managers</li> <li>Perception that HR are afraid/unwilling to act if complaints are made against senior positions</li> <li>38% don't believe that complaints are/would be treated confidentially – Q34</li> <li>42% of staff see the independence and anonymity of complaints processes as Poor or Below Average – Q41</li> </ul> |
| <p><b>Implications:</b></p> <ul style="list-style-type: none"> <li>Perceptions of lack of fairness, independence and confidentiality are significant issues. This undermines the integrity of the process</li> </ul>  |   |

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## Grievances & complaints incl. bullying, harassment & EEO

*Independent and anonymous complaint/whistle-blower processes are important to the majority of staff*

### Challenges

- Experiences and perceptions are strongly influencing confidence in fair process, with both Manager level staff and below
- Variable experience and capability of the HR BPs to effectively support processes
- Appointing an investigator often causes time delays
- Issues not being lodged as a complaint because they did not believe anything would happen
- Perceptions that raising issues would impact individuals personally and their careers
- Many Managers rely on support from their BPs and in more complex matters, the support from the ER team. Those Managers who self manage are more experienced and confident in processes

### Opportunities

- Further ER education with Managers and Coordinators
- Further communication and reassurance about confidentiality
- Supporting and giving employees the confidence to resolve matters individually
- Ensuring those in the process are fully and regularly informed about progress

### Recommendations:

- EEO and bullying related documentation is reviewed as a matter of priority
- Refresh/relaunch the procedures and process to give clear information of "how" the process operates
- Document the procedure for logging a matter on the Register to minimise uncertainty around when and what type of matters are logged
- Review who has access to the Register and minimise to improve confidentiality of matters
- Report Bullying and Discrimination matters separately and not bundled under Workplace Issues
- Confidential external complaint process (not CCC) to be implemented to restore confidence in the integrity of processes

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## Learning, development, capability & succession

*What staff said ...*

Detracting

Promoting

Career development is mostly done in own Directorate ... it's up to Management

Reclassification of roles is frowned upon and this blocks progressive career steps

The quality of programs is excellent, awesome providers

Need to link to the PS process

No one has sought input from me in developing the training

People leave because there is no career progression

Reclassification is a huge barrier and needs to be resolved

L&D is a strength

Who does the gap analysis to identify the training?

Stop with the e-learning portals they are truly hideous

If you complain then you are not taking advantage of it

Is more training & development than ever before

Not a lot of opportunity besides sideways moves

Sarina is very active and proactive

I believe the COP provides the best training to staff although the staff may take it for granted

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## Learning, development, capability & succession

*The L&D function is acknowledged as performing well and is maturing in career and succession management*

L&D has accountability for many of the activities typically defined and Organisational Development. It was recognised as a strength of HR in the open response section of the survey.

L&D has a strategic and operational agenda and has been a significant driver of the values integration into HR systems and processes & getting foundations and general development activity to support COP capability requirements & competencies into place.

L&D strategies are integrated with organisation capability and competency requirements of the City.

### Scope of the L&D function

The scope of the L&D Centre of Excellence includes:

- Leadership Development Programs and Executive Coaching
- Learning and Organisational Development (including Culture)
- Talent Acquisition, Identification and Management (including Mentoring Program)
- Succession Planning

### L&D Strategy

The current L&D Strategy was endorsed by the COP Executive in 2015 for the period 2015-18. It is comprehensive and was built on the base of defined Organisational Capabilities and an Organisational Training

Needs Analysis conducted in 2016 & 2017, in conjunction with Directors and BU Managers.

- Building training activity around COP organisational capabilities and competencies across job levels
- Supporting the values launch and integration of values into PS processes
- New role descriptions to clarify roles and incorporate KPI review and development into PS
- Launch of City Learn – new online induction processes

### Training delivery

- Scope and provide delivery solutions for learning and development activity for:
  - Mandatory (compliance and statutory) learning requirement
  - Developing competency requirements for all role levels
- Training is also conducted by OSH. Managers are accountable for defining their own specific training needs & requirements with support from L&D

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## Learning, development, capability & succession

### Organisation capabilities

The key organisational capabilities required for the City to operate effectively now, as well as those that will be required for the future, have been defined and are outlined in the Workforce Plan.

The Workforce Plan identifies that an assessment will need to be undertaken to identify and execute initiatives to close any gaps. A major focus of this assessment will be to identify the interdependences between BUs and their impact. Timings for this activity are yet to be set.

### Competencies

Competencies have been developed for all levels of staff: Executive Leadership, Frontline Management and other staff. Employee assessment against the competencies is a core component of the PS process. L&D activity is mapped against the Competencies.

### Talent management, career development & succession

There are currently no structured approaches or formal processes for career development or succession. The absence of strategies in these areas was raised by Managers in interview sessions as an issue. A Draft Talent Acquisition, Identification, Management & Succession Planning Strategy 2019-2021 is currently being prepared by the Senior L&D Advisor and incorporates these elements. If supported by Leadership, the strategy will provide an opportunity to further develop COP's employee capability and knowledge base.

### Training Matrix

The Training Matrix incorporates OSH training and details both mandatory and desirable learning and development requirements in all

BUs by role, as well as when the training is required to be conducted, the frequency of refresher requirements and mode of learning.

### Corporate Training Needs Analysis

The last Training Needs Analysis was conducted in 2016 and is due to be refreshed in 2019. The aim of the process is to identify non-regulatory learning and development events to coordinate and deliver across the City.

### City Learn

City Learn is an online training system launched in 2017 covering onboarding training including mandatory training activity.

### Efficiency & cost

The function is a broker of services for negotiated rates and does not deliver programs.

### Benchmarking

Benchmarking/self-assessments against a global benchmarking base evidence an approach to continuous improvement and functional learning.

### Evaluation

A comprehensive evaluation was conducted in October 2018 and is included for reference in Attachment 7.

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## Learning, development, capability & succession

*L&D has solid foundations and the confidence of Management and the workforce*

### Interview messages

#### Upside

- Good & regular communications about training programs
- High quality programs
- BPs check in on the L&D requirements for their areas as part of the PS process
- Cost effective delivery
- The team is helpful and respected
- Units are using mentoring, acting upon opportunities, project opportunities and inter unit secondments & rotations as career development opportunities
- HIPOs identified in some units are being given "step up" opportunities
- There is an understanding that more focus is required in identifying talent and developing careers

#### Downside

- Some perception that training is not aligned to COP strategy, career paths and training needs of COP
- More focus needed on career pathways
- Need to build future Managers and Leaders
- Needs to be a link between the development needs in the PS process and the training that's delivered
- No organisational approach to identify needs and align to Plan
- A Training Plan needs to be developed at the start of the period before budgets are set
- A need to simplify the approvals process & administration
- No formalised succession or career developed processes – left to Managers
- Recruitment policies do not support internal succession

#### Implications:

- There is a low level of Management understanding of the L&D Plan and the link between the training offered and the wider organisational capability requirements & competencies
- City Learn is growing in recognition and has an opportunity to be leveraged further
- L&D opportunities are having a positive impact on career development

### Survey messages

#### Upside

- 19.3% of free responses identified Training and L&D as a strength of HR – Q83
- 8.8% of free responses identified the provision of training as a priority of HR – Q82
- 45% said they use City Learn well – Q46
- 41% said they participated in non-compliance training on City Learn – Q86
- 84% of employees feel it's important to develop new skills and 41% believe they have opportunities to do so – Q42
- Praise for L&D team

#### Downside

- Although L&D overall was a high ranking category, it averaged as the least important category in the survey (4.28/5)
- 36% rank discussions about their future development opportunities as Below Average or Poor – Q45
- Staff take training for granted
- Lack of career progression opportunities
- 42% of employees rank career opportunities for them at COP as being Poor or Below Average but 84% said that it is Important/Very Important – Q44

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## Learning, development, capability & succession

*Opportunities outweigh challenges*

### Challenges

- The outside workforce has no, or limited, access to computers making access to online training difficult
- Fragmentation of training recording systems and manual, paper based processes
- There was one issue raised where the cost of a program was agreed and then commenced and then the approval of funding was reversed

### Opportunities

- Stronger communications around an annual training plan to facilitate budget planning in BUs
- New HRIS will simplify processes
- Preparation of an annual training plan ahead of budget finalisation
- Publish the full year calendar on the intranet
- Manager consultation before finalisation of the program
- HR to engage and get involved and partner in many of the informal career development initiatives
- Career development actions are largely being driven by Divisional and BU initiatives
- Development of career pathways for progression
- Communication and education of Managers and Directors on the L&D Strategy
- Wider and deeper engagement on Plans and more transparency of outcomes

#### Recommendations:

- Develop a Change Management approach for COP
- Continue to re-shape PS processes to support utilisation in BUs
- Educate and communicate alignment of activities – training link to COP capability requirements and competencies
- Improve process and communications around the annual Training Plan

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## Performance management, PS & effectiveness

What staff said ...



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## Performance management, PS & effectiveness

"Having a copy of my performance shaping document" was the highest performing question in the survey but of low importance

### Performance Management

- Performance management is the process of identifying, addressing and managing performance related issues of an individual staff member. Guidance for Managers and Supervisors is provided in the Managing Poor Performance Guideline. Most interviewees acknowledged an awareness of the performance guidelines although not all had experienced managing incidences of poor performance
- Anecdotal feedback from interviews is that the City have improved its management of employee performance issues over the past couple of years. Early identification of performance issues is encouraged and support for Managers is provided by HR BPs as required
- Incidents arising out of performance management processes are also logged on the Employee Issue Register

### Performance shaping

- PS is the City's performance development system. It incorporates the City's Competency/Behavioural and Values Framework for all employees, including frontline Managers and Executives. It outlines the formal process for:
  - Annual employee performance planning and development
  - Mid-point review
  - End of year evaluation

- Whilst there was feedback in the desire for more regular, less formal/detailed reviews, overall the process was generally supported and seen as providing a framework for discussion and review and a good opportunity to clarify role expectations and accountabilities

### Documentation

Material to support the process is significant and of a high quality including forms, a procedure and a comprehensive guidebook.

### Training

All Managers have been trained in the processes and regular refreshers are run by the L&D team. Additional support is available from HR BPs and the L&D staff.

### COP values & competencies

City values and core competencies for all employees have been incorporated into the PS documentation and process as an outcome of the OCCA report.

### Performance KPIs

- Setting & reviewing KPIs is a key component of the process and encourages a cascading process, commencing with Directors. For general staff, setting individual KPIs was seen as "difficult" for some roles

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## Performance management, PS & effectiveness

- Although processes for managing individual performance were acknowledged, some feedback was received that more widely COP "does not have a culture of measuring its own performance – no organisational KPIs, no performance tracking systems"

### PS compliance

Compliance in 2018 is 95% compared to an estimated 45-65% in 2016-17.

### Managing performance issues

Employee performance issues are also managed through the grievance processes.

### Role clarity

- A key foundation for an individual's performance is an understanding of expectation; clear role descriptions are fundamental in this process
- The OCCA report Finding 12 (New roles & responsibilities are not well understood across the organisation, particularly for roles that are executed across multiple BUs)
  - Position description standardisation was initiated as a project and has now been completed across all roles. The project delivered a standard format, role standardisation where appropriate, and naming conventions

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## Performance management, PS & effectiveness

Knowing what is expected of employees in their job is important to them

### Interview messages

#### Upside

- If the process and procedures are followed it works well
- Are generally quick to resolve issues of poor performance
- Processes for managing poor performance are better now. In the past underperformers were tolerated, no records kept
- Management of individual performance issues is generally good
- PS –**
  - Picks up issues that can be managed along the way
  - Helps people to understand their jobs better
  - Facilitates setting KPIs
  - The development side of PS is positive
  - Some units have supplementary & more regular monthly processes

#### Downside

- Poor behaviour from Senior Leaders is tolerated and not dealt with
- Have to use the Advisor because there isn't a toolkit around how to manage performance issues
- PS –**
  - There are no consequences if you don't use the PS processes
  - Some staff don't understand why they do it
  - Performance ratings don't always reflect the way people perform
  - Scoring and what it means is not well understood
  - Does not work as well for operational staff
  - System is not enabled
  - Outcomes are not collated and used

#### Implications:

- A standardised approach to performance management is challenging and continuous improvement to simplify and improve processes is underway
- Staff want and would support regular feedback processes
- PS processes coupled with rollout of role descriptions can be expected to improve role clarity
- Managers and staff do not understand how processes are utilised

### Survey messages

#### PS – Upside

- "Having a copy of my PS document" was the highest performing question in the survey. 57% said it was Above Average/High – Q27
- On average, PS Processes was the 2nd highest performing of any category in the survey (3.22/5)
- Staff value knowing what is expected of them in doing their job; 96% said it was Important/Very Important. 51% said performance was Above Average/Very High – Q22
- 85% of staff feel regular reviews of their performance is Important/Very Important – Q23

#### PS – Downside

- 26% don't believe they are receiving regular feedback throughout the year – Q23
- 25% don't think the feedback they receive from their Manager is fair & constructive – Q25
- 24% don't have an understanding of their areas for development – Q26

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## Performance management, PS & effectiveness

### Challenges

- A “one size fits all” approach across a diverse workforce demographic

### Opportunities

- Improved systemisation of the PS process
- Clear role descriptions support understanding and alignment of expectations and underpin planning of development activity
- Develop Manager’s toolkit to reduce the need to involve HR in general or lower level performance issues
- HR is adapting the PS process and are open to a continuous improvement approach
- Less formal, more frequent processes
- Communication of how outcomes are utilized in forward planning

### Recommendations:

- Continue/refresh communications & education to ensure understanding & manage expectations
- Further staff education to raise confidence in conducting will support improvement
- Consider a selective audit of performance management matters that have become a grievance or complaint
- Continue to re-shape PS processes to support improved utilisation in BUs

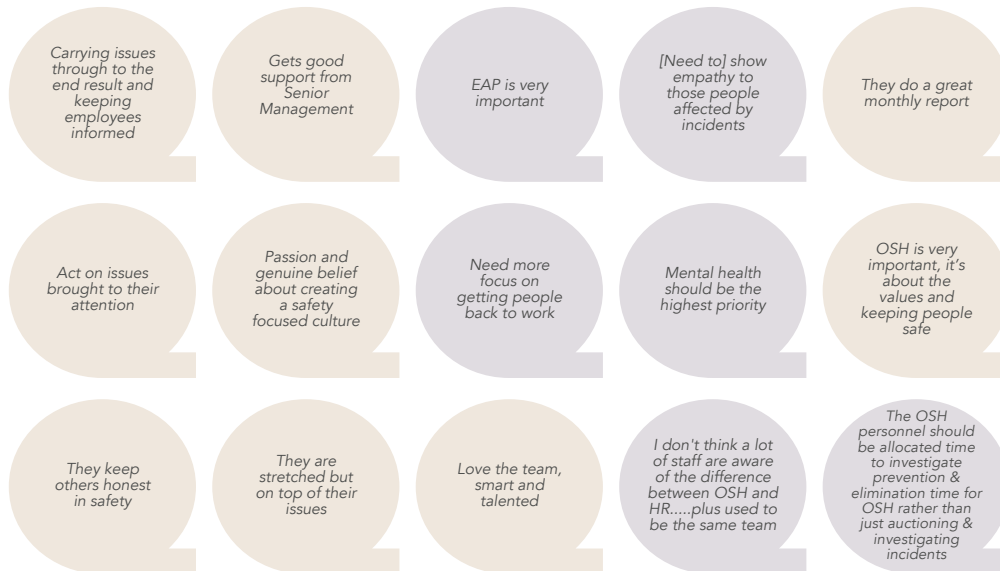
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## OSH

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## OSH

What staff said ...



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## OSH

On average, OSH ranked the highest performing of any category in the survey

- OSH was separated from the HR function 2 years ago and now sits in the Construction & Maintenance Directorate. OSH reports through to Sol Merza, Senior Coordinator. There are 2 staff in the function. The Coordinator attends Directorate Manager meetings and the wider monthly MLG meetings
- The team is highly respected and overall is seen to be very knowledgeable, committed and energetic. It is acknowledged as receiving a high level of support from the previous CEO & Leadership team
- There is a high degree of transparency in the function. The OSH Plan and COP Performance Reports are available to all employees on the intranet
- The key priorities identified by staff in both interviews and the survey were maintaining a safe workplace and supporting health and wellness, particularly mental health

### Scope of the function

- Key areas of accountability of the function are:

|  |                          |
|--|--------------------------|
| Contractor management                            | Inspections and auditing |
| Communications and consultation                  | Legislative compliance   |
| Emergency management                             | Objectives and targets   |
| Hazard identification, risk assessment & control | Operational safety       |
| Health & wellbeing                               | Policy and commitment    |
| Incident management                              | Statistics & reporting   |
| Injury management                                | Training & competency    |

### Roles and responsibilities

- The Framework clearly articulates the roles and responsibilities of all key individuals and groups including the OSH team, the CEO, the ELG, Corporate OSH and Risk Committee, Directorate OSH and Risk Groups, BU Manager, Supervision and all staff

### Documentation, policies & procedures

- 41% of survey respondents ranked OSH policies and procedures as Above Average or Very High
- The key suite of OSH documents which guide the achievement of OSH objectives are the:
  - OSH Management Framework
  - OSH Policy
  - OSH Management Plan
- A comprehensive suite of specific matter-related policies and procedures have been developed
- There is a high level of awareness of OSH policies and documentation and where they can be found on the intranet
- Documentation is clear and easy to understand and can be relied upon as being current and accurate

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## OSH

### Consultation and relationships

- Safety Committee meetings are held monthly and attended by all Directorates
- Staff survey results indicate a good level of confidence in the function. In particular staff rated the team above average in 2 important areas:
  - Being able to raise an issue or ask for assistance
  - Getting support from OSH when needed
- Coordinator facilitates the corporate OSH and Risk

### Reporting

- OSH produce a comprehensive Report on a monthly basis. Statistical performance is summarised in the table below:

| Statistic                           | Target | Month     | 12 Month Rolling Total |
|-------------------------------------|--------|-----------|------------------------|
| Hours Worked                        |        | 92,423    | 1,128,274              |
| LTI <sup>1</sup>                    | <10    |           | 7.66                   |
| TRFR                                | -      |           | 31.51                  |
| AFR                                 | -      |           | 54.06                  |
| Injury - LTI                        | 0      | 0         | 8                      |
| Injury - MTI                        | 0      | 4         | 28                     |
| Injury - F&I                        | 1      | 1         | 25                     |
| Injury - No Treatment               | 0      | 0         | 30                     |
| Environmental Impact                | 0      | 0         | 48                     |
| Threatening Behaviour               | 0      | 0         | 3                      |
| Near Miss                           | 1      | 1         | 25                     |
| Hazard Report Form                  | 2      | 2         | 19                     |
| Damage - Property/Vehicle/Equipment | 0      | 9         | 106                    |
| Security Breach                     | 1      | 1         | 15                     |
| Injury Contractor                   | 1      | 1         | 3                      |
| Injury Public                       | 4      | 4         | 20                     |
| <b>Total Incidents</b>              |        | <b>31</b> | <b>339</b>             |

1 LTI = Lost Time Injury Frequency Rate (Number of LTI / Hours Worked x 1,000,000)  
TRFR = Total Recordable Injury Frequency Rate (Number of LTI and MTI / Hours Worked x 1,000,000)  
AFR = All Injury Frequency Rate (Number of LTI, MTI and F&I / Hours Worked x 1,000,000)  
DMR = 12 Month Rolling Average / DMRT = 12 Month Rolling Total  
\*Aggs Public is not included in City of Perth injury statistics and frequency rates  
\*All calculations are in accordance with Australian Standard 1800.1-1990 - Workplace Injury and Disease Recording Standard

- In addition, the following is reported:
  - Summary detail of incidents
  - OSH activities for the month including work conducted, training, legislative changes and OSH procedural changes
  - Future OSH training and events
  - Statistics in graphical form
  - Safety alerts and articles of interest
- The Report is comprehensive and the information is available on the intranet for all employees. Many Managers were familiar with reporting and accessed these on a regular basis

### Training

- OSH have comprehensive training programs. The function prepares annual Training Plans based on compliance, legislative/mandatory requirements as well as other identified training priorities. All staff have access to the Plan but need the authority of their Manager prior to acceptance on a program
- 47% of survey respondents rated the provision of effective and regular OSH training as Above Average or Very High (Q68)

### Systems

- The Risk, Safety & Compliance System is an online record keeping & tracking system

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## OSH

On average, OSH ranked the highest performing of any category in the survey (3.36/5)

4 of 5 of the highest performing areas related to OSH.



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## OSH

*The overall performance of the OSH team ranked above average in the survey*

### Interview messages

#### Upside

- The Executives and Managers now have a much bigger focus on safety reporting and prevention
- Accurate and comprehensive reporting
- Performance is improving and mental health issues are being dealt with
- They are the source of the truth for policy and process
- The improved performance in safety is positively impacting workers compensation costs
- Good policies & procedures
- Champions of good safety procedures and management
- The OSH Plan is accessible and on the intranet
- A gap analysis and consultation with the Directorates formed the basis of the Plan
- OSH Training Plan and programs are on the intranet – programs are good
- The team is helpful and approachable
- If was still part of HR would not be so effective
- Interviewed staff said their contact with OSH is mainly through training and health & wellbeing initiatives

#### Downside

- Concerns around going to EAP that it will be talked about and won't be taken seriously

### Survey messages

#### Upside

- The key priorities identified by staff in both interviews and the survey were maintaining a safe workplace and supporting health & wellness, including mental health
- Respondents said their contact with OSH is mainly through training and health & wellbeing initiatives
- OSH's policies & procedures rate better than HR's (3.4 vs 2.8) – Q61 & Q1
- OSH team related questions all ranked Above Average: Doing a good job (Q73); Being able to raise an issue or ask for assistance (Q74); and Getting support when you need it (Q75)
- Small team doing a great job
- The team genuinely care
- 44% gave positive responses when responding to "other feedback" about the function – Q81
- Knowing that an issue will be acted upon (Q65) and that an accident or injury will be properly investigated (Q66) both rank Above Average
- 14% could think of no improvement opportunities

#### Downside

- 23% do not think they work in a safe & healthy environment – Q62
- Not all staff understand the difference between OSH and HR
- Team need more time to be preventative & proactive instead of reactive
- 15% of staff don't believe that adequate actions are taken to prevent reoccurrences – Q67
- 8% feel they need more resources

#### Implications:

- Generally very positive feedback however some employees do not understand the difference between OSH and HR which can hinder their effectiveness

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## OSH

### Challenges

- Stress and anxiety in the workplace
- Risk, Safety & Compliance System record keeping opportunities for improvement – the department is reviewing new systems
- Resourcing; potentially a need to back up with consultants as needed

### Opportunities

- 10% of survey responders nominated more training
- Focus more on higher risk areas
- More focus on mental health areas
- Conversations and communications about their role and services to manage expectations
- Clarification of where Wellness and Mental Health resides
- Continue to build trust and rapport and demonstrate expertise
- Continue to promote training opportunities

#### Recommendations:

- Maintain proactivity and level of engagement

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## Employee wellness

What staff said ...

Stress is having a serious harmful impact on mental and physical health

Mental Health first aid training was useful, but need ongoing initiatives

There's a lot of stuff happening around mental health and wellbeing

OSH was excluded from a working group set up by the CEO on Mental Health & Wellbeing

Sometimes it feels like the City doesn't care

Managers have a role to not put people into harm & by not overloading them

Sol's Mental First Aid sessions are getting the conversation started

I want to put my whole team through the [Mental First Aid] program

Employees are now more conscious of their own health and wellbeing than ever before. With increased awareness among employees, employers now need to consider monitoring, identifying and treating such wellness concerns in order to maintain a healthy and efficient brand

Most people know about EAP

Mental Health was a priority for the CEO

People don't have the direction to do their work – creates frustration, stress & turnover

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## Employee wellness

Focusing on wellness initiatives alone is not sufficient. Addressing the causes of employee issues needs to be a priority

Staff feel mental health awareness and overall wellbeing is important. They acknowledge some of the recent programs as being very good (Mental First Aid) but want more consistent ongoing support. They want Leadership to be accountable for the issues that cause stress and anxiety in the workplace.

Employee Wellness is a key area of accountability of the OSH function. The City's Wellbeing Program is outlined in the Health and Wellbeing Procedure (the Procedure) – Attachment 6. The Procedure defines the program as a holistic approach which focuses "upon the team member's physical, psychological and social health both at work and beyond".

The Procedure defines the objective of the City is to "provide health & wellbeing initiatives to periodically monitor the health, safety and wellness of employees ... and is designed to support the proactive management and promotion of the team's health & wellbeing".

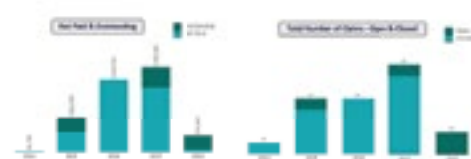
### Health & Wellbeing Committee

The Steering Committee meets quarterly and is made up of representatives from the BUs. It was established to review the City's health and wellbeing initiatives, including the health and wellbeing of employees as well as strategies across the wider COP. In addition, the Committee aims to achieve Healthy Workplace accreditation.

### Workers compensation – incidences of mental disease

The incidences of mental health claims and associated cost of claims increased each year from 2014 to 2017. This trend ceased in 2018. Whether this is a result of the City's programs is difficult to measure.

### City of Perth - Mental Diseases



### Key initiatives

#### EAP program

- EAP assists staff with both personal and work-related issues
- An employee or immediate family member is eligible for up to 5 counselling sessions per issue at no cost to the employee
- Communications and promotions of the EAP program are conducted regularly
- The EAP program is administered by the HR function. Over the last 2 years, staff accessing EAP has reduced. In the 2016-17 financial year, 80 staff members attended EAP counselling over a total of 198 sessions. For the same period in 2017-18, 69 staff attended counselling over a total of 164 sessions.

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## Employee wellness

- Below are summaries of issues presented by counselling clients:

Jul 15 – Jun17

| Issue                               | Frequency |
|-------------------------------------|-----------|
| Anxiety                             | 20        |
| Workplace stress                    | 20        |
| Depression                          | 19        |
| Relationship with partner           | 19        |
| Alleged bullying                    | 16        |
| Organisational change               | 16        |
| Career concerns                     | 10        |
| Fear of loss of job                 | 10        |
| Conflict with colleagues/management | 9         |
| Conflict with manager/supervisor    | 9         |

Jul 17 – Jun18

| Issue                               | Frequency |
|-------------------------------------|-----------|
| Stress                              | 17        |
| Workplace stress                    | 17        |
| Relationship with partner           | 11        |
| Alleged bullying                    | 11        |
| Organisational change               | 11        |
| Career concerns                     | 11        |
| Fear of loss of job                 | 11        |
| Conflict with colleagues/management | 11        |
| Conflict with manager/supervisor    | 11        |

### Annual health assessments

- In April each year COP provides all employees the chance to participate in health risk assessments which include:
  - Blood screening (to check blood sugar levels)
  - Nutritional diary keeping and review (to assist with healthy eating habits)

- Skeletal fitness (to ensure tasks are carried out with correct ergonomic posture)
- Discussion with an exercise physiologist (to develop an exercise plan)
- 12 month action plan (to assist employees with developing an exercise plan to suit the individual)
- Results are confidential, but trends and themes from the results are used for the scheduling of health & wellbeing activities within the City

### Flu vaccinations

Annual influenza vaccinations are provided to employees during the last months of Autumn (April or May).

### Eye sight screening

- The City provides assistance to employees who experience eyesight difficulties at work when using new or existing equipment
- One pair of optical glasses or contact lenses, or a contribution to having prescription lenses hardened to safety standards, up to the value of \$110 is paid for by the City

## Employee wellness

### Healthy lifestyle program

- COP provides a contribution of up to \$120 every 12 months from date of purchase towards an employee's health and fitness activity
- This may include using the contribution towards the purchase of equipment that aids physical activity such as a pair of running shoes, or towards a gym membership or fitness classes
- The City currently runs a massage program that offers employees a 15 minute massage on a 6-week rotation. An employee is able to use their healthy lifestyle contribution towards this program

### Annual skin cancer screenings

Designed to assist in the early detection of suspected skin lesions. Priority if given to staff from outdoor units.

### Mental wellbeing – First Aid for Mental Health training

- COP has partnered with St John Ambulance to offer First Aid for Mental Health for staff who wish to attend
- The course is designed to give individuals the skills needed to manage their own mental health and the confidence to approach a work colleague, family member or friend who may be experiencing mental health issues
- OSH team is highly proactive and has the support of the Executive to deliver on its Plan

- There is a high degree of awareness on the program and excellent feedback on the quality of the session

### Health & wellbeing training

- Training in a number of areas is scheduled throughout the year and is published on the intranet and includes:
  - Manual Tasks, Communicable Disease Training, Drug and Alcohol training, Sun Safe Awareness – Working in Heat, Electrical Awareness Training, Life Balance and Wellbeing, Resilience and Mindfulness, Healthy Eating – Nutrition, Smoking, Physical Activity, Positive Psychology, Men's and Women's Health, Ergonomic Assessments and Fatigue Management Training (Night Shift Employees)

- In addition, L&D run regular Stress Management sessions

### Program effectiveness

- Programs are having an impact as measured by awareness and dialog. Effectiveness of a suite of programs is difficult, other than anecdotally at this time
- Staff are aware of EAP, wellness programs and initiatives and are accessing them. More discussion, dialog and regular initiatives in Mental Health will serve to normalise the discussions
- Strategies to address practices and behaviours that generate employee issues should be initiated and managed as a matter of priority

## Employee wellness

Around 45% of survey respondents said supporting mental health and wellness was a priority for OSH

### Interview messages

#### Upside

- High priority and responsibility of OSH
- There are regular awareness sessions on EAP services
- People accessing EAP is increasing
- More open discussions about mental health in Directorates
- Demonstrated in practice – wellness programs, onsite physiotherapist, lunchtime talks
- The Mental Wellness Program was very good and fully subscribed

#### Downside

- Improving, but wellness is not yet fully integrated
- Other behaviour by Management can indicate that they don't care – e.g. not acknowledging uncertainty or heavy workloads
- Uncertainty with what the Wellness Working Group is doing

### Survey messages

#### Upside

- Healthy initiatives and wellness programs have been received positively

#### Downside

- Consistent concerns raised around mental health at COP
- 34% do not believe that the mental health of staff is being supported, even though 76% rated this as Very Important – Q71
- In the free response section, 7.7% of respondents said the OSH team could do more mental health work – Q79
- Employees are feeling stressed
- Should be more free programs – e.g. yoga is currently paid

#### Implications:

- Staff are aware of EAP, wellness programs and initiatives and are accessing them
- Staff feel mental health awareness and overall wellbeing is important; they acknowledge some of the recent programs but want more consistent ongoing support
- OSH is doing a good job in this area but Management are contributing to issues and not necessarily supporting them

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## Employee wellness

### Challenges

- Directors and Managers to have increased awareness of how Management behaviours and staff workloads can impact their staff
- High employee turnover
- Balance between addressing the symptoms of poor behaviour and practices versus managing and stopping the actual behaviour itself

### Opportunities

- Continue to promote the services and use of EAP and their confidentiality
- More open discussions in Directorates and BUs
- More focus on managing stress
- Bring in counsellors in traumatic situations – i.e. death of a member of the public
- Consider running sessions on working through uncertainty and change
- Clarify who has ownership of employee wellness and mental health – HR or OSH
- More work on work/life balance

#### Recommendations:

- Re-offer the Mental First Aid program. Consider shorter refreshers on a regular basis
- Strategies to address practices and behaviours that generate employee issues should be initiated and managed as a matter of priority
- Potential partnering with L&D to integrate matters around mental health and wellbeing into wider general programs and inductions

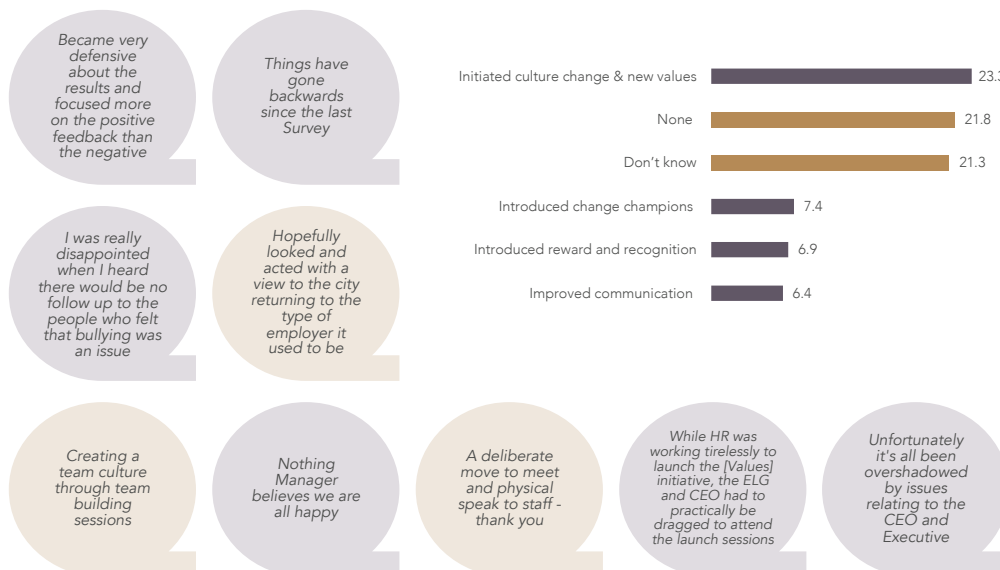
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## The ELG response to Catalyst Survey outcomes

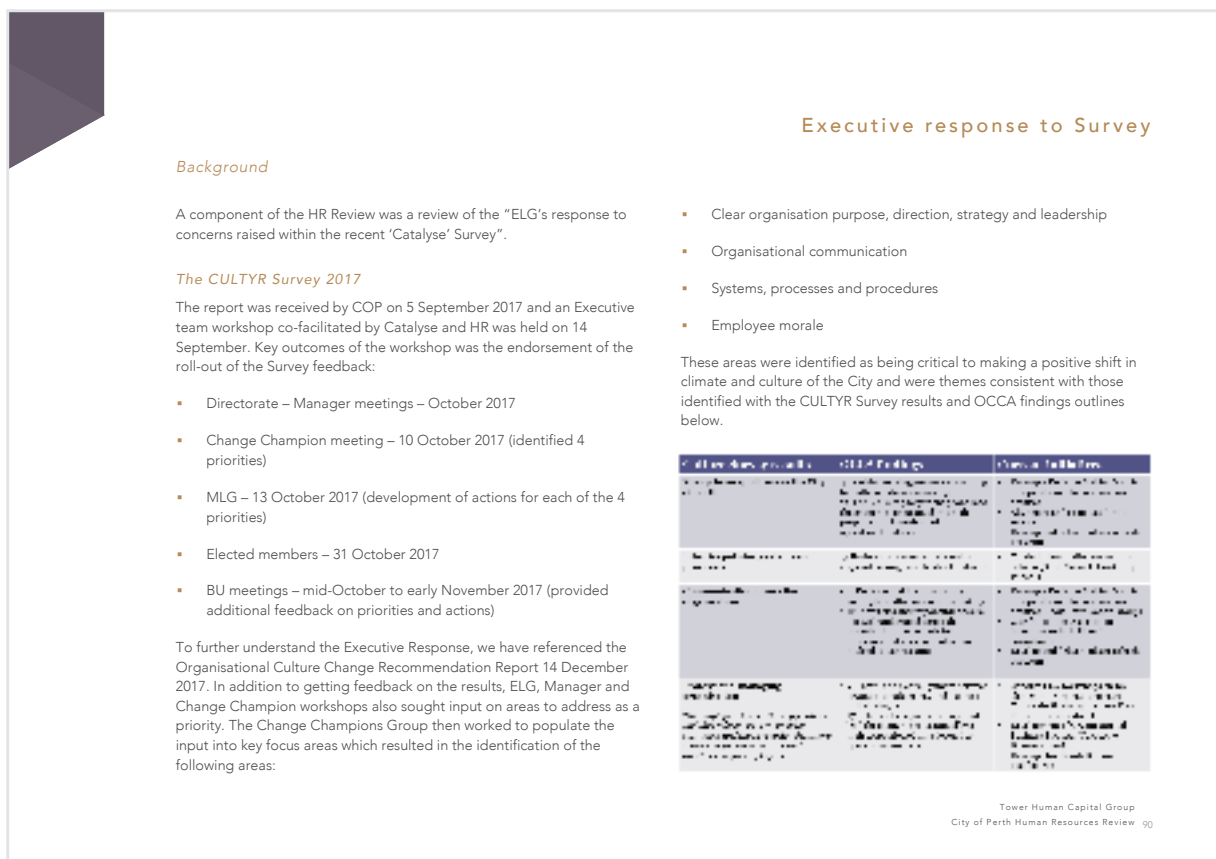
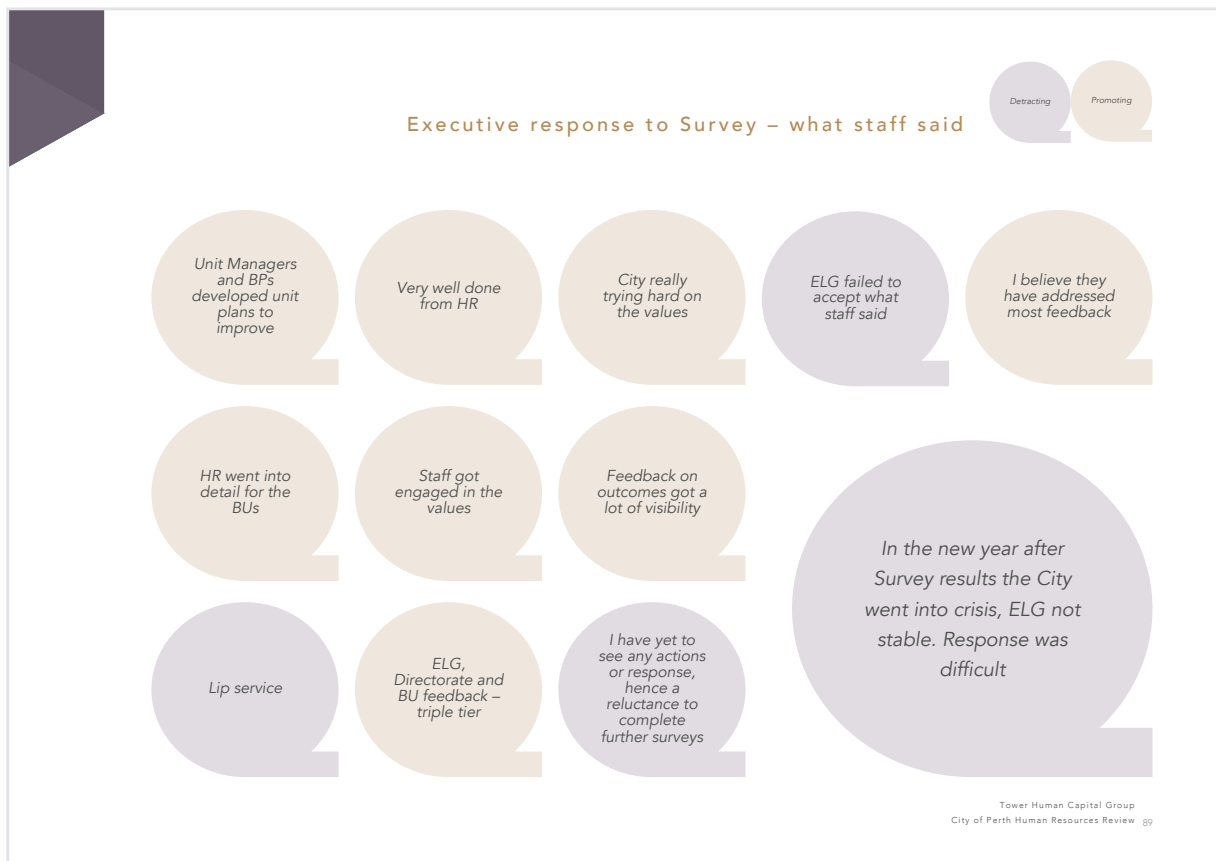
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### Executive response to Survey – what staff said

Q93. "What actions do you think Management has either commenced or completed in response to feedback from the Your Say Survey?"



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## Progress against the December 2017 Plan

The Report was prepared by the previous HRM (Kelly Pember) the L&D Advisor (Sarina Cuttone) and Catalyse (Survey provider), and presented to the ELG in December by Alison Egan. The report made a number of

recommendations. Progress and actions have been tracked against the recommendations in the following table:

| Activity  |   | What happened/is happening   |
|---|---|--|
| Publish Survey results on the intranet by end 2017  | ● | <b>Completed</b>   |
| Establish a business transformation office and appoint a Project Director on a 3 year contract  | ● | <ul style="list-style-type: none"> <li>Recommendation not accepted – deferred</li> <li>Implemented Culture Change program – HR</li> <li>Embedding values training – 25 Aug 18</li> </ul>   |
|   | ● | Other key activity <ul style="list-style-type: none"> <li>Values working group and values launched Nov 17</li> <li>CEO awards</li> <li>Reward &amp; Recognition program</li> <li>Change champions term of reference development for 2018/19</li> <li>Policy review – not completed</li> <li>Position description standardisation - completed</li> <li>Tighter focus on OSH &amp; Wellness</li> </ul> |
| CEO and Executive coaching – Inspirational Leadership   | ● | <ul style="list-style-type: none"> <li>ELG workshop with elected members – Nov 17 with Bartlett Workplace</li> <li>ELG workshop – mid-year with Bartlett Workplace</li> <li>CEO – Doug Abberley – ongoing</li> <li>ELG coaching – commenced but did not continue – (360 review and coaching with some Directors – Liane Cretney-Barnes</li> </ul>  |
| Since Survey completion: <ul style="list-style-type: none"> <li>3 /6 ELG resignations</li> <li>CEO departure</li> </ul>   | ● | <ul style="list-style-type: none"> <li>Council suspended in March</li> </ul>   |
| Re-administer Survey in 12 months   |   | Deferred, date to be established   |
| <b>Quick wins:</b> <ul style="list-style-type: none"> <li>Culture reboot sessions by the CEO and Executive team, release of the vision and values and Corporate Business Plan</li> <li>Casual dress implementation</li> <li>Morning tea bake-offs creating immediate team spirit; Birthdays are celebrated within BUs</li> <li>Tour escorts where an employee accompanies CEO on his am walk-around the City</li> <li>The CEO am walk-around the City extends to other areas, including the parks etc.</li> <li>Cross Directorate – BU morning teas; Regular Directorate morning teas are instigated</li> <li>Key milestones are celebrated within BUs/Directorates/organisation wide – 5, 10, 15, 20 years of service</li> <li>Reward &amp; Recognition implementation with acknowledgement of employees role-modelling behaviours and/or representing the City's values</li> <li>Visibility of the CEO within the organisation; by way of floor walks, BBQs, am walks with staff etc. CEO and Executive Team BBQs with employees over January 2018</li> <li>Communication, promotion and celebration of major projects and victories, rather than having to find them in ELG minutes</li> </ul> |   | <ul style="list-style-type: none"> <li>Cross Directorate meetings – some</li> <li>Improved communications</li> <li>Service awards</li> </ul>   |

## Progress against the December 2017 Plan

Below is a summary of activity against the top 3 Catalyse Survey priorities:

| Tracking against the top 3 Survey priorities |  |
|--|--|
| Elected member behaviour                     | <ul style="list-style-type: none"> <li>Council dismissed</li> <li>But what happens to prevent return to issues when the Council is returned?</li> </ul>  |
| ELG providing inspirational leadership       | <ul style="list-style-type: none"> <li>HR given the accountability to facilitate response</li> <li>Facilitated workshops initiated – but did not continue</li> <li>Coaching – fragmented</li> </ul>        |
| Strong team spirit                           | <ul style="list-style-type: none"> <li>Values launch</li> <li>Reward &amp; Recognition program</li> <li>Improved communications</li> <li>Directorate led activity</li> <li>BU team led activity</li> </ul> |

### Staff feedback

Feedback from staff on the response to the Survey outcomes is mixed. There was a high level of staff recognition in the free response section of the Survey that Management initiated “culture change and values”. Additional areas recognised were the introduction of Change Champions, the Reward & Recognition program and improved communication. However, 22% of respondents said no change had been initiated.

### Observations

Although the plan was presented to the ELG, it does not appear to have been owned by the ELG as an ELG strategy.

Whilst 2017 may have been the first external survey completed at the City, a number of internal surveys had been completed in preceding years. Along with these various change strategies there was also the formation

of culture change groups, Change Champions and culture change strategies. Those developed in 2016 for implementation the following years, were not progressed. The Catalyse Survey was commissioned and a new set of working groups developed and strategies developed.

There is a trend of not sticking to the strategies that have been set and moving onto a new survey and starting again.

Leading a change in culture requires a planned and deliberate strategy to shift from a current state to a new state. It also requires a committed, focused and aligned Leadership effort to achieve the required change. These requirements are not present at COP. Lack of stability and a fragmented approach to Leadership and direction make achieving inroads into organisational generated change almost impossible.

## Executive feedback on response

Director feedback to ELG response noted:

### Positive aspects

- Values launch
- Directors focused on what they could control individually
  - Directorate level activities
  - Internal survey
  - Values work
  - Newsletter

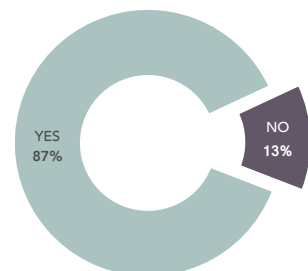
### Negative/impacts

- Director resignations
- Lack of stability of the ELG
- CEO issues/absence of leadership
- Main focus was on keeping the organisation operating in day-to-day
- Low consolidated accountability from Leadership, including Managers
- Ability to respond as a team without CEO leadership is difficult

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## Implications for future survey participation – what staff said

Q94. "Would you complete another survey?"



Yes! Give us a chance to have our say about 'what we think about upper Management' in the COP!!

Yes. But would want to see a greater willingness to reveal the truth of the Survey and a more genuine effort to implement change

Yes, in the hope that something may eventually get done about poor, poor, Management

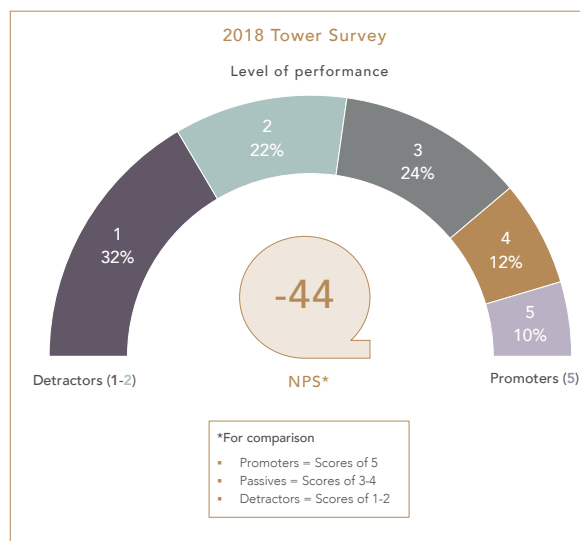
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## Net Promotor Score

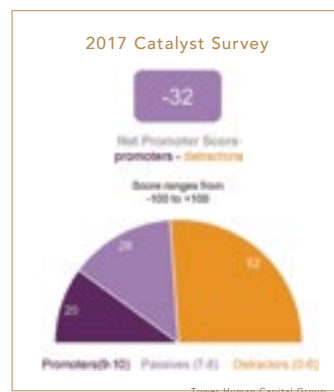
### NPS – a follow up assessment of analysis

*There is a significant deterioration in NPS rating as compared to the Catalyse Survey*

As the Catalyst and Tower Surveys are different we have developed a comparative analysis using similar like for like principles to establish a measurement base.

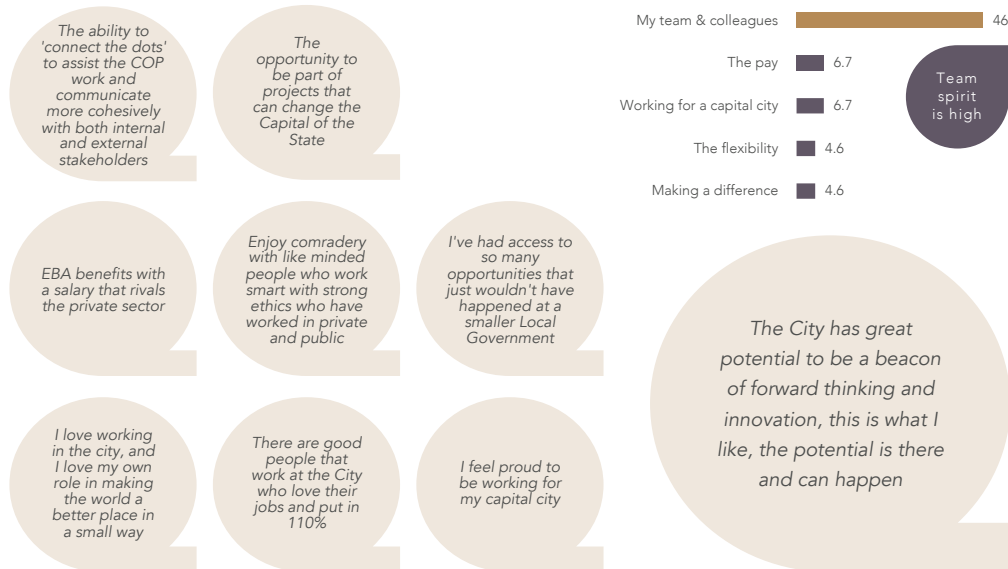


*"How could I recommend the City as a place to work for anyone when I see so many of my ... co-workers in tears on a regular basis?"*



## What staff said about working for the city of Perth

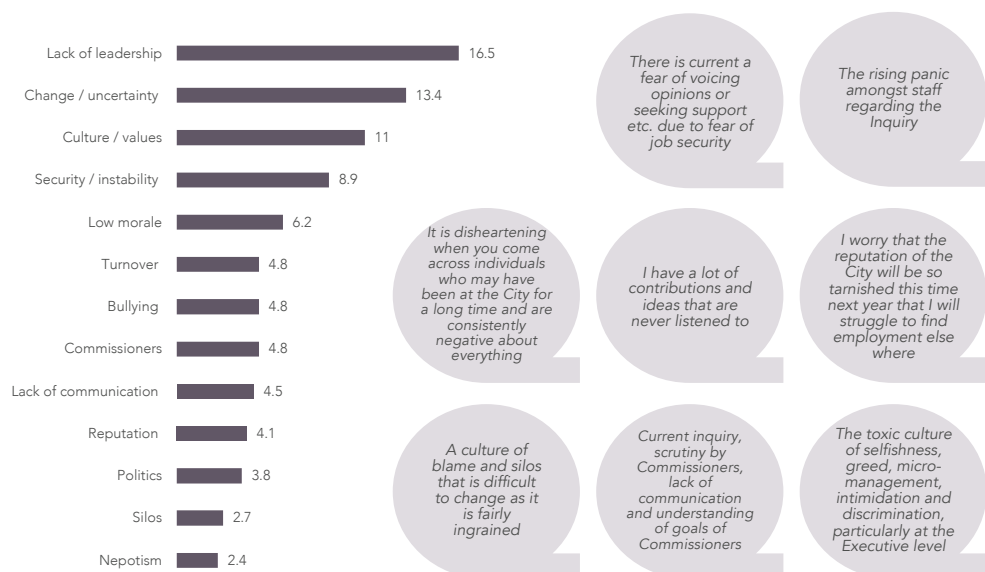
Q88. "What's the best thing about working for the COP?"



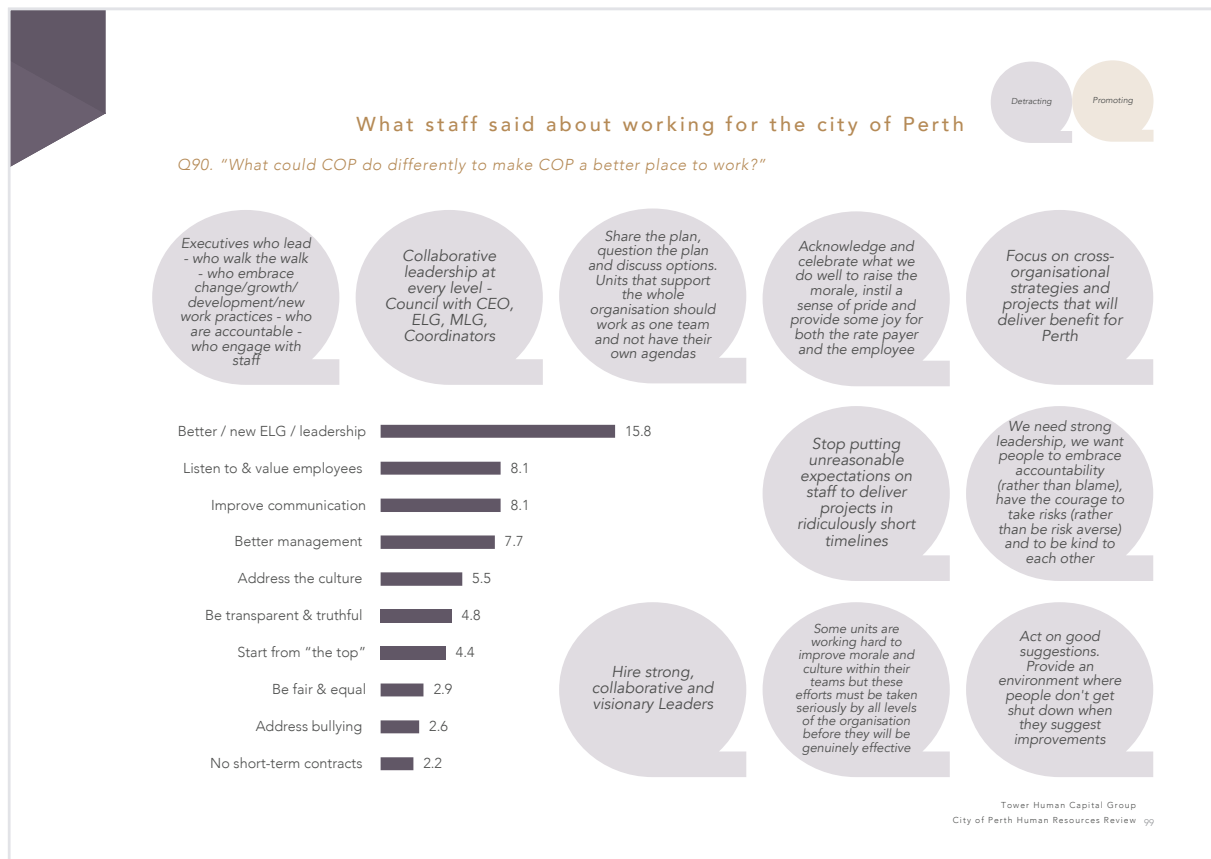
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## What staff said about working for the city of Perth

Q89. "What concerns you most about working at COP?"

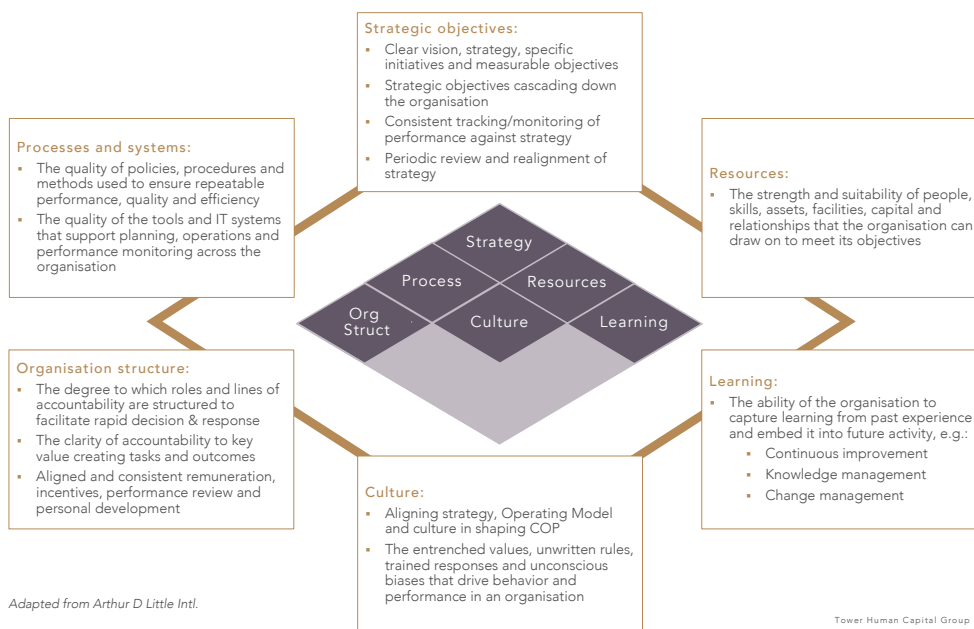


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## High performing organisation model – reviewing COP against the model

The High performing organisation model provides a framework for assessment of current performance

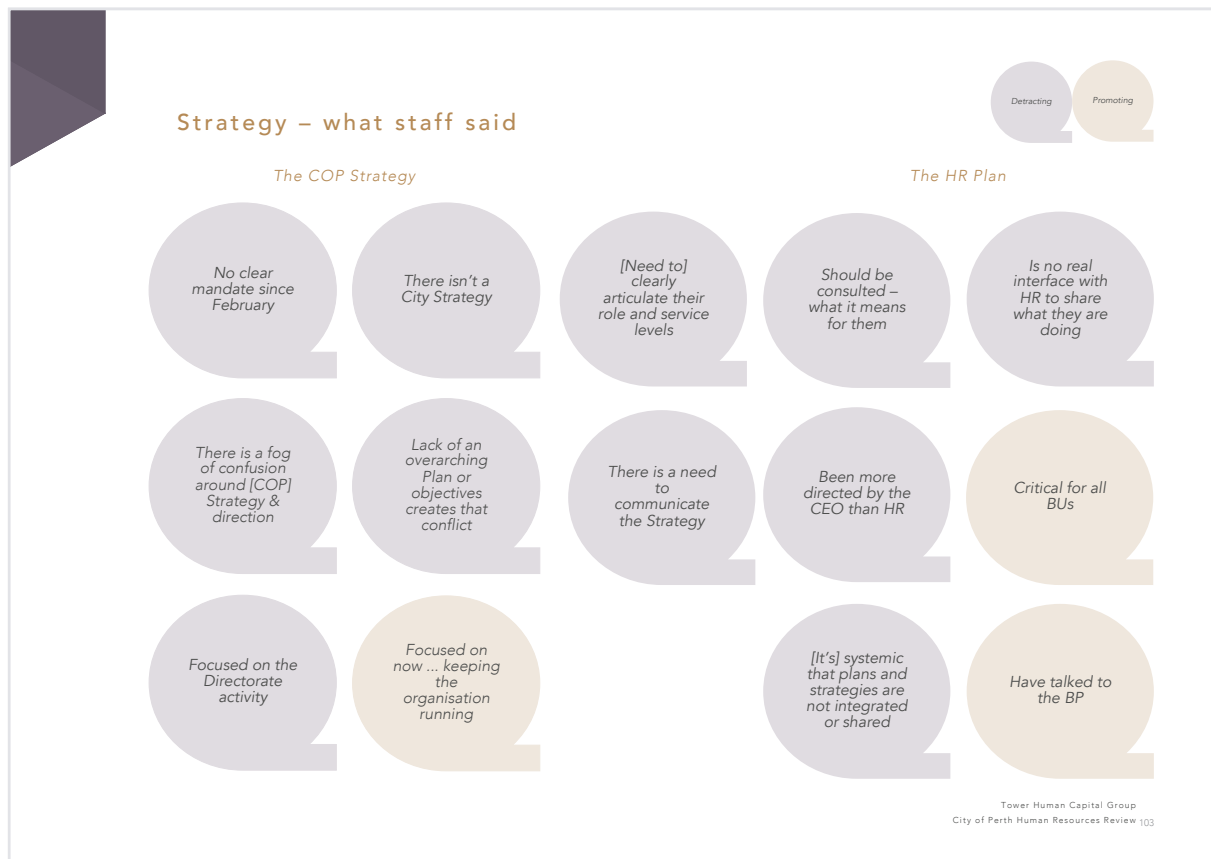


## Strategic objectives

HR has a Plan but does not have an integrated functional Strategy

- The City has a Corporate Business Plan for 2017-2021. Although not a purpose of this Review, there were variable responses from time to time about the status or currency of the City's current Plan – whether it was current, being reviewed or that the City was operating to the Plan
- The Corporate Plan states that the City has an integrated planning and reporting Framework. As part of that Framework each Directorate and BU is required to produce an annual Plan and Budget. A business plan template is provided for each BU to complete
- The current HRM commenced in her role in November of 2017 and was immediately required to produce a departmental Annual Plan for 2018-2018. A wider HR Strategy has not been developed although a comprehensive L&D Strategy has. The Plan acknowledges alignment to 2 of the City's Strategic imperatives:
  - Goal 8: A City that delivers for its community: Great people are attracted, developed and retained to meet and exceed community expectations – Develop and implement organisational and cultural program to align the values and strategic priorities
  - Goal 9: An open and engaged City: Leadership is held to a high ethical standard – Enhance the City's reputation through transparent and authentic leadership, partnership and communications of programs and services
- Both of these areas cover priority areas raised in the Catalyst Survey
- Other aspects of the Plan cover priorities and actions in each of the HR service areas
- The HR Report measures organisational performance against measures such as absenteeism, turnover and complaints, but there are no measures around the performance of the function itself; for example: time to recruit, incident response time and performance to a service agreement
- There is a need to:
  - communicate the Strategy
  - Clearly articulate and communicate their role and service levels

"A lot of the cultural issues should be achieved by having a real plan for the city about what is supposed to be achieved – lack of an overarching plan or objectives creates that conflict. All working on their individual Plans not the collective. The best way to get what they [the Directors] want is to shout. Most CEOs would put a stop to this but Martin also undermines. If you could sort out this layer – trading and versatility of objectives then the org would click together fairly quickly. Very frustrated in where they are at. Really believe in the COP. Some staff are really great, incredible people but he does not intend to hang around"



| Strategic objectives  |  |
|---|--|
| Messages  | Challenges/Opportunities   |
| <ul style="list-style-type: none"> <li>Few Managers are aware that there is an HR Plan</li> <li>HR does not have time to address the strategic issues</li> <li>People management and culture strategy comes from HR and not from the Executive</li> <li>Employees are not asked for input or contribution</li> <li>Desire to see the Plan and understand the service levels</li> <li>Some of the HR team are not aware of the HR plan</li> </ul>  | <p><b>Challenges</b></p> <ul style="list-style-type: none"> <li>Lack of visible integration of the HR Strategy &amp; Plan into wider Strategy does not encourage ownership from Leaders and Management</li> <li>Difficult for HR to get engagement of others in their Plan when very few have had any engagement in developing the Plan or any visibility of it</li> <li>The basic HR foundations such as clear policies are yet to be embedded</li> <li>Plan holds HR accountability for some areas that will not be possible for them to deliver – e.g. Inspirational Leadership</li> <li>The HR team is still in formation and doesn't necessarily share a common vision</li> </ul> <p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>HR to engage the ELG in refreshing and updating the forward Plan</li> <li>Wider communications on Plan priorities</li> <li>Formal presentation of the HR Plan at the ELG by the HRM, and in Directorates by HRM and responsible BPs</li> <li>Further engagement and input will build alignment and shared accountability in delivery</li> <li>Develop HR functional KPIs and feedback on performance</li> <li>Consider defining service level agreements for service delivery</li> </ul> |
| <p><b>Implications</b></p> <ul style="list-style-type: none"> <li>HR must bed down the basic foundations of HR before it can have credibility operating at a strategic level</li> <li>Implementing and embedding some aspects of the HR Plan will require higher levels of organisational integration, collaboration, information sharing and communications</li> <li>More transparency is required in developing and communicating the HR Strategy and Plan as well as performance against it</li> </ul> |  |
| <p><b>Strategy – what is it?</b></p> <ul style="list-style-type: none"> <li>Clear vision, strategy, specific initiatives and measurable objectives</li> <li>Strategic objectives cascading down the organisation</li> <li>Consistent tracking/monitoring of performance against strategy</li> <li>Periodic review and realignment of strategy</li> </ul>  |  |

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## Organisation structure – the COP

Issues around the organisational structure have the capacity to impact on the wider organisational and HR performance

- Legacy issues around the implementation of the new structure 3 years ago still exist
- It appears that there was a low level of definition around the proposed new Operating Model or planning for the transition to the new Model
- The structure has not been effectively embedded into the organisation, nor have the required organisational enablers been implemented:
  - An effective Operating Model for the new structure – how the organisation will work together
  - Clarity of accountabilities – where they start, finish, require collaboration and input
  - How BUs would interface with each other
- Effectively dealing with potential overlaps and minimising duplication of errors
- Systems of collaboration
- Engagement of impact areas in decision making
- Full clarity of roles
- Effective delegations of authority to support decision making in the new structure
- Some interview feedback placed the responsibility for structure on HR
- These issues are predominantly impacting the Leadership levels – ELG and MLG but their response impacts the organisation

*"The organisation is not structured correctly – overlaps, functions not in the right spot, lack of clarity – restructure saw 15 Managers go to 32"*

Organisation structure received the 5<sup>th</sup> lowest performance ranking in the survey

### Q8. An organisation structure that is clear & understood

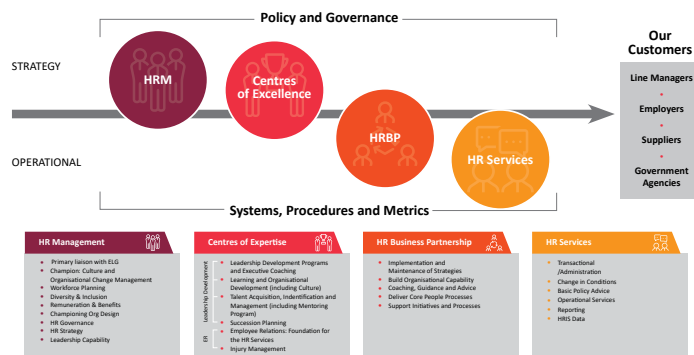
- Rated Average (2.54)
- 48% rated it Poor/Below Average
- Planning & Development Directorate rated it Below Average (2.13)

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## HR services model

The HR function provides support to COP through a blend of:

- Centres of Excellence: ER and L&D who provide specialist support to the organisation directly in their respective areas of expertise as well as supporting the BP advisory team
- HR Business Partnership Support model: HR Advisors providing day to day support. HR services support and administration also reports under this activity
- The HRM provides direct interface to the ELG and also has direct accountability for a number of core service areas as outlined below



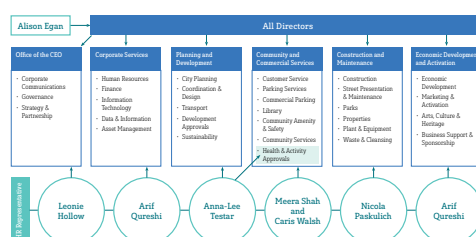
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## HR structure

HR reports through to the Director of Corporate Services and is not a direct report to the CEO.

The HR structure is shown below and is a total of 16.6. HR is a centralised function and provided support as follows:

- The HRM provides direct support to the ELG and functional Leadership in a number of strategic and core activities
- Business partnership is provided by the HR Advisor team and is supported by HR Administrators
- As Centres of Excellence, ER and L&D provide support to all of COP



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## Organisation structure – HR

### What staff said ...



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## Organisation structure – HR

### Messages

#### Upside

- BP structure
- Clarity in who to go to for support
- Dedicated BP is a good model
- BPs can learn about their Directorate and develop relationships and trust
- Provides consistent approach and application on HR matters within the Directorate
- L&D and ER as specialist has good support

#### Downside

- Transactional versus advisory or supporting decision making and strategies
- Managers and Directors don't always get the support that they need
- Lack of availability of the BP
- Problem of continuity when BPs go on leave
- Less about the structure than the level of experience of the BP – some inexperienced
- Expectations of what is expected from HR vary between BUs
- Staff understand the role of HR differently

#### Implications

- Confirmation that the BP model is well accepted by the City
- The HR BP structure and Operating Model require experienced practitioners to deliver effectively
- Accountabilities and interfaces between the wider HR team may need to be clarified

#### Organisation structure – what is it?

- The degree to which roles and lines of accountability are structured to facilitate rapid decision & response
- The clarity of accountability to key value creating tasks and outcomes
- Aligned and consistent remuneration, incentives, performance review and personal development

### Challenges/Opportunities

#### Challenges

- COP is still living in legacy of the restructure
- For the HR structure to be effective the level of experience and capability needs to be able to support it – ongoing turnover and experience of some HR BPs creates challenges
- HR provide consistent approach and application on HR matters within the Directorate but may be issues of consistency between Directorates
- In times of high recruitment activity BP resources are challenged
- Getting all sub areas of HR aligned and supporting each other as 1 unit

#### Opportunities:

- Encouraging teamwork and collaboration across the HR team
- Consideration of a dedicated Resourcing role
- Planned evolution of the BP role and skillset development to grow advisory capacity and capability
- Review the reporting relationship of HR to the CEO
- Initiate regular attendance of the HRM to ELG meeting to engage the ELG directly in key matters and initiatives

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## Resources

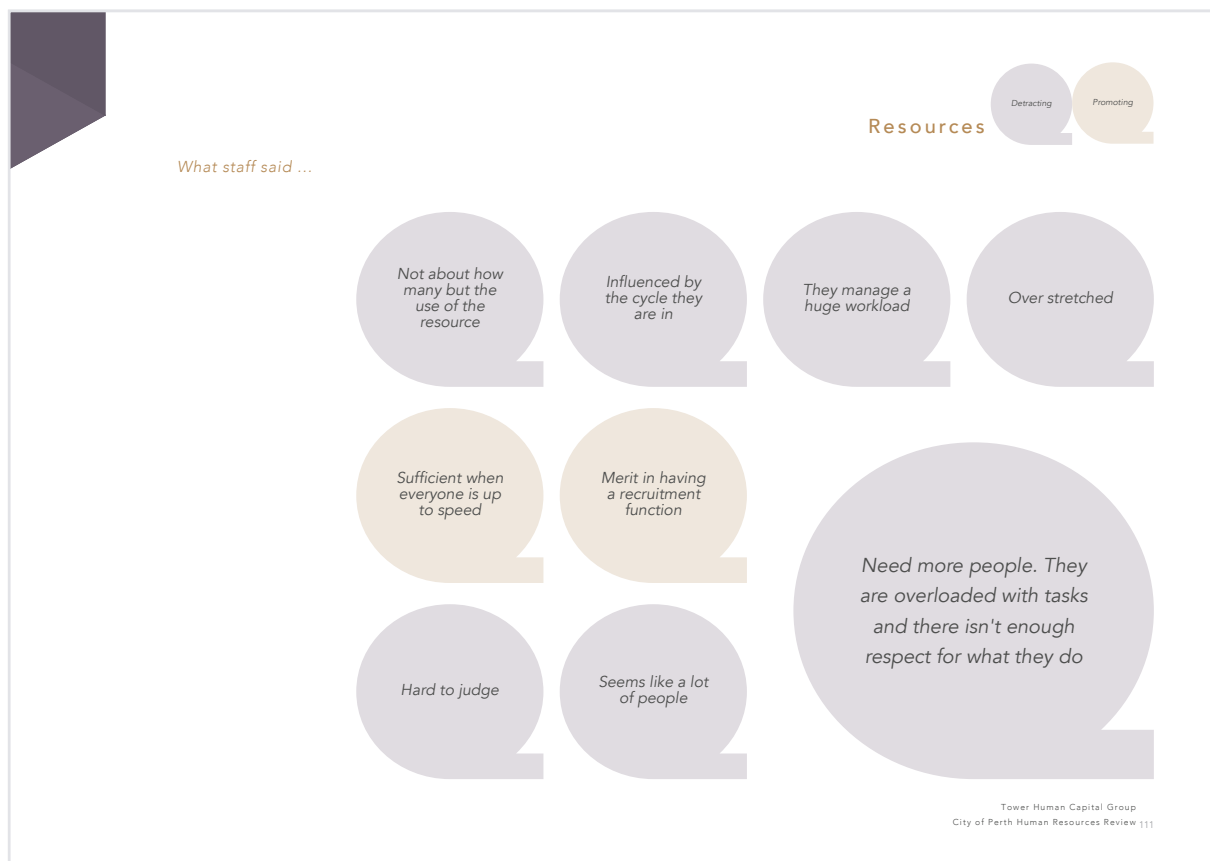
*The state of flux makes measurement of current resources more difficult*

In both interview and survey feedback there is a strong view that the HR team are operating to capacity.

- The effectiveness of resourcing is impacted by:
  - Spikes and sustained requirement for day to day operational and transactional support activity for BU Managers
  - The level of capability and experience of the HR team members (there are varying views of these areas as well)
  - Systems and processes
  - Variable understanding of their role
- The activities they are performing – are they doing what they are supposed to do?



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| Resources   |  |
|---|--|
| Messages  | Challenges/Opportunities   |
| <p><b>Upside</b></p> <ul style="list-style-type: none"> <li>Resources have grown but so has the level of service</li> <li>They are still settling as a team and when this is done they may be able to reduce headcount</li> <li>Implementation of HRIS may have an impact on resourcing</li> <li>Until the team is up to speed will require further resources</li> <li>Team are building relationships and developing trust</li> </ul> <p><b>Downside</b></p> <ul style="list-style-type: none"> <li>As the team is yet to consolidate and the operating environment yet to normalise, measuring resource requirements is difficult</li> <li>The recruitment freeze created a backlog and that is still flowing through</li> <li>Recruitment activity impacts the resourcing issue</li> <li>The HR team is under resourced. Need more people if they are going to be proactive</li> <li>Turnover in the team and less experienced members is having an impact</li> <li>Some Advisors have bigger teams than others</li> </ul> | <p><b>Challenges:</b></p> <ul style="list-style-type: none"> <li>Poor systems and processes drive increased resources – no HRIS yet, paper based, lack of workflow and system integration</li> <li>Some expectation that the new HRIS will free up resources is unlikely to be the case</li> <li>Some Managers are more dependent on BPs than others</li> <li>General staff below Managers want more accessibility to HR and more engagement in what's happening with them</li> </ul> <p><b>Opportunities:</b></p> <ul style="list-style-type: none"> <li>HR to review the BP portfolios</li> <li>Review feasibility of a dedicated recruitment function</li> <li>Consider an activity review of the team to better understand the establishment requirements: where members are spending their time, issues of duplication and overlap of activity and how the BP team and functional excellence portfolios can function with greater effectiveness</li> <li>Clarify the role of HR BPs – what should they be doing/not doing compared to what the BU should be doing; who does what and to what level</li> <li>Consider a form of service level agreements to support the above</li> </ul> |
| <p><b>Implications</b></p> <ul style="list-style-type: none"> <li>The current state of flux in the team makes assessing ongoing resource levels more difficult</li> <li>Improved skill levels and how the HR team operates together will have an impact on resourcing levels</li> <li>Reducing the risk to the business of relationship dependence, loss or absence of key skills will require short-term mitigation and medium-term planning</li> <li>Interim resources provided to HR should be retained to allow completion of key foundation activity such as the policy project</li> </ul>   |  |
| <p><b>Resources – what is it?</b></p> <ul style="list-style-type: none"> <li>The strength and suitability of people, skills, assets, facilities, capital and relationships that the organisation can draw on to meet its objectives</li> </ul>  |  |

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## Learning & knowledge

60% of survey respondents say COP's ability to manage change is Below Average or Poor

HR have an opportunity to support key organisational strategies and processes around Change Management and wider organisational knowledge sharing.

L&D strategies are integrated with organisation capability and competency requirements at a corporate level.

Although there have been attempts to formulate more strategic and structured approaches around Change Management in the past few years, it appears that Leadership have been reluctant to follow or embed a structured and planned approach to change. This may be because of the lack of CEO leadership and wider issues impacting the City over the last 12 months, or perhaps because there is an underestimation of the effort and work required to achieve large-scale change and culture shift.

COP's ability to manage change well is considered the worst performing area

### Q57. COP managing change well

- #1 lowest ranking of performance
- Rated Below Average (2.23)
- 35% said it was Poor
- The Planning & Development and Economic Development & Education Directorates rated it the lowest – **1.91**
- Rated Very Important (4.54)

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## Learning & knowledge



What staff said ...

I've gone through so much change outside of my control whilst with the City, and they completely failed to keep me in the loop

Employees undertake a COP induction when they start but they also need a workplace-specific induction

Huge turnover of staff has created loss of knowledge and experience in some areas

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## Learning & knowledge

### Messages

#### Upside

L&D team are respected

#### Downside

- High turnover challenging knowledge management
- COP do not manage change well
- Absence of succession planning

### Challenges/Opportunities

#### Challenges

- Whilst there is high visibility of the programs that HR offer there is a lower understanding amongst Managers and Directors about how the training is linked to wider organisational capabilities and competencies across job levels
- Exit of staff and core skills

#### Opportunities:

- Verify the organisational and individual capabilities required for the future
- Facilitate vehicles for sharing /greater integration of plans/ knowledge and strategic opportunities between Directorates
- Verify identification of core and high risk roles/individual across COP
- Develop and implement a Change Management approach for COP
- Project management skills and strong executional disciplines
- Gaining approval and launching the Talent & Succession Strategy
- Assess development requirements to support the future needs of COP in key functional and technical disciplines

#### Implications

- Investment in skill and capability development is positive
- The pace of change, challenging operational and leadership environment demand new and stronger skill and experience sets
- Managing change effectively and embedding it quickly can be supported by strong Change Management processes
- Succession planning will be important to managing key dependency on individuals as well as risk of knowledge/skill loss and opportunities for career development

#### Learning – what is it?

- The ability of the organisation to capture learning from past experience and embed it into future activity, e.g.:
  - Continuous improvement
  - Knowledge management
  - Change management

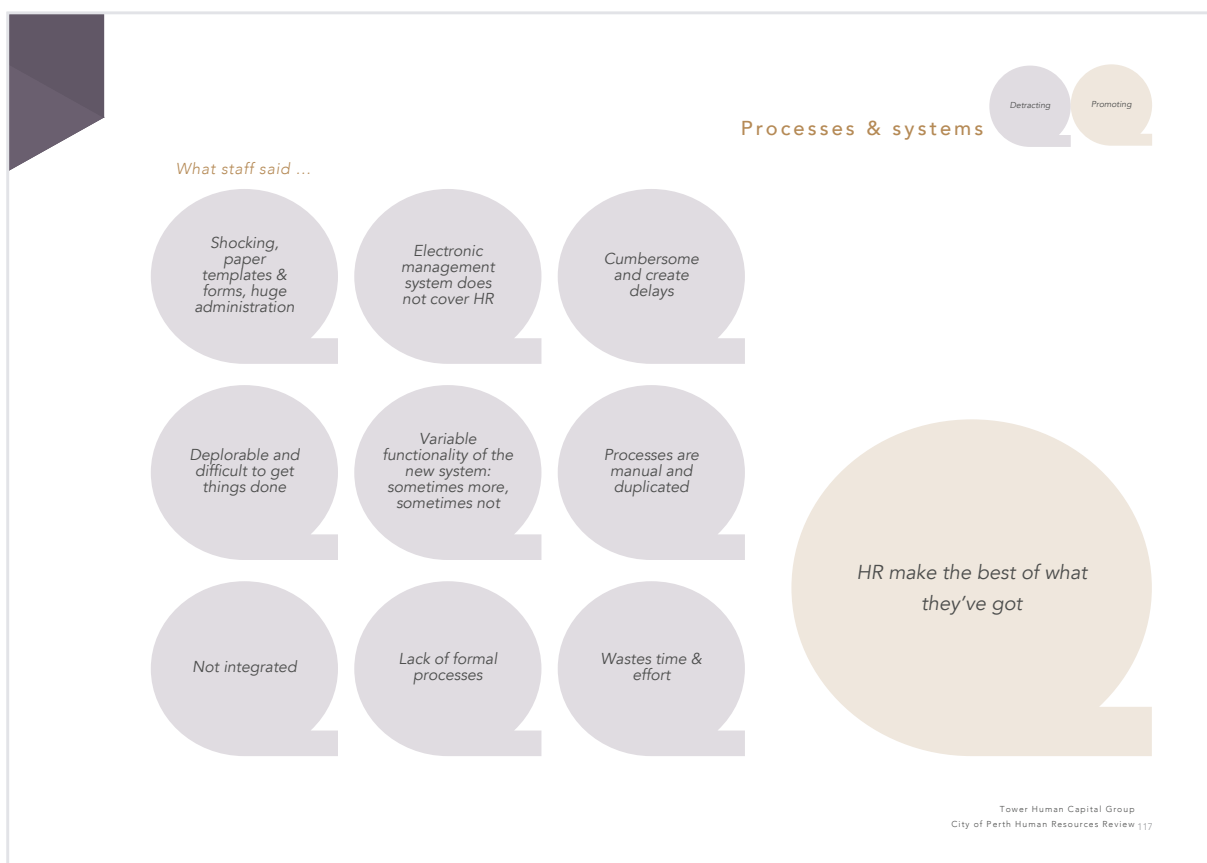
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## Processes & systems

*Key manual and cumbersome paper based processes are a frustration for Management and HR personnel*

- Key systems owned by HR include:
  - City Learn: e-learning system
  - Empower: tracks qualifications that require refreshing as well as degrees, certificates, licenses, and police checks
  - Big Red Sky: recruitment system that track applicants
- There is currently no HRIS in place. The HRIS project has been subject to ongoing delays, poor project management and accountability for delivery of the project, as well as having multiple Project Managers
  - Implementation will bring improved functionality to HR information, workflows delegations and reporting as well as a reliable source of workforce data
  - The project is also dependent on up to date policies and procedures so that their application can be built into the system. The policy review work has yet to be completed
    - Phase 1 – Time & Attendance and Payroll is due for implementation in April to June 2019
      - The current Time & Attendance system was designed by IT and runs manual timesheets requiring entry within each BU
    - Phase 2 – HR includes modules for recruitment, talent management, onboarding and offboarding. Other than for recruitment, there are no existing systems
      - The budget for this phase has not yet been agreed
- Payroll is owned by Finance, however there is common misconception that this is a responsibility of HR
  - There is no integration between HR and payroll but HR is currently dependent on the payroll system for key employee data
- The new HR intranet pages have improved the ability to access and find HR information
- HR policies & procedures are subject to review to also streamline and simplify processes

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| Processes & systems   |   |
|---|---|
| Messages  | Challenges/Opportunities  |
| <p><b>Upside</b></p> <ul style="list-style-type: none"> <li>The recruitment system is good</li> <li>New HRIS is soon to be implemented</li> </ul> <p><b>Downside</b></p> <ul style="list-style-type: none"> <li>Usually paper-based and manual creating huge administration for HR and BU Management – timesheets, L&amp;D approval, flexible work</li> <li>Limited workflow management. Have to print things off to get approvals, log chains of email</li> <li>HR processing is all manual and creates time delays</li> <li>Onboarding and offboarding processes</li> <li>EMS does not cover HR processes</li> <li>Duplication of activity</li> <li>No workforce planning system or staff establishment</li> <li>Some processes are not formalised so have to go to HR to check</li> <li>Processes and authorities change frequently e.g. recruitment</li> <li>Lack of integration</li> <li>Manual manipulation of data for HR information</li> </ul> | <p><b>Challenges</b></p> <ul style="list-style-type: none"> <li>Will the new HRIS meet the expectations of HR or the business?</li> <li>HR to address the matter at a strategic and operationally effective level</li> <li>Source of data is the payroll system which is owned by Finance</li> <li>HR do not have good control of their own policies, systems and processes</li> </ul> <p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>Implementation of new HRIS and ensuring – <ul style="list-style-type: none"> <li>sufficient resources to implement effectively</li> <li>sufficient training for HR and users</li> </ul> </li> <li>Developments in EMS to cover some HR processes</li> <li>Review and simplify processes</li> <li>Confirmation of who owns establishment management – HR or Finance</li> </ul> |
| <p><b>Implications</b></p> <ul style="list-style-type: none"> <li>The culture and behaviours around the importance of having and adhering to policies, procedures, systems and processes is as important as their development and currency</li> <li>The impact of poor systems and processes is largely felt only by HR team members and Leadership</li> </ul>  |   |
| <p><b>Processes &amp; systems – what is it?</b></p> <ul style="list-style-type: none"> <li>The quality of procedures and methods used to ensure repeatable performance, quality and efficiency</li> <li>The quality of the tools and IT systems that support planning, operations and performance monitoring across the organisation</li> </ul>   |   |

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## Culture

*Driving culture change requires a purposeful and disciplined approach and clear accountability*

- There are significant differences in the perception of culture and the issues surrounding it. Not all Directorates are the same
- Leadership of COP is a consistent driver of elements that propel a negative culture in COP
- There is a strong view amongst some Leaders that the Culture Survey would have shown an improvement in performance since the last Survey
- Some interview and survey respondents hold HR accountable for culture. A number of people were disappointed and angry that the Culture Survey was deferred

Culture ranked bottom 4 in survey for lowest performing areas



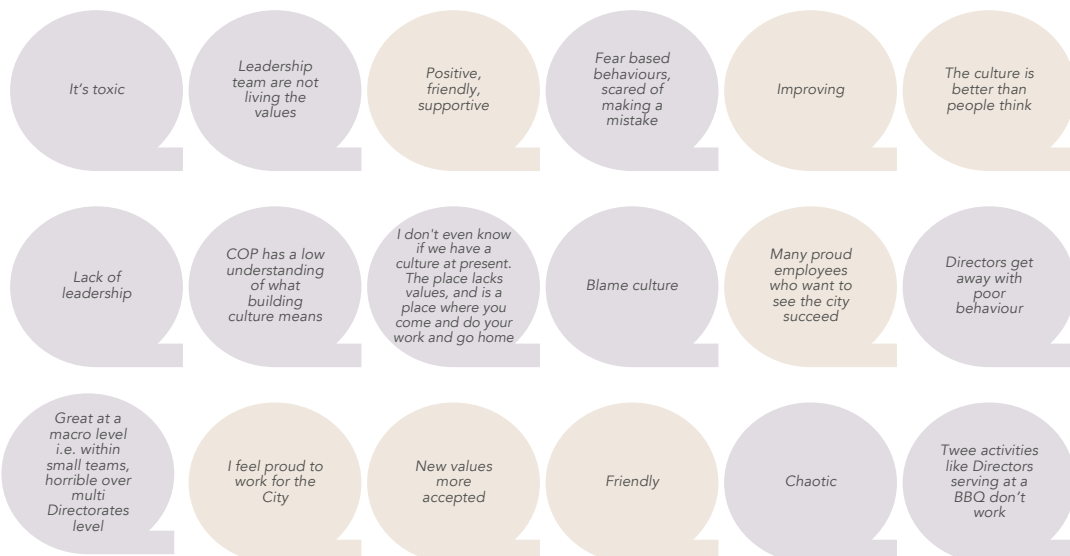
*When describing the culture of COP in the survey, only 21.6% used positive descriptors. The most frequently used word was "Toxic"*



Q91. "What words would you use to describe the culture of COP?"

