



# Report of the Inquiry into the City of Perth

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

Inquiry Panel  
Mr Anthony (Tony) Power  
30 June 2020



## **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.

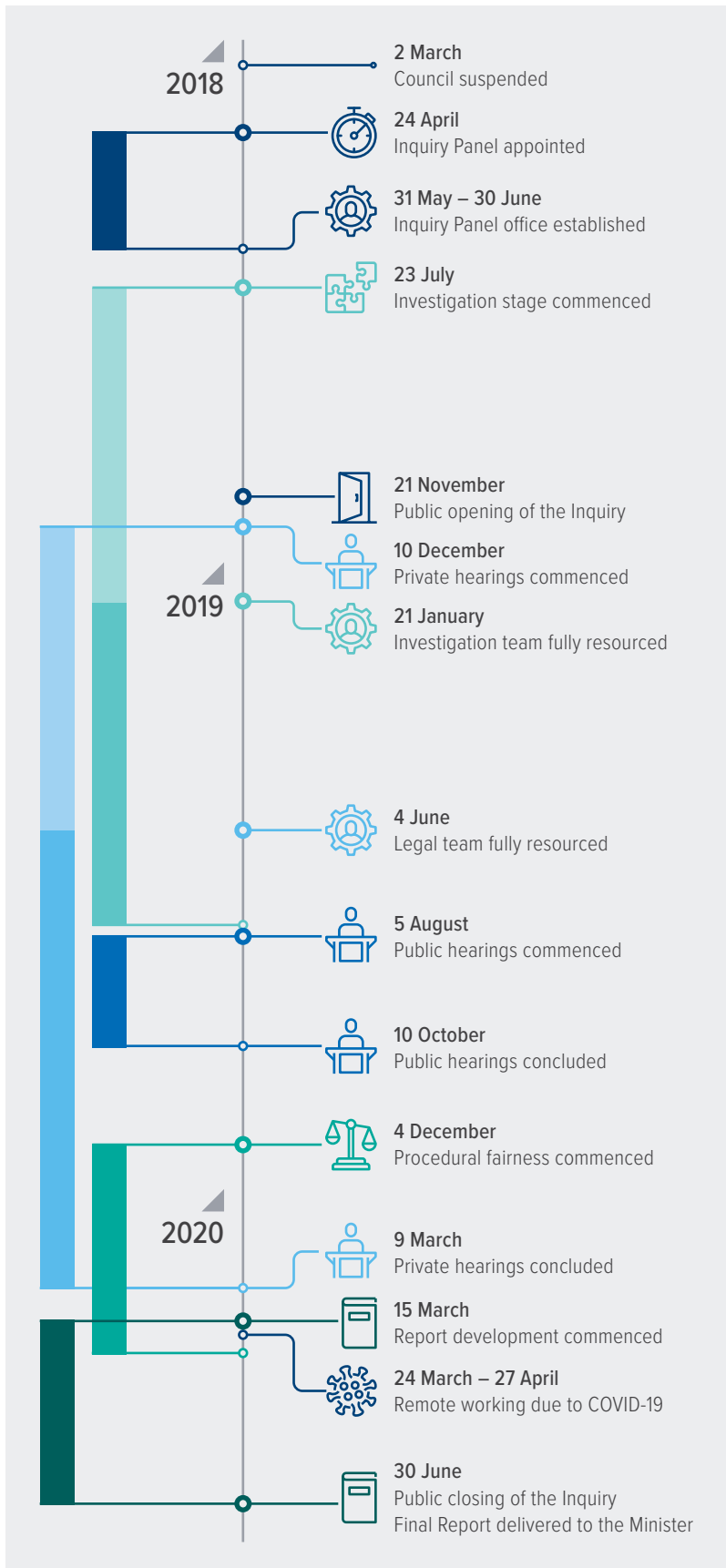
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# Inquiry timeline