## Culture – what staff said

*"It is unfair to imply cultural and morale issues at the City are the responsibility of one unit (HR) alone to address, as meaningful action requires support and genuine buy-in from across the organisation"*



## Culture

### Messages

#### Upside

- The bad behavior is largely restricted to the Leadership levels
- The recent work on values has assisted in bringing up morale
- Outside of the Executive people work to the values
- The new values resonate more with people
- Culture in BUs and Directorates is seen more positively than between units

#### Downside

- COP needs advice on how to implement in a coordinated way
- Director behaviour towards each other is poor
- ELG meetings are poor, lack of trust and instability
- Directorates have their own culture, and culture is varied between different levels of COP
- Managers need to step up and take accountability for shaping the culture
- Some of the concerns stem from the issues created by the restructure – departments are competitive, not sure where the boundaries are, and hide information. But this is improving and Managers are collaborating
- People are skeptical about the values
- Teamwork is fragmented
- The last couple of months have become worse
- Communication within BUs and Directorates occurs regularly, wider understanding may be limited
- 46% of survey respondents don't believe that everyone is treated with respect at work – Q54

#### Implications

- Poor leadership behaviour has been tolerated and if this continues will undermine any attempts for developing positive shifts in culture
- A deliberate approach will be required to develop and lock in the “go forward” culture that will align to and supports a shift from the current base

#### Culture – what is it?

- Aligning strategy, Operating Model and culture in shaping COP
- The entrenched values, unwritten rules, trained responses and unconscious biases that drive behavior and performance in an organisation

### Challenges/Opportunities

#### Challenges

- Addressing culture change in a strategic and structured way
- The perception of some that culture is an HR accountability alone
- The perception that HR is failing the City or not competent because of the current Catalyst Survey results and continuing issues
- For culture change to be effective it will also require impacts across most elements of the High Performing Organisation Model


#### Opportunities:

- Improve communications about some of the strategies in progress across the City
- More transparent feedback and reporting
- Demonstrate commitment to high standards of behavior and integrity for Leadership
- Develop, commit and share a “Change Plan”

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## Next steps

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### Next steps

Tower recommend that COP Commissioners set up a meeting to discuss key aspects of the Review. We remain available for further discussion.

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City of Perth Human Resources Review 123



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 1**

## **INTERVIEW TEMPLATE**

Tower Human Capital Group

## City of Perth Human Resources Review

### Interview template



#### A. General

1. What do you know about the current HR review?
2. Please provide an outline of your role. How long have you been with COP?
3. How do you interface with HR?

#### B. Human Resources in COP

1. What do you see as the key role/roles of HR?
2. **EXECUTIVES/MANAGERS/HR Staff** Are you familiar with the HR plan? Did you have input/were you consulted?
3. **EXECUTIVES/MANAGERS/HR Staff** Do you think these roles are well understood in the business and why?
4. **EXECUTIVES/MANAGERS/HR STAFF** What do you think the key business priorities for the HR function are?
5. Are you aware of COPs HR Policies and procedures? Are these accessible? Are they easy to understand? **HR:** When was the last time they were reviewed, where are the gaps?
6. **EXECUTIVES/MANAGERS/HR STAFF** Are policies and procedure in the function adequate for COP requirements?
7. How effective/friendly are the HR systems & processes across COP?
8. Are the team members approachable and helpful?
9. Do you trust HR to act in your best interests?
10. If you had an HR issue would you go to a member of the HR team? How comfortable would you feel?
11. What are the key strengths of the function? Are there things that the HR function does very well? What do you think the HR function could do more of?
12. Does the HR function have things that it could do better or differently?
13. **EXECUTIVES/MANAGERS** Are there any issues or gaps with the function and its performance?
14. **EXECUTIVES/MANAGERS/HR STAFF** Is there an authority matrix outlining clear authority for HR decision making across the COP? Are these well understood? Are they complied with?
15. **EXECUTIVES/MANAGERS/HR STAFF** Do you believe the HR function is sufficiently resourced?
16. **EXECUTIVES/MANAGERS/HR STAFF** How well supported are the HR teams? By City leadership?

#### Capability

1. **EXECS/MANAGERS** What is your opinion of the level of HR capability & competence?

2. Is the function respected across the organisation?
3. **EXECS/MANAGERS** - Is HR support for your area structured effectively?
4. **EXECS/MANAGERS**- How cost effective is the activity performed?

#### *Grievance and Complaint Process – including Bullying and Harassment*

1. Are you aware of the Grievance and Complaint policies and procedures?
2. How effectively are grievances and complaints managed at COP?
3. Have you ever had an issue? How was this managed? To your knowledge was it managed in accordance with the policy?
4. Have you ever felt that you have been bullied or harassed? Did you let anyone know? Did you report it? To whom?
5. Was the matter investigated? How satisfied were you with the outcome?
6. Would you feel comfortable making a complaint in the future?
7. **EXECS/MANAGERS** Does the Exec see grievances and complaints and the progress of these?

#### *Performance Management*

1. How effectively do you think employee performance issues are managed?
2. When did you have your last performance review with your manager or supervisor?
3. Tell me about your experience/perspectives on the effectiveness of the performance review process.
4. **EXECS/MANAGERS** – is it used by all areas?

#### *Development and Training*

1. How are you made aware of Training and development opportunities? How do you find out about them? Have you used City Learn on the intranet?
2. When was the last time that you participated in training?
3. **EXECS/MANAGERS** Can you please outline COP's Training and Development activity and its effectiveness?
4. **EXECS/MANAGERS** Who is accountable for identifying employee development needs?
5. **EXECS/MANAGERS** Where is Talent & Development budgeted?
6. **EXECS/MANAGERS** - Does COP have succession planning and career progression processes? To what levels do these go?

#### *Culture & Communications*

1. Do you feel COP lives by its values? What 2 or 3 words would you describe the culture of COP?

2. **EXECS/MANAGERS/HR** - How would you describe the culture in the HR team?
3. **EXECUTIVES** - Do you recall Exec review and response of the Cultyr Survey?
4. Did you participate in the last culture survey? Why not?
5. Did your manager/supervisor/COP communicate the outcomes to you?
6. Did COP act on outcomes of the survey? What actions have you seen?
7. Would you participate in another survey?
8. Do you feel your leaders communicate effectively with you?
9. Do you feel that you are kept informed about what is happening in your team and the organisation more broadly?

**HR STAFF ONLY** Metrics and Reporting

1. Are HR department metrics defined? What are they?
2. Is performance measured and reported regularly?
3. Who does the reporting go to? Who else gets to see the outcomes?

**C. Health, Safety and Wellness (includes worker's compensation, rehab and return to work)**

1. **EXECS/MANAGERS** What do you see as the role of HSW at COP?
2. **EXECS/MANAGERS/HR & HSE STAFF** What are the accountabilities of the function?
3. **EXECS/MANAGERS/ HSE STAFF** What do you think the key priorities for the function should be? How different is this from what is happening now?
4. **EXECS/MANAGERS/ HR & HSE STAFF** In your opinion, how important is the function to the good operations and culture of COP?
5. **EXECS/MANAGERS** - How cost effective is the activity performed?
6. **EXECS/MANAGERS** – Were you consulted in the development of the HSE Plan? Have you seen it?
7. **EXECS/MANAGERS** - Is the function resourced effectively?
8. Are you aware of the policies related to Health, Safety and Wellness? How accessible are they?
9. Have you ever been involved in a safety matter or incident? What was your experience? Were you treated fairly?
10. How important is employee wellbeing in practice in COP?

11. Have you participated in any of COP's wellness programs? What was your experience?
12. Are the team members approachable and helpful?
13. If you had an HSW issue would you go to a member of the HSE team?
14. What are the key strengths of the function? Are there things that the OHS function does very well? What do you think the function could do more of?
15. Does the function have things that it could do better or differently?
16. Have you ever had reason to enquire about submitting a Worker's Compensation claim? Tell me about your experience
17. Have you ever been involved in being rehabilitated for a workplace injury? How would you describe that experience?

#### D. All out

1. Is there anything else that you would like to tell me or raise with me that has not been covered in our discussion so far?



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 2**

## **INTERVIEW RESPONSES**

Tower Human Capital Group

## City of Perth Human Resources Review

### Interview responses



#### A. General

1. What do you know about the current HR review?
2. Please provide an outline of your role. How long have you been with COP?
3. How do you interface with HR?
  - Dedicated advisor
  - Meetings on a fortnightly basis/monthly with advisor
  - Alison attends regular MRG meetings
  - General complaints
  - Day to day behavior management
  - Workers compensation matters
  - EBA interpretation & enforcement
  - Seek their input in the way things are done
  - HR is very good
  - The adviser has been supporting the unit for a long time
  - Deals with them a lot as they cross over on a number of matters
  - Is a lot of change with advisory
  - Not a lot, only when have an issue Used to meet regularly buy advisor was changed and now on leave.
  - Some on training courses
  - In a few years had 4 different BPs – a lot of turnover. Did have regular fortnightly meetings with BP but because of staffing issues can do this
  - When first started in the role had an allocated advisor and felt supported, now have not had meetings for months. HR is stretched and feels they are less supported. Is inconsistency in levels of service, varies between advisors and not sure what to expect
  - Meet fortnightly with PB. Lot of support in recruitment
  - Had 3.5 BPs in 2 years
  - Fortnightly catch ups with Anna-Lee. She has a very good understanding of HR needs and people – continuity has been important
  - Use the intranet or call Anna-lee the HR BP if can't find things himself
  - Mainly around clocking up flexitime, award interpretation & conditions of employment, mediation, conflict resolution
  - Through interface with advisor and through corporate comms
  - Works with the ER group mainly especially Barbara and with advisor re disciplinary matters. Nicola his advisor
  - Have monthly meeting s with him – Anna- Lee. Informal interface. Occasionally HR come to monthly directorate meetings- when there is a specific issue. Regular informal discussions with Alison - approachable
  - Info not clear from HR. Not the knowledge or commitment from HR and different directions, lack of clarity around policies
  - Deal with HRM weekly. Largest directorate - 301 staff. Directorate team meetings each fortnight. Had Leonie, now Meera and Caris. Attend quarterly directorate meetings and they support her managers between them. Fortnightly newsletter in the directorate
  - A lot. Recent Performance management. In management team meeting HR, would provide updates, they attend. Nicola is the BP
  - Interact with HR on needs, recruitment, policy or specific matters, with BP
  - Fortnightly directorate meeting. Aria attends for HR. BP has 1:1 meeting with Manager. Fortnightly meetings with Alison not very structured but are valuable and support for him a pulse check Help him to align to what's Important for COP. Have to trust the HR team

- Fortnightly catch up with advisor – Caris who is new. 7th advisor in 3 years. Leonie was the BP but is seconded into a different role. Turnover every 7 months. Other contact is by email or phone. Fairly self-sufficient. Use HR support when issues are more complex. Confirmations & validating. 60 people. Had a complex case and because the advisors were not available went to Alison
- Issues around performance. Keep them informed, seek guidance sometimes. Not a lot to do with them. Stable team. BP Nicola. Did have a fortnightly catch up but now settled no a lot of need. She attends the CMD meeting
- All resourcing. Goes to HR when he has a vacancy or a challenging situation, goes to HR. BP is Nicola and she come to their Directorate meetings
- Newer position – 6 months ago as HR BP Lead. Was an advisor & BP for Community Services Directorate – providing generalist advice
- On 3<sup>rd</sup> advisor. Have extensive interface. 57 people. Some frustration. They have a very heavy workload and is having an impact on the people and they have shared this with them. People management. Leave, pay, discipline. Like to involve himself a good relationship
- Weekly with HRM, provide a monthly HR report to him re his directorate. Nicola attends monthly directorate meeting and then with the managers
- Did have a time when he was reviewing all the recruitment requests. Target business model – aim to do tweaks with the structure to get better alignment. The office of the CEO only set up last year. He got the project when he started – to monitor & co-ordination the process but didn't go so well. Leonie – fortnightly meets. Interface with Alison as needed
- Part of the team
- BP model. Different to what she thought it would be, mainly operational. Support recruitment, general advisory. Bureaucracy, the paper trail phenomenal. Has to be a paper trail. All conversations have to be documented. Flows into a blame culture
- Covering yourself so you do not get blamed, not compliance driven and not value adding
- Huge interaction. Were a range of issues on performance and productivity. No KPIs, no systems. Team used to poor practices. Setting a new precedent and manage staff through an extreme change and performance manager. Still working through the issues. Does not feel the staff were supported through the process nor the managers in the process. Complaints made in the process and was difficult. Don't have a change management process or unit. Caris the new BP, then before this Leonie
- Meet with her assist manager fortnightly. Go to person for issues and support. Previously more on their own and less support, smaller team. Been great and particularly helpful. Fortnightly meeting with other managers in directorate and HR attends. 3-4 changes or advisors
- Sub unit but must also have a link to the whole team. Collaboration can improve. Working with HR on an onboarding process before they commence and get aid an onboarding allowance
- Recent experience in recruitment – reasonably positive experience. Has a new advisor – Mira and she brings a lot to the role and a great service. A few meetings re concerns about another area. Gives a valuable independent view to help decision making
- People come to HR a lot. Worked hard to turn around and build the relationships
- Frequently, new to role, looking at secondments and advertising of positions and getting up to speed. No handover for him
- When she was seconded moved location too. Sits with the IT and the project team. Now sits upstairs with HR as the go live date was Nov. Has now moved nearer to April. Initially was a lot of ownership issues. IT, Finance and HR but was an IT project. Finds it exhausting and frustration. Feels that she does not way to be on the project any more. HR taking more ownership now over the last 4-5 months. Not initiated by Alison. 2 HR people now and need time with the rest of the HR team to train them. Scope: phase 1= Time and attendance and Payroll – Apr to June. Current T and A system was developed by IT and in run by IT Manual sheets, physically entered in the BUs. Phase 2 = HR – post June, recruitment, talent management, onboarding, off boarding. Except for recruitment there are no systems now. Budget for Phase 2 yet to be finally agreed. Tech 1 is the platform. Delay in project was because things were not done in the sequence that they should have been. Has been 3 project managers and now is a new one that is taking a more disciplined project management approach. Been a while now since she has done the HR advisor work so she is now considering what the opportunities are for her. Has spoken to Alison. No sense of

achievement as the project keeps going on and on – is draining. C&M said they didn't want to go on line, want to be manual and they can do this. Really keeping processes that same and not simplifying them

- Recruitment, losing people. Work with BP especially now on 6 vacancies – Arif. Met with Alison weekly as part of Corp services meetings
- Is looking after DCC & is shared with Carris and Anna Lee does one business unit for them. Community Amenity and safety, Commercial, Parking and the Library and thinks she does the DCC office
- Has a very militant workforce. Not of issues – time management, injures, bogus WC. Poor work attitude. Spent a lot of time in WC and ER. In the Fair Work a lot. OHS was more white color focused then. Nearly all cleaned up. Nicola the BP. Doesn't need frequent contact with HR. High degree of accountability himself

## B. Human Resources in COP

### 1. What do you see as the key role/roles of HR?

- Support managers in decision making – the source of the truth
- Clarify policy
- Not just the normal things like recruitment, performance management ER
- Training and capacity building of staff
- Culture- support and make sure people have the capacity to check that people aren't behaving in the wrong way
- They should stand for the employees. Stand up for them and help them get through issues\
- Recruitment, proactive advice on ER, regulate recruitment, ensure processes are followed
- Support leadership in developing culture
- Role has changed since he commenced, now focus is more on the cultural aspects. COP is good at starting things but not at finishing them. Before was not a focus on this area. Do not think HR should be driving culture – leadership and the commissioner should be. ELG don't necessarily display the right culture. HR are used as a band aid
- Proactive, motivate and develop staff. Was challenging when the survey was delayed. Alison helped him with the messaging
- Provision of clear consistent advice, assist in recruitment and passion decisions made for the information of others
- ER, T&D, potential, recruitment, supporting business case development for structure changes, additional resources, issue management, advice and guidance, return to work and injury management
- Guide him – managers need to take ownership. HR are always there and bend over backwards to do this and to do it well. They set the framework. Support the organization
- Tough because the payroll system doesn't talk to the HR system – not enough integration. But is an HRIS project – ability of IT to install a fit for purpose solution isn't great
- Currently do a mediocre job of onboarding new staff. Use them for ER, managing sick leave, grievances
- Seem to be supporting the exec more than anyone else – the enquiry
- Multi-pronged, support managers as leaders, advice, assist people to manage the system
- Advise leaders and exec about how the city works towards the strategic HR plan. HR plan must be integrated with the overall plan
- Identifying opportunities to develop capacity, capability and succession planning below managers
- Advice and guidance to managers, subject matter experts
- Supposed to be custodian of the system, have clear policies and procedures, and follow them. Support our people.
- Selection and Recruitment, managing policies and procedures, and they should be independent (currently they report to a director in a division which means there is a conflict)
- Providing managers with assistance in recruitment, training, guidance on retention etc.
- At COP, it's enforcing rules. It should be about having the right people to implement the strategy and to support them as managers to do so. Less about developing them it's about putting people in boxes. Have had 3 managers. One was good friends of Rebecca Moore but had a falling out. Kelly was excellent but was a bit of a loss when she left. Is concerned about Alison. Poor language, unprofessional. Interfered in a PM process. Her interference resulted in the process becoming awful and it did permanent damage to the individual. Involved in a clique of the ELG

- Recruitment, employee advice, ER, L&D. Used to have injury management and OSH in HR, now OHS. Not doing: OD - succession, end to end reviews, capability, retention, or more strategic orientation. Now working on induction. Why aren't they doing this – new structure – 3 new directorates, 12 new BUs lot of recruitment of new people, performance issues, the restructure. Now have a good HRM, understands the difference between operational versus strategic HR
- Support managers on day to day basis. Often managers expect too much and managers should spend more time taking accountability
- Support role around general HR role, guidance and HR. Feels that they are doing a good job. Can ask them directly, can point her in the right direction. Making her job easier, giving her confidence. Anna-Lee is the BP
- Service. Needs to be more of a consultancy. Is a service but not very two way? Should be able to initiate within the rules - and then within the spirit in the rules. Alison is the third manager. Is a frustration with HR, revolving chair
- Support to her and the team. Good neutral go to for issues. Developing the org and the skills in the org, L&D programs, appropriate systems, education and training in ER. Ongoing support
- Recruitment – feedback is that this takes up most of their team. Performance
- Recruitment. Role is reactive. Not much time for them to work on strategic matter. Would like more support in encouraging better practices in the team, sense of ownership. But they don't have the time. Training and Dvt is very generic. He finds his own and just getting it done
- All of HR services, ER, Recruitment and selection, L&D injury management to help them manage their resources. More hand holding, new BU managers – after the org restructure, recruited a number of people without local Govt experience. They provide the support and guidance. Still heavy on the transactional side
- Never seen HR her function in any consistent way. Hasn't had an opportunity to get into a rhythm. Attrition high, getting people in and up to speed. No speed of process. Sees then as the doers – organize, do. Service oriented but difficult for her to deliver in a timely way
- Manage staff related issues, policies, procedures up to date and enforces, COP interests as employee
- Enabling the organization through strategic HR to deliver on the goals. The workforce plan is an annual requirement.
- No HR strategy, people chasing tails.
- Unit that provides specialist advice and support and necessary information needed to make those calls. Now is a group of people that don't want to make the calls, not the skills to make the calls and conflicting advice. But they are new. Where is the direction and leadership from above re their priorities – this is a wider issue in COP. So much BAU, reviews and assessments. Need to bed down and get the foundations tight. Draws and comparison with own unit
- A service and a support, compliance to regulations. Support managers: Focusing on empowering managers to do their jobs, challenge ways of thinking. When she first started was very administrative function
- Having the expertise in ER, staffing, guidance, and knowing what you can do that won't compromise the city.
- A lot of BUs use HR as a scape goat – HR said you can't do it. If something goes wrong, they say that HR said you can't. Needs to be more of a partnership. Because HR know that they do get blamed for things they are less likely to push back on things. For HR to have everything in place for when someone starts need managers also taking responsibility
- Facilitate engagement of staff – recruitment and people management requirements of the BU. Structure to help manage the team- performance, to salary changes and day to day. Also, sees a role in structuring resources properly – consistency of roles and pay levels. There are currently discrepancies – methods and structure of benchmarking. Different levels of management maturity
- Support employees and managers on issue management, performance management, behaviors, queries and processes and practices, grievances and EB management. Partner with manager and bring them up to speed, coaching in management of a staff issue. Sometimes people think that HR makes decisions on everything
- Recruitment, induction, getting him on board and the online program
- Need to be more of a strategic role. More reactive. Need to develop strategy and work towards it. Workforce planning, talent management is ticking boxes. Needs more influence – just reacting to what the business wants,

very rarely say no which keeps them in the operational space rather than looking longer term. No confidence that HR will really leverage the new system

- Personalities in the project. Changes in the team
- If HR aren't engaging
- Is work now on processes with a view to implement the systems approach but may not always be more effective
- Processes outside of the system not being looked at and don't feel they will be
- Varying functionality of the system – some cases will be easier and other won't be. Will be workflows, delegation, reporting, one source of truth
- Still need to be clear on who has accountability for what HR, Finance, and IT
- A guide through the HR process, HR admin processes and help manage processes – recruitment, Grievances, custodian of policies and procedures. Capacity to deal with things limits ability to do CI
- People respect HR to the extent that before they make a decision they have consulted HR – some is genuine, others are bum covering. They do work in partnership but what the function offers now is not the full remit – talent management, succession planning. So, the career development actions that come out of the PS process don't go anywhere. Internal career pathways are not very mature and would require Directors to be aligned. Level of support varies. The stronger the unit manager the more they take accountability, keep HR up to date, engage them as advisors this creates opportunity to look forward. In other units is a higher dependence on HR to support decision making and help and support through processes. Would like to be in the former position. And for HR to be able to think ahead and thinking forward. Managers doing their own day to day.
- Support role. Recruitment support, EBA interpretation a knowledge base to support them in managing their staff. High expectation of entitlement is a bigger need to check in with HR from a process perspective to make sure are doing the right thing. I.e. having a conversation and raise things about performance.
- Should be there for ALL. Should not be sent off to some independent people if you're feeling stressed. Only seem to be able to point you in different directions. Used to be able to ask about advice about how to deal with HR issues, my manager etc. – how do I manage this a bit better? In past, Manager wasn't supportive what wanted to do, there for offering advice. They should be offering professional advice. Wasn't with what he got his PM
- To provide support and guidance to manage teams affectively.
- Multi headed approach - systems and technical operational side - they are the gate keepers of employee data (position, salary, emergency details), any changes to are the responsibility of HR. Policy - they own the legislation around workplace policy, fair work, internal council and city systems and procedures. Advisory role - making sure rest of the business is following policy, then advising Managers and employers. Recruitment, retention & development - (thinks already configured where they need to be, just need to act). HR has a stewardship over payroll (payroll should come to HR, NOT HR come to payroll). HR don't seem to understand their impacts of what they do in the pay office. Not satisfied with service she's getting. HR has made some serious recruitment errors - their new HR Admin (which should have been gotten as a specialist) was then in agency — she's made some serious errors — promoting and demoting people incorrectly. HR doesn't value its own area enough to warrant a specialist in the role. Recruiting someone for 70/80\$K a year with no experience in the role, who is making mistake after mistake. Payroll was made to train the HR Admin. Alison - HRM - listened to feedback with a Masters in HR - but she is getting paid same as the other person. Alison didn't realise the effect of having an HR admin with no experience. Alison has brought through her 2IC who has no legislative knowledge, all her experience is around recruitment specialist - most senior person in terms of miles on clock but most inexperience around HR advisory — difference around experience and expertise. HR Admin who sets people up, HRM who is not sophisticated enough to know what she's truly managing and what her responsibilities are (all about recruiting instead of legislative etc). IMMATURE ORGANISATION. Seen minor improvements around efficiencies. Regression of service based that people are being promoted who shouldn't be. Spending too much time around interpretation, not enough time to catch up. Will need to implement a new system but people will mess it up just like before

2. **EXECUTIVES/MANAGERS/HR Staff** Are you familiar with the HR plan? Did you have input/were you consulted?

- No
- Keep updated when Alison updates managers at MLG meetings

- Alison been brought in recently. She's got one of the hardest jobs. Not enough time to address the strategic issues. Lot of turnover and only Leonie is there from the original advisors
  - Robert passes down information in the weekly Directorate meetings
  - As an acting Director have has meetings with Alison by normally would not see her
  - Lack of a cohesive vision, strategy and direction. This comes largely from HR and not from the exec. Leadership should take accountability for people management, culture and development and is not just the responsibility of HR.
  - Workforce planning and development planning has improved
  - Not much discussion with BP about forward plans, more operational, recruiting, performance shaping
  - Not aware of a plan and hasn't been asked to input. City has been in a state of reactivity and sometimes good work is not acknowledged
  - No but have talked with BP about what the focus areas will be and how that will provide service support and the things that will impact them
  - Through Anna-Lee and attendance at DLG
  - Not seen the plan. And no input. MLG not really a forum for exploring managers needs and issues. Not very useful for anyone. No
  - Alison come to the Change Manger Group
  - No **real** interface with HR to share what they are doing but probably should
  - Not really
  - No. Systemic that plans and strategies are not integrated or shared
  - Familiar though Directorate meets
  - Know the biggest priority is the HRIS. Now WF plan, no complete up to date org structure - system generation. Does not recall a briefing on the plan. Would be critical for all BUs
  - Knows what the general plan
  - Not eh pal but Nicola updates in the meetings
  - Told about it but the new HRM started just before all the problems with the council started
  - Yes, become more familiar in this role
  - No
  - No
  - Not seen it, been more directed by the CEO – directed by him. Plan may be retained as confidential during its progress
  - Was part of the process for the review of the onboarding processes
  - Generally, it should be in terms of what it means for them
  - Worked on the L&D strategy and also the valuation report
  - No. Would be good to get visibility of service levels. Clear definition of roles and boundaries – what services and what resources are required and what you pay – not just in HR. Need to define what the services should be
  - Not really, Sent for comment. Manager and the three supervisors
  - N. May be elements of it
  - No But knows that Alison did catch up with the senior team where they did come planning and still to cascade
3. **EXECUTIVES/MANAGERS/HR STAFF Do you think these roles are well understood in the business and why?**
- Advisor attends Directorate meetings & talks about what is happening around HR matters
  - In some areas, not all, in ours yes, we utilize HR to support our decision making
  - Concerned about the constant changes in HR and how to retain them
  - To some degree. Operational issues take priority
  - Mixed views – not on the standing for the employee side
  - Alison is spread too thinly. HR's role is not understood at all. 24% turnover so their focus is on recruitment – a back log because of the freeze and had to take on 2 new resources. Fighting fires
  - T&D is a strength
  - No and that's a fundamental problem

- Some of the interface with ELG on RTRs and reporting lines are not always well defined
- Team are encouraged and know that they can go to HR if they have an issue or a question Generally understood. Things have changed over the year – more hands on or hands off and this sometimes causes confusion. More hands on now- more involved i.e. Recruitment will help with the shortlisting
- No, some managers want HR to do the hard work for them
- Sometimes too much reliance on HR. Managers need to be able to play a key HR role themselves. Barbara's sessions on HR/ER matters. Managers need to be trusted in making decisions and consistently applying them
- Not really
- Is a strategy but it's not pushed out by the Director, not advocating for HR. Always been under scrutiny. Not really looking at what's needed and what the focus should be
- No expect too much not enough own accountability
- Different across the org. Some expect HR to be doing a lot of the doing. Some things really need to sit with the manager as the manager of people
- Feels yes. 2years ago introduced the BP model – they know who to go to. The advisory team are there on their remit and managers understand it
- No, different views about what this means. Frustration with HR. Alison in a difficult position. She is in catch up mode e.g. Induction, never seen an organization with so much lacking in this area
- Now it is more transactional because of the circumstances. Priority has been to get operations up to speed.
- Managers seek advice from each other. Want guidance eon making the right calls. Some fear in making the wrong call. First sign of conflict and the City back off – not wanting to deal with problems, easier to give in or pay off. Managers conflicted about making tough calls
- Need to understand what the issues are across the organization
- L&D team collaborates well to get good outcomes
- Generally. Just gone through a process to engage contractors to recruit staff. Not well defined. Took about 7 months to clarify what the roles are. The HRM has sorted/sorting this now. Alison is trying to do a good job – lot of legacy issues
- Yes
- No, with 3 HRMs in about 2 years have slightly different approaches and visions. See selves as a full-service HR center. Was different to this a few years ago
- He has no regular conversations about HR with others.

4. **EXECUTIVES/MANAGERS/HR STAFF** What do you think the key business priorities for the HR function are?

- Get the staffing levels correct
- Making sure staff are supported with the right resources
- Supporting the executive. There is a lack of stability there, uncertainty
- Good recruitment
- Stop all elements of bullying, favoritism and inconsistent processes. Ensure high integrity and leadership team behaviors
- Morale, managing turnover - no leadership, no CEO
- Hard to make a lot of progress with the state of flux – reviews, value for money review, the inquiry
- Culture change and workforce direction. Large number of issues need to be leader led
- Make employees feel empowered
- Proper and transparent processes
- More proactivity of insourcing V outsourcing – HR doesn't currently have a role in this
- HR playing more of a facilitating role in the directorates & units working together
- Get the plan and the processes right and then "come back to us and introduce it all"- the complete package i.e. Induction – don't need 33 packs, get a standard one – wastes resources and lacks consistency
- Because of the current environment and potential issues, they can assist more in the culture change processes, behaviours. Helping the managements group in T&D of staff and the shining lights get opportunities. Their approach has been good

- Facilitating processes with managers and helping them plan their people requirements & capability
- Performance management, KPI development and cascading these. Helping to get the organization picture and how this flows to other units and to individual KPIs. Processes to help track how COP is performing
- Structural clarity – see this interlinking with culture and will help to link activities across the organization. COP is not efficient in people knowing their roles and responsibilities or in giving people the authority to do their jobs.
- Structure clarity – sometimes is random activity
- Support staff – has been a lot of upheaval
- Get COP name up there as an employer of choice
- General logistical support to managers
- Need to be more the “keeper of the structure”
- COP is in a transitional stage – Deloitte report. Lot of work to change the culture but not there yet. Many things are outside the control of HR – counsellor suspension, leadership issues.
- Culture but more around leadership – upheaval, leadership is lacking. It’s about healing wounds and “looking after themselves”. People on stress leave, is a lot of “water cooler talk”
- Review and document any gaps in policies and procedures, update and ensure they are utilized and followed
- Onboarding but also is responsibilities with managers and leaders
- Focus and prioritise the HRIS
- Mental health
- Supporting people manage through the changes – commissioners, the pressure
- Recruitment & retention
- Since he has been here the whole team has left but not necessarily a cultural issue – explore own opportunities, back interstate, promoted to other local Govts. Only 2 negative reasons – the previous manager that did not get the role and moved because did not see their career developing at COP. Culture is not specifically an HR role
- Strat HR – culture, OD – structure, people retention, attraction, establishment management, recruitment, L&D. ER – Performance management – have a lot of issues, need to understand what is or isn’t a grievance. Need to be more robust in what a grievance is
- Need to reassess their processes i.e. On line induction. Doing a work around – do these before they come to work – but they don’t have the context. Should reassess the content. Don’t seem to understand the business and make decisions that aren’t the best for COP: not the right focus – the should ask others instead of telling. Applying past experiences to a situation they don’t fully understand
- Recruitment – right people, cultural fit, positive culture. Perhaps more screening is required. Have recently looked at psychometric testing. Rob has initiated this to get more rigor
- HR is reassuming control of the recruitment process. Was dictated to by elected members. Now the Commissioners - freezes. HR and Robert not being listened to or respected. Impact on their – HR’s service. Should be is no increases to FTE or salaries and if meet this can do what you want. Now CEO no longer signing off everything. Directors can now make decisions in their directorate. Need a huge shift to contract work – are no permanent roles. This is proving difficult. Contractors may not understand the impact here. State government has moved to permanency in roles so why don’t they. Attraction and retention.
- Getting stuff in order, systems and processes. Bring in the resources to do this. Get proper systems and processes. L&D adhoc. Needs to be in advance for the year, needs to be able to budget and plan for cover. Manager training with spread sheets – even compliance, licensing. No system approach – up to her. A big risk and concern for her. Her team also runs the cultural awareness training so has the full accountability for that – all spread sheet based
- Employee health – physical and mental. Strategies to manage perceptions of COP – high stress levels. Managers having to support this and is pressure on managers to feed the execs to feed the commissioners. Has been support for Execs but little for managers and they are bearing the brunt. Seriously lacking leadership. Lots of acting roles’. Starting to fall over operationally, not the leadership, feedback, report. Feels doing thing over again that have done for others – diverting from operational priorities
- HR needs to reduce the reactive activity such as recruitment should be providing assistance to manage proactively and support relationships and this is not happening
- Being them for managers and employees and supporting them – triage. Some pockets struggling with constant change. No significant impact of CEO leaving – saw it happen. People are resilient just keep on going

- Whole or should be focusing on stabilizing itself and develop a logical way forward
- Direction changes, don't complete things. When commissioners came in went back to thinks but still doesn't know what the progress is
- Want to see what the plan is wheat the strategy id to achieve it
- HR like all areas is reacting
- Looking at the structure – restructured in 2015 to break the silos but as increased it, duplication of effort, creates conflict. Who is doing what and where? Imbalance in salary scales across the board. Policies and procedure. Induction, on boarding. Highest turnover that he has ever seen
- Confirmation on establishment – don't know that headcount. Getting the systems to do this.
- Accurate, timely advice and paperwork. Advice to be correct and to build the relationships with client and to anticipate issues before they get out of hand. Build staff capability – coaching and support, performance manage where needed
- Any cultural engagement activity will be met with cynicism – better support managers through the time. Really need to look at resources given the level of activity and change management processes
- Being given the time resources and money to bed down a team with good policies processes and skilled team and a level of consistency and giving the same in for out. Time to bed down. Making a lot of decisions but are often short on the people to implement
- How will HR support managers, supervisors and the employees to hear listen and support their own teams. Have a distrusting organization. Understanding each unit's challenges and obstacles – 30 units. The better can support coaching, communications, operational support. Specialist culture person could be of benefit but it's about supporting the managers from the basic levels
- Provide manager support, and staff if come to them directly. Systems in place that make it easier for them to do this. HR can't be responsible for culture. Policies and procedures ate to date, accessible and that people are aware of them
- For L&D is the onboarding process, simplifying forms and automatic workflows using Share point. Will be one of the first processes to do this. Are showcasing the new process to "Focal Point" Forum tomorrow. Onboarding can be tedious. Some do it better than others, can't just blame HR. It is Simone's project
- Morale – facilitate a broader approach, organizational health. Ensure adequate resourcing – recruitment freeze not helping. Leadership decisions limit flexibility in recruitment. Clear policy and consistent practice. Does not feel is consistent. Can't sit back and think and plan and things properly
- Help managers maintain a positive team and to help them manage any of the issues. Organization is unsettled, uncertain a sense of hope but trepidation, morale lower, in last 6 months more behavioral issues
- Not sure they are in control. Focus on getting the right people in place. Don't feel they really target the right people. Just advertise, interview and recruit – not targeting, not a strategic approach to getting people on board. Identify who has what skills in the business and how they leverage the levels of skills, experience and knowledge – having people in the right positions. An example where he is trying to get someone seconded into his are from another directorate as she has the experience and that had been blocked. She applied for his role. Do 360s to get feedback
- Staff turnover – signal that something is wrong. Does not feel they are in a place to deal with the cultural issues – this sits with the Execs. Execs want to lay all of the accountability to roles below them – culture. HR can't do this when directors and fighting and infighting and bullying. Exec ignore a lot of things. Bizarre that Execs expect HR to fix the culture. Directors are derogatory about other directors in not pleasant. Someone seriously upset people when one of the managers left, bagged her and tried to hold her at COP. Ugly at the top. The captain has allowed his team to infight and misbehave
- No trust in leadership. Is very difficult. Provide information and awareness to the workforce, good stories to tell, don't see leaders in the workforce. Marketing and communications handle this. They get bogged down in the day to day

**5. Are you aware of COP's HR Policies and procedures? Are these accessible? Are they easy to understand? When was the last time they were reviewed, where are the gaps?**

- Yes, they're on the intranet and I go to the HR page
- Easy to understand
- Standard documents are easy to find but sometimes more difficult to find the answer to your query
- When you have a question depending on who you ask the answer can be different
- Gap is the specific application to issues
- Out of date. This was identified as part of the OCCA process and team are now seeking to address this
- Very accessible but if out of date people don't want to refer to them
- Seen a few and knew they have been updated but not seen these yet
- Not really very accessible – hidden and not easy to find- on the intranet
- Easily accessible on line. Can delve in if need to.
- Will go to the BP first with a question
- Some issues around interpretation of the EBA – BUs took the lead rather than HR
- Would not be able to navigate them without the advisor
- Website has improved and easier to find – around the employee lifecycle
- Now easier to find in the one area
- Knows are on the intranet but has not really looked at them. Did the refresher on City Learn. Quite good and easy to navigate
- Believe all are on the intranet – forms, how tos and organized in the life cycle of an employee which makes it easy. Reasonably up to date. Has not looked at the new intranet. Most staff unless they had an issue would not need to access the intranet
- Is a good landing page with a logical sequence to find things
- Could improve the consolidation of policies
- Is some inconsistent application & interpretation. This creates issues across the City. Is no substitute for good judgement
- Alison trying to use the MLD to discuss some of these issues. It is a horizontal and vertical management issue
- Change management of updates could be better i.e. JDF standardization process. Generally easy to understand. Poor example is the Code of Conduct at 33 pages
- Some things not easy to find some have been revoked over the years and are yet to be reviewed. The onboarding and off boarding procedures are out of date and is not working very well and could create a security issue
- Recently upgraded the intranet but the document needs review. Easy to follow but some are old
- Know there is a project on introducing a new HRIS but HR has not given the support or commitment/relevant resources and this has hampered the project and delayed it. Why? Turnover in the HR team, resourcing, Alison not able to attend
- There are no policies or guidelines – this is one of the problems. Policies should be accessible to everyone so know where you stand and be able to find the answer before going to HR.
- There are policies but they are not followed. They are not transparent or clear. Has noticed that over the past 3-years the recruitment process become doubtful. Some positions are not advertised with people just being appointed. No sight to the process, who was on the panel or that the role was open. People are picked for roles by the person that knows them. Highly doubtful of independence.
- Not really. Because doesn't need to, gets good service from Anna-Lee
- Are there but it's the interpretation that is the issue. E.g. Acting positions. Director signed off for them to be paid 100% but payroll deducted 7%. Payroll refer to policies that are not there. EBA interpretation not good. Even Barbra doesn't always know. Rules always changing- accumulation of flextime. Asked to lie to her staff about the application of flextime in the EBA
- Too much policy related activity is run by payroll, should be with HR
- They need to be updated. Don't reflect the current processes. Not appropriate for the business now i.e. Recruitment processes – decision to recruit goes to the CEO
- Yes, intranet. Would feel more comfortable going to the advisor
- Familiar. Intranet page easy to understand. ER function has refreshes and they are good sessions. Not helped when have constant change in direction from above. Need a consistent approach on an ongoing basis

- Are but not up to date. Not sure are reviewed. On the intranet but even with release of new programs like R&R, the procedures are still not up to date. No real procedure manual, have to go looking. Recent changes not in procedures – changes in recruitment. Procedures come in memos not in an updated procedure. Lack of trust. No consistency in the interpretation of the EB across the organization especially about flexi time and banking of hours. Lack of guiding documentation to ensure consistency
- There, accessible but are hard to find but not centralized. Been very grey but better
- Outdates and sometimes not relevant. Org has changed and evolved. Not always meeting the City of Perth Act
- Huge priority is to review but not been given the attention due to resourcing. On intranet. Provide support on interpretations. Queries re the policy, the application. Some managers new to local Govt & new managers need more support
- Along with EBA's heightened understanding of policies and procedures. Governance should play a larger role in governance and compliance
- Lot of work to be done – not just in HR. Not reviewed, revised and communicated
- Out of date. Has raised this. The is a procedure for establishing new positions on the intra newt. Was told was repealed in 2016 with intent of a new procedure being established but still nor done
- Firstly, not aware of the policies and procedures but also doesn't feel comfortable going to HR.
- When she started, she asked where they were and was told they were withdrawn for review and they had to go to the EB or ask Barbara. 2 months later was told about the policy manual and where to find it. The ones that are in there are current and can be relied upon
- Open to interpretation i.e. Flexi time, EBA interpretations
- Reflect on how better to support the team. Some still struggle in understanding. Bus always to go to their advisor fist and then to ER. Not all of them are fully up to date. Some are an issue. Cover most of the life cycle
- Not sure are up to date, not always easily accessible and sometimes ambiguous. They are a diverse organization so can't be a one size fits all so makes decisions on what is organizationally viable. Is a bit of a culture of entitlement. Sometimes need to pull HR up that for her staff they have different arrangements. Not everyone can work from home and have flexible arrangements – acknowledging that arrangements may need to be different- not always a Council House view. Their rostering arrangements are different
- For L&D reworked the page on the intranet and have had the feedback that everything is easier to find and people know what they have to do
- New web site structure has made it better. Application inconsistent – and processes
- Not up to date. Many revoked and not replaced, hard to find. Things taken off and put into other document, finding things is hard, sometimes in content manager sometimes in the HR drive, sometimes in a bigger policy manual, things missing. Started this project 2 years ago but did not follow through. Confusing – policies which should be procedures and vice versa. Need to be simplified. Need review but has been a matter of resources
- At induction only, nor specific manger briefing
- She is taking accountability to review all the relevant policies and procedures. 16-18/83 policies that have an impact on the system. Lot of gaps, some have been revoked and are still there. Some are not used or needed, some revoked but should not have been and the process is still required to be followed, some terminology old. No accountability to complete this work. Only 1 new procedure in about 5 years
- On par with the rest of the organisations policies. Very poor. Very procedural and do not describe intent of approach. Need review and get a more aligned and more concise policy manual. Need a policy framework for guidance on what is a policy and what is a procedure. Was no induction around these elements. Not well supported in HR and being brought up with corporate practice
- Only last week she found the Council HR policy document when she was looking somewhere else. – knowing where to go or how to access things is hard. Sometimes she does locate one and it refers to someone else. Can't rely on the documents that are there. Managers can't rely on the policies would have to check in with HR and they would have to check with other. Feels that she always has to bounce matters off someone else
- Accessible through intranet can find things through content manager and the new dash board on the intranet. Some policies are very old
- On intranet and many revoked... Parental leave had been revoked and not in place. not good when they're advertising w/l balance and employer of choice

- Yes. On the intranet but many have been revoked. E.g. was looking for policy around Parental Leave which had been revoked and not in place. Not good when COP is advertising work/life balance and 'employer of choice'
- Because of time joined, she had to become aware, was handed a team that was difficult and underperforming so had to become familiar, but also saw what didn't exist or hadn't be used before. But wouldn't have been familiar otherwise. Information v different depending who you speak with and subjective. Bit of grey because dealing with people, expecting there should be guidelines or precedents ... left to decision making. Someone was on probation, took 6 weeks for HR to decide that they cannot continue period, then person complained, gave them a payout ... degraded the decision and the conversations they'd had in 6 weeks (A now feeling not trusted to make decisions)

6. **EXECUTIVES/MANAGERS/HR STAFF** Are policies and procedure in the function adequate for COP requirements?

- Not up to date
- Biggest improvement would be to update then
- Lack of trust with HR is because the material is not up to date
- When you question, find that the answers of the HR team are different
- Feel for Alison, is very under resourced
- Not sure
- Lack of awareness of the Grievance and Complaints process
- ER training was useful
- Actual documents are onerous, principles are okay
- Out of date – being reviewed – more compliance versus guidance. Not easy to find
- Review and simplified – not just in HR
- Review and simplified – not just in HR
- Some areas need more explanation – flexi hours. Policy uses the word discretion but that creates inconsistency
- Some gaps
- Yes
- Need to be better
- Sufficient at the moment because are heaving embedded in the BUs if they weren't would not be
- Room for improvement
- Not current
- No, recommends that HR develop a handbook
- No. E.g. Had a staff member that was over the limit. No one knew about the relevant policy. Lack of understanding about the process or the actions and process. The person ended up being sent home for 3 months. Only OHS in the meeting and no HR
- No. Are waiting for review. Want to simplify and streamline activity. A lot of work has been done, need to be reinvigorated, finalise the policies and then implement them
- Effort to maintain currency.
- Y
- N
- No
- No. Some are valid but need to be more prescriptive and precise – some too gray, lead to inconsistencies
- Need alot of work
- Needs to be swifter attention to enquiries. A lot of change. Need a better formula. Nicola not enough for 6 BUs and over 200 staff. Recruitment, EBA interpretation. She is under a lot of pressure. Not a lot of balance

7. **How effective/friendly are the HR systems & processes across COP?**

- Because of a lack of staff is hit and miss: staff sent wrong contracts, wrong addresses
- Lack of staff is an issue
- Recruitment works well. I drive it with my advisor and director what I need

- Been huge improvements in documentation of processes
- Some are not – payroll systems are paper based, manually inputted, very manual
- Recruitment processes pretty good. Big Red Sky system good.
- HR facilitates the recruitment process but does not add value
- Onboarding and off boarding not good
- Recruitment runs smoothly – he takes the lead in the assessment of individuals
- Shocking, paper templates & forms, huge administration. Electronic management system does not cover HR areas
- Process oriented, some duplicate and add to process rather than simplify – RTR as an example
- Would like something like a handbook
- Pay system not talking to the pay Street processes and could be better integrated – employees paid after leaving employment
- Performance shaping process is being adjusted as they get feedback is an example of their openness to changing and improving things if it can be better for the user – quicker and easier. Sometimes have been cumbersome i.e. Salary reviews used to be tied to performance review
- Could be more effective – new HRIS will make a difference. Inefficiency now e.g. T&D form
- Constrained by a lot of paper based processes – administratively burdensome for managers i.e. Time sheets. Systems are clunky. Could be better with better systems
- Not really processes or systems in place to support them. E.g. Multiple time he gets asked to submit their structure, repeated requests for information
- Don't really have one is very paper based. Payroll- empower records leave but not attendance – required the org structure to be managed. HRIS is budgeted
- High turnover of HR means people don't know where to find things
- Need greater systemisation of processes for tracking and monitoring performance – performance shaping
- Need better functionality – skills, capability and development
- Onboarding process boring. They are general engineers and they feel they have been through them before. Main difficulty in coming from outside is about the obligations of the Local Govt Act. This is more important for a manager
- Not
- Systems are poor – spent 6 hours doing an audit on HR numbers. HRIS is only about payroll not about establishment or workforce planning. Workforce planning is run by finance. Not about what we need to fulfill the plan. HR should control the numbers. Payroll should sit in HR. No self-service for HR
- Systems are deplorable and difficult to get things done. Administrative effort the largest he has ever seen. Not sure what his will do
- Not much exposure. L&D forms are in hard copy, manual approval. Employee self-service –leave application
- Need a fit for purpose system. Processes needed first and then the HRIS. Currently are horrible. Time sheets paper based. Letters to extend contracts etc. are printed out. Time consuming. Not using content manager or workflow
- The intranet showing the employment cycle are good. But if the area does not relate to the cycle not sure where they are. Very manual. A lot of her people are not in the building so creates a long process, things get lost. They have their own process to track HR docs across the org. Manual processing delays the process
- Long road to go. Onboarding process needs a lot of work, working on the online activity but still a long way to go and let ourselves down. Not deep enough – need more on how we do things, how it works in local government. Training is not always captures and put onto personal files
- Not really efficient. Still have to sign paper time sheets – paper based but then has to be printed to then get the approvals. Not efficient. Likes a self-service as can approve leave but not intuitive
- Make the best of what they've got. The new HRI will really only be just payroll. In first phase HR will not have access to the data. Will be looking to build HR analytics outside of these processes. Recruitment system – big red sky id good. Content manager – for docs and policies. Have a monthly HR report that goes to Directors and CEO
- No real issue goes okay
- Team at pressure point. Manual paperwork that should be systemized. Also, related to the levels of authority. Inefficient, Directors have to sign everything
- Lack of formal processes, the right forms across the life cycle. New HRIS.

- Very poor, paper based. Impacts managers too
- Even the request to recruit forms take a lot of process. Multiple emails to extend secondment etc. The manual component is hard for managers little one for wider activity. Should be simple. The HRIS process is way over time and over budget
- Always looking for ways to improve or be more efficient. Are developing HR guides and this will be built on the intranet – like a self-support area. Looking for ways to help manager self-manage
- Improving. HR group had a lot of change and they are stretched, had a turnover of support and it's not been consistent. EBA is ambiguous and problematic. She now documents the responses to her questions so she can be consistent. Challenging for HR to get managers on board and support. Put some guidelines out around work practices. Lot of paper forms that have to get passed about, systems let processes down. Paper leave applications. Lack of integration. Empower. Disconnect between payroll and HR – disconnect. Clunky systems make it harder for HR and the clients
- When she started, she would make recommendations for changes and improvements and she would get shut down. Sarina is great. Consult with the boarder business e.g. - City Learn, well publicized even outside of COP. Had some great feedback. All training records are on Content Manager and City Learn (EEO Corse has 3-year expiry). Empower, (HR/Payroll – HR owns) tracks qualifications that requires refreshing and degrees, certificates, police checks, license. Still very manual
- Poor. Current system doesn't report EFTs properly. Not helped by Finance have their own view of the world – based on dollar. Neglect when people aren't being paid – on M/L. Lack of technical skills around the systems including payroll
- Systems are poor and not integrated. Things change all the time – recruitment processes. This is driven by ELG. Hard to stream-line things and simplify because that have so many steps. This is driven by ELG. Feels is about lack of trust between managers and directors – too operationally focused and are not in a strategic space. This slows down HR processes and it looks like HR are the ones controlling them
- Antiquated, slow, manual, nor integrated. Managers do have frustration but some are used to it. Feels is always chasing people up and sometimes things are missed. HRIS alone will make a big difference. Big Red Sky – applicant tracking system
- Systems do not talk with each other. Not integrated. Can get a report to filling to his budget so time sheet system does not talk to payroll – hopeless for project management – 101. Lot of paperwork driven activity. Should be an approved workflow. Got and email from governance and asking him about the Manager and Principal position for delegated authorities – pushed back on this. HR should run this process
- Very poor, paper based, unclear, inconsistent, fraught with error, manual. Lack of corporate priority. Void of the top in supporting HR process development from a strategic perspective
- Most are paper based. Forms to fill in email and paper trails because there has to be records. Systems don't talk to each other but this isn't that unusual. Content manager id something she needs to be more familiar with
- Lot of signing off. Some things that go to directors aren't needed i.e. higher duties allowances. Delegated authorities weaken the manager's position. Over structured

#### 8. Are the team members approachable and helpful?

- Variable
- Leonie doesn't miss a beat
- Some can be grumpy, snappy on the phone
- Barbara is approachable and knowledgeable but can take her a long time to get back to you
- Lack current proper management of worker's compensation cases by a case manager. Had Francesca and she was amazing, she liaised with doctors etc.
- Barbara is now working to push the W/C cases
- Great experiences with the team
- Turnover of team members is an issue
- Good customer service

- Changed with each manager. Went downhill as the troubles have increased – turnover, employee relations issues, bullying. Feel the team is snowed under so the proactive advice is what suffers
- Positive and helpful
- Approachable and nice, try hard
- Has met Alison – very good and guided them through a staffing issue
- Great, helpful
- Has a very good relationship with the BP. Helpful, makes time. Those others who she has contact with – Barbara, Alison, have built up good relationships and are doing a good job.
- A good vibe, helpful and always make time – “what can I do”
- Yes, but never seen to be available
- Yes, action oriented, provide a good service
- Responsive to requests, knows how stretched they are. Need to also build capability in managers to make decisions
- Nicola and Barbara very helpful 7 always able to provide a response. Couldn’t fault and nice
- Not really – they pass issues onto other people,
- Yes, find them to be helpful
- Very easy, and lovey, especially Alison. Alignment of what she says and what she does
- Seems worse than normal now. People are afraid, not just in the directorate. Fear of being honest.
- Larger team now. High turnover. Difficult to recruit in the HR team. Inexperienced team. Lack support in the team
- Massive change? Leonie very good. Change since Alison has been in place. Now can trust the information – more confidence
- No as accessible as the team need them to be. Level of knowledge generally good on the day to day activity. Alison doesn’t understand the business. Some decisions not appropriate now- like the culture survey
- Only had contact with Anna – Lee – friendly approachable, adds value in recruitment
- Liked and respect Alison. She needs some certainty for her role - still on probation. Lot of new team members. Feedback on Arif is that he is struggling with processes, systems and changing direction. Bit to do with Barbara as a manager – she is very good and he is supportive of her. May need more resources here. 5 advisors in his time would like to see consistency. They are directive because they are new and are uncertain. Alison is not always aware of what has happened in the past
- Great bunch. Different strengths and weaknesses. Found more recently that the advisor’s skills are not matched to the needs of the unit. Barbara was also a go to person for complex ER matters. Now new process is to go to the advisor first and this has exposed the lack of experience of the advisor but this is an issue. Has given this feedback to Alison. She has a large area and 3 EBAs
- Hard to get hold of, anybody in HR. He’ll just go up there to find someone and not always responsive but know how busy they are
- Good. Only issue is the last advisor – blunt. Delays in processes, cumbersome,
- Her group – brilliant, recruited the right people, resilience, experienced. Gelling well. Overall brilliant, highly supportive, all set up in, and help. Alison 4<sup>th</sup> Manager in 19 years
- Very helpful. As a team no problems or issues, willing to help. Current manager breath of fresh air and lot of new people
- At pressure point, nice polite approachable, A state of confusion, everyone is doing a bit of everything. Stretched by turnover and recruitment. Need to look at their accountabilities and roles. Big issue if the systems and processes. Calls not getting answered, things taking longer to get done. Too much consultation in COP rather than the doing support
- Good, approachable advisor, ER good
- Tendency to comply with directors wishes. Those who don’t will be impacted. HR too frightened to speak up. Do the managers bidding. Alison has now been appointed.
- Doesn’t see HR as approachable. They are not friendly to staff but are chummy with the managers.
- At advisor and administrator level are friendly but directionless – this has some traction now because Leonie is there. Issue is between them and the ER team – blame, covering self, no collegiate support
  - Inconsistent rules, back track
  - Fear of raising issues

- o Received little guidance on ER process
  - o Alison and Barbara friends out of work. Leonie is aware and Alison blows it off
- Though that if she raised a matter it would remain confidential. HR then went to her Director. This behavior is common. Confidentiality is an issue, things getting back to people. Will tell you some information but not all. Not so much that you can do anything with. More widely people try to protect themselves
- Longer team advisors have built up good relationships, others less so. But some are not really trying to do this
- Mira is the advisor and is very helpful, then Leonie.
- Bunch of nice people. Let down by having no set process for the operational tasks that they need to complete. Less about the system than the process. With high turnover the handover and knowledge transfer gets missed
- Fairly approachable. Before Mira was hard to contact them. Are they thin or not managing their time well?
- Good, under the pump. Nicola has too much to do. Field staff and white color
- HR services support each other will and so to T&D and ER. Could be between across the functions. ER does regular training session to upskill managers and HE. T&D in their own silos don't push into other areas. T&D knocked back on supporting training for the roll out, will give the advice but not the resources. Are available
- Good, great bunch of people now, dedicated and helpful but hampered by high turnover and lack of corporate knowledge, inconsistency of advice sometimes
- Though are one team as whole more work to be done in terms of partnership between the areas, BP, OD and ER. They are all supportive, more about partnership, more integrated way of working and comfortable operating this way – sometimes feels have to really consider if she wants to ask a question – will it be seen as treading on toes, how will it be seen and will she be talked about, or threatening their ability. No team building so doesn't really know her peers
- Good, a good resource. When he needs them or wants them quickly.
- Approachable but whether they know what to do ... Dealt with on ad hoc basis. Issue with a colleague, heated discussion earlier this year, didn't hear anything for 4 months and was then expected to give his side of story. put at a disadvantage. Could have been nipped in the bud straight away
- Approachable but not helpful because they don't know what to do. Issues are ad hoc dealt with
- No. A had to performance manage, investigate her team (stealing), implement drug and alcohol. Her support around this was not professional. She's not being supported – helpful for her to make the call, then back the employee. More likely to go with the person making the complaint, not backing up the manager. Performance management plan. Having to BCC in all emails because she's terrified if wrong, will they back or not back? Someone going for 3 hour lunches. Being brought in to make change, but not supporting her change. Wellbeing and MH very important for employees, but not backing mgrs. Who are employees as well.

**9. Do you trust HR to act in your best interests?**

- Yes
- Trust that they would act in confidence
- Some by not others
- Some only – capability/intent/politics
- They believe they are but not sure that they know the direction that they should be saying
- Different advisors have different processes
- Or clear direction will go to Barbara
- Previously have been seen as an “agent of the executive” and not trusted. Then would make a grievance against a more senior person – wouldn't trust HR. Alison is working hard to turn this around
- Would approach Nicola because of the relationship but maybe not the others. Had an experience where went to HR with a question and the advisor didn't know. Had to feed this back to his Director and this has happened a couple of times
- Very open with them
- Lack of consistency between her Directorate and others, this creates tensions. No single voice as to how people are treated. Lack of respect from people
- Advice is important. Need those who are good specialists that can give really good advice

- Yes, on the day to day, no on not having the right systems and processes in place to facilitate the business being better
- Don't know. Generally – going to her advisor - limited contact and are establishing trust. Not much contact with others. Most staff would not have contact with HR, not visible
- Yes. But don't feel that HR have support of the execs or of the Commissioners. Maybe. Not sure of what they should be doing. A fog of confusion around strategy and direction
- Do but sometimes can be inconsistency. Sometimes a lack of empathy
- Yes
- Yes, in recruitment. Sometimes very keen to defend the City but managers need support too
- Yes, took a negative wrap at the restructure but thinks this has moved
- Yes. Feels the balance is right
- Been an improvement more recently. Main failing in the reactivity and time
- Is recruiting for 3 people and wants it to happen
- Trust in getting the right information is low. End up going to Barbara because they have the confidence in her, contracts go out incorrectly. Audits on data entry are poor. Sometimes defer to her. She is now doing salary benchmarking project
- Relationships with her stakeholders are positive, they confide in her. Get frustrated in her as a rep of HR because cannot deliver things in a timely way i.e. Job ad or reclassification
- Not really
- Not fully across the advisor level. Sometimes the manager needs to take care in what is shared with the advisors because the maturity is not there. Need to be careful how they present themselves across the organisation
- Y
- Not sure. Sarina first
- Yes, for his area
- No
- Y. Current team aligned in values
- Yes

**10. If you had an HR issue would you go to a member of the HR team? How comfortable would you feel?**

- Yes. Processes were managed well, (she) felt supported, followed the process and was investigated. It was stressful because it took such a long time
- Yes, with high confidence
- Yes. HR handled the restructuring process and did very well. Has admiration for them
- To 1 only
- Would bounce off Anna-Lee
- Comfortable that if gave Arif a query, he would come back to him. But not very experienced and not always able to come back with a definitive answer
- Advisor still new – yet to see
- Comfortable with their advisor
- Due to past experience, do not feel comfortable going to HR. They take no accountability. For recruitment, there is no clarity to the process, especially with interviewing internal and external candidate.
- No, as I would not want to be victimized – has no evidence that this would happen, but thinks it could.
- D&M& Yes
- To the advisor
- Would go to Alison or Barbara. Feel comfortable and have trust.
- Advisor. If was about her would go to her manager. She encourages team to try to manage the issue themselves
- Yes
- Would try to resolve issues first. If he sees that the issue could have further implications for the City will seek advice from HR to confirm direction
- She would go to Alison the chain of command

- Yes, and the team. Comfortable
- Want to entrust HR to act on issues. Feel they need to work through HE
- Depending on issue
- Doesn't know who to go to but also wouldn't feel comfortable as they don't believe they would keep confidentiality. Also doesn't know the process to contact someone.
- Feels her client group would. Would be concerned that if she raised an issue that it would be treated impartially
- Generally, yes but not about themselves
- Y
- Would with Mira. Depend what the issue was. Still some concern about independence. May feel they need to do what they have been asked to do because of consequences if they do not
- Would go to her supervisor and she has a high level of trust in her – discuss and advice
- Y. Does not remember meeting Alison
- No, over last couple of years all in for yourself, no one there for you if you need the support. When pushed this does not happen. Dysfunction between the Director level – if nobody there to support them then that's the way it is. Doesn't not feel fully supported by Alison. 4 managers since she has been there. The position gets sucked up by the CEO, the Directors and others and little time to really lead the HR team. Constant draining of energy, there is always someone there, not available
- Yes
- Would look at whether she was comfortable to talk to the person, check out experiences with a peer, then Leonie and next what the relationship was with that person
- Y but would also try and manage issues himself
- Been clear she's had a lot of issues - she hates it. HR knows this, told them she's struggling. But there's not been any help. Husband got into a serious accident, and asked to work from home for 2 weeks. If she was a poor performer that would have been fine. A lot of time given to bad team members, but not too good. 5 Managers resigned. She's been forced to stay. No consistency.

**11. What are the key strengths of the function? Are there things that the HR function does very well? What do you think the HR function could do more of?**

- Existing, longer term staff and their knowledge of COP and HR in COP
- Barbara
- Alison as a new manager, has faith in her
- Barbara does an exceptional role with a difficult work load
- Accommodating, positive, focused
- Serina and T&D very good. Ensures consistency in training and asks managers and participants for feedback on training
- They seem positive and generate this positivity despite everything
- L&D programs very good
- Recruitment given the volume they are dealing with
- Alison's leadership – impressed with her
- Function still evolving. Now is more around ER, Legal and compliance related matters
- Serina very good in staff development and good at getting good industry learning practices
- Lot of learning programs, AICD. Onboarding, Business cases, Project Management
- Keeping their head above water – 2 advisors for 700 people- what they achieve is remarkable, under resourced. If this was better, they could really do a good job
- T&D has improved. Serina is sourcing programs and reducing costs
- Urgent recruitment is handled quickly
- Knowledge and technical expertise
- Approachable and tell him what he needs to know, even if he doesn't want to hear it.
- Good at following up
- Good job in T&D

- Barbara is very good, knows her stuff, is level headed in resolving things
- Supportive of managers who have real needs
- Done some fantastic work – onboarding, values, reward
- Passion for COP
- Experiences in recruitment – assistance in getting the right fit
- Knowledgeable and helpful in areas of grievances, provide manager briefing
- Training and development is exceptional. Better than experienced anywhere else
- ER
- Needs to be transparent and independent.
- Consultation, be there when he needs them, very helpful, their accessibility
- Having a responsive HRM. Recruitment. New onboarding processes. Values work – change champions
- Advice of Performance management - Understand the consequences of good and bad
- Recruitment, adding value to the interview pane, doing the paperwork. Guiding you on application of policies etc.
- L&D - Serena, lot of work onto the online portal. Send notes around, train and develop staff, are trying to reduce cost. Other areas are WIP - PD standardization. HRIS delayed a number of times. Things still developing. Not allowed to succeed, constant changes and direction
- If are recruiting they are helpful – develop questions, attend interviews
- Resilience levels, are a bunch of troopers. They support people but no one supports them. Recruitment and selection – very proactive and supportive and deliver in a timely matter T&D
- Supportive to everybody, positive support morale and team building, ER good and strong, T&D good and strong. Maybe better to go back a d plan around that the strategy – what the organization needs to achieve its objectives
- ST recruitment, very responsive. ER & Barb very good
- ER – all bullying claims investigated fully. Recruitment. Investigations
- Regardless of what's happening are resilient, pretty nasty environment, committed
- Feels managers value the advisory side and input from HR when it's there. L&D well respected and positioned. Needs for the whole of COP and individual units
- She is frank with her advisor re what they are doing and get good support
- L&D- ability to reach the whole organization. People also approach them directly about HR matters and they push them back to HR. The people that they have. When OSH was in HR did a lot of the administration for them. OSH saves the attendance sheets in CM and she enters in Empower. If they don't save it correctly it will not show up on her search which means it will be missed. Towards Maturity L&D Development Report – in terms of that E learning platform doing well but trying to develop more E learning. Done some surveys
- Some good people – Mira and Alison. Need some breathing room. Need to define the service levels
- Good with customer service, mindful, respond in a timely manner, well experienced. Some inconsistencies because of new people, polite, aligned and share information and support each other. Feel her team members have her back. Feels managers have some good skills and experience across the function. Sometimes the issues with policies being out of date or changed do impact new people – impacts on HR's own tool kit is an issue
- Approachable, do their best, keeps her cool
- Improved in the ER space with Barbara coming on board. L&D too transformed but maybe not in the best way – a lot of training but also a lot of turnover. The source it and host the delivery.
- Seem to genuinely care about doing a good job. Have buy in to do the best they can. Systems and processes let them down
- Amount of knowledge at the leadership level and to be able to learn from. Customers – not heard a negative word. Got to build relationships and trust with some of the manager so that you can work effectively with them
- ER, L&D. WC better now, more proactive. The digital world allows the m to do more modern thinking. Needs to settle under and new manager. OHS improved since it left HR. HR needs to be understood at the CEO level
- Not really. Given the restructure of the organisation, and recruitment, massive strain. Being tied up in ground level matters instead of continuous improvement. Not their fault. Org is not thinking about the knock-on effects of their actions
- Keeping things confidential. Everyone knows about it, but not in a formal way that A can do anything about. "Gossipy"

- Generalist role is bad, but 2 specialist functions are good. The learning & development function (in terms of service, continuous improvement - they're mindful of their impacts with the organisation - they're constantly working to improve and streamline), meeting to talk about on boarding, how can they streamline new started — L&D understand the knock-on effects of their actions. Employee relations - good but a lot of unnecessary termination and industrial action because lack of Performance Management - things that should have been nipped in the bud They've taken on feedback well, they have listened to and work in conjunction with Payroll.

**12. Does the HR function have things that it could do better or differently?**

- More to support worker's compensation
- HR need more understanding of payroll, is a hands-off relationship between them & they need to work together
- Need some time to build themselves up
- OD, Serina is very good and very proactive
- Advisors are hanging in there and under a lot of pressure – need some recognition
- Be more proactive
- Keep on going
- Consistency of people and advice
- Regular support
- HR assisting and facilitating activity between the BUs. E.g. Serina facilitated a workshop with Construction and Transport – helped to integrate the units together – they were a unit before the restructure
- Don't get clear and consistent messages from HR. Get conflicting perspectives. Things keep changing and need more updating because things are changing quickly
- Consistency, capability and experience, knowing their boundaries
- Continuing to build up trust across the organization
- Alison should communicate the remit across the organization to manage expectations
- More E forms, streamlining processes
- More empowerment for HR – more authority
- A better forward looking plan
- Consistency of support
- Get control of recruitment processes and more support – no assistance with selection criteria, screening resumes, interviewing
- Better processes that can add value to managers. Understand what level of support managers need
- Timeliness and feeding back things to the manager
- Fewer initiatives – are a lot (change champions, culture change, awards) but more impactful ones – like an external activity that impacts everyone
- Manage turnover of staff
- Get some feedback from managers on how they can help
- More upfront engagement before things start
- Less dependence on paper
- Having a better understanding of the HR process would improve response time and consistency
- Reduce the disparity of position descriptions – create issues amongst the team members
- Improve availability
- They don't seem to be doing a lot. His is very self-sufficient and looks for the procedure and follows that
- Some initiatives not having the degree of impact that they should because of the leadership and other issues
- Better able to respond to ER issues across the HR team, Reduce the heavy reliance on being specialists like Barbara
- Better at not getting the wrong person in the role – at risk employees, using a whole person assessment and fit for purpose approach
- Have clear cut HR procedures on managing issues. Must be transparent – there are bias in recruitment, nepotism – people need to be judged on their capability and given a fair process.
- Need to have the policies and follow them. Everyone needs to take responsibility and accountability – HR should be role modeling this, currently it is not

- Doesn't have a lot of HR issues. At times recruitment has taken longer because they have been too busy
- Balance between strategic advisory rather than transactional. Have had advisors without consistency – now two new ones
- Understand the business better
- More contact and interface with other staff. Seems to be a number of teams seconded to different special project. She does not know how people are selected and recommends that may need to be a more open process to get the best people involved
- Need to push execs and commissioners more where decisions are impacting on HR outcomes. Accepting it creates other issues - are consequences. HR need to be confident to do this. Lee-Anne on a temp contract.
- Consistency, stability, systems
- Onboarding Does not feel the service has improved since they have been fully staffed
- Recruitment packages / Promote the city in good ways via LinkedIn
- HR data is a big problem. Manual manipulation from payroll data
- Need to improve onboarding. Onboarding was excellent for him. Very supportive before he started. When he got here was left to the outgoing person who was very poor. People actually start work before they have been onboarding over a period of weeks or months - disjointed
- Taking a step back, so reactive. Don't have the breathing space
- Systems and processes
- Advisory support in generalist HR to managers and employees alike. Clean up the PDs. More proactive
- They recruit 'yes' people. Feels like they put people in acting roles to test them and see if they can be pushed around.
- Bit of holding info to protect their roles. Streamlining processes where HR have the control. Less fire fighting
- Confidentiality. Having team members that can make difficult calls and stand by them. Feels they are worried about making the call too. The level of confidence in the support she is getting and the decision she is making.
- Variability of expectations for support. Feels it should be clear. They have checklists to support discussions. Leonie is the HR lead but not necessarily the best person. Ability to challenge, develop options, better outcomes for COP, sense of urgency, lack of understanding
- Consistency. Want to be able to rely on it. More stability and reduced turnover
- Develop a manual for themselves about their processes and guidelines to ensure more consistency
- Simplify things – policies and procedures. Sometimes execs add new things into their responsibilities. Lot of legacy issues compounds
- Need to find a way of being a bit more cross functional across the Directorates
- When a new person comes in or changes a position, HR should manage all of the change of activity – i.e. governance and delegation of authority. Skill assessment and skill matrix. 360 reviews for leaders and managers – way to give constructive feedback to leaders. Pay scales for market competitive role. Believes there is an enormous jump between a Manager role and a director role
- Get a lot of feedback about inconsistent advice. Feels are getting better. More about not the same situation for each
- Business communications, articulate better what they do and don't do, their objectives, optimizing and digitizing processes – old policies. HRIS is the worst run process – run by an IT infrastructure team, not appropriately resourced or project managed, poor sponsorship, no project governance. 1 year over just to get the first part in. The digital team will work with them to digitize some key processes and establish workflows – won't be done by the HRIS
- Feels if had more training on internal processes. Onboarding into the city., Barbara runs some internal EB programs would like Alison to do the same
- Response time & availability
- HR taking more of a role to tell people what it's here to do for them – better branding, sell itself better, and how it can support the business
- Honestly don't know because the whole structure of what he believed they should be doing (i.e. issue with my manager, whole trust has been gone). Fix the issue of trust. Org is no longer there for people

13. **EXECUTIVES/MANAGERS** Are there any issues or gaps with the function and its performance?

- Workers compensation management
- Process of handling employee queries – go to HR then get referred to payroll
- Have a high workload and a high staff turnover. Not helped by issues created by staff freezes
- Be clearer that they are on the employees' side – develop trust. Employees need empowerment
- Biggest concern in the support for Alison – no one to step into her shoes. She lacks senior support
- Was recognized as part of the HRIS implementation that some of the processes need to be reviewed but not sure she has the resources
- More integration with finance and payroll
- Maternity leave processes
- Experience and consistency
- Helping more to get people into the right roles. Helping to make sure that there is clarity around what people are expected to do. Clarity around the change and managing the change
- Their empowerment
- Level of HR experience
- Processing requests in a timely manner
- Getting consistency of advice- award interpretation, conditions
- More transparency
- Temporary appointment to fill a temp position – contractor very poor. Was not asked about his requirements or what he wanted
- Performance shaping only needed annually
- Better time frames in recruitment (lifting the freeze impacted)
- Keep interfacing with managers and be open and available
- Have had some short-term appointments to the Injury Management role. It's a critical role and a risk management issue
- Recently developed their own way to manage people on probation. Feels this is needed across the organization – get the right system in place
- No – perform really well for him
- Strategic HR. Very transactional – a function of where they have been and where they are now. Getting more traction on the culture – but what is the plan. Not doing the survey is disappointing
- The establishment and workforce planning. Report on how his team is tracking
- Ergonomic assessments and may be not sufficient care in following up etc.
- Would like to see more work on career pathways. And developing future leaders and programs. Need to move people to permanent roles
- Need a diversity offices. Employed the first Aboriginal person subject to an exemption. Fearful, of not doing the wrong thing. Ended up running the process themselves. Access and inclusion – sometimes inappropriate sharing of information – i.e. Have a disability traineeship. The access and inclusion plan also has a number of actions in it
- Not offering any service for employees. Recruitment is taking up their time. Have EAP, are there other things you can do?
- Skills of the advisors are okay. HR not supporting the managers enough to manage turnover, retentions, build resilience
- No
- Timeliness and resources
- Long time to close matters. Imbalance between the city's rights and employee's rights
- Culture. Gap around org change and culture change. Had a culture change plan but no one really able to implement. Feels some resources are needed to advise managers and then rolling out. What are they doing for team work - etc.
- Not a team – 3 entities in the room. Like each other but not a team
- Consistency of information and level of accountability. Poor performers get the benefit and good performers leave

- Consistency. Communication about terminations and everyone is doing what they need to do. Workforce planning numbers – finance/HR all have different number. No source of knowledge
- L&D- Since Sim join – this year- she provides such a good balance and complement each other well. Non-Employees – forms and onboarding processes
- Limited independence sometimes. All areas need KPIs. Will highlight the level of service that they do
- Biggest impact is the processes, up to date policies things that can make them more independent in their decision making
- Key services there but the consistence, reliability and resourcing that lets it down. Not Alison's fault
- A lot of turnover and change. This creates uncertainty from a functional perspective. Alison need to focus on retention to provide consistency in the function. And for reputation have a high level of integration cross the whole team as a function - unity
- Better branding of HR

14. **EXECUTIVES/MANAGERS/HR STAFF** Is there an authority matrix outlining clear authority for HR decision making across the COP? Are these well understood? Are they complied with?

- Somewhat, but then it changes so not always sure who has the sign off i.e. For recruitment
- It is on the forms but is different to in practice especially in recruitment but this is not an HR issues
- Need more control over the headcount/establishment. It sits with each Director and is not managed centrally so is no overall control
- Yes, is clear
- Understands what the delegations are
- Segregation of duties not where it needs to be
- Not always especially with recruitment
- Talks through with Ann-Lee. Aware of delegated authorities but things are very fluid
- No, keeps changing
- Not always, keeps changing – who signs off on recruitment, structure changes. Is room for improvement
- Need further accountability. Not documented- by word of mouth and keeps changing
- Not really understood. Not just in HR as are ongoing changes to the "rules" of who can do what and how
- No RACE matrix – Role: Accountability: Thinks that they need one
- Are and if you don't know you can ask
- Should be reviewed. Will challenge sometimes as believe that managers should have more accountability
- No changes too often. This week the Dir has the authority to sign off on recruitment, last week they couldn't
- Have had to refine over time. OK
- Delegations of authority exist but this changes – not their fault
- Changes
- Not clear because has changed so often. The authority Dirs. and Managers have is very uncertain
- Y
- Not really but better. HR can advise.
- No
- Yes
- Yes
- Yes
- Yes
- Yes, they can endorse but don't approve
- Yes. In some cases too much process for managers and more for HR i.e. Onboarding
- Y and No. HR are just part of the process. Inconsistency of higher level decision makers. Managers need the authority to manage their staff
- L&D yes, policies are clear. All expressing of interest and nominations for to MLG. So it's up to the manager and Sarina liaises with them. Costs are charged back to the area- they are accountable for the cost
- Yes, will refer to policies

- No because keeps changing recruitment processes, extensions of contact, confusing for HR too
- Thinks he has none. Can't even change a job title. He would check Nicola
- Yes. A lot of the time HR acts on what managers want rather than pushing back because they will just go to their Directors and get what they want any way – whatever the Director wants
- Doesn't have much authority in a decisive sense as goes to the Director. Procurement processes are killing him. Poor panel, didn't include all recruitment types. Procurement team HR just like "pump" parts
- Yes, ones that don't know are rouge – minority. Compliant because they are too scared of doing the wrong thing. Feels that have to document all discussions that you have with someone - confirm discussion and create a paper train – be able to sustain what they do. This erodes confident. If I go down I won't go down alone. Takes relationship based activity away. Feels like this in HR as well
- It's his team, not the Directors – older style processes, he is accountable but doesn't have sufficient sign off accountability – letters for customer have the Directors signature. He knows this because he has acted a number of times

15. **EXECUTIVES/MANAGERS/HR STAFF** Do you believe the HR function is sufficiently resourced?

- No
- No
- Yes. When they settle they may be able to reduce
- Need more people if are going to be proactive
- Unsure
- Systems and processes impact and when implemented resource may be better
- Under skilled in some areas so may need to supplements. Is a dynamic space and very fluid
- The more hands on you are the more resources you need. Depends. Also had high turnover themselves
- Running on the smell of an oily rag. May need to increase resources to get over the hump
- Over stretched
- Very busy team and is operating at a high functioning level
- Hard to judge
- Seems like a lot of people
- For him
- No. Back log of activity in many areas, historical impact heat is still following through
- Hard to tell. HR like a lot of areas. Don't have the systems and processes to support them. Lot of administration activity
- Would like to see size of unit reduce. Heavy but because are changes in decision making and HRIS. Freezes in recruitment impact on HR
- Have new recruits but was under resourced before. Leonie is the best advisor they have had. Now have 2
- Think are now
- No but influence by the cycle they are in
- Improved with additional advisors – but they are temporary to get over backlog in recruitment and current activity levels
- Difficult to comment - adequate
- It's the use of the resources
- Understand the model – sound. Nor sure. COP has a need for wide scale reform as well as BAU. Still a freeze for new positions
- No
- Under resourced to deliver to the level of expectations – change management, restructuring, redundancy
- Is merit having a recruitment process functions. May be of benefit
- Hard to judge. Grown since she started but so has the responsibilities and levels of service. Tendency not to put the resources in place to get the job done
- L&D okay. Sarina been accommodating – 5 short days -9-4
- Needs more definition

- Yes, once everyone is up to speed
- No, not in his directorate. She seems efficient. They get a lot of urgent requests and he has big directorate
- Yes, has grown significantly. Largely because of the process – recruitment. Thinks the allocation of advisors to units could be better
- No, for the current environment. In healthy state probably fine. Falling apart
- No. May need some recruitment specialists and take away a lot of the pain

16. **EXECUTIVES/MANAGERS/HR STAFF** How well supported are the HR teams? By City leadership?