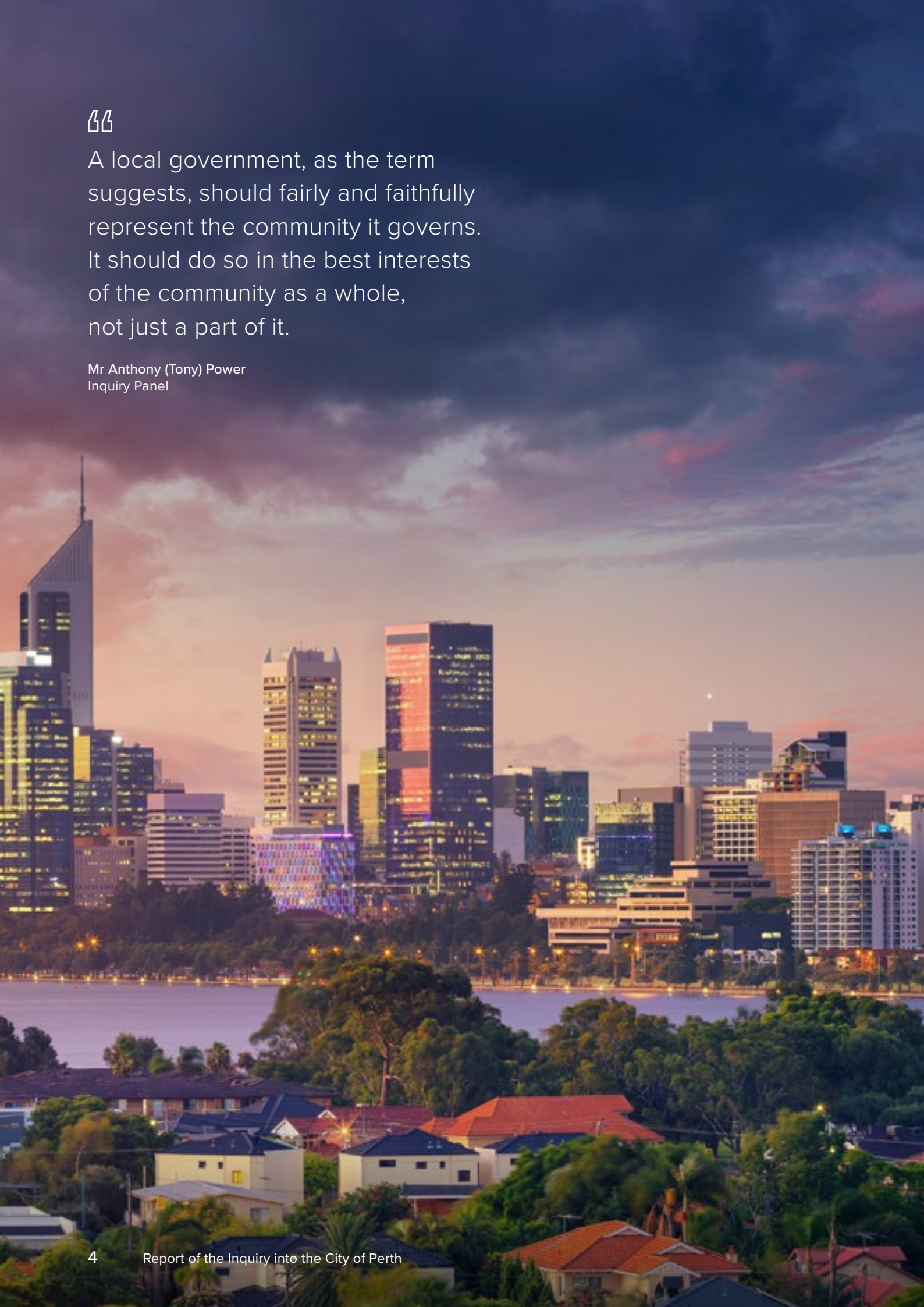
Between 24 April 2018 and 30 June 2020, the Inquiry investigated, heard and reported on the governance of the City of Perth.





A local government, as the term suggests, should fairly and faithfully represent the community it governs. It should do so in the best interests of the community as a whole, not just a part of it.

Mr Anthony (Tony) Power  
Inquiry Panel



# Inquiry Panel's Preface



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

Like similar inquiries which have preceded it, this Inquiry is concerned with the failure to provide good government, the reasons for that failure and what can and should be done in the future to ensure good government.

The Inquiry's reporting obligations require it to make findings on the matters in its Notice of Appointment of an Inquiry Panel (Terms of Reference). Those Terms of Reference are broad and far reaching.

As the State's capital city, the local government of the City should be a model of good government. It should set the benchmark for other local governments in the State.

Unfortunately, the suspension of the City of Perth Council (Council), the establishment of this Inquiry and this Inquiry's findings tell a very different story.

A local government, as the term suggests, should fairly and faithfully represent the community it governs. It should do so in the best interests of the community as a whole, not just a part of it.

The LG Act recognises the importance of the demarcation between a local government's Council and its Administration.

In broad terms, the former should decide what should be done for the community as a whole and the latter is responsible for implementing those decisions in a practical and day-to-day sense.

This essential separation of roles ensures that the community as a whole has a say in how the local government represents its interests. It does so through its council members, who form the Council which makes decisions and sets the direction of the local government.