- Supported by the managers
- Their advice is not always listened to (exec) and this can do a lot of damage. Problems could have been avoided – frustrating
- Not sure
- By the Director but not more broadly. Not an understanding of the complexity of the role
- Left out at sea. No one really values or supports them or understands what their role really is
- Lack of clarity for process of approval through recruitment
- In their directorate is well supported and individually trusted
- Not well supported. Lot of blaming from the exec and LG and this would make it difficult
- Not always. The organization needs to work to include the values
- Does not feel very well from leadership. On his 3<sup>rd</sup> advisor. Decisions are made which affects them but they are not involved in the process – recruitment authority
- Fully backed by their directorate. Whipping boy but not helped themselves by lack of consistency in advice. Their current directorate is not giving them the support they need. Not prioritized as a unit – should be at the right-hand side of the CEO and Director. Not used by CEO in a strategic way
- Could be better supported. Finance could help them generate support, systematize processes. Sometimes is pushed down to and administrative activity
- Not really. Would need to go the procedures? Unsure
- Supported on a professional and per level. Not sure of the level of support to get where they need to be. Feels resources need to be upped to get the systems and processes in place to give confidence in the function
- In past well supported but over last 6-12 month more adverse due to lack of service and understanding of operational requirements – just give up. Service level dropped off
- Not seen as a really important or critical unit in the city
- Very mixed. Does not see HR as a high priority from their director. Maybe a selective approach as to who he pays attention to Others reach out to check in
- Has the managers support and the support of her team. Not sure about the support from the Exec. Concerned that the execs see HR as a cause. Morale is not caused by a lack of function from the HR team
- Well. Exec would better support if didn't report to one director, should be a first level report
- Feels is sound
- L Yes by stakeholders and the Director – supportive of additional directors
- Same as the rest. If important enough to be reviewed that they are important enough to be given priority e.g. Culture
- Hard to gauge. Not necessarily consistent. Can be a punching bag – symptom of lack of continuity in the team
- L&D get the support. For their programs, Ideas. They put together good business cases. Feels HR services get hounded. Frustration from the business is that they get way too many inconsistencies. They need consistent processes. Some may need to relearn things.
- Depends on the Directorate. Feel valued and wanted
- Discussions about HR rarely come up
- Get the blame for a lot of thing. E.g. Organizational culture and who leads. Many thing HR do. Recruitment. If not the right person, HR get the blame even though managers make the decision
- No, pockets support but other execs use then as a scape goat about what they are not doing – punching bag. Some managers do not understand the breadth and scope of what they have to do

- Within but outside maybe not. For example, has observed that Finance and Payroll and HR push back on to HR. Not a good understanding of what the two areas are doing
- Thinks so, previous HRM had clashes

#### Capability

##### 1. **EXECS/MANAGERS** What is your opinion of the level of HR capability & competence?

- Big divide between the longer serving team members and the newer ones
- Only exposure in the BP and this is very supportive
- A lot are new and it will take a while to build up the competency level
- Pretty good but with high turnover will be issues
- They rely a lot on his skill set and industry background for adjusting PDs, advertisements for roles
- Is impacted by turnover
- Generally committed and sufficiently skilled. With restructure it doubled the management team whilst bringing in new people from outside local government. This was always a risk and they required more support – lack of induction
- High
- Need to build competence, not all of the team are at the same level of experience that you should expect. Is a lot of turnover
- Inexperienced team. Only about 20% are fully experienced and capable
- Customer service driven, very knowledgeable and give good advice
- Still a number in the team coming up to speed
- Not where they should be. Been in meetings with the advisor always has to defer to someone else – does not give him confidence. Frustrating and he has stopped going to them so goes straight to the manager or Barbara
- His experience is very good – not trouble
- Lee-Anne and Alison is comfortable with. Advisor level are new - yet to be tested, need to develop trust
- Good. ER are competent, L&D. General HR, not sure are competent or have a lack of understanding or because of what they have been directed to do. Would be the lowest unit on his list to work with because of the environment. Previous advisor quit after 5 weeks - systems change in direction
- Advisors need to be appropriate to the unit and type of requirements, need. Should involve the Directorate in the recruitment
- All very competent
- Capable
- Advisory group - Improved with new recruits. An issue with one of the administrators. Some mismatch between the advisors and the ER team, no RTW role
- Believes are very competent. Some would question it whatever it is if they don't get the answer they want
- Below what he's used to, trying. Doesn't always support in a balance way across the portfolios
- Varying levels but reasonable. Leonie capable. Sometimes ask a question and if needed will come back with the answer. I.e. Had some questions around the study policy – they got back to him because they didn't know at the time
- Some of new ones are fantastic, high performing practitioners. Some of longer term ones too indoctrinated in COP of local Govt, competent. High TO – similar issues to eh
- Lost a lot of people. New and what you would expect. Very different from private enterprise
- A big gap between skill set and experience and needs. Have been working to build this – templated, guidebooks but is still a gap. Not performing at the band that they are employed for
- Some very competent and capable but turnover and employment of contractors compromises this
- Okay. Adequate
- Good
- Pretty good but some have been dodgy, current group good
- Significant competence, Swamped in administrative space - recruitment

**2. Is the function respected across the organisation?**

- Yes but hears some areas grumbling. Their Director is good at holding the managers accountable for people management in their function
- Sometimes, maybe less at the exec level. Manager group is very collegiate
- Less respected as they are seen to side with Directors
- Corporate services are a cohesive team and that team is supportive
- Low respect because HR gets the blame for the restructure and the mishandling – they do not feel HR has their back. The whole thing was not managed well
- Alison is quite well respected – the most they have ever had
- Not as respected as they should be
- In his directorate yes because of Anna-Lee. It's about her and this builds other reputations. They are working in a difficult environment
- Probably not but are some good operators – Barbara and Serena
- Recognise has been challenging because of the level of turnover
- By me and see the value. By others not as much as they should be by the leadership group
- Hears mixed reports about capacity and consistency – differences in advice or action
- Frustrated - Alison is great and has a wealth of knowledge
- Question the capability of the HR team, from experience some are not qualified to be in their role. Very unprofessional. Lack integrity.
- His team know who they are. His team do the recruitment for their own areas
- Variable
- Are issues, no – responsiveness, access, not responding to lower level staff
- Feels they are. Has not heard negative feedback
- Not at the level it should be. Lack of respect because things change so often. Not standing up for the way things should be done. Change of managers and advisors. People not being able to get the best advice
- As above
- Not as much as they were. Previous manager got too involved Alison maybe not enough, more reactive
- As a result of inefficiency of providing the service they are not respected
- Hope so. May be different. Employees, besides recruitment the only real contact with employees is that it's about negative matters – grievance or PM
- Degree of respect. Alison still new to the role. She needs to stop, prioritise and set the plan. Better structure the team, policies and procedures – allow for managers to better implement themselves, not always sure they are doing the right things in the COP
- From a transactional perspective. The way it's done is new to him. A number of processes have devolved. The accountants control the HR numbers. More autonomy for Directors in COP for their FTEs. No real establishment here
- In advisory side there is no consistency, work is riddled with errors. At restructure people were exited in a very uncaring and callous way – that impacts respect. No proactivity. People won't come to HR. Talks to them poorly on the phone, rude and disrespectful. This sets the tone for the whole team
- Variable based on experience of the support – some concern
- Merit if the support of BUs
- Hears negative comments sometimes but is easy to blame others. In a difficult role – balance individual and the organisation
- Mixed. His area tries to support. It's a partnership. Need to provide them with information so they can do their job. May be not so much in other areas. Lack understanding in what they do
- No, it's one of the whipping boys, so is payroll, even if it isn't in HR, Finance, Properties
- They don't drive stuff, just there
- No. All Managers. Conversations have the same types of issues – those who are needing HR support to get through difficult periods, getting support to make quick periods. Understands they've gone through difficult situations. They're complaining about each other. Not much confidence within their own team. Lack of confidence

**3. EXECS/MANAGERS /s HR support for your area structured effectively?**

- Yes, the dedicated business partner model is good
- Yes, lets then check in with how their managers are going
- Curious as to why OHS moved out of HR but Paul is doing a great job of moving the profile and effectiveness
- The issue is how it work in practice, doesn't see his advisor
- The structure makes sense, 1 dedicated person but is an issue when they change – continuity and knowledge impact
- Yes, develops a level of understanding in each Directorate
- Have been improvements in the structure since Alison put her new team in place
- Yes
- Structure yes but not the level of experience
- Works well
- BP structure good because allows advisors to get to know the unit. Sep out transactional activity
- In theory, issues in application- accessibility. Some areas of the business need more support than others at times. Many BUs are under resourced
- Works well, get to understand your business area, develop relationships
- Directorate model - gives consistency but can't tell if it is the best model yet
- Important to have someone allocated as the go to person, know the team and area and build the relationships. Some don't engage with the team but others only to her. Important to build the relationship with the whole unit
- Think model works
- Yes
- The BP model is very effective. More effectiveness now between advisors and ER – clarifying where the boundaries are
- Yes, consistency of resource is good. She attends the directorate managers group meeting. They can provide information back to her but she is thinly spread
- Have it reporting to CEO. Have a recruiting team. Allocate someone to policies and procedures, support of Governance. Admin
- Yes, standard approach
- Structure okay it's the capability
- What's lacking is dedicated recruitment activity
- Not really
- Yes, feels better supported. Dedicated BP
- Yes, more about resourcing and the policies and procedures around it
- Yes, maybe can enhance by making 2 roles - for back up and support
- If Nicola presumes that if went to her with a specialist matter that she would remain the conduit and bring in the specialist
- L&D looks good – proactive. ER good, Barbara is very good. Partnership network looks ok. Admin would be better with different processes
- Concept of the model has merit – but does it have sufficient resourcing to allow it to function effectively

**4. EXECS/MANAGERS- How cost effective is the activity performed?**

- Not visible
- Would be good to understand the cost
- No visibility

*Grievance and Complaint Process – including Bullying and Harassment*

**1. Are you aware of the Grievance and Complaint policies and procedures?**

- Yes, intranet
- Aware they exist but has not read them
- Yes, have had to work through an issue with HR
- Have informed the team
- Yes, has been through a difficult one with a team member
- Know about them but is not familiar
- No
- No
- Some training but has not looked at them
- Y
- Y
- Y
- Y
- Y
- Y
- Y
- Y
- Y
- Y
- Y
- Y
- Yes
- All come with different tool kits and knowledge levels and understanding on COP practice

## 2. How effectively are grievances and complaints managed at COP?

- Through own experience, well and to documented processes. Time delay was a frustration
- View is that they take some time
- Has been a support person. Feels process was handled appropriately
- Informal processes can achieve desired outcomes
- Would not feel comfortable or very well supported by the system, HR or the Exec
- Question whether it is uniformly applied across the City
- No faith in the formal system or the people
- Hard in an organization that is very political to get it right – inquiry, lack of strategy and leadership – not working
- Do not feel that the exec understands their obligations to be neutral, to be dispassionate and not to allow personal views to get in the way
- Alison stepped in with Anna-Lee to assist and it worked well and achieved good outcome
- Not used them. Recently went to a 2 hour briefing session run by Barbara. Found it useful and a reminder
- Sometimes, depend on who it's about. The higher up you go the less accountability you have. At Director level nothing happened
- An issue in his area was managed right away
- Feels some manager and Directors were not held to account. Still does not feel this would be managed effectively to get the best outcome
- Reasonably effective. HR like to script the discussions – he finds this patronising and condescending
- Generally effective. Have the ability to raise issues and deal with them themselves before taking matter up with HR
- A trickier area. Does not work well at the senior level. I.e. Policy is to take the issue to your direct manager - a Director. Most managers are not willing to do this. Fear of repercussions. He has experienced this. Just do not talk to your Director about these things. Within team an informal approach is used to resolution and has been effected. Team are very happy to go to him
- Feels Barbara does a good job. More tightly managed – what is a grievance? Pushing back on employee to go to managers and supervisors

- Same for each local government
- As had a Grievance lodged against him. Frustrating. Person did not move forward to provide Information. No back up information yet. Felt guilty without being trialed - false accusation and not supported
- Managed very maybe overly effectively. City has a reputation for being a soft touch. Have to go through a lot of hoops to discipline somebody. Some people use this to their advantage
- Managed by Barbara. Luck to have someone with the level of experience that he has, that's why they don't have many issues. Grievances come from mistreatment but COP treat people well
- Has been an increase because of the current environment, low levels of resilience. Managers now more willing and aware of the issues because of the performance shaping process. Advisors handle the general matter and performance improvement activity but the investigation. Delays with investigation
- No experience with grievance, but privy to others. Mora about how long it takes
- Balance between COP's interests and employees. Issues prolonged. Dependence on external investigations. Never seen so many in his career. Too many matters getting to this stage, matters not raised with managers first. HR building this process
- Not experienced it
- In line with policy and procedures. Feel managers are generally happy. Employees not very happy some time because HR don't manage these relationships well, or the communications – respect. This is how Barbara treat people – engaging and honest. – honest and compassionate
  - Advisors are ill equipped in this area- except for Nicola
- Feels managed appropriately in line with policies and procedures with the exception of time delays. All complaints should be on the register
- Staff raising issues, maturity around PM and bullying. A sexual harassment process that ended up being false. Other person's reputation was tarnished, no communications or feedback to them. Vie that if "they" get in first, they will be okay. If a complaint is made it's managed only, communications not managed and not closed off properly. Happens a lot
- Grievance. They go into a lot of detail here because of Local Govt requirements. People expect an investigation. Ware working to build in an assessment tool, as to whether an investigation is required. Management generally work well in this area. Time delay Is significant. WA advisors are expected to manager their own grievances and complaints but they are not necessarily managing the communications and feedback processes well and this drives dissatisfaction
- Try to comply to policy and procedures but that doesn't mean the right outcome id achieved Not substance over form. Often about competency and politics. Not always fair and balanced
- Not well by all managers. Sometime can turn a major grievance into a major one. Mainly out of not really understanding. Some lack empathy. Some are unsure and will seek out more support. When HR comes in is generally seen as a support to assist and Barbara is really good at this
- One existing his area. Was interviewed by internal HR about a grievance and then an external investigator. – around 3 people. He was not aware of any issue. Did not give him any context. 6 months to be resolved. He was the Project Manager at the time. 2 months before the end of tit the person at the center of the issue stopped coming in to work. Took a long time to resolve.
- Used in a couple of times. The issue got sat on by his director which feels as against policies. Made a formal complaint. Never went anywhere. Did not get investigates. No communications. His Director did not forward it on. Does not know whether HR knew about it. On another went to Barbara and this was managed very well and a lot of follow up with Barbara. Both Bullying and harassment
- Takes grievances seriously, resource, investigation with good caliber people to get them done. Matters thoroughly addresses. The issue is when the employee does not accept the finding – they say people and managers and protected. Not really true. COP spend a lot of money trying to root out the cause of the issues. Some staff will never be happy.
- A lot of vexatious claims. Not just in COP

3. **Have you ever had an issue? How was this managed? To your knowledge was it managed in accordance with the policy?**
- Yes. Managed to policy. Advisor managed the process through. Barbara investigated. Kept informed and felt supported
  - Had an issue in own area and they managed the process himself. Was an appropriate and effective investigation but it took time
  - COP has no central procurement processes which can add to the delay – in appointing an external investigator
  - Yes and was managed well
  - Yes, not clear on what the process should be, not positive, slow, not had any feedback since it was raised and has not been informed about how it has progressed
  - Was involved in a complaint. Could perhaps have been handled better but in the circumstances, was okay and felt generally supportive. Barbara assisted to help level of confidence and information through the process
  - Not officially, didn't believe the person would do anything. Also knows about a bullying matter
  - HR involved, scripted, managed satisfactorily and well
  - Yes, two issues – both handled terribly and one still not resolved. One issue was escalated to HR manager, then HR Director and then CEO, next was to Fair Work.
  - Did not want to talk about his experiences with current Director
  - Has raised a number of issues. In relation to the Crisis Management team. Pushed for responses but never received any. Not dealt with – suppress them. COP breaks people wears them down to push them out. Raised issues on behalf of team members. When Director left was not protected any more
  - Escalated to her. Did not get the level of involvement that she expected – informed and that's all
  - One of his operational staff has made a complaint – is involved from this perspective. Barbara and Nicola are working with him through this. Thinks it's in line with policy
  - Very easy to lodge a grievance. Thinks it was handled in accordance with the policy but perhaps too quickly – proceed before any substantiation or attempt to resolve. Has not had any other feedback
  - Work well. Try and keep things within the unit. If escalates to her she will get involved if it is more complex will then go to HR. Process is good but when gets to HR may be delayed. Things can be delayed for months – resourcing. Quicker resolution puts people's minds at ease
  - No
  - Have had issues in own team. Found it easy to follow an effective – had to put someone on a performance plan, time consuming but gets the results
  - Performance shaping progress, matters not resolved, drag on
  - Feels stressed about the workload as it is at an unbearable level. People leave and are not replaced, doesn't feel supported or listened to. Manager is causing most of the stress as they feel they are taking on more work for the team to raise their own profile in the organization. Has raised the issue and manager suggested EAP but is concerned how this will be talked about and that they won't be taken seriously. They have seen others raise issues but it doesn't go anywhere
  - Not in her experience
  - No. Works on morale and open communications
  - Generally yes, but where they are not this is because the direction is directed at a more senior level. Has seen this happen with others
  - A termination matter, feels was managed appropriately
  - Managers just want to be told what the policies and procedures are but many of the HR team don't really understand them either.
  - Has had an issue. Was. Exploited more than not
  - Not happy, managed in terms of having a review then feeling they had to tick the box. This review that made them act on it ... whereas they weren't acting on the issue. Went through a lot of processes. Should have been dealt with appropriately, had to see counselling
  - Not raised anything personally

**4. Have you ever felt that you have been bullied or harassed? Did you let anyone know? Did you report it? To whom?**

- Yes – bullied. The person is no longer in COP. She made a complaint to HR, it was investigated. They were performance managed out
- Have heard that it does happen at senior levels
- If you question something in another directorate you get shut down quickly
- By elected members – not an issue now
- Minor incident with an email from a Director. Some behavioral issues but not as far as bullying
- Yes but let his colleague know how he felt informally and was resolved – not investigated
- Yes, bullied. Let HR know and believed that it was being handled. Believed it has been kept confidential. Nothing has happened since this time
- Would normally talk to people if happened. Has heard about some managers but has not seen the behaviors
- Ha been a support person. Feels managers need to be better equipped
- Would have to be pretty bad to report it because it would create a lot of tension and anguish
- No – have heard others talk about it but hasn't seen or experienced it.
- Yes – more widely across 3 including the CEO. Most of this behaviour is at the LS level
- Yes
- Harassed, undermined. Staff would say was been reversed bullied. Poor leadership by CEO Directors with bad behaviour, one has left
- Yes – the Director. The issue was resolved without a formal performance process through talking about it – tackling it, was hard though. Fellow managers, staff and colleagues knew about this they supported him though the process. HR know part of it but were not in the full picture
- On occasion, last year for a short time
- No but has seen this behavior and aggressive behaviors by the exec and sees it now still. The prior Director had a lot of issues he is trying to have working relationships. Went In with a conscious approach
- No
- Not himself but when he started there were a few in his team but these were resolved in the restructure. Will be odd issues
- Not recently for herself Was the matter investigated? How satisfied were you with the outcome?
- Some heavy conflicts. Some grievances in his team. Just recently resolved. Handled by ER. Took a long time. A lot of the problem-solving solution is to stand down and employee whilst the investigation is ongoing. Kept up to date. Directorate should be informed first. Takes people handled fairly
- Feeling bullied by manager and feels like they can't raise it as it will have an adverse effect on them.
- Experience with a bullying claim and then a reverse bullying claim. The individual was still in the role but little advice was given to the manager on how to handle the matter
- Staff got a lot of retaliation after she got clear direction in some handling some tough performance management issues. She raised this with HR and sought support and she didn't get it. Now the decision to resign. It's been difficult and they even make jokes about it. More the pressures of dealing with people who don't want to change and not having the support
- Not bullying but have had difficult conversations with Sarina and are out the other side now
- No. He has an open-door policy and he encourages team to talk with you
- Yes, didn't make a complaint and the person ended up leaving. Didn't follow the processes. Did not feel there was anyone inside HT that she could go to. On another matter did raise an issue with HR and it was managed and resolve
- Not himself. Team seems pretty happy but have lost 1/3 of team, pretty friendly but stretched. Resignations went to new opportunities
- Not to that extent – embarrassment. Had a fear of going further. If she was to say something would be concerned about her job. Everyone in the meeting and nothing done about it. Felt horrible – 6 weeks ago
- Y. By the workforce. Did not lodge a grievance. He is resilient

**5. Was the matter investigated? How satisfied were you with the outcome?**

- Yes and satisfied with the outcome- they were terminated by COP
- By elected members and are running through the process now.
- If elected members do the wrong thing there are no consequences
- Not sure, no outcome
- No
- After months of pushing was told that the matters had been investigated and closed out. They weren't (the people involved) ever interviewed. Had a meeting with CEO and he said the issues had been closed out
- Complained informally to CEO, not in writing, nothing happened
- No
- No, spoke to the person herself. Was hard emotionally. They resolved this between them and she saw change
- No
- Y
- Yes
- Not exactly, but if say wrong thing – ultra-sensitive, cultural, widespread behavior pattern that people are very defensive but hard to get accountability – no understanding of responsibility

**6. Would you feel comfortable making a complaint in the future?**

- Yes
- Would go straight to the HR Manager Alison – Have trust & confidence in her
- Would want to address the matter directly first and confident to do this
- No – too risky but feels less vulnerable now that the commissioners are here. Would never have gone to the CEO
- Yes to Anna-Lee
- Yes, because feel they are strong enough. Has had some team members com with issues and they have talked through and resolved them without going to HR
- Not sure. Would be difficult if the person was a superior but has confidence in her advisor and in Alison as the manager
- Would go to the person directly first. Is too much just running to HR. Things get very fractured. Would go to HR if was then not resolved
- Some Directors behavior is poor but nothing has been done for so long that you lose confidence
- If had a mater would feel he could raise it
- If had a complaint would feel comfortable
- No, because nothing gets done about it – one issue started 1-year ago and is still being dragged out and feedback not provided.
- No, nothing will happen if you do. They are protected. Martin is one of the main culprits. His peers are his support he will even go to the HRM if needed
- Never. Spouse said they needed to leave COP. Felt that is they stayed they would be admitting that she is condoning it. Someone came to her with a grievance and she can't do anything about it. There are endemic issues. For them it's the fear but this has been normalized in the culture. They are not seeing the problem
- Yes
- No, never addressed and CEO would not address. Would be very concerned. Untouchables and poor behavior is not addressed
- No. Do not feel the process is satisfactory. Does not assist people to resolve issues themselves. If is with HR the battle is lost. They can make it more difficult. Painful and causes unnecessary distress
- Would manage herself. Making a complaint would be a big thing to do. Would be concerned about how this impacted her career, and impacted relationships. Had a colleague confiding in her, can only listen – does not feel can do anything
- Yes and team too
- Would like to feel his team would. Feels less protected under a term contract, more reluctant to lodge
- No, as this will impact their progression at COP.
- No

- Recently conducted ER training. Some would not be comfortable going to their advisor. HR also has a role to advise and counsel employees who may have an issue
  - Would if she had an issue. Been to a number of training sessions
  - Will try and manage things within the team. He would make a complaint after he assessed how strategically it would play out.
  - No, career limiting
  - Depends on what it was. Doesn't not see himself as long term would question whether he wanted to move on
  - Could have come to HR about this, but came to us. Culture – don't step out of line (NOT VALUE – COURAGE to do things differently)
  - No
7. **EXECS/MANAGERS Does the Exec see grievances and complaints and the progress of these?**
- Have visibility into matters in own area – confidentiality
  - Regular interface with BP
  - Only generally to make people more aware of certain issues – maintain confidentiality. Example of an aggrieved person who left the building mouthing off when management weren't saying anything or managing – they didn't know – how could this be managed?
  - Meet with Barbara on a fortnightly basis. Alison weekly. Not at the investigation level
  - Up until the resolution the Manager was kept informed
  - Timely

#### Performance Management

1. **How effectively do you think employee performance issues are managed?**
- No, process is too long winded. Tick a box
  - Done to satisfy a process
  - Team leaders do their own monthly assessment of staff as it is more specific
  - If follow the process and procedure it works well
  - Frustration is that if you don't use the process are no consequences
  - From 40% to 95% compliance in completion
  - Not a culture that has a culture of monitoring it's performance. E.g. No meetings on performance and how the City is tracking. Still no organizational KPIs
  - High number of staff do performance shaping forms. Only the reviewing manager gets to see them. Then they go into the record keeping system
  - Pretty positive – only outcome is the scoring process
  - Up to each manager and Director. Also the consistency of advice
  - HR is very proactive
  - Has been handled quite well. In the BU all performance issues have been turned around. Feels HR are scared of performance management at the moment – more softly, softly, approach and is now not working so well
  - In the past underperformers got away with it. No records were kept. No one told people that they weren't doing things properly. Process is much better now
  - Manages them to the process and consults with Anna-Lee before he does anything
  - Good but a heavy process
  - Managed well in his unit gives good line of site into performance and projects. Picks up issues and can be resolved along the way
  - Not had the experience
  - Not well sometimes.
  - Big improvement. Poor behaviors nor being addressed.
  - Could be more effective by helping people to have clarity role expectations and expectations of leaders and manager

- Probably not well – potential conflict situation – reticent to do this - cultural, and reluctance. No visibility across the City
- Is effectively. Difficult to do especially if it's not working for you. Time consuming. Some reluctance by HR to initiate. May need more support from HR but this creates reluctance for managers to do it
- Check in with her team and issues are dealt with quickly. If people aren't delivering, put a PM plan in place. Will keep HR informed. When gets to warning stage or beyond will get them involved
- Never been to the stage where somebody has wanted a third party involved
- If manager manages the issues. HR has supported him. He stays on top of these matters. To be a manager in COP you need to be energetic and resilient
- But had to work through with one of her team and they ended up resigning. She was disappointed and left because of health issues and the complainant also departed
- Good support here. His staff, their meetings, BP is more of a process role
- As per grievance
- Yes. Not sure about procedures. Engaged HR and working through that now in informal processes. HR working well. One of gaps is the advice is advised through the advisor rather than having a tool kit. But has had good advice
- Often not managed. Performance ratings don't always reflect the way people perform. Managers don't want to work with performance issues – time sheet fraud, stealing from the float. History of issues without any formal processes being put into place.
- A bit of a mine field. A little inconsistent – advisor changes. Challenge is to get on to these things early. Developing the capacity within staff to deal with issues is important
- In the past not had a good basis to define these and the OPS process is a good base. Need to have good performance measures against the JD
- Managed well. Quick to resolve issues generally. Are instances where people are protected because of who they are and who they work for
- One of the people that left had a poorer review than he wanted but it was warranted - so feels this was justified
- Generally, HR provide reasonable advice but are challenging processes, gather the evidence and manage the process
- He handles them with his team and will call HR in as a reference point. First point of call if the supervisor and will then involve HR in the performance and development plan. If goes beyond this he will be involved and will become a disciplinary process

**2. When did you have your last performance review with your manager or supervisor?**

- 3 months ago, in line with the process
- Meets with leader fortnightly. Confidence in manager, she keeps her on track
- Not since the last cycle – manager away
- At 6 monthly intervals
- June
- Not yet,
- Has had an interim review
- Recently
- In June. Now has regular weekly catch ups with his Director
- Mid-Year
- July and own team
- July, her and team
- Have not had one because of no Director
- Y
- Y
- Y
- Y
- Y

- Y
- Had his first one this year – 1/3. He does then twice a year for his team
- End of July but feels like it is a bit of a joke. They asked for a pay raise but told no because their manager wasn't getting one. When questioned why that mattered as they had been performing well, they were told it was because they hadn't met their KPI - but they don't have any KPIs
- Had a probation review at 3 and 6 months
- Yes
- Performance shaping – each year. Never stick to with KPIs because nature of work is so dynamic, doesn't account for what actually doing. Strategy changing. Not being rewarded for meeting any KPIs – lost any value. Box ticking exercise. HRs fault for trying to enforce. Takes hours, and tedious. Did try to simplify. On different versions of the form, which took time
- July
- Had probationary review

**3. Tell me about your experience/perspectives on the effectiveness of the performance review process.**

- Performance shaping process is a bit of paper
- Salary increments are automatic and time based, not performance based. HR supports this
- Helps to strengthen skills
- More a process requirement
- Operates better at the manager level
- Development is important
- Good process
- More recent inclusion of values brings some duplication
- It's good, opens up the conversation, the questions are good
- Don't think the score leads to anything
- KPIs were what was in his business plan.
- Helpful for developing training needs
- Allowed him to have honest discussions with his Director that would not have had without it
- Likes the process and works well for a highly professional team – depends on the leadership capacity of the manager
- Talks regularly with team about development.
- Erica has been a good leader in terms of how this should work with her staff
- Good but a bit heavy. Could simplify the 12 monthly one. May be more linkages to experience
- Like the process but time consuming.
- Like the process and wants to use it as a tool but may be a little long a. Facilitates the conversation. Emphasizes the development and planning side and setting KPIs
- Good and productive too, helping to align performance to the unit plan and organization. Creates more accountability and sense of achievement of the team and how they fit into the picture, Believes COP had a good success rate and compliance was high
- Since the restructure is a much better process – more rigor. Managers now know how to use the process. People understand their accountabilities better. It can always improve
- Okay. Some repetitiveness
- With actions or KPIs sometime hard to hold people to account because things change
- Does give the employee the change to be told what they could be better at but most don't want to be reflective. Long winded and old fashioned. Talks to everyone every day. The docs are quite formal and a formal approach to managing staff each 6 months, could be a tick in the box. Okay with setting KPIs and the development areas
- PS process not very effective. No outcome bar a number. May have KPIs that need to be achieved and some feedback but not seen as a priority.
- Would be better if it was an enabled system
- Not consistently applied
- Employee probable see it as a tick the box exercise

- Quite good. Got a lot out of it because set KPIs and provided a structure to achieve
- Not much point to the performance review as commitments aren't kept. There must be some form of reward or recognition, otherwise futile exercise. Appreciate that it may not be a financial reward but could provide recognition through the working environment. At this time, performance management is very stressful on well-being.
- Performance shaping - hates it, repetitive, not easy to use. One of her managers has a monthly process and monthly check ins – it's about picking up behaviors early. Lack of awareness on operational service delivery. It's not collated. Do not map the L&D plan around requirements, no mapping requirements around capability to develop a training matrix- not mature
- Pretty good, one of the better ones. The document is very good to assist managers and staff address pertinent issues
- Okay process. Opportunity to explore L&D and growth, performance. Team don't like filling out the form. Helpful
- Bit clunky but never seen an amazing one. Lengthy. Some staff but a lot of effort in the meeting. Is a useful thing as is forward planning. Don't refer to it afterwards. Regular dialog is better. A system to log these discussions and meetings would be good. Needs to be easy from managers. Maybe a customizable process
- Performance shaping. For her fine. For team difficult. Overwhelming for many and nit really suitable for the work they are doing. They struggle. Have to take people off the flow – 100 hours needing backfilling or paying overtime to do this. So they do a hybrid
- Beneficial but useful in identifying a training or development need, how you will address things. Most okay for all roles
- Good. Opens the opportunity to have the discussion, be honest and review. Sees a flaw in the KPIs – people don't understand what they mean –not very well defined. Some repetitiveness in the T&D areas
- Very positive. Opportunity to talk about development and career expectation, setting objective. Employees responded positively, many were on the probationary review version. Feedback was positive
- Current process is a big task only finished a month and a half ago from the mid-year review. May need to think about simplifying and for different levels
- Lot of paperwork – twice a year and is too long to be used as an effective tool this frequently, in this format. Maybe alternative cycle is informal
- Only permanent staff do them. The process identified the performance issues that they are now working on. Scope of his team and role has changed significantly – very fluid. Setting and assessing KPIs is challenging – excused for not met
- Likes the process with their director and refer back to it. Many staff don't understand the value. Pay increments are given on an annual basis. This would be better if pay increases were aligned to this process and outcomes. Dos way too big – one size fits all. Not a lot of understanding of what the scores mean
- Not involved in the development of the PS process. Seen more as a task or KPI rather than as a real performance tool. Suggesting to potentially link to performance pay
- KPIs a little elusive for her level of staff. She has set some requirements for staff i.e. Customer service, attitude and instigated a monthly catch up. Cumbersome, creates expectations to answer all the questions and aspirations for operational staff so have adapted the process. Don't use the forms ass are on the intranet
- Sarina ended up developing the process and an accountability of L&D. The guide and forms have been improving it. 5 major improvements so far: merge 2 forms into 1, changing to a probationary review for probationary employees. When completed the employees put onto CM when signed off. Managers have responsibilities for their teams forms and development activities. Was a Training needs analysis doe in 2016
- Good but needs some refinement – simplify it given has to apply to all employees. Very large and time consuming
- Taken some time for people to understand them and see the benefit. Frequency may be an overkill for managers and supervisors with large teams. Should be informal anyway. Managers feel more empowered to raise issues when they arise, more open process. T&D needs sit in the files no system to identify or following up training and development needs
- Needs to be shorter, too long. Gave feedback to HR that her does not believe will have the impact needed. In old role was monthly meeting 1 page dealing with specific issues. COP needs to be more regular and shorter

- Took him back to the 1980s and 90s. very formal and not about continuous feedback. Many people lack the experience to do it. Some people put a lot of time and effort into it. Other less so. Work flowed to the next level up. Do not get aggregated up and nothing is done with the information or used for anything. Don't drive development plans well
  - Must have, but for an operational workforce – hand written is a very time-consuming process. They have fortnightly toolbox meeting. Daily feedback on performance
  - Conversation with Director was great. Team often questions what's the purpose of the process. No increments attached with it. A has chosen to give yearly increments because she's PM people. Feeling that it's a bit of a tix box process – but she's not doing this so she's getting a lot of pushback. A lot of pressure to give increments (money) when PM which she doesn't agree with
  - Process is a bit long winded - a bit clumsy. Effectiveness – responsibility is on the Managers. They developed a policy, the tool is a bit clunky and could do with streamlining, a bit repetitive, could be electronic
4. **EXECS/MANAGERS – is it used by all areas?**
- Yes
  - Yes, pushing for higher levels of compliance. Now 2 years in. The first year did not push hard. Now 955 compliance in the directorate and 100% in own unit

#### *Development and Training*

1. **How are you made aware of Training and development opportunities? How do you find out about them? Have you used City Learn on the intranet?**
- Serena and her team send around email, meet with us. Provides guidance on courses/programs and recommends
  - Familiar with City Learn
  - This is a strength. Serena and Lina send out course details
  - Are other initiatives like cultural awareness
  - New City Learn is great
  - Managers could take more accountability
  - By email from Serena or by direct letter from a vendor
  - Serena suggests programs. Does not use the internet very much, refers to emails or external research
  - Training calendar on the intranet and emails from Serena
  - Made aware by Serena sending out emails re expressions of interest. Asked through performance shaping process to identify NEEDS
  - Advertise on the intranet
  - Serena
  - Don't know but If did want something would go to the T&D team
  - Applied for external study based on performance action plan discussion. Received approval but then support was withdrawn although already commenced the study. Very painful and expensive issue for them.
  - Doing a lot of good things, positive experience. Can access T&D and has used City Learn. Happy with this.
  - Sarina though email; Encourages his team to identify their own programs
  - HR strong here apart from City learn. Courses excellent. Easy to get approval to attend - Sarina
  - Sarina send emails though the manager. Not the best comms around the E learning modules. Some are mandatory but were not aware of them
  - Emails. City Learn. Not flash but does the job. Support regularly refresher programs. Get reminders. Reports come to managers to let them know who still hasn't done things
  - Put development information into the shaping program but nothing happens to that. Would be god to have an annual plan for mandatory training. Other training managed by the unit and organized by them. Never been asked for this. Also, when new system or process is introducing is an opportunity for L&D to identify a need and support the implementation to ensure success. PPMS
  - OSH have a training calendar. L&D let them know. Talking with L&D about developing a corporate calendar so they can plan. Also have a need to do industry specific training and training on equipment

- Receive communications and updates. But is generic. Never received a communication about specific training that may be relevant for his team. If he asks they will help
- Well communicated through the L&D team, advisors are copied into manager communications. They check in on the L&D requirements and gap analysis as part of the Performance shaping s process
- Advised by email of an opportunity. An ongoing issue for him. Problematic - being offered training programs during the year after he has set his budgets. Needs to be ahead of the cycle so can plan. Not sure that the needs coming out of the Shaping process go into the schedule. He prepared a matrix of needs and can request certain training if it isn't already in the mix. Safety have a schedule
- Sarina is very active – email. Gap – not seen any evidence on any organisation wide approach to identify the needs and align them with the program. Not been consulted
- Didn't know what City Learn was but they have done lots of training which has been good. COP has paid for courses.
- Email
- Y, communicated. Do not seek input from him
- Been invited to things by Sarina some have been good – Indigenous training and was really good, Disability access, stakeholder engagement, Local Govt Act, no. Not sure who does gap analysis. Sees it as an HR activity to identify the programs/tools that could fill the gaps. Doesn't feel this is done. Some people in the wrong chairs. Has seen a report about the City's project management capability generally and rated very poorly – systems and skill levels poor, lower than market remuneration. Set pay scales and inflexible – not about getting the best outcome – it's about control
- Use the resources always delivers a positive response from employees. Only limiting factor is Succession Planning. Hard her because if have an open position have to advertise even if you had the ideal internal candidate. Some of their training is OSH – annual manual handling, driving, fatigue. There is personal development of staff and general needs
- Nominate self. But nowhere to go with it, so many skills from training but not getting any value from it, and seeping away because not using. But time in asking for it, will get it
- Receive a lot of info – via email. Unit runs a lot of their own stuff for customer service. Hasn't been involved to get collaboration. Not sure what they do? They manage City Learn. They did a video for City Learn. Ripped to shreds
- Yes - mandatory courses

## 2. When was the last time that you participated in training?

- Recent, local government training for new managers. Very good and that best training have done in a long time
- AICD
- Conferences
- Emergency Management on line
- A lot of corporate training – values and culture
- Technical training from an external vendor
- Reconciliation Action training was excellent
- Cultural awareness
- Done many programs
- Recent business case training. Did a good job as was tailored to the City's requirements. Want to role this out to the rest of the team
- Values session, ICAM method training
- Wala Local Government obligations
- Email. Own units have typically designed and organized their own training
- Strategic Planning and Thinking
- Cultural awareness. An AIM prof. Would have liked more structure around the ER training
- Business case writing – was terrible. Bad facilitator
- Few weeks ago – business case writing. Has had some good opportunities since Alison came along

3. **EXECS/MANAGERS Can you please outline COP's Training and Development activity and its effectiveness?**

- Very good
- Is more training and development than ever before
- Is a strength
- Strongest point
- If you complain then you are not taking advantage of it
- Positive experience and good sessions
- Works hard to support lifting performance and aligns to COP needs. Can see training visible and where the \$ are being spent. He provides feedback on effectiveness to HR
- Most people get the training they need. Is good feedback on the mental health training
- Also opportunities to "Act up"
- Have to fill in a T&D form and get it signed by a director – could be simplified
- Training is outsourced
- Does not feel training is the biggest priority now but are some great opportunities
- Good and helps to build skills but could be improved by getting a better understanding of training needs. HR come out with courses. Need better data to track what staff needs are.
- Quality of programs can be variable and need a way to measure tangible outcomes
- Don't have experience with HR
- Depends on who you are. Found it difficult. Course identified in this PR process but not able to do it. Works for his team if he has the budget.
- Not mapping what's going in to the Shaping process and what needs it generated
- Very Good
- Pretty good. External provided. Also, look to source training for own team's needs. If had a unit plan for T&D that would be good
- Pretty effective. Looks like may be a core of people who utilise the programs. Maybe good to have a full year calendar on the Intranet - more self-service. Request courses that aren't listed. Top down driven – improve if got the units involved. Better if was not email driven. More marketing to the staff, drive them to nominate and register
- Generally high quality
- Few would go
- Effective. Kicking goals
- Very effective, refreshing, good quality awesome providers
- Should not be training just for the sake of it should be aligned to their career path in COP. For the benefit of the city. All requests come to managers – no need if have a budget
- Yes
- Sent out customer service training with no consultation with her. No sure what their function is. Some great courses
- HR need more T&D on their own processes but there is also a lack of accountability to make sure that they are familiar with processes and policies. They must take accountability
- FHR facilitates programs. Each area defines its own specific training needs and requirements.
- Lot of choice, identify programs. Funding varied. Training programs should be aligned with corporate objectives and he thinks they are. More time to understand the needs of individuals – better link to the PS process – more responsive

4. **EXECS/MANAGERS Who is accountable for identifying employee development needs?**

- Managers
- Serena sends out emails recommending programs rather than asking what is required
- Is a lack of consistency in how it is approved
- Uses the shaping process to identify and has regular meetings with team
- Him
- Managers

5. **EXECS/MANAGERS** Where is Talent & Development budgeted?

- Manager budgets and centrally for all of COP and compliance training
- Approach to budgeting is from a compliance perspective and not strategic. Do not feel that exec sees T&D as important as OHS which has so much more support
- Approach is not standardized across the City – some more generous than others
- Budget was slashed but a lot of things can be done cheaply

6. **EXECS/MANAGERS** - Does COP have succession planning and career progression processes? To what levels do these go?

- Succession planning doesn't work successfully at COP, don't talk about it
- My Director talks about it in my directorate
- Not mature
- Mostly done within each Directorate
- Purely up to managers
- Not formalized
- Not something that is well understood or developed
- The unit coordinates. Use mentoring with more experienced person, acting opportunities, project opportunities
- HR are limiting what they can do. Have to advertise all roles but need to have a practical way to reward good workers through career movement
- Yes and no. Secondments to other units. Career progression is important. Have identified the need to introduce trainee position
- Identify HIPOs in unit and give them step up experiences. His initiative and not facilitated by HR
- You must grow staff but reclassification is frowned upon. Need to think of the future. People do not feel there are progressive career steps, come I to COP but don't move. These are huge barriers and need to be broken
- Needs more focus, identifying talent, identifying and encouraging opportunities in acting up and development planning to build up careers
- Using job rotations with another manager
- Unsure. A lot of his staff get poached. Recent resignation was because of career progression – no confidence in getting the opportunity in COP because of the Director
- No, it's a maturity issue
- In other areas, pretty good. Not an HR issue, about the history of BU
- Up to unit managers to do this. No HR involvement at this stage
- Not aware of any emerging leader functions. Coaching and mentoring informal. Good to have a two-pronged approach - Internal mentors or coaches or external. He has one
- Does not exist, up to the managers. Recruitment processes make it difficult to plan for succession because these roles are not a pathway – they recruit all roles externally
- Not so good. Now a priority. Now raising the number of performance shaping reviews will increase this, development needs to promotion. Contract and term roles more of a product of the current environment concern for headcount and new positions
- No. Not a lot of opportunity for development beside sideways. Nothing is guaranteed. All roles require formal processes. She has set up secondment opportunities in other units for a week – this is really the only way she can offer them this opportunity
- Should be a partnership with HR. He is accountable for his team. Some managers will rely on HR to facilitate

*Culture & Communications*

1. **Do you feel COP lives by its values? What 2 or 3 words would you describe the culture of COP?**

- Yes in my directorate

- Sometimes the exec group need to be reminded about the way they should behave towards each other in front of other staff. Has seen this first hand (2 directors in a lift talking about another staff member). The CEO can be inappropriate too – blaming others.
- Some directors more toxic than others. Sometimes sabotage people mentally.
- Always the same people that raise negative things
- No positivity flowing out of the Directors
- Culture driven by our own experiences
- Evolving, is more than stickers
- ELG meetings aren't good – is no trust. Only attends for his section. Big lack of trust and instability. General staff are not exposed to these things so poor behavior is quarantined
- Some do and some don't. It happens and Director and Manager levels and this is disappointing and they are more visible. They get away with it because of their influence and pressure. Who would challenge a Director. They can get away with it.
- Leadership team are not living the values,
- Culture has changed significantly in the last 12 months
- Values not practiced
- Pockets of culture-Directorates have different cultures & this causes tensions
- Organization has a low understanding of what building culture means
- Culture is different between units and levels
- Surprised by the level of respect that people have for the each other, push the values. Not seeing the bad behavior – except for a few
- Pretty good now but has been terrible, shocking 18 months -2 years ago. The work put in recently has assisted in bringing morale up and the values have assisted in this process
- Exec do not practice the values. As a group are disrespectful of each other, become personal in meetings, outcomes not achieved. Lack of direction is visible. Different rules each week, mismanagement
- Still a lot of mistrust between staff and the exec. Do not think exec lead by example. The exec issue is important. My leader is helpful and professional, trusts her, supports her, is little intervention, but hears from others about micro management, bullying, demoralizing, stopping employee activity, turning around decisions, undermining – ability to practice their own management styles is difficult
- Outside of the exec, do feel that people work to the values. The restructure created a lack of cooperation, lack of clarity, holding on to information and now is a big improvement. Now more co-operation, commitment to improve, finding solutions and helping others
- The work is really good but it gets tiring
- More of an issue with the Directors and maybe a lack of awareness that they are guilty. Some directors are not held to account. Sometimes have "twee" activities like Directors serving at a BBQ
- Trying to but not there yet
- Lot of very good people. Needs work but not bad
- Don't feel team members believe it but nothing makes him personally question it
- Lacks integrity.
- Very diverse backgrounds at COP with people from lots of different countries Finds the culture to be inclusive. Everyone is helpful,
- Tail of 2 parts. His team are amazing and works well across units Have a lot of external connections and representation. The decision-making processes internally makes it difficult to remain credible with these groups. Issue is with leadership. Their behaviors are also visible sometimes with other staff. People assuming the CEO is going. Feeling that Erica may withdraw her resignation because she is now the acting CEO. They were not unhappy when they heard she was resigning. Leaders don't trust each other. Below this there is a lot more trust
- The Directorate is, have directorate values, the words have the behaviors behind them. New values resonate more with people. Culture is better than people think. Feel people are very vocal about it being a toxic culture but that's exaggerated. Mid managers are not taking the accountability with on what culture looks like and shaping it
- No, no respect. Give managers the ability to manage and make decisions. Top down approach now and seems CEO has to sign off on everything. Divergence between the leadership level. Don't work together and behavioral

issues. Disjointed, misplaced purpose, too top down. Structure not right. Too many BUs, creates a massive matrix of communication. If reduced the number would be more effective

- No, lot of marketing spin. Lack of open comms or acknowledgment of how staff are feeling with the instability. No one has real information. No end dates to things – acting roles, who's the acting CEO tomorrow. How long in the manager acting director for – flow on impact.
- No, on the way slowly. For the top level, the exec and CEO – they are incapable and he would support going and clean sweeping out the exec. Doesn't see any of them being capable of going forward - a clean sweep. Frustrated, but are individual pockets of culture. The team and then the wider environment. CEO not a leader. Exec don't exhibit teamwork or respect which are core to values. Enough knowledge in the management group and are collaborative
- Getting better. No issues of culture in the unit. Some issues still stem from the restructure areas do not have support, are combative, keep secrets. Not as bad now. Pears good. Lack of leadership had a bit impact on the execs and on their ability to practice leadership. Has to be a place you want to be. Be supported professionally and personally, be able to have robust conversations
- At his unit level and Directorate level, mutual respect, pride. No, talk about them but many people given the courage to speak up. Issues really at the leadership level. Lack of leadership, lot of reputational damage, this leading to turnover of staff, lack of following a path. Stuck and don't get anywhere and do it over and over again. He recommended that after the restructure should review the "targeted business model" is it all working in the right way how could it be better. Still finalizing the plan. Thought they had the framework but Commissioners are now questioning - WIP
- Process started good but has disappeared. Values important and mean a lot. Need a common understanding of what they mean what it looks like, what behaviours. Sees it in his directorate and in his Director but not as a group. Variable. Parts of the organization sees values in a different way, demonstrated in different ways. Nonexistent with leadership. Good teamwork between C&C
- Some do, others use it as a tool to hold people to account and pull them up – not using them as intended. Culture is and individual responsibility, should be leadership lead. Is different at different level. Unknowns, leader issues, direction uncertainty, lot of blame – behaviors fear base
- Obvious that in some instance are not - at the director end particularly. Getting a new director is supportive. Yelling and screaming is observed not just at the manager level. So destructive (example of Marin M desk slapping over Martin raising getting a new safety resource
- Each individual directorate do within their own and they are committed, but not between. Lack of leadership gel. Every directorate has a different culture. Lack of respect because of the siloes. About behaviors and the consistency across COP
- An evolution. Managers need to take responsibility but lacking the advice on how to implement, or implement things in a coordinated way across COP. Martin use to talk to them at the Management and leaders meeting. No key plan to implement to
- Very depressing. People ducking for cover, frightened and at rock bottom, stay out of harms way. Market turning and they are leaving. No, the higher up you go the less the values apply, one rule for us another for them. Still a couple of these directors left now. Word – okay, feels pride a great service to the community, she will give it another go
- Doesn't feel like they live their values – and raised that 'Courage' to them meant that you needed to have this to be able to work at COP. Everyone is proud to work for COP and likes what we stand for but feels like no one is looking out for the workers and that they are played off against each other.
- Too new to say, good intentions, people cynical, - this review desensitized. Disappointed that other survey was delayed. Blame culture, many great people who want to see the city succeed
- Toxic- everywhere. She was part of the culture change group. Not anymore. Stopped hearing good thing about working here in the last couple of months hard to remain positive. Sam people. Group of people. The responsibility exists w with the people who are working here. Impossible task
- COP culture – not good enough to accept that some employees are behaving as they are

- People try to. But some managers are not honest or transparent either. His team is good. Generally the Directorate works well too. Some gaps though. Immature, inconsistency – not even, silos. – more about the individual managers
- No level of teamwork is at best fragmented. Everyone says that Directors do not work as a team, that means they don't respect each other. Hierarchy organization. Senior people expect respect, not earn it and don't pay respect down the organizations. Don't speak to people as a person, ignore them. Heard that the previous manager get into trouble for spending too much time out with her team and for not managing them. Not good interface between design and construction. Distrustful directorate to directorate, teams that need to be working together don't do so well – managers and directors not on the same page but the staff do – it's the leadership that are not aligned – fragmented
- No, execs a key part of the problem, nasty, don't collaborate, insular and siloed. No systems to integrate areas to align common goals. Doesn't think the execs understand- sausage sizzles don't change culture. Everyday consistent good behavior is needed
- Learning it's values. Culture comes from having a better outlook. If people feel good about their jobs will have a better outlook
- No. Stability, certainty – values. Friendly, ... extremely frustrating and challenging – but not in a typical way. Dysfunctional – culture set from the top ... working from bottom up. "I like it but it's challenging". No follow through. No unified vision or strategy. Lack of resource commitment. A lot of 'making do' – hard to pin this next to values of being great services and being creative etc. Everyone having to be an expert in everything because no one know the whole pictures
- Hard because 2-tiered. He knows execs are fighting and that flows through to a number of other decisions being made, ripples effects. Hearing from a lot of people that morale is lowest. Within his own teams, subculture of just getting on with it. All Directors are jockeying for positions
- No. Damaged, secretive, blame-culture
- Missed the mark with some of the values - COP is a service based organisation, it's about the people they service. Has worked in other organisations with really strong values. Really should focus on service and excellence. Culture - volatile & reactive & uncertain

### **2/3 words would you describe the culture of COP**

- Improving: not toxic Long way to go: Right direction
- Under pressure, friendly, pride
- Inconsistent decision making, chaotic and challenging times
- Vacuum of leadership, no visible leadership, lack of inspirational leadership
- Culture of fear
- Collaborative, Open, Transparent
- Challenging, intense, exciting, very passionate
- Challenging, lack of exec leadership
- Good place to work,
- Chaotic, no clarity of certainly, clear leadership of direction, demoralizing, people resigning
- Overworked, Disgruntled Workers, Empire Building (doing things to make your own resume look good), Not Caring about People.
- Silo, insular, team specific

### **2 EXECs/MANAGERS/HR - How would you describe the culture in the HR team?**

- Very positive
- Positive, Friendly, Happy, Focused
- Advisor is new and there has not been time to bond.
- HR have responsibility to be leaders in culture but because many are new this is difficult
- Strong internal culture, positive, supportive open
- Collaborative

- Good, Alison a good leader
- Positive and helpful
- Good vibe, positive, good team fit. Like and appreciate Alison. She took the time to link in with him
- HR strove to do the best they can to impact positivity
- Feel like they don't like each other, or don't get on well. Still under repair from previous management
- Must be an issue because have high turnover. Some of the staff have expressed issues to him
- Good but could be better, fatigued. Alison doing her best to support but are also fatigued. Turnover in her team – only 2 perm, rest ST contracts
- Immature. Not a collaborative bonded team. Certain expectations of HR. There are some issues here. HR needs to demonstrate their behavior in terms of objectivity and professionalism. Need to take care -if they are setting the precedent that can affect all of the organization

**3 EXECUTIVES - Do you recall Exec review and response of the Cultyr Survey?**

- Alison did a presentation of the outcomes
- Directorates had presentations too on their own results and drilled down further
- HR at the MJG, the Directorate and in the business unit – triple tier. Was very well done and gave them something to work with
- Was not at the City
- Had management feedback sessions, then went into detail in each unit with HR BP and talked to the unit team
- Presented at the MLG meeting but did not include responses to the open-ended questions
- HR ran sessions and promoted the outcomes
- Got the results at Christmas time. Early new year went in to crisis. ELG not stable. Ability to respond difficult. Started change champions. Did a pulse check on some of the questions from the survey? Directorate values in place. Fortnightly newsletter.
- No not at COP
- Had some temporary changes in behaviours. Failure to accept what staff said. Not accepting it
- Had own directorate meeting. HR had sit downs with the teams. Is still reinforced in the team meetings. Lot of visibility
- Works at the manager level. Mixed. Some units performed differently – those who didn't perform so well were dismissive. Change champions group came out of it and is led by Rebecca
- The managers had made it clear to the execs that people were frustrated that they didn't get feedback from the earlier survey so he went off and put a lot of effort into the roll out. Disheartening when Dirs stopped that last survey. They were keen to have their say and see what the results are. Chaos at the top end managers out a lot of positive effort put in to improve. Saw this survey as looking to find a cause or problems. People are just holding on to their jobs. Worse than what it was years ago. Speak up and you make yourself a target
- Net Promoter Score: feels response of employees was more directed to the employee's experience in their directorates

**4 Did you participate in the last culture survey? Why not?**

- Yes
- Not present
- Yes
- No – consciously didn't as had just had a bad experience. Team didn't participate. Lack of trust and disillusioned
- Yes
- Yes
- Yes

**5 Did your manager/supervisor/COP communicate the outcomes to you?**

- Yes, above
- What they sent out about the culture survey was typical about how they handle things badly – not consistent or authentic
- Serena ran a really good session She gave authentic feedback to staff, was very good and she called it the way it was
- Don't think so
- Helped him to understand his BU
- Sarina and Anna-lee presented to the unit and were supposed to be presenting to the LG on their feedback shared but does not think this happened. CEO BBQ. Awards was good. People felt some of this is superficial. Need the basics in place. Videoing the event looks like marketing spin. Want leadership to be visible, more communication. Early on had a session with the Commissioners at the Concert Hall but has been nothing since
- Y
- Y
- Y
- Yes
- Fuzzy. HR did a presentation, well below the benchmarks
- Had visibility

**6 Did COP act on outcomes of the survey? What actions have you seen?**

- Rollout of values
  - Lack of time and resources to get it off the ground
  - Values working group
- Change champions
- Elected member poor behavior did not disappear
- Inspirational Leadership – slight improvement. Trying to be nicer to each other.
- Very siloed mentality. Do not help each other. Fight for territory
- Seen no change in leadership behaviours but CEO was more visible for a while
- Staff go engaged
- Lip service
- Not present for the culture feedback from manager but had feedback on the Deloitte report
- Trying to do better on safety and bullying
- Really trying hard on the values
- Not sure
- Trying on the strategic vision
- Yes, thinks so
- Didn't see anything but a whole lot of other work to do, values went up, superficial things. Have seen a positive change in Rebecca
- Culture champions – they had an action plan, R&R plan CEO awards, new values, Training around embedding values. Lot are still happening
- Actioned very quickly and a lot of work put into it but a lot not finalized. ELGs had workshops, all of the managers, the OCCRA – putting it into an action plan to address – change champions came out of this and the Deloitte report. A lot of actions still ongoing
- Yes, not that bad but people often don't believe it is confidential especially the outside workforce
- At the time were active comms and as time went on BAU get back in
- Member of the change champions. He is initiating a mentoring program for people who are driven to improve their own life
- Didn't see the outcomes of the survey.
- Did nothing about their own leadership. Blaming council
- Had so many reviews but the execs are not capable of putting together a vision and a program. Speechless with the level of incompetency. Prior CEO was not capable of being a CEO, nice but...

- Band aid was not pulled off quickly enough. Have to take accountability for what is happening now and stop blaming the restructure. With the Commissioners everyone is expecting another restructure
- NO. They've probably tried to but not successfully. Lack of leadership – even though that was a bigger thing out of the survey they're focusing on the culture
- Never seen any actions from it, picking and choosing what they want to address
- No idea

**7 Would you participate in another survey?**

- Yes
- Was disappointed when the survey was deferred
- Yes, teams were keen too and very proactive. Were very disappointed when the survey was deferred
- No
- Yes

**8 Do you feel your leaders communicate effectively with you?**

- Yes in my directorate
- Robert has a good way of involving everyone in the weekly meetings
- Don't really follow what's happening on the intranet
- No, actively try to keep information from management – control and a bit of protection
- Yes, Directorate meeting every 3 months
- Managed but not very honest. Are fiefdoms. Director communicates down well. Each Director has a different style and are prepared to share different things.
- Are lots of rumors – fan the fires
- Director. Has a weekly manager meeting and general communications are shared is very good. Best comms are in the MLG and the DLG.
- Corporate comms don't seem to communicate anything but will help you
- Some but not others
- In his area good
- In her group
- Y
- Y
- Yes
- Yes
- Y. Dir tries very hard
- Comms across the City is good. In the directorate that she supports have good communications and she had a good understanding of what is going on but have never had exposure to the rest of Corporate Services. No meetings across corporate services that HR is involved in
- Does not need to much. Suggested that he needs to change the way his EA communicates on behalf of him. Use acronyms a lot

**9 Do you feel that you are kept informed about what is happening in your team and the organisation more broadly?**

- In my team yes but more difficult across the organization
- The MLG meetings are good but do not really share what is happening across the other units
- Would like to hear more about what is happening across other directorates
- Once a moth DCCE has a combined meeting with C&M
- Yes
- Alright but not always at the level of detail
- Not a lot of detail on wider organization activity
- Fortnightly directorate meetings, monthly coordinators meetings

- Exec struggle to get to the more important matters
- MLG not very effective, was best when Robert was acting CEO
- Communications between Directors is woeful – combative attitude
- Intranet announcements, newsletter, Desk of the CEO –CEO Friday freestyle, posters. Monthly MLG for information sharing.
- Face to face could be better
- Looks at the intranet in the morning
- Yes general
- Compartmentalized. No solid team since Feb or a clear mandate. Focus has been on keeping the org running
- In own directorate good. More widely is difficult. Don't have a formal forum. MLG – managers and execs meet but is not a formal group – not structured or effectively used
- No, not sur why. Lack of visibility about what other areas are working on. Lack of sharing. Not everyone working to corporate business plan or community Plan. No approval process for directorate plans. The restructure never dealt with this. A lot of people came from outside. The CEO was sacked. The leadership and the vision was lost, temp CEO. Units trying to define their functions themselves which had resulted in a creep of activities and scope
- Mostly. He has to deal with most in his role regularly. Things to keep the flow going – Manager meeting talk about what's happening. Have inter directorate communications/session with DCC as they have a lot to do with each other. Lot of work being done to try and share information
- Yes mainly from Paul
- Not good at informing people. This comes through in the survey. More recently Alison send out a comms on what is happening across COP – capital works, review, what the commissioner are doing. Had a huge impact because has not happened for such a long time
- As much as anyone through Desk of the COP announcements. Monthly management and LS meeting. Management group. Some protectionism is sharing information
- Request or ask for information. Would be good to have an organization management workshop to develop and communicate their plans together. Silos here
- MLG try to use this for this forum
- Has missed the MLG meeting of Fridays – the one where the commissioners attended. Normally informal -is no agenda and no minutes. ELG is for Directors and managers provide input into it Generally is pretty good.
- Not really. Weekly die. Monthly manager meeting. Not good at driving the corporate vision and objectives
- 

#### HR STAFF ONLY Metrics and Reporting

1. **Are HR department metrics defined? What are they?**
  - Investigation training, testing Proactive and listen to needs. E.g. First aid program out of hours
2. **Is performance measured and reported regularly?**
3. **Who does the reporting go to? Who else gets to see the outcomes?**

#### C. Health, Safety and Wellness (includes worker's compensation, rehab and return to work)

1. **EXECS/MANAGERS What do you see as the role of HSW at COP?**
  - Supporting managers to perform their role
  - Source of truth for policy and process
  - Support in injury management
  - Making people safe
  - Physical, mental and overall wellbeing
  - Champions of good safety procedures and management

- Reduce LTIs
- Effectively manage safety issues
- Safe workplace
- Insurances, processes for reporting
- City doing well here, performance improvement, dealing with mental health issues
- Sol is doing a presentation with the team on general OHS. Need support in Mental Health training
- Prevention
- EAP – very important
- Sol gets good feedback on level of performance and good support from senior management including Martin and Paul
- Only time really has anything to do with them is when they cross over or they step into his area. Role to protect outside and inside staff and ensure they are safe in the workplace
- More health and well-being function, have lunch time sessions. Don't feel staff really know how to access some of the programs. Programs were broader and some physical activity sessions have been reduced
- Has a regular monthly meeting with them. A long way to go for systems, exporting and information
- Very good because it reports t Paul. Works well. Had good support. If was in HR would not be so efficient
- Safety of employees and implement policies and procedures. Responsibility moved to C&M 2 years ago and performance has improved
- HSE on his floor, part of his Directorate

2. **EXECS/MANAGERS/HR & HSE STAFF** What are the accountabilities of the function?

▪

3. **EXECS/MANAGERS/ HSE STAFF** What do you think the key priorities for the function should be? How different is this from what is happening now?

- Keep the City free of injury and risk
- Sol and John are god. John is a good resource and is helping with W/C cases
- OHS attends the monthly Directorate meetings
- Have a monthly OHS meeting that all directorates attend
- Do a great monthly report
- Managing return to work
- Focusing on the performance statistics
- Safety investigation and assessment
- Policies and procedures
- Reporting is encouraging, Finance keeps their head around it as performance improvement will impact positively on worker's comp
- More focus on higher risk areas
- More focus on getting people back to work
- Mental health issues
- Is stressful for people when are motivated and driven and priorities change. Mental health is important
- Preventative with the outside workforce because of higher risk
- Focus on good reporting
- To set the framework for policies and procedures, subject matter expertise. Help equip him to do his job better
- Be the bearer of difficult messages, issue escalation
- Supporting people in the reviews and investigations an emotional support for when they have to give evidence and then return to the workplace
- Outside worker safety
- Not sure should be in the mental health space. He would go to Alison. OSH is more physical safety and preventative
- Reduce LTIs and MTI'

- Employee safety. Mental wellness. Managers could do with awareness and how to prevent or be aware of issues for staff
- Risk management
- Done a lot of work. Procedures, work method statements inspections, compliance reviews. Reduce LTI, reporting good performance
- Reduction risks, injuries. Minimise amount of hours lost as a result of injuries and medical issues. Build a culture around safety
- Good focus, prevention, reporting, wellness. Worked well with Carlton
- Better management reporting on safety stats. Policies and procedures implemented. Accurate reporting. Mental health and well-being. When he was away CEO and HR set up a working group – sponsorship group – Sol, CEO Alison by excluded him. He relayed his concerns
- Outside workforce. Stress and anxiety – changes, reviews, concern for jobs,
- Health and well-being, mental well ness. Becoming a significant part of health. Try and do a good job. They are the lead area for advising. Keep other areas honest in safety
- Project start up for all contractor safety – systems and safe work plans. Have not seen them on sites but this is the project manager role. Observation is that there is a poor level of understanding of what responsibilities are for OHS for contractors – more situation based training

4. **EXECS/MANAGERS/ HR & HSE STAFF** In your opinion, how important is the function to the good operations and culture of COP?

- Very important – about the values and keeping people safe
- Yes
- More important in certain areas i.e. Outside the building where exposure to risk is higher
- Pretty important
- Very
- Number 1. Martins number 1 priority was H&S
- Very. H&S do well could do more in wellness. Looking at benefit, resilience app. Will do things himself to recognize performance and may have a BBQ
- Very
- Huge, it' up there, appalled that safety isn't up there
- Critical
- Very important, about the welfare of staff
- Has been to a safety meeting and they interacted fantastically. Works as a team, spoke up, committed and collaborative

5. **EXECS/MANAGERS** - How cost effective is the activity performed?

6. **EXECS/MANAGERS** – Were you consulted in the development of the HSE Plan? Have you seen it?

- Not consulted but have reviewed it on the intranet
- Know about it but not consulted. Is also exposed to the OHS and Risk Management Committee
- Not the plan but see the reports and they are very comprehensive.
- Somewhat, they do blanket campaigns
- Sol gave a presentation to the LRG as a prelude to the Mental Health program
- Not the plan but see the report monthly
- No but have visibility in the MLG meetings. Onboarding strategy went out for comment
- Yes, and performance stats
- Yes

- Yes, Sol has reported, consulted back to all of the execs. When he started her worked with Clayton and a gap analysis and this formed the basis of the plan. Priorities are RTW, safety awareness and training, maintain P and P. Best practice.
- No

**7. EXECS/MANAGERS - Is the function resourced effectively?**

- One member down, very low resources
- Is appropriate
- They're pushed – there is a lot to do
- Yes
- No feel that they are stretched but are on top of their issues
- No but does a great job
- Under resourced
- Feel light
- Sufficient
- Believes needs more resources especially when gets the construction projects underway, but do have the safety reps in the areas

**8. Are you aware of the policies related to Health, Safety and Wellness? How accessible are they?**

- Yes, on the intranet
- Know where they are
- Yes
- Saying they are focusing on it - but really is little focus. Mental health no focus until recently. Many issues are mental health issues
- Improved significantly, good new procedures
- Yes
- Yes
- Yes
- Never used it, not aware
- Generally
- Yes

**9. Have you ever been involved in a safety matter or incident? What was your experience? Were you treated fairly?**

- Related to a team member. Was treated very well, felt supported and confident with the support received by the OHS team. They know their stuff.
- Mental first Aid – Solis driving this
- Courses have been good – management talking points
- In the team
- Y, for his report
- A lot in the team have had an injury. There is high support in the process and supporting return to work – was very good
- Minor incident and put it into RMSS, investigated and closed it out
- Witnessed an incident. Response was very quick. OHS investigated the matter and instigated action
- No
- Have many incidents for general safety incidents
- CICT (Critical Incident Response Team) run by Konrad. Sol is across this too. Konrad runs training sessions and mock exercises
- RMSS is a clunky tool

- For team members
- Yes, OHS had no engagement with him at all. His first experience. His team member was not allowed to talk to him about it. No one from OHS or HR spoke to him
- Yes, very effective – RMSS system poor but the team manage well
- Is an escalation process. OHS coordinator attend regular directorate meetings
- Y. But a bit worried that John is being seconded into injury management. Work Reporting system good, processed managed well
- Yes staff member raised a concern – was dealt with well.

**10. How important is employee wellbeing in practice in COP?**

- Very important. Putting all the team through the Mental Wellness program
- City runs regular sessions on EAP services awareness
- Very
- Don't feel directors understand things. Have little programs but do not have the direction to do their work – is frustration and stress, turnover. The organization is not working for many
- COP is recognizing the importance. Recently more focus on mental health
- People accessing EAP is increasing
- The training is good
- More focus on stress issues
- Adequate, some good tools but in current circumstances could be improved
- What Sol is doing gets the conversation started
- Could be better. Maybe more team building. Gets pushed aside for day to day priorities
- Not really - \$120 to buy runners, pushing the EAP
- Improving but sees wellness in itself as a bit of an add on. It's the first time that have had training support in mental health
- The Exec and managers now have a much bigger focus on safety, reporting and prevention
- Do well in his directorate but is not the same in all. Erica has a good approach and cascade it down.
- Managers have a role to not put people into harm and by not overloading them
- Martin concerned about mental health – a priority
- Very e.g. a manager was leaving and no one even came to talk to the staff. They were upset
- Most aware of EAP
- Sometimes could better support people by bringing in a counsellor in certain circumstances – trauma
- Exceptionally important – mental health awareness. COP recognize they need to reduce the stigma
- Not very important in practice. Feels that I am (in the review) talking to people who are probably suffering the most. Managers give people a lot of protection
- Done a lot around encouraging people to go to EAP, talk in her directorate. Mental health fitness talked about in open discussions in the directorate. Medi health. More robust OHS health programs in place. Insurer more proactive
- Acknowledge it but don't manage it effectively. Need to write systems and processes that better support staff. Less policing and more supporting
- Not really, sometimes do not show the care that the care and acknowledgement around the uncertainty
- Yes. Was an injury but there was no one managing the case. No check in with her or the doctor for month There is now. She needs to check in to prompt action
- Is more important now, team working to develop awareness of MH but behaving other local Govts. Sometimes he feels the city doesn't care – i.e. Employee recognitions
- High priority. H&S own this. Not sure who owns EAP – thinks are HR
- Yes, demonstrated in practice. The wellness program was very good. On site physio, primarily for outside workers. People are excited about this. Have phased retirement programs
- Yes, recent training courses. Not sure who has accountability

- Lot of stuff around mental health and well-being. Form listening to people, this existed before but didn't use the current circumstances and an excuse.
- Mixed, huge turnover in some areas
- Reasonably committed to a pleasant workplace. He thought that this should be a place that provides this. Does not deliberately load stress on people. Allowances for programs, entry for City to Surf. Don't really do team building activities. Mental wellness program was fully subscribed. Pilot was very successful and Sol will try to run it again. 2 of his team went.
- Does not see a lot going on, calling out to say they can't take any more, under a lot of pressure but reviews keep coming
- A few benefits available to employees, Pilates, yoga. The challenge is who do you go to. At a team and organizational level with Managers looking after people is an intention to do so but with the challenge to support your team is challenging
- EAP + app, think because they have those they have it covered... vs facing the root cause. Need to tackle the issues for those having to use the service. Used EAP service before. Having to work 14 hour days

**11. Have you participated in any of COP's wellness programs? What was your experience?**

- Mental Health First aid
- Will encourage all of the team to do the Mental First Aid
- Signed self and all of team up for the Mental Health session. There is high interest in the program
- Not yet
- Going to the Mental Health session. Team has done a good job in the roll out
- Heard that the Mental Health session is very good and will be attending
- Lunch time talks and other programs positive
- OHS doing a good job
- Yes, and found them to be very good. Enjoyed them.
- A number of programs. Not sure how well these are communicated. Was a working group put together but this has now been put on hold. Physio on site is a good idea but will not be going to sites. Health checks and skin checks – needs better to comms on that
- If city was working under normal circumstances thinks it would be ok but it's not so you need more of these programs. Doing a lot to make people aware of EAP. Feels they are very aware
- Yes, personally participated
- Mental wellness
- No
- They use the words, but they don't do that at all. Working into a performance review like he did. Being asked to apply for a position, level 7 vs level 9. Not given good options
- OSH are trying to address MH because high level of stress and anxiety. She doesn't think there is a high level of stress and anxiety – thinks it's because CEO is on it that it's opening the doors for others. Quick band aid – needs to be a long-term plan and issue. Very reactive place of work. Would have had this MH awareness before the restructure. Don't have any change management. Toxic

**12. Are the team members approachable and helpful?**

- Very
- Brilliant
- Knowledgeable and friendly
- Yes
- Find pretty unapproachable. Police rather than empower
- Approachable and helpful. Would also go to the safety warden in the areas first – very effective process and they take their role seriously - act then escalate
- Likeable

- Really trying. Not sure if should stay where it is. Level of inaction in the org means that have to get on an accelerated journey
- Yes
- About the ergonomic assessment but the team member had to do a lot themselves
- Yes but could give more feedback
- Y
- Monthly meetings with Sol to define direction. Working with OSH in improvement strategies. He wants proactive solution and the team does this
- No
- Loves the team, smart, talent. Work well together, share openly, across each other's work. Maybe lack of comms between ER and Advisory – resources driven. Open
  - The new team members can also question what's done and why
- Very
- Yes

**13. If you had an HSW issue would you go to a member of the HSE team?**

- Yes, always
- Yes
- Yes
- Yes
- Yes
- No. Prefer to go to external or friend. No confidence in their confidentiality, no confidence that anything would be followed through
- Yes

**14. What are the key strengths of the function? Are there things that the OHS function does very well? What do you think the function could do more of?**

- Knowledge on OSH and the regulations
- Be more accessible
- The believe and are committed, energetic and excited
- Reports are good. Focus on performance improvement
- Well respected. Heard a lot of people say good things about them
- Positive trend in performance, reduction in worker's cop
- Acknowledgement of mental health issues
- Monitoring and reporting
- Training & development
- People oriented
- Sol is god and carrying on the program to a good level
- Knowledge and expertise. Some good team members who know their stuff. Provide good advice and guidance
- Awareness raising at MLG – what's going on and how they are performing
- Wellness and mental health
- Mental health session excellent
- Their presentation of history of performance COP stats and local Govt stats
- Concern for employee safety and well being
- Active exercising of the response team, Body work cameras, GPS, radios and duress facility, protective clothing, in vehicle monitoring system, working in pairs
- Giving guidance.
- Where we are compared to where we were -are really good. Need to make sure they have the resources

- Stats have improved tremendously. An effective team that work in with managers, HR and OHS work really well. Great training, going into mental health. Stretch themselves across the business well for the number of staff that they have. Always visible and available
- Responds very well to issues. Finger on the pulse. People feel they listen and they are the focused
- Sol – familiarity COP, energetic, listens cooperated. John is moving to ER to work of RTW
- Well structured. Good clarity in what they are there to do. Engage with his team in technical and operational services – work environment, manual handling
- Engaging and proactive
- Addressed a lot of gaps that have been left. Wasn't a priority when she came on, but has really changed, positive trajectory. Can see a lot of movement around what they've instilled. Very friendly.

**15. Does the function have things that it could do better or differently?**

- More resources, feels for John
- The roll out of the Risk, Safety and Compliance software – systems not their strengths need support
- Don't have the context
- More targeted approach
- More on work life balance
- Feels are stretched. Need to keep working on what they are working on now. Get consultants in if needed
- Continue the conversation about the service and role of the team to manage expectations. Heading in the right direction. Continue to build trust and rapport, push training opportunities and demonstrating their expertise
- Make people more aware - could put more on the intranet to make it accessible, so people can refresh when they want to.
- Good robust plans
- Systems, record keeping.
- Training for Sal – difficult conversations, presence. Should be a manager level role
- Clunky safety reporting system. Sol working to get a new one. Need to start focusing on HSE skills matrix and needs for OHS training. – he develops the mandatory training. The skills matrix should be done in conjunction with HR
- All been really good

**16. Have you ever had reason to enquire about submitting a Worker's Compensation claim? Tell me about your experience**

- For own staff and very well managed
- No
- In the team and was handled well
- Team member has and was more procedural – had no concerns
- Managed well. HSE putting a lot of effort in. Trialing on line doctors
- Feels COP does not work as well as other local Govts. Balance between being empathetic and meeting the needs of the city – balance between nurturing and management to an outcome. Getting an outcome
- Stats need improving. COP neve insisted on managing strongly and getting people to RW. Visibility on cost is going well – in the dash board
- Only team member

**17. Have you ever been involved in being rehabilitated for a workplace injury? How would you describe that experience?**

- For own staff. Handled well but is under resourced
- No
- Can in to COP at the tail end of a matter – the person left
- Have had some in the unit and have been managed well

- With staff member, could have been more frequent monitoring and more proactive contact with the staff member
- Need to get this role in place
- Fair and unbiased but question their effectiveness. Claimants can abuse the system. More an industry thing. Law falls on the side of the claimant.
- John being seconded in. Can improve by communication better across the business opportunities for people returning to work
- John is doing this now. Previous people were not achieving what the city needed it to do

#### D. All out

1. **Is there anything else that you would like to tell me or raise with me that has not been covered in our discussion so far?**
  - Get the staffing structure right and the right people
  - Issue of employing people on contracts and then keep extending them and not making them permanent. Is an issue of continuity. These staff sometimes do not get engaged. Areas should be managed on their turnover
  - Commissioners do not always understand the impact of some of the things that they ask for – a lot of running around and fretting. If are in a rush to act too quickly may also have a negative impact on staff morale
  - HR needs to empower staff to grow trust.
  - Change champions can help people and give them support
  - Be clear about what the project priorities are. So many initiatives floating around, compressed over the last few months – challenging times
  - Commissioners are doing a good job- more long term thinking – 5-10 year capital plans compared to elected members short term focused driven by elections
  - HR is a funny beast. Your view depends on the experience that you have within your team
  - When managers are fighting on a daily basis with their execs, it impacts all the way down – not even being able to run your own area – lack of trust
  - The organization is not structured correctly – overlaps, functions not in the right spot, lack of clarity – restructure saw 15 managers go to 32
  - Are in uncharted waters. Commissioners see themselves as part of the administration: there is an opportunity to work with them rather than fight them. They keep reminding them of their responsibilities under the local Govt Act. His suggestion is that they just roll with
  - Lacking governance amongst the management team and the exec i.e. Projects and key activities and alignment of the whole organization to achieve the plan. Directors are pushing down responsibility for strategic accountabilities to the managers
  - HR team are exceptional, passionate, give 120% of themselves, are positive, motivated and reflect on their strategies and activities
  - Raised two grievances – requested feedback for a role they applied for in Sept 2001, still no feedback provided – was told unsuccessful so they would look externally but then the internal person acting in the role got appointed. No transparency in the recruitment process. Would like to thank them for doing this review. Really liked working here when first joined 5-years ago, good culture, good people. Then they did a terrible job with the restructure – damaged lots of people – this is when the wheels fell off.
  - HR needs to be independent of the divisions. It should report through to the CEO.
  - A lot of the cultural issues should be achieved by having a real plan for the city about what is supposed to be achieved – lack of an overarching plan or objectives creates that conflict. All working on their individual plans not the collective. The best way to get what they (the Directors) want is to shout. Most CEOs would put a stop to this but Martin also undermines. If you could sort out this layer – trading and versatility of objectives, then the org would click together fairly quickly. Very frustrated in where they are at. Really believe in the COP. Some staff are really great, incredible people but he does not intend to hang around
  - Culture of control. Starts at Directors and goes down. HR is about enforcement, rules for everything. Governance. Mark is involved in everything even things that he shouldn't be – Why? Lack of confidentiality. Has been threatened

- by Directors and the CEO. Now leadership is trying to keep the Commissioners away – Directors are closing in to control everything. Things have gotten worse. No communications
- Part way through a journey. Not all right but need the support to get there. Planning, resourcing, cost, time – and the overarching strategy above this
  - Biggest issue are the poor systems and associated docs and processes, the consistent changes in directions of recruitment. Let HR come up with their plan and give them the opportunity to impellent
  - Fees everybody knows that need to be done it's about money and resources and well trained
  - Workforce planning is a massive issue. Do not have a system all talk a difference language. No consistence of approach. Don't know what the establishment is. Laborious process. No profiles on her tea – multiple systems - empower, BI – there is no single source of truth
  - Because of under resourcing they are not doing what they need to do. Need to make COP a good place to work, need to support managers and people. It's the amount of frustration and problems that make people leave.
  - Done the survey as well.
  - Hope that the review truly reflects the current environment and over recent time which has compromised the ability of HR to perform in a stable environment. They recognize and support positive behavior and actions of managers. E.g. Erica's email about salary freeze and 2 days leave, his response and then Alison's email recognising it.
  - Org is overwhelmed by the amount of reports required. This distracts them from their day to day job, org became hugely reactive, duplicating effort
  - Culture important and key. When he came in the org was wounded and it has gotten worse. Has been good efforts to heal but the way in which the reviews have come about has hurt it more. Should have taken a strategic approach to these
  - Loves what she does, loves the people. HR team dysfunctional can't continue. Consulted with the business to develop a training strategy and now delivering it. Conflicting HR advice is an issue, managers complain. She is looking for another role. HR advisory service ineffective and unsustainable. Person leading this have been here 17 years - Leonie. Was demoted by previous HRM. Alison addressed this but they only do the work they feel like doing, selective reply to email, deflect doing work. Does not have the skills to do the job. Only responds to managers. Staff are not performance management. Some are the by-product of neglect. No coaching and nurturing, inability to develop people in the role. High TO. Had a discussion with Alison. ER team very good. Systems not great but you do the best with what you have got. And hiding behind this can control most of what you do. Alison's leadership – likes her, she is lovely - never caught her breath, caring, personable and is trying, making a hardworking effort. Taking every possible action that she can. Sickness, a malaise that has infected the team.
  - They were worried about their manager would find out that they were coming to the interview. Said there was a fear about being involved in this review. Talked about own division being top heavy – lots of leaders but no one to implement the strategy. Stress levels are high due to the unbearable workload. Doesn't feel any trust in the organisation as they have seen them manipulate data to suit them and to tell a story that makes them look good when things are actually really bad. They all have busy full-time jobs but the Commissioners will often make ad hoc requests that are more for 'personal' use without considering the staff who have to do the work.
  - Her motivation to be involved in this discussion is because would like to see come improvement and sees that this could this process. Not optimistic about staying although pay is competitive. Volume of work impossible.
    - Processes and the required criteria drive this, lead time and start to outcome are extended
    - Some areas more advanced than others, C&M have a large external workforce and have done a lot of hand holding in the past
    - This sort of approach disempowers mangers and people leaders
    - Managers are more directive to HR
    - The ER element has had some challenges and this has influences how the advisers give or are to give ER con
  - Expect to have some degree of influence but is really a glorified administrator. Up until a month ago the partnership model had them going to ER and now they have been instructed to go to the advisors. Now Leonie stepped up between Alison and them and that has been a good move. What gets in the way for her? More influence, using

her knowledge to have the influence without the ER team being critical of them. Impact for her – high volume, expectations and lack of clarity. Onboarding was lacking

- At peace with need to leave. Misaligned to expectations, negative stress
- Expectations of the HR team is high. Can't be delivered without support from the organization, right resources and budget. Got to get the foundations right or still won't deliver on strategy. Great group needed time to bed down
- Org been struggling for a long time. Restructure not necessarily done in the right way. Want to see them get the level of resources and support. Support need to be relevant to needs, understanding of operational needs and consistent. Can't just be a council house view
- Things she would like to do: traineeships for Indigenous and Disability, will try in the new year. Have to complete an EEO report every year and takes for year. Hard for the HRM when there is no proper support from her manager around the Director. Different behaviors at the top. Support has to come from the CEO and the ELG and own Director – does not have the confidence himself
- HR need the time and space to do things properly. Working through legacy issues. It's a political situation and has not been easy. Majority of people want to do a good job but feel they get held back with all the political games. Commissioners need to support and encourage the team
- Reflection of where they sit in their directorate. Not very inclusive in Corporate services
- The coffee machine discussion about Manager and Directors is very poor and disrespectful they should ask for feedback and be prepared to listen. Opportunity for more integration. Some duplication in roles and scope of work. Get activity in the right place and consistency of process.
- Has been given a lot of opportunities over that last 9 years and favorites are played up until recently she was one of them
- As a unit are doing their best but lacking exec support and the resources. Exec priority isn't HR.
- If is a lack of procedures the way things are done will be different so maintaining governance and consistently a challenge
- Each advisor does recruitment as part of their role. This creates inefficiency. Questions the sense in having a dedicated recruitment function. No more resources to do this. Combination of internal and external recruitment. This will depend on what the role is or the time frame. If go outside have to use the preferred provider in order, even if they are not the best to do the job. This is not very efficient. Her understanding that HR were not involved in setting up the agreement even if it's not the best. Similar to other roles if you know what to do and what you are looking for – finding the policies and speaking to Peers about what the practice is. On a number of occasions has been told by people that the policy has been revoked or old. When you are under pressure to deliver you don't always have time to wait for an answer so you make a judgement call. The volume of work is outrageous. She is taken aback by this. Thought local govt. would be that jobs were manageable and reasonable. When people are away there is a lot of pressure on the advisors. So many queries and they are so varied. Would not want to be the only advisor at Christmas time. Initially she provided over flow support to each advisor and assisting in the monthly reporting process. Put a template together and organized with the advisor to run through it to get a consistent report. E.g. manual booking for health assessments. If came out of local Govt you will be more familiar with what to look for and where to go for information
- More thought needs to go into the way HR is set up to meet the City's expectations.
- Resourcing – under resourced. Some surplus should be allowed to allow CI and efficiency. They reassess after this
- To lead you need to demonstrate leadership
- Lack of TM & training opportunities, progressions, no career paths. Expecting to be in roles for rest of life --- "that's local government" – answer been given. Highly competent and respected in what you do. Lack of reward – no retention initiatives. No options for progression, opportunities few and far between. No support to help get through. HR processes not there to support – permeated through COP. Conflict – like working for COP, value it, cause to get up for, here to make things better for people within Perth. Actively looking for roles at COP. Losing good talent because they're not nurturing. The restructure has made it change a lot, there was inefficiency and ineffectiveness, change to fast paced corporate mentality – sticks without carrots. Setting KPIs but no rewards or support, immature. New values – words but don't feel like you're living them. Lack of change management - should be a core HR function about how you're taking people through the journey. Commissioners currently in but no change management, lack of communication. No one knows what they're there to do. Talent drain from uncertainty

- common feelings amongst people. Staff turnover. Losing the IP they take time to rebuild. Working on projects that have a knock-on effect. Increased inefficiency. 50-60% different people from 2 years ago. Lost respect for the people. Lack of documentation. People coming into the role with no idea what to do. Either retaining the knowledge through retaining the people or documenting the processes. With the restructure, no standard classifications, getting higher pay etc., but doing less. Capability matrix, tree to show roles and hierarchy. Not properly assigning roles to what the description is – i.e. business analyst not a business analyst and feeling devalued, not doing to the same job. Asked for a reclassification of role in August because of this. Not HRs fault, it's a cultural organisation problem. They need to deal with their problems. They need to stabilise, and stop being overambitious. Lost focus. Failing as an organization. Running around like headless chickens. V high staff turnover. Measurable manifestations of what's going on. Care about the organisation, don't want others to be going through this turmoil and stress. Org is in too deep. Not helping not having any stable leadership. Specifically chose not to go through anyone else

- So much change over 5+ years. Over last few years, major redundancies of people in org. Whole pile of people – been made redundant ... need to get their story told. Really hurt by the process. Org going through a whole process of amalgamations. IF we're going to amalgamate with Vincent what will that look like? No continuity. People protecting positions. Looking at other local authorities to see what they did. CEO started structural review, did what he said he'd do. Didn't do a strategic plan. Comradery because people got to make suggestions etc., working better as an org. Then – set up new org. CEO was discarded by councilors –don't know why. As part of this process, employed new directorate. That's where the wheels have fallen off. Advocated for the amalgamation. Went to speak to HR, no feedback. Followed up about 4 times. Wanted to get a group together, hit the ground running, pull resources together, so that new manager can see they got their act together, smooth the way. No support whatsoever from HR. Know HR was busy but they put their hands up for it. An external person got the manager job but that new person looked at the structure of the unit within 2 months. Started to ask questions about what was going on. Before long, a whole pile of people from the unit got made redundant. Started to observe across the organisation the same thing happens. A lot of the new people are in the 35 bracket. V little local Govt experience, but making changes that he wasn't sure why they were making. Redundant people should have been supported far more throughout the process -Taken to a room, groups, individual, support processes if you need ...Whole lot of secrecy around it. In unit sort of knew, some pulled the pin and left, apply for new positions, people who'd been there for 20+ years were leaving who he had a lot of respect for. Real disconnect. So wrong, all this rapport he'd developed with people. Happened to a lot of people. Expression 'they're in the bin'. Not being able to talk to anyone. Talk to manager who tried to raise it, pass up line but she was part of problem. No way would talk to HR now. Bypass completely separately, will get external advice. Seen to be working entirely for management and the CEO. Complete lack of trust. Some people aren't very nice at all. Seeing people in HR coming and going very quickly. Values done with NO CONSULTATION with staff, but they hold them up, which we consider terrible because of managers and execs. Know that they're fighting, goes down to bottom. How can they expect the org to be on point, aren't adhering to their own values. Managers have been at meeting, discussing people who've been made redundant – discussing with external people. Knows resignations going v high. People who've for so long, when is 'my time up', made redundant. Is it their tenure? Making someone redundant who had all this IP from a 6-month project. No understanding of cause and effect. Working on bespoke piece of work completely lost. 1 of the main people who understood a computer system. Massive knock-on effect...What's the role of HR in this process? They should be asking why? Range of new managers, - how can they make sure these new managers are making good decisions around redundancy? Too hasty, they're not considering knock-on effects. In his team, Manager went on maternity, asked if he wanted to do acting manager role which he said no to (family). Acting Manager new nothing about arts culture and heritage. Conflict in unit of director and elected managers. When People on stress leave, he contacted them to see how they're doing and touch base, without trying to resolve any issues, but after a few meetings tried to encourage to come back but they left deciding didn't want to come back, but weren't offered exit interviews. 1 demanded exit interview otherwise wouldn't hand back computer till they did. Hear s of people being bullied. Part-time being made full-time. Undercurrents with new structure. HR had a cheat-sheet of what managers should address, getting people in fulltime and off maternity leave. He was no longer allowed to buy 4 week holidays (which he'd done for 10 years). Given a level 9 and principal he should not be doing this. Taking away privileges which is very hard with children. The organisation prides itself

about w/l balance but doesn't see that at all. Really struggled. Maternity leave of Manager period, she asked him to help out assisting team and Manager. A lot of issues within the team. People on stress leave. Trying to work with Manager, then acting Manager left. People he was told to report to looks at him blankly. Put in leave, was exhausted, took 1 month off. Gets back end of Jan, 2 days back here's the what's happened in last 6 months, issues being blamed on him, even when he didn't develop the policy, even though he looked at stuff on holidays, being raised with all these issues, including his leave. Away over an important period but responded to every single item. In June, these all were raised in performance reviews, Lots of 1s, never had before, usually get a number of awards. What is the Manager basing my performance on? She had 3x a3 sheets of what needed to be addressed going fwd. This is a sackable offence from her. HR people he trusted he went to. HR should have known about this and director, which they did, but he should not be walking into a performance review and get 6x 1s but it was. Before that, got recommended for a line manager, no other option to take a lower job. "are you trying to manage me out of the organisation" Are you offering me a redundancy – he would have accepted. Manager has set him up. Manager wanted to keep in unit, but not in arts cultural strategic bit even though he signed a position description. What advice was she getting through HR? They should have been telling Manager the processes to be going through, i.e. training. Where is the org heading? When came of leave was told there would be another restructure after restructure. Taking out of arts culture back to where came from but no discussions with anyone. All political power games. People still looking at restructuring throughout, morale is low, struggling to get by and yet still trying to restructure. Not been provided any training on arts and culture.