The Administration of a local government is made up of a variety of skilled and experienced employees, who are best equipped to ensure that the community gets what it needs and deserves. The Administration implements the decisions of the Council and provides services to the community.

Each of these two groups of people which comprise a local government, the Council and the Administration, have different skills, mandates, powers and functions. Their roles are different and should not be confused. The employees in the Administration should not try to usurp the decision-making role of the Council, and council members should not interfere in the day-to-day work of the Administration.

The conduit or connection between the Council and the Administration is the Chief Executive Officer (CEO). This pivotal and sometimes difficult role, if done well, should maintain that important separation and ensure that the employees of the local government properly implement the decisions of the Council. It should also ensure that good governance is applied to the functioning of both the Council and the Administration.

Essential to good government is a set of clearly articulated, understood and accepted rules governing its affairs. If the rules are properly understood and adhered to, as a result of being accepted by those which they govern, the scope for ignoring and breaching them is considerably reduced. The result is good governance.

The City, its council members and its employees have in recent times been no strangers to controversy. The City has for a number of years been criticised as being dysfunctional, inward-looking and often not serving the best interests of its community. Its aspirations are described in the *City of Perth Act 2016* (CoP Act), but it has not in truth measured up to the objectives in that Act.

It is clear from the information and materials considered by this Inquiry that many of the problems which beset the City, its Council and its Administration stemmed from an inappropriate and unhealthy culture.

Regrettably, the culture of the City has been characterised by self-interest, complacency, lack of accountability, lack of transparency and a lack of effective leadership. These traits have provided fertile ground for greed, incompetence and mismanagement to flourish. Some council members and some employees alike have been allowed to put their own interests ahead of the interests of those who they should be serving, namely, the community of the City.

It is this dysfunctional culture, which in large part caused the decline in the way in which the City was governed, and which ultimately led to the suspension of the Council of the City on 2 March 2018 and the establishment of this Inquiry.

In order to report on the matters in its Terms of Reference, the Inquiry has had regard to the evidence given in the private and public hearings it has conducted and the other materials which it has been provided with, and obtained, during the course of its work.

In investigating the matters within its Terms of Reference, the Inquiry has obtained and examined over four million documents and held private and public hearings with 104 witnesses over 125 days. Those investigations and examinations have enabled the Inquiry to make over 250 findings.

It is important to note that the Inquiry has the powers of a Royal Commission, but it is not a Royal Commission. Nor is it a Court of law. It is an administrative body whose task is to inquire into and report on those matters in its Terms of Reference.

The powers and processes of this Inquiry are different to those of a Court of law. It has extensive coercive powers and its ability to inquire into matters without some of the usual protections afforded to persons in a Court of law are an important point of distinction.

With the exception of those matters where the Inquiry is permitted by its Terms of Reference to make findings about unlawful conduct, it is not the role of this Inquiry to make findings about whether any particular conduct contravenes the law, or act in a way which would prejudice subsequent legal proceedings of that kind. It is an administrative body, not a judicial one.

The Inquiry cannot decide whether evidence given in its hearings would support a finding of a contravention of law if the same evidence was later adduced in criminal or civil proceedings.

The findings made by the Inquiry have no binding or enforceable effect.

The Inquiry does, however, have the power to refer any matter it has investigated to another agency for it to consider whether or not criminal or civil proceedings should be brought.

It has been important for this Inquiry to rigorously examine the matters in its Terms of Reference. Notwithstanding, it has at all times sought to strike the right balance between a proper and robust examination of those issues and fairness to those who were the subject of examinations.

While it is not bound by the rules of evidence, the Inquiry has in its inquisitorial and reporting roles adhered to the principle of treating all who have appeared before it fairly and without fear or favour.

In reaching its findings, the Inquiry has been guided by the *Briginshaw* principles. In forming its conclusions about what has happened or not happened, what has been done or not done, it has adopted the following approach:

*“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 are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal”.<sup>a</sup>*

One of the main functions of this Inquiry is to inquire into and report on matters in its Terms of Reference for the purpose of making recommendations aimed at restoring and ensuring the future good government of the City. This will be achieved by its recommendations.



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

<sup>a</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362 (Dixon J).



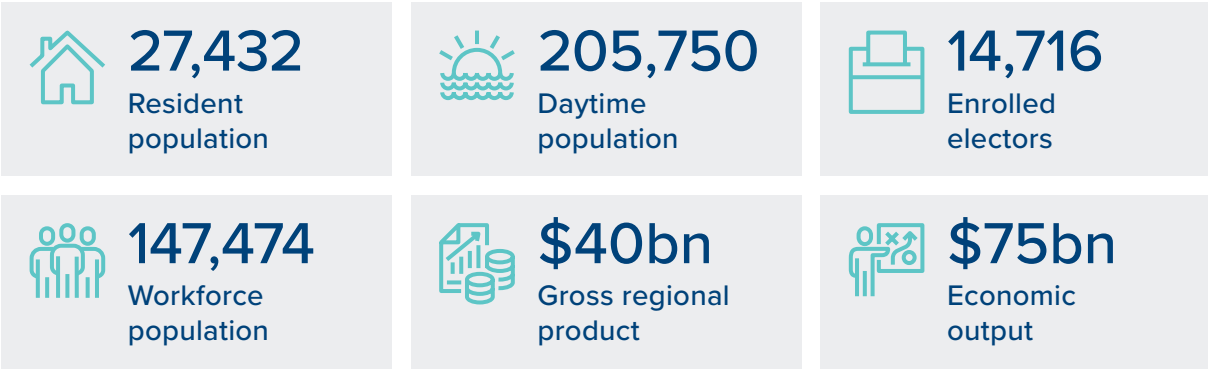
AT A GLANCE

# City of Perth

The City of Perth is the local government for the capital city of Western Australia. It is a statutory entity constituted under the LG Act and the CoP Act.

### 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.



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.



Vibrant, connected, progressive; a friendly and beautiful place to be.

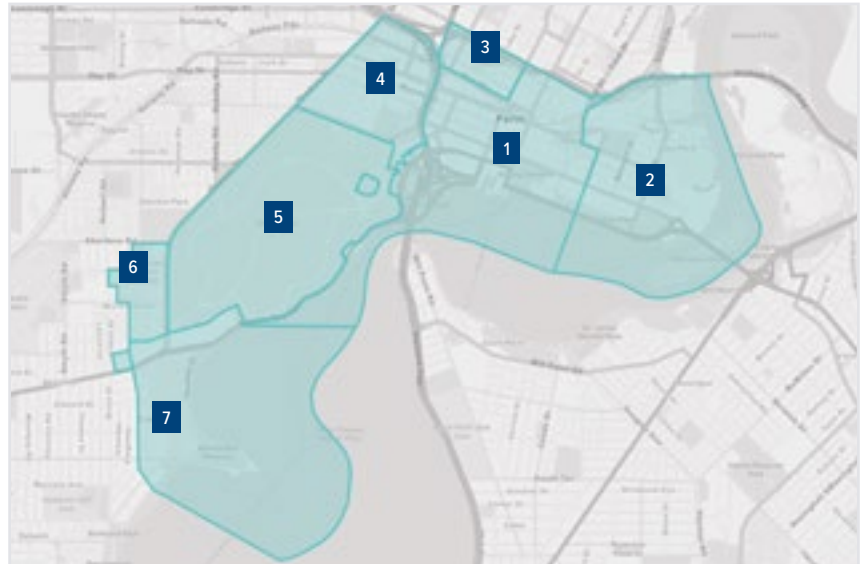
Mr Murray Jorgensen  
CEO



## Geography

The City of Perth covers a geographical area of 26.93km<sup>2</sup>.

- 1 Central Perth
- 2 East Perth
- 3 Northbridge
- 4 West Perth
- 5 Kings Park
- 6 Nedlands
- 7 Crawley

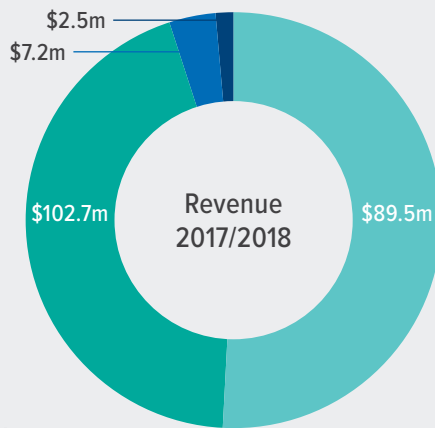


## Finances and workforce

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. 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.