- Doesn't think that the org or execs appreciate that they've gone through a whole pile of rubbish, constant hammering of org. Amalgamations, restructures, then restructures. Going back for a long time. Degree of burnout and fatigue. People really tired. Then 1 thing after the other. Want some acknowledgement, rebreather and recalibrate. People are cynical. Some Managers. Using restructure to just get rid of people they didn't like.
- Every unit is in same boat, HR and customer service is very visible to everyone. In defense of them, there is a massive expectation that they're there to make everything better. But some mgrs. Need to do this themselves. HR getting tied down holding the hands of people not wanting to make decisions. Need stronger decision makers. HR isn't responsible for everyone's units, it's helping everyone. Blame-culture – it does come down to the managers as well. HR has been trying to help manage issues without the support from executives. Need the leaders to be able to make decisions. Lack of leadership and support – they are the overall decision makers. It's just in the middle of a very big change. Org needs to make some change and invest in. Hope recommendations get taken seriously. People are v important. Wants to be heard.
- Role specifically recruited for, w view to restore segregation of duties between payroll and HR and instigation of new payroll system, and upskilling of team. Comprehensive report by Deloitte - referenced at job interview & 1st week - restoring payroll to transactional and administrative. Payroll function was embedded in HR until 09, then put in finance, but didn't flow on ... so, overtime roles bled into each other, payroll officers sat inside HR and reported to HR. HR function became primarily concerned around recruitment, instead of actively engaging with business units. So managers stopped interacting with HR and went straight to payroll. Given the brief to upskill the team and segregate. People in HR have been with COP with so long that they don't know what best practice is or what true HR or payroll systems should look like. Payroll is the police - HR is the law makers — HR own all of the policies around employment relations, Payroll is responsible for administering. Given rise to a payroll team who are great around EBA interpretation, but need to be up skilled around tax and super law. Lack of skills in team really seen during restructure. HR given Payroll the wrong advice — i.e. termination - paying 10 weeks instead of 5 because of wrong termination date recorded. Big discrepancies. Don't have payroll officers, only HR officers who run payment cycle once a fortnight (perception of her payroll people). Managers calling because they've talked to HR and they haven't been given the right advice. Definite gaps in HR - they have embraced being change champions and jargon but they don't have operating efficiency. HR is confusing the transactional work with greater authority than it warrants. HRM doesn't understand HR and payroll functions in a larger organisation. COP needs best practice, HR IS - needing breaks (payroll can process pay, but finance puts it in the bank, HR can do contract). HR lacking function and maturity. HR team lacking an awareness of their place in the organisation - they don't seem to understand that they need to own legislative knowledge and discipline. Departments are feeling like they are propping up the HR function. On the preface of something - had a massive organisational shift with loss of members and leadership members. But don't now that HR leadership group understand it's role in the

organisation. Past behaviour is a predictor of future behaviour. Appointment of new HRM don't think she has the skills, experience or knowledge to take the team to where it needs to be - critical errors around advice and recruitment. She's well liked but not respected

#### **STRUCTURE**

- Feels the structure has grown too many units. Need to look at how you want the organization to operate and then what the structure needs to look like. Then look at if there is sufficient capacity to meet the needs of the organization
- The structure of local government is the issue. Worked in a number. Every council is not operating properly and the model is no longer appropriate for 2018. Lead CEOs and the executive to operate the way they are operating in COP. This impacts and flows down to managers and the people. Also, not operating effectively for State Govt, developer of ratepayers. Was pleased when commissioners came on board but don't think they will be able to do anything. Will cause more pain and suffering

#### **RECRUITMENT**

- The recruitment process is a big concern as there is no transparency to the process. People can be in acting roles for 1 or 2 years and then just get appointed into the role. It's fine to have someone acting for 2 or 3 months if someone is on leave, but if they have resigned then the role should be advertised and recruited following a fair and transparent process.

## Employees who took part in interviews

### Directors

- > Paul Crosetta – Director of Maintenance and Construction
- > Rebecca Moore – Director Community and Commercial Services
- > Robert Mianich – Director Corporate Services

### Managers

- > Alyce Higgins – CS Manager - RESIGNED
- > Alison Egan – Manager Human Resources
- > Ben Fitzpatrick – Manager business support and Sponsorship acting Director – RESIGNED
- > Cath Hewitt – Manager Health and Activity Approvals
- > Cheryl Parrott – Library Manager
- > Chris Kopec – Acting Manager –Construction & Principal Project Manager
- > Chris Watts – Manager Transport
- > David Di Lollo – Manager Data and Information
- > Daniel High – Manager Economic Development
- > Dan Richards – Finance Manager
- > Emma Landers – Community Services Manager
- > Gordon Robertson – Manager Plant & Equipment
- > Jason Henneveld – Coordination and Design Manager
- > Jason Tan – Asset Management
- > Kirk Linares – Manager Properties
- > Konrad Seidl – Manager Community Amenity and Safety
- > Lloyd Peters – Manager Information Technology
- > Margaret Smith – Manager Development Approvals
- > Mark Ridgewell – Governance
- > Martin Copeman – Manager Parks and Gardens
- > Nathan Ahern – Manager Waste & Cleaning
- > Nichola Brandon – Marketing & Activation Manager
- > Paul Gale – Manager Strategy & Partnership
- > Phillip Adams – Outgoing Manager Street Presentation and Maintenance
- > Phillip Yum – Commercial Parking Manager
- > Robert Farley – Manager City Planning
- > Samantha Ferguson – Acting Manager Sustainability
- > Sandra Arnolds – Manager Parking Services
- > Simone Holmes –Cavanagh – Corporate Communication
- > Tabitha McMullan – Manager Arts Culture and Heritage

### HR

- > Anna-Lee Testar – HR Advisor (DPD and Health and Activity Approvals)
- > Barbara Moyser – Senior Employee Relations Advisor
- > Kelly Chew –HR Advisor
- > Leonie Hollow –Lead Advisor
- > Lina Nunes – L&D Administrator
- > Meera Shah – HR Advisor
- > Nicola Paskulich – HR Advisor
- > Sarina Cuttone – Senior L&D Advisor

### First Reports to Manager

- > Anonymous x 8
- > Sol Merzer – OH&S Coordinator

### Terminated

- > Anonymous x 2
- > Bill Potter
- > Tony McIndoe

### Other

- > NIL



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 3**

## **SURVEY REPORT**

Tower Human Capital Group

# City of Perth Survey Report

December 2018



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## SURVEY DEMOGRAPHICS

|                             |   |
|-----------------------------|---|
| Demographics by Directorate | 4 |
| Demographics – general      | 6 |

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## Demographics – by Directorate

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Demographics - by Directorate

|   |  |                    |
|---|--|--------------------|
| <b>Community &amp; Commercial Service</b>                 |  | <b>116 (33.8%)</b> |
| Commercial Parking  |  | 9                  |
| Community Amenity & Safety (including Community Services) |  | 38                 |
| Customer Service  |  | 12                 |
| Health & Activity Approvals                               |  | 6                  |
| Library   |  | 17                 |
| Parking Services  |  | 28                 |
| DCC Office  |  | 6                  |
| <b>Construction &amp; Maintenance</b>                     |  | <b>58 (23.9%)</b>  |
| Construction  |  | 4                  |
| Parks   |  | 18                 |
| Plant & Equipment   |  | 7                  |
| Properties  |  | 3                  |
| Street Presentation & Maintenance                         |  | 9                  |
| Waste & Cleaning  |  | 7                  |
| CMD Office  |  | 10                 |
| <b>Corporate Services</b>                                 |  | <b>55 (16%)</b>    |
| Asset Management  |  | 3                  |
| Data & Information  |  | 13                 |
| Finance   |  | 13                 |
| Human Resources   |  | 11                 |
| Information Technology                                    |  | 9                  |
| DCS Office  |  | 4                  |
| <b>Economic Development &amp; Activation</b>              |  | <b>33 (9.6%)</b>   |
| Arts Culture & heritage                                   |  | 13                 |
| Business Support & Sponsorship                            |  | 2                  |
| Economic Development                                      |  | 4                  |
| Marketing & Activation                                    |  | 10                 |
| EDA Office  |  | 4                  |
| <b>Planning &amp; Development</b>                         |  | <b>46 (13.4%)</b>  |
| City Planning   |  | 8                  |
| Coordination & Design                                     |  | 11                 |
| Development Approvals                                     |  | 11                 |
| Sustainability  |  | 5                  |
| Transport   |  | 3                  |
| DPD Office  |  | 8                  |
| <b>Office of the CEO</b>                                  |  | <b>30 (8.7%)</b>   |
| Office of the CEO/Directors                               |  | 14                 |
| Corporate Communications                                  |  | 2                  |
| Governance  |  | 10                 |
| Strategy & Partnership                                    |  | 4                  |
| <b>Did not identify</b>                                   |  | <b>5 (1.5%)</b>    |

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## Demographics - general

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Demographics - general

| Are you employed as a CEO, Director or Manager with the City? | #   | %    |
|---|-----|------|
| Yes   | 14  | 4.1  |
| No / no response  | 329 | 95.9 |

| Employment Status | #   | %    |
|-------------------|-----|------|
| Full time         | 277 | 80.1 |
| Part time         | 45  | 13.1 |
| Casual            | 11  | 3.2  |
| No response       | 10  | 2.9  |

| Years Worked at the City | #   | %    |
|--------------------------|-----|------|
| 0-2 years                | 128 | 37.3 |
| 3-10 years               | 144 | 42   |
| 11+ years                | 59  | 17.2 |
| No response              | 12  | 3.5  |

| Gender                          | #   | %    |
|---------------------------------|-----|------|
| Female                          | 142 | 41.4 |
| Male                            | 123 | 35.9 |
| Other                           | 2   | 0.6  |
| Prefer not to say / no response | 76  | 22.2 |

| Age         | #   | %    |
|-------------|-----|------|
| 15-34       | 75  | 21.9 |
| 34-54       | 189 | 55.1 |
| 55+         | 61  | 17.8 |
| No response | 18  | 5.2  |

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## TOP SCORES

|                    |    |
|--------------------|----|
| Most important     | 9  |
| Highest performing | 15 |
| Lowest performing  | 21 |

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## Most important

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### #1 most important

Grievance & complaint management

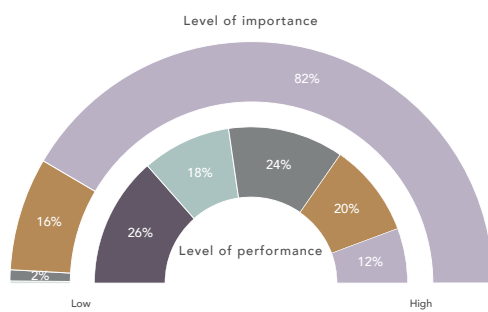
40. Everyone being treated the same no matter who they are

Most important

2017 Cultyr survey comparable performance  
question:

"People are treated fairly and equally  
across the organisation"

38% of respondents agreed



|             |                       | Number of responses |    |    |    |     |       |  |
|-------------|-----------------------|---------------------|----|----|----|-----|-------|--|
|             | Average response      | 1                   | 2  | 3  | 4  | 5   | Total |  |
| Importance  | Very important (4.81) | 0                   | 1  | 5  | 51 | 280 | 337   |  |
| Performance | Average (2.7)         | 88                  | 60 | 78 | 63 | 37  | 326   |  |

| Variances<br>across the<br>organisation |      | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|---|------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|   |      |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance                              | 4.81 |       | 4.83        | 4.83 | 4.77 | 4.73 | 4.76 | 4.9  | 4.84    | 4.78     | 4.83    |
| Performance                             | 2.7  |       | 2.95        | 2.33 | 2.86 | 2.38 | 2.38 | 2.87 | 3.05    | 2.43     | 2.53    |

Level of importance  
 No importance Somewhat important Average importance Important Very important  
 Level of performance  
 Poor Below average Average Above average Very high

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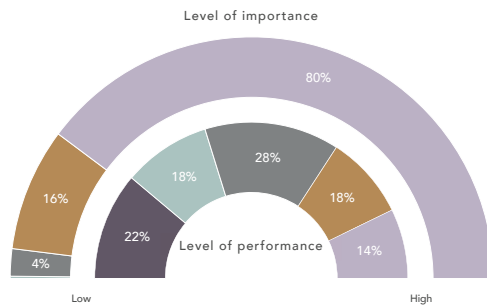


## #2 most important

Grievance & complaint management

35. Having the matter properly investigated

Most important



|             | Average response      | Number of responses |    |    |    |     |       |
|-------------|-----------------------|---------------------|----|----|----|-----|-------|
|             |                       | 1                   | 2  | 3  | 4  | 5   | Total |
| Importance  | Very important (4.75) | 0                   | 1  | 12 | 54 | 261 | 328   |
| Performance | Average (2.83)        | 71                  | 58 | 89 | 55 | 46  | 319   |

Variances  
across the  
organisation

|             | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-------------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|             |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance  | 4.75  | 4.81        | 4.67 | 4.81 | 4.63 | 4.62 | 4.87 | 4.79    | 4.72     | 4.74    |
| Performance | 2.83  | 3.04        | 2.53 | 2.96 | 2.41 | 2.58 | 3.07 | 3.15    | 2.54     | 2.78    |



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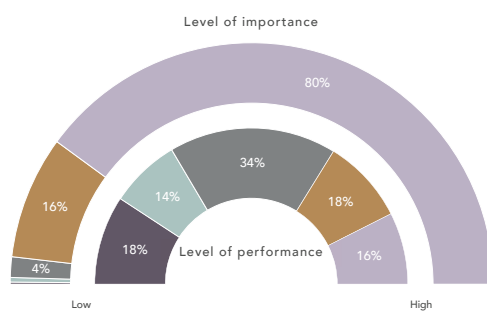
## #3 most important

Grievance & complaint management

39. Being treated fairly in the process

Most important

2017 Cultyr survey comparable performance  
question:  
"People are treated fairly and equally  
across the organisation"  
38% of respondents agreed



|             | Average response      | Number of responses |    |     |    |     |       |
|-------------|-----------------------|---------------------|----|-----|----|-----|-------|
|             |                       | 1                   | 2  | 3   | 4  | 5   | Total |
| Importance  | Very important (4.75) | 1                   | 2  | 9   | 54 | 262 | 328   |
| Performance | Average (2.96)        | 57                  | 45 | 107 | 54 | 46  | 309   |

Variances  
across the  
organisation

|             | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-------------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|             |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance  | 4.75  | 4.82        | 4.69 | 4.74 | 4.67 | 4.6  | 4.9  | 4.74    | 4.74     | 4.78    |
| Performance | 2.96  | 3.16        | 2.78 | 3.13 | 2.53 | 2.61 | 3.14 | 3.27    | 2.75     | 2.78    |



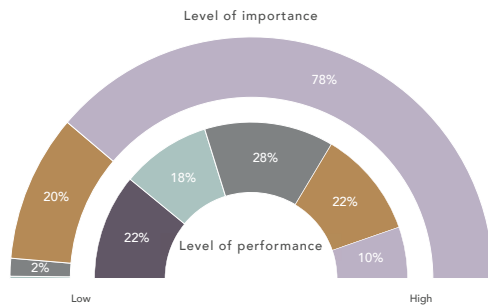
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 12

## #4 most important

Occupational health, safety & wellness  
72. All employees being treated equally

Most important

2017 Cultyr survey comparable performance question:  
"People are treated fairly and equally across the organisation"  
38% of respondents agreed



|             |                       | Number of responses |       |    |    |    |     |
|-------------|-----------------------|---------------------|-------|----|----|----|-----|
|             |                       | Average response    | 1     | 2  | 3  | 4  | 5   |
| Importance  | Very important (4.75) |                     | 0     | 1  | 8  | 66 | 260 |
| Performance | Average (2.81)        |                     | 72    | 61 | 88 | 73 | 35  |
|             |                       |                     | Total |    |    |    |     |
|             |                       |                     | 335   |    |    |    |     |

|                                   |             | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-----------------------------------|-------------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|                                   |             |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Variances across the organisation | Importance  | 4.75  | 4.76        | 4.74 | 4.72 | 4.76 | 4.64 | 4.86 | 4.8     | 4.71     | 4.67    |
|                                   | Performance | 2.81  | 2.95        | 2.62 | 2.83 | 2.69 | 2.73 | 2.86 | 3.12    | 2.61     | 2.69    |

Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

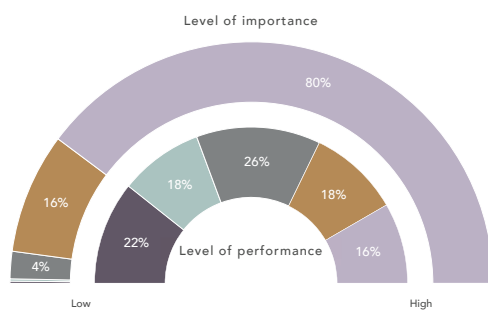
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 13

## #5 most important

Grievance & complaint management  
34. My complaint being treated confidentially

Most important

2017 Cultyr survey comparable question:  
"Do you feel confident that complaints will be handled confidentially and appropriately by City of Perth staff?"  
50% of respondents said "yes"



|             |                       | Number of responses |       |    |    |    |     |
|-------------|-----------------------|---------------------|-------|----|----|----|-----|
|             |                       | Average response    | 1     | 2  | 3  | 4  | 5   |
| Importance  | Very important (4.74) |                     | 1     | 1  | 12 | 53 | 261 |
| Performance | Average (2.92)        |                     | 69    | 56 | 83 | 61 | 54  |
|             |                       |                     | Total |    |    |    |     |
|             |                       |                     | 323   |    |    |    |     |

|                                   |             | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-----------------------------------|-------------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|                                   |             |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Variances across the organisation | Importance  | 4.74  | 4.74        | 4.71 | 4.83 | 4.75 | 4.58 | 4.9  | 4.76    | 4.7      | 4.79    |
|                                   | Performance | 2.92  | 3.04        | 2.65 | 3.04 | 2.47 | 2.77 | 3.3  | 3.26    | 2.57     | 2.97    |

Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
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## Highest performing

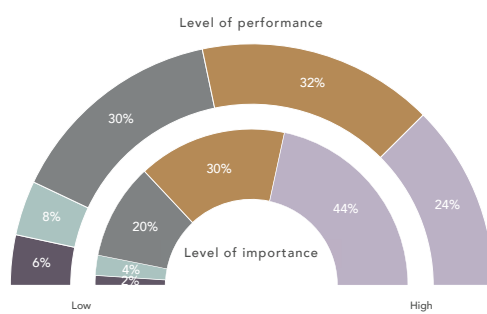
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 15

### #1 highest performing

Performance shaping processes

27. Having a copy of my performance shaping document

Highest performing



|             | Average response     | Number of responses |    |     |     |     |
|-------------|----------------------|---------------------|----|-----|-----|-----|
|             |                      | 1                   | 2  | 3   | 4   | 5   |
| Importance  | Important (4.09)     | 7                   | 14 | 67  | 104 | 146 |
| Performance | Above average (3.61) | 23                  | 25 | 100 | 108 | 85  |

#### Variances across the organisation

|             | Total | Directorate |     |      |      |      |      | Tenure  |          |         |
|-------------|-------|-------------|-----|------|------|------|------|---------|----------|---------|
|             |       | DCC         | CMD | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance  | 4.09  | 4.12        | 3.9 | 4.17 | 4.3  | 3.96 | 4.17 | 4.25    | 4.05     | 3.82    |
| Performance | 3.61  | 3.59        | 3.4 | 3.83 | 3.76 | 3.54 | 3.53 | 3.72    | 3.55     | 3.48    |

Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 16

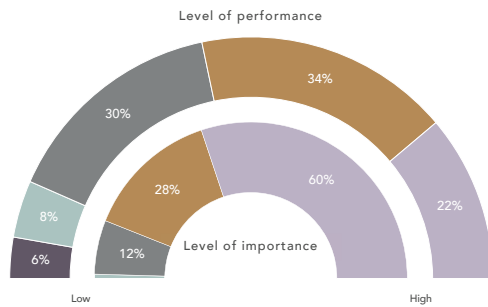
## #2 highest performing

Occupational health, safety & wellness

74. Being able to go to OHS to raise an issue or ask for assistance

Highest performing

2017 Cultyr survey comparable performance question:  
"Support for employees who experience workplace injuries or illness"  
79% of respondents agreed



|             | Average response    | Number of responses |    |    |     |     | Total |
|-------------|---------------------|---------------------|----|----|-----|-----|-------|
|             |                     | 1                   | 2  | 3  | 4   | 5   |       |
| Importance  | Important (4.47)    | 0                   | 3  | 37 | 92  | 200 | 332   |
| Performance | Above average (3.6) | 18                  | 25 | 99 | 112 | 73  | 327   |

| Variances<br>across the<br>organisation |  | Total | Directorate |      |      |      |      |      | Tenure  |          |         |      |      |
|---|--|-------|-------------|------|------|------|------|------|---------|----------|---------|------|------|
|   |  |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |      |      |
|   |  |       | Importance  | 4.47 | 4.54 | 4.66 | 4.43 | 4.24 | 4.27    | 4.47     | 4.53    | 4.46 | 4.39 |
|   |  |       | Performance | 3.6  | 3.61 | 3.81 | 3.59 | 3.38 | 3.57    | 3.53     | 3.68    | 3.51 | 3.73 |

Level of importance

No importance

Somewhat important

Average importance

Important

Very important

Level of performance

Poor

Below average

Average

Above average

Very high

Tower Human Capital Group

City of Perth Human Resources Review - Attachment 3.17

Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

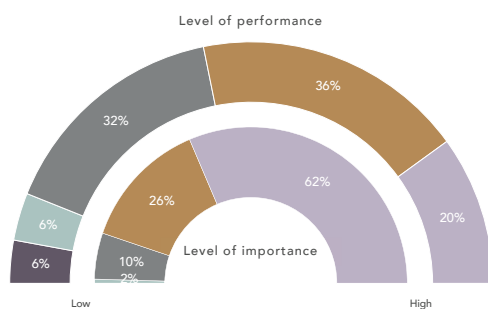
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 17

## #3 highest performing

Occupational health, safety & wellness

73. The OHS team doing a good job at City of Perth

Highest performing



|             | Average response      | Number of responses |    |     |     |     | Total |
|-------------|-----------------------|---------------------|----|-----|-----|-----|-------|
|             |                       | 1                   | 2  | 3   | 4   | 5   |       |
| Importance  | Very important (4.51) | 0                   | 3  | 32  | 90  | 211 | 336   |
| Performance | Above average (3.58)  | 19                  | 21 | 104 | 120 | 66  | 330   |

| Variances<br>across the<br>organisation |  | Total | 74 Directorate |      |      |      |      |      | Tenure  |          |         |      |      |
|---|--|-------|----------------|------|------|------|------|------|---------|----------|---------|------|------|
|   |  |       | DCC            | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |      |      |
|   |  |       | Importance     | 4.51 | 4.56 | 4.6  | 4.47 | 4.24 | 4.42    | 4.63     | 4.52    | 4.54 | 4.47 |
|   |  |       | Performance    | 3.58 | 3.52 | 3.74 | 3.53 | 3.41 | 3.64    | 3.73     | 3.71    | 3.46 | 3.68 |

Level of importance

No importance

Somewhat important

Average importance

Important

Very important

Level of performance

Poor

Below average

Average

Above average

Very high

Tower Human Capital Group

City of Perth Human Resources Review - Attachment 3 - 18

Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 18



#### #4 highest performing

Occupational health, safety & wellness

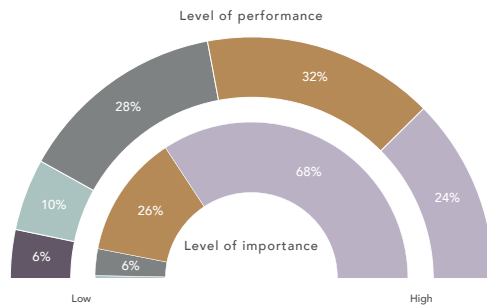
65. If I identify a safety issue, knowing that it will be acted upon

Highest performing

2017 Cultyr survey comparable performance question:

"Support for employees who experience personal or professional issues"

68% of respondents agreed



|             |                       | Number of responses |    |    |     |     |       |  |
|-------------|-----------------------|---------------------|----|----|-----|-----|-------|--|
|             | Average response      | 1                   | 2  | 3  | 4   | 5   | Total |  |
| Importance  | Very important (4.62) | 0                   | 2  | 18 | 83  | 224 | 327   |  |
| Performance | Above average (3.58)  | 21                  | 31 | 90 | 100 | 80  | 322   |  |

#### Variances across the organisation

|             | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-------------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|             |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance  | 4.62  | 4.7         | 4.69 | 4.55 | 4.33 | 4.53 | 4.69 | 4.61    | 4.6      | 4.64    |
| Performance | 3.58  | 3.54        | 3.79 | 3.47 | 3.42 | 3.53 | 3.71 | 3.67    | 3.4      | 3.76    |



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City of Perth Human Resources Review - Attachment 3 19



#### #5 highest performing

Occupational health, safety & wellness

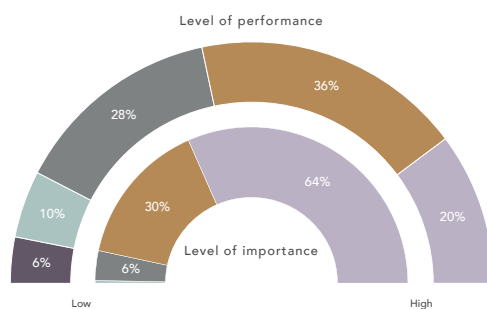
63. Knowing who to go to if I have or identify an issue

Highest performing

2017 Cultyr survey comparable performance question:

"Support for employees who experience personal or professional issues"

68% of respondents agreed



|             |                       | Number of responses |    |    |     |     |       |
|-------------|-----------------------|---------------------|----|----|-----|-----|-------|
|             | Average response      | 1                   | 2  | 3  | 4   | 5   | Total |
| Importance  | Very important (4.56) | 0                   | 2  | 20 | 98  | 206 | 326   |
| Performance | Above average (3.56)  | 20                  | 29 | 91 | 117 | 66  | 323   |

#### Variances across the organisation

|             | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-------------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|             |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance  | 4.56  | 4.67        | 4.69 | 4.42 | 4.36 | 4.4  | 4.59 | 4.56    | 4.56     | 4.51    |
| Performance | 3.56  | 3.68        | 3.58 | 3.54 | 3.35 | 3.29 | 3.68 | 3.66    | 3.45     | 3.57    |



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City of Perth Human Resources Review - Attachment 3 20

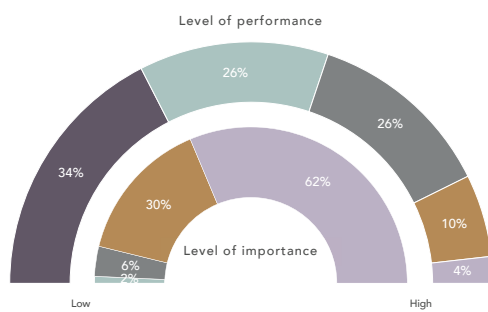
Lowest performing

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City of Perth Human Resources Review - Attachment 3 21

## #1 lowest performing

Culture  
57. COP managing change well

Lowest performing



|             | Average response      | Number of responses |    |    |     |     | Total |
|-------------|-----------------------|---------------------|----|----|-----|-----|-------|
|             |                       | 1                   | 2  | 3  | 4   | 5   |       |
| Importance  | Very important (4.54) | 0                   | 5  | 21 | 101 | 213 | 340   |
| Performance | Below average (2.23)  | 117                 | 85 | 84 | 37  | 12  | 335   |

| Variances across the organisation |      | Total | Directorate |      |      |      |      |      | Tenure  |          |         |
|-----------------------------------|------|-------|-------------|------|------|------|------|------|---------|----------|---------|
|                                   |      |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |
| Importance                        | 4.54 |       | 4.49        | 4.48 | 4.56 | 4.61 | 4.56 | 4.6  | 4.59    | 4.49     | 4.52    |
| Performance                       | 2.23 |       | 2.77        | 2.02 | 1.96 | 1.91 | 1.91 | 1.93 | 2.47    | 2.06     | 2.05    |

Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 22

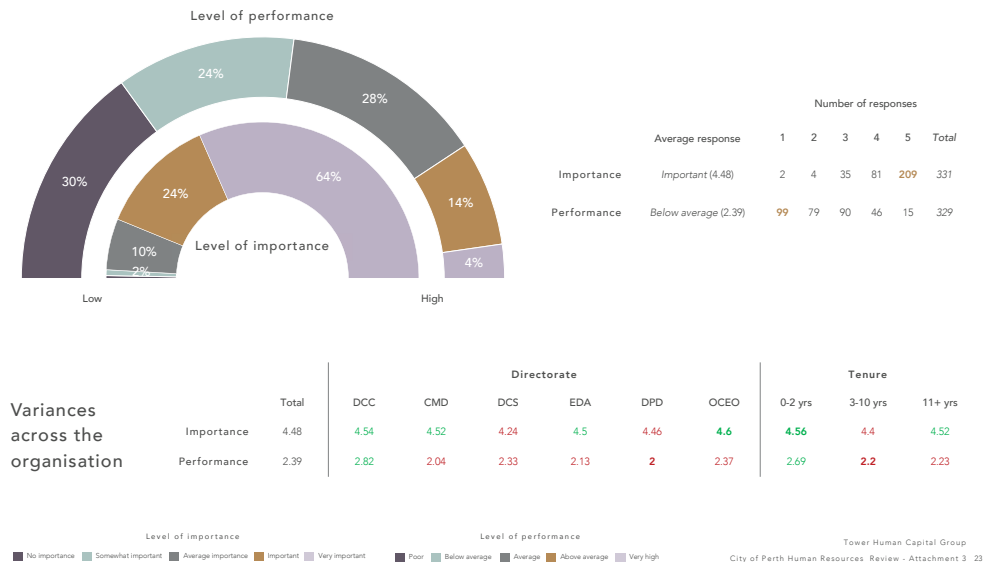


## #2 lowest performing

Culture

52. COP managing in accordance with its values – commitment, teamwork, courage, respect.

Lowest performing



## #3 lowest performing

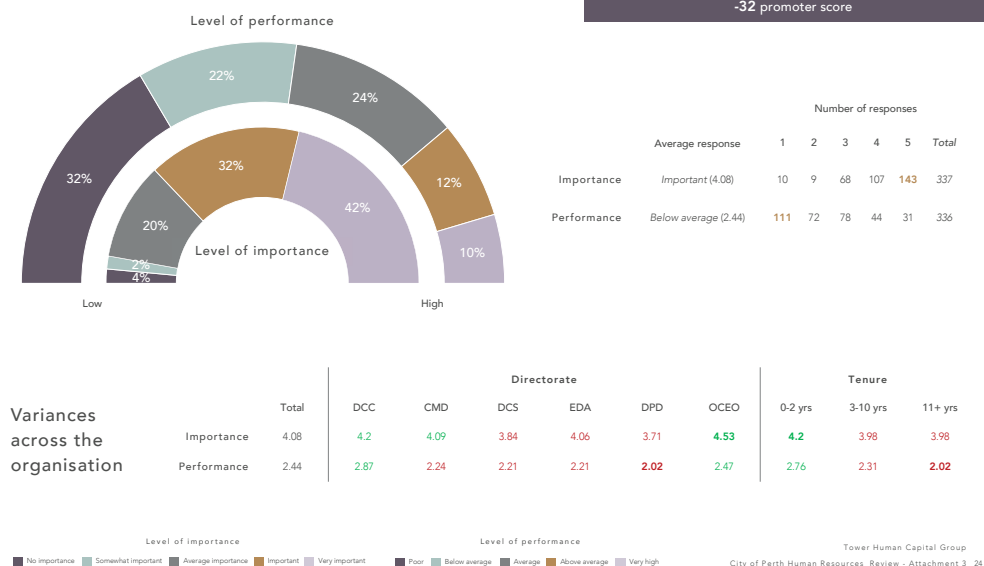
Culture

60. My recommending COP as a good place to work to a friend, colleague or family member



Net promoter score

Lowest performing

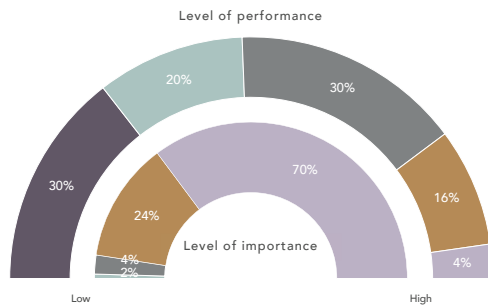


## #4 lowest performing

Culture

53. When things go wrong, the emphasis being on putting things right rather than placing blame

Lowest performing



|             | Average response      | Number of responses |    |     |    |     |       |
|-------------|-----------------------|---------------------|----|-----|----|-----|-------|
|             |                       | 1                   | 2  | 3   | 4  | 5   | Total |
| Importance  | Very important (4.65) | 0                   | 3  | 13  | 82 | 233 | 331   |
| Performance | Below average (2.47)  | 95                  | 65 | 101 | 52 | 15  | 328   |

| Variances<br>across the<br>organisation |  | Total | Directorate |      |      |      |      |      | Tenure  |          |         |      |      |
|---|--|-------|-------------|------|------|------|------|------|---------|----------|---------|------|------|
|   |  |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |      |      |
|   |  |       | Importance  | 4.65 | 4.66 | 4.67 | 4.55 | 4.58 | 4.61    | 4.83     | 4.72    | 4.63 | 4.53 |
|   |  |       | Performance | 2.47 | 2.81 | 2.15 | 2.39 | 2.22 | 2.33    | 2.28     | 2.69    | 2.27 | 2.45 |

Level of importance

No importance

Somewhat important

Average importance

Important

Very important

Level of performance

Floor

Below average

Average

Above average

Very high

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City of Perth Human Resources Review - Attachment 3

Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

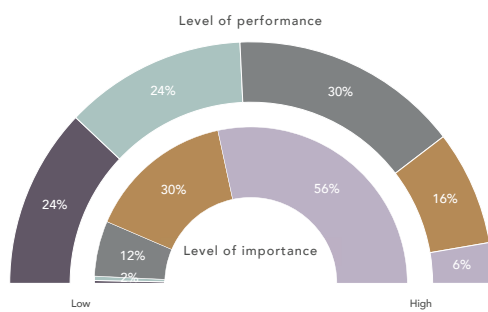
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 25

## #5 lowest performing

HR policies and procedures & employment conditions

8. An organisation structure that is clear & understood

Lowest performing



|             | Average response | Number of responses |    |     |     |     |       |
|-------------|------------------|---------------------|----|-----|-----|-----|-------|
|             |                  | 1                   | 2  | 3   | 4   | 5   | Total |
| Importance  | Important (4.42) | 2                   | 3  | 38  | 101 | 189 | 333   |
| Performance | Average (2.54)   | 80                  | 81 | 102 | 51  | 18  | 332   |

| Variances<br>across the<br>organisation |  | Total | Directorate |      |      |      |      |      | Tenure  |          |         |      |      |
|---|--|-------|-------------|------|------|------|------|------|---------|----------|---------|------|------|
|   |  |       | DCC         | CMD  | DCS  | EDA  | DPD  | OCEO | 0-2 yrs | 3-10 yrs | 11+ yrs |      |      |
|   |  |       | Importance  | 4.42 | 4.3  | 4.33 | 4.45 | 4.48 | 4.59    | 4.63     | 4.43    | 4.42 | 4.41 |
|   |  |       | Performance | 2.54 | 3.04 | 2.17 | 2.44 | 2.18 | 2.13    | 2.43     | 2.73    | 2.43 | 2.34 |

Level of importance

No importance

Somewhat important

Average importance

Important

Very important

Level of performance

Poor

Below average

Average

Above average

Very high

Tower Human Capital Group

City of Perth Human Resources Review - Attachment 3

Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

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## SURVEY RESULTS

|   |    |
|---|----|
| HR policies and procedures & employment conditions          | 28 |
| Equal employment opportunity (EEO), harassment and bullying | 33 |
| Employment processes including internal recruitment         | 36 |
| Performance shaping process                                 | 38 |
| Grievance and complaint management                          | 42 |
| Learning and development                                    | 48 |
| Culture   | 54 |
| Occupational health, safety and wellness                    | 58 |

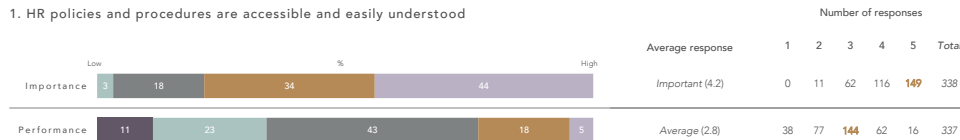
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 27

## HR policies and procedures & employment conditions

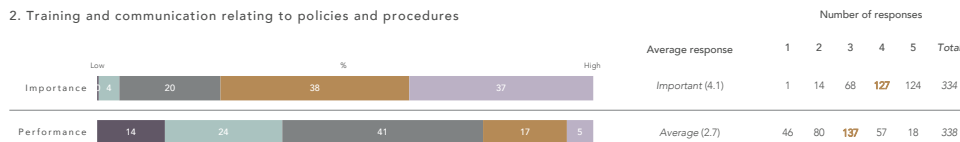
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 28

HR policies and procedures & employment conditions

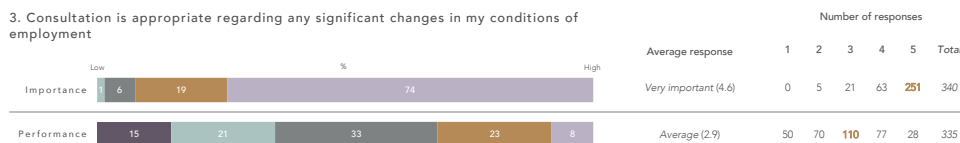
1. HR policies and procedures are accessible and easily understood



2. Training and communication relating to policies and procedures



3. Consultation is appropriate regarding any significant changes in my conditions of employment

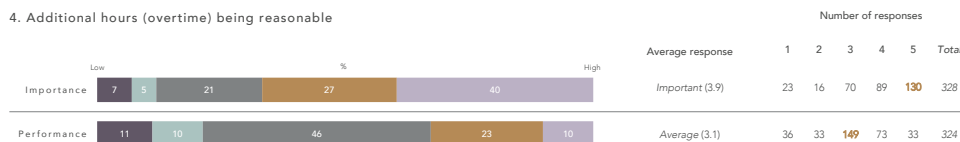


Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

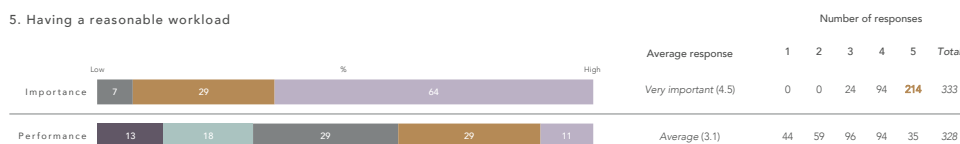
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 29

HR policies and procedures & employment conditions

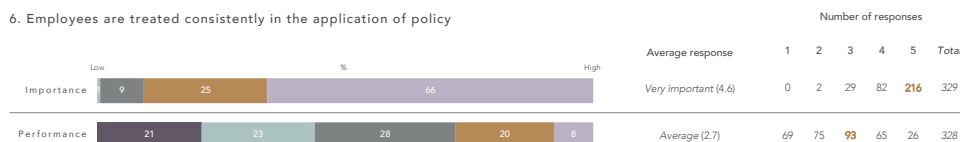
4. Additional hours (overtime) being reasonable



5. Having a reasonable workload



6. Employees are treated consistently in the application of policy



Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

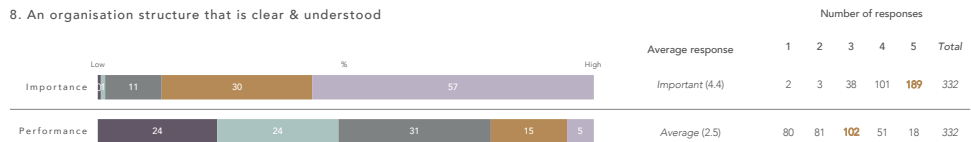
Tower Human Capital Group  
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HR policies and procedures & employment conditions

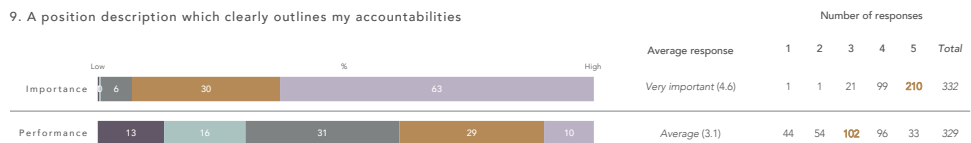
7. COP appropriately recognises and rewards high performing employees



8. An organisation structure that is clear & understood



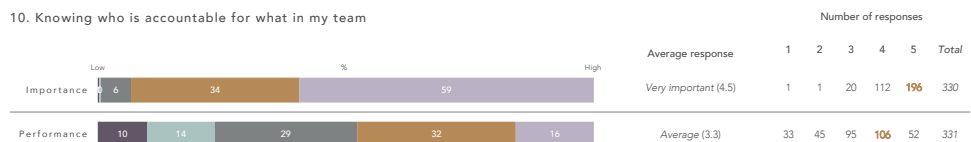
9. A position description which clearly outlines my accountabilities



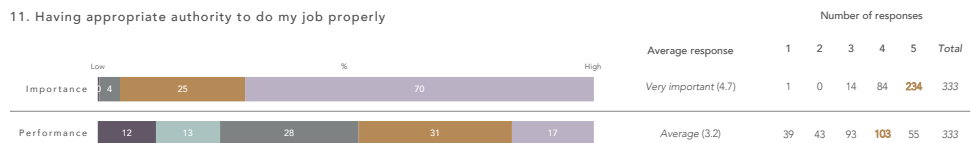
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 31

HR policies and procedures & employment conditions

10. Knowing who is accountable for what in my team



11. Having appropriate authority to do my job properly



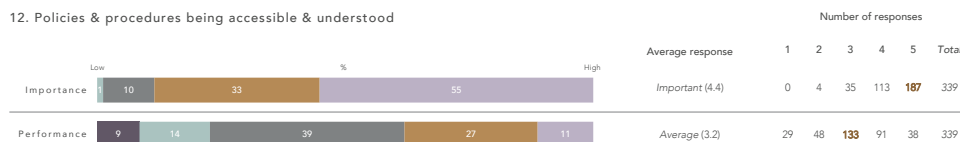
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 32

## Equal employment opportunity (EEO), harassment and bullying

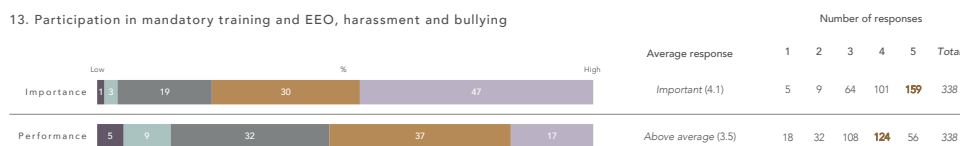
Tower Human Capital Group  
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### Equal employment opportunity (EEO), harassment and bullying

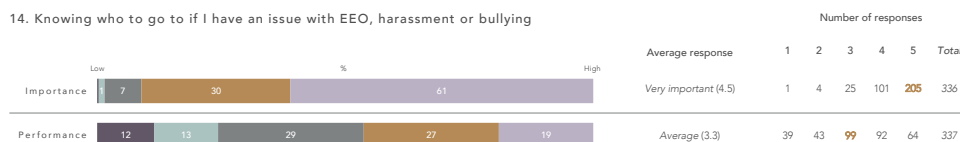
#### 12. Policies & procedures being accessible & understood



#### 13. Participation in mandatory training and EEO, harassment and bullying



#### 14. Knowing who to go to if I have an issue with EEO, harassment or bullying



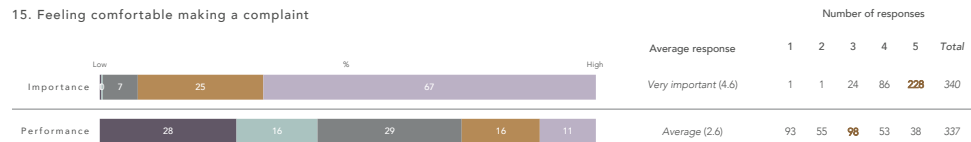
Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 34

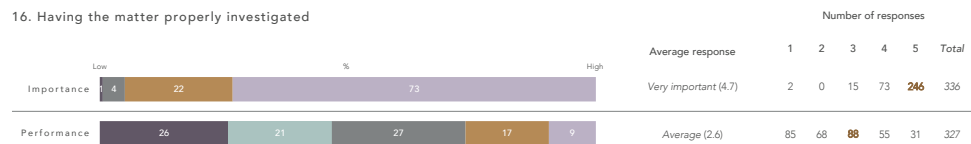


Equal employment opportunity (EEO), harassment and bullying

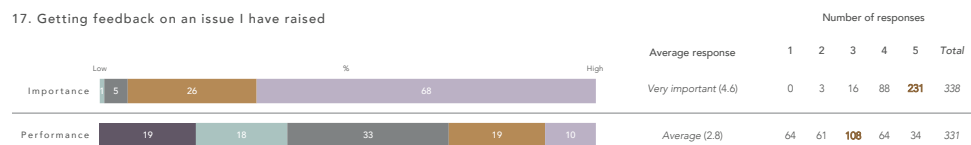
15. Feeling comfortable making a complaint



16. Having the matter properly investigated



17. Getting feedback on an issue I have raised



Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

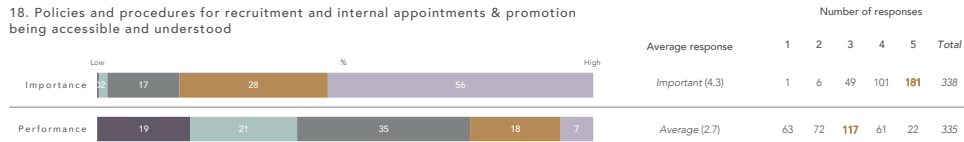
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 35

## Employment processes including internal recruitment

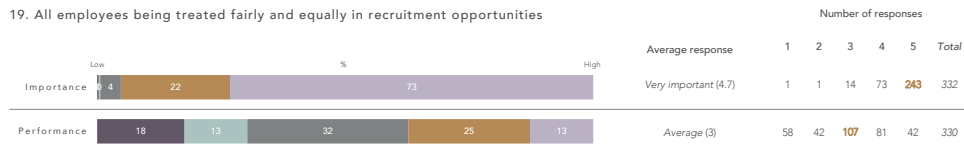
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 36

Employment processes including internal recruitment

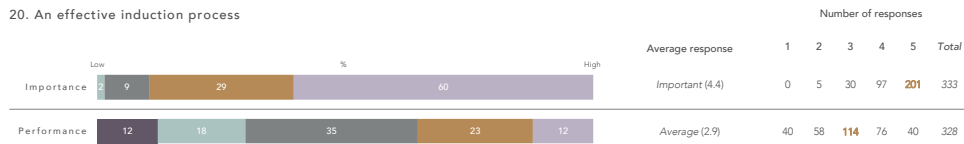
18. Policies and procedures for recruitment and internal appointments & promotion being accessible and understood



19. All employees being treated fairly and equally in recruitment opportunities



20. An effective induction process



Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

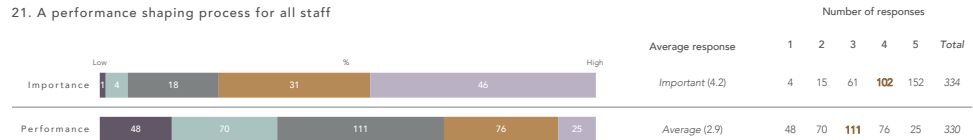
Tower Human Capital Group  
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## Performance shaping processes

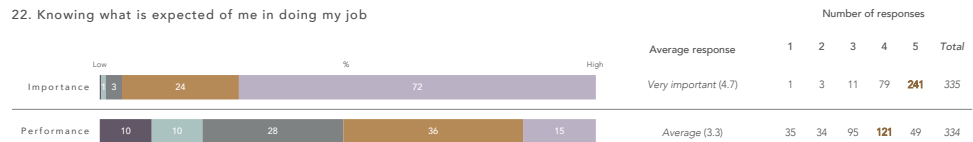
Tower Human Capital Group  
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Performance shaping processes

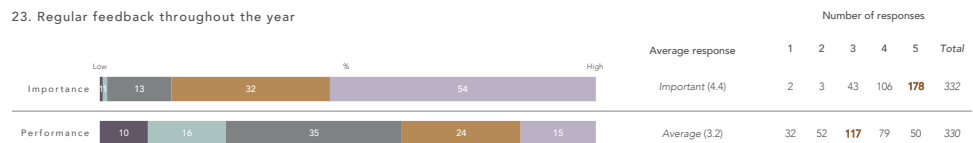
21. A performance shaping process for all staff



22. Knowing what is expected of me in doing my job



23. Regular feedback throughout the year

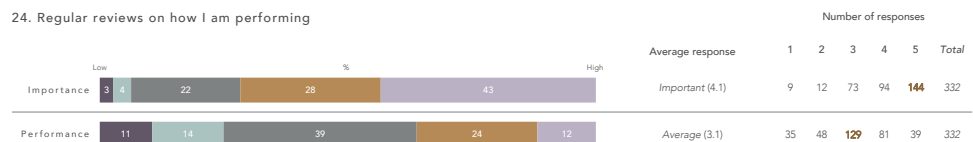


Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

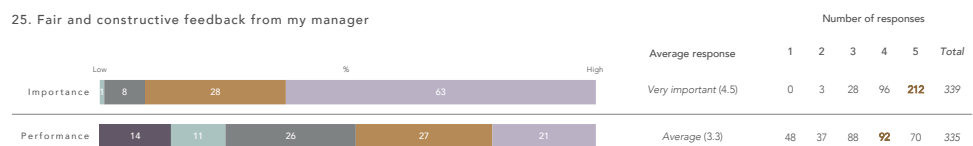
Tower Human Capital Group  
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Performance shaping processes

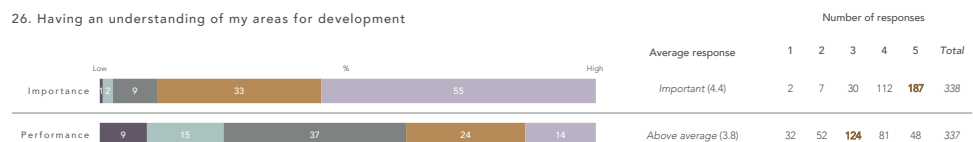
24. Regular reviews on how I am performing



25. Fair and constructive feedback from my manager

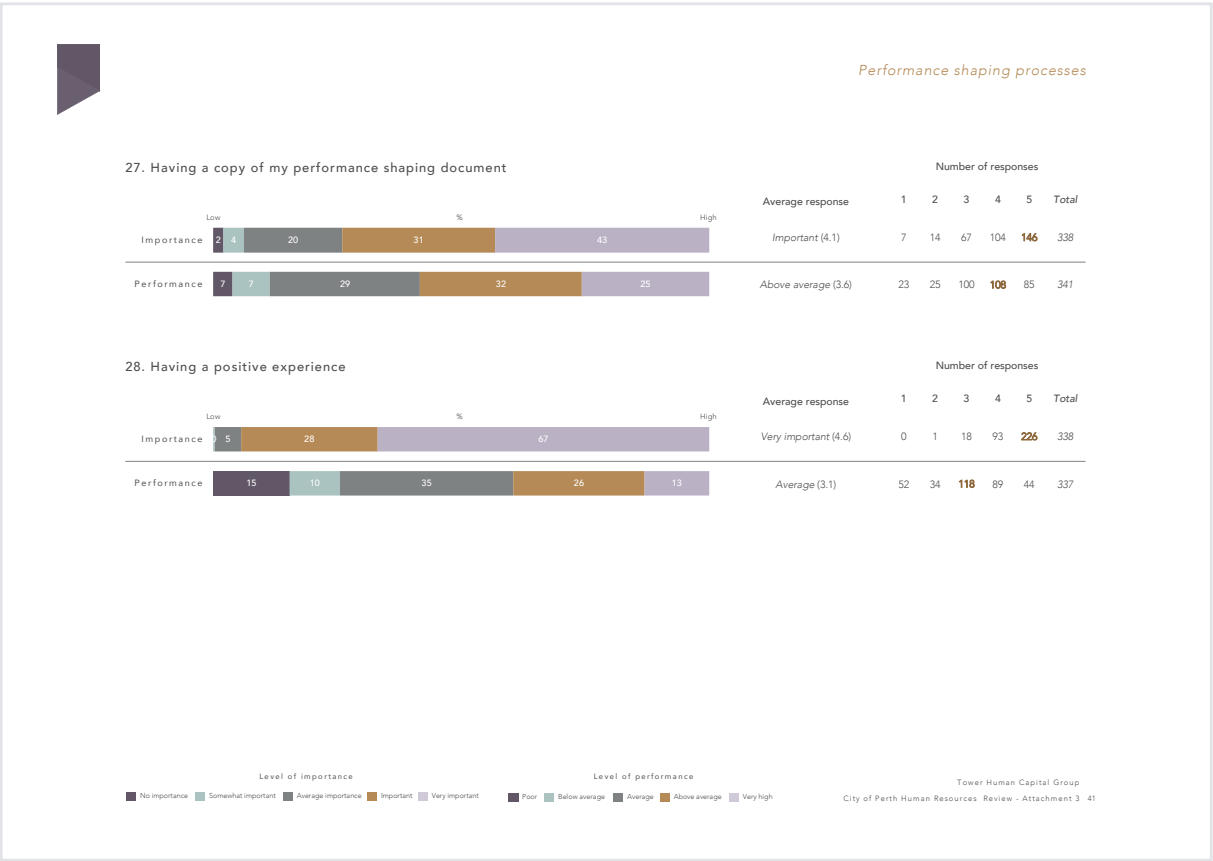


26. Having an understanding of my areas for development



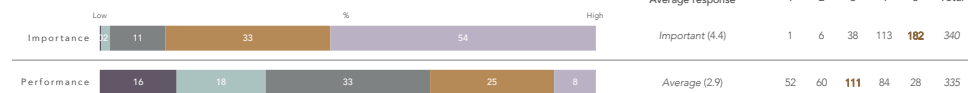
Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 40

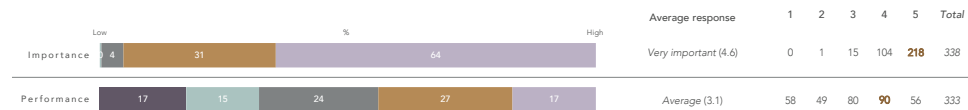


Grievance and complaint management

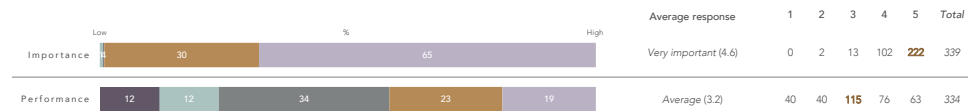
29. Policies & procedures for raising grievances and complaints being accessible and understood



30. Employees being able to resolve issues directly with their manager or supervisor



31. Knowing who to go to if I have an issue

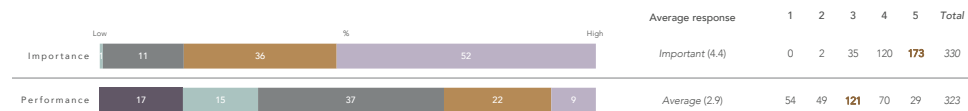


Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

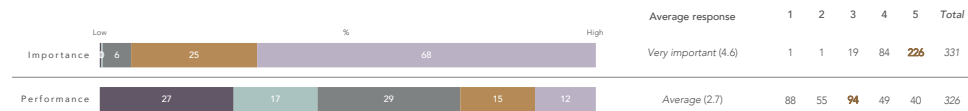
Tower Human Capital Group  
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Grievance and complaint management

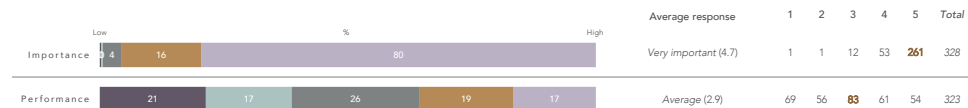
32. All complaints and matters managed to the policy



33. Feeling comfortable making a complaint



34. My complaint being treated confidentially



Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

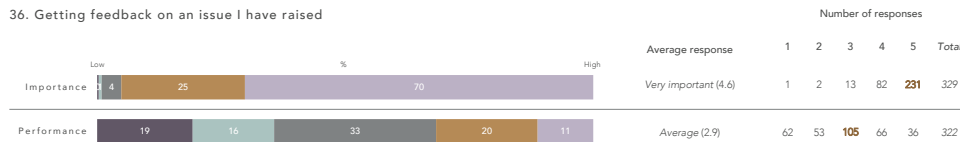
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 44

Grievance and complaint management

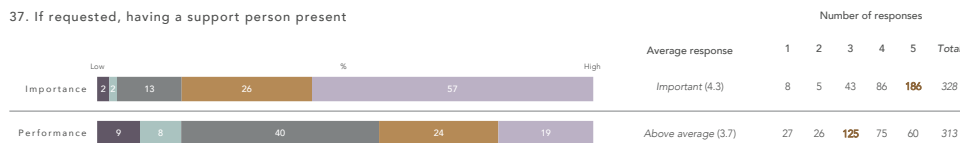
35. Having the matter properly investigated



36. Getting feedback on an issue I have raised



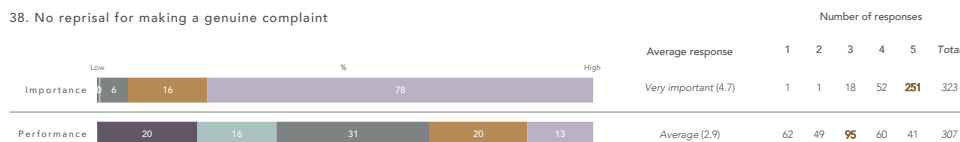
37. If requested, having a support person present



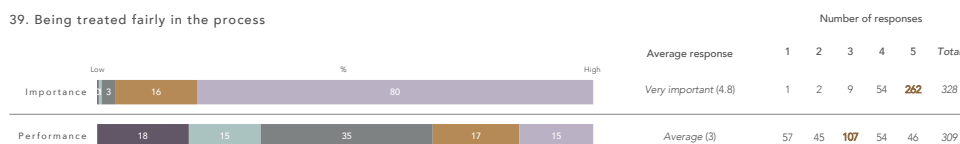
Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high. Tower Human Capital Group, City of Perth Human Resources Review - Attachment 3.45

Grievance and complaint management

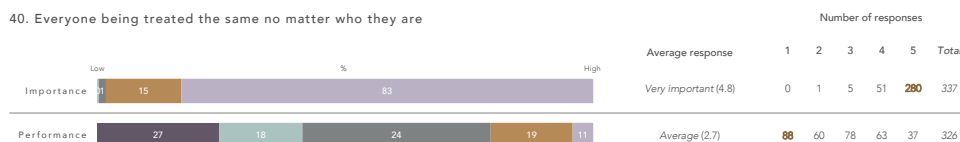
38. No reprisal for making a genuine complaint



39. Being treated fairly in the process



40. Everyone being treated the same no matter who they are

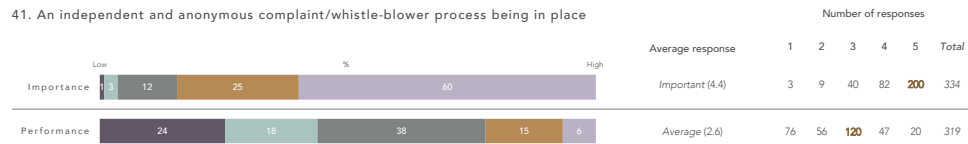


Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high. Tower Human Capital Group, City of Perth Human Resources Review - Attachment 3.46



## Grievance and complaint management

### 41. An independent and anonymous complaint/whistle-blower process being in place



Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

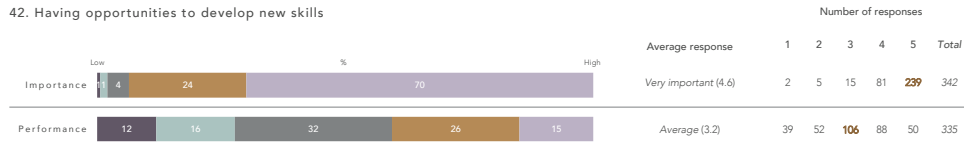
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 47

## Learning and development

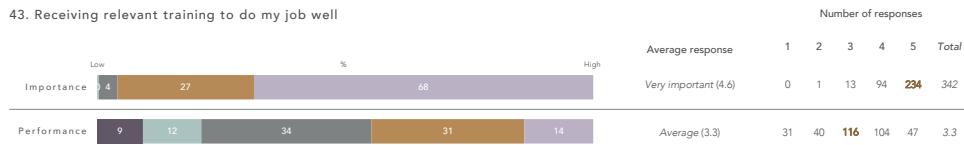
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 48

Learning and development

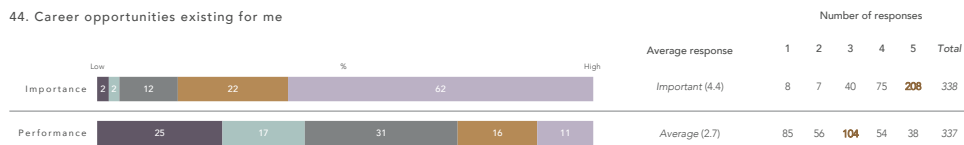
42. Having opportunities to develop new skills



43. Receiving relevant training to do my job well



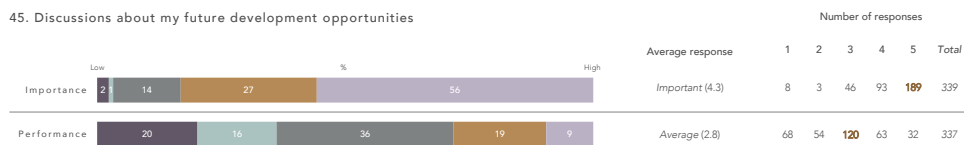
44. Career opportunities existing for me



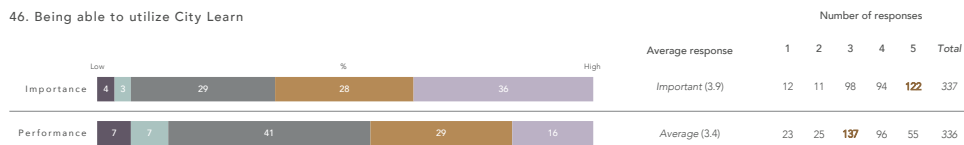
Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high. Tower Human Capital Group, City of Perth Human Resources Review - Attachment 3 49

Learning and development

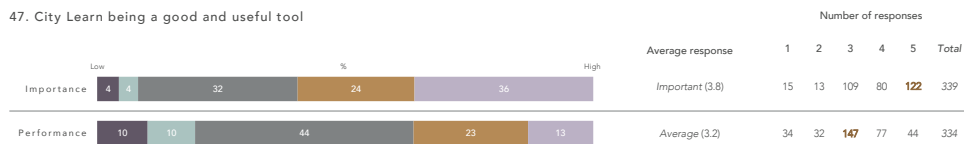
45. Discussions about my future development opportunities



46. Being able to utilize City Learn



47. City Learn being a good and useful tool



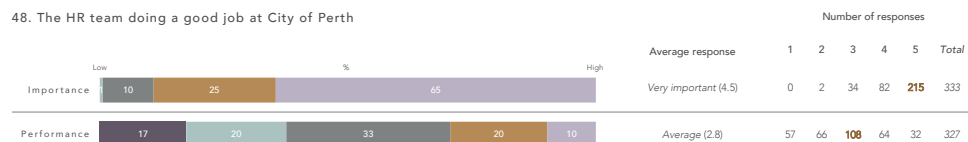
Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high. Tower Human Capital Group, City of Perth Human Resources Review - Attachment 3 50

## Human resources – general

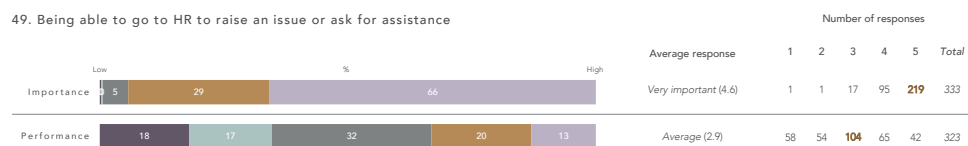
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 51

### Human resources – general

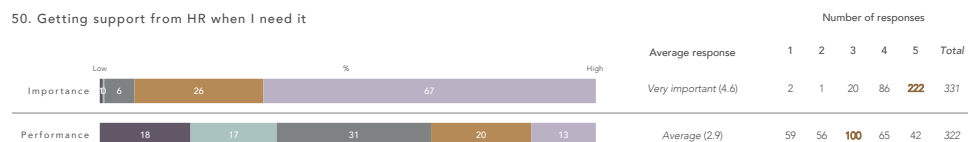
#### 48. The HR team doing a good job at City of Perth



#### 49. Being able to go to HR to raise an issue or ask for assistance

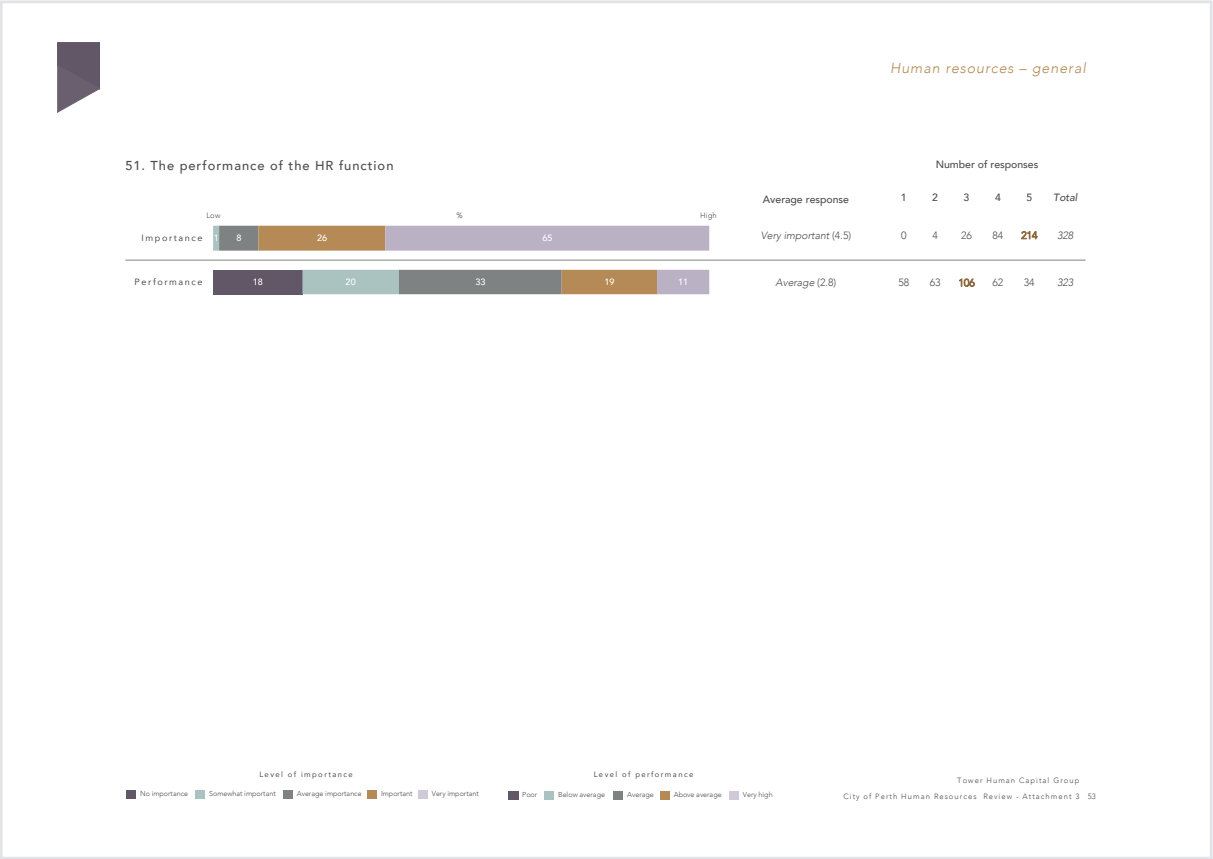


#### 50. Getting support from HR when I need it



Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

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City of Perth Human Resources Review - Attachment 3 52





Culture

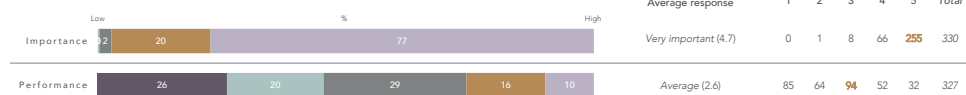
52. City of Perth managing in accordance with its values – commitment, teamwork, courage, respect.



53. When things go wrong, the emphasis being on putting things right rather than placing blame



54. Everyone being treated with respect at work irrespective of who they are and who they know



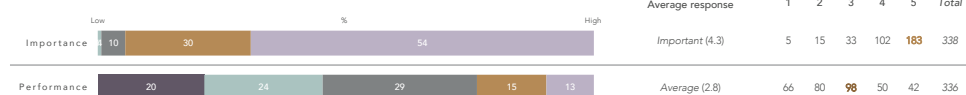
Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 55

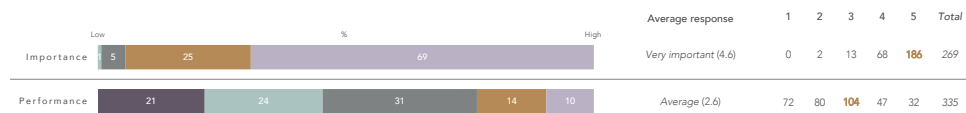


Culture

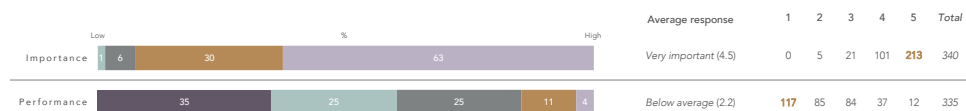
55. City of Perth encouraging me to voice my opinions, even if they are different to the opinions of others



56. When commitments are made, they are kept



57. COP managing change well

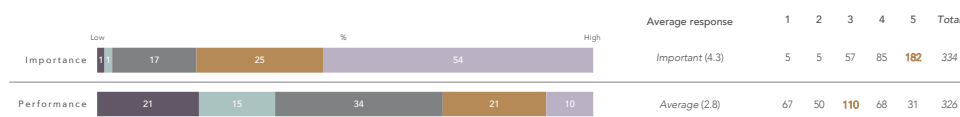


Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

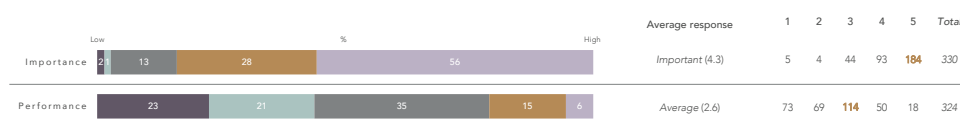
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 56

Culture

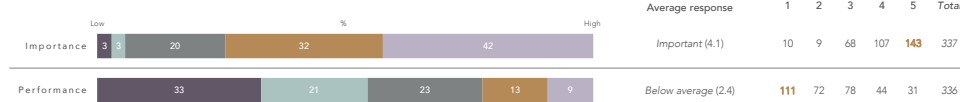
58. Accurately communicating the outcomes of the last "You Say" survey (Catalyse)



59. Implementing priorities that were identified in the last survey



60. My recommending COP as a good place to work to a friend, colleague or family member



Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 57

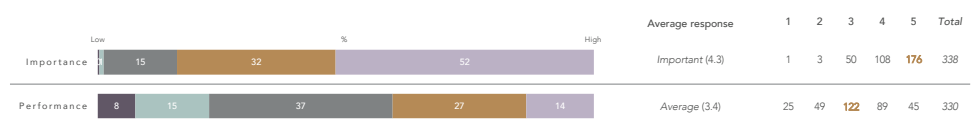
## Occupational health, safety and wellness

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 58

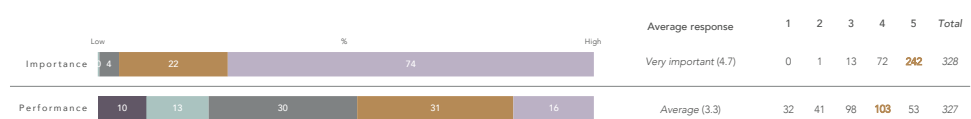


Occupational health, safety and wellness

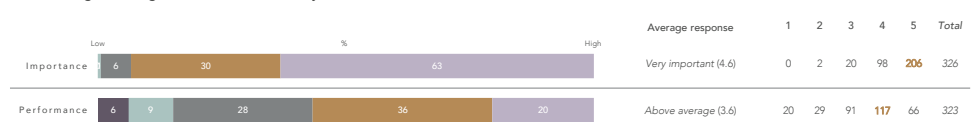
61. Policies and procedures being developed and accessible



62. Working in a safe and healthy environment



63. Knowing who to go to if I have or identify an issue



Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 39

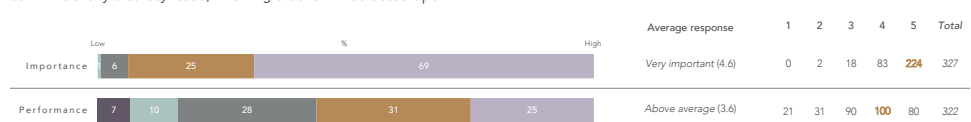


Occupational health, safety and wellness

64. Even under pressure, people are expected to put the health, safety and wellness of staff first



65. If I identify a safety issue, knowing that it will be acted upon



66. Accidents and incidents being properly investigated

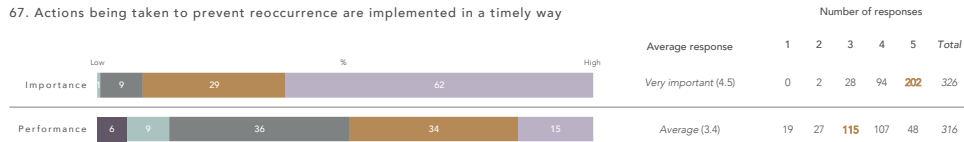


Level of importance: No importance, Somewhat important, Average importance, Important, Very important  
Level of performance: Poor, Below average, Average, Above average, Very high

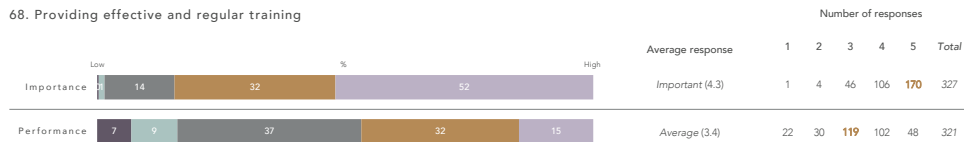
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 60

Occupational health, safety and wellness

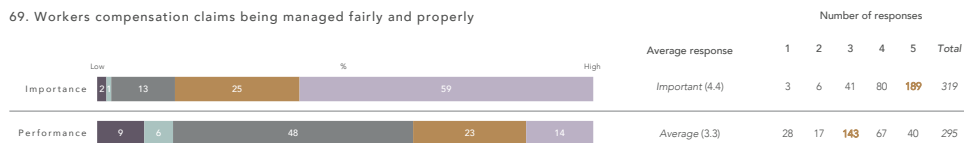
67. Actions being taken to prevent reoccurrence are implemented in a timely way



68. Providing effective and regular training



69. Workers compensation claims being managed fairly and properly

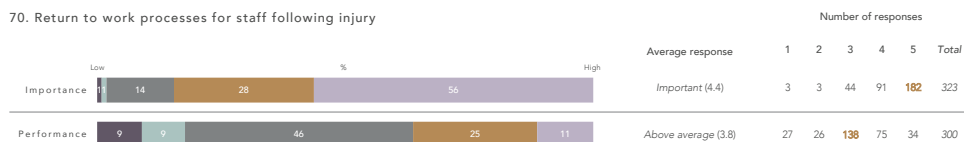


Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

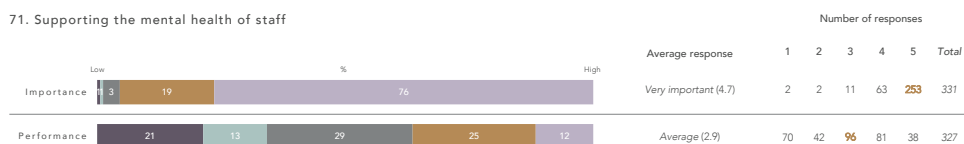
Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 61

Occupational health, safety and wellness

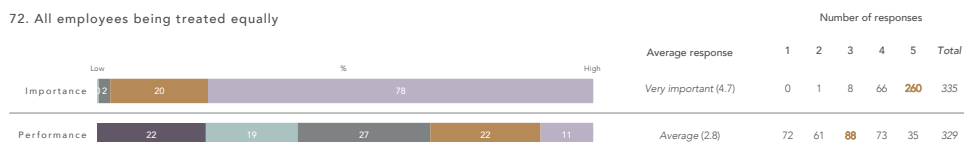
70. Return to work processes for staff following injury



71. Supporting the mental health of staff



72. All employees being treated equally



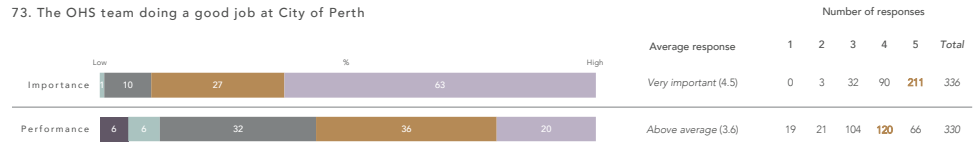
Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high.