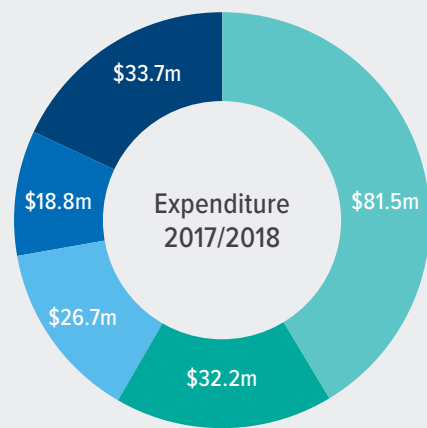
**\$201.9m**  
Total operating revenue



Key  
 ● Fees and charges ● Rates  
 ● Grants ● Other



**\$192.9m**  
Total expenditure



Key  
 ● Transport ● Recreation and culture ● Other\*  
 ● Community amenities ● Economic services



**\$100m**  
Cash reserves



**\$1.2bn**  
Total assets



**735**  
Employees



**\$74.7m**  
Employee costs

\* Other includes: Governance (\$10.5m), Law, order and public safety (\$6.1m), Education and welfare (\$3.9m), Other property services (\$8.7m), Health (\$1.5m), General purpose funding (\$2.2m) and Housing (\$0.70m).

## The Council and Administration

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

### 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

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



**Mr Jimmy (Jim) Adamos**

15 October 2011 to 19 October 2019



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

21 October 2017 to 30 January 2020



**Mr Robert (Rob) John Butler**

3 May 2003 to 17 October 2015  
Deputy Lord Mayor – 22 October 2013 to 17 October 2015



**Ms Lily Chen**

15 October 2011 to 19 October 2019



**Ms Janet Elizabeth Davidson OAM**

14 February 1998 to 27 May 2019  
Deputy Lord Mayor – 2009 and 2011 to 2013



**Dr Jemma Marie Green**

17 October 2015 to 19 October 2019  
Deputy Lord Mayor – 24 October 2017 to 19 October 2019



**Mr Reece James Harley**

19 October 2013 to 30 January 2020



**Mr Steven (Steve) Jeffrey Hasluck**

21 October 2017 to 30 January 2020



**Mr Dimitrios Athanasios (James) Linnios**

17 October 2009 to 30 January 2020  
Deputy Lord Mayor – 22 October 2015 to 21 October 2017



**Ms Judith (Judy) Sabina McEvoy**

3 May 1997 to 21 October 2017



**Mr Yit-Kee (Keith) Yong**

19 October 2013 to 21 October 2017

## Chief Executive Officers (CEO), City of Perth



**Mr Gary John Stevenson**  
29 October 2012 to 20 January 2016



**Mr Martin Nicholas Mileham**  
20 January 2016 to 29 October 2018  
substantive from 3 October 2016

## Executive Leadership Group (ELG), City of Perth



**Ms Erica Margaret Barrenger**  
Director, Planning and Development  
2 May 2016 to 21 December 2018



**Ms Annaliese Maria Battista**  
Director, Economic Development  
and Activation  
16 May 2016 to 22 June 2018



**Mr Michael James Carter**  
Director, Economic Development  
and Activation  
21 September 2015 to 26 February 2016



**Mr Luciano Paola (Paul) Crosetta**  
Director, Construction and Maintenance  
11 August 2015 to 5 July 2019



**Mr Robert David Mianich**  
Director, Corporate Services  
7 November 2005 to 1 July 2019



**Ms Rebecca Therese Moore**  
Director, Community and  
Commercial Services  
7 September 2015 to 5 July 2019



Photo: [www.istockphoto.com/au/portfolio/lleerogers](http://www.istockphoto.com/au/portfolio/lleerogers)

## Suspension of the City of Perth Council

On 2 March 2018, the Minister for Local Government, the Hon David Templeman MLA (Minister), took the unusual step of deciding to suspend the Council.

He said that his intervention was required by:

*“... ongoing and serious governance issues at the City ...”.*

## Establishment of the Inquiry Panel

On 24 April 2018, the Minister established this Inquiry Panel to investigate and report on, among other things:

- whether there had been a failure to provide good government for the City;
- whether good government could be provided in the future, including whether the Council and the Administration of the City had the ability to and was likely to do so; and
- the steps which may need to be taken to ensure future good government of the City.

The Inquiry’s role was to investigate all of the matters within its Terms of Reference, make findings in relation to them, and provide recommendations to the Minister in connection with those matters.