Tower Human Capital Group  
City of Perth Human Resources Review - Attachment 3 62

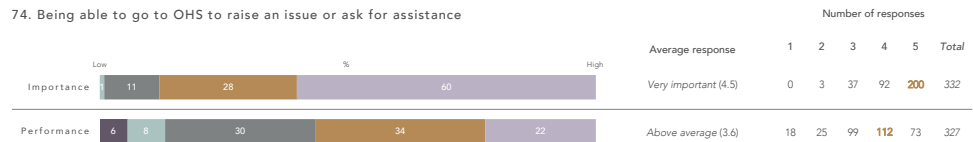


Occupational health, safety and wellness

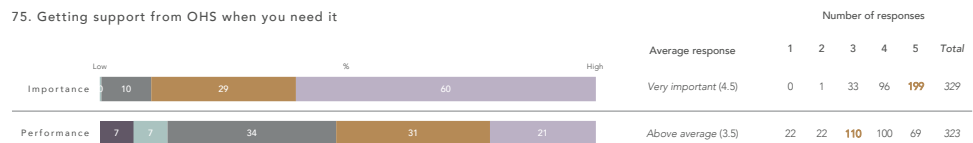
73. The OHS team doing a good job at City of Perth



74. Being able to go to OHS to raise an issue or ask for assistance



75. Getting support from OHS when you need it

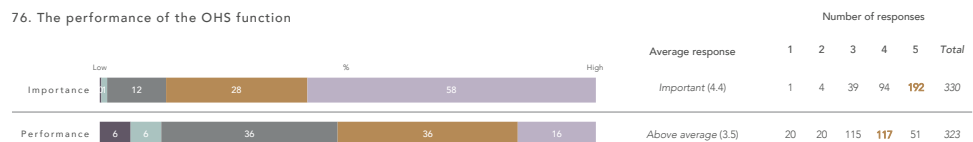


Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high. Tower Human Capital Group. City of Perth Human Resources Review - Attachment 3. 63



Occupational health, safety and wellness

76. The performance of the OHS function



Level of importance: No importance, Somewhat important, Average importance, Important, Very important. Level of performance: Poor, Below average, Average, Above average, Very high. Tower Human Capital Group. City of Perth Human Resources Review - Attachment 3. 64



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 4**

### **OPEN RESPONSE QUESTIONS -**

### **FEEDBACK**

Tower Human Capital Group

## City of Perth Human Resources Review

### Open response questions – feedback\*

\*These responses are verbatim from the online survey – they have not been edited or redacted



### Occupational Health, Safety & Wellness (OHS)

#### 77. What do you see as the key priorities of Occupational Health, Safety & Wellness (OHS) at City of Perth?

# responses = 259

| Theme   | #   | %    |
|---|-----|------|
| Maintaining a safe workplace  | 151 | 58.3 |
| Supporting health & wellness of employees (including mental health) | 116 | 44.8 |
| Supporting mental health (ONLY)                                     | 66  | 25.5 |
| Providing training  | 24  | 9.3  |
| Identifying and assessing risks                                     | 9   | 3.5  |

- Adequate training
- Safe working environment
- Mental Health
- compliance with regulations
- -support physical and mental health of employees
- 1. provide a safe and supportive working environment
- 2. ensure staff are managing self-care
- 3 ensure staff know who to contact if they become aware of a health or safety issue
- a broad framework for improving standards of workplace health and safety to reduce work related injury and illness. Compliance.
- A safe work place
- A safe workplace for all people who enter the City of Perth, both physically and mentally, and making sure any issues identified are immediately addressed,
- A safe workplace.
- A safe, healthy work environment and timely correction of issues when required.
- Ensure that outcome focus performance, safety and wellness are given the highest priority at the City of Perth
- Assist Executive to identify challenges to health and safety and address them before they adversely impact on workers
- Build up our work environment to promote wellbeing through implementation of a Public Sector Workplace Wellbeing Framework
- Provide leadership and drive safety performance to support a high performing workplace. Enable the safe return to work of injured workers.
- Through implementation of a Building Safety Excellence strategy at the City of Perth, employees are assisted to:
  - -Build an organisational culture of continuous improvement in WHS
  - -Increase productivity through an engaged and healthy workforce
  - -Manage safety responsibilities in a transparent and accessible manner
  - -Enhance accountability for safety performance
  - -Effectively use performance information for evaluation of systems and evidence based decision making
- abiding by legislation
- Adequacy of ventilation in meeting rooms
- Adequate training and proper inductions
- Aging workforce; cultural issues leading to stress
- Alot of emphasis on OH and safety, I would like to see an increase in the wellness component.
- Approachable should issues arise

- appropriate capture system, go to team, regular inspections, checklists, provide findings, follow-up, signoffs.
- Assisting officers and managers in contractor management, and staff safety. Ensuring legislative and council requirements are clear and consistent across the City. Providing advice and evaluation in relation to staff hazard reporting or enquiries.
- Assuring the overall health, wellbeing and safety of all staff and visitors
- Being accountable of the wellbeing of all employees
- Being proactive instead of reactive
- Better end of trip facilities, ours are sub-standard.  
Consider use of fortnightly RDO system to boost morale and productivity
- Bring OHS into the mindset of all employees.
- Bullying
- Bullying
- Central point of contact for OHS advice & expertise relating to construction & maintenance works  
Reviewing & approving contractor's safety management plans / SWMS etc
- Clean eating areas
- Clear and effective policies and processes to ensure OSH is sustainably built into all aspects of the work environment.
- communicate with staff regarding potential problems. Assist with solutions.
- Communicating OHS priorities and being available to assist if an incident occurs
- Continue with wellbeing programs
- Continuous development strategies to assist employees
- Covering the City if issues arise.
- Create a safe work environment. Easy process to report accidents, incidents or safety issues and these are acted on immediately.
- Creating an OSH system that is easy to follow and not onerous, to just tick boxes
- CYA
- dealing with mental health and trying to create a more positive and encouraging environment for all to work in
- Designing and implementing processes and systems that ensure zero harm within the workplace.
- Developing and maintaining a safe work environment for all staff
- Directors modelling the values - not just protecting patches and inflating their importance
- Educating and keeping staff safe and aware of their obligations
- Eliminate bullying and passive aggressiveness by senior management
- Embedding safety in every aspect of the City's operations so that safety of employees is the top priority.  
Providing support to any employee who is injured at work and effectively managing their return to work.  
Ensuring all policies and procedures remain up to date and are aligned with legislative framework.  
Conduct safety awareness training for staff.
- Employee safety
- Employee safety (physical and mental )
- Employee safety, Training
- employees being safe at work
- Employees supported in achieving a sustainable work-life balance  
Employee mental health  
Employee safety in the workplace  
Employee training in emergencies and evacuations
- Ensure all staff return home safely. Feel comfortable that the work environment is a good environment to work in, not just from physical harm but also mental and emotional harm.
- Ensure consistency across units
- Ensure staff can come to a safe workplace  
Identified risks are looked into and resolved where necessary
- Ensure that a high level of safety is maintained to all CoP employees, capture all incidents in order to avoid repeat accidents.
- Ensure that employees work in a safe environment and are considered the highest priority of the organization.
- Ensuring a safe and healthy workplace. Programmes supporting mental health, workplace safety are well promoted.

- Ensuring a safe workplace both physically and mentally.  
Educating staff on OSH procedures and policies  
Providing training where required on OSH practices  
Ensuring staff are working with other staff who are fit to work  
Ensuring support is available and provided to those needing it  
Identifying hazards and risks in the workplace
- ensuring a safe workplace for everyone  
encouraging a healthy work-life balance  
encouraging more breaks in the day
- Ensuring a safe workplace. Policies and Procedures to reinforce a safe workplace. Regular review and update of those procedures
- Ensuring a safe, health workplace
- Ensuring correct practices, policies and procedures in place and accessible.
- Ensuring employees work in a safe, comfortable environment
- Ensuring our physical and mental safety
- Ensuring safety issues are prevented or dealt with efficiently and effectively. Promoting a safe and healthy workplace.
- Ensuring safety of all employees
- Ensuring staff are working in a safe environment and have the correct tools to ensure they are kept safe
- Ensuring that CoP is a safe place to work.
- ensuring that each staff member has a staff work environment and returns home safely
- ensuring that the correct Processes and procedures are in place and are acted on
- Ensuring that workers feel safe while at work and creating an environment where they feel safe coming into each day
- Ensuring the City is a happy and healthy place to work
- Ensuring the City is a safe place for all employees
- Ensuring the City is not sued.
- Ensuring the safety of employees and contractors as we go about our work in the city.
- Ensuring the safety of the City Employees by delivering safety frameworks and initiatives
- Ensuring the workplace is safe for all who work in the environment. Contractors and Staff alike. Safety for all should be the same.
- ergonomic assessments  
mental health - guidance for managers  
kitchen facilities
- Fair treatment if injury occurs in the workplace.
- good communication
- haven't been in the organization very long to comment
- Health and safety of staff
- Health and Wellbeing of the staff.
- Helping us all to have a mentally and physically safe workplace.
- I have nothing to do with the OHS team at all. The only thing I know is you get a \$100 healthy living contribution each year
- Identifying, Action
- Improving staff Health  
Being proactive in reduce workplace injuries
- In my role and area of work, mental health and work life balance
- In that order, being consistent, proactive and vigilant.
- Incident management, workers compensation, training, employee benefits
- Issues and improvements are dealt with as a priority and within a quick time frame
- Keep a safe working environment for all staff at the City.
- Keep improving employees safety  
Provide assistance  
Keep up to date training
- Keep workforce safe and happy.
- Keeping a positive, safe and healthy working environment.
- keeping city staff educated to enable to make their own decisions about a safe working environment, as well as providing support when the shit hits the fan

- Keeping everyone Safe
- Keeping everyone safe, helping employees who are injured at work.
- Keeping frontline staff safe
- Keeping it real
- Keeping staff safe and making sure that we have a safe workspace
- Keeping staff safe while carrying out their every day activities. Support with issues arising.
- keeping staff well, including mental health
- Listen
- Looking after the well being of staff.
- Looking after the wellbeing of the city of Perth workers.
- looking after us
- Looking out for the safety of staff and providing adequate training
- MAINTAIN SAFE WORK ENVIRONMENT
- Maintain up to date policies on OSH and Health and Safety
- Encourage staff to attend corporate training sessions
- Source various other staff benefits/wellness programs and benchmark against other organisations
- Maintaining a good safety record but also dealing with low morale and poor mental health across COP
- Maintaining a safe workplace. I believe it is an individuals responsibility to look after their own mental health and that the City go above and beyond with what they are required to do for staff in this area. The main point of concern for me is ensuring staff have a physically safe place to work, which I believe we do. Whenever I have needed help OSH are always very willing. They have proactively sought opportunities to present to my team and I and I believe this helps build a positive culture towards workplace safety. I couldn't fault OSH.
- Maintaining safety through monitoring and best practice (processes and procedures), promoting health and wellness through activities and programs and more education. Many of the programs which used to be led by the dedicated CoP officer used to encourage lunch time activities. These have since ceased
- Make sure all staff whilst at work are well
- making employees safe and comfortable when doing their job
- Making sure staff work safely and that they are given the conditions to work safely
- Making sure the city provides a safe and inclusive environment for all. This include mental health as well as physical health.
- Making sure the workplace is a safe environment, providing staff with the tools to effectively and efficiently do their jobs (ensuring staff are physically and mentally equipped)
- MAKING the City's electrical infrastructure safe
- Manage a work environment that support staff mentally and physically health. Creates opportunities for staff to this too.
- Managers to treat staff fairly
- Managing safety and wellness
- Managing stress and employees mental health during times of change.
- Managing stressful environments
- Managing workers in dangerous jobs eg waste collection, street maintenance, rangers, etc
- Mental health
- Mental health
- Mental health
- mental health
- Mental health
- Mental health
- OSH training
- Mental Health (In today's workplace we see a growth in stress leave even our CEO is not exempt). I would like to see more support and programs to support staff. As we all know there is no workers comp for mental health issues so the City needs to look at over avenues to assist staff. The thought of loosing your job while you deal with mental health issues does not assist in recovery!!!
- Mental health and bullying & harrasment
- Mental Health and Elected Member conduct
- Mental health and stress levels. Management consulting staff with changes that affect their role.
- Mental health and wellbeing, safe and functional work place

- Mental health of employees and ensuring work life balance would be a top priority considering the statistics of stress leave and mental health issues in the workplace
- Mental health of employees and providing a safe and functioning environment to work in
- Mental Health of employees and Workers Compensation Claims being managed correctly
- Mental Health of staff, safe workplace, avoiding injuries at work
- Mental health should be the highest priority. The culture in the organisation at present is toxic, people are fearful of criticism leading to loss of their jobs, this has resulted in defensive attitudes, backstabbing and undermining. On top of this workloads are unrealistic, unrelenting and there is little appreciation or acknowledgement from above. Stress is having a serious harmful impact on mental and physical health.
- Mental health, getting injured at work. Then all of a sudden your friend is gone, without saying goodbye.
- Mental Health, resilience
- Mental Health: I believe the City is suffering from serious mental health issues. I have never worked in any other organisation with this many negativities. I don't feel safe when I come to the office as most of the staff behaviour is not appropriate (arrogant and aggressive).
- Mental well being of the staff should be the number one priority
- mental wellbeing
- Mental wellbeing in very stressful demoralised environment
- Mental wellbeing of the staff
- Investigate and mitigate safety risk
- Minimising risk to employees, members of the public, volunteers. Acting when an issue is reported. There is a lack of communication between Hanson, RMSS, the properties team and OSH.
- Mitigating lost time due to injury
- Mitigating risks to the safety of staff
- More mental health training and looking at getting some younger outside work staff in as 80% is over 50
- My key priority A new fitout of Council House to address health, happiness and productivity standards. Most 'hazards' aren't recognized, e.g. poor working layout, lack of access to natural daylight or views, not enough greenery and biophilic connection and a hundred other things that all contribute to mental health issues, poor productivity, staff turnover, absenteeism and long term health issues.
- my priorities is good safe and healthy environment
- No idea, I have no involvement with OHS
- Not been here long enough to provide comment
- Nothing need to change
- Occupational Health, Safety & Wellness :)
- OSH Team to continue the good work, the City to ensure the OSH Team is adequately and appropriately resourced
- Out side worker safety and training programs, all staff wellness programs such as mindfulness, meditation, stress management, dealing with changing priorities, healthy living programs
- Physical and mental health safety of employees
- Physical safety and mental health of employees to achieve work life balance
- Preventing injuries and training staff in prevention
- preventing injury
- Put I hues sit should encompass mental health, bullying etc
- preventing physical or mental injury
- provide a safe work place
- Provide a safe workplace for all employees in all divisions and roles
- provide safe workplace
- providing a ongoing safe and healthy environment
- Providing a safe work environment and providing ongoing training/workshops.
- Providing a safe work place and work environment physically and emotionally
- Providing a safe workplace
- Providing a safe workplace environment for all to work in.
- Being able to go to an OHS rep for advice.
- Reporting incidents and having these investigated immediately and effectively.
- Providing a safe workplace for all employees including reducing injury risk, supporting mental health, and promoting physical health and activity
- providing a safe workplace, and following upo with any concerns in a timely matter to ensure the workplace remains safe.

- Providing an environment that safely and effectively maintains all employees health and well being so as their performance reflects a passion to consistently be functioning at their peak providing a premium service to the public.
- Providing an environment where staff safety is paramount and the City remunerates staff well for the work they do.
- providing and promoting a safe and healthy work environment
- Providing the support required to ensure the safety and wellbeing of the staffing body and any visitors.
- Providing training for managers on investigating incidents
- Regular training
- Regular updates and training
- safe work environment
- Safe work environment physically and mentally
- Safe work place
- Safe work place for all
- Safe work spaces
- Safe working area
- Workshops
- Massage
- Sick bay
- Safety
- safety
- Safety and mental health.
- Safety and safe implementation for everyone
- safety and well being of all staff in the city
- Safety and well-being of staff and contractors
- Safety at site work for both workers and community;
- Wellbeing of employees during work hours.
- Safety first
- Safety for all employees, consultants and contractors who work for the City
- Safety in the workplace, guidance, compliance and education
- Safety of staff
- Safety on the job & Managing stress RUOK promotion
- Staff and customer safety. Inductions for contractors, training for staff. Follow up after incidents.
- Staff are safe at work
- Staff Safety
- Staff safety
- Staff wellbeing and safety.
- Staff wellbeing. Not all staff work in Council House so time appropriate and content specific information is essential.
- Stress and overwork mitigation
- Support/guidance with any OHS issue
- Supporting health and wellbeing could be improved. Mental Health first aid training was useful, but need ongoing initiatives such as lunchtime meditation, yoga and group physical activity sessions. A staff gym. Free fruit boxes for each floor. Establish small lunch-time social groups such as book clubs and movie groups. Allow staff to volunteer one or two days a week (paid) - helping the needy. I also think that all levels of staff and Elected Members/ Commissioners should be trained in etiquette, politeness to others, appropriate behaviour, kindness, relationship management/building and political nous. I feel like all of the above would have more impact than the \$100 lifestyle rebate.
- That safety is not just about reducing accidents which affect people physically. The current focus should be on ensuring a safe workplace from a mental health perspective.
- The biggest priority is staff wellness whether it is mental, emotional or physical. This lacks greatly at the City.
- The employees need to be better educated on OHS policies and procedures. more initiative to ensure mental health and morale of employees is uplifted.
- The Health and well being of all employees.
- The main priority is mental health

- The mental wellbeing of its staff. The behavior of ELG, the pressure officers are under and the lack of corporate strategic direction is putting an immense amount of mental stress on the workforce. The OHS team have done a great job to raise awareness of the importance of a mentally healthy workplace, however, behaviours have not changed and the culture is getting worse.
- The mental wellbeing of staff
- The safety and mental health of all employees
- The safety and well being of all staff
- The safety of all workers as priority
- The safety of staff and the support of staff's mental health
- The safety of staff.
- The safety of the general public while using CoP property.
- they do a good job
- Through information and training - to keep everyone safe while at work.
- to address concerns quickly and with positive outcomes
- To assist in the City's employees safety and well being, provide appropriate and relevant training, assist in work related safety issues and claims and to be easily assessable.
- To create a safe & healthy train of thought to self & others.
- To ensure a healthy and safe workplace for employees
- To ensure a safe working environment, both physically and mentally.
- to ensure everyone is safe and well
- To ensure safety and well being of all staff physically and mentally
- To ensure staff are working safely
- To ensure staff members are looking after themselves in the work place
- To ensure the provision of a safe work environment for staff and customers and to provide up to-date information to enable staff to act and work in a safe way
- To help the City meet its legal obligations. It seems like a 'box ticking' exercise rather than genuine concern about the health and wellbeing of employees.
- To improve the culture of safety by helping others understand what a safe workplace is, how to identify risks and hazards and how to improve the workplace to avoid injury and damage.
- To keep everyone working in a safe environment
- To keep the workplace a safe one
- To listen to the people who are out in the field and those that have the prior knowledge and experience and treating them with the respect that they deserve.
- To look after health and safety of staff.
- To make sure our environment is as safe as possible
- To make sure that all employees have a safe environment to work in.
- To make the City as safe a place as possible to work in.
- To protect the City
- To provide a safe and happy workplace
- To provide a safe work environment for all employees.
- To provide information and assistance to the workforce so that each person can take steps for their own health and safety.
- To Provide support in offering a safe and equitable place of work, to manage risk and reduce to likelihood of accidents in the workplace
- To see the well being of all their staff and to hear their concerns and act to improve the health and safety in the workplace.
- Updating Staff on security improvements that have been put in place.
- Very friendly and approachable, little disorganized at times
- With constant change and the lack of clarity direction and certainty at the City of Perth over the past two to five years, mental health should be a key priority.
- Workplace safety
- Safe working environment
- Always wear correct PPE and you should be alright
- Being able to do my job, and safely even if overtime (weekends) are included
- Maintaining a safe happy work environment
- Maintaining a safe work environment
- Making sure all gets done in the safest manners

- Managing the health and wellbeing of the staff while at work, and giving staff relevant training
- People's mental health and the support of managers
- Providing a safe and healthy work place for us
- To keep people safe and healthy physically and mentally
- To keep staff safe and manage compensation claims
- To protect the city and its assets

#### 78. What do the OHS team do well?

# responses = 222

| Theme                          | #  | %    |
|--------------------------------|----|------|
| Training                       | 48 | 21.6 |
| Safety                         | 31 | 14   |
| Being available & approachable | 30 | 13.5 |
| Communication                  | 15 | 6.8  |
| Providing information          | 12 | 5.4  |
| Acting quickly & following up  | 11 | 5    |
| Being responsive               | 11 | 5    |
| Providing programs             | 10 | 4.5  |
| Being proactive                | 5  | 2.3  |
| Listening                      | 5  | 2.3  |
| Being visible                  | 5  | 2.3  |

- 1. ensure staff are booked into training, however I feel this is just to tick a box rather than assessing if it is relevant and evaluating if staff find it useful/beneficial
- Accessible training
- Act on issues brought to their attention, and show empathy to those people affected by incidents.
- Act quickly on most issues raised, provide opportunities for a wide range of OHS training, take on board suggestions for new programs, have implemented professional documentation that is easily accessible
- Acting on things required changes
- Acting quickly
- Additional employee incentives: flu shots; fitness tests; healthy lifestyle programs.
- All they do well is follow instructions from the director
- Arranging healthy lifestyle seminars.
- attend to staff concern when it comes to safety and wellbeing
- Attending site inductions with contractors;
- Available training courses
- Available, fast response
- Based on my directorate OHS team, they are extremely easy to approach and talk to.  
They are always happy to assist with queries or even feedback on a matter that may not entirely involve them but has an element of OHS which I may require assistance with.  
They are extremely proactive and have introduced many valuable sessions at the City that I have enjoyed attending and learning from.
- being proactive
- Carrying issues through to the end result and keeping employees informed.
- checks
- Communicate and feedback
- Communicate and provide assistance with queries and OSH Information
- Communicate how to have a safe work place, what to do in the event of an issue occurring and training relating to a safe workplace
- Communicate the resources on offer for supplier inductions and workplace safety.
- communicate their courses
- Communicates works that are underway.
- Communication and updating
- Communication of OHS initiatives; provision of free and diverse OHS-related training
- Communication.
- Communications of issues and processes
- Communicatuions
- CYA
- Deliver training

- Developing and delivering safety policies and procedures and training on those policies and procedures
- Do their job based on their resources
- Doing what they can to insure the safety and well being of all employees, especially at the moment with the OSH team being down in numbers.
- ensure a safe physical environment
- Ensure contractors etc are properly inducted to work sites.
- Ensuring a safe work environment
- ensuring staff's safety
- everything
- Everything
- Everything is investigated thoroughly
- Fire warden training
- Fix a problem once you figure out who to go to in the first place
- Follow their risk assessment framework
- follow up on incidents
- Follow up on queries as soon as possible.
- framework, structure, processes, procedures, engagement
- Friendly however OHS team, with one senior staff member, is too quick to pass workload/responsibility onto others. This creates a 'dodge' OHS responsibility culture.
- Give enough information ahead.
- Give feedback
- Give Presentations
- Have meetingd
- haven't been in the organization very long to comment
- Health and well being info sessions
- Healthy lifestyle programs/incentives
- Highly responsive and provide assistance where required, particularly when dealing with contractors and consultants onsite
- Hold tegular meetings and pass info to staff
- I think they do a good job re safety at work.
- Identifies physical risks and procedures
- Implementing policies
- Improve staff health
- Induction
- Inform staff of issues
- Information & training
- Informing about training
- Injury and risk management
- Interacting with staff
- Investigate OHS issues reported by staff
- It responds in timely fashion to physical risks identified and makes improvements.
- Keep people updated with knowledge about OHS
- Keeping staff safe as well as updated with relevant OHS information.
- keeps me informed
- Let us know of what they do and how to contact them
- Listen
- Listen and act but sometimes not to the people most concerned
- Listen and action all needs
- Listen and implement when required
- Looking after our safty
- MAINTAINING SAFE WORK ENVIRONMENT
- Making policies and giving advice
- Monitor ergonomic hazards and putting mitigating measures in place
- monitor risks
- Monitoring & reporting, training, research & evidence-based decision making
- Monitoring and advising
- Not much that I am aware of.

- Nothing
- Nothing currently
- occupational safety
- OHS do a great job in broadly addressing mental health, eg mental health first aid.
- OHS representatives provide updated information to staff
- OHS team are doing a fantastic job. sol Merza in particular is leading the way
- Ok, recently there has been more awareness and training for employees which has been helpful.
- On a floor to floor basis react well to incidents quickly.
- onboarding
- One off training courses. Investigating reported OSH issues.
- Open and supportive
- Organise and communicate training sessions.
- Organise assessments
- Organise extra benefits ( Massaging ) & other facilities in the workplace.
- Organise topical training sessions
- Organize Fire Safety Training
- Organize staff programs e.g. healthchecks and training
- organize training
- Other than the normal issues
- Health checks are excellent
- Our rep is a great at his job. Looks after all aspects of OSH very well.
- Our safety equipment is very good
- outdoor workforce issues done well
- Overall I believe that the OHS team are representing the city to a high standard
- overall it's pretty good
- Passion and genuine belief about creating a safety focused culture
- Passionate about what they do
- play
- Policing safety risks, protecting City from criticism
- Present sessions on workplace safety, October annual promotion.
- Provide a number of courses for self development.
- Provide advice and support on physical incidents and proactive approaches to minimize incidents
- Provide clear information if requested
- Provide good training programs on physical and mental health
- Provide information on safety
- Provide opportunities for staff to attend health & wellbeing sessions and ensure staff are aware of safety requirements and our results.
- Provide opportunities for training and development.
- Provide plenty of training opportunities and take safety of staff seriously.
- provide programmes and information for staff to better inform them
- Provide support all employees within the CoP. Provide transparency in the management of accidents and incidents. Implement practical and useful processes and procedures. Develop and implement initiatives for the safe and well being of all employees.
- Provide training when needed and communicate the available services being provided by the City.
- Provide training, health and life style to all employees.
- Provides good training opportunities.
- Providing information
- Providing Wellness programs and training
- Reach out to new starters
- recently I have noticed that they have been offering a range of courses for staff to attend to
- Regular audits and an incident reporting process accessible to everyone
- Regular checks, approachable, considered and thoughtful, really happy with the work they do.
- regular meetings
- Regular reporting on incidents, promoting a safety culture.
- regular updates on relevant issues
- Regularly coming up with new safety ideas
- Relatable

- Relay messages
- Report dangers
- Reporting and investigation.
- Reporting, minimising LTIs, promoting wellness initiatives
- Respond quickly when major incidents occur. Investigate. Working out how incidents occurred and try to put in procedures/policies to avoid them happening again. Always on the end of the phone to answer even the smallest query.
- Respond to safety issue, they are accessible and they care. They understand the different issues of each different department.
- responding to incidents
- availability of ohs staff
- ohs training sessions
- Responding to query/incident
- responsiveness
- Reviewing OHS management plans & contractor documentation
- Routine work
- Safety and comfort
- See above
- Self promotion
- Share information, provide support when inducting contractors on site, health and wellness
- Staff always available and approachable
- Support with any issues that arise
- Support, Processes, Training, Incident Management and investigations, good employee wellness and wellbeing initiatives
- Supporting OHS floor reps
- Some of the training courses on offer
- Talk
- talks, workshops, exercise classes ect are valued by staff...although always the staff who are is the least need of assistance that use these services. Could target/encourage certain staff to utilize these services.
- Team answer concerns and are available. Have had no negative interaction with the team.
- The Healthy Lifestyle reimbursement
- THE OHS TEAM MAKE SUR HEALT AND SAFET EVREY PERSON AT WORK BEEN SAFT
- The OHS team provides adequate training and resources.
- The OHS team uphold a safe and healthy working environment, including mental health training, mental health applications and occupational, health and safety tools and resources.
- The team is open to suggestion for improvement
- Theoretical knowledge
- They are always available, helpful, responsive and supportive
- They are always happy to answer any questions and point me in the right direction. John has a great deal of knowledge that he is happy to share. If he is unsure he will get back to me with confirmation.
- They are always helpful with any questions and happy to assist. The team are very overstretched.
- They are available and friendly
- They are knowledgeable, friendly and approachable. They are always incredibly responsive and often the easiest team to deal with. They have clear and accessible procedures and when I have every had any questions, they have always been able to give me clear direction. All my experiences with OSH have been exception. I have previously worked in the resources sector and I believe the City's OSH activities surpass this industry.
- they are ok
- They are readily available. Are visible at monthly CMD meetings/conducting presentations. Encouraging questions.
- they are seen around the offices and are approachable
- They are very visible and proactively run programs to raise awareness of OHS issues
- They communicate well with our unit - support in ways of training, flyers, info sessions and health checks
- They cover aspects of their PD's / role of OHS personnel efficiently
- They do a good job overall
- They effectively follow up on claims. Support is given to staff to ensure rehabilitation.

- They engage with us to explain changes, provide information about what is available to staff and provide support through incident reports.
- They ensure workplace safety
- They give us updates on OHS Stats, OHS rep on floor doing a great job
- They have assisted in developing useful policies and procedures to protect the health of employees in my unit.
- They have been providing training and are communicating more frequently with employees
- They know what services are required when an incident occurs and the steps to take.
- they make sure everyone is safe and well
- They offer so many fantastic programs
- They provide a good level of service, very knowledgeable
- they put up lots of posters!!
- tick boxes !
- Track issues
- training
- Training
- Training
- OSH Committees
- Training
- Training and resources available to staff.
- Training has improved dramatically in the last 12 months.
- Training programs
- Policies and procedures
- Providing assistance to teams
- training, following up on incidents
- Training.
- trainings
- Trainings, presentations, documents and regulations and day to day support. They are great people with positive attitude.
- Trauning
- Turnaround time is very prompt with review of pre-employment medical assessments
- Very approachable and visible. Knowledgeable. Provide lots of training courses.
- Very approachable for work related support on projects delivered in the city. I am aware of training that is being provided for mental health which is great.
- Very proactive
- Very well organised and professional training
- Visibility of information
- Visible, available, friendly and provide assistance
- We are overly safety and health conscious - good job
- We have OSH reps who liaise with the OSH team.
- wellness
- With limited resources they engage the workforce to minimise harm where possible
- Work life balance opportunities
- Workshops
- Ensuring we have appropriate PPE. Although it seems they have to compromise quality because of budget
- Fast, effective
- Follow up and manage incidents and injuries
- Help to implement safe procedures
- John Svenson manages Compo claims well
- Listen to you and are genuine in their advice
- Look busy in the office
- Talk to victims

#### 79. What could the OHS team do better?

# responses = 207

| Theme   | #  | %    |
|---|----|------|
| Nothing / they are already doing a good job             | 29 | 14   |
| Provide more training (including promoting of training) | 21 | 10.1 |
| More mental health work                                 | 16 | 7.7  |
| Better communication                                    | 9  | 4.3  |
| Increase of staff members                               | 8  | 3.9  |

- 1. Have a safety rep committee and hold regular meetings
- 2. support safety reps to complete their responsibilities and promote their functions to employees
- 3. promote to staff the reporting process for reporting OSH hazards/issues
- a lot more communication and regular meetings
- Act on findings of investigation.
- address issues more quickly
- Advertise the wellness program available to staff more obviously / clearly. market it better
- all good
- All good.
- Anything would be a good start
- Be accountable and provide the City of Perth's interpretation of legislation rather than just quoting the legislation for officers to interpret themselves. For untrained officers to interpret legislation can pose a risk to the organisation, the OSH team should provide advice to officers, based on their expertise of how they interpret the legislation.
- Be available more
- Be more approachable and available.
- Be more friendly and open
- Be more public, the only notification that seems to go around is access the ERP system.
- Be more visible in the workplace with the work they do.
- Be part of the onboarding process for new staff. I found out about employee benefits like health insurance discounts on corporate membership nearly 12 months after my start date.
- Be proactive and look at safety issues of staff that deal with the public. some of whom have issues of drug and alcohol abuse or just plain abusive to city staff
- Being more grounded in their procedures
- better inductions
- Bigger team
- Bring staff benefits in line to what is offered in external organisations
- Care about people, remember they are people. Say Hi, and mean it.
- Carry out more uninvited site or office visits to ascertain employees work ethics.
- Certain courses should be mandatory for all staff, i.e. the mental health course as it would allow staff to pick up on issues and assist colleagues. By having mandatory courses everyone should be on the same page.
- Champion the big issues more effectively to ELG
- Come to the surveillance center to see how we work
- Communicate internally with staff
- Communicate with each other better.
- Communicate with teams better and be more approachable and address issues independent of managements influence
- distribute more information regarding healthy lifestyle and diet, actively encourage taking breaks in the day
- Do research into the operational equipment, uniforms and operational areas that we work in.
- Doing a fine job now.

- don't see them often enough doing checks, feedback. we recently had floors cleaned chairs were not put back to the correct desks, some people suffer back complaints ..pretty poor!
  - Efforts have been made in the mental health space. In the environment of the last few years, more needs to be done for employees.
  - Encourage more staff to attend mental health and wellbeing sessions.
  - Ensure more privacy re skin checking appointments
  - Expand training to employees that may require education
  - Find ways to streamline OSH processes to reduce red-tape but still ensure good OSH outcomes
  - Fire drills should have a register called out in Muster Area for each floor
  - Focus more on productive safety matters. Get out and get familiar with our day to day jobs
  - Focus of the health of shift working staff.
  - Focus on the mental wellbeing aspect more. Offer more teambuilding activities as well as looking at a better work/life balance. Look at how happiness goes a long way towards productivity, how countries like Denmark incorporate these into their workplaces
  - Focus on the softer issues (mental wellbeing)
  - focus on the wellness side of the OSH
  - Follow through in a timely manner with fixing issues
  - Follow up on issues and ensure the management team take all issues seriously. More training in reporting processes.
  - Follow up quickly
  - FOR THE OHS TEAM DO BETTER IS MORE FREQUENT TRAINING
  - Genuine assistance instead of face saving roadblocks
  - Greater communication around training opportunities on OHS (first aid etc)
  - Have clearer signage, that stands out more - hampered by general office decorative posters
  - Have less online courses, they are of little value, don't really impart knowledge and appear to be just a way to get the required training hours up for government requirements.
  - Have more of them so poor Sol isn't spread so thin
  - Have more resources made available to them
  - haven't been in the organization very long to comment
  - Having the authority to dictate changes in collaboration with the business unit. Also not all OSH consideration are considered in some projects
  - Help the organisation realise the danger associated with mental health
  - I can not comment as I believe they are one of the rare units in this organisation which are utilised and efficient. I love their frequent presentations and always enjoy their trainings.
  - I feel the guys within my directorate and outside it are doing a good job but lack of resources does hinder what I believe could make them an even stronger team.
  - I feel the OHS team are doing a fantastic job especially considering that all staff are under an incredible amount of pressure and a great deal of criticism from both the general public and the Council/Commissioners
  - I have very limited contact with the team so very hard to see where they could do better.
  - I haven't had a situation where I felt that they could improve
  - I think OHS don't necessarily get the support they need from the Properties Unit to implement proper changes to eliminate hazards.
  - I think they do a good job.
  - I think they do a great job
  - I think they do well enough
  - Identify areas around office that are areas of risk. There are a number of blind corners where corner mirrors could decrease incidents of collision.
  - If I have to pick something - perhaps advocating for better health and wellness incentives and facilities (better EOT facilities, gym memberships, yoga or meditation group classes)
  - If mental health and bullying is in remit - this could be done better to support staff
- Also I think it is terrible that when you move desks or departments you cannot just get an OSH assessment of your desk. It has to be ind approved by your manager, and is expensive and comes of their ind budget so sometimes you cant have one
- Implement the outcome

- Include stories on the intranet perhaps
  - Increase in staff
  - Increase the response time to issues raised, even if this only impacts one person
  - Inform of current benefits of working at CoP
  - Inspect onsite hazardous and underside electrical hazardous
  - introducing more training programs
  - investigations
  - Involve and communicate
  - keep their records in order
  - Keep up the good work
  - Keep up the good work
  - KISS keep it stupidly simple, sometimes more rules than you can shake a stick at.
  - Leadership to development and implementation of plan
  - less posters!
  - Listen
  - LISTEN and DO not create things
  - Listen to the workers and support the workers
  - Little more planning and organisation
  - Look at increasing the resourcing to match the workload
  - Look at the weather in regards to heat and storms know when it's time to call us in
  - looking for ways to improve safety
  - Maintain knowledge and experience of staff.
  - Make benefits and help more obvious
  - Make real changes and not just talk about them
  - maybe attend unit toolbox meetings every quarter
  - maybe have a look at creating more team building events where existing teams/ people could have a chance to get to know one another and get to know each other
  - Meet with coal face employees before managers
  - Mental Health area as a focus, look for better ways of doing things not be simply about rules
  - mental health of the staff - we need more support from the executive staff who don't understand the pressure we are put under and extra work they give us and unrealistic deadlines.
  - More authority to enable them to enforce PPE
  - More courses and information sessions for employees
  - more effective safety induction
  - More emphasis on stress management of employees.
  - More information on what benefits are available to COP
  - More information related to the work safety and policy.
  - More inspections and look into safety in the field.
  - More mental health and preventative aspects - like fitness programs, gym programs etc
  - more mental health assistance
  - More proactive
  - More regular follow-up with injured employees returning to work - more proactive approach.
  - MORE TRAINING
  - more training opportunities
  - more training to the staff
  - More visible via safety reps
  - More wellness programs and training
  - More work on mental health issues. We all know what to say regarding physical safety but there isn't a lot on mental health safety, and management of intellectual disabilities. For example if we have a coworker with dyslexia and it feels like there is no management of this, is this an OSH issue if it could be causing stress to the person or their coworkers?
  - Need more people to help them
  - Need more staff
  - Need more training options and diversity.
- Training needs to be promoted more and for longer periods of time (usually only promoted a day or 2 before course - not enough time to schedule in employees schedules).

- More compulsory training.
- More communication about safety in the workplace.
- nil... I think they are top notch
- No concerns
- No dealings with them
- No further comment - pretty happy with level provided by OHS
- nothing
- not been here long enough to provide comment
- not silently observe managers or supervisors who are not acting appropriately during conversations
- Not sure - I never deal with them
- nothing
- Nothing
- Nothing that I am aware of
- Nothing to note
- Nothing, going well
- Nothing, they are doing a great job.
- Ongoing initiatives.
- organize training that caters for people on rosters not just 9 - 5 staff.
- OSH team are good, very approachable and take OSH matters seriously. No changes required.
- Outline managements' responsibility in avoiding negatively impacting on mental health, including understanding what behaviours should be avoided and how to address matters with empathy.
- Performing well
- Perhaps make it easier to access equipment for a more ergonomic work space. Having to pay for a doctors appointment to change chairs or desks is not fair to those on lower salaries. When I was asked to gain a medical certificate to change my chair I suggested I would prefer to visit my doctor and submit a workers comp claim instead so that my visit was paid for and a change in chair was also obtained as a result. Strangely a decision was made to just replace my chair!!! A more commonsense approach was appreciated
- proactive approach
- Proactively promote the training
- Probably visit non-Council House sites occasionally to introduce themselves to staff in a casual way. Not necessarily formal training.
- promote/engage in more summer activities to encourage staff to step outside, exercise and be involved in group activities
- Provide clarity & advice around CoP staff responsibilities/requirements when engaging contractors (rather than just directing to the policies/procedures, which can be quite confusing & contradictory)
- Provide clearer advice around contractor inductions
- Provide mechanisms for staff to give anonymous feedback about unhealthy work environments.
- Provide more in-house courses.
- Provide more opportunities for staff to provide feedback about the culture of the organisation and the impact it is having on mental health. Advocate for more realistic workloads and reasonable expectations.
- Provide more resources/subsidy for physical and mental health.
- Ensure the supplier induction process and workplace safety guidelines are realistically achievable
- Provide practical solutions and assistance to non-standard situations that require OHS input
- Provide sufficient staff to perform their functions. Since Clayton left there has been many occasions of no response or poor organisation to Warden issues - my main reason for contact
- Provide workshops on ergonomic hazards, as these can have lifelong implications
- Provide workshops on stretching for people who spend a lot of time sitting at a desk.
- Providing different times/days for courses so part timers have opportunity to attend - and caution using 'first time first served' offers as this disadvantages some workers
- Better promotion of benefits of City
- Linking into the access of other SOA benefits that could assist people and promoting their use
- Publish all relevant documentation on the Intranet
- Reduce paperwork
- Regular updates on issues that have come to light across the whole organization so that everyone is aware of an issue. It should not be kept to those areas directly affected.
- Responding to workplace health and safety issues through the properties unit.

- See priorities above - also physical activity sessions - release stress and build culture
- Some feedback
- Some feedback
- Some of their procedures in particular for consultants are too onerous - they need to be more realistic.
- Streamline OSh processes, move away from RMSS
- Streamline what policies are necessary and what is excessive. Remove what doesn't need to be there.
- Streamline/make more clear of the processes
- Support executive and management to understand what effects their teams/officers
- survey staff to find out what they want in terms of OHS
- more promotion in mental health and physical activity
- more engaging programs
- The number and types of procedures around dealing with contractors is bewildering.
- The RMSS system. Record incidents of everyone involved in an incident irrelevant of who is involved e.g staff, contractor, volunteer etc. Incidents recorded by a staff member should not be deleted if not deemed 'relevant' for statistical purposes. All incidents should be recorded and if they are not recorded in RMSS they will get missed by the organisation.
- The team needs to make sure that contractors comply with relevant OHS (contractual/legislative) requirements.
- they are doing a fairly good job
- they are doing a great job
- They are doing a great job at the moment I cant seem to fault anything so far.
- They are doing a great job.
- They are doing pretty good with their reduced team and need to have their team filled as soon as possible.
- They are under resourced
- They can do more to ensure employees feel valued in terms of their personal wellbeing.
- They could be better resourced, more OSH staff required to assist the current OSH team.
- They could benefit from a larger team to help others improve their behaviours towards safety through mentoring, training, one on ones etc
- They could continue to build on their profile in the organisation by reinforcing the OSH services available to staff via internal communications.
- they do a good job overall
- They do a great job
- They do very well already.
- They need more people. They are achieving a lot and I'm sure that with more resources they could do even more. I don't think there anything that they are currently responsible for that they are not achieving. They are a genuine pleasure to work with.
- They need more staff to manage such a large organisation
- They're doing a great job.
- Think they currently do a reasonable job
- To be seen visiting work area's
- Too much documentation for people not in high risk. Adds hugely to workload
- train supervisors to do better
- Training
- Unsure, I have never had an issue arise requiring their assistance
- Upskill in their Administration rather than expect an Admin person. This would assist in the push back to end user and more customer service friendly.
- We should be able as OSH reps to give more time to prevention rather than just delivering actions.
- wellness options, induction options/training
- When an employees contacts OHS regarding a workstation issue (eg. back pain from change of desk), not dismissing the issue by simply saying, "i'll organize an ergonomic assessment for you in a months time" when the issue needs addressing now, not in a months time.
- Work with Properties to make Council House more employee friendly with improved amenities which other CBD office buildings have as minimum standards.
- Workers Compensation Claims and better policies. Need to listen to staff more.
- Workstations follow ups
- Messages

Sick bay

Room to relax in - mediation and yoga

- Work more for staff needs not managements agenda
- Talk to vicims
- Put less blame on the employee and maybe look at the strenuous work they are expected to carry out
- Not go through so many staff - its hard to know who does what!
- Look at what's going on out there and not be controlled by managers
- Introduce themselves
- Include outside staff in wellness training
- Have a better injury management person 2 employees gone within 2 months
- Enquire with the workforce more often whether they have all the safety equipment they need. We have very little communication with OSH
-

#### 80. How does the OHS team provide support to you?

# responses = 200

| Theme                              | #  | %  |
|------------------------------------|----|----|
| Training                           | 38 | 19 |
| Health and wellbeing               | 24 | 12 |
| Support                            | 17 |    |
| Information & resources            | 14 |    |
| Advice & guidance                  | 13 |    |
| Providing safe working environment | 11 |    |
| Ergonomic assessments              | 9  |    |
| Healthy lifestyle rebate           | 6  |    |
| Policies                           | 4  |    |

- 1. stand up desks
- 2. Ergonomic assessments
- a listening ear
- Act on and fix issues, offer support when needed.
- Actively involved in OSH checks. Review of incident reports. Always available.
- Advice
- Advice and guidance
- advice and support
- Advice for construction works & contractor safety management
- Advice on injury management is key
- Advice when needed.
- Advice, knowledge, training, direction, support
- Advice, training, contractor and staff OHS management/induction, developing policy, identifying priorities for OHS to address issues, advocacy and communication on OHS issues
- Always available, always gets back when you have a question
- Always shown a willingness to support me in all aspects of OHS.
- Always there when needed.
- Answers questions
- Answers questions if I have any.
- answers relevant questions
- Any OHS matters are addressed quickly, so I can inform staff/contractors of appropriate actions
- Are available on request
- arrange ergonomic assessment
- As noted above.
- As above, workshops, healthy lifestyle bonus ect.
- As above. I rarely see them so I don't really get any obvious support from them. Although I am sure they do work in the back ground in keeping me safe,
- As I say very little contact to date.
- As previously stated I have never had any need for their direct support, however I note they attend meetings and provide updates.
- Assists with training of staff and OHS risk of COP facilities.
- At present none
- At the depot, having an ohs member on site, gives greater assurance that issues are being seen to
- At the end of the phone. Support for major incidents involving customers and staff.
- Attendance at meetings to assist
- Before and during my projects. Managing staff and information.
- Briefing on processes related to my team
- by answering any questions and providing information as required. I haven't had the need to receive support from OHS
- By assessing and reporting any identified risks or hazards, and helping with plans to combat them.

- By being available, and informing of upcoming training and changes to procedures.
- By developing safety and health policies for our work environment and having a reporting method available if an issue should arise.
- By ensuring the workplace is safe and help is accessible when needed.
- BY GIVING TRAINING
- By monitoring my workplace.
- by providing a safe working environment
- By providing advice and the ability to communicate with them when needed.
- By providing fire and safety wardens for each floor
- By way of ergonomic assessments and training opportunities. The latest I attended was around building resilience and I found it useful.
- Can go to them with issues
- Communicating policies
- Communication and updates
- communication through SHREP responsibilities, ongoing discussions regarding OSH improvements. Always willing to listen and adopt feedback!
- Contracts
- Creating a comfortable working environment.
- EAP
- Ensuring a safe & healthy workplace
- Ensuring any injuries are well managed
- ergonomic assessments.
- Ergonomic assessments. Lifestyle rebate. Responding to OSH issues/reports.
- Face to face and various other ways
- Fast response time to inquiries.
- General
- General advice
- Guiding us about what to do in case of an issue regarding our safety
- Happy to answer questions if called
- Have always responded to me in a timely manner, offered help and support even when they didn't need to, gone above and beyond
- Health & Wellbeing Program
- Health and wellbeing benefits
- healthy lifestyle rebate
- Healthy lifestyle rebate.
- Helpful training such as Mental Health First Aid, safe working environment such as ergonomic furniture etc
- I can go to them if I have an issue and they will respond in a timely manner.
- I have had OHS training & First aid training.
- I know they are there if I need them
- I know where to find the various forms and procedures when I need to.
- I require a new chair and they are arranging this
- I see the programs on the intra net and they attend unit meetings
- I suppose they are a point of contact regarding OSH issues and what we can do.
- If and as required.
- If I have an issue or perceived that there could be an issue I bring it to their attention so that they are aware of a possible problem.
- If I have any questions the OHS team is prompt to get back to me.
- If I raise a issue, they are quick to address it.
- In Many ways, too numerous to mention
- Induction
- info and in person
- Information at the job training.
- information sessions
- Information when required. Assistance in application of essential protocols.
- Information, training
- Intranet, posters and emails.

- It doesn't
- Keeping the work place environment safe.
- Keeps us informed of available options available through CoP.
- knowledge and training
- Listen to safety issues
- Listening to our concerns
- Make procedures for a safe work environment, think before you leap
- Massaging & safe practices in the workplace.
- Multiple opportunities for physical activity and mental health support
- Not directly, periodic advice
- Not sure they have, who is the team?
- Nothing at this stage but just knowing they are there
- Occasional support for contractor inductions and health and wellbeing
- Offering advice when needed and responding to requests for assistance
- OHS reps
- Intranet offer of services and courses and training
- One to one basis is appreciated
- OSH training, Risk Assessment, Support, return to work program, Workers Compensation.
- our on floor rep is great. but do not receive/or are aware of any wellness extras. support project delivery in the city.
- Passive - there if needed. Not active.
- Process my healthy lifestyle claim, organize programs
- provide adhoc wellness workshops
- Provide an onsite ohs rep
- Provide training on OHS requirements for Contractor management
- Provides advice when needed, investigates any incidents.
- provides classes ie - dealing with stress etc
- Provides easy access to training and ensures a regular presence so we feel we can reach out to them
- providing documentation
- Providing opportunities to engage in health and wellbeing sessions. The City is not a healthy place to work at the moment so this helps me stay well. As do my Manager and my team.
- providing safety comments in general and to projects
- Providing Training
- Regular check ins for day to day issues.
- Regular close contact with employees and provide pamphlets regarding to the OHS related.
- Regular information bulletins from ohs reps.
- Regular reminders and promotion of other services & training.
- Reported at staff meetings
- Resources, such as training.
- Resources.
- responding query
- Responsive to issues raised
- responsiveness to questions, monthly report
- Review of contractors safety procedures. Health and wellbeing
- Review of pre-employment medical assessments.
- Review tenders/JSA/site inductions/general advice
- Reviewing Contractor SWMs and safety documentation
- Reviewing tender submissions. Providing templates for officers to conduct health and safety related tasks.
- Safe haven
- Safe workplace
- Safety analysis
- see above
- self development, health and wellbeing
- sol is very helpful
- specific guidance to assist with managing team
- Supporting a safe work environment

- Swiftly responding email
- the \$120 rebate for partaking in healthy activities.
- The assist with any safety issues at queries I have in regards to the outside workforce. They are very helpful and always assist where possible.
- The constant workshops and training provided in the mental health space.
- The don't.
- The OHS team has provided me with healthy activities to minimize stress e.g. fitness and nutrition programs as well as other assistance to minimize back pain e.g. standup desk.
- They are always willing to assist with any query or issue arisen and find a solution or answer to it.
- they are available all the time when we need them
- They are good when concerns are raised regarding eqy
- They are there if needed.
- They assist when I have an OHS question.
- They do not support us
- They don't
- They don't
- They ensure the working environment is safe from physical and mental health risks
- They exist
- they have not provided any support to me
- They have supported me in numerous ways. They have assisted with providing me with financial benefits for when I bought glasses and the health repayment scheme is fantastic. I bought a gym membership with this annual fund. They have also performed ergonomic assessments for me team and taken responsibility to action anything required - making it a top priority to address and acting very quickly. I was also lucky enough to undertake mental health awareness training that the team initiated. I work with the team frequently on JSAs and they are always very helpful.
- They help with document reviews, project start ups and inspections, reporting etc
- They just look after the council
- They respond very quickly to any questions I have, documentation is easily accessible and well written
- They were very good in explaining changes to our team's level of tolerance for drugs and alcohol. They also provided clear guidance when we had a near miss incident and had to lodge a report.
- Through access to services and through the OHS reps.
- Through answering my queries on staff wellness programs
- Through providing the wellness programs and the mental health training courses that have recently been conducted.
- Through training and the health and wellbeing program.
- Timely response to all enquiries
- Training
- training
- Training
- Training
- training
- Training
- Training and information
- Training and support to Emergency Management issues. Massage and health checks. Work station assessments.
- Training and wellness programs
- Training courses, programs offered.
- Training staff/ safety inductions/investigation of incidents/implementing improvements based on the learning from our experiences/managing the return to work process/providing detailed reporting on safety stats/really contact to see how we are doing and how the OSH team can support our staff
- Training, access to wellness opportunities
- training, health and well being
- Training, keeping my work environment safe.
- Updates from representatives
- Very slowly
- When I have had an issue they have been very supportive
- When I have made suggestions for improvement, they show due consideration

- With a rep??
- with consistent policies
- With reports for the events team mainly
- Working within frameworks when engaging external consultants contractors etc
- Workshops
- Writing SWP's and assisting with incident actions
- Yes
- Loads of paperwork to look at
- We do not see enough of them to be able to answer that
- Training
- Safety data sheets, manage injury
- Providing an environment that permits me to do my job
- Not aware of any support
- Getting you fit for work and seeing doctors etc ASAP
- Chemical awareness
- By providing a safer work place

#### 81. What other feedback can you give about the function?

# responses = 98

| Theme                 | #  | %     |
|-----------------------|----|-------|
| ++ positive responses | 43 | 43.9% |
| They need more staff  | 8  | 8.2%  |

- A number of new processes and reporting mechanisms were developed in the last year. It was good progress, but it seems like the process wasn't quite finished. The CM filing system for these documents is still a bit confusing--or at least it is not intuitive.
- a small team doing a great job/these guys care
- All good
- all OSH discussions have been facilitated by HR reps, who do not seem to live by the City's values
- as above
- Based on the organisations size here at the City and workforce numbers for the size of team OHS are I feel they do a great job.
- Beside the 'dodge' admin mentality. They are passionate about OHS and very friendly.
- Colleagues who have received support by OSH provide positive feedback and those that provide negative feedback generally whine about anything anyway
- Come down harder on units which continually flaunt safety policies and procedures
- Find fault with the person rather than the actual event
- Functions well
- Generally performing well
- Generally their performance (OH&S) only has been a key to providing an essential service to assist performance of staff. The internal maintaining of their own staff and retrospectively retaining experience and knowledge has had impact on the City functionality.
- Generally well run
- Give back the team sports, the entry to running events. The need to keep our body active. Its us having to pay for everything. The yoga we pay. Its a benefit they offer it... My gym does it too.
- Good
- good overall
- I am very happy with city of Perth policies and procedures.
- I believe the City of Perth provides the best trainings to staff although the staff may take it for granted. Unfortunately there are many staff with the worst possible attitudes working for the City for long time and nobody performance managed them. They were just so lucky to abuse the LG system (off sick, lack of management), they are not respectful, committed, engaged and are not utilised. unfortunately these behaviour are seen in directors/managers levels. most of the staff don't bother to be engaged and they have no hope for future. I don not consider the City as safe place to work (in regards with mental health) with as there are many offences from people who have power to bully staff. New staff have only two options to change themselves to the current City system or leave.
- I can only suggest for the workers to have a balance family life and work arrangement to be put in place
- I don't think a lot of staff are aware of the difference between OHS and HR.....plus used to be the same team.
- I don't understand this question. The function of OSH team is to prevent injuries and I believe they do offer training and a safe working environment for all staff - physically. Some areas are not so safe mentally.
- I feel that OHS team is doing a fabulous job
- I think other employees take up a range of opportunities provided by OHS
- I think the officer is excellent and very thorough and I think the first aid for mental health training is excellent
- I think the OHS team are doing the best they can in the current environment.
- I think the OSH team is under resourced and they need more staff to assist the current team
- I think we get enough feedback.
- I would like to see this team be upgraded by appointing a Manager of OHS as a structural change providing ownership within the organization.

- In the limited crossover I've had the team has been useful in managing and reviewing contractors safety measures onsite.
- improvement
- It is always quoted that documents only take 5 to ten minutes but that adds up. Where does this end and is it saving lives?
- It may need beef up its resources
- It's a difficult task which has improved over the past 24 months. There is a corporate calendar of events which aims to cater to all staff and the staff have been very involved in safety. Now I think they need to focus a little more on the staff health (mental and physical)
- It's a great unit, and would love to work with them, they are a team that should be proud of themselves
- It's good
- Keep promoting the message of mental wellbeing to senior management. You are doing a great job of promoting awareness and hopefully, one day, the message will be translated into actions.
- keep up the amazing work ohs
- Keep up the good work
- Keep up the good work
- Keep us updated at all times
- More funding needed
- more information on wellness program
- more staff in this area is required
- My experiences with OSH have been positive (healthy lifestyle reimbursement, training and ergonomic assessment).
- Needs more people
- Needs more resources. Seems a lot to deal with between each unit not a lot of current hands on deck to support the team at COP. Current team stretched thin.
- Needs to apply to all staff
- Not just attend a meeting every so often for the sake of it. Present us with some background information that assists us.
- not much, had an incident last year where a staff member fell down stairs and broke her ankle, OHS staff wanted to just call a taxi, send her home and told her to see her GP when she could. A staff member had to stand up for her to get her taken to hospital to have it checked out.
- Nothing positive
- OHS function has been elevated since moving into DCM.  
I believe it is time to take OHS out of DCM and elevate it higher in the structure or back to HR always responsive. highly knowledgeable.
- OHS team perform well
- OSH are always available to provide advise on safety matters
- OSH show the importance of safety and remind us of it all the time.
- OSH team knowledgeable and approachable.
- provide clarity about employee entitlements
- Provide new ideas for better service acceptable for all.
- Really happy overall, just not sure of the extent we can go to them on mental health risks.
- Safe work spaces including storage spaces
- Smallest OHS team to team members (compared to other companies I have worked for)
- Sol looks to be overworked.
- Staff resourcing should be considered due to workload
- The current team are knowledgeable in their field.
- The importance of OHS in the workplace needs to be better promoted and should have a key spot on the intranet page.
- the need to communicate to colleagues regularly
- The OHS team has started work on improving the City's systems and Safety Culture from a very low base compared to industry. They will continue to improve the City's performance with continued support from all staff.
- The OSH personnel should be allocated time to investigate prevention & elimination time for OSH rather than just auctioning & investigating incidents.
- The staff in this team have always been so great to deal with, approachable and friendly.

- The team are good, friendly and do their best. The focus from top down does not seem to rate the importance of the role of OSH and this probably hampers their effectiveness.
- The team is very proactive and helpful.
- There are so many policies, procedures, checklists and systems. The OSH processes seem unnecessarily complicated. Surely a simple checklist or an updated OSH handbook for the whole organisation would be more user friendly approach.
- There has been noticeable improvements in safety over the last 2 years which can be evidence by the statistics, better management of accidents and incidents and better safety awareness promotion.
- They are doing a great job.
- They are wonderful and should be appreciated. If there are gaps in OSH, it is because managers are not complying to the rules.
- They come across as accessible
- They do a good job, I feel safe at work, and fee the City cares about my wellbeing
- They have advanced OSH at the City of Perth
- They need extra support.
- They need more experience for onsite and electrical hazards
- they need more staff
- They need to introduce the team and have a monthly flyer on the intranet.
- Think the role of the OSH team needs to be more defined and clearly communicated to staff.
- To support workers and concerns
- To support workers and their concerns
- used as a means to stop things happening.
- Usually very helpful and solutions focused
- very important area
- Very visible team, always promoting new training opportunities
- We have a well balanced OSH team with a good knowledge of the industry and environment.
- Well if a house was to made safe according to a fire inspector then it would be unlivable, I think there has to be a compromise between safety, rules and actually getting the work done.
- wellbeing benefits and how to access these are not well communicated
- When I raised an issue, it was months before it was actioned and only then because I re-raised the issue with the team safety officer.
- With my limited exposure, they have been helpful when I have asked questions
- To step out of te office and see what's really going on
- Too much blame to individuals if something goes wrong. Support and understanding gets lost. Fear is not a control
- The person who is a star performer and a excellent assett to the city is John Svensson
- Realise that workers are human and accidents will occur

## Human Resources

### 82. What do you see as the key priorities of Human Resources at City of Perth?

# responses = 273

| Theme  | #  | %    |
|--|----|------|
| Supporting employees                         | 76 | 27.8 |
| Recruitment & attracting top talent          | 70 | 25.6 |
| Dealing with grievances, issues & complaints | 40 | 14.7 |
| Processes, systems & procedures              | 25 | 9.2  |
| Providing training                           | 24 | 8.8  |
| Being fair                                   | 22 | 8.1  |
| Providing advice                             | 21 | 7.7  |
| Being confidential and trustworthy           | 19 | 7    |
| Promoting organisational culture             | 15 | 5.5  |
| Supporting performance reviews & management  | 11 | 4    |
| Ensuring a safe workplace                    | 11 | 4    |
| Dealing with bullying issues                 | 10 | 3.7  |
| Ensuring compliance with legislation         | 8  | 2.9  |
| Payroll                                      | 6  | 2.2  |

- Administration of established positions and their current occupancy details
  - Analysis and reporting
  - Employment contracts, conditions and disputes
  - Industrial relations
  - BU communication
  - Legal compliance
  - Personal support re: individual employees
  - Recruitment
  - Risk management
  - Rules and culture
  - Staff assessment, job design, performance, remuneration
  - Strategic role in the business
  - Termination of employment
  - Training
- -ensure the city complies with all employment legislation
- -support recruitment processes
- -assist with resolving grievances
- 1. Attracting top talent - Attracting the right people for the right job is obviously a top priority for HR, but it's not just about getting talent to join your organisation. You need to know how to engage and retain them, help them to grow as an employee and remove elements that may cause them to leave.
- 2. Nurturing employee engagement & company culture - There are many ways HR can help to improve employee engagement within a business; some of the strategies are low cost (or free) and will also improve productivity and employee happiness.
- 3. Improving employee wellbeing - Employees are now more conscious of their own health and wellbeing than ever before. With increased awareness among employees, employers now need to consider monitoring, identifying and treating such wellness concerns in order to maintain a healthy and efficient brand.
- 4. Increasing productivity - Ensuring that you're getting the most from your employees is paramount to achieving your brand's goals and growing as an organisation. HR departments can have a positive influence on employee productivity in a number of ways; these ideas are all in plain sight " part of everyday office life " and, in some cases, are easily achievable.
- 5. Encouraging teamwork & collaboration - Collaboration is essential for business/organisation success.

If your employees find it difficult to work as a team and communicate, then productivity and efficiency can suffer greatly.

- 1. Putting in effective and efficient processes, systems and software solutions;
- 2. Effective, centralised workforce/recruitment planning, tracking and budgeting;
- 3. Establishing a consistent level of service and application of policy and procedure
- 1. Support employees
- 2. Be an advocate for employees
- 3. Keep up to date records of leave entitlements, staff details, etc
- 4. Recruit new staff
- 5. Manage policy and procedures and ensure they are user friendly
- A fair and confidential service, where you feel safe to talk without prejudice.
- A stable HR Team which is adequately resourced and motivated.
- Accurate recruitment, wellbeing of all staff, support when needed
- Acting as a mediator between council & employees
- All aspects of HR services and issues.
- All aspects of the employee lifecycle.
- An employee's well being
- Appropriate staffing, adequate resources to teams/consultation with correct staff
- Appropriate training of staff.
- Dealing with staffing issues/grievances.
- Providing employment opportunities for a diverse range of people.
- Being proactive/implementing initiatives to enhance health and wellbeing of employees in the workplace.
- Retention of staff.
- Ensuring same rules apply across the organization.
- Answering staff questions and assisting as required.
- Assisting all staff
- Assisting to appoint appropriate personnel who not only have the technical ability but have good communication skills, team players, fair and respectful.
- Facilitating training opportunities for staff.
- Assisting employees to deal with unpleasant work situations or management issues.
- attract top talent, development, wellbeing, encourage teamwork, motivation.
- Balancing the needs of the organisation (financial) with the demands of our stakeholders whilst ensuring staff have a safe workplace.
- Be a conduit between employee and management
- BE FAIR and LISTEN
- Be more efficient and performance manage the staff who they are not performing or dealing with mental health issues.
- Being accountable, consistent, trustworthy and open.
- Being there for staff and assisting them independent of managements influence
- Being there for people, not just managers
- better communication level
- Better Communication of City Ethics, Values, facilities, policies and procedures.
- Better culture
- better relationships with employees
- BY HELPING THE ALL EMPLOYEES
- Changing the perception that they are only here for the Management. They should be here for the staff
- Clear and effective policies and processes to inform and upskill all employees in all matters regarding Human Resources.
- Communication to all staff not just managers and directors
- Having control of city workforce plan
- Advising managers to better recruit staff
- Competing for and securing good talent
- Confidential support to all staff. Ensuring all staff are treated equally no matter their role
- Confidentiality within the workplace of anything pertaining to an employee.
- Delivering an HR service to the City and supporting both managers and employees in employee matters
- Delivering HR services

- Effective and efficient human resource management.
- Effective employees
- Effective management who listen/communicate well with staff.  
Being able to communicate an issue with confidence and hopefully confidentially.
- Effective onboarding, increase staff retention, provide a safe place and person to deal with if things go haywire
- efficient recruitment
- Embedding the values into the organisation and ensuring they communicate with staff honestly.
- employ more staff
- Employee recruitment and support. Payroll. Equal opportunity. City Learn
- employees
- Employees relations, wellbeing and sorting out any employment issues.
- Employees, payroll & relations
- Enabling a comfortable and fair work environment
- Enforcing behaviors at Executive level ensuring all Exec members model productive behaviors and model values
- Ensure a fair and compliant framework exists for staff recruitment, onboarding, performance and outgoings.
- Ensure that the appropriate induction and HR management of all employees with suitable processes and procedures
- Ensuring a safe workplace  
Providing unbiased HR advice to employees no matter what level they are on  
Provide clear recruitment policies and guidelines and ensuring that they are adhered to across the board  
Providing support to employees and following up on concerns, complaints etc  
Ensure employee relations are maintained and accurate  
Provide confidential advice and support as required
- Ensuring all staff are treated equally & with respect. Providing adequate training and direction for new staff. Handling all complaints respectfully and efficiently
- Ensuring employees are taken care of, know their rights and responsibilities
- Ensuring employees are treated fairly
- Ensuring staff happiness
- Ensuring staff issues are managed in accordance with policy
- Ensuring that all legislative HR requirements are adhered to.  
City HR policies and procedures are adhered to.  
Recruiting and retaining skilled professionals.
- Ensuring that the corporate policies and procedures are being administered in a fair and consistent manner across the organisation. Being an intermediary between staff and management. Promoting positive organisational change and culture. Taking action where required to ensure a safe and healthy workplace.
- Ensuring that the human resources in the organization are properly recruited, properly trained and help maintain people's commitment to the organization through career progression and development.
- Ensuring the quality of the work environment is maintained
- Fair and equitable practices. No more nepotism
- fair and transparent recruitment and complaints/whistleblower processes
- Fair work practices and policies across whole organisation - too much down to ind managers discretion  
Career progression paths, secondment opportunities and training nd development -grow people as assets to organisation and reward those who work hard  
Clear practices to get rid of bullying esp between supervisors/managers and individuals
- Fairness and guidance
- Follow the regulation  
Communication  
Provide support to employees
- for staff to feel welcomed to come and raise any issues with them and have trust in HR that they will be investigated correctly and rectified
- Get good people
- Giving all employees a fair go and as a support structure to employees
- Grievances, keeping record of confidential material, recruitment

- Have an HR policy that's included in the City Policy Manual and have a transparent recruitment policy that's free of bias especial for positions filled by internal candidates. Current internal position recruitment system is full of favoritism, bias and nepotism. It's to say the least disgraceful and corrupt.
- haven't been in the organization very long to comment
- Helping Employees
- Hiring new staff, keeping the old staff happy.
- Hiring Staff, leading and maintaining equal workplace opportunities, building HR structure and framework to support consistent working environments and treatment of staff, continuous improvement through learning and development opportunities, staff evaluations following termination or departure of employment and action upon that advice and feedback
- HR should be the hub of HR support for the organisation but I have found dealing with this particular unit challenging in so much as issues are pushed back on (already frazzled) managers to deal with and there is no consistency in service: i.e. having to call 5 different extensions and no response!
- Human Resource Management
- Human Resources need to be empowered to act accordingly when presented with issues.
- I see them prioritise mitigation strategies, I would like to see them prioritise more regular contact with staff before crisis or issues arise.
- I would like to see a major improvement for staff onboarding - I know work is already in place for this area. Easy access to ALL CoP Policies and Procedures in one place. Trying to find a Policy is like looking for a needle in a hay stack - very illusive and often can't be found. Even by the HR Team!!! or so out of date its a joke
- I would like to see that they be there for staff, assisting them in times of need, to be confidential in matters - have staff members backs.
- **REDACTED – Respondent identifies himself by name.**
- Improve on current fractured relationship with staff noting the never ending 'restructure'
- Improve the morale for employees.
- Improving organisational culture, holding executives accountable for improving organisational culture, compulsory emotional intelligence training for ELG. Recruitment of executives who are focused on the value of human resources as opposed to being fixated on the financial element of the business. Local government serves the community, too many management and executive positions have been filled by people from private enterprise where the mighty dollar rules. Of course we need to consider how we best serve our community with a diminishing income base, but we want to inspire and encourage creativity, finding new and exciting ways to generate income. We can't inspire creativity and innovation with inflexible working arrangements, a blame mentality and a rigid approach to outcome delivery. We need to employ leaders who are people focused, who value their diverse employees, only then will we start to see high levels of authentic enthusiasm and passion, followed by creativity and innovation! A key part of improving organisational culture is ensuring the treatment of employees is consistent where appropriate across the organization, for example access to flexi time and flexible work arrangements.
- Inducting new employees, providing relevant training, ensuring policies and procedures are clear and followed, supporting staff, clear grievance and complaint processes, accessible information.
- Information
- Interaction from staff and knowledge base.
- Interpretation of employment legislation; development and maintenance of company policies around remuneration, benefits and entitlements; advisory and training function for employees and management. Communication and training around policy and process relating to employee relations. Maintenance and accuracy of employee data (names, contact details; employee salary details) and organisational management.
- IR, new city employee initiatives ect, the City recruit some great talent but we are unable to retain it.
- It deals with the hiring, administration, and training of staff as well as assists with the organizational development.
- Keeping all duties within the organization fair and adequate with all city of Perth employees.
- Key priority is giving information to all employees for any job opportunities for those who want to new career in city of Perth.
- Look after staff at the City. Provide a link between management and staff, if required.
- Look after staff conditions

- Look after the employees
- look after the staff and not just the city of Perth corporate
- Looking at individual salary for different positions
- Lots of recruitment
  - Ensuring they are providing a quality service as they are being reviewed
- Maintain the employee lifecycle functions of the organisation
- Make sure employee know their benefits.
- make sure enough workforce is available to serve the needs of the city
- Making a fair and equitable workplace free of nepotism and making opportunities available for all staff especially those qualified for certain positions but are taken by persons who don't have same qualifications and have criminal records
- Making recruitment a streamlined positive process and being available for advice to staff and Management
- making sure that we are looked after
- Manage employee contracts/remuneration/etc and point of contact for workplace issues (eg. bullying, etc).
- Manage employees best interests
- Manage the hiring of employees at the CoP. Keeping the employee records up to date. Arranging any training and development that is mandatory within the CoP.
- managing staff
- Managing the recruitment and on-boarding processes seamlessly
- Managing resources, and providing advice & support to staff
- Mental health of employees and ensuring work life balance would be a top priority considering the statistics of stress leave and mental health issues in the workplace. Ensuring staff feel safe to approach HR and are confident of the anonymity and confidentiality of concerns raised
- Mentors employee teams that address philanthropic giving and employee engagement activities
- Retaining good employees
- Dealing with less effective supervisors
- Most HR communication appears to be at Manager level
- not been here long enough to provide comment
- Not very clear on that one ?
- OCM
  - strategic planning
  - talent management for career progression
  - policies and procedure review
- On boarding, employee relations, assist in settling disputes, return to work programs, agreement negotiations
- On-board staff in a consistent and INFORMATIVE approach
- On-going support to staff
  - Make process, procedures, policies and forms well communicated and accessible to staff
- On/Off boarding processes in particular. But also streamline key processes to make them simpler, faster, accessible and automated where possible. This will provide benefits throughout the City.
- organisation management
- Pleasing directors and managerial staff
- Private and confidential
- Processes in place aligned to policies and procedures to ensure consistency of service delivery across the business.
- Professional advice on recruitment. Dealing with employee issues such as bullying.
- Protecting the interests of the CoP.
- Provide a unit that supports all employees equally
- Provide assistance to understand work policies
- Provide expert, consistent and accurate advice to all staff across the organisation. Facilitate a safe and protected environment for staff to enable them to carry out their jobs.
- Provide Human Resources function - unhelpful question?
- provide more information about intended changes to work conditions and implications

- Provide support & advice to staff around HR issues (pay & role responsibilities, EBA entitlements, leave entitlements, behavior/bullying/grievances).
- Provide support & advice to managers around recruitment.
- Provide support and advice to do with employee well-being
- Provide support to all staff, assist in the maintenance of retaining experience and knowledge in recruitment. Ensure that protocol / process and procedures are delivered with clarity throughout the organisation to staff and management. To be a confidential unbiased based tool for staff to liase their concerns. Ensure that nepotism, bullying, silos within the organisation, staff morale, recruitment and retention are properly addressed and that changes being implemented within the organisation are effective and not impacting negatively on staff and the services that are provided for the public.
- Provide support to managers and employees in relation to the HR function
  - To be available and approachable to the workforce
- Provide support to staff and help their growth and commitment to the City
- Provide support when employing new staff.
- Provide support when needed
- Providing consistent, prompt and clear guidance in relation to HR matters.
- Providing open and efficient recruitment services, ensuring a safe and comfortable workplace, providing clear unbiased internal grievance and complaint services and offering a range of services/benefits to retain staff
- Providing professional advice and guidance to staff and ELG
- Providing staff with an appropriate level of support. Trust in HR has been diminished in recent years and it is clear that HR is here to protect the organisation, not its employees. Many staff have been bullied out of their jobs, the correct HR processes have not been adhered to and many staff who have left in this manner have been refused exit interviews. On occasions where exit interviews were conducted, it appears that the information provided was not passed on/acted on.
- Providing support and advice to the organization
- Providing support and training for front line managers
- Quality control in getting the right candidate for the right position;
- Review and Implement a effective org structure
- Recruiting and managing staff
- Recruiting and rewarding employees and helping for a good relationship between employer and employees.
- Recruiting employees(staff/Managers/Directors)and ensuring panel members sign a form of pecuniary interest prior to conducting the interview. This in turn will avoid the cracks in the system, if any.
- Recruiting new staff and assisting existing as required
- Recruiting staff and assisting with resolving any conflict in the workplace
- recruitment
  - employee relations/union
  - injury/workers compensation
- Recruitment
  - HR Policies
  - Advisory
  - Workforce Plan
- Recruitment and keeping people in jobs
- Recruitment and retaining of staff, learning & development, providing support for grievances and complaints
- recruitment and retention of staff
- Recruitment of competent staff who will assist in building positive culture - especially important at leadership level
- Creating positive culture
- Recruitment of suitable staff. adopting polices of equal opportunity. Dealing with complaints or issues among staff and or management. developing staff performance review policy.
- Recruitment supoort
- Recruitment support and providing day to day human resources support and advice if there are issues with staff. Dealing with bullying and behavior complaints.
- Recruitment, administration, support
- recruitment, employee welfare

- Recruitment, grievance issues and managing staff
- Recruitment, induction, advice ,ER, OD and L&D
- Recruitment, on boarding, performance management, EBAs, employment benefits, workplace culture and employee engagement.
- Recruitment, support, Guidance, Policy, Compliance, Training.
- Recruitment, Training of Staff, Supporting Existing Staff
- recruitment, training, inductions, followups
- Regaining the trust of staff in dealing with employee relations matters.
- Assisting in recruitment of staff.
- Developing training for staff.
- regular meeting with staff for their performance shaping
- Representing staff, advocating and supporting
- Resolving complaints without the lip service.
- Recruitment.
- Resolving contract issues.
- Retaining competent staff and developing staff abilities
- Retaining long term staff. Once they are gone their knowledge goes with them.
- safe, fair and equal employment for the City. Workers compensation investigations. support for employees.
- servicing managers only
- Silencing people who complaints
- Simple processes to follow for all staff members across the City of Perth.
- Software systems are poor and outdated- badly needs upgrading.
- stabilizing the work force
- Staff are enabled to provide the optimum level of service to the City's rate base and visitors to the city.
- Staff attraction, retention and recruitment. Building a positive culture. Organisational training and development. Performance shaping and management.
- Staff planning and support, overall strategic direction
- Staff Retention, Consistency, Maintaining Confidentiality
- Staff support and welfare some staff have been treated very poorly in the last 2 years example mark glenny shame
- Staff welfare
- staffing levels, return to work and dealing with staffing problems
- Streamline HR processes
- support for all staff
- Support performance management
- Support staff for all position related issues.
- Support staff. Be aware of bullying and do something about it. But I suppose until someone reports the actual bullying, they can't do much about it.
- Support the employees of the City as well as assist in recruitment process
- Support with employing the right person for the job.
- Supporting and providing advice to employees.
- Holding people to account who are repeat offenders making the working environment difficult.
- Supporting employees and employers achieve and maintain a sustainable and effective working environment
- Proactive addressing of issues affecting the above
- Develop and maintain trust in employees to represent and support them when needed
- Supporting staff through change. Gathering accurate data on workforce numbers and skillsets
- Supporting the staff in all HR issues.
- Systems update, more staff support
- Take care if wages and listen to staff
- Taking care of staff and management in a timely manner. Identify areas of concern in business teams and lack of performance and staff engagement. There is a lack of accountability by some staff.
- Telling the truth, not siding with management constantly
- That best people are recruited for the positions advertised, address bullying and intimidation immediately with very little or no tolerance for those that are the perpetrators, ensure a safe work

environment, tackle issues directly with the executive where their possible behaviour is a contributing factor to a bad workplace.

- The key priority would have to be retaining key talent which is a huge challenge especially without inspirational leadership from the top ie CEO and Commissioners.
- They are the backbone of keeping the City running from pay, to training to general well being of staff
- they are very busy with employment commencements and departures to be doing any thing else of any importance. the staff turn over is ridiculous and im sure they dont have time to address other issues that come up.
- They see to want to cut conditions rather than work within the system
- Timely responses
- Timely responses to employee requests for assistance
- Briefing employees on HR processes and policies
- Supporting staff wellbeing
- To assist all staff equally.
- To assist in recruitment of appropriately skilled staff, provide advice on position descriptions, performance and related staff issues.
- To assist staff on all matters
- To assist staff with issues
- To assist with HR governance. In regards to hiring new employees, conflict resolution. TO be able to expertly give advise on legal HR matters.
- To attract the best possible employees to the City.
- to be confidential, to be a neutral party, to provide support, and information regarding your employment. To action and feedback on requests.
- To bring back a better culture
- to carry out performance reviews and follow up
- To drive ELG to create meaningful and achievable corporate goals, provide clear direction to units and prioritise initiatives so that workloads are achievable.
- To ensure that a cross section of the community has the opportunity to work for the City and that these people are the right people that will uphold the City's values.
- To fill vacancies
- To get onboarding and offboarding correct.
- To have available the resources staff seek about their employment (position and conditions). Assisting staff when in need.
- To help employees with any problems.
- to help staff
- To look after and engage all staff no matter the level. It is imperative all staff are treated the same and given equal opportunity whether level 1 or level. Staff should be made to feel comfortable and at ease with any queries related to employment, wages or workplace environment.
- To look after pays leave and major discipline procedures
- to look after the welfare of staff and mediate "fairly" in issues regarding management are raised
- To maintain a healthy workplace and look after their staff and not allow nepotism to take over the City Of Perth
- To make sure staff are paid correctly and entitlements are received as well as supporting staff with HR matters, approaching the service from a customer service angle and not just an internal function angle.
- To manage personnel at City of Perth
- To manage staff recruitment, leave, pay etc.
- To manage the workforce and spot and rectify issues that arise.
- To protect the City as an organisation
- To protect the City of Perth from legal action.
- To provide a safe and fair workplace.
- to provide and monitor fair employment and hiring conditions
- To provide assistance in staff issues and recruitment, have clear policies and procedures, provide equity throughout the organization.
- To provide general Human Resources function, to assist with the employment of new staff ,to be able to provide prompt feedback and responses to HR queries.
- To provide support and guidance in the management of resource ensuring that all policies and procedures are maintained, and that all employees are treated equally

- to provide support for all HR functions (recruitment, restructure, training etc)
- to provide support to staff
- To provide support, trust and confidentiality to staff
- To recruit and provide programs to retain staff. To support manager and staff with employment advice and to provide training to further develop the skills of the workforce
- To reestablish themselves as the experts of HR instead of being dictated to by others who make bad decisions that impact HR
- To requite employees on merit not on who they know or recommended by
- To support staff at all levels and ensure fair and consistent work practices are in place and followed.
- To support the workforce and to be a resource that employees can go to if they are having issues with line management or bullying that can't be resolved through direct discussions
- to train and therefore avoid situations where injury could to colleagues and public
- To uphold the City's values and to encourage a positive culture throughout Council House. To empower our people.
- Tracking everybody working at COP (including agency and contract staff). Supporting staff and managers in HR issues. Being readily accessible.
- Training, support, advice and recruitment.
- Trying to keep morale up and ensuring the Organisational Values are lived.
- Update the PD correctly to reflect the goals and vision for the team (my PD does not and reflects the structure from about 18months ago); properly investigate and take action when the supervising manager displays appalling manner of interacting with his team members and speaking poorly to them repeatedly, and manager not having a vision or communicating effectively with the team; properly budgeting for essential training for team members (I identified what I highlighted as essential training but was advised that the manager had not put sufficient funds in the budget so was unable to do the training)
- When personal issues come up, they should show Respect and confidentiality
- Fair work conditions
- Treating all employees equally
- To provide assistance to employees
- To look after the workers and have the workers best interests in mind. I think HR side more with the best interests of management
- To keep people happy and healthy
- To implement upper management agenda. To discipline staff
- To employ people. To help with grievance
- To act as an approachable interface between the workforce and management
- Sort problem workers out fairly
- Recruitment, training, retention
- Recruiting
- Providing an up to date service that takes into consideration the city and the employee
- Provide a fair and equitable workplace. A workplace where people can succeed in acquiring their goals
- Picking the right person for the job
- Mental health issues. Understanding!!
- Looking after the city of Perth
- I hardly go to them
- Discipline

### 83. What do the HR team do well?

# responses = 202

| Theme                                 | #  | %    |
|---------------------------------------|----|------|
| Recruitment                           | 25 | 12.4 |
| Training                              | 20 | 9.9  |
| Learning and development              | 17 | 8.4  |
| Being friendly and showing compassion | 13 | 6.4  |
| Providing advice                      | 12 | 5.9  |
| Being approachable & available        | 10 | 5    |
| On boarding & inductions              | 7  | 3.5  |

- Accessing training programs for staff.
- Assisting in recruitment processes.
- Provide advice and guidance in the handling of ER matters.
- Act upon issues speedily
- activities involving recruitment, hiring and training of employees and employment benefits.
- Address concerns, provide good advise and help
- All of the above
- All ways friendly
- answer queries
- Appear to be more willing to support employees if they have grievances
- Approachable
- Approachable and helpful
- Tailored service to business areas
- Personal service/advice to managers/supervisors re HR processes and matters
- As mentioned above.
- Assist in the recruitment process.
- Assist with recruitment
- Assisting with interviews. Don't have much to do with HR any more as my role has changed. But they are always willing to answer questions.
- At the moment, nothing.
- At times recruitment, give help when requested and an ability to listen.
- attract top talent, development, wellbeing
- availability to assist
- be available for any questions in the HR space.
- Being accessible for advice.
- Change communication and manage what has been a very tumultuous staff period
- Changing things
- checks
- Choosing people that will work well together. My workplace has a good dynamic of people from all different backgrounds and ages and it just works well.
- City learn - EAP support
- City learn.
- Communicate
- Communicate well with their employees.
- Communication is improving
- Communications
- Consistency of approach
- Deals with complaints quickly
- Designate representative to each directorate , this provides focal point of contact but also help HR to understand business
- Develop procedures.
- Directorate approach to HR advising

- easy to approach
- engage with employees well and are friendly and approachable
- ER and L&D
- ER and L&D teams are focused, professional and customer driven. They are the saving grace for the department.
- Everyone is lovely , I believe their hands were often tied in the past, I cannot comment under their existing Manager
- everything
- Everything, I think they do a great job,
- everything! I have never worked in another organization that has such a professional and dedicated HR Team. My HR Advisor has always been helpful and provided excellent advice to me.
- Facilitating/assisting with team building activities
- Feedback efficiently.
- Forms and supporting executive/managers
- friendly
- Friendly
- Friendly & Cooperative
- Go on training days and leave us working
- Good question
- Have delivered some very relevant training.
- Have most information related to the department available on the intranet
- Help managers get rid of staff they don't like.
- Hiring.
- HR are team are very employee oriented and respected.
- HR team helping us with our rights with in the organization
- I believe with the issues facing the City, the HR team is doing the best it can given the hierarchy of people involved in issues and complaints.
- I don't have much interaction with HR, so unable to comment, however, on the odd occasion I've needed to contact them, they have been helpful.
- I don't know what they do well
- I don't know. They are very busy with restructure and web pages.
- I feel the HR team is one of the most over worked and one that is managing a vast amount of issues that is not typical for an organisation such as; employee stress, lack of leadership, constant criticism from the general public etc. What this team do will is demonstrated resilience in the face of uncertainty, professionalism even when it is not demonstrated by the Councilors and they manage a huge workload. They might not be perfect but they are still standing.
- I found my onboarding went quite smoothly
- I have been impressed by their work on embedding the values and I thoroughly enjoyed the recent workshop. The Employee Recognition awards are a great idea to reward and encourage good behaviour, as is the Change Champions initiative. My interactions with HR have always been pleasant and I feel they do their jobs very well in an environment where they are under scrutiny for reasons other than their team's performance.
- I like their business partner approach
- I suppose finding the right person for the right job
- I think they are trying to do their utmost to change the attitude and culture. But with 3 Managers and as many officers in two years very hard to win the battle.
- In my experience the Learning and Development team Lina and Sarina work hard to develop ongoing training opportunities, embed the COP values and develop reward and recognition programs throughout the organisation.
- Induction
- Induction process for new staff
- Inductions
- It has taken time to rebuild the HR team but they are doing a great job in subjectively representing the needs of both the employees and management, I appreciated this can sometimes be challenging.
- Keeping records up to date for each employee.
- Kindness, compassion

- Learning and development
- Learning and Development
- Learning and development program
- Learning and Development team provide some good training opportunities.
- Leave and staff expertise is great
- Listen
- listen
- Making themselves approachable and available to the workforce.  
Provide a good first impression of the City.
- Manage staff out of the organization and facilitate employment of new staff
- Manage the relationships between MLG and staff.
- Most of the team are very approachable and willing to help should you require advice even the Manager which is such a great thing to be able to do. There are only a small few who don't seem to want to interact with staff and only interact with managers.
- need to work on a lot
- Not having a lot to do with HR, but when I have they have always been helpful with the information I am after
- not much
- Not much
- Not much at this stage
- not much now, they are fractured
- Not take phone calls. Not respond to emails.
- NOTHING
- Nothing
- Nothing
- nothing
- Nothing
- Nothing - recruitment is not transparent and nepotism is very obvious and some staff are being protected and looked after and given opportunities based on who they know.
- nothing - they take forever to do anything, even then it the decision is always in favour with management
- Nothing except deceive workers
- Nothing that I am aware of.
- Offer training.
- Onboarding, training, performance shaping.
- Our HR contact is approachable and provides answers to employment related questions. Do not have much contact with them personally.
- Pay salaries on time.
- Pay us on time
- Payroll always investigate pay issues in a timely manner and resolve any discrepancies. Well done.
- Payroll; Health and Safety in the workplace
- play
- Provide a service with limited resources (they always seem to be understaffed)
- Provide direct support to directorate managers
- Provide front line management with
- Provide online training via " City Learn "
- Provide relevant information to roles. Up to date information during recruitment process.
- Providing an advisor per Unit
- Providing inductions/training to staff as well as financial assistance for staff development.
- Providing support when needed
- ran a team building workshop
- recruit good people
- Recruitment
- Recruitment
- Recruitment and day to day advice.
- Recruitment and induction process
- recruitment and retention
- Recruitment as far as I'm aware

- Recruitment process
- Recruitment services, delivering on learning and development initiatives, employment relations, customer service
- Recruitment,
  - Following HR processes set out,
  - Managing issues, supporting managers through this process,
  - Training provided by L&D,
- Recruitment, advice on process and procedures
- Recruitment, Learning & Development
- Recruitment, support, administration
- Recruitment. Building a positive culture. The City of Perth administration (despite the challenges experienced recently) have a positive, friendly, supportive culture - supported well by the HR staff. All of the City's staff are exceptionally professional, the administration processes are all of a high standard, the work environment is high quality. In my opinion it has been a general lack of cohesive leadership, drive and (efficient) decision-making that has caused problems in the past.
- Recruitment
- Respond with good advice in ER Matters
- Responding to queries
- Say yes to everyone in a senior position!
- Socialize with each other
- Sometimes their job
- Staff changes have compromised the service of the team. A lot of knowledge is lost and the extreme amount of recruitment is making it difficult for HR to provide the support they would want to provide.
- Staff support
- Staff training
- standard processes
- Support management
- support staff
- Support the organization rather than the people
- supporting hr related issue to each unit
- Supporting learning and development.
- Supporting Managers and above
- The current staff provide good feedback and good information.
- The employment process has improved.
- The HR team are always exceptionally helpful and responsive. Whenever I raise a question I will get an answer immediately. They have an email mailbox where you can send any enquiries which makes it easy as sometimes I don't know who my question should be directed to. I like that we have a dedicated HR Rep for our team as it makes it easy to have that one point of call when HR related matters. I lead a team of people and HR has always provided me with excellent advice on dealing with performance management issues. They are very enthusiastic about employee engagement and genuinely care about the people that work at the City. I also like the many learning and development opportunities the team provides and I think the performance management templates are very helpful. They make my job of managing 6 people much easier.
- The HR team work very well in upholding the City's values and encouraging the rest of the City's staff to do the same. They empower our people and do all they can to help and support staff when they are in need.
- The people are all lovely. They are very caring individuals.
- The team are friendly and try their best in the difficult circumstances they work in. Some of the team are highly committed and dedicated. They lack leadership, consistency and clarity to be effective and trusted.
- The team is approachable & friendly
- The time management course was good
- Their recent initiatives for improving organizational culture.
- They are helpful and caring.
- They are pleasant and friendly.
- They are polite
- They are proactive in identify issues within teams through the team building groups

- They are very approachable.
- they care and support workforce in a difficult environment
- they carry out the functions well but appear under resourced to meet timeframes
- They have improved in their recruitment process however it is inconsistent.
- They help anyone who requests their help.
- They offer a range of in house training sessions
- They offer wide training range of trainings for the staff
- They take your complaint but they never get back to you
- They try.
- They're all really nice people
- They've always been professional and friendly in any dealings I've had with them.
- Training
- Training & Development to staffs
- Training and IR through Sarina and Barbara moyser done very well
- Training programs are good.
- Training, learning and development
- Training. Listening but no acting.
- Try
- Try hard to get the job done with not enough resource
- Try their best to assist employees across a variety of areas
- unable to answer honestly
- Unsure, have not had direct dealings with them
- Utilize and implement PD resources for staff.
- Very approachable, helpful and friendly
- Very friendly, helpful, well organised and professional.
- Very little
- Very personable.
- Promote good work life balance.
- waste time and resources
- We have excellent staff, so they are doing a great job with hiring.
- Work exceptionally hard and their responses are appropriate to issues
- Work really really really hard to do their job!
- Work well as a team.
- works well as a team. supports one another.
- L&D and CityLearn are a well oiled machine.
- Bow down to manager's every whim
- Very hard to answer. I have not had a lot to do with them. Our EBA negotiations were not handled well
- Tell us what they would like to see
- Team building
- Recruit
- Obfuscate
- Look after the city of Perth image
- Keeping up with legislative requirements

#### 84. What could the HR team do better?

# responses = 236

| Theme   | #  | %    |
|---|----|------|
| Better policies, processes & procedures                               | 37 | 15.7 |
| Recruitment   | 26 | 11   |
| Being fair & consistent   | 21 | 8.9  |
| Not favouring management / ELG  | 19 | 8.1  |
| Being confidential & trustworthy                                      | 14 | 5.9  |
| Being more visible & establishing their presence                      | 13 | 5.5  |
| Better communication  | 12 | 5.1  |
| On boarding & induction process                                       | 10 | 4.2  |
| Retaining staff & reducing turnover                                   | 10 | 4.2  |
| Manage bullying   | 7  | 3    |
| Providing career progression opportunities & professional development | 6  | 2.5  |
| Being more available  | 6  | 2.5  |

- 1. Onboarding process
- 2. Promote policy and procedures
- A lot of things including changing the current perception that they don't care
- Actions have shown their priority is for the business first, the staff second, would be great to see that reversed somewhat
- Address lack of career progression opportunities within the City.
- Administration of established roles and their occupancy including provision of accurate automated reports
- Advice is hit and miss depending on advisor, people with good knowledge are being held against less complicated teams - leaving large operational teams exposed. Not strong enough on pushing back on spirillous claims or complaints. No OD and the strategic HR timelines and actions aren't known outside of the BU.
- all areas, recruitment, handling of grievances, responding in a timely and consistent manner, having correct information.
- As a new staff member I think there needs to be a more efficient and straight forward process in regards to training for Finance software, Content Manager and timelord etc. I have had to initiate most of this training myself and the process is slow & confusing.
- Assessing ways to stem the constant outgoings of staff. This is not their fault, there time is being spent recruiting the replacement staff.
- At this point in time I feel they are doing the best they can under extreme circumstances. In the future I would like to see a better management of employees who are under performing or in breach of the code of conduct.
- attend interviews and introduce themselves to the staff so they know who you are and what you look like. The first day was not a welcoming and comforting experience. Provide a summary from our team building day like they said they would
- Be a service to the whole organization rather than for ELG
- Be approachable and independant
- Be autonomous
- Be available and answer emails and phone calls in a timely manner. They should make recruitment processes streamlined instead of long and painful.
- Be available for me to contact when I need their help. I can't reach them by phone or email or don't get a response. Our current HR rep completely ignores us when she is on our floor as though we are of no interest to her - poor customer service.
- Be available. Introduce themselves and stop glossing over the survey results. yhey wirk for city of perth as well

- Be better resourced
- Be compassionate and listen... Don't be a puppet to the upper management.
- Be confidential! Actually act upon matters of bullying/other complaints when they are made in a confidential matter, with updates as to how your matter is being processed. No one should be untouchable.
- be more accessible
- be more consistent, have stronger voice in hiring staff and speak up, be more involved in representing the interests of officers after they begin their employment as a posed to only focused on getting them hired, be active and involved in the development between Managers/Supervisors and staff
- Be more efficient and help managers to performance manage the non performing staff and replace them with new positive staff.
- Be more of an umpire rather than management.  
Point managers, supervisors in the right direction when dealing with staff issues
- Be more one on one and not handball.
- Be more responsive to requests and in providing timely feedback.
- Be more responsive. Know their stuff
- Be more strategic so they can be less operational and reactive. Its exhausting.
- Be more visible and assist in issues rather than hide away. Communicate more
- Be more visible and try to spend more time with staff
- Be more visible in the office.
- Be more visible in the workplace.
- Be more visible. Attend toolbox and actively be seen at the Depot!
- Be quicker with the employment process. Having weeks from the cut off dates to starting interviews is not acceptable. As by the time the interview process begins the best applicate may not be available. Let the requestor see all the applications not just what they think is appropriate as we are the ones that know what is required to fill the position. Also time delays put more pressure on the rest of the staff.
- Be transparent and have an active non tokenlike input on career opportunities and make sure that one rule applies to all. Eg when a ranger job comes up asking for certain criteria and a person has that criteria but a person with substantially less attributes pertaining to the position gets the job somehow. They work with vulnerable parts of the community eg homeless youth elderly and have a violent criminal record but still get the job. And the criteria asked for one time is not bothered with the next time. This is inconsistent and confusing for many other staff. Also the job asked for security license and while one person had a security licence as well as everything else asked for, the job went to a person who does not have a security licence, probably because a criminal can not get a security licence.
- being more independent , giving proper advice to managers not just what they want to hear
- Better guidance on salary sacrifice.
- Better procedures and policies, have a proper organizational establishment and position listing.
- Better processes and better logistical and operational support to recruitment and other aspects. better universal understanding and advice related to award and resolution management
- Better time management and resolution of HR matters
- better trust with the employees
- Build trust and a reputation for conforming to policies and procedures and not being manipulated by departmental managers.
- Build trust with the staff that HR is confidential, that bullying will be dealt with in accordance with the COP policies. That people in high positions are bound by the same codes of conduct that all officers are. That action is taken.
- care about the employees
- Change the medical certificate policy. It's patronising. And costly.
- Clarity and visibility of processes and procedures at all levels, e.g. staff member, supervisor etc.  
More face to face training for staff, not just the initial first day training e.g. when staff are promoted to roles with reporting lines. Processes for managers.
- Communication
- Communication regarding change
- Communication to all staff  
Not all matters are marked as 'confidential' there should be a little bit more transparency  
Centralise recruitment lead by HR

- hr team needs to be more approachable so that staff are not worried or scared to come to them for grievances or complaints
- Communication with staff on leave. Giving them the opportunity to participate in surveys and voting.
- Concentrate more on results than obstacles
- CONSISTENCY THROUGHOUT COUNCIL
- COMPLIANT WITH WALGA
- Continue to rebuild trust in employees
- Support employees when managers are making unrealistic demands on staff - eg taking away flexitime, self funded leave entitlements -
- Revisit Equity and Diversity plan and perhaps realise that some of the current practices in the Council are potentially discriminatory to certain staff groups
- Review the dress code policy and actually to consult with staff on it
- Deal with 'slackers' in a more forceful manner.
- Dealing with bullying is not handled well at the City of Perth. In the past, there were numerous complaints about particular staff members including ELG that were not acted upon. We were even told by the then Manager of HR that certain members of ELG were untouchable because of their close relationship with the CEO. Bad behavior of the ELG was never addressed. Confidentiality doesn't seem to exist either - other teams have told us that their manager confronted them after someone in that team put a bullying complaint against him. Now that team has to deal with a manager who continues to bully them and they are too frightened to go to HR due to concerns with confidentiality. That's totally unacceptable - every complaint should be handled through due process.
- Developing integrated systems for staff management, the use of Content Manager workflow process would streamline and make things more transparent
- do their job
- easier access to Intranet portal - can be quite time consuming find stuff!
- Employees undertake a COP induction when they start but they also need a workplace-specific induction. Also when we contact HR with questions or concerns it is very important that we are listened to patiently with care and understanding
- Employing people friendly staff who all are customer orientated
- Ensure appropriate staff are employed for positions and support existing staff which does not seem to be happening now.
- Ensure performance shaping / reviews are completed on time by team leaders
- Ensuring that when an employee benefit is offered that the process to obtain said benefit is easy and efficient to follow and relevant directorates are aware of the procedure offered and their responsibilities to process claims
- Ensuring the treatment of employees is consistent where appropriate across the organization, for example access to flexi time and flexible work arrangements.
- If an employee is unable to have access to benefits identified in the EBA, it is important that line managers/ managers are able to provide a clear business case demonstrating why the employee is unable to have access to the benefit. HR should have a role in evaluating the business case and ultimately provide guidance on appropriate outcome.
- As I mentioned earlier, HR could make improvements in regard to the recruitment of executives who are focused on the value of human resources as opposed to being fixated on the financial element of the business.
- HR could run compulsory ELG emotional intelligence training.
- Establish a culture of fairness and transparency, especially in recruitment and promotion. Some people have their job grades upgraded, others never.
- everything? tell the truth, and stop covering up for managers and their bullying of staff
- Everything. The time HR takes to respond to emails etc is pathetic. Staff in HR are continually turned over and new staff appear very lazy in their roles. I would not feel confident going to HR with any issues, I have a genuine lack of trust and confidence in the HR staff. I wish they would focus on the job at hand rather than spend time on "team building " and other such nonsense.HR are aware with the issue of bullying from our manager to some female staff in our unit and are happy to do nothing about it
- evrything
- Fastrack termination of employment of people who continue to bully and harass employees.
- fine detail induction pack
- follow policies and operate under the City's values

- Follow policies fairly no matter who the person is or who long they have been here
- followups
- general communication and let us know they are there and how they can help
- Get good people
- Get to issues faster
- Give clear and timely responses
- Find the correct job description forms
- Follow the correct procedures for recruitment process
- Provide clear guidance to staff looking to cut corners in recruitment process
- Have an effective helpdesk system for queries, rather than waiting for individual HR Leads to answer phone calls or emails
- Better process to avoid losing Higher Duties and other internal forms provided from Units
- greater guidance around flexi time/leave - open to discretion of managers - being inconsistently applied across organisation
- recruitment of competent staff who assist in building positive culture especially at leadership level - greater use of psychometric assessments may assist
- Handling formal complaints and redundancies.
- Have a consistent approach and ensure that confidentiality is maintained.
- Have a faster more efficient process
- Have a greater presence, openness and accountability
- Have more staff to handle volume of issues they are dealing with
- Have more the authority to deal with HR related matters and decisions
- haven't been in the organization very long to comment
- Help employees progress within the organistaion. Seeking internal opportunities for growth and work on staff retention
- Help us out side staff out more
- Help worker's with concerns raised and support over Safety
- HR Advisory needs improvement
- HR also need more people. They are overloaded with tasks and there isn't enough respect for what they do. I believe our CEO has not supported the HR function at all and has in fact at times made it difficult for them to deliver as he either doesn't make a decision or changes his mind. HR will develop an initiative and launch it to the organisation and the CEO and leadership group won't support it or just not turn up. At the launch of the Values last year, I noticed that while HR was working tirelessly to launch the initiative, the ELG and CEO had to practically be dragged to attend the launch sessions. HR needs the backing of its leadership but I don't think ELG or the CEO put enough emphasise on the importance. They also don't take responsibility for the role they play in it. For example, how can you expect staff to adopt the Values is the ELG behave the way they do.
- HR needs to have their processes reviewed as they appear to be very complicated with many double ups
- I feel they are hamstrung at present, focus is on maintaining FTE numbers
- I think it is good the way it is.
- I think they do a good job.
- If I have a question it feels like they do not have time to respond.
- Implement and improve processes
- Improve efficiency
- Improve existing processes
- Improve the Performance Shaping to be less cumbersome - it needs to be better focused, shorter template and based on SMARTs.
- Improving the recruitment process.
- In light of huge number of staff changes throughout the City and the pace of recruitment/turnover - policies and procedures need reviewing and supporting workflows for onboarding and offboarding to help all staff.
- Induction process. The induction session was consistently cancelled without any notice, IT and training usernames not set up, delayed contract, no copy of the Employee Benefits or Salaried Officers Agreement provided, no acknowledgement of receiving the completed paperwork and contract. Unfortunately the worst induction process / contract I have ever experienced in my career. At a time I

was excited to join the organisation this was a frustrating and disappointing experience and sadly my experience is not unique.

- Introduce efficiencies into their processes to help them manage their workload better. For what it's worth, they are definitely trying to do this
- Invest and use technology, eliminate paperwork, provide more consultancy, streamline the recruitment process
- Investigate further resourcing to align with workloads.  
Introducing a process where staff can communicate on occasions " off the record", initially without having to be informed "we follow processes".
- Investigation of employee concerns.
- It doesn't really feel like we should be approaching them at all. I'm not sure when we ask them about an issue and stick to asking my manager. Because they are remote it doesn't feel like they can or should be approached. When I was new and I felt I was being poorly treated by a manager I felt like I had nowhere to go. Thankfully it is resolved now.
- It seems that with the staff turnover knowledge was lost and therefore it is a bit frustrating when trying to get information.  
Reply to emails within X working days. Ideally 3.  
Clarity with procedures and what units are responsible for tasks.  
List policies and procedures on the intranet. For example- where is information on bullying/harassment
- Keep in touch regularly with all employee.
- Keep their own staff, be available, boost capacity
- Keep things confidential
- keep up to date with structure changes required and keep employees up to date with any changes related to positional change (Acting, secondment etc)
- know who is responsible for what in their area. Sometimes you ask question and they are not sure who handles it or knows the answer.
- Knowing who your unit or directorate HR rep is the biggest issue I have found. It makes it hard to report any issues or even just to get advice when you have no clue who your contact person is. Let alone approaching them when you are aware of who they are as your HR rep walks straight past staff during a working day without even an acknowledgement or hello.  
Answering phone calls to staff, current rep has phone on divert which is quite frustrating at times.  
Previous rep in HR was so easily contactable and happy to assist any time.  
Response time with HR is extremely slow and a number of good prospective new starters have then called to turn down positions after they have been offered employment due to the time taken to receive contracts and paperwork.
- Knowledge base increase. EBA knowledge and interaction with important parts of the job i.e pay.
- learning & development process to be less convoluted  
recruitment have less hoops to jump through  
more clear policies regarding stating conflicts of interest
- letting others know what's under the hood
- Listen to what we are saying rather than apply their own perception of what is being said while using our words out of context in their reports
- Listen to what workers say and work with them to have a happy workplace and lift the moral in the workplace
- Look after the employees
- Look at the turnover of staff in some units, and investigate what looks to be very high turnover.
- Look to continuous processes improvement to evolve existing processes that slow things down and create inconsistencies and high work loads
- Lots
- Maintain employee training/details records
- Make sure their door is always open and do not judge
- Managing Employee Records
- Many things. Everything related to staff positions and issues.
- More involvement in staff development
- more personal direct contact with all employees - perhaps officers could have specific person who is their personal contact
- More staff

- More support.
- More team building activities, to bring a happy vibe in the work environment. The place looks full of dissatisfied and sad people around.
- More transparency
- My complaints are with my manager
- need new software which support our roster so we don't have to check for lots of errors made in the past. Payment is not consistent.
- Never see anyone from HR so cant comment, they seem to be in a world separate from the actual workforce
- New recruitment need to do psychometric testing.
- No suggestions from me as I am happy with the level of service. My only thought is around how HR could better help the organisation understand not only what HR's role is but also where their remit ends. It is unfair to imply cultural and morale issues at the City are the responsibility of one unit alone to address, as meaningful action requires support and genuine buy-in from across the organisation.
- Nothing to my knowledge
- Onboarding and off boarding procedures. All policies and procedures need to be easily accessible and understandable
- Our unit's HR rep has never been introduced to us;  
HR are quite unresponsive and need to be followed up multiple times before getting an answer;  
Action on important/urgent matters (eg grievance investigations) is slow & often doesn't seem to be a priority.
- Oversee recruitment better. Have a better knowledge of the daily running of units and attend unit meetings. Not be biased toward management, show staff they are genuinely serving their support. When change isn't effective but fine tuning would be more critical intervene to progress the city's delivery of services. Ensure that morale is maintained at a high level.
- performance management
- play
- Practice more discretion regarding who they discuss confidential info with.
- pretty much everything
- Pretty much everything except for training, learning and development, which they already do well.
- proactive not reactive  
more effort educating the business  
strategy  
retention  
OCM  
Org Development
- Processes and systems.
- Promote themselves in the organisation better with which staff do what.
- Provide a better focus on-going professional development. Needs to be felt as a 'safe space', which I understand it is not viewed as
- Provide appropriate support to staff. Improve the efficiency of recruitment processes.
- Provide better support to the people who work at the City and preserve our work life balance which is consistently being eroded
- provide more guidance on how to make recruitment faster. The delays put too much pressure on existing staff
- Provide more services and less instructions ie managers requiring to be HR specialists and process forms and recruitment. Provide greater support for the induction process; more personal contact with new officers and physical tour of the building - there is no meaningful orientation. Provide an introduction for new staff to all managers and executive team.
- Provide more support to staff as required.  
Deal with employee complaints. Have action.  
Be innovative in creating COP as a workplace of choice.  
Initiatives to retain staff.  
More diversity of employees.  
Be more present.
- Provide responses in a timely manner, HR advisors are over worked and reactive
- Put employees first.

- Recruit better within their own unit where turnover can be a problem, know the industry better and take on issues without due influence or favour.
- Recruit staff faster and support teams when they ask for additional resources to cope with unrealistic workloads.  
Run a proper induction program that doesn't happen weeks after staff start.
- Recruitment and transparency. EBA negotiations are very poor also and need improvement.
- Recruitment, inductions, awareness for staff, position descriptions, reviews
- Recruitment, staff issues addressed in a timely manner, follow up complaints that have been made about upper management as they seem to be lopsided toward management with no outcomes.
- Reduce paperwork and more digital processes
- Reduce the amount of Performance shaping to once a year vs twice. It is a lot of paperwork for the officer to do as well as the manager when most staff are having regular catch ups with their manager during the year anyway to see how the end of year Performance shaping initiatives are progressing
- reduce the time taken to finalise procurement
- regular training of colleagues
- Relate on even keel to all personnel. Not just those that are considered important!!
- Represent all staff. Processes should be handled in a way that is fair and equitable and does not show favour to higher ranking staff.  
Consistency and accuracy of responses.
- Respond to enquiries in a timely manner  
Provide better briefings on processes and policies to ensure staff and well informed
- Respond to queries within 48 hours.
- retain staff
- Retain their staff
- Say no to senior positions requests that are not following the same process for all! They are going to complain about HR anyway!
- Should give some personalize attention to staff including rewards etc.
- Show staff that they are "Human" Resources - there as been many occasion where the reference is they are no longer HR but just resources. I think the need to restore faith in staff that they are there to help, that issues are dealt with and any matters will be considered and addressed.
- Some team members provide solid advice and guidance on policies and procedures. This is not consistent however.
- Staff performance reviews should be yearly instead of 6 months. For some positions the KPI's are on-going and don't necessarily change within the 6months.
- Stop allowing certain managers to "handpick" new employees based on friendship or previous working relationship
- Stop taking side of management
- Strategic Human Resource Management rather than process based HR function
- Strengthen processes and bring in positive initiatives (ie paid membership to industry networks).  
Currently we pay out of our own expenses but the City gets the discount when we attend training (ie LG Professionals)
- Support all staff
- Support employees and not just the executive/manager team.
- Support employees below Manager level better; realise that they are not there to purely support and back up Management. Provide confidentiality and clear transparent advice when needed.  
Provide a consistent approach to recruitment and enforce polices and procedures; do not allow Managers to make up their own rules  
Be more timely in their responses
- Support existing staff to develop their careers and skills
- Support individual staff in professional development, proactively identifying training opportunities.  
Developing people for future roles, based on trends, best practice, bench marking.
- Support recruitment of staff. Improve the automation of payroll and timesheets
- Support staff better through illness and mental health issues
- Support the Administration and Officers in the discharge of their duties (internal service unit)
- Support workers about safety concerns

- Supporting staff with genuine workplace grievances. Ensuring bullying is prevented or is dealt with effectively. Ensuring management administers its corporate policies and procedures in a fair and consistent way across the organisation.
- System updates
- Take ownership of the HR functions such as Policies / Procedures. Stop the manual forms - have them in a content manager workflow so that forms don't get lost between floors. Improved onboarding process. Offer a paperbased training system as an alternative to the e-learning which makes me personally feel ill.... those videos. I'm a grown up I can read and answer questions I don't need pretty pictures and script that is so slow to roll up it gives me a headache just thinking about having to take part in
- Take ownership of the workforce plan for the COP
- Talk to the different units more about what they do.
- Team building
- Motivation
- Better record keeping
- The Advisors lack knowledge and experience; they do not know where to find information and are reluctant to expand their skill sets, preferring to stay in their comfort zone. They will often fall back to "this is how it's always been". They operate in a vacuum and are out of touch with the workforce; legislation policy and best practice. The HR Advisor role requires a degree of stewardship and innovation that the department has never fully embraced.
- The HR team are severely under resourced. This has been raised on several occasions and the team are still not resourced adequately to respond to queries/issues. The responses are good, the timing of responses is terrible.
- The process for hiring internally does not seem transparent at all. Staff are promoted, or change roles, regardless of their qualifications. Equal opportunities are not made available to all staff - never mind experience or education.
- There has been so much turnover in the unit that few people seem to know the answers to questions when I ring. (They do get back to me though.)
- There is a perception that the HR team don't support the individual complaints of employees and favour management, breaching confidentiality and trust of officers.
- they could communicate better with staff, no interaction/feedback with staff
- They could easily accessible to the ground staff. which help them to raise their point within the organization
- They don't have any understanding or control of the organisational structure - position titles are constantly inexplicably changing, and there's little communication about staffing changes. I'm aware of a manager that is highly discriminatory in their recruitment practices, and HR simply go along with it rather than enforcing EEO. That managers team is a horrible work environment with a high staff turnover, but no meaningful action has been taken to identify the root causes. HR have not stepped up to be a meaningful presence in that team, they're seen as just helping the Manager to dodge their responsibilities.
- They gossip! everyone knows everyone's business. Slow with the forms and paperwork. No idea who you contact. Change paperwork and not notify people.
- They should be more open and easy to access for any query
- They're doing a great job as is.
- Touch base more regularly.
- Training on process and procedures, be more positive and most importantly be accessible to staff
- Treat all grievances seriously and not as vexatious complaints against management, until fully investigated.
- Performance shaping/reviews.
- treat everyone equally
- Treat staff with respect and try to get a culture back that is family friendly
- Try to reduce ongoing changes for employee's roles and responsibilities.
- understand contracts of employment, and EBA's. give the correct advice to employees
- Understand the policies and apply them consistently. Have a knowledge of the work force plan.
- Update the procedures
- Communication
- Weed out pecuniary interest and ensure employees don't have any influence in any way whilst appointing friends/relatives/husband /wives/partners etc

- When an employee submits a job application either internal or external the applicant should be informed of the decision regardless.
- Not listen to the managers
- Understand mental health issues
- Treat all employees equally
- To be seen more down here at the depot. Not just for negative reason ALL the time
- Some decent work relevant training. Instead of been seen to do the politically correct thing
- Show that they are there for the workforce as well as the City of Perth
- Provide training that is relevant to my job. Provide training appropriate for my skill level - ie. don't make qualified horticulturalists do the same training as parks operators
- Process of new staff to actual getting the job must be quicker and at work
- More power to stand up for staff and support them. Not be controlled by management. Have more contact with outside work force and listen
- More interaction with the workforce to enable greater understanding of the issues we face
- Maybe try to ring individually every employee to say hello and do you have any issues etc
- Make themselves known to workers and what they offer for the workers
- Introduce themselves
- Everything
- Communicate more
- Communicate
- Answer the phone

#### 85. How does the HR team provide support to you?

# responses = 201

| Theme                            | #  | %    |
|----------------------------------|----|------|
| They don't provide support       | 33 | 16.4 |
| Advice                           | 28 | 13.9 |
| Recruitment                      | 28 | 13.9 |
| Training                         | 18 | 9    |
| Answering queries & questions    | 17 | 8.5  |
| Payroll                          | 16 | 8    |
| Grievances & dispute resolutions | 10 | 5    |

- Advice
- Advice and direction on team matters, performance management issues and recruitment processes
- Advice on staff issues.
- advice re recruitment, working from home
- Advice, kindness
- All the HR team did for me was select me to work at City of Perth
- Although HR do provide support, Unfortunately the processes are very protracted and we are constantly waiting for outcomes.
- Always very helpful with questions, have helped me with a problem with a workmate and gave good ideas
- Answer queries as arises
- answer questions on contractors, training and recruitment.
- Answering queries
- Answering queries and recruitment
- Answering queries when they arise
- Answers questions when I ask them
- Any support they provide is done through my manager at this stage.
- Are always there if needed
- Assigned HR partner.
- assist me manage poor performance
- Assists interruption of policy.
- Assists with recruitment processes and resolutions of grievances.
- Attend interviews when recruiting new staff.
- Available. Have an HR rep.
- Beautiful beautiful people, however can be frustrating when you go to HR and are then sent from pillar to post just to get your enquiry answered - HR to Payroll, or HR to IT or HR to Finance. Would be nice if HR could take control of all employee enquiries, take ownership and provide the answer instead of sending staff from unit to unit and quite often ending back up with HR still no better off as no one wants to take ownership of the enquiry.
- Being available to provide support and assistance when required.
- Being there
- By being there.
- by having policies in place regarding employees rights, benefits and responsibilities.
- By providing the tools and training to manage staff.
- Certain members of the HR section are helpful
- Change my name when I got married. No one replied for two days to the generic inbox. I had to contact someone and say please reply x 2 people.
- citylearn
- Complaint process
- correcting my pay and answering my questions
- Dispute resolutions
- eba

- Employee Issues
- Employment contracts mainly. And some team building sessions.
- Facilitated working at home agreements.
- From a personal viewpoint I have had little contact with HR. Honestly feel that it would not be worth my while.
- General advice and training opportunities.
- General advice. Training development.
- good support with recruitment
- Grievance, Workforce planning
- Have assisted with many tasks from pay related items to training.
- Helps me recruit
- HR Adviser, recruitment, incremental work, performance issues. Contracts and higher level grievance.
- HR governance matters
- HR Partnership model
- HR provide little or no meaningful support.
- HR provides support and advice when I need it. They are all very helpful. And kind.
- HR Services
- I don't trust them so no support
- I get good advice from ER but the others don't know
- I have always found my dealings with HR to be helpful
- I have not really had to use HR in my time at the City.
- I haven't relied on them, as I don't trust they will support my manager first before supporting me
- I know exactly who to turn to if I have any problems relating to my work. I know I will feel very supported and my comments will be kept in confidence. The HR team also empower me to uphold the City's values and I notice a constant reward for those that do so.
- I know how to contact if needed
- I know if I needed any help with any issue, the hr team would be there for me.
- I never really see them at all.
- I require support for recruitment and all aspects of the employee life-cycle, Employee relations, performance shaping, complaints and dispute resolution, training and development, EAP, workforce planning and tracking, most of which needs improvement. I expect a high level of service, professional advice and administrative support, while allowing me the freedom to make decisions and manage the overall process.
- I've use them once, but was treated with attitude
- In many ways, they are always willing to help and offer advice.
- Induction and training.
- Information of coming and going of staff
- Email respond has become better with 2 administrators on board
- Investigating pay discrepancies
- It doesn't
- It doesn't to me personally (personal feeling/observation) however they "service" the area I work in via the processes/policies.
- L&D and ER are leading the way; however the advisors do not understand the degree of stewardship
- Learning and Development are ready to help
- Learning and Development team provide advice other than that not much support given.
- Leave detail support
- limited
- limited support at the moment
- Lina and Serena are fantastic with training. The rest are pretty much a bunch of people running around with no idea of what they are doing and why they are doing it. There is no consistency of message coming from HR and they can't answer simple questions without taking several days to get back to you. They don't provide personal service and don't answer phones. I hate getting emails from "Human Resources" - I want to know who I am dealing with. I want to know I matter and I'm important. I feel that using a generic email header takes the personality out of the team and makes me feel like I'm dealing with a robot instead of a person - even if they are incompetent...
- Listening and advice

- Little at present
- Meetings, reports etc
- Minimal, I don't think I would feel comfortable contacting HR with any of my concerns.
- Minor. Only dealt with HR whilst getting hired, and through one team building exercise.
- My experience as an EBA employee representative did not give me much confidence in HR, although may have been restricted/directed by the executive.
- My pay & my contract of employment
- no support
- No SUPPORT
- No support.
- None
- None really - i can email and leave phone messages and get no response
- Not a lot
- Not much
- not much. day to day operations.
- not really
- Not really. Ince they are involved it gets messy and ppl loose jobs
- Not that confident to ask for help.
- not visible
- Nothing much
- OHS in the work place, support when needed; payroll
- Other than during the interview process and a couple of attempts at clarifying information, I haven't had to contact HR. Issues tend to get resolved by my team leader and managers.
- Our current HR Rep provides zero support to me or our unit. Previous reps have always been so proactive and even just popped down to say hi and check in to see we are all travelling ok.
- Pay, letting me know my rights and responsibilities
- Payroll and employee benefits
- Payroll, super, leave applications
- payroll?
- Poorly
- professional guidance and advice. ER Training
- Provide guidance with dealing with staff issues/grievances
- Provide HR advice when required, assist with recruitment.
- Provide information as needed, which is infrequently.
- Provide with all payroll inquiries
- Provides a Business Partner and we meet regularly
- Provides information about the technical aspects of my job allowances.
- Provides processes and avenues to pursue unresolved grievance and complaint matters.
- Providing advice when needed
- Providing HR advice where required.
- provision of advice, assistance and support to recruit and retain staff and provision of training
- Provision of unbiased advice on the best approach to various HR matters.
- Rarely have involvement with HR staff but they set up in house training sessions which are good
- readily answer questions
- Really only for recruitment and performance management and neither are fully effective or consistent across all advisers.
- Recruiting staff. Relocating to new role.
- Recruiting support
- Recruitment
- Recruitment
- Advice on staff matters
- Payroll
- Recruitment and advise on industrial employee matter
- recruitment and other support like payroll etc
- Recruitment of permanent and contract staff.
- Recruitment, advice on processes.
- Recruitment, and interpretation of awards etc.

- Recruitment, guidance on having 'difficult conversations', training,
- Recruitment, Performance Shaping and day to day advice.
- recruitment, restructure etc
- Regular catch ups
- Guidance with internal processes
- Training
- regular contacts/recruitment/Industrial relations/provide a supportive environment for my staff/EBA negotiations and management/payroll/
- Regular meetings and monthly updates
- Respond to simple queries about leave, etc. in a timely manner.
- salary advice
- Someone to raise issues with.
- Staff liaison, HR processes
- Support is not really what I would call it, more making sure that all the formalities are met
- Support provided is limited. The only support received is via Learning and Development.
- The ER team has provided support during bullying/grievance complaints; I haven't had any other interaction with HR since my interview before starting work with the City.
- The HR team has assisted me financially with work-related courses.
- The support is well appreciated by way of advice and in person.
- the very few times I have had contact findings seem to be weighted a managements favour
- There is little support as they are very hard to contact.
- These days mostly questions to do with salary and leave.
- They answer any questions I might have in a timely manner.
- they are always good listeners although most of the time they are overloaded with tasks which may not be the City Priorities.
- They are impenetrable to addressing the matters that are of real concern in handling people and stressful situations.
- They are there when needed.
- They do not, and I would be extremely reluctant to ask for it as I believe it to be pointless
- They don't
- They don't
- they don't - its all too hard and send you to EAP
- They don't - they just pretend
- they don't provide any support
- They don't really. I've gone through so much change outside of my control whilst with the City, and they completely failed to keep me in the loop. I've experienced so much unnecessary stress that wouldn't have occurred if they had just communicated with me - in the absence of communication, I was lead to believe by rumours that my employment was at risk. HR put off for months filling me in on information that was readily available to other members of my team and would have meant my mental health didn't suffer as much as it did. Sobbing yourself to sleep because you're worried about ending up homeless again is not my idea of a great work environment. HR are under resourced, but also untrusted by many employees. We see our coworkers pushed out of the organisation by cruel managers, and HR appears to focus on supporting and protecting the manager rather than taking on the harder battle of actually addressing that teams problems head on (in a way that isn't just throwing money at a team building day which is painful for everyone involved and exhausting due to having to pretend to get on with one another for a whole day, fearful of repercussions if you present otherwise). My coworkers who have lodged complaints have had them really poorly handled - one who ultimately got bullied into resigning had their direct line manager brought in as the support person for the bully, which is so far from best practice its unbelievable. How could I recommend the City as a place to work for anyone when I see so many of my hard working, talented, and loyal coworkers in tears on a regular basis? My friend was once told that her application was 'lost' for a position she was overqualified for. That manager also put in bad references for that employee's other internal job application. HR must be aware of all of this, and have done nothing. A lack of action and communication to and within that team has created a black hole of discontent and despair which consumes anyone who forms any sort of relationship with its members. Meanwhile, HR can't even advise which employees are permanent or temporary, who reports to who, or how to accurately interpret the poorly written provisions of the EAP. Lord knows why anyone would want to work in HR here (though it should be noted that the HR advisors are all super lovely people to interact

with generally). Even if the versions of events I've presented in these comments aren't 100% accurate and they've been distorted slightly by the individuals involved, it shows the kind of negative views of that so many have regarding HR because they're 100% believable.

- They don't.
- They don't.
- they don't.
- They dont
- They dont, aside from Payroll who are fantastic people, I wouldn't know who actually form our HR dept and their role.
- They gave me the job.
- They have been helpful and friendly in helping me settle in the new position.
- They have not supported me and treated me unfairly with recruitment and given me no feedback.
- They help me on a weekly basis. They have helped me with recruitment, performance management, leave and a variety of other questions I have. They are always very knowledgeable and very able to assist.
- they help me perform my role better by creating greater awareness and help point me to the right direction for non HR related queries
- They helped me to go through the systems and provide comments on the team building group so they encourage us to be proactive in our issues.
- They keep the boat level during the storm!
- They need to be easily available for meeting.
- They never have.
- they provide relevant information as requested
- They respond when called
- Thorough induction and assistance with dealing with my difficult manager
- Training and compliants
- Training and courses.
- Training options.
- Try
- Unfortunately I would not say I have received support from HR team. Only one member of team has been able to support us while other members have come and gone or have been on leave.
- Unknown
- Unknown
- Unknown
- updates every now and again
- Very limited if any.
- Very little at present
- When I have asked question they mostly have tried to help
- When problems occur with payment it is hard to explain with an email. Prefer personal contact
- With advice when contacted
- With all things HR related. I would like to say that the HR Team are NOT responsible for the organizational culture.
- Yes, they do but in general way
- yes, when available
- They don't
- Unaware of any support
- Training. Team building
- Training and implementation
- None. When asking for advice or bullying nothing is ever heard from again
- None. When asking for advice or bullying nothing is ever heard from again
- I never see them so I don't know
- I have not had any contact with HR other than when they have made presentations regarding EBA
- HR is a tool of the ELG, they don't work for the staff
- Generally when HR approach us its because trouble is brewing
- As stated above I have not dealt with them, nor have I been told how they can support me

#### 86. Have you undertaken non-compliance training on City Learn?

# responses = 247

| Theme      | #   | %    |
|------------|-----|------|
| Yes        | 109 | 44.1 |
| No         | 101 | 40.9 |
| Don't know | 37  | 15   |

- Do not understand this question
- Don't know
- Don't know
- don't know
- Don't understand
- I am not sure
- I am not sure but I am positive I have
- I am not sure.
- I can't find a course of my City Learn with that name
- I cant remember undertaking this training.
- I cant remember.
- I don't know
- I don't know what this is....
- I don't recall this course
- I don't remember.
- I don't think so, the last time I used citylearn was around March 2017, and I can no longer view the page.
- I don't think so.
- I don't understand what this means.
- I don't understand what this training refers to.
- I have completed all of the online training available however I don't recall non-compliance training
- I have completed several City Learn modules
- I think so
- I think so?
- I think so?
- I'm not sure
- I'm not sure I understand the question.
- Never heard of it
- nil
- No
- No
- No
- No
- no
- No
- no
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- No
- No
- no
- No - do not know what this is
- No - not sure what this is - not listed in current modules
- no idea?
- No still to do.
- No sure
- No, not that I remember
- No.
- No.
- No.
- No.
- No.
- Non compliance for what????
- Non-compliance for what? I don't know what this is.
- Nope

- not sure
- Not sure
- Not sure
- not sure
- Not sure
- Not sure
- Not sure what 'non-compliance' training is?
- Not sure what that is?
- Not sure what this question means
- Not sure what you mean by non-compliance training so cannot answer this question.
- Not sure what you mean???
- Not that I'm aware of - City Learn training is not particularly memorable though.
- not yet
- Not yet
- on line
- probably
- unsure but have undertaken all training that was requested of me on City Learn
- Unsure this was available on CityLearn
- What is non-compliance training, is that the name of a specific course? Why did you make this field free text?
- What is non-compliance training?
- What is non-compliance.
- Yed
- Yes
- Yes
- Yes
- yes
- Yes
- yes
- Yes
- Yes
- Yes
- Yes
- Yes
- Yes
- yes
- Yes
- Yes
- Yes
- yes
- yes
- Yes
- yes
- Yes
- Yes
- Yes
- Yes
- Yes
- Yes
- yes
- Yes
- Yes
- Yes
- yes

- [illegible]

- Yes
- yes
- yes
- Yes
- Yes
- Yes
- Yes
- yes
- Yes - there's time in my life I will never get back!!! Please just offer a paper base pack to read and then questions to answer at the end. Hell even send it as a simple reading PDF and question sheet I'll do that instead!!!! Stop with the e learning portals they are truly hideous
- Yes (unsure about terminology used in this question)
- Yes e.g. Code of Conduct.
- yes I think so.
- Yse
- Never heard of it
- Yes
- Yes
- Yes
- Unswer
- Think so, not sure
- Not sure
- No
- No
- No
- No
- No
- No
- I don't think so?
- I don't now what it is
- Do not get City Learn as we don't have computers
- Cannot remember

#### 87. What other feedback can you give about the function?

# responses = 116

| Theme  | #  | %    |
|--|----|------|
| ++ positive  | 30 | 25.9 |
| They favour management & the ELG                             | 6  | 5.2  |
| Bullying is a current issue                                  | 5  | 4.3  |
| HR need to make themselves more visible & known to employees | 3  | 2.6  |

- Very necessary & helpful
- 1. multiple complaints & grievances raised against managers and no visible action has been taken to show that these complaints & grievances have been investigated and taken further.
- 2. pushing "team building" exercises which only masquerade as days out of office for people to air their issues & grievances and do not serve to unify the team.
- 3. at least 2 instances where the deciding member on a recruitment panel had a personal friendship with one of the parties being interviewed
- a shift in focus to the needs and requirements of the City.
- HR needs to be empowered to make decisions.
- Afraid to raise a issue
- Already specified.
- Appears to be a butt covering exercise
- Appreciate it is a very difficult job and HR has to handle quite an aggressive Management/directors team, CEO, Commissioners and former elected members. The priority should be looking after the employees levels 8 and under.
- Approachable, but come from a management support persepective
- Ask for opinion to all employees before any changed occurs in our organization.
- better input into their function
- Can't until I know what it's about
- citylearn is a pretty handy portal, but now I can't find it on the new site and couldn't log on last time I tried. I emailed about it but can't see a response anywhere.
- CityLearn is easy to use and saves the organization a lot of time and money ensuring all employees are trained and compliant.
- Each HR Rep seems to have their own agendas. Managers or people who are targeting or bullying staff are protected by HR. this is detrimental to the employee and results in high turnover of staff, lack of knowledge retention and a demotivated workforce.
- Fantastic group of folks who possible need more admin support as they don't have many admin skills for the City's systems - Finance 1 for POs, Journals, ability to add new comers to the empower system until they have reached their first pay cycle etc etc
- frequent payment problems
- Generally I feel the team has a lot of constraints which I believe should be reviewed and changed. You can only perform the function to the ability given. In most companies HR is the core of everything decided and so many ways, the City needs to reevaluate this department and give them the ability to do what is required at the City to not only employ but retain great employees.
- Given the City's recent history and relationships between Elected Members, the CEO, Executive and some Managers breaking down and breeding a toxic workplace, HR is no doubt at the coal face of dealing with a series of complaints - which must be difficult - albeit there's certainly a feeling that HR's priority is to protect the hierarchy at the expense of employees. This leads to employees feeling pressured or stressed, and feeling that their issue has not been considered fairly. (If they do raise an issue at all).
- good function easy to unstand
- Good idea. Does not stop staff skimming/not responding/not completing inductions, though.
- good resources
- goood
- Great team, hard workers

- HR advisor needs to be more approachable  
Hr advisor need to be present in the unit meeting for their responsible units  
Regular meeting or updates with the managers and the DA in regards to their recruitment status or discuss staffing issues in their unit to find solution  
Coach managers to better plan their staffing issues and recruitment
- HR are a stand out team at the City. The previous HR Manager was an awful bully and in less than a year the new HR Manager has reengaged her team, developed a full culture change program, launched City Values and reinstated a full reward and recognition program. I don't think it would be fair to blame HR for employee grievances as the true issue lies with managers that treat staff poorly and bully them to a point where they are too frightened to speak up. I have had a number of managers during my time at the City and HR has always been consistently pleasant to deal with. My experience of bullying and dealing with a grievance has changed only with the manager I have had. Everytime have raised an issue with HR my complaint has been dealt with very respectfully and professionally. I would also like to mention that the cancellation of the annual employee culture survey to accommodate a Commissioner lead survey is a disgrace. I understand and respect Commissioner keenness to take the time to learn about the City's culture, however in them dictating that the usual survey couldn't take place, shows their complete disregard for the wellness of the people that work at the City. The annual survey should have gone ahead as planned with Commissioners showing respect for this process.
- HR do a good job within the confines set by ELG
- HR do a great job under the circumstances
- HR need to hit the balance between being available and supporting staff and managers whilst doing their corporate risk mitigation role.
- HR need way better resourcing, but they also need to work on forming positive relationships with officers - not just managers. There's a consensus in parts of the organisation that it's easier to leave and hopefully find other work rather than to a) approach HR and b) wait until you've lined your next job up. That is the product of a toxic culture of fear.
- HR needs a significant short-term investment to deal with its major performance shortcomings, many of which link to outdated processes or lack of effective tools and systems. Once these issues are sorted, the investment should be able to decrease. This will need to be led by a competent and effective manager and director.
- HR needs to be seen to be more trustworthy
- HR needs to exhibit the value of courage in taking action where there are incidences of bullying or non-compliance reported by staff in the workplace, irrespective of the perpetrators position or rank.
- HR needs to help staff not make us feel that we are doing something wrong. we are just trying to find out about information
- HR plays such a valuable role in an organization and I think our HR team have done a great job, demonstrating real improvements over the past 12 to 18 months.
- HR require a temporary staff lift in headcount to review, refine and optimise existing processes. This will benefit the entire City.
- HR seems to be slow to respond (both from personal experience and what I've heard from other staff). While there was eventually an outcome in my case, it took far too long to resolve the issue.
- HR services have been in huge demand with staff turnover in the organisation and in HR unit itself since 2015. This means that procedures and processes need to be developed and applied to assist all staff to experience consistency.
- HR should be having a lot of interaction with every unit, but our unit sees no interaction other than with the Manager directly. People to not perceive any support is being offered by HR.
- HR should have one on one with employees at least once a year, just to keep things fresh for each individual as a person, not a number.
- Hr should makes themselves more known to staff outside council house
- I believe the HR Manager is doing a good job. I would like to see an overall rationale with the job descriptions in place versus duplications versus jobs that are not required in the first place but created due to authority and bad practices.
- I don't consider the City as a functional organisation. I understand the challenges that every City Council can have but there are lots of tasks which are aerated by ELG level which do not help anybody to perform better. Unfortunately ELG do not think and plan strategic.
- I don't think my true feelings about the HR function are appropriate to write here....
- I like it, it's easy to use

- I once spent a lot of time drafting an email to my HR business partner regarding career progression options at the City. I took almost 8 weeks to get any acknowledge of the email, and when it came it was a pass off to my manager, even though I made it clear I didn't want my manager involved.
- I think the HR Team have improved immensely and are doing a great job given the current environment and circumstances the organisation finds itself in. The HR Manager leads by example and have found the team to be helpful, efficient and thorough. 10 / 10 however much is occurring in the organisation that is beyond the control of this team. For the job they do - they do an exceptional one in my view.
- I think the whole HR unit needs to be completely overhauled and like most units I deal with in the City, need to have clear positive leadership.
- I think they are doing as much as they can.
- I wonder if majority of staff take non-compliance seriously, Leadership has to come from the top - and it does not. Lead by example and others will follow that example. Cant expect staff to do what their leaders do not demonstrate.
- I'm not sure. I don't trust HR.
- In the beginning interaction was intensive with a new function but after a while, nothing .....
- Interactive Course are better
- It feels very disjointed from a personal point of view I completed the course only to be told that I need to do it again. Provide earphones would also help.
- it functions well. Though refreshers should also happen
- It is convenient
- It requires clear direction, transparency, consistency, needs to build trust and not be seen to be a team which delivers whatever the CEO or ELG want. They need to assist with building culture and ensuring this is a safe place to work.
- It was very informative and gave information in a useful and easy to understand manner.
- It's a good induction tool
- It's fine. However no substitute for physical training
- Its a clunky website that's not easy to navigate
- Just seems to be a cover up
- knowing that several employees are subject to bullying by their managers, but do not have faith in the HR unit to deal with it. so they suffer in silence and say nothing.
- Large turn over staff, why ?
- Lots of room to improve
- Love City Learn - great initiative that I would like to see expanded into job specific training
- Maybe be more discerning in hiring?
- my position upon joining (job description) was altered...
- Need to ensure they have understanding of City systems hiring outside of Full Time is an issue as getting a straight answer is difficult. Highlights knowledge gap in how Payroll actually works.
- Not enough awareness about options available
- Not much but to lift the moral with workers
- Nothing helpful as I believe it is ignored anyway
- online learning is much more flexible than group learning.
- Online training needs to be simpler to do in small chunks. Many of the modules force you to wait to read. Very frustrating.
- Organization restructure started unplanned and without much thought about consequences. Need to stop changing just for change.
- Our HR advisors is great
- Positive team who are under enormous pressure.
- probably underresourced in current environment
- provide more information to employees about what they can learn on City Learn. Information provided should be relative to their job/ upskilling
- Raise awareness to staff on the program for increased use and uptake.
- seems hard to address long running behaviors at times
- Staff are approachable and helpful and have done an amazing job considering the amount of organisational change
- The E-learning is not user friendly and clunky. It also goes on and on and on. Very cumbersome.
- The function of HR? They should be a supportive unit helping business units fill vacancies and help to retain good existing staff.

At the moment HR drag out these processes and provide no support to existing staff asking for help. Particularly in areas such as bullying.

- The function still doesn't have an HR system but only a payroll system. This has resulted in weakness in the HR reporting function and has affected BU planning negatively. As the HR function still can't provide accurate automated reports, the workload within the Directorates and individual BUs has increased. This includes manual maintenance of the organisational charts (which should also be within the HR function - in an automated fashion - and not as is currently within the individual BUs).
- The HR team are fantastic
- The HR team has a heavy work load
- The HR team has a tough job, that requires executive backing to deliver well. It will take time to improve.
- The HR team seems to have a lot of duties that I previously haven't seen in other industries.
- The perception is there are so many staff members in HR and I am unsure what they do?
- The system is a bit laggy, and there needs to be some work around the navigating via the web browser. Aside from that, they have made great improvements to course content.
- The team could be more approachable, and offer more opportunity for knowledge sharing to support staff and managers
- Their workload for the past 2 years has been unacceptable
- There appears to be a lot of induction hours required at COP
- There has been a very high turnover of staff in the HR department, with some people staying for only a few weeks.
- They are a nice a friendly group however communication could be clearer and quicker.
- They are overstretched because the organisational culture has become so toxic that turnover is at ridiculous levels. Resulting in them being unable to process recruitment fast enough. Resulting in them becoming more stressed. Resulting in people thinking they aren't doing a good job. This isn't helped by the inefficiencies of their processes and the crazy manual workarounds they're obliged to do because of our inadequate corporate systems. Honestly they're doing their best to improve but they are stymied at every turn.
- They are valued and appreciated
- They don't seem to care
- they need to be more reactive to the needs of other departments
- This survey is targeted not only at HR but the level of services of leaders and supervisors in the wider business. I only wish to comment on the HR function. The team at officer level work hard and are committed but are burdened by poor systems, lack of guidance to new HR staff members and no direction.
- This team represents the city of Pert to its highest capability.
- Time is a key element in people's lives, and doing training on line can be a bit of a chore.
- Trust is not big yet with HR but would be keen to see it develop.
- useful
- Useful
- Very helpful, dedicated and passionate bunch of employees who strive high to meet the demands of the business
- Was good, easy to do and lots of choices
- We need a HR department that supports the employees, not just the organization.
- Whether than need more people in the department or close their doors to persons who have made mistakes in their management and let them get on with managing their section
- Work to restore faith in staff. I think by doing this matters that have not been raised may start to be, and hopefully dealt with, thus improving staff moral and their wellbeing at work.
- works well
- HR work for the managers only not the workers
- Stop thinking we have computers and can get them whenever we wish
- It concerns me that Parks Manager was able to recruit and employ a crony from the City of Subi \*his old work place) and give hi a \$20K pay increase - surely there must have been other suitable applicants - it reeks of nepotism
- I saw them when I was employed then never saw them again
- I feel the workforce could also benefit from a greater understanding of HRs role and the issues they too face

## General

### 88. What's the best thing about working for the City of Perth?

# responses = 285

| Theme                      | #   | %   |
|----------------------------|-----|-----|
| My team & colleagues       | 131 | 46  |
| Working for a capital city | 19  | 6.7 |
| The pay                    | 19  | 6.7 |
| Making a difference        | 13  | 4.6 |
| The flexibility            | 13  | 4.6 |

- - My job is very interesting
- - The flexible working environment (start and end hours) and flexi time accrual provides a fantastic work life balance for me
- -I'm lucky the people I work with have a sense of humour and don't take life too seriously when the times get tough
- - My Manager: he has a variety of skills which makes him a very effective and kind boss
- 1. close to home
- 2. team mates
- 3. social club
- 4. contributing to a capital city
- 5. large organization with lots of departments
- A great and friendly workplace, which is driven to be better.
- a lot opportunities given. It is a big family
- A modern building with modern desk equipment. There are many employee benefits to working for COP
- As the municipality of Perth City, I am able to contribute to the development of the city. As an employee of the City of Perth, I used to be proud to work here, now I am not so sure.
- Being able to improve every day life for those who live & who work in the city
- Being in the City and with the opportunity to be part of projects that can change the Capital of the State.
- Better wages than comparative role in private industry
- Capital City status, being able to impact a global City
- Capital city, challenging tasks, high profile, feel I can make an impact
- Central location and interesting work
- City of Perth is a very good place to work .I enjoy my job and I give 110% to whatever I'm asked to do .
- city of Perth treat every employee same.
- City provides good working environment . Appropriate employee health and wellbeing is in place. Working with many tenanted people from diverse background.
- Co - workers, give the best support and team work.
- Colleagues
- Colleagues
- Colleagues
- Committed and skillful immediate team
- Competitive remuneration package
- Complexity of the work, ability to make a difference and dealing with a variety of professional people.
- Dealing with the public
- DPD. A friendly, committed and great group of people to work with - at all levels (officer, manager and director).
- EBA benefits with a salary that rivals the private sector; lovely colleagues.
- Enjoy working and seeing improvements in perth
- Excellent remuneration
- Experience dealing with different issues. experience with dealing with a continuously changing environment.
- Exposure to projects

- Fabulous views, building, people, central CBD, exciting projects and the vast majority of the people I work with. I think I am well paid (as are other City of Perth officers)
- Feel safe and work for the community
- Fellow staff members
- Flexibility
- flexibility with family life
- Flexible hours
- Flexible working
- Flexible Working Arrangement
- Flexible working arrangement
- People are nice
- Works are relatively interesting
- For me, its been the people in my unit and manager and friends in other units that I can trust. I know others are not so lucky but it really has made my time working at the City enjoyable, particularly when times have been tough.
- going out on the streets and helping people out
- Good environment, colleagues and pay.
- Good pay and nice work office environment. Close proximity to home
- good team
- Good work colleagues
- Good working conditions friendly colleges
- Good working environment and job security.
- Great colleagues
- Great people, very lively environment ,helpful co workers
- Great team, commitment and dedication of my fellow colleagues
- Great teams, and a great city. Love my job and very proud to be working here.
- Guiding the growth of the capital city.
- Hard to say at the moment
- Having some support from some genuine people
- I can make a difference and bring value to my unit, when allowed to do so.
- I enjoy my job and my time at the City of Perth. I have a great and supportive team
- I enjoy my role and what I do generally
- I enjoy my work and the friends I have made at the city.
- I enjoy the team that I work within
- I enjoy working with the council of our capital city
- I enjoy working with the people. There are good people that work at the City who love their jobs and put in 110%.
- I enjoyed my role.
- I feel proud to be working for my capital city. The City is an inclusive workplace and the employees are well looked after.
- I get paid
- I have a good team which I enjoy working with.
- I have a job.
- I like my team
- I love my job and the people I work with
- I love the city. Its a very vibrant place. The people are very respectful.
- I love to work for the City of Perth IF it works and structured properly. In MLG level I see support is provided but no support from ELG. Obvious bureaucracy which results the City performs at least 50 years behind 2018.
- I love working in my current team. My manager and coordinator are excellent leaders and my work peers are great and supportive which makes coming to work and doing my job a pleasure. I have worked in other areas at the City and it was not the same environment.
- I love working in the city, and I love my own role in making the world a better place in a small way.
- I love working in this great building
- I really enjoy my work, I'm happy with my salary, the location is great and my current team are very supportive. I've had access to so many opportunities that just wouldn't have happened at a smaller Local Government.

- I used to enjoy working here but nepotism and protection of some staff have ruined the culture and morale.
- I wanted to give back to the community. Enjoy comradery with like minded people who work smart with strong ethics who have worked in private and public.
- I work in a supportive environment. I find the City of Perth a good employer. It seems there is more emphasis on work life balance than in the past but this may also be due to the fact that this is important in the public arena.
- I work with a great supportive team
- I work with good people
- I've always enjoyed walking through Stirling Gardens to the City. Those I work with are good to work with. Work is generally satisfying and it is possible to have a sense of achievement.
- In my area, being able to deliver great initiatives to help the business improve their work.
- Interesting projects. I enjoy working with my team.
- Interesting role. Good support for training and development. Opportunity to be a leader. Friendly, supportive, professional Director, Manager and staff.
- It is a fun, busy, friendly place.
- It is a good place to work because of it's diversity
- It is a well run organization with future opportunities if wanted.
- It is the capital City and the premiere local government. It is a great place to work in. Most of the people here are good people.
- It is the Capital City Council and I take pride in working here
- It is the Capital City of Western Australia and has many redeeming factors
- It was RDO's but that's looking pretty shakey right about now. Super contributions are good. Struggling to find anything really positive about the place these days.
- It's an instantly recognisable capital city council where I meet many different people and am exposed to new topics, so I'm constantly learning. there are great , hardworking people in the organisation and I enjoy hearing their stories. I have many training opportunities and I enjoy working in the city. I also enjoy the work I do with my fantastic team and I am well remunerated.
- Its a secure job
- Its central
- Its close to good food
- job security
- Knowledgeable and enthusiast people (across all levels). Good working culture that just needs to improve through cross functional teams that are given adequate technological tools to drive efficiency, effectiveness of delivery and therefore productivity.
- like my job and the staff
- Location
- Location
- Location
- Location and my colleagues
- Location and pay.
- Location and serving many people
- location is convenient and close to home
- Location is convenient, potential of the organisation is good
- Location, conditions
- Location, conditions, people I work with
- Location, my team, type of work
- location.
- Love the people that I work with, lots of work that's never ending & day goes fast, very interesting.
- Making perth a cleaner and flood free city
- Meaningful projects. Serving the community.
- money
- Money and super
- Most of the staff I work with
- Pleasant workspace
- My area of work is challenging and interesting.
- my close team

- my colleagues
- My colleagues
- My colleagues
- My colleagues
- My colleagues and the atmosphere in our team and on our floor
- My current manager does not micromanage and encourages my out of the box creative ideas to in turn encourage CoP to be the best City Council in WA
- My Director
- My immediate team and management are incredibly supportive. Demonstrated values are recognised and rewarded. The feeling that things are always improving
- My immediate team, and collaborative relationships with certain officers in other teams.
- My job and my colleagues.
- My job and what i get out of it
- My Manager is very supportive and my team is good to work with. I have flexi's available to me but feel sorry for those whose Manager's don't allow them. Flexi hours are very important.
- My peers - their support and encouragement
- My team
- my team
- My team
- My team - they are awesome. Without them I dont know if I would stay. Im glad that i don't work out of Council House and am detached from all the bs
- My team are an amazing bunch of people who work together to provide a good service for the City. I love working with them, and that's what keeps me here.
- My team is awesome, we provide each other support both personal and work related.
- My team is really good to work with
- my team mates & other staff
- My team mates.
- My team members, the diversity of work and the location.
- my team. and working for the city of perth community and ratepayers.
- My teammates within my unit. They make coming to work so much more enjoyable and the job a lot less stressful at times. They're more like family not just colleagues.
- my work and team
- My workmates and the type of work I do.
- My colleagues
- no pain
- Not a lot
- not much at the moment
- nothing
- Office Location
- Opportunities to learn and broaden, improve skills.
- Opportunity to make a difference
- Over all good environment
- Pay/ Conditions
- People at the City of Perth are very approachable and friendly.
- people in my unit are the best
- location is excellent
- sense of satisfaction at being a part of an organisation that acts for and on behalf of WA's capital
- people that I work with
- People. although turnover is high lately so you don't even get a chance to form relationships.
- People. Work life balance, flexible working arrangements.
- People/team
- Perth city is a beautiful place and the council represent this city
- Pleasant environment, good location, good onboard and induction lots of activity
- Previous to the last 2-3 years it was the pride in which we took at the presentation of the City, the teamwork that existed within most units and in particular the Parks unit in which I work. We had a great team in which we all worked together to achieve positive outcomes. Now, well, very little unfortunately. Since our "restructure" and the arrival of our new manager, teamwork, respect and commitment has

been eroded and now it is "just a job"...one in which I am actively looking to leave. This is very disappointing as I enjoyed working at the City of Perth prior to 2016.

- Providing a fabulous service to the public and working with wonderful colleagues
- PROVIDING SERVICE TO RATEPAYERS
- reasonable working time and work flow
- Remuneration compared to other local government
- Study assistance
- City location
- Representing the capital city of WA, being proud to work at CoP
- Rewarding place to work
- Safe workplace; quality staff
- safety and structure
- salary
- Salary package.
- Serving the community within the states capital city and knowing that I provide the best possible service that I can.
- Serving the community, working in the tier of government that is closest to the people, developing and delivering meaningful change.
- Having the flexibility of a work life balance, being a productive, engaged and enthusiastic employee who is also able to have an active, productive and engaged life outside of work.
- Serving the public, delivering and advancing positive heritage outcomes and working in a great building in the city.
- Some good people work here and sometimes it is a good environment. it is sad there are so many silos, there is a massive challenge to remove them - I would like to see it happen.
- Some really good supported team members which make coming to work great.
- Stability. Easy to get to each day. The people I work with. My job can also be interesting and fulfilling at times.
- stable job
- Staff absolutely. There are some incredible people working here; passionate, skilled, motivated individuals who truly want to make a positive contribution to the City. Unfortunately, we lose many to other organisations due to the uncertainty, instability and great pressure to produce work over and above their daily tasks.
- Staff are well paid and looked after
- Staff, flexibility
- Stand up desks, reasonable training budgets and my team of experienced and expert officers.
- Superannuation
- Teamwork. Providing good services to the community. Friendly staff.
- The ability to 'connect the dots' to assist the City of Perth work and communicate more cohesively with both internal and external stakeholders.
- The best thing about working for the City of Perth is not being unemployed
- The brand is recognized across Perth and deliver great events and activations for community members.
- The broad section of activities that I carry out
- The building is attractive.
- The challenge of your job, the people themselves, the little awards that are given outside the main EBA agreements.
- The City has great potential to be a beacon of forward thinking and innovation, this is what I like, the potential is there and can happen.
- The City is a great place to work. There is a pocket of miserable people that are vocal and grab it down. I like my team, the work, the pay is very fair, the benefits are good and the facility where I was is lovely.
- The City is a really interesting place and does some amazing things, and it's great to be a part of that. I love the passion I find at the possibility of helping to make this a place people want to come and work.
- The City itself, it is an amazing place and we SHOULD be proud to work for this organisation. My direct colleagues are very supportive and work in such a manner that the culture is very productive but also rewarding and fulfilling. Most people at officer level, want to do a good job and are more than willing to help out, but are frustrated to be working under an environment with no direction or strategic planning.

- The City provides good working conditions. The organization is involved in many decisions/planning that effect not only ratepayers but the wider community in terms of lifestyle, entertainment and work, this creates a vibrant workplace.
- The commitment of the employees
- The Community Services team! I am fortunate to work with such an amazing group of dedicated and passionate individuals. Everyone in the team wants to make a difference to the local community.
- The employees excluding management
- The external lights
- the flexible hours
- The freedom to make decisions and generate workflow without being micro managed. The support I get from my manager.
- The friendships I have made with people from all departments regardless of rank
- The great general staff and their passion to create a great city.
- The guys that I work with
- The immediate team I work with and that it is an exciting environment to work in.
- The innovative projects I work on. When they can be seen through all the way without the constant barriers and hurdles to implementation that is.
- The interesting work
- The limited time that I have been in my unit, I find it a family feel unit
- The location and flexible hours within my team
- The location in the City means it is accessible, more interesting line of work than suburban councils
- The opportunity and potential to do good and meaningful work, particularly with external stakeholders and the community. When this happens, it is an amazing experience, however, this is for the most part obstructed by micromanagement, a toxic organisational culture, lack of vision and leadership and cumbersome systems, processes and rules.
- The other staff
- The pay
- the people
- the people
- the people
- The people and serving the community
- The people and the environment
- The people and the location/environment.
- The People and the Team I work with and assisting customers.
- The people for sure and the challenges in my role as the City has a lot of work to modernize itself.
- The people I work with
- The people I work with
- The people I work with.
- The people I work with. My teams.
- the people in my team
- The people who soldier on in the face of adversity while the storm smashes around them, are genuinely here for the right reasons.
- The people within my Unit
- The people, the flexi time, the location, the value of the work
- The people.
- The potential to make a difference to the development of Perth as a whole
- The projects we deliver for the community are high quality and something we can all be proud of
- The remnants of work/life balance that still exist (working a 37.5 hour week) if you're not too high in the hierarchy.
- The staff and the impact you can make on the well being of the community and the future of the city as a whole.
- The staff I work with and I enjoy coming to work.
- The staff in my unit. They are like family. We have seen each other thru engagements, weddings, babies, illnesses and funerals. We support each other. The city also supports us when we need to take emergency family leave because our needs change over the years.
- The support and positive aspects of working with my direct team. Seeing the passion and energy the wider team at the City of Perth invokes.

- The support and team work of my entire team to make things work.
- the team
- The team I work for.
- The team I work in
- The team in my unit.
- The team that I am working with.
- The type of work available in the Capital City context.
- The unit I work in has a lovely bunch of people and I enjoy coming to work and enjoy the work I do
- The variety of tasks in my job and being able to make a positive contribution to the community
- the view.
- The work, stakeholders, and colleagues
- The workplace is very conveniently located, the people I work with are very friendly and welcoming.
- They are very concerned about all of the community they serve.
- They look after you
- variety of projects, hours of work
- Vibrant location, keep in touch with most of the major developments in WA.
- Views from windows at Council House
- Friendly colleagues
- Everyone doing their best in time of uncertainty
- Flexibility in work arrangements
- Approachable line management
- CEO Recognition awards
- Seeing project outcomes in the street/city
- Wage, Roster
- We all work as a team, helping each other as the need arises.
- We have so many opportunities for people, venues, open spaces, great causes etc. to support. There is so much to be proud of and to shout about in our city.
- Work conditions
- work conditions and people I work with
- work life balance
- Working closely with other staff
- working for an organisation which is ultimately helping the public and contributing towards how Perth the capital City features
- working for the CITY OF PERTH
- Working for the public.
- Working in a great environment.
- Working in the city, the type of work I do and my work mates in my unit.
- Working in the team, with decent budgets to make a difference in the community doing something I enjoy doing, pays well and benefits are good.
- Workmates generally care for each other.
- Workstation good.
- Working for a capital city can give you a sense of pride
- Working within a fantastic team. I am proud to say I work for the City of Perth
- Working in a team that work well together, and being supported by management
- The team I work with at Citiplace
- The team bond I have with my immediate crew. We work well together and take great pride in our area
- The fun group of people I work with
- The community and the people in it. Making the city look beautiful
- Support from management
- Security
- Our working hours
- Making a difference to the public and giving them a wonderful city to work and live in
- Loving what I do
- Good council
- Getting paid
- Conditions

#### 89. What concerns you most about working at City of Perth?

# responses = 291

| Theme                                    | #  | %    |
|--|----|------|
| Lack of leadership                       | 48 | 16.5 |
| Change / uncertainty                     | 39 | 13.4 |
| Culture / values                         | 32 | 11   |
| security / instability                   | 26 | 8.9  |
| Low morale                               | 18 | 6.2  |
| Commissioners                            | 14 | 4.8  |
| Bullying                                 | 14 | 4.8  |
| Turnover                                 | 14 | 4.8  |
| Lack of communication                    | 13 | 4.5  |
| Reputation & public perception           | 12 | 4.1  |
| Politics                                 | 11 | 3.8  |
| Silos                                    | 8  | 2.7  |
| Nepotism                                 | 7  | 2.4  |
| Lack of career development opportunities | 4  | 1.4  |

- --It gives me pause to be working for an organisation whose CEO was summarily dismissed, apparently for doing the right thing,
- --Since you are asking I will also say that I think that several who joined the management team during the restructure period were poorly recruited. They seemed to have been chosen for their ability to promote themselves and cut costs but with no obvious concern for Perth or the City of Perth organisation. In several cases people were promoted to very senior roles quickly after they were recruited. I believe the City has suffered as a result.
- 1. job uncertainty - due to budget cuts
- 2. CCC investigations
- 2. 6 month probation period
- 3. delivery vs outsourcing
- 4. large amount of redundancies at local governments
- A culture of blame and silos that is difficult to change as it is fairly ingrained.
- a huge shift towards a top heavy management culture and workers having less input about what matters to them and their role in the city
- A lack of accountability and consistent bad behavior at the top of the chain.
- A lot of benefits and programs are set at council house, and those of us who are customer-facing are often unable to attend or take advantage. It can feel like there is an assumption that all CoP employees work at council house, which can lead to feeling a bit disconnected from everybody.
- Any career development
- As above at question 89. To reiterate, the single most concerning thing about working at the City of Perth is the toxic culture of selfishness, greed, micromanagement, intimidation and discrimination, particularly at the executive level.
- Bad communication, people keeping information to themselves, no transparency.
- Being in a customer service role, I worry that I do not have opportunities for advancement later
- better environment for working
- Breakdown of leadership, lack of respect, values are just words and not fully adopted
- Bullying and harassment and letting people be employed with a criminal record for sex offence
- Bullying and passive aggressive behavior. I am experiencing this from my leadership team now, and don't feel there is anyone I can trust to help. I am looking for new employment.
- Bureaucracy and micromanaging
- Career progression. Delivering projects - decision making not enabling this to happen. Lack of teamwork. Being told by line manager not to collaborate with/assist other business units.

- Change for change sake, it has been an issue as previous systems worked well may have required some fine tuning however management were not receptive to advice and were not interested in retaining knowledge and experience. Morale has declined as units have essentially become top heavy and divided creating silos where nepotism and empire building has become rife. The lack of employees actually on the ground floor providing the service is overwhelming undermanned. Micro management is impacting on staff performing their roles. Recruitment has been poor and has incorporated a degree of nepotism by inexperienced managers and directors surrounding themselves with allies to protect themselves. A level of middle management has arisen where candidates in those positions only value what is essentially in it for themselves. All this has impacted dramatically on units retaining skilled, experienced and knowledgeable staff, divided units, created silos, delivered poor and inconsistent service to the public, higher LTI's, stress and affected digression rather than a motion forward.
- Change in some areas not as quick in the uptake. Out of date systems and process holding the business back.
- Changes that aren't solving problems but creating unneeded problems
- changes to work conditions
- clear direction
- commissioners, poor behaviours by some managers
- Communication gap
- consistency in ELG
- Consistency with Levels, number of reports and \$\$ not in alignment across directorates
- Consistent disruption to the Executive team and lack of decision making.  
Noticeably the resignations are on the increase.
- constant change
- Constant change and uncertainty, no clear direction from the ever changing leadership, the lack of internal development and promotion.
- Constant change of management leads to instability with staff
- Constant Change, lack of leadership, inconsistent processes across the City, lack of communication
- Constant change, unclear executive leadership
- Constant negative media attention  
Transparency
- Constant restructures and appearances of job instability.
- continual high level changes and negative media
- contract work
- Corruption, nepotism and unfair hiring practises
- Councillors involvement and inexperienced management.
- Culture change. Less trust of staff in management. Management being 'out to get rid of' staff.
- Culture, access to benefits, challenges of being part time
- Culture, future, work enthusiasm, lack of commitment to projects
- Current direction and leadership.
- Current inquiry, scrutiny by Commissioners, lack of communication and understanding of goals of Commissioners
- Current Leadership issues with the CEO. Language around inclusivity, The City of Perth is not only Council House, the City performs many functions.
- Current level of uncertainty
- Decent pay
- Directors not working together - constant loud voices dominating important organizational decision making, difficult to justify some Exec decisions which seemed based on rivalry and competition for resources not what is good for the City and stakeholders, poor approach and transparency in working with commissioners
- discrimination and harassment
- Dysfunction at Executive (director) level - the director's all seem to be eager for any opportunity to take potshots at each other or throw each other under the bus. It certainly does not seem to be a cohesive, functional relationship between directorates.
- Equality of the EBA across the organisation and the lack of some middle management and most executive level leadership skills. Staff sentiment comes across as having very little trust/faith with the exec levels.

- Everyone works in silos, even at a Directorate level. There are no shared goals and cooperation - it's too competitive. Management aren't trusted or respected and there is no consistency.
- Everything is customer focused, but employees; not so much.
- Excess of FTE across the organisation
- Executive Management - the CEO and ELG team are self-interested and lack direction. You feel like they don't care about you or the organization.
- fair treatment for all
- FAIRNESS and Neptism
- favoritism & general lack of direction.
- General morale, public perception, reputation as an organisation given recent and ongoing events
- Generally very poor executive leadership. In particular the many bullying complaints against 2 specific Directors that are continuously ignored.
- Gossip. Behind close doors. HR Advisors in all areas of HR need a code of ethics. Required in the area of discussing their opinion of employees' mental state. Training on how to be professional and not dramatize would be of great benefit. Awareness of the inappropriateness of sharing personal opinions on individuals is lacking in the HR skill set.
- Governance issues and inability to show leadership or make bold moves to make a difference to Perth
- Hierarchical culture, poor planning, no clear direction, poor valuing of arts and culture, some silo mentality
- Huge staff turn over.
- Huge turnover of staff has created loss of knowledge and experience in some areas. Clear leadership is necessary to bring direction and purpose to the organisation after such a turbulent time.
- I am disappointed with the Commissioners attitude towards staff, there have been some incidents where a commissioner has publically disrespected staff ie: huffing when the employee is speaking, crossing their arms and shaking their head etc. This behaviour is unprofessional and does not inspire confidence for the public or the employee and is certainly not a good example to be setting. It is important to remember that the staff have endured many years of incompetence from the councilors and almost a year with an absent CEO, we really are doing the very best we can under very difficult circumstances. I also feel the Commissioners are involving themselves in functions that are not within their scope, much the same as the suspended councilors.  
The strength and leadership from our directors has been extraordinary, the City is incredibly lucky that they are not only resilient but capable.  
My biggest concern is that the we will lose the only stability we have, being our remaining directors. It also concerns me that some of the Commissioners may not have the skills or relevant experience to resolve the issues the City is currently facing.
- I don't have any major concerns
- I feel we are going backwards in knowledge and skills
- I have a lot of contributions and ideas that are never listened to.
- I love my job! It is disheartening when you come across individuals who may have been at the City for a long time and are consistently negative about everything. This behavior impacts the organization's culture and morale. I think team leaders could be better recognized by management for the work they do.
- I was told we had a restructure when I commenced work here. Not sure who came up with the restructure but it was obvious to me within a week it is more siloed than ever. Too many managers with self interest, concerned with self preservation rather than getting on a managing. I have yet to see a cohesive plan "roadmap" of where we should be going forward.
- I'm concerned that there is not enough courage to speak up and address the matters or people that really need to be addressed.
  - I'm concerned that there is so much uncertainty on the future of the council, it's direction, when it will change again and who will be leading us that people have lost their way
  - I'm concerned about the City's reputation, amount of vacancies we currently have and the amount of employees who have left within 12 months of being hired here. That is a terrible sign of an organisation who can not get there act together. Frustrations are high and lessons learned are being repeated time and time again
- if my job is safe, and why some people are allowed to get away with blatant bullying
- Inability or poor execution of decision making by the executive. Low levels of delegations to make decisions appropriate to all officer levels.