In establishing the Inquiry, the Minister made it clear that he was:

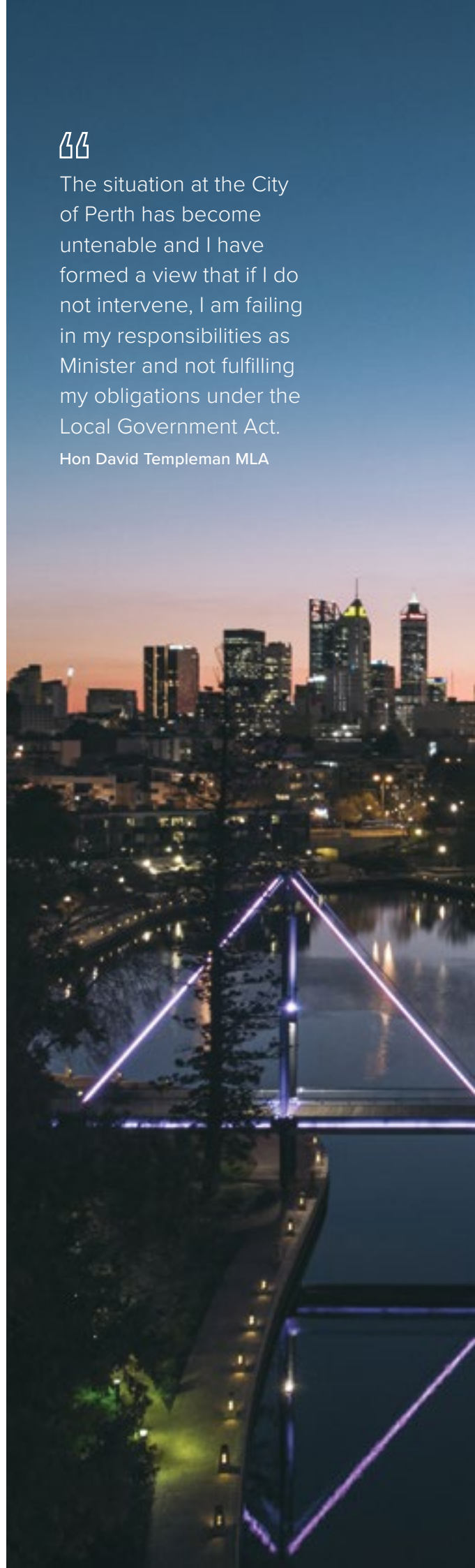
*“... seeking to restore confidence in the people of Perth of the City’s ability to provide good governance for its community ...”.*

The Terms of Reference for this Inquiry are comprehensive and have required a rigorous examination of government at the City in the period between 1 October 2015 and 1 March 2018.



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.

Hon David Templeman MLA



*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

## Events leading to the suspension of the City of Perth Council

On 27 February 2018, three days before the Minister suspended the Council, several things happened. These were the culmination of problems which had been brewing in the City for a long time.

On that date, the City was without a CEO. The CEO, Mr Mileham, was on personal leave from 16 February 2018 following his receipt of the report of a confidential investigation about him and the Lord Mayor, Ms Scaffidi, conducted by a private legal firm, known as 'Project Percy'.

A few days before taking leave, on 12 February 2018, Mr Mileham had, with the support of the City's ELG, written to the Department of Local Government, Sport and Cultural Industries (Department) about and requesting assistance in relation to, among other things, dysfunction in the Council and interference by council members.

On taking leave, Mr Mileham appointed Mr Mianich, the Director, Corporate Services, as Acting CEO. On the afternoon of 26 February 2018, Mr Mianich took medical leave from the role. In his short tenure in the Acting CEO position, Mr Mianich had, among other things, finalised and lodged complaints with the Local Government Standards Panel (LGSP). The complaints were about alleged interference in the Administration by Deputy Lord Mayor Dr Green and council member Mr Harley. Mr Mianich also wrote to council member Mr Limnios, about concerns with aspects of his conduct.

In the interim on 24 February 2018, a Special Council Meeting was requested by five council members. The purpose of that meeting was to permit Council to vote on a motion amending a Council policy to allow them to appoint an Acting CEO whenever the substantive CEO was absent, and to appoint someone to that acting position.

The Special Council Meeting was scheduled by Mr Mianich for the late afternoon of 27 February 2018. At that meeting, the Council by a majority resolved to approve the amendment to the policy and to appoint Ms Battista to the role of Acting CEO.

On the morning of 27 February 2018, three directors in the ELG activated the City's Crisis Management Plan and declared a priority 1 crisis.

The Crisis Management Plan was something intended to be activated at priority 1 when the City was facing a serious crisis which would disrupt the functioning of the City or cause harm to people, such as a fire, flood or explosion. Significantly, the declaration of a priority 1 crisis, unlike priority 2 or 3 declarations, empowered one of the director members of the ELG, Ms Rebecca Moore, to take over the leadership of the Administration of the City in the role of Crisis Manager. At the time the declaration was made, the directors who executed the Crisis Management Plan were aware that Ms Battista was likely to be appointed the Acting CEO at the Special Council Meeting scheduled for that afternoon.