- Indecisive and non-decisions from a constantly changing executive.  
Lack of forward planning in design and budgeting/resourcing for capital works projects.  
Elected Members altering plans already approved.  
Elected Members lacking a general understanding of how to perform their role and the limitations they have as individuals.  
A lack of coordinated approach by business units to achieve Corporate Business Plan KPIs.  
Executive having little regard for staff workloads when assigning tasks.
- Inquiry process, and non stop change at executive level, including council and commissioners. Relentless requests and demands (from ELG and Commissioners) to already under-staffed and under pressure staff.
- Instability and negativity.
- Instability at leadership levels - length of acting arrangements puts additional pressure on staff down the chain  
Lack of clear and well thought out strategic direction  
Lack of open communication and care/respect for staff
- Instability, Lack of communication, Loss of knowledge recently, us and them mentality with management, staff moral
- Instability. Changing goal posts almost weekly, lack of clear direction, management issues affecting day to day duties
- inter-team collaboration. actually getting things done. too many procedures and report mechanisms
- Internal conflict and lack of direction, lacks of up to date processes, policies and procedures.  
Competency levels.
- internal politics and 'clicks' among teams. Work place is not a place for pettiness
- Internal processes can be flawed and need to improve to increase greater satisfaction for customers
- it is going to look bad on my resume because of the dysfunction of the organisation and the lack of concern for staff welfare.
- It's culture and commitment to it's most important asset - it's people! Too many inward thinking people in upper management who don't 'respect' their people or, indeed, have 'commitment' to them!
- Job insecurity,
- Job instability
- Job security
- Job security
- Job security - the turnover of staff is high. There is current a fear of voicing opinions or seeking support etc. due to fear of job security.  
Inconsistency of policies etc. across Business Units - one rule for one Business Unit i.e. Flextime and none for other Business Units.  
Lack of transparency from Managers and Executive - presence of hierarchy.  
Increment process - no communication.  
Lack of grievance management.  
Staff morale.  
Opportunities for development.
- Knowing that some colleagues in other units are struggling and they are too afraid to speak up. That the City is becoming money orientated instead of going back to its roots and being there for the community.
- lack of appropriate systems, lack of retention strategy leading to high staff turnover, lower than adequate skill level in important roles
- lack of clear processes, lack of work to improve outdated processes, lack of clear understanding in people's job roles, no willingness/courage to take risks and be accountable, lack of understanding of what other business units do
- Lack of cohesion between departments
- Lack of communication
- Lack of communication and understanding of workers
- Lack of communication, transparency and leadership.
- Lack of direction and shortage of inspirational leadership in senior management. Lack of transparency in ELG decision making.
- lack of direction, decision making and leadership from executives, everything is done bottom up.
- Lack of Direction, so many units and lack of team spirit across those units
- Lack of effective leadership and the ever increasing red tape

- lack of leadership
- Lack of leadership - need CEO that can lead elected members instead of just work with them
- lack of leadership and strategy to deal with all the issues with external parties. Being exposed to a different change of approach of how to move forward with my role, once my manager leaves.
- Lack of leadership from the CEO and ELG. CEO needs to be stronger to be able to run the city and manage his / her ELG team. Our current CEO is a lovely person, unfortunately he just doesn't have the skill base needed for the job and our ELG are all busy working in different directions and we have no leader at the top making sure they are all on the same page.
- Lack of leadership, uncertainty about the City's organizational structure and security around roles and services.
- Lack of professional leadership skills for top management
- Lack of safety Culture, Discrimination against different groups
- Lack of strong leadership.  
Poor relationships between managers and subordinates.  
Potential of another organizational restructure.  
High number of disgruntled CoP employees.
- Lack of support, extreme inconsistency in how different staff members are treated, erosion of good working conditions. My biggest concern is that I can't see things improving. Good people are leaving all the time.
- Lack of system integration and lack of one data source of truth. This leads to duplication of work and inaccurate reporting that can lead to inadequate decision making.
- Lack of trust support and being micro managed and being told if you don't like it go elsewhere. Bullying by management
- Lack of trust, support, and being micro managed and being told if you don't like it go elsewhere, bullying
- Leadership
- Leadership or lack thereof. It's nice to know someone is captaining the ship but as soon as the going gets tough, the executives all bail to the life rafts leaving their staff to sink.
- Leadership team
- Level of governance, instability of the organisation due to the amount of change, job security.
- Little to No incentives (Rewards or discounts) for working at the City. e.g. discounted staff parking.  
Culture of some people - a lot of resistance especially the lack of trust and resistance at top level. Very Manual, convoluted processes. Lack of structure, framework, governance.  
Feels like we're working more than a decade behind other organisations in our ways.
- Lots of new managers making changes that ofrrr dont work. Won't chage tactics just keep plowing down the same psth to save money its all about the money. Clean ciyy was once not anymore.
- Made to feel worthless, bullied and victimized.
- Many changes and unfair treatment of employees
- Mental Health of the staff.
- Morale is extremely low, staff turnover is high and the culture is bad!
- Morale, other peoples uncertainty, inquiry repercussions, possible reduction in wellness initiatives
- Most areas across the City are siloed and not willing to move forward into the future and become one City.
- My manager (as I've outlined in earlier answer above) makes interacting with him an extremely stressful and difficult part of the job. Dealing with him is the worst thing about working at Perth
- My reputation being tied to a dysfunctional organization. The impact working here has had on my mental health due to stress and anxiety about the workload and expectations is not appropriate or sustainable.
- negative impacts on future employment opportunities due to working in COP
- Negative people, walking into a meeting with positive energy then having certain employees voice their opinions in an aggressive & disrespectful matter causing embarrassment for everyone & bringing the good energy down. This is not courage or the city's values.
- Negative publicity because of the Lord Mayor and Councillors behaviour
- Nepotism and bullying from management
- Nepotism and lack of transparency
- No carrier growth
- No cohesion at Director and Manager level leading to organizational dysfunction. ELG pretend everything is ok but the staff knows differently

- no concern for employees stress
- No courage to face issues we have to improve in particular Finance function.
- no leadership, no direction, lack of decision making, no professional development pathway
- No matter how many surveys are conducted, Management refuses to accept they are the cause of all the negative issues and nothing is resolved. Also, too many friends and family members are being employed and people who have no idea what a Council is actually supposed to be doing which is in a nutshell SERVICES provided to the area they cover because if they continue to treat it as a business, then the business is going to go broke !!!!!
- not enough direction
- not having clear direction and necessary support
- Not knowing what is going to happen in regards to restructure
- nothing at present
- nothing really
- Nothing.
- Ongoing issues with the executive. Lack of clear, sensible decision making and processes and a whole of organization approach. Lack of communication and transparency.
- Opportunities for staff within
- Other units do not work in unison, if someone is away no one knows anything and are not helpful.
- Over my time at the City, I have worked under 5 Managers, I have always remained committed to my role, and yet I have had 3 times when I have been well respected and worked to the best of my ability and 2 times when I have been treated horrendously. Surely when I have been 'in trouble' HR should be questioning how can this person's performance have changed so radically and not question the management
- Parking and traffic congestion. All employees should have free parking during normal working hours.
- Past governance issues affecting morale - culturally unsafe work places in regards to diversity and racism
- Pay levels.
- People being unhappy.
- people don't know how to do their job
- People that are staying will not be rewarded for their loyalty
- POLITICS
- Politics and impact on doing the job correctly.
- Politics and upper management not working well together
- Politics from was an issue. Probably not more anymore
- Poor culture
- Poor examples set at the top level. Lip service to corporate values while not embodying them at a leadership level.
- Poor executive leadership
- poor public image (not just Councillor bickering but also ELG conduct), ELG decision making process is not sound, ELG do not act on staff advice, some of ELG don't have the ability/expertise to do their jobs
- Poor team management in my business unit. Inconsistency of the way issues are handled.
- Public perception of our elected members and CEO dramas.
- See above. It is disappointing to see the type of people that are being employed in management positions, people who should be leading by example are the worst offenders of bullying and irrational behavior. Our manager was employed by the City when everyone knew the reasons why he "left" his previous position within another local council. Leopards don't change their spots unfortunately.
- Since the Commissioners were put in place, there has been a number of reviews which has an unsettling effect and causing low morale.
- Some areas working in silos, at odds with the rest of the organisation and not held accountable for it
- Some employees are not completing their work in the expected manner. These same employees disrupt meetings with complaints in a way that does not reflect the City Values. From my perspective this is condoned, as the same few people are often very rude and almost abusive during meetings, and there does not seem to be repercussions for their actions.
- Some of the current managers are not what I would call a 'people person' and are not suited to leading people. Some have their favourites even though they are underperforming and keep them in the job. The inquiry and the bad press it may generate and the lack of a stable ELG.
- Staff getting lost amongst the organizational structure
- Staff morale, high turn over, query on leadership.

- Steadily worsening morale with no indication of improvement
- Strategic direction.
- Systems are completely broken  
Too many ad hoc spreadsheets  
Reporting schedules disrupting project work completion
- That they think of me just as another number
- That we are always taking on more projects and work due to the different directions given each time there are new councillors and now commissioners. Can't get on with your job to make things better as you are always working on new strategies to suit who is in at the top
- That when I come back from maternity leave. when I go. There will be a job to come back to and half the people won't have quit. The staff turn over is crazy. I came from another council to come here, if I had my time again. I would of stayed.
- that you can be made redundant over night or made a scapegoat even if its not your fault
- The accountability of the line coordinators and managers
- The amount of people wanting to leave
- The amount of unhappy people that work here.
- The appearance of the lack of unity at the executive level.
- The backstabbing and nepotism
- The behaviour of staff (the higher up the ladder you go) is embarrassing. The CEO seems to be a reasonable person, however the directors seem to carry on like a bunch of spoilt children.
- The bullying culture
- The City seems to have lost its way. Units seem to be working against each other. People seem to forget that people in other units must give input to projects, small and large. I think with the turnover of staff a lot of the history of working together has been lost. We need to have more cross unit training. Some serious, some not so serious. Some adventure training out doors where you have to work in teams to (for example) design and build a raft then get it across the river.
- The constant upheaval and changing of the Higher Management structure
- The continued breakdown in relationships (perceived or real) between the Executive, and self interests or personal battles that have been started at the expense of the greater work force.  
The stop, start nature of direction and the Commissioners reviewing or implementing new actions that affect the administration with very little regard for the impact it has on staff workload and stress.  
I'm concerned by the notion from the CEO in January that he went on stress leave stating an unsafe work environment (which has continued all year) - well, he's been in control of the environment - if it's unsafe for the CEO, why is it safe for the other 750 City employees to continue?
- The culture - the result of an immature and divided executive team. Paranoia and power games at the top has a trickle down effect, the level of insecurity and fear within the organisation makes it a very unpleasant place to work. Rather than working towards common goals, people are often driving their own agendas to protect their patch and try to prove their worth - this can make it near impossible to get things done. Simple projects/things that should be BAU become political and drag out to ridiculous timeframes. This effects our reputation and relationships with external stakeholders.
- The culture & nepotism which allows different standards for different people. The consistent fall outs and in fighting between Managers & ELG
- The culture where Management are not accountable for bad behavior - they should be leading by example. Also, concerned about the way bullying is managed.
- The culture. Councillors and directors seem to be dishonest and not doing the right thing by the City of Perth
- The current perception of the Council.
- The de-humanizing that has gone on, the witnessing of the inconsistent application of employee benefits and the very real threat of losing the flexibility of a work life balance.
- The demise of the council and members awaiting outcome of commissioners report
- The direction of the City of Perth in recent years.
- The Elected Members/ Commissioners wanting to get too involved in operational matters. Their support would be more appreciated in demonstrating leadership, putting forward innovative ideas for the administration to consider, in being inspiring and motivational, breaking down barriers and building relationships and representing the needs, desires, perceptions and values of the community.
- the ever changing direction

- The Executive Leadership Group and all the dysfunction that comes out of this group. There is no leadership.
- The Executive. The Commissioners running the show
- The fact that when I look at applying for another job will my future employer think that I am part of the "toxic culture" or in fact trying to get away from it.
- The feeling that those in authority are not making decisions based on what is best for the city and its people - but what is in their best interests. and that also people are too afraid to make any decision - so there is a lot of time wasted waiting for clear direction. That bullying and the behavior of certain people has not be acted upon and there is a feeling that if you talk to HR it will not be confidential. this is a serious concern.
- The hierarchy of the organization. Politics. Inefficient processes. The amount of time taken for anything to be actioned.
- The high rate of staff turnover, especially at executive level, executive positions being filled through acting over long term periods, potentially reducing clear strategic direction of the organisation, staff burnout at officer level due to the above
- The in-fighting between directorates and therefore lack of ability to get anything done. City values need to be ingrained from the top. Very few of the ELG show the City values.  
We never actually build any of the projects, how can officers commit to the City if the City isn't committed to its projects.
- The inept leadership being shown, lack of a clear strategy, lack of vision from certain directors i.e. we think like a local government not a capital city
- the instability at the moment
- The instability due to upper management (ELG) and CEO.
- The lack of a voice that I have in here as someone who has skills, expertise, qualifications and experience in creating the change that needs to happen.
- The lack of culture, lack of leadership, poor behaviour of ELG, many instances of bullying, intimidation and unfair treatment of staff top down. Behaviour of elected members and their treatment of staff. The waste of time and resources spent by Managers and Officers due to a need by ELG to micromanage everything. Also the fear that we are working outside of many guidelines because of the interference. The over and unnecessary involvement and controlling by Governance of areas which should not require governance assistance.
- The lack of fairness and targeting of staff that is on-going, breaks confidence and is destructive to staff. this seems to go in-noticed external to my unit, and HR refuse to discuss these issues when approached for advice. Units operate under the same vendor contracts, independently; which results in re-works and unnecessary costs.
- The lack of leadership from the Executive team. The lack of vision from the Executive team to drive the organization forward. The lack of trust from Executive team. The micro-managing by some Executives. The negative perception of the City from the constant media attention recently. The over-stepping of Councillors' into administrative matters. Lack of definite decision making (and decision changing based on whims/lack of knowledge/bowing to political pressures). The restrictions on FTE's that is preventing the delivery of agreed goals. The use of agency temps (at significant cost) because we can't get FTE increase.
- The lack of leadership. no one knows where they are going. the lack of roles and responsibilities.
- The lack of moral and disregard for staff concerns about quality of service that is provided
- The lack of needed structure within our section in regards to positions that need to be in place to help the section perform to their full ability.
- The lack of strategic vision & leadership.  
Organisational dysfunction
- The leadership at CEO and Executive level has take quite a battering and unfortunately between extended periods of having an Acting CEO and other acting roles, the morale across the organisation (in some areas more than others) has dipped. This affects all staff.
- The level of staff moral is very low. Amount of directors and managers leaving is very alarming.
- the media and bad publicity, the lack of decision making and the hurdles you have to go through to accomplish simple tasks
- the mental stress that's put on employees
- The morale has dropped severely since the restructure and doesn't seem to be improving.

- The negative publicity and the at times toxic environment that has now lasted the best part of three years, both from the former elected members and the executive. This has a detrimental affect on recruitment, and one feels uncomfortable informing people that you work for the City.
- The overall culture has diminished in recent years. Leadership stability and strength is non-existent. Strategy gets thrown around but without a committed board, and stable executive, strategic efforts feel like smoke and mirrors.  
Multiple employee exits have been under rapid and odd circumstances.
- The overall culture, high number of staff turnover and lack of fairness in employment based on job level and pay. This is not in line with a persons skill and experience but a job description.
- The poor hiring practices, the number of people promoted that don't have the necessary human management skills, lack of consideration for the individual, inconsistent application of employee benefits
- the poor treatment of people - used as a disposable resource; the lack of accountability with the executive
- The procurement process and exposure of officers to unneeded stresses, due to a lack of support and consistency across the organisation
- The reputation; poor change management leading to change fatigue; a lack of cohesive focus on future direction. Inexperienced management. Turnover.
- The Silos. The permanency.
- the staff turn over - no consistency, which affects my work
- The staffing issues and redundancies Inter departmental uncertainties.
- The stress many people seem to be under. Due to under resourcing or conflicting priorities.  
Processes/forms and procedures are not being updated. Units are encouraged not to follow procedure and forms but verbally accept a different way of doing things.  
This needs to be clarified that documentation must be followed until updated on CM.  
Units are not being given enough clear instructions when be asked to do work (eg policy review). This results in hours of rework. Rather that waiting to have a clear procedure for the future of the City's policies, clear education and instruction and then updating the policies.  
This example is similar across many City projects.  
Staff are then frustrated resulting in tension between staff members and units which was totally avoidable.
- The total lack of harmony and direction of CEO and senior management - including the Commissioners - in making tough decisions, implementing them in a timely manner and getting on with the business of local government
- The toxic environment that ELG create and operate within, the instability of the leadership, the manner in which the Commissioners conduct themselves, the rising panic amongst staff regarding the Inquiry, and knowing that so many aspects of the organisation are ticking time bombs in terms of their ability to provide their core services due to staffing and organisational culture issues. I worry that the reputation of the City will be so tarnished this time next year that I will struggle to find employment else where.
- The uncertainty
- The uncertainty around the current reviews being carried out by commissioners and if this will lead to lay offs or reduction in staff.
- The uncertainty of redundancies
- The uncertainty. It doesn't seem as though jobs are very secure. Constant unit reviews have people worried.
- The under lying unhappiness of some of the staff it brings down morale and it becomes draining emotionally
- The unrest, unstable politics and top level bullying
- The way staff are treated and, in turn, the turnover of staff.
- The work-life balance that was promoted when I first started has gradually been eroded. There is no longer flexi-time, we're discouraged from using our lunch breaks to be active/fitness activities, I no longer have approval to work from home to support my young family, flexibility and innovation seems to be discouraged.
- There appears to be an over emphasis of audits carried out at COP without the out dated, complicated, disconnected and dysfunctional work processes ever being addressed. The amount of work required to be achieved is often over burdening. Many people suffer from stress due to these problems and feel overwhelmed by the volume of work. There is a high turnover of staff and the knowledge required seems to walk out the door.

- There are a few Business Units that don't work collaboratively with the rest, specifically Marketing and Activation. On a whole though, I believe everyone comes to do a good job. I am also concerned that our CEO is not competent for the job as he cannot make, or stick to, decisions.
- There are no concerns at the moment.
- There are way too many distractions from politicking, work arounds, illogical business decisions to be in a position to do the best job possible for our city and its ratepayers. We don't attract or retain talent that can elevate our productivity.
- There is still a disconnect between the ELG and staff in so much one minute we are given a direction, then 5 minutes later that direction is changed. There is still too much reaction going on with no time given to bed down change and no time given for results to manifest before change is implemented again. Its confusing for staff and projects are not completed resulting in work having to be revisited at great expense to the public - every penny is public money, but this does not seem to be recognised at CoP.
- There seems to be no pride in working for the City. The issues at the top need to be sorted out ASAP, and bring in some real leadership to inspire staff and bring back a culture of Pride in the job done and in the organization. I think most staff feel let down.
- There seems to be some instability at the top most level so hopefully this can be resolved relatively soon
- There seems to be with some units us and them
- There's a complete lack of strategic direction coming from the top. It's very demoralizing to have no sense of direction or leadership coming from the CEO level. The sands are constantly shifting (e.g. new Strategic Community Plan), and that flows on to all other strategic work. A lot of time seems to be wasted at the Manager level with everyone trying to figure out what their units should be doing, and that uncertainty breeds insecurity and competition. None of this is the fault of HR - they seem to be doing the best they can, in a difficult environment.
- There's a huge component of the job that is filling out forms and reporting - I understand the need for it but it is difficult to learn and to keep on top of.
- They don't care about the employees anymore
- They seem to be 10+ years behind the OSH of the Mining industry.  
I have been working in the mining industry most of my life before coming to the City of Perth and the attitude to safety concerns me.
- They seem to want to erode conditions away from people rather than work within the system
- things changing for the sake of changing.
- Thoroughly enjoy it
- Too many chiefs who in my opinion and experience are not doing enough for the employees and the ratepayers.
- Top-heavy, no proper communication from higher up, becoming a very cumbersome place to work at, too strict and robotic with dealing with human problems, initial benefits regarding flexible time and working from home have been revoked for some, but some people are still allowed to do it, losing one of the biggest factors to applying for the City of Perth in the first place. Bad work-life balance with the inability to work around your life events through official means - currently being handled almost always by line manager discretion.
- Toxic culture that is focused on 'seen to be doing' and blame on others
- Toxic executive leadership
- Toxic upper management. They do not want to listen to staff concerns (as in previous surveys), they twist results to suit themselves. They do not treat staff well or equally. EG Flexi hours - I believe if one unit can manage flexi hours, then all Managers should have to offer them. HR should insist on all employees being treated equally and providing the same benefits as the City advertises itself as a family friendly workplace.  
Upper management believe they are "fixing" the culture of the organization, but they are the problem, they are the ones creating poor morale and an unhealthy workplace. Nobody has a belief that they understand what they are doing to staff.
- travelling to work..... sometimes
- uncertainty  
organisation of fear  
unnecessary pressure  
Executive dysfunction  
review upon review upon review

- no decision making because no one feels like they can make a decision
- unskilled people in positions
- Uncertainty about future employability.
- Uncertainty with all the ongoing saga of council and CEO and how we are perceived by the public. Lack of communication, one example it the new Cop website, emails were sent to managers and not the correct people, so that when the website went live lots of data, links are missing, so not user friendly for public.
- unclear direction regarding changes
- Unclear team structures.
- Will there be another restructure? I.e. Target Business Model. Keep hearing rumors!
- Lack of career progression for longstanding employees
- Job descriptions that are very vague and not having a clear understanding of the expectations of the job role - this can lead to being spread very thin and often results in illness/burn out!
- Uncomfortable political issues from council or commissioners that interfere with admin
- No leadership from the management
- No direction or vision for the future
- No confidentiality for complaints and grievances
- Unequal opportunities provided to staff and unfair treatment to certain staff.
- Unstable Council, CEO and directors
- upper management lack of transparency
- Upper management.
- Walking on eggshells in the current environment
- We have no CEO - no leadership!! We need to know the vision and where Perth wants to be but without a CEO who has leadership and vision, it wont happen
- What the future holds.
- When compared with other councils (discussions held with other council members) we are very behind in new technology. I have found this to be an embarrassment when discussing what we have achieved. The city isn't leading the way as a capital city should do, instead we are following! Poorly!
- Whilst I am buffered from a lot of what is happening at the City I am mindful that some of my other colleagues have to deal with aggressive and unreasonable manager/directors.
- Workload and unequal pay rates.
- Workloads, not enough time to do work. It is difficult to keep up with all the changes that are happening.
- Employing managers who bully and have a reputation for it
- The lack of leadership from the top. The inconsistent actions of those in the ELG compared to the on the ground workforce. ie. Drug & Alcohol policy
- That we can not give the public the best city we can because of cost. Over spending in council house
- Nothing
- My career and job safety
- Major changes to team structures and work requirements
- Lack of support for people with mental health issues
- Lack of empathy, unsure of job security, sad place to work, Manager shifts goals to suit himself
- How long it will last before contractors take over
- Heavy workload that we get at times
- Employees not being treated equally. Violent employees not being reprimanded. Unfair to others
- Being 'managed out' as some of my colleagues have been

90. What could City of Perth do differently to make City of Perth a better place to work?

# responses = 272

| Theme                              | #  | %    |
|------------------------------------|----|------|
| A better or new ELG / leadership   | 43 | 15.8 |
| Improve communication              | 22 | 8.1  |
| Listen to and value its employees  | 22 | 8.1  |
| Better management                  | 21 | 7.7  |
| Address the culture                | 15 | 5.5  |
| Be more transparent & truthful     | 13 | 4.8  |
| Start from "the top"               | 12 | 4.4  |
| Be fair & equal                    | 8  | 2.9  |
| Address bullying                   | 7  | 2.6  |
| Stop short-term employee contracts | 6  | 2.2  |

- Enhance the leadership skills of top management
- Identify top level priorities and ensure that all units, team and individuals are working towards the same goals. I believe a lot of internal stress is caused between different units and then individuals having competing priorities
- (1) Corporate strategic direction, (2) clear corporate objectives, (3) strategic prioritisation of workloads, instead of the "I want everything and I want it now" approach, (4) People to be accountable and make decisions, instead of the "not my job" syndrome that some staff appear to have, (5) More employee benefits ie other organisations have flexible working options, free parking, corporate discounts, family friendly working arrangements etc etc. It is hard to attract and retain quality staff on wages alone, we are a government body after all, therefore more emphasis should be placed on the fringe benefits and the working environment. This may slow the rapid rate of staff turnover.
- \*Commissioners to publically and internally inspire confidence and a sense of pride by acknowledging what we do well in addition to correcting what we do poorly.  
\*Commissioners to act strategically and not involve themselves in functions of the administration.  
\*Have a no tolerance policy for employees (and councilors) who breach the code of conduct or who are not performing at the expected level.  
\*Instate a CEO who is strong, experienced, inspiring and capable. Someone with a great corporate brain as well as a visionary. Take your time and get it right.  
\*Acknowledge and celebrate what we do well to raise the morale, instill a sense of pride and provide some joy for both the rate payer and the employee. For too many years we have been on the front page of the newspaper for all the wrong reasons. The constant negativity and judgement is demotivating and feeds the negative public perception which is not entirely true.
- 1. offer permanent employment rather than contracts  
2.Be transparent  
3. avoid last minute decisions
- A fantastic culture is not a forced thing - it has to start with ELG and Managers. If they lead by example we would not have the issues with culture that we currently have.
- A good working executive, that shows leadership, innovation, and a willingness to get to know its people. The Executive needs to get out and about to meet all staff not just those in their own directorates. This will show staff that you care and are interested in them and their wellbeing.
- A lot, too much to list here, start with staff moral/ appreciation
- A more cooperative attitude towards working as a city for the city, instead of protecting your turf attitude
- A new ELG team
- A transparent consultation process from staff who is actually doing the work and take their opinion into account  
Instead of decide or invest in a program or time that only have management point of view.  
Less unproductive meetings.  
Focus on business as usual not continuous improvement and invention. Back to basic is important for strong foundation.

- Access to more staff benefits
- Staff parking provided for positions above Level 8
- Act on good suggestions. Provide an environment where people don't get shut down when they suggest improvements. Stop putting unreasonable expectations on staff to deliver projects in ridiculously short timelines. Understand that quality work can take longer and will be worth it in the long run. Don't expect perfection immediately.
- Address the above concerns
- Address the lack/absence of a CEO! Do something about the recruitment of 2 Director positions (or dissolve a directorate, if that is what is going to happen!). Get on with moving forward.
- Address the toxic work culture where bullies not only thrive, but are rewarded with promotions.
- Adopt a clear strategic direction at organisational level that applies across all directorates and follow it. Work with State Government agencies where necessary to ensure all on the same page.
- Apply flexible working policy consistently, otherwise don't include it at all on the employee benefits brochure.
- Applying best practice where applicable.
- Be decisive in action, apply benefits consistently, promote people who know how to manage or lead teams, make commitments to sustainability and stick to them, demonstrate leadership
- Be guided in language to include everyone, ie Not everyone can attend the Christmas Party. acknowledge that and create other opportunities.
- Be more honest and keep people informed, assist employees with issues and make it clear they can be approached directly
- Be more inclusive, more engaging, more honest.
- Be more open and communicate better from the top down. There are times when tis cannot be achieved but when senior people are missing for weeks on end the staff should be informed of the reasons for their absence unless they are genuinely sick.
- Be more open when it comes to the changes and listen to concerns  
A lot of the changes made recently where for productivity not taking into consideration the people and the impact of the officers
- Be much more proactive instead of reactive to both projects and issues.
- Be opened honest and truthful.
- Be the employee of choice once again. Focus on the people element of the business, creativity, innovation and financial sustainability will follow when people feel valued.
- Be upfront with employees
- being a fair, equal and professional employer
- Better communication at all levels
- Better communication from the top (eg. when CEO goes on leave, actually provide a reasoning - whether it be annual leave, sick leave, etc - rather than just saying CEO will be away from the office for 'x' amount of days/weeks.. ie. better transparency.. trust is built on transparency.
- better communication
- Better executive management
- Better inter team collaboration, with managers that lead by example. a less politicized environment.
- Better leadership as the present ELG appear to be arrogant, dysfunctional and incapable of making decisions which are to the benefit of ratepayers and officers.
- Better leadership. When the CEO is on stress leave all the time, and the amount of managers leaving for other similar roles in other LGS's is crazy. Employees see this as everyone is leaving the 'ship', whilst we are 'stuck' with having to deal with all the issues we are left with. Meaning there is a culture of wanting to 'get-out' whilst you can.
- better management
- Better managers (better, not more), more flexible work conditions, proper communication from the top
- Better more honest communication
- Better promotion of wellness programmes
- Better train, support and monitor their managers. Listen to feedback, and look closer at the negative feedback to determine why it is there at all. City of Perth focusses on the positive feedback, presuming that the negative is a small number or unhappy staff. Look at where those staff are and find the patterns. Some business units will be well managed, whilst others are not but get buried under the data from those who are.

- Better unit specific training - there's such a constrictive rigid process for the way things are done but there's virtually no specific role/unit workflow training.
- Care about each other.
- Care about the staff, the admin people do the work and the Manger gets rewarded. I don't know even know if my Manger knows I got married. Never congratulated me. Came to lunch. But never asked one question. There is no personal care anymore.
- Clean sweep through the executive function, with a new CEO and Directors. The current executive have presided over this mess and are incapable and unwilling to fix it
- Clear communication
- Clear direction and leadership - people in senior roles are communicators can engaged with staff and the perth community. That HR is confidential and can act on bullying etc in the workplace.
- Clear prioritization of projects with adequate resourcing amongst the affected units.
- Reduction of rework.
- Clear visions and job security
- Collaborate, Challenge and Communication. Share the plan, question the plan and discuss options. Units that support the whole organisation should work as one team and not have their own agenda's.
- Collaborative leadership at every level - Council with CEO, ELG, MLG, Coordinators or at least starting from the top to build a culture of wanting success for one another would be amazing. Only then can we get out of our own way to start delivering for our city.
- Commissioners could stop acting like CEOs. Executive including CEO could be in a position for an extended period of time, and act as a unit, rather than self-serving, or taking the path of least resistance.
- Communicate better with staff at all levels, Business Units/Directorates liaison
- Complete overhaul of the top layer. We need real leadership not management. Reactive direction is not leadership; its costly to the city and staff wellbeing and does not align with the values we are expected to follow.
- Consistency in the way staff are treated and rewarded for their efforts. Clarity of purpose for the organisation also would be a positive.
- Continue building better relationship between directorates.
- COP needs to address their work processes so that it may serve the community well.
- Create a clear strategic direction, and stick to it. Provide some real leadership.
- Decision makers should be easily accessible. Make understand to all levels who is responsible to make decisions, to what extend and level of expertise required to do so.
- Develop and promote city staff rather than taking a gamble on external candidates.
- Development of staff who would like to further their careers within the City
- Directors and Managers to appreciate the staff in individual departments and the contributions they make, not continually dismiss them as unimportant and just pay them lip service.
- Ditch 5 year contracts for management - focus on longer-term vision and not on making things look good on paper in the short term so contract is extended.
- ELG leading by example in terms of accountable decision making, having each others back and setting reasonable KPIs for staff
- Employ a dynamic CEO who can provide leadership and direction for the Executive group
- Employ leaders - not people with their own agendas, only concerned for self preservation or who might be good in the technical space, but not in leading.
- Employ the right people in leadership roles. Place trust in officers to do perform their jobs well (many of us are experts in our fields but treated like children). Clearly define processes and adhere to them consistently. Be realistic about what is achievable within certain timeframes. Stop being so reactive.
- Employee more people who have a genuine desire to work as if it was a private corporation and not just a place to earn money.
- employee people with LG experience & knowledge
- Encourage a culture of cooperation, sharing, collaboration. Focus on cross-organisational strategies and projects that will deliver benefit for Perth. Hire strong, collaborative and visionary leaders.
- End short-term contracts for staff working on a full-time basis; it isn't healthy for staff to only be able to plan their lives 3 years in advance and it detracts from the ability to build relationships to the betterment of the cross-organisation team environment.
- Ensure a one City approach to everything. We are a local Council and we are all here to work for the community and its people in providing a vibrant Capital City.

- Ensure workloads are manageable
- Exclude favoritism, make an effort to raise the maturity and professionalism of the organization.
- Executive making an effort to work together and providing clear and strong leadership
- Executives who lead - who walk the walk - who embrace change/growth/development/new work practices - who are accountable - who engage with staff in their Directorates more than a 'hello' in the corridor - who value the skills of their Managers and trust in their advice
- Explore opportunities for salary sacrificing.
- Fix the top
- Focus on achieving professional outcomes with respect, recognition and support for each other across units and directorates to achieve national best practice outcomes for the community.
- Follow its own corporate policies and procedures.
- For everyone to work as a team not as completely individual groups. Also I understand that some things have to remain private but the willingness to share information is almost non-existent at present.
- free car parking for the staff
- Free gym access/membership. Frequent and meaningful cross unit team building.
- friendliness
- Functions to involve CoP staff.
- Get back to basics and be clear on what each area is to achieve (with a focus on less is more).
- Get on with Business at Executive level - which staff are attempting to do (down the food chain).
- Get on with the job! move forward not stand still! Make decisions quicker. Our leaders are too timid and don't appear to want to make a decision. When they do make a decision don't get political, instead back them.
- Get rid of those negative, disruptive people or have the courage to reprimand them.
- Get some stability and strong leadership
- Get the culture and morale back to how it used to be and treat staff fairly and respectfully
- get the reviews completed so we can move forward. commissioners to support staff rather than bag them in public
- Give me regular work performance feedback.
- Give more importance to skill and experience in relevant field for leadership group rather than Charisma.
- Go back to how some things used to be done and not treated as a number.
- Good communication at all levels, not just the top down.
- Have a clear direction on structure, projects and priorities assigned to our Strategic Community Plan.
- Have a stronger leadership presence, including a more charismatic and capable CEO.
- Have an Eba that doesn't ask us to bargain something away every 3 years
- Have consistent processes i.e. Flextime - either the whole organization is entitled to this or no one is. More communication from management and executive. Have less of a hierarchy approach. More team building - break down silos - cross Business Unit opportunities. Implement a consistent grievance procedure, communicate well with staff and demonstrate that it's safe to talk.
- Have less rotation of employees
- Have more rigorous interview processes to make sure the proper candidates are employed within the City's higher ranks. Outstanding qualifications are for naught when you have no people skills.
- Having a canteen and ELG being more friendly and open with people on their floor
- HR RESTRUCTURE
- I already think the City is a great place to work! I enjoy existing benefits e.g flexible hours, super contributions, leave options etc. I think the HR team could better reiterate the existing benefits to staff as I think some employees forget about them. More team building and fitness classes would be an added bonus.
- I don't have any issues
- I think at the moment due to the inquiry, we are going through times of uncertainty and instability. The City of Perth management and ELG need to provide as much communication as they can to staff.
- I think it is trying very hard to make the City a good place to work.
- I think some elements are out of the City's control (such as external factors like Elected Members) and these have had a great impact on the organisation and the working environment. Other than this, I think some units are working hard to improve morale and culture within their teams but these efforts must be taken seriously by all levels of the organisation before they will be genuinely effective.

- I think the City is already working hard to make this a better place to work, any suggestions I could make are unit specific, not corporate
- I think the City needs to go back to square one and start again, everything from the executive level down.
- I would like to see more opportunities for inclusion, secondment and skill development, especially for people who work outside of Council House. I suspect that these people in general too rarely figure in the thinking of management. Evidence for this is the fact that the whole Community Services unit (most of whom work offsite) was left off this survey.
- Identify career progression opportunities for longstanding staff.  
Review team structures and reporting lines.
- if it's working don't fix it
- improve on feedback
- Improve relationships between Directors (more collaborative, instead of blame-shifting & combative); improve the standard of policies and procedures; improve consistency between application of policies/procedures between units (everyone seems to have a different way of doing things); promote cross-unit/directorate collaboration on projects.
- Improve the culture and stability of the workforce. Clear direction by the Council/Commissioners on building the City and constructively work with the administration.
- Improve the culture of some units within the City
- Improve vision and leadership to align the entire City to one unifying mission
- Instill confidence in staff, make it an environment where people can feel safe.
- Introduce psychometric testing in the recruitment process to engage people with better communication and leadership qualities.  
Engage more technical people as at the moment we have more managers but less technical people to actually do the work.
- It starts at the top.
- Keep doing what they are doing now... growing
- Leadership should be collaborative and collegiate, rather than adversarial. Staff should not feel like they are under continued scrutiny or attack from other areas of the organisation
- less pressure on revenue performance and more about the customer/rate payer experience
- lighten up, reward good behavior, support its people, provide people with the skills they require or otherwise don't hire them if the organisation isn't willing to develop them, don't allow difficult/negative leaders to dictate policy or control the conversation
- listen
- listen to employees
- Listen to employees, budget for and implement reviews and recommendations.
- Listen to experience staff. Having trust in workforce. Stop staff being put into dangerous situations
- Listen to experienced staff without prejudice, reward that. Support and protect staff. Support work life balance and employ the people that are fit for purpose, that have the essential knowledge, experience and skill set to provide and maintain an effective delivery of service.
- listen to staff first then make decisions.
- Listen to the little people. They know what is going on in this organization better than some of the managers.
- Listen to the people who are out there
- Listen to the people who understand what requirements are needed to have required positions created to better protect the future assets that will be handed to the City.
- Listen to the workers and have management stop lying
- Listen to those who are looking not outsider
- Listen, having trust in staff. Welfare of staff concerns
- Look after the employees, rate payers & stake holders
- Look after the people who make the organization great. Restore work-life balance. Manage expectations. Encourage innovation and flexibility, encourage staff to be active and healthy. Preserve these benefits for all staff in policy and apply it consistently across the organisation
- Look at other organisations to see how they have rolled out process and tools EFFECTIVELY, in order for us to not repeat the same mistakes and deliver FASTER. e.g. Landgate for HRIS, CRM.  
Improve our culture, space, technology. Use money more wisely. Renovate floors that have not yet had a

renovation rather than floors that have had more than 3 renovations. Make it a welcoming space for ALL employees.

- Look at our outdated systems to be more suitable to the various BU functions.
- Look at the individual salary of different positions. How can someone doing footpath maintenance get the same salary as someone doing civil drainage maintenance. As my work load is increasing 10 fold and there is decreaseing ?
- Maintain clear boundaries between council and staff roles and responsibilities.
- Maintain Integrity at all level. To make everyone fair and equal
- Make it more open - who knows what's happening, going to happen or has even happened in the past regarding the City and its management - seems to an awful lot of comings and goings
- Make opportunities more accessible
- make small incremental changes to improve outdated processes and increase communication/understanding about what various businesses within CoP do
- More all organisation activities and improved communal areas for all floors
- More benefits to staff eg free parking
- More change control/communication/consultation,
- More direct communication to employees, and less PR spin
- More diversity
- More effective transparency with an increased focus on consistency.
- more employee incentives
- More inclusive. Dont assume someone is a lesser person or less intelligent because of what they do.
- More open and honest communication. BE a flexible workplace equally across the organization. Treat employees as people.
- more openness when it comes to changes
- More resources in the Hr team, better systems, better HR leadership - give direction and provide support to Officer level
- more resources, more transparency, CEO that is in office
- More stable leadership that is open and approachable with clear guidance and direction.
- More stakeholder and external advice when making organizational decisions - put simply the current Directors can not be trusted to work together and do what is good for the City - too much bad blood which does not appear to have been addressed - lots of mistrust as to some motivations at the top level - very poor strategic priorities based on insecurity and competition not collaboration - loud voices dominating important organizational decision making and strategy - often that have not delivered in their own areas. Some behaviors have not been addressed for a long time at Exec level
- More team based ie we use to have fitness groups etc
- More team building/social/focus on mental wellbeing
- More transiency, unit manager taking an interest in what out section does. Communication.
- Offer permeant positions to contractors , this will boost loyalty.
- One direction so you can get on and work towards it. At the moment itâ€™s ticking boxes to satisfy the commissioners
- Open and be honest to face the issues and find out solution to resolve and improve.
- Open forum to express the strengths and weaknesses
- permanent staff
- Provide an effective CEO who leads. Address the behaviour of ELG and provide new leadership. Stomp out poor behaviour, bullying and intimidation from the top down. Stop the desire to control everything and allow staff to do the jobs they were hired to do based on their experience.
- Provide better access to training and upskilling, and placing more emphasis on this.
- provide clear direction, provide more guidance for career and personal growth
- provide discounted parking for staff that have to work weekends when public transport is not always available
- Provide good leadership, with clear goals and direction without changing too often. Have leaders that inspire.
- Provide more service to the community and generate more job opportunity.
- Provide more support to staff in my situation who often feel stuck, our team members are often stressed or have resigned because of dealing with our difficult manager. High performing teams deliver much more when led well by a good manager and good management. My manager does not communicate with respect, is disorganised and creates a big palava around virtually every project

- Provide training when they roll out new software and changes are happening.
- Put in management that cares for their staff and their wellbeing over themselves
- Put staff first and employ people with greater experience and understanding of local government as the recent trend of hiring high level employees from private enterprise has resulted in a fractured environment
- Put the health of the employees first, stop putting too much pressure on the workers just to appease the Managers and their KPI'S. Which in real world terms don't achieve the desired outcomes.
- RDO's or consistency in flexi time for staff
- Recognise hard work and treat people fairly
- Redesign the workplace, provide collaboration areas so multiple business units can work in a common area. Provide better access healthy activities ie new end of trip facilities, consider some of the initiatives from the new Woodside workplace.
- Reduce executive level micro-managing and make decisions with equal consideration to the external environment and less on the internal politics.
- Reduce hierarchies, less risk adverse,
- Reduce turnover
  - More collaboration between teams
  - Better HR systems
  - Less laborious processes
- Regular feedback and adequate training
- Remove hierarchical red tape and blame culture.
- Remove incompetent people.
- Remove micromanagement as it still exists in some units, happy staff are more productive.
- Replace all directors and councillors. We need good honest people with the City's best interest at heart working here.
- replace ELG - a good start has been made with DPD resignation
- Replace the CEO a few Exec who want to run the show their way. they are not team players
- Resolve the issues with ELG. Support and empower the managers to look after and empower their teams to make the city a great place to live, work and visit.
- review all positions for consistency of remuneration vs skills vs market value rather than stick with the current levels based system. ensure that the leadership operates and clearly displays the core values. this does not happen across the board at present
- Review quality of managerial staff employed (not my own manage however).
- Revive the Office Accommodation Strategy approved by ELG in 2017. Include HR in the design of the Strategy so that a physical environment is created to support the sorts of policies that HR wants to implement.
- Run a more streamlined effective business
- set a course and stick to it
- Set a realistic corporate business plan, a long term financial plan for capital that is costed and involves all major stakeholders in quarterly update meetings. Make decisions, if budget savings are required then ELG must decide which projects can best be delayed and still be in line with the Corporate Business Plan.
- Set clear direction and support staff in following this direction; cut the red tape and excessive input from ELG members on all topics. Provide better support to their employees and listen to feedback provided in exit interviews and reviews or meetings; follow this up. Take employees seriously and investigate matters without taking the Manager's side.
- Settle and provide a constant framework to work by
- Short, medium and long term planning around the structure of the City (administratively).
- Should be more genuine family orientated
- Slow down, take a breath and work out what we're trying to achieve.
  - Appoint an independent auditor to address issues raised by staff and move swiftly to have those people removed from the organisation.
- Some self awareness. Chirpy mass emails are unhelpful and disingenuous.
- sort out the executive group
  - focus on positives and move forward rather than harping on the negatives
  - be respectful to one another

- no more backstabbing
- job security for staff
- more benefits for staff
- better communication between executive to managers to staff
- Sort out the problems going on between some department managers.
- sort out the top end
- Stability in leadership. Actually demonstrating leadership.  
Start to recruit again including for permanent positions  
Support staff, listen to staff, less window dressing and more depth.
- Stability in senior management. Some strategy or direction from management so we know have a road map of where we are going and what we are trying achieve.
- Stability of the organisation
- stability, and a balanced work-life balance. good leadership, clarity of the City's strategic direction and good wellbeing and employee health programs
- Stabilize its workforce by removing the constant mindset of restructures, set a clear direction for the City and its workforce.
- Stable leadership at the top, greater awareness of the benefits offered in the workplace
- stamp out the negativity, and bullying
- Start treating staff as adults and empower us to make decisions and trust in our professionalism.
- Stop bullying and micromanagement. Stop recruiting based on nepotism.
- Stop micro managing your staff
- Stop staff turnover
- Stop trying to overhaul all the frills and re-prioritise spending - why was a new internet and intranet so important when the existing ones were functional, but so many core services are non existent or non-functional? We don't have a working HR system, but we're replacing the Council House lights. ELG are completely dysfunctional, but hey lets make it like a soon-to-be-separated family Christmas with awkward barbeques and token phrases about 'commitment'. We're so busy trying to be a capital city that we've forgotten to focus on being a functional local government and workplace. Get back to basics, and build up from there. An indication to staff of where the organisational structure is headed would be a good starting point (if indeed there is any sort of plan).
- Streamline processes. Better communication between different departments.
- Strong CEO whole manages our ELG team so that we have a trickle down effect.
- Strong leadership and break down the silos
- Strong leadership at the very top. The City needs to be seen to be making positive changes to reassure staff that action is being taken to fix the major cultural issues, and that high performance & integrity is valued.
- Strong leadership, ELG who takes responsibility and demonstrates accountability.
- Strong leadership, strategic direction clarity
- Swap the executive for a more qualified set of leaders. Director Moore in particular is a destructive, undermining, and divisive character.
- System integration, cross functional teams looking after prevention of duplication of work and improved processes towards program and project delivery. In addition to this, Management needs to walk the talk about positive culture by never engaging in blaming what was but concentrating on what can be.
- Take a unified and realistic view and strategy
- Take the politics out of the service operations
- Targeted training on existing systems, staff operating consistently
- An internet site/portal that works
- Updating procedures across organisation
- Adequate software systems for organisational needs
- team building. better training
- The City needs to start again with a complete clean slate. Too much old school mentality holds back an organisation that once was "the place to work". You got employed at the City of Perth and it was something to be proud of.  
People just have no work life balance what so ever at times and pressure is just so high it makes it hard to achieve that balance.  
The organisation needs to try and retain their great and skilled staff. There are people leaving what seems on a weekly basis currently. Unfortunately I am one of these staff members who is soon (3 weeks)

to be leaving her employment from the City which I guess would be different if things here were different.

- The culture amongst those who have been here the longest is toxic, it permeates throughout the council. Simplify the structure have like minded units come under one umbrella, flatten out the management structure. There appears to be a strong culture of "friends" working for friends this could only have been allowed if HR were involved in the employment process...very concerning. The council have some incredibly good people working for it at lower levels but are being stymied by toxic management and old guard employees with axes to grind.
- The ELG following the corporate values.
- The leadership team needs to treat staff like people and not as headcount, value their expertise and corporate knowledge and not be driven entirely by cost but by value for money. ELG needs to demonstrate organization values. Strategic priorities need to be clear.
- The Surveillance Centre staff do long hours so Sit/Standing desks to improve posture and a Treadmill to use in bad weather conditions.
- The work procedures and policies need to be streamlined with the CoP values and ethics. The place needs strong leadership.
- there are lots of opportunities for change but there is no sign of change as the change should start in every level specially from top (ELG).
- Too much to list
- Train upper management so they see the toxic environment they are creating. Insist that they properly support Managers and staff in a healthy workplace.  
Offer flexi hours to all staff for their health and wellbeing.
- Train us so we can leave.. treat us so we don't want to
- training and on job training
- Transparency
- Retaining good employees
- treat employees better by valuing corporate knowledge that takes time to acquire
- treat everyone equally
- Treat staff equally, take bullying complaints seriously, try to keep the good people from leaving.
- Try to eliminate a blame culture
- Understand the roles, responsibilities and functions of individuals.
- Value employees a bit better
- Value employees feedback and treat them as part of a team. Often approaches to work is pushed onto staff regardless of their concerns and employees are left to feel they have no option to comply or leave.
- Value staff more, communicate with staff better, work to ensure organization is unified and focuses on key local government functions.
- Value the staff it has, don't treat them the way they have, reflect on what has just happened and start a process of rebuilding a culture it once had.
- We need strong leadership, we want people to embrace accountability (rather than blame), have the courage to take risks (rather than be risk averse) and to be kind to each other. You could set up a mentorship program in the City and promote health and wellbeing more, as previously discussed. Humans by nature want to feel connected and included - break down the barriers between all hierarchies and allow staff to work more autonomously (trust).
- What they are doing is sufficient.
- work as one team
- Would not change a thing.
- Not allow managers to create higher paying jobs for their friends
- Treat everyone the same. No privileges because you work in a suit and tie. We have had to endure budget cuts which resulted in poorer quality uniforms while upstairs carry on the same
- The ability to terminate employment or discipline employees unwilling to work hard
- Study opportunities
- Stopping coming up with more useless training and procedures
- More team building exercises with other teams
- More team building
- Listen to staff. Provide and deliver the best service to the people and realise it cost. Cut backs and change will not do this. Too much upper management, we will fall over
- Involve all employees in decision making process

- Have more respect for people who have been 'managed out'. At least tell colleagues they are leaving
- Get rid of the not employing policy at the moment. When staff are taken on in a casual capacity - get them on as employees not leave them as casual
- Get mental assessment of management before employment

#### 91. What words would you use to describe the culture of City of Perth?

# responses = 278

| Theme  | #  | %    |
|--|----|------|
| ++ positive comments                                 | 60 | 21.6 |
| Toxic  | 36 | 12.9 |
| Poor   | 18 | 6.5  |
| Good / great   | 12 | 4.3  |
| Friendly   | 10 | 3.6  |
| Improving  | 8  | 2.9  |
| *2-sided comments (1 hand positive, 1 hand negative) | 8  | 2.9  |
| Dysfunctional  | 7  | 2.5  |
| Siloed   | 7  | 2.5  |
| Confused   | 5  | 1.8  |
| Unstable   | 4  | 1.4  |
| Strained   | 4  | 1.4  |
| Depressing   | 4  | 1.4  |
| No culture   | 4  | 1.4  |
| Terrible   | 3  | 1.1  |
| Oppressive   | 2  | 0.7  |
| Collaborative  | 2  | 0.7  |

- Selfish, meaning the coordinators, managers using there positions just to further there own careers at the expense of the Rate payers and workers.
- "in transition", "finding its identity"
- (1) Oppressive - I am aware of units that have been given strict instructions to not engage in conversations with colleagues unless on a break. I am aware of units that have been made to work strict hours, even though their business needs do not require. That has caused issues for those with families and for those that require a work-life balance. (2) Directionless - There is no real strategic guidance in the Strategic Community Plan or the Business Plan. Most documents, that are required by the IPRF, do not exist or do not contain clear objectives. The amount of Units that are operating without any form of strategic framework is concerning. (3) Disrespectful - There is a blame culture rather than a supportive culture.
- a good place to work
- a touch of 'we Pretend to CARE'
- Accepting of all
- All the waffle of private companies, with none of the efficiencies
- Appalling
- At the moment I'd say it's a dog eat dog, every man for himself environment, bullying and inconsistent treatment of staff is rampant.
- At times - Unstable!
- average
- Average to poor.
- Average.
- Awful, toxic, untrustworthy
- Awkward
- bad
- Battered and bruised.
- Biased
- Blame-shifting, non-collaborative. There is clearly an effort to improve the culture, but this is being undermined by what appears to be poor relationships between the Directors.

- Broken.
- building slowly after being knocked out
- Business minded
- Challenging at times.
- Changing, but stale
- chaotic
- Collaborative
- colourful
- Committed
- People friendly
- Safe workplace
- No harassment and bullying
- Committed staff
- competitive and frustrated
- Conflicted, hierarchical, conservative.
- Confused
- Confused, leading to risk aversion and lack of decision making. Selfish and not focussed on "whole of business".
- Confused.
- Risk averse.
- Immature.
- Confusion by senior management.
- covering your own back
- Culture diversity
- Culture is fine, just need to find stability
- Currently, there is a poor workplace culture.
- Customer focused, best practice.
- Deeply imbedded and toxic
- Definitely improving
- Depends which department you work in. My current culture is one of Commitment, teamwork, courage and respect but other areas when you deal with them do not provide this.
- Depressed, under siege, panicky
- depressing at times
- developing in a difficult environment
- Developing, enjoyable, collaborative
- Different
- Disenchanted, lost, overwhelmed by bureaucracy
- Disfunctional
- Disgusting
- disjointed
- Disjointed and not cooperative. There is no real sense of working for a common good/outcome.
- Dismal
- Distrust, in-fighting, inconsistent, unfocussed
- Diverse
- Dynamic and changeable
- embracing change
- Employees stick together.
- Eroded. Placeholder. Lacking institutional pride. Maybe still better than corporate.
- Everyone is different
- Evolving from 'what has always been' to 'what is best practice'
- exhausted but hopeful
- Exhausted.
- Fantastic
- fear based
- protecting ourselves
- family
- dysfunctional

- Fluid
- Focused on deadlines, reporting and paperwork, rather than securing great outcomes for the community.
- Fractured. I think the staff turnover has been so high in the last 2-3 years that there has not been time to re-build the culture.
- Friendly and supportive
- Friendly, caring, dynamic, busy and sometimes challenging.
- Friendly, professional and enjoyable. There is a real sense of comradery
- friendly, static
- friendly, welcoming, diverse, competent
- Frustrated
- Frustrated, weary, uncertain, resilient
- Getting better
- Good
- good
- Good
- Good friendly knowledgeable
- good in most bad in pockets, mainly led by negative managers and directions. where there are good managers and directors they continually address culture and I think its improved in last 12 months
- Good in some areas poor in others
- Great at a macro level i.e. within small teams, horrible over multi Directorates level
- Great team
- Great, Respectful, hardworking.
- Great.
- Growing
- guarded and protective - due to ongoing change and uncertainty.
- Hard working. In need of greater strategic guidance to ensure achieving desired outcomes.
- Has improved a lot. Pretty good
- haven't been in the organization very long to comment
- Heavily political infighting, reminds me of high school
- Hierarchical
- Hierarchical. Petulant.
- Horrendous, depressing, demoralising, worst I've ever seen in 35 years
- Horrible Stressful Siloed
- I believe we have a very good culture here.
- I can only describe in my area & its fabulous.
- I don't even know if we have a culture at present. The place lacks values, and is a place where you come and do your work and go home. It lacks the culture of putting it a bit extra for the benefit of everyone at the City. The staff themselves are willing to do it but don't see any reward if they go the extra mile, but ask themselves why I should do it when the atmosphere in the place is so bad. Staff are now making their own decisions by leaving at an increased rate.
- I feel that there is a lot going on behind the scenes, staff feeling like they are watching their back and scared to make decisions. There is a lot of quiet chats and an underlying feeling of uncertainty.
- I would say improving but still along way to go.
- Immature, gossipy and many untruths spoken.
- Improving
- Improving
- Improving
- In general culture is good. There is an underlying behaviour in some staff of bullying. and low level threats to do what they can to by pass process and get things done.
- In general very healthy with potential to be great.
- In most of the cases, there is a residual lack of accountability about the things that might happen in the future.
- In my area, great, in other areas poor.
- In my immediate workspace extremely productive, outside it its a text book for a toxic culture. It can and should be a great place to work. Too many people with agendas, too siloed a very strange "re-structure" from my experience. which has impacted on how we deliver to our customers.

- in our team it is ok as we weather it together and discuss how to navigate the process and possible delays to ensure we can deliver what we need to by the deadlines. culture between directorates does not seem functional. continual change in leadership, processes etc. no stability - a sense of being a team or confidence to make decisions.
- In transition
- In transition
- Inclusive, respectful, rebuilding
- Individual units
- Improving for the better with installation of Commissioners but still requiring a cultural shift in midset of many staff
- Insecure
- It has reduced the problem of "siloing," and that was an important gain that should be celebrated.
- It is a little bit like a High School at times.
- It's a great culture we have, not sure whether it is working well or not
- Lack of Culture, unhappiness, units being to cliquey, broken promises, lack of leadership and guidance, lack of processes, low morale, lack of team spirit across entire organization.
- Lack of decision making from Executive  
Lack of CEO leadership (who seems to be "with respect") disabled by Commissioners who are involved operationally.
- Lack of motivation
- Lacking
- Local government workers cannot be driven by financial incentives and bonuses; instead they must be inspired by leadership and be given a sense of purpose by senior management. City of Perth doesn't have an effective leader at the top.
- Long suffering, due to prolonged, intense public scrutiny. In my view this is heavily linked with the behavior of elected members over the years.
- Lost - lacking an inspirational leader! Where are we going? What is our business?
- misunderstood
- Mixed
- Morale very poor.
- More actions less talking... Especially on the values.
- Most people are nice
- Mostly positive
- MULTICULTURAL
- NEGATIVE
- negative
- Negative and rutted.
- nice co-workers
- No cohesion. We are made to compete and dislike other units and directorates.
- No sense of pride
- non existent, poor, hostile, dysfunctional, soul destroying, disgusting
- Not Good
- Not pleasant
- Not positive, uncomfortable, aged in its perspective on what a local government should be delivering to the wider community. Top heavy with persons who attend more meetings than meeting and delivering.
- not working together
- One rule for us. Another rule for them.
- Organisation: Egos. Team: Exciting, Fast Paced
- Our culture within my team is great, however between units I notice staff stick to themselves, even social club events they wonder off in their own groups.
- Paralysed. Lack of commitment and follow through. Hierarchical. Slow. Toxic
- Passionate, committed and dedicated to teamwork.
- Patchy
- People are rewarded for showcasing their achievements, which may not be so relevant for the City's improvement. Actual workers who are working silently, remain unnoticed. It also seems that, saying "yes" to everything your boss says is very important.

- People look out for themselves at every opportunity (whatever the word for that is).  
Some teams function fantastically but when units rely on the work of other units to get their own work done and the other teams don't function well, it impacts the overall ability to achieve CBP KPIs for the City.  
People are more receptive to ideas and want to work on fulfilling projects so planning for something and collaborating with staff in doing that is crucial.
- Political, resistant, old, traditional, backward
- Poor
- Poor
- Stressed and worried
- Poor .
- poor communication. hierarchy
- poor culture but staff are resilient and working hard to remain positive
- poor. blame-city
- Positive and improving. Some of the older staff would disagree but being here a good many years I see it coming back from the near abyss it was at.
- Positive, constructive, inclusive.
- Positive, friendly, supportive. I feel valued and happy. However, Community Services has been left off this survey (Q.96) which does not make me feel valued.
- Proud but tainted
- Recordbreakers... for the highest turnover rates
- Relies on the staff
- Reserved
- Resilient, optimistic.
- resistant to change
- Respect and teamwork
- Respect, teamwork.
- Respectful, committed, teamwork
- Right at this point in time there is still a sense of division between the leadership team and the rest of the business. The recent departure of 2 Directors and 5 managers would appear to support this comment. I believe in the values and use them to align my output. Having been driven by the staff each individual should align themselves with those values - but if senior management are not seen to be aligning themselves, how do they expect the rest of the organisation to?
- Room for improvement
- sadly toxic at the moment.
- safe and friendly
- Segregated
- self gratification & not willing to work as a team
- Semi-flexible - busy-ness over value - uninformed decision making
- Should be more transparent
- Siloed. Dysfunctional. Failing leadership.
- Silos, blaming, lack ELG leadership, poor/inconsistent decision making process, fear and bullying environment,
- So So.
- Sorry -but generally it is a toxic environment. Improving slowly but a long way to go. People still seem to be watching their back.
- Staff turnover is very high. Staff confused about their roles.
- stagnant
- stale
- still a bit of fear about loosing job but the work and people make it worth hanging in for it to become better again
- stoneage
- strained
- strained
- Strained, frustrated, unhappy
- Stressful, worry, distrust
- strong-willing and able.

- Teamwork, passion, but also a blame culture and lack of respect.
- Terrible culture between business units and directorates. Also a lack of a customer service mindset - people are always reluctant to help and there is a "that's not my job" attitude throughout the organisation
- Terrible, Turn over, not safe
- Terrible. The worst I have ever worked in,
- The 3 D's - Disorganized, Disappointing and Depressing
- The City is a place that many employees dread coming into. They feel that best efforts and knowledge are not respected and that they are not valued. Tensions are constantly raised and staff feel strained and in need of escape
- The culture at COP is often highly scrutinized and appears to be a fear based culture. Many people feeling afraid of losing their job because of a simple mistake. The Executive appears to be incapable of taking COP forward in a positive and progressive way without adding to the already convoluted administration trail.
- the culture is ok like any workplace with a large work force that is divided into separate Directorates over 7 floors there is a level of conflict but its nothing like its is drummed up to be
- The current culture is transitioning some-what. There is a seance of "working hard, doing the right thing, respecting one-another" but team-work, communication and information are lagging considerably.
- The following words is how I would NOT describe the culture  
Commitment, Teamwork, Courage and Respect.  
The culture is very poor, I think this is reflected in the amount of staff that come and go.  
I think the words "Basket Case " describe the culture more accurately.
- The worst of the worst of any large organization in Australia. A fish rots at the head. That's our problem. We currently have a culture of fear, blame and no accountability.
- There are a lot of amazing people and business units who truly care about employees, customer service and community. Culturally speaking, all people are respected.
- There is a team spirit in there somewhere
- There is no culture, lack of knowledge, with staff leaving the knowledge is going and not being replaced.
- top heavy
- Top heavy and disheartened morale.
- Toxic
- Toxic
- toxic
- toxic
- toxic
- Toxic
- Toxic
- Toxic
- Toxic
- toxic
- toxic
- Toxic
- Toxic
- toxic - too many power hungry people
- Toxic ,bullying
- Toxic across directorates, supportive within our unit.
- Toxic and suppressing
- toxic at council house
- Toxic at the moment - staff are in fear of their positions and doing something wrong or talking to the wrong person. ELG and Managers advise this is incorrect - just saying it's not so doesn't make the issue go away folks. It needs to be addressed in an adult fashion. Accept what it is, communicate a plan to address it and then implement. CEO / ELG / Managers can push the CoP values as much as they like, however until staff see them live the values they will never be imbedded. CEO / ELG / Managers just give the values lip service - they do not live them or demonstrate them unfortunately.
- Toxic, Dysfunctional, fearful, uncooperative
- Toxic, harmful, oppressive, fearful, damaging
- Toxic, hierarchal, empire building, inequitable, politicized, fear, bullying, cruel, despair

- Toxic, low moral, frustrated, outdated, unattractive (from a recruiting perspective), overworked, burnt out.
- TOXIC, suffocating, morale sapping and management too busy creating silos in order to climb the corporate ladder and losing sight of the roles they play.
- Toxic, untrusting, dysfunctional at an organizational level. Within a directorate level there is a stronger sense of us and them. This is not sustainable as we need to operate as one whole to be effective
- Toxic, with undertones of real hope and a burning desire to make the City of Perth the employer of choice once again.
- Toxic. Disfunctional. Adversarial
- Toxic. Fearful.
- Transitioning
- Troubled.
- trying
- Trying hard
- Turmoil; fear; anger; insecurity; naivete; insular.
- Uncertain
- Uncertain.
- Uneven, varied, generally not positive.
- Unfair
- unhappy low moral and a reluctance to raise issues for fear of reprisal
- Unhealthy a lot of good experienced persons have moved on.
- Unit culture is great, but overall culture is poor - superficial changes have been made since last survey (stickers on walls and computer screensavers only)
- Unsettling but slowly improving.
- Unstable
- Unstable
- unstable, low morale, forced,
- Unsure. On one hand its a great team (unit) environment, whilst having to deal with all the stress from managers leaving, and other units not willing to cooperate (working in silos).
- Untrusting, disappointed and demoralising
- Upper management - toxic, egotistical, clueless.
- My Manager and team and other staff at COP - a pleasure to work with.
- us and them. since new broom policy began.
- Us and them. Worker vs management. Also managers who ghink they are better than frontline staff. We all need to realise we work for the people of the city, not lower staff wirking for a manager as such
- very corporate, friendly
- Very poor
- vibrant
- We have a huge organization of highly committed and capable people. We just need to be brought together and understand each others priorities and capabilities.
- welcoming
- well I like the team so generally happy and inviting
- within my unit... Clicky, Purple Cirlce, watch your back, protect yourself, don't trust, miserable.
- Corrupt at the higher levels. intimidators and bullies all about their own self gains
- Underpressure. Fear of not delivery. Divided. A number. No one's safe
- Toxic. Unfair
- Too many people with poor work ethics. Too much politics
- Self serving
- Secretive, dishonest, under handed
- Respecting the noongas
- Non existent compared to previous years where we worked as a team across most areas
- Grumpy, irritated
- Creative, positive
- Biased

92. If you didn't participate in the last Your Say survey, why not? (Catalyse)

# responses = 39

| Theme                                 | #  | %    |
|---------------------------------------|----|------|
| Lack of change from previous surveys  | 19 | 48.7 |
| Were on leave                         | 6  | 15.4 |
| Didn't trust it would be confidential | 3  | 7.7  |
| Don't trust the results               | 3  | 7.7  |
| Fear of retribution                   | 3  | 7.7  |

- Annual Leave
- Annual leave over survey period
- Because I did not feel it would go anywhere as it was an internal Survey and nothing changed to lift the Moral of the workers.
- Because its pointless and its not anonymous
- Like this survey
- because nothing ever gets done, if there are problems highlighted they are glossed over.
- Because you can only say something a number of times without any actions being taken to improve/correct
- Boiled down to bulls\*\*\*
- Did not have the confidence it would address the issues
- Filled out many over the years. All get forgotten after a while due to people leaving and having other priorities. It's like being on a round a bout
- Hire people with qualifications for the long term. Talented people will leave for the money if there is no tenure. The CoP can not compete with wage levels, so offer security. But get rid of low performers who are hiding.
- I did but didn't put my team as I didn't think it would be confidential and it would be used against us
- I did not see the communications regarding the last survey
- I forgot
- I participated in previous surveys, but I didn't see the impact. I disagreed with the Interpretation of the survey results for the previous surveys, conducted past 2/3 years
- I thought I would be in trouble and there would be backlash
- I was worried that there could be reprisals
- I wasn't available
- it felt pointless. We seem to do this so often, and things just don't change.
- it wasn't confidential and the survey results data were manipulated for a positive spin rather than focusing on the area improvements. Ie. That there wasn't a culture issue.
- Little has changed from previous surveys. Promises and no delivery. Who developed the values we now have at the CoP - not the staff.
- Makes no difference
- Minimal change
- missed the deadline
- NO FOLLOW UP
- No, because I didn't believe my concerns would be addressed
- Nothing ever changes from completing the survey's. Also I have seen Managers pouring over survey results looking at the working of responses and coming up with team member names to associate comments too. Personally I don't feel safe expressing my opinion
- On leave
- On long term leave
- Only just got internet on my work phone after 3 years
- Previous surveys have identified the same issues with little or no change. The questions keep getting asked and little of value appears to have come out of the results.
- Time consuming.
- Was not notified
- was not notified of any survey

- was on holiday
- What's the point. It is just a tick the box exercise with the senior management hammering the point of we have done this, done that etc.....
- Whats the point if nothing changes. Plenty of lip service
- workload was too high & also didn't see the point as nothing will change
- Waste of time
- Must've been away?

93. What actions do you think management has either commenced or completed in response to feedback from the Your Say survey?

# responses = 202

| Theme                                 | #  | %    |
|---------------------------------------|----|------|
| Initiated culture change & new values | 47 | 23.3 |
| None                                  | 44 | 21.8 |
| Don't know                            | 43 | 21.3 |
| Introduced change champions           | 15 | 7.4  |
| Introduced reward and recognition     | 14 | 6.9  |
| Improved communication                | 13 | 6.4  |

- A bit of employee recognition, but that's about it
- A deliberate move to meet and physical speak to staff - thank you
- A lot, but I haven't looked into it too much.
- Added the new values to the city
- Adopting the four words to set the City's culture. Running workshops on the City's culture.
- attempted to improve the culture
- Attempting to improving the overall culture of the City from the top down.
- Attempts have definitely been made to improve the morale, including implementing the City's Values. Unfortunately it's all been overshadowed by issues relating to the CEO and Executive, suspension of Council, Lord Mayor State Administrative Tribunal matters, and Commissioners regularly going against Admin recommendations put before Council, repeatedly denting officers morale and confidence.
- Attended recent training with other units and noted that things have not changed for them.
- Became very defensive about the results and focused more on the positive feedback than the negative
- Better communication
- Improving Reward and Recognition
- Trying to remove silos
- Better communication from Directors.
- Bring back overtime so we can get our pride back in our work and see out our jobs that we start and never complete
- CEO awards
- Change champion thingy? Values propaganda?
- Change Champions
- Change champions; a barbeque.
- commenced culture re-build but not believable
- Created "Values"
- Created new values
- Created the change champions, maybe? The council has been suspended, so technically that fixes the issue of Councillors behaving badly.
- Creating a team culture through team building sessions
- Creating casual opportunities for all members of the directorate to share what they are working on - gives a greater appreciation for the breadth of professionals in the organization.
- Cultural change
- Cultural change group, new values, new intranet to aid in communications
- Cultural change.
- Culture Champions
- Culture Champions team which puts the responsibility back on staff to create good culture.
- Culture change
- Culture Change Champs.
- Culture change programme commenced.
- Developed and imbedded the values across the organisation, restructured the organisation, developed better communications, rewards and recognition program, better onboarding, a better (new) intranet capable of cross directorate communications.

- Discussed the issues in a team meeting
- Don't know
- don't know
- don't know
- Don't know.
- Don't know. This year's survey has been mysteriously and indefinitely delayed, so that's not great
- Efforts to instill new values and have a focus on community.
- Employees are more outspoken about their feelings
- Forming the Change champions group, however I don't think I have seen anything that has resulted from this group.
- FOUR VALUES
- From a directorate level, they have implemented changes in response to the previous survey, at unit level culture from our new manager does not follow these changes ethically
- Good question!
- haven't been in the organization very long to comment
- Haven't heard much down here
- Heard about a lot of actions taken by management and feel everyone is clear as to what actions have been taken.
- Hopefully looked and acted with a view to the city returning to the type of employer it used to be, perhaps becoming more efficient at the same time.
- I am not sure
- I am sorry to say I haven't seen any changes other than CoP values going up on windows and drink bottles. Just a pity they are now being exhibited too. Change champions now have lanyards which is lovely - also a pity a Change Champion has never spoken to our team to either pass on information or advise us of what it's all about
- I believe they are going through the motions - gathering the data is one thing, having the courage to act on it is another - I believe they are seen as a 'toothless tiger' - staff need to see action, if not, why will they bother to provide input into something that they know will not go anywhere.
- I believe they have addressed most feedback.
- I can't recall, as it was too long between responding to the survey questions and seeing the outcomes. I lost interest in the survey.
- I can't think of one.
- I don't hold much regard for such surveys particularly when one of the so called 'agents for change' has caused the most havoc in her unit.
- I don't know
- I don't know
- I don't know of anything that has made a positive change.
- I don't know. Nothing is communicated.
- I have no idea. Again a lot of words but no accountable and achieved outcomes.
- I have no idea. I don't know if this has been communicated specifically to staff.
- I have seen little change. Some positive changes are slight improvements in transparency and communication. Also more support for some policies contained in the EBA.
- I have seen no action.
- I have yet to see any actions or response, hence a reluctance to complete further surveys.
- I honestly can't think of anything.
- I mostly find it's more talk than action.
- I was in a meeting where the results were presented and the results indicated the Executive was the issue and they question it. They manipulate the wording and don't take real action on the result, any actions are surface based and band aids.
- I'm not sure
- I'm not sure, but I was really disappointed when I heard there would be no followup to the people who felt that bullying was an issue (this was brought up when results were explained). Although it was a small percentage it could have been a large issue in a small department, and was worth at least getting everyone to run through how to report bullying and even training to prevent it.
- I'm not sure, possibly the OHS Information sessions
- I'm unsure
- I've got no idea. It hasn't been communicated.

- Im
- Not sure
- Implementation
- Implementation of all staff meetings to share information and keep staff informed. No real response to the overwhelmingly negative feedback on staff morale.
- Improved communication about other areas of the organisation
- Improved communications, however there is still room for improvement.
- Improved the culture.
- In the immediate aftermath there was a unit set up within the CEO's office that was looking into the findings. Initially there were a few posts about what they were doing but that has gone very quiet of late, and I have yet to made aware of any initiatives, or positive outcomes, that have come out of the survey. The City rebranded its values and displayed them around Council House.
- It doesn't look like anything has been done.
- Just listen, think and plan properly (strategic).
- Launched the Values, new Intranet, improved performance management processes, undertaken leadership coaching (with ELG and Council), developed Change Champion network and launched new rewards and recognition program.
- leadership keeps changing...
- lots of action has taken place - culture change programs, champions, sausage sizzles, communications, health and well being information sessions,
- Made a few speeches, a few write-ups, but actions not so much.
- Making staff feel like they are doing a great job and being kept up to date with changes/news.
- Management should provide immediately the outcome of the survey.
- managers need to know their teams
- Managers seem to have worked with teams and communicated better - issues seem above manager level with Exec and CEO
- Manipulated
- many
- Meaningless team building days, token efforts to have morning teas - a host of actions that makes it appear that they are golden children to upper management and looks good in Inside City, rather than understanding what their role should actually be in making meaningful change.
- More information on what is happening, what is going to happen.
- Most of them.
- My unit management has progressed very well and we have a positive team culture. ELG have made superficial changes only, so overall organisational culture is poor.
- New values, BBQs, casual dress Fridays (although once a month??), change champions, morning teas, walking tours, CEO walk throughs, DPD catchups.
- New values, more training opportunities, got rid of the toxic councillors, better reward and recognition program.
- nil
- Nil
- Nil
- no idea
- no idea, I think they are constantly having multiple reviews done that they never have a chance to implement anything
- none
- NONE
- None
- none
- None
- none
- None
- None
- none
- None
- NONE

- None except they and gloss over the feedback that they saw as negative rather than be honest about what has been said
- none that i know of
- None that we can see.
- None, ELG seem to want to just talk louder than each other and win any argument. This needs to be outsourced because ELG and the CEO were identified as the problem in the survey. They are now using the same control tactics to try and fix what they have created.
- NONE.
- None.
- None. Why would they even bother trying at this stage - most have only ever worked in local government and so don't know what a full days work is (most of management has left by lunchtime on a Friday - and they have no trouble taking 6 week chunks of annual leave in one go. Guess their roles aren't that important). It would be virtually impossible for them to be fired for laziness.
- not alot
- not apparent
- Not known
- Not many
- Not much
- Not much. The executive took no ownership at all of the issues. Particularly bad, when the key issues were related to Executive behaviour.
- Not yet established
- Nothing
- Nothing
- Nothing
- nothing
- nothing
- nothing
- Nothing clear
- Nothing just introduced a new roster which does not give a work life balance in the workplace
- Nothing manager believes we are all happy
- Nothing or they have done a very bad job of it
- Nothing tangible has achieved
- Nothing that i have seen
- nothing that we can see
- Nothing what so ever
- Nothing. Things have gone backwards since the last survey
- Nothingconstructive
- Nothings Changed
- Our manager just started, there a plans in the pipe line...
- Planned a 'team building' exercise. That is all.
- Promoting the values of the organisation
- Put in some poorly executed reward and recognition events.
- Put up signs but haven't really seen a change
- Re vamp of values and reviving performance shaping
- Reward and recognition policy reviewed and new R&R programs commenced.
- Launched new values and engaged change champions.
- Reward and recognition was brought back
- Reward and recognition, culture values
- Reward and Recognition, Values and Change Champions
- Rolled out the organisational values and other supporting programs
- Rolling out of culture words - Commitment, Teamwork, Courage & Respect.
- These are not the words we can use to describe upper management - ie CEO and Directors.
- Set up Change Champions but am not seeing results from it.
- smoke and mirrors in an attempt to distract people from the systemic and leadership issues in the organization.
- Some areas but with Council Issue some restraints in place

- Some high level "strategic" aspects but in terms of meaningful, day-to-day improvements hard to say really
- Starting to open there ears. More is needed
- Stronger emphasis on values
- Suspect the change to culture and the change champions initiative
- Thanks for listening, appreciate some people are working hard to raise the CoP to where it can be. For the others, GET RID OF THEM
- The City made a huge effort to respond to the survey and I am very proud of my Director who was one of the key drivers:
  - \*values tag line competition
  - \*reward and recognition program
  - \*embedding values BBQ launch
  - \*continual improvement in HR practices
  - \*improvements in directorate communication
- The Culture Change program, but in my opinion this has failed as we need leadership from ELG and we have had no visible improvement in their behavior.
- the current issue is the fact that staff were looking forward to having their say and were denied that opportunity when the Commissioners pulled the survey. It is actions like that, that impact on moral
- The easiest ones.
- The Management needs to describe what actions they have taken and ask staff if they see that these actions have been taken.
- The new business plan.
- The new City values, values roll out BBQ, mentoring for managers and ELG. Change champions. Reward and recognition.
- The survey result must be transparent and open to everyone in City of Perth
- The values are good but I can't really see how they are being infused into the organization. The CEO awards and performance shaping are a start. Putting them up on the walls is one thing but feeling them is another.
- As an organization we are still fragmented and not reaching our full potential.
- The values are in place (despite the comment above).
- The values of commitment, teamwork, courage and respect were advertised. However there has been no demonstration of those values in the organisation.
- The values were a result of the last 'Your Say' survey, but not all BU Managers have applied or champion these.
- There have been concerted efforts to address culture and morale through a series of barbecues to launch our new corporate values, hosting workshops to embed the values and a new employee reward and recognition program. Our values are also present throughout Council House on the frosted glass on each floor.
- There is a drive to improve culture, which is great but I don't believe there is an acknowledgement by ELG that they are a part of the culture that needs to change.  
I think there is a lack of understanding and a real disconnect in driving culture change whilst there is still so much uncertainty with regard to form and functions of the organization.
- There was a lot of chest puffing and interpretation of data but nothing positive came out. Nothing changed and there is still infighting within ELG.
- They are doing the management 101 things but lack an inspiring leader
- They are trying what the can but they may have the wrong people in positions of influence.
- They came up with some values that are aspirational and have little relevance amongst staff.
- They decided upon a set of "corporate values"
- They have not commenced or completed anything. It has gotten worse.
- They have taken steps to resolve many of the complaints.
- Trying to change organizational culture.
- Trying to communicate more often
- Trying to improve culture.
- Unsure if any
- Unsure, addressing issues in the leadership team?
- Updates by DCC on regular basis, making sure we know about grievance etc, good communication by DCC director. change champions reinvigorated

- Values implementation, recognition programs
- very little a few speeches and box ticking
- Very little has really been done.
- We see the corporate announcements that change is going to happen but there is rarely any action.
- Wouldn't have a clue
- Deny and blame, blame previous managers and use it to bully their own way forward
- Wouldn't know
- Training and a lot more positive talk
- They say that the 'silos' have started to be taken down but that is untrue
- They have the wrong idea about what we mean by poor communication in the city. We want clear communication between directorates at ground level, not just more meetings
- Have not seen any improvement, more 'silos' are being created

94. Would you participate in another Your Say survey?

```
# responses = 320
```

| Theme | #   | %    |
|-------|-----|------|
| No    | 41  | 12.8 |
| Yes   | 279 | 87.2 |

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]

- [illegible]



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 5**

### **HR BUSINESS PLAN**

Tower Human Capital Group

## DCS DIRECTORATE

### Human Resources Unit Business Plan 2018/19



#### UNIT PURPOSE/ROLE

The Human Resources (HR) unit provides strategic and operational support to the City of Perth by assisting teams in making informed and robust decisions in the management and development of its organisational capabilities.

HR is responsible for providing a range of operational services including:

- Recruitment
- Employee Lifecycle Management
- Performance Management and Development
- Learning and Development
- Employee Relations
- Remuneration and Benefits
- Reward and Recognition
- HR Information Systems (HRIS)
- HR Services
- Injury Management (Return to Work)
- Diversity and Equal Employment Opportunity

Human Resources will continue partnering with the business to develop integrated strategies and effective organisational plans, including:

- Organisational Culture – Development and Cultural Change
- Leadership Model and Leadership Development
- Mentoring Program
- Talent Management and Succession planning
- Reward and Recognition Program
- On boarding procedure
- Workforce Planning (WFP)
- Organisational Design – Capability Assessment and Structural Development

As a result of the Deloitte Report (6 June 2017), the Human Resources team have been provided with a mandate to address the Organisational Culture. The key focus for 2018/2019 will be:

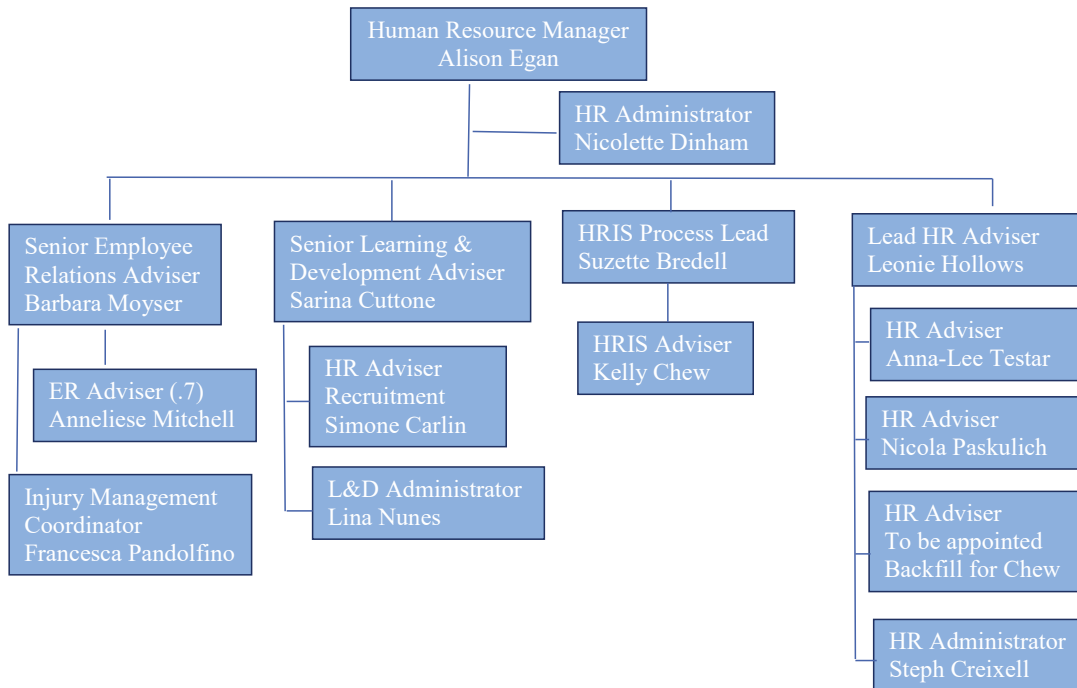
- Delivery of HR Service Model to the whole business
- Training Matrix and delivery of comprehensive training programs
- Implementation and promotion of the Reward and Recognition Program
- Overhaul of the On boarding procedure including candidate profiling, induction processes and management of probationary periods
- Cultural Reboot: Embedding the new company values into all aspects of the Human Resource and wider business function
- Addressing the three key issues raised from the Employee Survey:
  - Elected Members behaviour (being in line with the Code of Conduct)
  - ELG providing inspirational leadership
  - Strong team spirit across the City of Perth

## DCS DIRECTORATE Human Resources Unit Business Plan 2018/19



### PROFILE

#### HUMAN RESOURCES ORGANISATIONAL STRUCTURE



**DCS DIRECTORATE**  
**Human Resources Unit Business Plan 2018/2019**



**SERVICE PROVISION**

The service levels in which Human Resources Unit provides and the anticipated change over a four year period are:

| Key Services                  | Activity   | Benefit   | Type of Service                      | Current Service Level                                 | Expected Service Level                 | Resource Requirements |
|-------------------------------|--|---|--------------------------------------|---|--|-----------------------|
|                               |  |   |                                      | ↑ Above Standard<br>→ To Standard<br>↓ Below Standard | ↑ Increase<br>→ Maintain<br>↓ Decrease |                       |
| Recruitment                   | Attract, assess, select and appointment suitable candidates for positions within the organisation.   | Core requirement of an organisation is to have dedicated and capable employees to deliver against organisational objectives.  | Mandatory                            | →   | ↑                                      | 1                     |
| Employee Lifecycle Management | Co-ordinate the stages an employee goes through during their employment including on-boarding and administration processes e.g. salary increases, departures etc.  | Co-ordinated and standardised processes ensure equality and consistency across the organisation. Gives employees the necessary skills, information and resources to be successful in their roles. It ensures that the employee's journey through the organisation is managed in a holistic way. | Part Mandatory<br>Part Discretionary | →   | ↑                                      | 2                     |
| Performance Assessments       | Annual assessment of individual's performance against:<br>• The requirements (tasks) of their role<br>• The delivery against objectives<br>• Their ability to meet the conduct and behavioural standards of the organisation | A structured process for managers and employees to clarify expectations, provide opportunities to develop, and identify areas of improvements for each employee.  | Mandatory                            | →   | ↑                                      | .7                    |
| Learning and Development      | Tailored programs in line with gap analysis and organisation wide capability assessments to enable individuals to enhance their required skills and/or competencies, as well as  | Improves overall performance of the organisation through tailored training, ongoing learning and the development of capabilities required to support the organisation's needs.  | Mandatory                            | →   | ↑                                      | 2                     |

3

**DCS DIRECTORATE**  
**Human Resources Unit Business Plan 2018/2019**



| Key Services              | Activity  | Benefit  | Type of Service                      | Current Level of Service | Expected Level over next 4 years | Resource Requirements |
|---------------------------|---|--|--------------------------------------|--------------------------|----------------------------------|-----------------------|
|                           | improve teams and business unit's delivery of their operations.   |  |                                      |                          |                                  |                       |
| Employee Relations        | Management of the employee and employer relationship including workplace decisions, grievances, disciplinary, conflicts, problem resolutions, unions and issues of collective bargaining.   | Ensures the correct and fair process is applied when addressing ER issues. Sets standards and consistent practices and processes for the organisation to manage the employee/employer relationships effectively. | Mandatory                            | →                        | ↑                                | 1.7                   |
| Remuneration and Benefits | Policy and standards for the determinations of remuneration levels and employee benefits in line with the organisations EBA and industry standards.   | Provides consistency across the organisation in salary bandings and ensures the organisation is competitive within the market place.   | Part Mandatory<br>Part Discretionary | →                        | ↓                                | 0.2                   |
| Reward and Recognition    | Integrated and unified reward and recognition program focused on rewarding strong performance and recognising practices that supports the organisations values.   | Motivates and acknowledges employees efforts and encourages positive performance and behaviours in all staff.  | Discretionary                        | →                        | ↑                                | 0.5                   |
| HR Information Systems    | Technical solutions to streamline the administrative and necessary processes within HR.   | Provides a single source of truth for information and data relating to employees and operations. Provides efficiencies in processes by reducing manual tasks and reducing the risk of human error.               | Discretionary                        | →                        | →                                | 2                     |
| Workforce Planning        | Enabling the organisation to deliver against their objectives and optimise performance, through identification and analysis of the required capabilities and resources the organisation needs to be able to fulfil the Corporate Business Plan. | Effectively plan for the future requirements of the business to deliver against the City's strategic goals by effective allocation of resources.   | Part Mandatory<br>Part Discretionary | ↓                        | ↑                                | 0.4                   |

4

## DCS DIRECTORATE

### Human Resources Unit Business Plan 2018/2019



| Key Services                               | Activity  | Benefit   | Type of Service | Current Level of Service | Expected Level over next 4 years | Resource Requirements |
|--|---|---|-----------------|--------------------------|----------------------------------|-----------------------|
| HR Services                                | Services provided to businesses to enable the effective management of employees processes including:<br><ul style="list-style-type: none"> <li>Consistency in management of approvals of employees requests e.g. Long term absences, flexible working arrangements, Study assistance</li> <li>Standard HR policies, procedures and process to enable effective management e.g. Reclassifications, managing excess leave, higher duties</li> </ul> | Consistent approaches ensuring all employees receive the same treatment and consideration. Prevents precedents being set that undermine the integrity of the organisation and create unmanageable practices.  | Mandatory       | ↓                        | ↑                                | 4                     |
| Diversity and Equal Employment Opportunity | The focus of the DAIP working group is to encourage the employment of a wide range of individuals increasing the City's diversity and skills. This will ensure staff are informed of their responsibilities as an employee to their colleagues and are aware of the processes and procedures available to them should they encounter any issues e.g. bullying, discrimination.  | A legislative requirement for the city to increase diversity and provide regular EEO training to all employees. Creating a safe and respectful work place ensure all employees can enjoy their work and achieve their best. Additionally diverse workforces increase organisational effectiveness by the introduction of different skills, approaches and experiencing. | Mandatory       | →                        | →                                | 0.2                   |
| Total Human Resource Allocation            |   |   |                 |                          |                                  | 14.7                  |

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## DCS DIRECTORATE

### Human Resources Unit Business Plan 2018/2019



#### Risk Register – High and Extreme Risks

| Risk | Risk Category   | Risk Description  | Likelihood | Consequence | Existing Controls  | Future Treatment*<br>Yes/No |
|------|---|---|------------|-------------|--|-----------------------------|
| 1    | People, Service Delivery – employees not able to receive timely HR response to issues and concerns raised                             | Disengagement with the business, disruptive and destructive behaviours, potential psychological issues or mental stress   | High       | Major       | Code of Conduct<br>Policies and Procedures – Grievance, Disciplinary, Alcohol & Drug<br>EAP<br>Health and Wellbeing program<br>Education/awareness program<br>Company Values<br>Prevention of workplace bullying program | Yes                         |
| 2    | People, Organisational Change Fatigue -Coping with ongoing cultural change, new systems, new structures, new initiatives and projects | Employees fail to engage with cultural change initiatives, damage to the company's reputation, difficulty in making progress in making organisational culture refresh | High       | Major       | Solid communication planning<br>Change management strategies<br>Holding managers to account for implementation<br>HR Support   | Yes                         |
| 3    | Reputational Risk – affecting the recruitment and retention of personnel  | Panel Enquiry and media attention/speculation could have adverse effects on attracting and retaining talented employees   | Medium     | Moderate    | Corporate Communications Strategy  | Yes                         |

\*Note, in addition to the above and ongoing risks, the following also present a risk to the business:  
1. The aging workforce.