The following day, Deputy Lord Mayor Dr Green requested advice from the Department about the agenda for a further Special Council Meeting, to be held on 5 March 2018, at which the suspension of Mr Mileham was to be considered. Before that meeting could take place, the Minister suspended the Council.


The events of, and leading up to, 27 and 28 February 2018 were indicative of the divisions within Council, within the ELG, and between the Council and the ELG, which by this stage were not new, but which had become entrenched and were affecting the proper governance of the City.


# 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 Corruption and Crime 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



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

## What did the Inquiry find?

The primary finding of this Inquiry is that in the period between 1 October 2015 and 1 March 2018, there was a gross failure to provide good government at the City.

As this Report makes clear, the City was wracked by widespread cultural and systemic failings in both the Council and the Administration. It was plagued by poor governance practices and was, as a consequence, poorly governed and dysfunctional.

This failure was the direct result of poor governance and poor decision-making at many levels, a lack of integrity and teamwork in the City's leadership, and widespread cultural and systemic failings in both the Council and the Administration of the City.

When the Council was suspended on 2 March 2018, the situation had deteriorated to the point where neither it nor the Administration had the capacity to provide good government into the foreseeable future.

The conclusions reached by the Inquiry are based on the evidence it has obtained through its comprehensive investigations and programme of hearings. The evidence is set out in full in the chapters which make up **Volume 2: Case Studies** of this Report. The following is a summary.



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.

## Community Leadership

The Inquiry considers the community leadership demonstrated, or not, by the Council over the period covered by the Inquiry's Terms of Reference. This is a significant part of the Inquiry's consideration of the matters within its Terms of Reference, as it directly engages with Terms of Reference, Part A.1 and A.3(ii)-(vi), and addresses the obligations imposed on council members by section 11(2) of the CoP Act.

As described in summary below, and in more detail in **Volume 2: Case Studies**, a number of council members failed in various ways and at various times to discharge their obligations to provide leadership to the community of the City of Perth. As described in **Volume 3: Restoring Good Government**, much of that failure can be attributed to systemic issues relating to poor leadership, governance and culture, and questionable decision-making practices.

### Local government elections

Elections are the foundation of the democratic process. That is as true of local government as for other levels of government. The Council of the City is an elected body, accountable to and elected by the electors of the City of Perth. The Inquiry investigated a number of situations in which information received suggested election processes may have been undermined by improper manipulation.

A number of examples of this type of conduct were identified. Sham leases were used to enfranchise a candidate or a voter. Corporate nominee processes were falsified to entitle people to vote who were not otherwise eligible. False complaints were made to the City to have legitimate corporate nominees struck from the electoral roll. One candidate used his family's post office boxes as the postal address for voters, raising a suspicion that the candidate intended to falsify votes.

Manipulation of the electoral process strikes at the heart of the democratic system of local government representation. The City's oversight and supervision of that process was, therefore, also something which the Inquiry examined. However, as set out in this part of the Report, it transpired that the City's processes were not up to the task set and failed to adequately identify and deal with issues of electoral manipulation.

## Decision-making

Good government in a local government context is significantly affected by the quality and accountability of council decision-making. It is a matter the Inquiry was specifically empowered to inquire into by its Terms of Reference, Part A.3(vi). One measure of good decision-making in this context is whether the decisions made by a council reflect, consider and where possible balance, the interests of the whole community, and not just a segment of it.

In this Section of the Report, the Inquiry examined situations in which the evidence suggested that decisions made by the Council, relating to properties in the City of Perth, either did not reflect the interests of the community, or were affected by personal interests being put ahead of community interests.

These included:

- a development application for a shop at the Adagio apartment complex, which appears to have been refused by some council members not on any proper planning basis, but in the apparent expectation that the decision to refuse the application would result in votes from the objectors to the application at a forthcoming election; and
- a decision to reject a sponsorship proposal to rejuvenate the Piccadilly Theatre premises in the City of Perth in circumstances where there was lobbying against the proposal by local businessmen and in respect of which the Council did not give reasons for its decision.

## Disclosure, personal interest and entitlements

Council members must avoid, or at least properly manage, conflicts between their own interests and the interests of the community, and between their own interests and the duties they owe their constituents as council members, in respect of decisions or actions they take. This is critical to maintaining confidence in, and the transparency and accountability of, local governments. Similarly, it is important to the community's confidence in representative government that those whose roles it is to represent their community do so without taking advantage of the trappings and entitlements of office for personal rather than community benefit. An examination of these critical matters is directly within Terms of Reference, Part A.3(iv) and A.3(v).