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**DCS DIRECTORATE**  
**HUMAN RESOURCES UNIT BUSINESS PLAN 2018/2019**



**Reference/Mandate**  
CBP – Corporate Business Plan  
BAU – Business as usual activity  
RT – Risk Treatment  
OI – Other Initiative

**Key Operational Projects**

To deliver on the Service, Corporate Business Plan and Organisational Development commitments, the following initiatives, milestones and actions have been identified for the coming year.

| 2018/2019 Objectives: Human Resources |                                  |  |                           |             |   |               |   |   |
|---------------------------------------|----------------------------------|--|---------------------------|-------------|---|---------------|---|---|
| Reference / Mandate                   | Functional Team Leading Delivery | Initiative/action/objective  | Major Dependencies (Unit) | Deadline    | Responsibility                                      | Status Report | Indicative Project Cost (\$) for budget | Human Capacity to Deliver (New or Existing) |
| BAU                                   | HR Advisory Team                 | <b>HR Service Delivery Model</b> – Create a clear and concise model on which to deliver the fundamental of Human Resource Management<br><b>HR Services Standardisation</b> – ongoing review, updating and implementation of HR policies procedures, processes, forms and templates ensuring consistency across the organisation. | HR                        | July 2018   | HR Manager<br>Senior L&D Adviser<br>Lead HR Adviser |               | Nil                                     | Existing                                    |
| OI                                    | L&D                              | <b>On-Boarding Program</b> – Research, develop and implement a comprehensive, best practice on-boarding program inclusive of candidate profiling, pre-employment psychometric testing, induction and training  | L&D                       | Dec 2018    | Senior L&D Adviser<br>HR Adviser – Recruitment      |               | Nil                                     | Existing                                    |
| OI                                    | L&D                              | <b>Graduate Program</b> - Development of Graduate program for the attraction and retention of graduates.   | L&D                       | August 2018 | Senior L&D Adviser                                  |               | Nil                                     | Existing                                    |

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**DCS DIRECTORATE**  
**HUMAN RESOURCES UNIT BUSINESS PLAN 2018/2019**



| 2018/2019 Objectives: Human Resources |                                  |   |                              |          |  |               |   |   |
|---------------------------------------|----------------------------------|---|------------------------------|----------|--|---------------|---|---|
| Reference / Mandate                   | Functional Team Leading Delivery | Initiative/action/objective   | Major Dependencies (Unit)    | Deadline | Responsibility                                   | Status Report | Indicative Project Cost (\$) for budget | Human Capacity to Deliver (New or Existing) |
| BAU                                   | HR Management                    | <b>Employee Engagement</b> – Conducting the survey for 2018. Utilising the Employee culture survey results and partnering with Corp Comms to improve employee engagement and communication across the organisation.   | Corporate Comms & HR Service | Ongoing  | HR Management, HR team, Corporate Communications | Ongoing       | TBC                                     | Existing and Corp Comms                     |
| OI                                    | L&D                              | <b>Mentoring Program</b> – Implementation of a structured mentoring program across the organisation. Through this program, raise awareness and educate the business on the 70/20/10 approach to learning and development.<br>The 70 - <i>Experiential/Experience</i> - learning and developing through day-to-day tasks, challenges and practice.<br>The 20 - <i>Social/Exposure</i> - learning and developing with and through others from coaching, exploiting personal networks and other collaborative and co-operative actions.<br>The 10 - <i>Formal/Education</i> - learning and developing through structured courses and programs. | HR Service L&D               | Dec 2018 | Senior L&D Advisor                               | Design Phase  | TBC                                     | Existing                                    |

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**DCS DIRECTORATE**  
**HUMAN RESOURCES UNIT BUSINESS PLAN 2018/2019**



| 2018/2019 Objectives: Human Resources |  |  |                           |   |  |                                 |   |   |
|---------------------------------------|--|--|---------------------------|---|--|---------------------------------|---|---|
| Reference / Mandate                   | Functional Team Leading Delivery                   | Initiative/action/objective  | Major Dependencies (Unit) | Deadline  | Responsibility                                     | Status Report                   | Indicative Project Cost (\$) for budget | Human Capacity to Deliver (New or Existing) |
| OI                                    | L&D  | <b>E-Learning platform</b> – the embedding of this new tool across the organisation.   |                           | Sept 2018                                       | L&D  |                                 |   | Existing                                    |
| CBP                                   | HR Management                                      | <b>Workforce Planning</b> – the implementation of a more structured approach and regular reporting/analysis for workforce planning with defined HC increases for subsequent years determined & directly aligned with budget forecasts. HRIS implementation will affect the outcome | FIN & HR Management       | Dec 2018  | HR Management                                      | In discussions                  |   | Existing                                    |
| OI                                    | HR Management, HR Advisory team, HRIS Project team | <b>HRIS</b> – Implementation of Phase One and Two.   | IT HR                     | Phase One – July 2018<br>Phase Two – March 2019 | HR Management, HR Advisory team, HRIS Project Team | Testing                         | TBC                                     | Existing                                    |
| BAU                                   | L&D  | <b>LMS</b> – Implementation of LMS system within new HRIS that supports the organisation and employees in requesting, booking, tracking and recording development plans and activities   | HR IT                     | July 2018                                       | L&D Advisor  | Ready – Requires Phase One HRIS |   | Existing                                    |
| BAU                                   | L&D  | <b>Talent Management and Succession Planning</b> – Develop and implement Talent Management and Succession planning.  | HR                        | June 2019                                       | HR Management, L&D Adviser                         |                                 |   | Existing                                    |

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**DCS DIRECTORATE**  
**HUMAN RESOURCES UNIT BUSINESS PLAN 2018/2019**



| 2018/2019 Objectives: Human Resources |                                  |  |                           |           |                           |                   |   |   |
|---------------------------------------|----------------------------------|--|---------------------------|-----------|---------------------------|-------------------|---|---|
| Reference / Mandate                   | Functional Team Leading Delivery | Initiative/action/objective  | Major Dependencies (Unit) | Deadline  | Responsibility            | Status Report     | Indicative Project Cost (\$) for budget | Human Capacity to Deliver (New or Existing) |
| BAU                                   | HR Management                    | <b>Embedding the Company Values</b> – consistently utilising the values in all aspects of employee assessment including Performance Shaping, Recruitment, Engagement, Performance Management, Reward and Recognition | ELG<br>MLG<br>HR          | June 2019 | HR Management, ELG<br>MLG | Values Rolled Out | Nil                                     | Existing                                    |
| OI                                    | HR Management L&D                | <b>Mental Health and Wellbeing in the Workplace</b> – research, plan and implement strategies to assist employees experiencing Mental Health issues. Increase employee wellbeing through targeted programs           | HR<br>MLG                 | June 2019 | HR Management             |                   | Nil                                     | Existing                                    |

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## DCS DIRECTORATE

### HUMAN RESOURCES UNIT BUSINESS PLAN 2018/2019



With the Commissioners in place until at least 2020, it is difficult to pin point what the employees of the City will be facing in the coming years and what those challenges will mean for the HR Service. However, there are a few objectives that could be considered in the Business Plan 19/20 that aligns with the overall **Corporate Business Plan 2017-2021**.

| 2019/2020 Objectives: Human Resources                          |                                     |   |                                 |          |   |                  |  |  |
|--|-------------------------------------|---|---------------------------------|----------|---|------------------|--|--|
| Reference/<br>Mandate  | Functional Team<br>Leading Delivery | Initiative/action/objective   | Major<br>Dependencies<br>(Unit) | Deadline | Responsibility  | Status<br>Report | Indicative<br>Project<br>Cost (\$) for<br>budget | Human<br>Capacity to<br>Deliver (New<br>or Existing) |
| OI –<br>Goal 7: An<br>open &<br>engaged City                   | CEO, HR<br>Management,              | <b>Leadership is held to a high ethical standard</b> – Enhance the City's reputation through transparent and authentic leadership, partnership and communications of programs and services                    | ELG                             | 2020     | CEO, Dir, Managers,<br>HR Management and<br>L&D team    | Ongoing          | TBC  | Existing<br>and<br>Contractor                        |
| OI-<br>Goal 8:<br>A city that<br>delivers for its<br>community | L&D, HR<br>Management               | <b>Great people are attracted, developed and retained to meet and exceed community expectations</b><br>Develop and implement organisational and cultural program to align the values and strategic priorities | HR                              | 2020     | HR Advisory Team<br>HR Management<br>L&D Adviser<br>MLG |                  | Nil  | Existing   |
| OI   | HR<br>Management<br>L&D             | <b>A Strong Team Spirit</b> – Build the organisational cultural around the "One Team" concept through education, training, team building and celebrating successes  | ELG<br>HR<br>MLG                | 2020     | HR Management   |                  | TBC  | Existing   |

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year:

| Project | Project Brief<br>TRIM # | 2016/17<br>Financial Year<br>Cost (\$) | Expected<br>Finalisation<br>Date (Gate 6) |
|---------|-------------------------|--|---|
| HRIS    | 281798/14               | TBC                                    | June 2019                                 |
|         |                         |  |   |
|         |                         |  |   |



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 6**

# **HEALTH AND WELLBEING PROCEDURE**

Tower Human Capital Group

## City of Perth Procedure

### HEALTH AND WELLBEING PROCEDURE

#### SCOPE:

Corporate – This procedure is applicable to all staff.

#### OBJECTIVES:

The City is committed to addressing employees health and safety concerns and as such will provide health and wellbeing initiatives to periodically monitor the health, safety and welfare of all employees.

#### PROCEDURE DETAILS:

The City's health and wellbeing program is designed to support the proactive management and promotion of team member's health and wellbeing.

The health and wellbeing program at the City is based upon a holistic approach which focuses upon team member's physical, psychological and social health both at work and beyond.

Employees will be encouraged to participate in City's health and wellbeing activities to improve their health, safety and welfare.

#### Health and Wellbeing Committee

A Health and Wellbeing steering committee has been established to review health and wellbeing initiatives across the City of Perth. The committee consists of representatives from various business units and meets quarterly. The committee will focus on internal health and wellbeing of employees in addition to the reviewing the public health and wellbeing strategies across the wider City of Perth.

A focus of the Health and Wellbeing committee will be to work towards gaining external Healthy Workplace Accreditation through Healthier Workplaces WA.

#### Health and Wellbeing Initiatives

##### Healthy Lifestyle Program

The healthy lifestyle program provides a contribution of up to \$120.00 every twelve months from date of purchase towards an employee's health and fitness activity e.g. sports shoes, gym membership, fit bit, sports club membership, outdoor sports equipment, yoga, massage, pilates, gym equipment (clothing is not covered). The Healthy Lifestyle contribution can also be used to access the City's corporate massage program. Employees will receive one fifteen (15) minute massage every eight (8) weeks. Please note that only one initiative can be used within a twelve-month period and contributions do not roll over one year to the next.

In order for the claims to be accepted the date of purchase must be within three months. Employees who are not permanently employed on a full-time basis and are employed either on a permanent part time or temporary basis for more than 12 months will receive a pro-rata amount of the contribution value.

## City of Perth Procedure

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In order to access the Health Lifestyle Program, employees are required to successfully complete their probationary period. Employees are required to complete the healthy lifestyle payment voucher, attach their receipt and forward to the OSH Team for processing. The healthy lifestyle payment voucher is located under *OSH Resources* on the City's Intranet home page.

Completed payment vouchers are recorded on a spreadsheet that contains all lodged claims by the OSH team. The spreadsheet records the claim details and the date of payment. Approved vouchers are forwarded to the Accounts team for processing.

### Optical Eyewear Policy

The City of Perth will provide limited assistance to employees experiencing eye sight difficulties at work using new or existing equipment.

Assistance is provided only towards the cost of the initial assessment and purchase of glasses and/or contact lens.

The City of Perth will subsidise half the purchase price of glasses and/or contact lens to a maximum of \$110.00 after the payment of any private health insurer rebate.

Employees are required to complete the healthy lifestyle payment voucher (F0367) located in the Form Centre on the Intranet and attach their receipt and forward to the OSH Team for processing.

Completed payment vouchers are recorded on a spreadsheet that contains all lodged claims by the OSH team. The spreadsheet records the claim details and the date of payment. Approved vouchers are forwarded to the Accounts team for processing.

### References

- [PR0021 - Optical Eyewear Policy](#)
- [Payment Voucher Template \(F0367\)](#)
- [Healthy Lifestyle / Optical Eyewear Spreadsheet \(111388/17\)](#)

### Annual Health Risk Assessments

The City provides annual health risk assessments for employees every April. The health risk assessments are an in-depth assessment by an allied health professional. The assessments are designed to provide a structured way of identifying health issues and conditions that are potentially preventable or amenable to interventions in order to improve health and/or quality of life.

The health assessments includes blood pressure, resting heart rate, waist circumference, height, weight, BMI, family & personal history, stress score, lifestyle habits (exercise, smoking, nutrition, alcohol) and Finger Prick Testing (glucose, cholesterol). Health coaching and goalsetting, strength testing (core, upper body & grip) and aerobic fitness test (step test) are also done with a one on one consultation regarding discussion of results, goal setting & recommendations.

## City of Perth Procedure

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The health risk assessments are announced on the City's Intranet via Corporate Announcements with information including when the programs will be taking place, how to sign up and other necessary information. A limited number of positions are available.

### **Annual Skin Cancer Screenings**

Annual Skin Cancer Screenings are provided to City employees every November with priority given to the City's high risk outdoor units. High risk units are those that are required to spend the majority of their working hours in direct sun light.

The aim of the screening program is to assist with the early detection of suspect skin lesions that may require a more comprehensive follow up from a skin specialist.

The supervisors and managers of high risk units are notified approximately 2 weeks prior to the assessments in order to secure positions for their employees. The remainder of the City's employees are advised via the Corporate Announcements on the Intranet with information including when the programs will be taking place, how to sign up and other necessary information. A limited number of positions are available.

Screenings are done at both Council House and the Depot. An online booking system is used for booking screening sessions.

### **Flu Vaccinations**

Annual influenza vaccinations are provided to employees during the last months of Autumn (April or May). A nominated company will be appointed to provide the flu vaccinations and an online booking system will be used to manage bookings.

The vaccinations are announced on the City's Intranet via Corporate Announcements with information including when the programs will be taking place, how to sign up and other necessary information. A limited number of positions are available.

### **Employee Assistance Program (EAP)**

The Employee Assistance Program (EAP) is designed to assist employees with personal and work related issues. The City recognises that an employee's wellbeing significantly impacts on the work environment and for this reason, the City of Perth employees and their immediate families may be referred by their Supervisor, the Human Resources Unit or by self-referral to appropriate outside counselling and support facilities.

Counselling services can assist with problems such as interpersonal conflict, work related problems, relationships and family issues, emotional stress, financial difficulties, career issues, grief and alcohol/drug related problems.

Information on the Employee Assistance Program (EAP) can be found on the OSH Resources home page or by contacting the Human Resources Unit.

EAP Provider is Access Wellbeing Services. Contact number is 1300 66 77 00. The EAP program is available 24/7.

## City of Perth Procedure

For more information please refer to [PR0020 – Employee Assistance Program](#).

### Health and Wellbeing Training

The City of Perth provide proactive health and wellbeing training throughout the year. This training is outlined on the OSH training calendar.

Training programs on offer include but are not limited to;

- Manual Tasks
- Communicable disease training
- Drug and Alcohol training
- Sun Safe Awareness - Working in Heat
- Electrical Awareness Training
- Life Balance and Wellbeing
- Resilience and Mindfulness
- Healthy Eating – Nutrition
- Smoking
- Physical Activity
- Positive Psychology
- Mens and Womens Health
- Ergonomic Assessments
- Fatigue Management Training (Night Shift Employees)

The calendar is available on the OSH Resources page of the Intranet. Employees interested in attending training programs must seek Supervisor approval. Once approval has been granted, supervisors are to email names of employees wishing to attend the training sessions to the OSH Team or OSH Inbox. Once names have been received employees will be send a calendar invites to the training programs.

### BACKGROUND:

|                        |  |
|------------------------|--|
| PROCEDURE REF NO:      | PR1173   |
| OWNER UNIT:            | CMD  |
| ORIGINATOR (TITLE):    | OSH COORDINATOR  |
| PROCEDURE APPROVED BY: | DIRECTOR – CONSTRUCTION AND MAINTENANCE  |
| DATE CREATED:          | 26 JUNE 2018   |
| REVIEW FREQUENCY:      | ANNUALLY   |
| RELATED DOCUMENTS:     | OCCUPATIONAL SAFETY AND HEALTH ACT 1984<br>OCCUPATIONAL SAFETY AND HEALTH REGULATIONS 1996<br><a href="#">PR0020 – EMPLOYEE ASSISTANCE PROGRAM</a><br><a href="#">PR0021 - OPTICAL EYEWEAR POLICY</a><br><a href="#">HEALTHY LIFESTYLE PAYMENT VOUCHER TEMPLATE</a><br><a href="#">HEALTHY LIFESTYLE PROGRAM SPREADSHEET (111388/17)</a> |

ADDITIONAL COMMENTS:



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 7**

# **LEARNING AND DEVELOPMENT STRATEGY EVALUATION**

Tower Human Capital Group



City of Perth

# Learning and Development Strategy 2015-2018: Evaluation





City of Perth

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## Overview

### Introduction

The City of Perth's [Learning and Development Strategy \(2015-2018\)](#) - endorsed by ELG in late 2015 - was developed and implemented by the Human Resources Learning and Development (L&D) team.

This report:

- Quantifies and - where possible - evaluates outputs against the Strategy for the period March 2015 to September 2018, and
- Will be used to guide Human Resources (HR) in the ongoing design and delivery of learning and organisational development services to the City.

Due to the volume of supporting data, a [Recordkeeping](#) section is included in this report, containing links to all L&D documents in Content Manager.

## Deliverables and Measures of Success

The City has no organisational performance criteria or baseline measurement of organisational effectiveness which can be used to demonstrate the effectiveness of L&D in improving organisational performance.

The table below lists the L&D deliverables for the period March 2015 to September 2018, and achievements and measures of success.

| No | Deliverable                                   | Achievements and Measures of Success   |
|----|---|--|
| 1  | Performance Shaping                           | <ul style="list-style-type: none"> <li>Designed in consultation with the business</li> <li>Includes a Competency Framework</li> <li>Five improvements since implementation, in response to feedback and review</li> <li><b>95% compliance</b> as at 1 September 2018</li> </ul>  |
| 2  | eLearning compliance training on CityLearn    | <ul style="list-style-type: none"> <li><b>4564 completions</b></li> <li>Cost savings of <b>\$483,955</b> to date (<b>60% saving compared to F2F training</b>)</li> <li>Cost effective outsourcing of eLearning instructional design and support</li> <li>Employees can complete compliance training online prior to commencement</li> <li>City is ready to adopt a blended learning approach</li> <li>Outside workforce is fully engaged</li> </ul>  |
| 3  | Corporate learning events: face to face (F2F) | <ul style="list-style-type: none"> <li>Total of <b>2217 face to face attendances</b> (excluding team building/planning days and facilitated workshops e.g. lessons learned)</li> <li>Extensive corporate learning calendar, reaching all areas of the organisation</li> <li>Delivered customised solutions</li> <li>Learning events - most of which are charged back to business units - sell quickly, often within days of announcement</li> <li>Excellent feedback for all learning events</li> <li>Employees' preferred method for skill development</li> <li>Provides internal networking opportunities</li> </ul> |

|    |   |   |
|----|---|---|
| 3a | <b>Corporate learning events: face to face (F2F)</b><br>- Externally-sourced              | <ul style="list-style-type: none"> <li>1545 (of 2217 face to face corporate learning events) attendances</li> <li>Cost effective outsourcing of F2F corporate learning events</li> <li><b>\$564,016</b> savings through bulk purchasing F2F corporate learning events (<b>43% saving on public course rates</b>)</li> </ul>   |
| 3b | <b>Corporate learning events: (face to face)</b><br>- Internally designed and facilitated | <ul style="list-style-type: none"> <li>672 (of 2217 face to face corporate learning events) attendances</li> <li>Cost effective in-house delivery of F2F corporate learning events by utilisation of internal expertise</li> <li><b>\$136,530</b> savings (<b>40% saving on externally-sourced bulk purchase rates and 65% on public course rates</b>)</li> <li>No cost to Business Units, except catering</li> </ul> |
| 4  | <b>Corporate Compliance Training</b>  | <ul style="list-style-type: none"> <li>Training delivered to the entire workforce</li> <li>Reporting to 100% accuracy</li> </ul>  |
| 5  | <b>Compliance Training Matrix</b>   | <ul style="list-style-type: none"> <li>All training captured to ensure and verify compliance</li> <li>Includes extensive learning options linked to competency framework</li> </ul>   |
| 6  | <b>Training Needs Analysis</b>  | <ul style="list-style-type: none"> <li>Identified priorities for corporate learning calendar in 2017-2018</li> <li>Partnered with Business Units to identify training needs</li> </ul>  |
| 7  | <b>L&amp;D Global Benchmarking</b>  | <ul style="list-style-type: none"> <li>Identified opportunities for improvement</li> <li>Joined the LG L&amp;D Network in early 2018</li> </ul>   |
| 8  | <b>Facilitated workshops</b>  | <ul style="list-style-type: none"> <li>Delivery of 25 workshops (approximately one-day duration each) to include team building, strategic/business planning, lessons learned, inter-unit/directorate collaboration</li> </ul>   |
| 9  | <b>Leadership Development</b>   | <ul style="list-style-type: none"> <li>Delivery of quality leadership development including 360 feedback and executive coaching in 2016-2017</li> <li>Tender documentation issued to providers to quote for the 2019 program</li> </ul>   |

|    |  |  |
|----|--|--|
| 10 | <b>Advisory services</b>                   | <ul style="list-style-type: none"> <li>▪ Customised solutions</li> <li>▪ Performance Shaping</li> <li>▪ Career coaching</li> <li>▪ Referral for Executive coaching and 360 Leadership surveys</li> <li>▪ Mediation support</li> </ul>  |
| 11 | <b>Reward and Recognition Program</b>      | <ul style="list-style-type: none"> <li>▪ Development of program for ELG endorsement</li> <li>▪ Successful launch in September 2018</li> </ul>  |
| 12 | <b>Organisational Culture and Values</b>   | <ul style="list-style-type: none"> <li>▪ Design, administration of and reporting on three employee opinion surveys to assess perception of the 2015-2016 organisational restructure</li> <li>▪ Coordination/rollout of and significant contribution to the final report for the Culture Survey 2017</li> <li>▪ Coordination of the Culture Survey 2018</li> <li>▪ Coordination of 2018 Change Champions</li> <li>▪ Significant contribution to the rollout of the City's values</li> <li>▪ Procurement and coordination of organisation-wide training on embedding values in the workplace</li> <li>▪ Tender specifications and procurement for CEO-Elected Members workshop in November 2017</li> </ul> |
| 13 | <b>Other Organisational Development</b>    | <ul style="list-style-type: none"> <li>▪ Initial scoping for 2019 Mentoring program</li> <li>▪ First draft of Talent Identification and Management strategy</li> <li>▪ Scoping for Indigenous and DAIP traineeships in 2019</li> </ul>   |
| 14 | <b>OCCA: PD Standardisation</b>            | <ul style="list-style-type: none"> <li>▪ Entire management of the Position Description project</li> <li>▪ Project on schedule for completion in December 2018</li> </ul>   |
| 15 | <b>OCCA: Onboarding</b>                    | <ul style="list-style-type: none"> <li>▪ Development and management of the Onboarding Project</li> <li>▪ Project on schedule for completion in December 2018</li> </ul>  |
| 16 | <b>Manager Salary Benchmarking Project</b> | <ul style="list-style-type: none"> <li>▪ Significant contribution to the project</li> <li>▪ Development of extensive manager competency framework</li> </ul>   |

|    |  |  |
|----|--|--|
| 17 | <b>Technology and Recordkeeping</b>                          | <ul style="list-style-type: none"> <li>▪ Utilisation of Content Manager for storage of records</li> <li>▪ Capacity for L&amp;D activities to be audited as a result of careful recordkeeping</li> <li>▪ Adoption of eLearning technology</li> <li>▪ Adoption of TEAMS to engage in collaborative work on specific projects</li> </ul>  |
| 18 | <b>Policies and Procedures</b>                               | <ul style="list-style-type: none"> <li>▪ All L&amp;D Policies and Procedures have been reviewed and updated: <ul style="list-style-type: none"> <li>- Corporate Learning</li> <li>- Study Assistance</li> <li>- Reward and Recognition</li> <li>- Performance Shaping</li> <li>- Probationary Period (pending Director sign-off)</li> <li>- Onboarding (pending completion of Onboarding Strategy in December 2018)</li> </ul> </li> </ul> |
| 19 | <b>Organisational Restructure 2016</b>                       | <ul style="list-style-type: none"> <li>▪ Significant contribution to management of redundancies</li> </ul>   |
| 20 | <b>Value of L&amp;D</b>                                      | <ul style="list-style-type: none"> <li>▪ The business actively engages and works with the L&amp;D team</li> <li>▪ Investigations and assessments of our value are currently underway and undertaken by other parties and processes within the City</li> </ul>  |
| 21 | <b>OSH / Business Continuity / Critical Incident Control</b> | <ul style="list-style-type: none"> <li>▪ Senior L&amp;D Advisor appointed as Chief Warden for Council House in early 2018, as well as member of Critical Incident Control team</li> </ul>  |

### Looking ahead

L&D has succeeded in building a robust service to the City. Our cost savings alone total \$1,184,501 to date.

However, we have much more to do to achieve a best practice learning culture.

Work has already commenced on a mentoring program, a talent strategy (acquisition, identification, management and succession planning) and traineeships (indigenous and disability).

## L&D: March 2015 to September 2018

### March 2015

The L&D function was introduced to the City of Perth in March 2015.

Business Units were responsible for managing all staff learning and development. Additionally, the City was engaging an external agency to conduct a biennial culture survey.

The following programs and services were non-existent as at March 2015:

- Performance Development System, including a competency framework
- eLearning function
- Training Needs Analysis
- Corporate Training Calendar
- Global L&D Benchmarking
- Training Matrix
- Leadership Development
- Support for facilitated workshops e.g. team building, strategic planning and lessons learned, and
- Coaching, learning advice and support.

The Learning and Development Strategy 2015-2018 was developed to address these gaps.

### Context

The City has undergone unprecedented change during this period i.e.:

- 30%+ of the workforce has been replaced through redundancy or resignation
- Approximately 30% of L&D course participants have left the City
- Escalating turnover
- Major organisation restructure: 2015 to early 2017
- General poor rating of the organisational culture, except for job satisfaction and benefits (which are on par with WA Local Government): late 2017
- Suspension of Council: 2018
- Inquiry Panel: 2018-2019
- Departure of two CEO's, and
- Series of Commissioner-initiated reviews in 2018-2019 to capture effectiveness of service provision and value for money assessment.

## Resourcing

|                     |   |
|---------------------|---|
| <b>Mar-Dec 2015</b> | <ul style="list-style-type: none"> <li>1 x 1.0 L&amp;D Advisor</li> </ul>   |
| <b>2016</b>         | <ul style="list-style-type: none"> <li>1 x 1.0 L&amp;D Advisor</li> <li>1 x 0.4 L&amp;D Administration</li> </ul>   |
| <b>2017</b>         | <ul style="list-style-type: none"> <li>1 x 1.0 L&amp;D Advisor</li> <li>1 x 0.6 L&amp;D Administration</li> <li>1 x 0.4 eLearning Consultant</li> </ul>   |
| <b>2018</b>         | <ul style="list-style-type: none"> <li>1 x 1.0 Senior L&amp;D Advisor</li> <li>1 x 0.9 L&amp;D Administration</li> <li>1 x 1.0 Talent Advisor, commencing 1 July 2018.</li> <li>1 x 0.3 eLearning Consultant</li> </ul> |

## Administration function

The L&D Administrator provides critical support to the team in the following areas:

|                                     |   |
|-------------------------------------|---|
| <b>CityLearn</b>                    | <ul style="list-style-type: none"> <li>Management of CityLearn system in partnership with DAI</li> <li>Onboarding (online)</li> <li>Course management and facilitator training</li> <li>Client liaison</li> <li>Training support</li> <li>Engagement of outside workforce</li> </ul>  |
| <b>Administration and Reporting</b> | <ul style="list-style-type: none"> <li>Bookings (corporate learning events)</li> <li>Requisitions, Purchase Orders and Invoices</li> <li>Journal chargebacks to recover costs from business for corporate training</li> <li>Provider liaison</li> <li>Monthly reporting statistics</li> <li>Content Manager</li> <li>Study Assistance</li> <li>Empower and Business Objects</li> <li>PSC Annual Diversity Census</li> </ul> |
| <b>Learning Solutions</b>           | <ul style="list-style-type: none"> <li>Support coordination of learning events</li> <li>Corporate Induction (2016-2017)</li> </ul>  |
| <b>Microsoft Teams</b>              | <ul style="list-style-type: none"> <li>Manage the collaborative workspace</li> </ul>  |

## Global Benchmarking: Self-assessment

[Towards Maturity](#) analyses learning strategies of organisations, grouping their tactics and behaviours into six work streams.

In early the City of Perth joined over 700 organisations worldwide to participate in this benchmarking activity. The results from this report provided insight in to our strengths as well as opportunities for improvement. An overview of the City's self-assessment is provided in the table below:



### The 19 Activity Areas in the Towards Maturity Model

Compare your scores in each activity area with the sample average and top performing learning organisations. Green shading indicates where you exceed the 2017 TM Benchmark score; red shading indicates where your score is below average.

Your score for each Activity Area is out of 9.

| Workstream             | Activity area              | Average | TM Benchmark | Your score |
|------------------------|----------------------------|---------|--------------|------------|
| Defining Need          | Strategic Alignment        | 6.36    | 7.80         | 7.20       |
|                        | Business Alignment         | 5.92    | 7.14         | 6.57       |
| Understanding Learners | Individual Choices         | 5.33    | 6.64         | 4.60       |
|                        | Individual Motivation      | 4.57    | 6.00         | 2.25       |
| Work Context           | Talent Management          | 5.12    | 6.40         | 5.60       |
|                        | Business Environment       | 5.67    | 6.80         | 5.00       |
|                        | Work Culture               | 5.70    | 6.86         | 3.25       |
| Building Capability    | L&D Essentials             | 5.08    | 6.40         | 6.00       |
|                        | Designing Learning         | 4.99    | 6.50         | 4.38       |
|                        | Transferring Learning      | 3.70    | 5.00         | 3.00       |
|                        | Supporting Performance     | 4.26    | 5.57         | 2.71       |
|                        | Facilitating Collaboration | 4.48    | 5.75         | 4.75       |
| Ensuring Engagement    | Implementing Change        | 5.26    | 6.80         | 3.40       |
|                        | Empowering Individuals     | 4.71    | 6.00         | 1.60       |
|                        | Engaging Trainers          | 4.80    | 6.80         | 1.20       |
|                        | Involving Leaders          | 4.97    | 6.69         | 2.50       |
| Demonstrating Value    | Gathering Feedback         | 4.32    | 5.75         | 4.00       |
|                        | Measuring Effectiveness    | 3.63    | 5.00         | 4.60       |
|                        | Communicating Success      | 4.54    | 6.25         | 5.50       |

The benchmarking survey also highlighted an opportunity to adopt a blended learning approach to our service offerings. This gap is being addressed by the introduction of online learning options (through the City's Library subscription to Lynda.com) to complement the face-to-face corporate learning events. The first learning events to be delivered in this format were Project Management and Business Writing.

This benchmarking activity suggests that L&D has much more work to do to embed a learning culture at the City of Perth.

### Procurement

L&D applies the Finance procurement processes for all externally sourced training and consulting services i.e.:

- Tender process for:
  - Leadership Program facilitation
  - eLearning support Services and Instructional Design Panel, and
  - Executive Coaching Panel
- Three written quotes for each externally-sourced corporate learning event.

### Online survey October 2018: Feedback on L&D service provision

L&D developed three surveys which were available to City employees on the Intranet throughout October 2018. These surveys provide information on:

- Awareness of the L&D team, including services offered and resources provided
- User experience with CityLearn, including accessibility and opportunities for improvement, and
- The perceived effectiveness of corporate learning events and recommendations for future offerings.

| Name of Survey                          | Number of Questions | Submissions Received |
|---|---------------------|----------------------|
| City of Perth L&D Service Delivery      | 5                   | 26                   |
| City of Perth CityLearn                 | 6                   | 46                   |
| City of Perth Corporate Learning Events | 5                   | 42                   |

| Findings  | Opportunities  |
|---|--|
| <ul style="list-style-type: none"> <li>16 out of 26 submissions indicated that staff were not aware that Lynda.com was available via a City of Perth Library membership</li> <li>Five recommendations were received to offer additional courses on CityLearn for personal/professional development</li> </ul>   | <ul style="list-style-type: none"> <li>Partner with Library and Corporate Communications to promote Lynda.com to expand self-paced learning options via: <ul style="list-style-type: none"> <li>Corporate Announcements</li> <li>Inside City</li> <li>HR Advisor/Manager meetings</li> <li>A4 posters around facilities</li> </ul> </li> </ul> |
| <ul style="list-style-type: none"> <li>Staff appreciated the ability to complete online training at their own pace however wanted more consistency with course layout and design</li> </ul>   | <ul style="list-style-type: none"> <li>Standardisation of eLearning templates (based on corporate Style Guide) has been completed, with a plan to migrate older products when they are due for upgrade.</li> </ul>   |
| <ul style="list-style-type: none"> <li>43% stated they requested whilst 40% were instructed by their (Line) Manager to attend the corporate learning event</li> <li>There was preference for instructor-led training/group-based learning and the networking opportunities it provided</li> <li>About 50% of respondents didn't know that L&amp;D offered blended learning options</li> </ul> | <ul style="list-style-type: none"> <li>L&amp;D recognises the value of F2F training in behavioural skills development and is committed to continue this method of delivery</li> <li>Offer more F2F learning in conjunction with self-paced online offerings to support a blended learning approach</li> </ul>                                  |

## Recordkeeping

The following documents are stored on Content Manager (CM). They provide the evidence and supporting information for the contents of this report.

| CM Reference                                       | TITLE  |
|--|--|
| <i>L&amp;D Strategy 2015-2018</i>                  |  |
| <a href="#">278510/18</a>                          | L&D Strategy 2015-2018   |
| <i>Performance Shaping</i>                         |  |
| <a href="#">PR0048</a>                             | PROCEDURE: PERFORMANCE SHAPING   |
| <a href="#">226870/17</a>                          | HR PAYROLL - FREQUENTLY REGISTERED DOCS - S@C QUICK SHEET FOR MANAGERS ADMIN |
| <a href="#">131182/18</a>                          | Performance Shaping Guide  |
| <a href="#">F0154</a>                              | Performance Shaping: Reflection and Forward Planning                         |
| <a href="#">F0155</a>                              | Performance Shaping: Mid-Point Evaluation                                    |
| <a href="#">F0156</a>                              | Performance Shaping: Probationary Period Plan                                |
| <a href="#">F0157</a>                              | Performance Shaping: Probationary Period Review                              |
| <i>Study Assistance</i>                            |  |
| <a href="#">PR0028</a>                             | PROCEDURE: STUDY ASSISTANCE  |
| <a href="#">F0206</a>                              | Study Assistance Application   |
| <a href="#">F0207</a>                              | Study Assistance Claim   |
| <i>Corporate Learning Events</i>                   |  |
| HUMAN RESOURCES – TRAINING & DEVELOPMENT – Courses |  |
| <a href="#">P1036771</a>                           | Business Case Writing  |
| <a href="#">P1033955</a>                           | Business Writing   |
| <a href="#">P1033971</a>                           | Change Management  |
| <a href="#">P1035312</a>                           | Corporate Induction  |

|   |   |
|---|---|
| <a href="#">P1033970</a>                | Customer Service                                    |
| <a href="#">P1036469</a>                | Dealing with Difficult Behaviour                    |
| <a href="#">P1030338</a>                | (EEO) Prevention & Management of Workplace Bullying |
| <a href="#">P1036411</a>                | Embedding Values in the Workplace                   |
| <a href="#">P1035309</a>                | Events Risk Management                              |
| <a href="#">P1036219</a>                | Fraud, Corruption & Misconduct                      |
| <a href="#">P1033957</a>                | Frontline Management                                |
| <a href="#">P1035836</a>                | IAP2  |
| <a href="#">P1036977</a>                | Institute of Company Directors                      |
| <a href="#">P1033958</a>                | Introduction to Local Government                    |
| <a href="#">P1033959</a>                | ITIL Foundation                                     |
| <a href="#">P1034586</a>                | Lean Six Sigma                                      |
| <a href="#">P1036030</a>                | Local Govt Act 1995 The Essentials                  |
| <a href="#">P1033960</a>                | Microsoft Office                                    |
| <a href="#">P1036673</a>                | Policy Development and Procedure Writing            |
| <a href="#">P1033961</a>                | Project Management                                  |
| <a href="#">P1033962</a>                | Public Speaking                                     |
| <a href="#">P1033963</a>                | Resilience  |
| <a href="#">P1036672</a>                | Strategic Thinking and Planning                     |
| <a href="#">P1033969</a>                | Time and Stress Management                          |
| <a href="#">P1033878</a>                | Verbal Judo   |
| <i>eLearning Courses (on CityLearn)</i> |   |

| HUMAN RESOURCES - TRAINING AND DEVELOPMENT - Courses - eLearning |   |
|--|---|
| <a href="#">P1033956</a>   | AIIMS Australasian Inter-service Incident Management System Awareness |
| <a href="#">P1037023</a>   | Content Manager CM Training   |
| <a href="#">P1037024</a>   | DAIP Disability Access and Inclusion Plan                             |
| <a href="#">P1037022</a>   | Emergency Management Fundamentals                                     |
| <a href="#">P1037081</a>   | EEO and Workplace Bullying and Harassment for Employees and Managers  |
| <a href="#">P1037079</a>   | Fraud and Corruption Awareness  |
| <a href="#">P1037080</a>   | HR Onboarding   |
| <a href="#">P1029641</a>   | IT Onboarding   |
| <a href="#">P1033964</a>   | Introduction to Local Government                                      |
| <a href="#">P1035900</a>   | Recordkeeping Onboarding  |
| <a href="#">P1037025</a>   | Sustainability  |
| Position Description Standardisation Project                     |   |
| <a href="#">P1035466</a>   | HUMAN RESOURCES – REVIEWING – Position Description Standardisation    |
| Training Matrix  |   |
| <a href="#">P1000352-2</a>                                       | HUMAN RESOURCES – TRAINING AND DEVELOPMENT - Planning                 |
| <a href="#">91009/18</a>   | City of Perth Training Matrix 2018                                    |
| <a href="#">91011/18</a>   | Training Matrix March 2018  |
| eLearning  |   |
| <a href="#">P1032210</a>   | HUMAN RESOURCES - TRAINING AND DEVELOPMENT – eLearning                |
| P1032210#01  | PROJECT PLANNING - eLearning  |
| P1032210#02  | MONITORING & CONTROL - eLearning                                      |
| P1032210#03  | DECISION MAKING MEETINGS – eLearning                                  |
| P1032210#04  | STAKEHOLDER MANAGEMENT & COMMUNICATION PACKS – eLearning              |

|   |  |
|---|--|
| P1032210#05   | REQUIREMENTS – eLearning   |
| P1032210#06   | SOLUTIONS ANALYSIS - eLearning   |
| <i>Culture and Employee Opinion Surveys</i>                                   |  |
| <a href="#">P1034630</a>  | HUMAN RESOURCES - PLANNING - Culture Change  |
| <a href="#">P1015180-3</a>  | CORPORATE MANAGEMENT - PERFORMANCE MANAGEMENT - Employee Opinion / Cultural Survey |
| <a href="#">186538/18</a>   | 20171213 - ELG Organisational Culture Change Recommendation Report                 |
| <i>Reward and Recognition</i>   |  |
| <a href="#">P1017879-2</a>  | CORPORATE MANAGEMENT - PROCEDURES - REWARD & RECOGNITION                           |
| <a href="#">319026/17</a>   | Draft ELG Report - New Reward and Recognition Programme                            |
| <a href="#">PR0121</a>  | CORP PROCEDURE - REWARD & RECOGNITION  |
| <a href="#">P1013719-5</a>  | HUMAN RESOURCES - AWARDS (Prizes) - Employee Recognition Program                   |
| <i>Talent Acquisition, Identification, Management and Succession Planning</i> |  |
| <a href="#">P1037008</a>  | HUMAN RESOURCES - PLANNING – Talent  |
| P1037008#01   | ACQUISITION  |
| P1037008#01#01  | ONBOARDING   |
| P1037008#02   | IDENTIFICATION   |
| P1037008#02#01  | SUCCESSION PLANNING  |
| P1037008#03   | MANAGEMENT   |
| <i>L&amp;D Procedure and Registration</i>                                     |  |
| <a href="#">PR1180</a>  | PROCEDURE: LEARNING AND DEVELOPMENT  |
| <a href="#">F0205</a>   | LEARNING AND DEVELOPMENT REGISTRATION  |
| <i>Training Needs Analysis</i>  |  |
| <a href="#">P1037009</a>  | HUMAN RESOURCES – TRAINING & DEVELOPMENT – Needs Analysis                          |

| <i>Manager Salary Benchmarking</i>                      |  |
|---|--|
| <a href="#">P1037007</a>                                | HUMAN RESOURCES – PLANNING – Manager Salary Benchmarking                     |
| <i>LGMA Management Challenge</i>                        |  |
| <a href="#">P1016727-2</a>                              | HUMAN RESOURCES – TRAINING AND DEVELOPMENT – LOCAL GOVT MGT CHALLENGE - LGMA |
| <a href="#">329784/14</a>                               | LGMA Management Challenge 2015 - presentation to OLG                         |
| <i>2017 Towards Maturity Global Benchmarking Survey</i> |  |
| <a href="#">278609/18</a>                               | 2017 Towards Maturity Benchmarking Report                                    |

Working documents that are not ready to be saved onto Content Manager are stored on the network drive under '7. Learning and Development' under the headings of:

- Administration
- Corporate Learning Events
- eLearning/LMS
- Organisational Development
- Resources
- Study Assistance
- Work in Progress Projects

## Performance Shaping

### Overview

In mid-2015 (as part of the Strategy development process), L&D called for volunteers from the leadership group to assist in the development and implementation of a performance development system for all City employees. Approximately 12 managers and senior staff participated.

The goals were to develop:

- A best practice performance development system that provides every employee with:
  - (SMART) performance goals
  - Development plans (to support the achievement of performance goals), and
  - Review meetings (to provide a structured approach to reflecting on performance and deliver meaningful and useful feedback)
- A Competency Framework (Core, Frontline and Executive competencies).

Performance Shaping was developed, with three components:

1. **Development Planning i.e. setting SMART goals and development planning to support employees to achieve these goals**
2. **Mid-Point Review**, and
3. **Reflection & Evaluation**

Performance Shaping is:

- Performed in the context of a competency and values framework
- Underpinned by the effectiveness of the relationship and quality of conversations between the line manager and the employee where regular, ongoing meaningful two-way feedback is exchanged, and
- Representative of the highest standard that is utilised in industry.

L&D trained all line managers and HR Advisors in late 2015/early 2016 and continues to be available for one to one coaching or refresher training. Well over 100 line managers attended the two-hour training. The HR Advisors then delivered this training at their clients' Business Unit meetings which were attended by employees.

Empower notifications were set up to remind line managers and employees when each stage of the process was due, although this has since discontinued.

During the 2017 EBA negotiations, the unions expressed their approval of the introduction of Performance Shaping.

### Continuous improvement

Improvements have been made since the original version of Performance Shaping was released at the end of 2015 as a result of feedback from the business i.e.:

|             |  |
|-------------|--|
| <b>2016</b> | Competency rating '2' was extended to reflect 'underperforming in the role' (2A) and 'learning in the role' (2B)   |
| <b>2017</b> | The Manager Competency Framework was developed in full by L&D as part of the Manager Salary Benchmarking project   |
| <b>2017</b> | Development Planning and Evaluation meetings now take place as one meeting (instead of two). Although it is not best practice to have both events in the same meeting, the changes were made at the request of many managers. Currently, the line manager reviews the employee's past year's performance and sets the next year's goals and development plan in the one meeting. |
| <b>2018</b> | City Values incorporated into the Core Competencies for all employees, as an outcome of the OCCA report  |
| <b>2018</b> | QRG Scanning at the Copiers created and updated to ensure correct registration of documents on to Content Manager  |

Although Performance Shaping documents are registered on to Content Manager, the City's systems do not have capacity to report completions by unit/directorate/year/name.

The proposed HRIS TechOne solution will be able to do this in 2020.

### Acceptance and Compliance

Compliance (Performance Shaping completions) is estimated to be in the 45-65% range for the years 2016 and 2017.

The 2018 Compliance report for DCS was produced by manually checking the names on the Organisational Chart against Content Manager. DAI have provided a partial solution that captures around 50% of completions data, thus reducing the time taken to produce the report from 5-7 days to 2-3 days. DAI is working to improve the quality of the compliance report.

**A persistent and sustained communications and leadership effort in 2018 has seen the Performance Shaping compliance rate improve to 95%.**

Performance Management Systems are difficult for any organisation to adopt. Some managers perceive this aspect of their role to be an impost on their time. Many experience discomfort when having to engage in two-way conversations with their staff. Ongoing leadership training will go a long way to assisting managers to competently and confidently manage these important conversations.

## eLearning

### Return on Investment (ROI)

| Deliverables from Project Plan  | Achievements and Measures of Success   |
|---------------------------------|--|
| <b>Accessibility</b>            | <ul style="list-style-type: none"> <li>All compliance induction courses are now online</li> <li>Permanent enrolment allows course content to be used by all employees as refreshers and reference material</li> <li>Extended range of courses offered facilitates staff empowerment/corporate efficiencies in common office application use.</li> <li>Full engagement of outside workforce</li> <li>Effective November 2018: <ul style="list-style-type: none"> <li>New employees (including contractors, casuals and agency staff) can complete online induction courses prior to commencement, and</li> <li>Existing employees can access online courses from home.</li> </ul> </li> </ul> |
| <b>Efficiencies and Savings</b> | <ul style="list-style-type: none"> <li>Achieved reduced reliance on classroom time (space), trainer time, administration time, consumables and lost employee time to attend. This is demonstrated when comparing the cost of face to face induction training (IT Orientation, OSH and Code of Conduct) which was replaced by the online method in February 2017, returning a <a href="#">79% saving</a>.</li> </ul>  |
| <b>Reporting</b>                | <p>Various reporting mechanisms, including automatic notification scheduling, have been established for both course facilitators and Unit Managers to include:</p> <ul style="list-style-type: none"> <li>Completion reports on-demand</li> <li>Monitoring reports to track completions</li> <li>Notification of enrolments</li> <li>Notification of overdue, mandatory completions to unit managers for their staff, and</li> <li>Monthly reporting of course enrolments and completions by unit.</li> </ul>  |

|                             |   |
|-----------------------------|---|
| <b>Course Offerings</b>     | <ul style="list-style-type: none"> <li>▪ In-house courses (developed or licenced) = 19: <ul style="list-style-type: none"> <li>- Induction (10)</li> <li>- Refresher (7)</li> <li>- General (2)</li> </ul> </li> <li>▪ External courses - via corporate Lynda.com = 20: <ul style="list-style-type: none"> <li>- Project Management (14)</li> <li>- Microsoft Office 2016 (4)</li> <li>- Business Writing and Reporting (2)</li> </ul> </li> <li>▪ New courses in development/testing = 4: <ul style="list-style-type: none"> <li>- Disability Access and Inclusion (completed, pending Director approval)</li> <li>- CityLearn Facilitator (in development)</li> <li>- Technology One HR Portal Basics (in development, with first round UAT completed)</li> <li>- Content Manager (finalising UAT and soon to be released)</li> </ul> </li> </ul> |
| <b>Blended Learning</b>     | <ul style="list-style-type: none"> <li>▪ Controlled evaluation of new online course requests ensures optimal delivery method for the training (i.e. some courses need to be delivered F2F)</li> <li>▪ CityLearn hosts courses which complement F2F Learning to allow ongoing study/training in Project Management, Business Writing and Microsoft Office.</li> </ul>  |
| <b>Staff capabilities</b>   | <ul style="list-style-type: none"> <li>▪ Pro: Competency-based training which allows to test for knowledge</li> <li>▪ Con: Does not provide depth of skill development which is gained in F2F or on the job training.</li> </ul>  |
| <b>Return on Investment</b> | <ul style="list-style-type: none"> <li>▪ CityLearn platform was built using free Moodle open source software</li> <li>▪ CityLearn is internally-hosted</li> <li>▪ Moodle upgrades are free and are managed in-house</li> <li>▪ No licences or fees are payable to external parties for software or hosting</li> <li>▪ City is not dependant on or tied to external parties</li> <li>▪ CityLearn is wholly owned by and customised exactly to City's requirements (rather than a provider's requirements).</li> <li>▪ <b><u>An overall conservatively-calculated ROI of 60%, equating to cost savings of \$483,955.00</u></b></li> </ul>   |

### CityLearn courses by category

|                             |   |
|-----------------------------|---|
| <b>Onboarding</b>           | <p><b>Employees:</b></p> <ul style="list-style-type: none"> <li>▪ HR Onboarding: (1) OSH and (2) Code of Conduct</li> <li>▪ IT Onboarding: (1) IT Orientation (2) IT Policy Acceptance (3) IT Security Awareness</li> <li>▪ EEO and Workplace Bullying and Harassment for Employees</li> <li>▪ EEO and Workplace Bullying and Harassment for Managers</li> <li>▪ Fraud and Corruption Awareness</li> <li>▪ Introduction to Local Government</li> <li>▪ Recordkeeping</li> <li>▪ Content Manager</li> </ul> <p><b>Elected Members:</b></p> <ul style="list-style-type: none"> <li>▪ Recordkeeping Awareness Training for Elected Members</li> </ul> <p><b>Agency Staff, Labour Hire, Contractor, Work Experience and Volunteer:</b></p> <ul style="list-style-type: none"> <li>▪ Employee Onboarding Lite: (1) OSH (2) Code of Conduct (3) IT Policy Acceptance (4) EEO (5) Workplace Bullying and Harassment Awareness for Employees</li> <li>▪ Manager Onboarding Lite: (1) OSH (2) Code of Conduct (3) IT Policy Acceptance (4) EEO (5) Workplace Bullying and Harassment Awareness for Managers</li> </ul> |
| <b>Refresher</b>            | <ul style="list-style-type: none"> <li>▪ Occupational Safety and Health</li> <li>▪ Code of Conduct</li> <li>▪ IT Policy Acceptance</li> <li>▪ Recordkeeping Onboarding (Refresher)</li> </ul>   |
| <b>Emergency Management</b> | <ul style="list-style-type: none"> <li>▪ AIIMS (Australasian Inter-Service Incident Management System) Awareness</li> <li>▪ Emergency Management Fundamentals</li> </ul>  |
| <b>Other</b>                | <ul style="list-style-type: none"> <li>▪ Cultural Awareness and Competency 2017</li> </ul>  |

|  |   |
|--|---|
| <b>Project Management</b><br>(Lynda.com)     | <b>Become a Project Manager:</b> <ul style="list-style-type: none"> <li>Project Management Fundamentals</li> <li>Microsoft Project 2016 Essentials Training</li> <li>Project Management Foundations: Schedules</li> <li>Project Management Foundations: Teams</li> <li>Project Management Foundations: Change</li> <li>Project Management Foundations: Budget</li> <li>Project Management Foundations: Ethics</li> <li>Project Management Foundations: Communication</li> <li>Project Management Foundations: Quality</li> <li>Project Management Foundations: Procurement</li> <li>Project Management Foundations: Stakeholders</li> <li>Project Management Foundations: Risk</li> <li>Project Management Foundations: Integration</li> </ul> <b>Become a Project Coordinator:</b> <ul style="list-style-type: none"> <li>Project Management Simplified</li> </ul> |
| <b>Microsoft Office 2016</b><br>(Lynda.com)  | <ul style="list-style-type: none"> <li>Master Excel 2016</li> <li>Master Word 2016</li> <li>Master PowerPoint 2019</li> <li>Master Outlook 2016</li> </ul>  |
| <b>Business and Report Writing</b>           | <ul style="list-style-type: none"> <li>Business Writing Principles</li> <li>Writing Customer Service Emails</li> </ul>  |
| <b>New Courses in Development or Testing</b> | <ul style="list-style-type: none"> <li>Disability Access and Inclusion (completed, pending Director approval)</li> <li>CityLearn Facilitator (in development)</li> <li>Technology One HR Portal Basics (in development, with first round UAT completed)</li> </ul>  |

### Efficiencies and Savings: Induction Training F2F vs. eLearning

The table below isolates the F2F induction training for HR and IT only, for any given month:

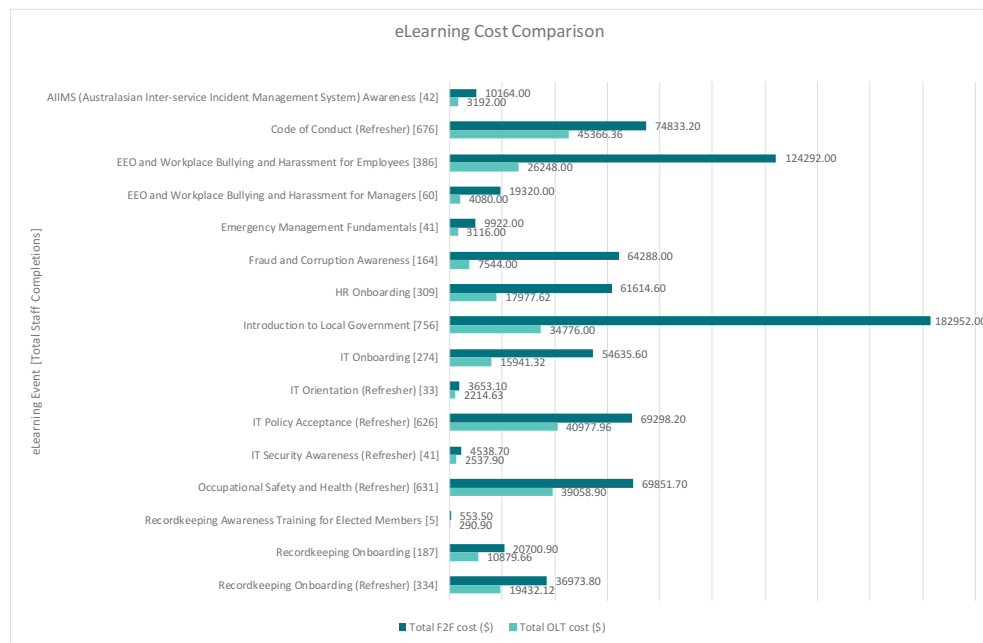
| Monthly F2F Induction Training Cost Comparison |                            |                       |                          |                        |                          |                           |
|--|----------------------------|-----------------------|--------------------------|------------------------|--------------------------|---------------------------|
|  |                            |                       | F2F Delivery             |                        | Online delivery          |                           |
|  | Flat rate per session (\$) | Est. rate per hr (\$) | Monthly time spend (hrs) | F2F Cost Estimate (\$) | Monthly time spend (hrs) | Online Cost Estimate (\$) |
| Classroom                                      |                            | 10                    | 4                        | 40.00                  | 0                        | 0.00                      |
| Trainer/SME                                    |                            | 48.70                 | 4                        | 194.80                 | 0.25                     | 12.18                     |
| Admin time                                     | 12                         | 0                     | 1                        | 12.00                  | 0.5                      | 6.00                      |
| Course material                                | 10                         | 0                     | 1                        | 10.00                  | 0                        | 0.00                      |
| Lost time                                      |                            | 30                    | 4                        | 120.00                 | 2                        | 60.00                     |
| <b>TOTAL</b>                                   |                            | <b>88.70</b>          | <b>14</b>                | <b>376.80</b>          | <b>2.75</b>              | <b>78.18</b>              |

**Saving  
79.25%**

### Efficiencies and Savings: eLearning ROI

| eLearning Return on Investment Jan 17 - Sep 18                       |             | F2F = Face to face Training<br>(Historic delivery mode)              |                      |   |   | OLT = Online Training<br>(Current delivery mode) |                        |                     |                         |
|--|-------------|--|----------------------|---|---|--|------------------------|---------------------|-------------------------|
|  |             | Total Course completions   | F2F duration (hours) | F2F cost per head (\$)                  | Total F2F cost (\$)                       | OLT duration (hours)                             | OLT cost per head (\$) | Total OLT cost (\$) | COST SAVINGS \$         |
| AllIMS (Australasian Inter-service Incident Management System) [676] | 42          | 2  | 242.00               | 10164.00                                | 2   | 76.00  | 3192.00                | 6972.00             |                         |
| Code of Conduct (Refresher) [676]                                    | 676         | 1  | 110.70               | 74833.20                                | 1   | 67.11  | 45366.36               | 29466.84            |                         |
| EEO and Workplace Bullying and Harassment for Employees [3]          | 386         | 4  | 322.00               | 124292.00                               | 1   | 68.00  | 26248.00               | 98044.00            |                         |
| EEO and Workplace Bullying and Harassment for Managers [6]           | 60          | 4  | 322.00               | 19320.00                                | 1   | 68.00  | 4080.00                | 15240.00            |                         |
| Emergency Management Fundamentals [41]                               | 41          | 2  | 242.00               | 9922.00                                 | 2   | 76.00  | 3116.00                | 6806.00             |                         |
| Fraud and Corruption Awareness [164]                                 | 164         | 4  | 392.00               | 64288.00                                | 1   | 46.00  | 7544.00                | 56744.00            |                         |
| HR Onboarding [309]  | 309         | 2  | 199.40               | 61614.60                                | 1   | 58.18  | 17977.62               | 43636.98            |                         |
| Introduction to Local Government [756]                               | 756         | 2  | 242.00               | 182952.00                               | 1   | 46.00  | 34776.00               | 148176.00           |                         |
| IT Onboarding [274]  | 274         | 2  | 199.40               | 54635.60                                | 1   | 58.18  | 15941.32               | 38694.28            |                         |
| IT Orientation (Refresher) [33]                                      | 33          | 1  | 110.70               | 3653.10                                 | 1   | 67.11  | 2214.63                | 1438.47             |                         |
| IT Policy Acceptance (Refresher) [626]                               | 626         | 1  | 110.70               | 69298.20                                | 1   | 65.46  | 40977.96               | 28320.24            |                         |
| IT Security Awareness (Refresher) [41]                               | 41          | 1  | 110.70               | 4538.70                                 | 1   | 61.90  | 2537.90                | 2000.80             |                         |
| Occupational Safety and Health (Refresher) [631]                     | 631         | 1  | 110.70               | 69851.70                                | 1   | 61.90  | 39058.90               | 30792.80            |                         |
| Recordkeeping Awareness Training for Elected Members [5]             | 5           | 1  | 110.70               | 553.50                                  | 1   | 58.18  | 290.90                 | 262.60              |                         |
| Recordkeeping Onboarding [187]                                       | 187         | 1  | 110.70               | 20700.90                                | 1   | 58.18  | 10879.66               | 9821.24             |                         |
| Recordkeeping Onboarding (Refresher) [334]                           | 334         | 1  | 110.70               | 36973.80                                | 1   | 58.18  | 19432.12               | 17541.68            |                         |
| <b>TOTAL COST of Online Training</b>                                 | <b>4564</b> |  |                      | <b>807591.30</b>                        |   |  | <b>273633.37</b>       | <b>533957.93</b>    |                         |
| <b>Cost of CityLearn Moodle platform</b>                             |             | <b>System operation and maintenance cost estimate for the period</b> |                      |   |   |  |                        |                     | <b>49962.50</b>         |
| <b>FINAL TOTAL SAVING and % ROI</b>                                  |             |  |                      |   |   |  |                        |                     | <b>483995.43 59.93%</b> |
|  |             | Internally F2F   |                      | External Provider F2F                   | Internally OLT                            | External Provider OLT                            |                        |                     |                         |
|  |             | F2F cost includes:   |                      | F2F cost includes:                      | OLT cost includes:                        | OLT cost includes:                               |                        |                     |                         |
|  |             | - Trainer time @ \$48.70 per hr                                      |                      | - Provider cost @ bulk purchase rate    | - Inhouse development cost                | - Provider cost @ bulk purchase rate             |                        |                     |                         |
|  |             | - Staff time to attend at \$30 per hr                                |                      | - Staff time to attend at \$30 per hour | - Staff time to complete at \$30 per hour | - Staff time to complete at \$30 per hour        |                        |                     |                         |
|  |             | - Est meeting room @ \$10 per hr                                     |                      | - Est admin time flat rate \$12         | - SME review estimate \$12.18 flat rate   | - Est admin time flat rate \$6                   |                        |                     |                         |
|  |             | - Est admin time flat rate \$12                                      |                      | - Est meeting room @ \$10 per hr        | - Est admin time flat rate \$6            | - No meeting room time required                  |                        |                     |                         |
|  |             | - Est course material flat rate \$10                                 |                      |   | - No meeting room time required           |  |                        |                     |                         |

## Efficiencies and Savings: Cost comparison F2F vs. eLearning by course



Note: The preceding images can be viewed in detail in the Excel document accompanying this report.

### eLearning journey

The eLearning project plan was approved in January 2016.

CityLearn (using Moodle) launched on time and budget to the workforce in February 2017.

A highly structured approach was adopted in the development and delivery of the CityLearn platform i.e.:

- Adoption of a formal project management approach using the City's processes and approvals
- Defined Instructional Design approaches
- CityLearn built from an empty Moodle shell, allowing full customisation to the City's requirements
- Collaboration i.e. IT/DAI/HR worked as a team
- Consultation with stakeholders (internal) and industry (external), including extensive user acceptance testing
- Scheduling regular Moodle upgrades to provide the best user experience
- Removal of the firewall in mid-2018 to allow employees to be on boarded prior to commencement, and
- Adoption of Lynda.com to support F2F corporate learning events and encourage employees to access the thousands of courses free of charge (Note: the subscription is paid by the City of Perth Library).

The learnings along the way have led to improvements in:

|  |  |
|--|--|
| <b>Outsourcing Instructional Design Standards</b>                  | Establishment of an Instructional Design Panel in 2017 to deliver best practice online design for adult learning   |
| <b>Instructional Design Templates and Standards</b>                | New online course templates using City of Perth Templates and Style Guide were introduced in mid-2018 to provide this consistency for corporate courses. Professional and consistent layout makes navigation easier for learners.  |
| <b>Outsourcing of eLearning expertise</b>                          | Engaging industry specialists during the period January 2017 to December 2018 to work with HR/IT and DAI to continue to develop and manage all aspects of CityLearn, ready for handover to the L&D Administrator in December 2018. |
| <b>Purchasing local government-specific off the shelf products</b> | These pre-existing courses e.g. EEO and Fraud Awareness, are resource and cost effective and ensure content is current, accurate and relevant to local government.   |

### Continuous improvement

eLearning continues to have a strong value proposition. It:

- Delivers the training that the business needs: compliance, regulatory and other competency-based training
- Delivers a strong audit trail for participation and completion of compliance training and refreshers
- Delivers the right method for the training i.e. makes no attempt to replace courses that need to be delivered face to face (a leading cause of failure of eLearning in the workplace)
- Provides unlimited reach to learners regardless of their location
- Is cost and time effective, and
- Provides the capacity to integrate with the Compliance Training Matrix, Onboarding, and HRIS Learning Management System to streamline role-based learning needs.

### Looking ahead

The worldwide corporate eLearning market continues to grow at a phenomenal rate and the City is already reaping the benefits of adopting this solution.

The City's eLearning must strive to remain in line with evolving industry trends, new models and methodologies as they continue to emerge.

This maximises our capacity for the City's eLearning solution to be sustained as an engaging, powerful, and valuable solution for meeting training needs.

## Corporate Learning

### Training Needs Analysis

An organisation wide [Training Needs Analysis](#) was conducted in 2016 which allowed L&D to make recommendations to the Executive Leadership Group (ELG) regarding organisational capability, continuous improvement and a range of efficiencies (including cost and time).

All learning events identified as priorities have been incorporated into the Corporate Learning Events Calendar.

### Compliance Training Matrix

The [Compliance Training Matrix](#) was developed in March 2018, as an outcome of the OCCA.

### Leadership Development

One of the key components of the City's Human Resources Learning and Development Strategy was to deliver a Frontline Management Development Program (FLM) for Leaders and Managers.

The 60-hour program was delivered over a 26-week period for groups of 12 participants; commencing with a pilot program comprising of 8-10 participants in early 2016, followed by a further four programs in 2016/2017. 65 leaders participated of which 47 completed the program in its entirety.

The program provided the best option for effective transfer of learning because it utilised a blended approach; comprising 360° Leadership Survey, face to face development workshop, leadership coaching, a collaborative workplace project and reflective practice.

The program provided a variety of tools and learning interventions, reinforced over the six-month period. This approach aimed to embed sustainable change in leadership practices.

The program provided opportunities for participants to establish collaborative relationships across the business and to seek opportunities to continuously improve the way they work in the context of a structured professional development program.

This is important for the City as the level of leadership maturity needs to continually evolve to effectively deal with the issues around improving the performance of team and individuals, to deliver on our business objectives.

### AIMWA Corporate Membership

The City has had a long association with AIMWA and we have continued to renew our annual corporate membership, currently in Gold category. The main benefit to the City is the member discount for attendance at public courses which is available to all employees.

## Corporate Learning Events

The TNA highlighted specific topics and gaps, which resulted in L&D delivering the following learning events in the period March 2015 to 30 September 2018:

1. Business Writing
2. Code of Conduct Induction
3. OSH Induction
4. Corporate Induction
5. Customer Service
6. Dealing with Difficult Behaviour
7. Difficult Conversations
8. Difficult Safety Conversations
9. EEO and Workplace Bullying and Harassment
10. Embedding Values in the Workplace
11. Events Risk Management
12. IAP2 Certification
13. Institute of Company Directors
14. ITIL Foundation
15. Leadership Development
16. Lean Six Sigma
17. Local Government Act 1995 Essentials
18. Managing Fraud, Corruption and Misconduct Risks
19. Microsoft Project
20. Performance Shaping
21. Policy Development and Procedure Writing
22. Project Management
23. Public Speaking
24. Resilience
25. Strategic Thinking and Planning
26. Supporting People through Change
27. Time and Stress Management
28. Verbal Judo

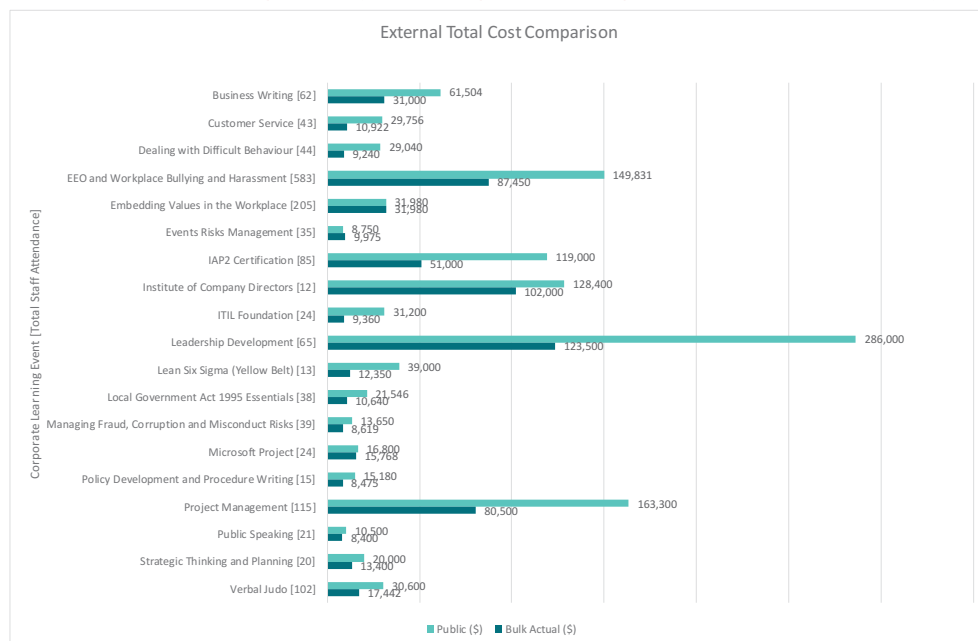
As the number of participants for each learning event was 12 or more, the City purchased most of the learning events in bulk, resulting in significant cost savings when compared to the cost of individuals attending the same course at the 'public' rate. The remaining learning events were delivered utilising in-house expertise at significantly less cost than those that were externally-sourced and bulk purchased.

The tables on the following pages provide a conservative estimate of the cost savings.

### Efficiencies and Savings: Corporate learning events sourced externally

| Learning events sourced externally                   | Total Staff Attendance | Cost per person* |                  | Total cost per course |                  |                       |
|--|------------------------|------------------|------------------|-----------------------|------------------|-----------------------|
|  |                        | Public (\$)      | Bulk (\$) Actual | Public (\$)           | Bulk Actual (\$) | Saving (%)            |
| Business Writing [62]                                | 62                     | 992              | 500              | 61,504                | 31,000           | 50%                   |
| Customer Service [43]                                | 43                     | 692              | 254              | 29,756                | 10,922           | 63%                   |
| Dealing with Difficult Behaviour [44]                | 44                     | 660              | 210              | 29,040                | 9,240            | 68%                   |
| EEO and Workplace Bullying and Harassment [583]      | 583                    | 257              | 150              | 149,831               | 87,450           | 42%                   |
| Embedding Values in the Workplace [205]              | 205                    | 156              | 156              | 31,980                | 31,980           | 0%                    |
| Events Risks Management [35]                         | 35                     | 250              | 285              | 8,750                 | 9,975            | -14%                  |
| IAP2 Certification [85]                              | 85                     | 1,400            | 600              | 119,000               | 51,000           | 57%                   |
| Institute of Company Directors [12]                  | 12                     | 10,700           | 8,500            | 128,400               | 102,000          | 21%                   |
| ITIL Foundation [24]                                 | 24                     | 1,300            | 390              | 31,200                | 9,360            | 70%                   |
| Leadership Development [65]                          | 65                     | 4,400            | 1,900            | 286,000               | 123,500          | 57%                   |
| Lean Six Sigma (Yellow Belt) [13]                    | 13                     | 3,000            | 950              | 39,000                | 12,350           | 68%                   |
| Local Government Act 1995 Essentials [38]            | 38                     | 567              | 280              | 21,546                | 10,640           | 51%                   |
| Managing Fraud, Corruption and Misconduct Risks [39] | 39                     | 350              | 221              | 13,650                | 8,619            | 37%                   |
| Microsoft Project [24]                               | 24                     | 700              | 657              | 16,800                | 15,768           | 6%                    |
| Policy Development and Procedure Writing [15]        | 15                     | 1,012            | 565              | 15,180                | 8,475            | 44%                   |
| Project Management [115]                             | 115                    | 1,420            | 700              | 163,300               | 80,500           | 51%                   |
| Public Speaking [21]                                 | 21                     | 500              | 400              | 10,500                | 8,400            | 20%                   |
| Strategic Thinking and Planning [20]                 | 20                     | 1,000            | 670              | 20,000                | 13,400           | 33%                   |
| Verbal Judo [102]                                    | 102                    | 300              | 171              | 30,600                | 17,442           | 43%                   |
| <b>TOTAL</b>   | <b>1545</b>            | <b>29,656</b>    | <b>17,559</b>    | <b>1,206,037</b>      | <b>642,021</b>   | <b>564,016 saving</b> |
| <b>AVERAGE SAVING PER COURSE</b>                     |                        |                  |                  |                       |                  | <b>43%</b>            |
| *excludes hourly rate for attendance                 |                        |                  |                  |                       |                  |                       |

### Efficiencies and Savings: Bulk purchasing for learning events sourced externally

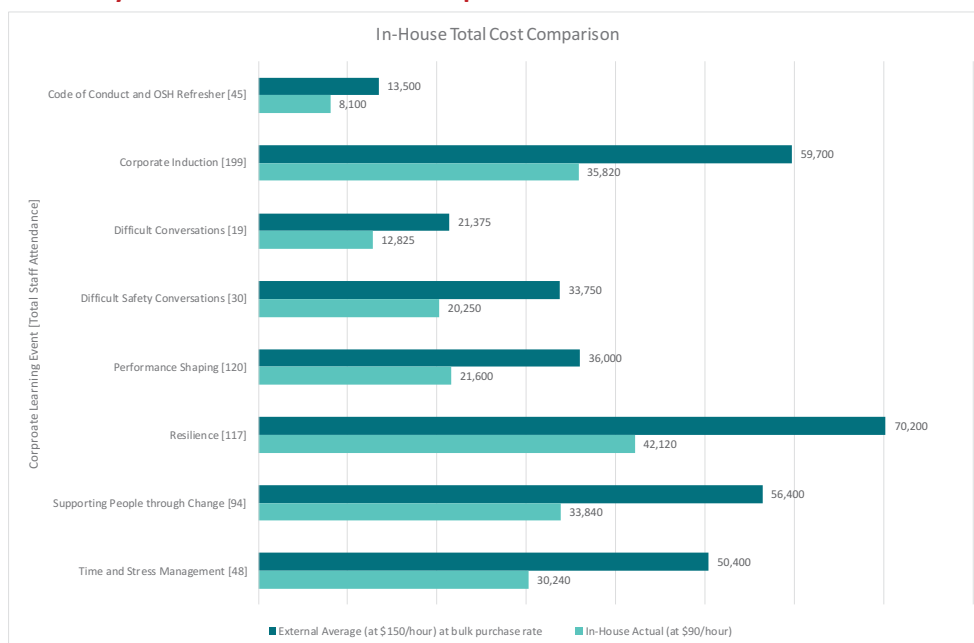


### Efficiencies and Savings: Courses delivered in-house compared to externally sourced learning event at the bulk purchased rate.

| Learning events designed and facilitated in-house | Total Staff Attendance | Duration (hours) |                        | Total Cost   |                                |            |
|---|------------------------|------------------|------------------------|--|--------------------------------|------------|
|   |                        | Per event        | Total Duration (Hours) | External Average (at \$150/hour) at bulk purchase rate | In-House Actual (at \$90/hour) | Saving (%) |
| Code of Conduct and OSH Refresher [45]            | 45                     | 2.0              | 90.0                   | 13,500   | 8,100                          | 40%        |
| Corporate Induction [199]                         | 199                    | 2.0              | 398.0                  | 59,700   | 35,820                         | 40%        |
| Difficult Conversations [19]                      | 19                     | 7.5              | 142.5                  | 21,375   | 12,825                         | 40%        |
| Difficult Safety Conversations [30]               | 30                     | 7.5              | 225.0                  | 33,750   | 20,250                         | 40%        |
| Performance Shaping [120]                         | 120                    | 2.0              | 240.0                  | 36,000   | 21,600                         | 40%        |
| Resilience [117]                                  | 117                    | 4.0              | 468.0                  | 70,200   | 42,120                         | 40%        |
| Supporting People through Change [94]             | 94                     | 4.0              | 376.0                  | 56,400   | 33,840                         | 40%        |
| Time and Stress Management [48]                   | 48                     | 7.0              | 336.0                  | 50,400   | 30,240                         | 40%        |
| <b>TOTAL</b>                                      | <b>672</b>             |                  | <b>2,275.5</b>         | <b>341,325</b>   | <b>204,795</b>                 | <b>40%</b> |

**136,530 saving**

### Efficiencies and Savings: Learning events delivered in-house compared to externally sourced courses at the bulk purchased rate.



#### Notes:

In-house training is always the most cost-effective methods for face to face courses (where the expertise exists in-house).

The preceding images can be viewed in detail in the Excel document accompanying this report.

**END OF DOCUMENT**



**City of Perth**  
**Performance Analysis, Assessment and Review – Human**  
**Resources**

## **ATTACHMENT 8**

### **REQUEST FOR QUOTE**

Tower Human Capital Group



City of Perth

# City of Perth Performance Analysis and Review Assessment - Human Resources

## Request for Quote

**City of Perth Performance Analysis, Assessment and Review – Human Resources**  
Request for Quote



**City of Perth**

27 St George Terrace, Perth WA 6000  
GPO Box C120, Perth WA 3839  
(8) 9461 3333 | [www.perth.wa.gov.au](http://www.perth.wa.gov.au)

## City of Perth Performance Analysis, Assessment and Review – Human Resources

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## City of Perth Performance Analysis, Assessment and Review – Human Resources

### Background:

In May 2018, the City of Perth Council resolved that the City would seek proposals from suitably qualified consultants to undertake a review of the City's corporate performance in the area of human resources and organisational development.

The process is not a tender process and as such is guided by Category B of the City's Purchasing Policy, CP 9.7, in the Council Policy Manual.

### Scope of Work:

The Human Resource Management and Organisational Development Review is to include:

- a) a review of the capacity and effectiveness of systems and procedures in dealing with grievances and complaints;
- b) a review of the Executive Leadership Group's response to concerns raised within the recent "Catalyse" survey;
- c) an employee assessment of the human resource and organisational development performance of the City by way of confidential survey, personal meetings and other appropriate means;
- d) a review of the effectiveness of the City's health and safety functions and appurtenant wellness programs and support services;
- e) a review of the effectiveness of performance management, annual performance appraisal and professional development and training across the organisation;
- f) a follow up assessment of the net promoter score analysis undertaken within the Catalyse survey; and
- g) analysis, review and comment that can provide the Commissioners with an accurate, fair and objective understanding of the City's overall human resource and organisational development performance and capability.

### Budget:

The budget for this consultancy is \$40,000.

### Expected Timeframes:

The review, analysis and reporting of findings are to be completed within three months of contract award.

## City of Perth Performance Analysis, Assessment and Review – Human Resources

### Methodology:

The findings and recommendations of this consultancy are to be informed by the following actions (as a minimum):

- Interview with the Commissioners (prior to commencement);
- Interviews with the CEO and all members of the Executive Leadership Group;
- Interviews with all Managers;
- Interviews with an appropriate sample size of direct report positions to Managers;
- Interviews with an appropriate sample size of general staff outside of the above including employees that have left the organisation within the last 12 months;
- Interviews with any staff member that requests the opportunity;
- Surveys, assessments and other diagnostic tools as recommended by the consultant;
- A follow up net promoter score survey for comparison with (and duplicating) the original survey undertaken within the Catalyse process;
- Desktop analysis of current human resource workforce plans, policies, practices and procedures; and
- Opportunities must be provided for off-site face to face and private telephone interview.

The following documentation is available, if required, to inform the consultancy, if considered necessary by the consultant.

- Catalyse Cultyr® Employee Scorecard September 2017;
- Organisational Culture Refresh Program 2017;
- Investigation and review from WorkSafe on the City of Perth's systems for prevention and management of unhealthy workplace behavior;
- Service delivery model for the Human Resource Unit; and
- Structure of Human Resource Unit.

### Deliverables:

The final report is to be provided in hard copy in a sealed envelope, accompanied by a USB drive containing the report in PDF format. The envelope, marked CONFIDENTIAL is to be delivered by hand to Mr Eric Lumsden, Chair of Commissioners.

The report is to contain:

- Executive summary and key findings
- Survey results, qualitative analysis and findings of interviews and assessment of policies, procedures and practices separated into the five functions as listed
- Other findings as appropriate
- Survey methodologies and response (appendix)
- Summarised and collated responses to interviews (appendix)

## City of Perth Performance Analysis, Assessment and Review – Human Resources

### Respondent Submissions:

Respondents are to provide a submission that includes the following:

- Company profile (mandatory);
- Resume detailing organisational and individual qualifications and experience working in a Local Government environment;
- Statement demonstrating experience to advise on human resources and organisational development relative to performance and capability;
- Statement demonstrating an understanding of the Local Government Act and the Administration obligations under this Act;
- Statement demonstrating the workplace consulting experience in Human Resource and Organisational Development functions; and
- Three referees who can confirm the consultant's achievements and capabilities.

Please submit responses to:

Ms Jan Hancock  
[jan.hancock@cityofperth.wa.gov.au](mailto:jan.hancock@cityofperth.wa.gov.au)

### Respondent Assessment:

All submissions will be assessed based on the following criteria:

|   |     |
|---|-----|
| Company profile (mandatory) and key personnel           | 20% |
| Proposed approach, methodology and tools                | 25% |
| Demonstrated experience on similar projects             | 25% |
| Referees who can confirm the consultancies achievements | 10% |
| Value for money   | 20% |

### Enquiries:

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Manager, Strategy and Partnership  
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Alternative formats of this Report  
are available on request.