In this Section of the Report, the Inquiry describes situations it identified in which some council members failed to disclose their financial or other interests as required by the LG Act, leading to the decision-making of council being undermined. The Inquiry also describes situations in which some council members misused, for their own purposes, the trappings and entitlements of office which were available to assist them in their official role. Those entitlements, at various times, included the use of the Council dining room, and the capacity to be reimbursed for costs associated with restaurants, the purchase of clothes, and drycleaning. In addition to these matters, one council member also misused her official title, office, business cards and email for private business purposes.

## Grants and sponsorship

Each year the Council of the City allocates millions of dollars to community associations and events through partnerships, sponsorships, grants and donations. In large part that is to be commended. It reflects a proper engagement by the City with community matters.

However, the Inquiry identified as part of its consideration under Terms of Reference, Part A.3(iv), risks associated with this process including:

- gifts, especially tickets to events, which were routinely given by sponsored organisations and accepted by council members, imperilling the independence of their decision-making; and
- some council members attempting to ensure that the City allocated money to organisations and events with which they had a personal connection.

As with the Inquiry's consideration of electoral manipulation, the Inquiry was also concerned to understand whether the City's governance practices were sufficient to identify misconduct, or the potential for misconduct, in this area. The evidence obtained suggests governance practices in this area were lacking, which permitted significant deficiencies to arise in respect of gifts and disclosures.

## Administrative Leadership

Whereas the previous **Part of Volume 2: Case Studies** was principally concerned with the leadership, or its lack of demonstrated by the Council, this Part considers the leadership, or its lack thereof, demonstrated by the executive leadership of the Administration, and factors which affected the capacity of the executive to deliver effective leadership.

The Administration delivers the services, facilities and programmes of the local government. To do this it must manage the local government's resources, including its people, physical assets and finances. The Administration is headed by the CEO. The CEO is employed and managed by the Council and provides advice to the Council and implements its decisions. The CEO employs and leads the Administration and is responsible for managing the resources of the local government. The CEO is instrumental in setting the workplace culture.

Administrative leadership of the City was, as the Report makes plain, an area of significant complexity and an area where a lot went wrong. Much of what went wrong comes down to systemic failings in leadership, culture and process. Some of that is, as described, inexcusable. Some of it is not surprising.

The Administration of the City is large and complex. It has been, until recently at least, poorly serviced by disparate and somewhat antiquated systems of governance and financial management. Furthermore, the position occupied by the CEO is an unenviable one, caught between the demands of a council that can be politicised and fractured, and the obligations owed to rank and file staff. The LG Act is in many respects uncompromising in respect of what it demands from a local government CEO. A system of this type, while having certain advantages, inevitably invites tension and discord between the governing organs of local government.

## Chief Executive

In January 2016, the employment of the then CEO, Mr Stevenson, was terminated by the Council. The Director, Planning and Development, Mr Mileham, was appointed as Acting CEO in his place. Later, in September 2016, he was appointed substantively to the role of CEO. Both matters are expressly contemplated by Terms of Reference, Part A.3(iii) as subjects of the Inquiry's investigation.

The Inquiry sets out its consideration of the circumstances in which Mr Stevenson was terminated from his employment, and Mr Mileham was elevated. In the course of that consideration, the Inquiry critically reviewed the Council's CEO performance review processes, to examine whether the reviews of Mr Stevenson's performance were properly conducted, and whether the termination of his employment was based on complete and accurate information. In both respects, the Inquiry finds that proper process was not fairly accorded to Mr Stevenson.

Mr Mileham's appointment to the roles of Acting CEO and then CEO are also examined in this Section, with a view to determining whether the process of appointment was transparent and capable of review. Ultimately, the Inquiry finds that it was not. The Inquiry also considered whether the Lord Mayor, Ms Scaffidi, sought to influence how Mr Mileham was to conduct his role as CEO, and finds that she did.

## People management

The Inquiry considered a number of people management matters during the course of its examinations, in accordance with Terms of Reference Part A.3(iii). In particular, the Inquiry describes its review of the recruitment, promotion, probation and termination of employment of employees; complaints and grievance processes; human resource related record-keeping; and disciplinary processes.

Within that umbrella of matters for consideration, the Inquiry focussed on the participation, and possible interference, in various human resource matters by council members; the appropriateness of the involvement of Mr Mileham in respect of some of those human resource matters; performance management of employees; and the City's processes for terminating the employment of employees, including its use of deeds and substantial termination payments.

There were a number of failings, or areas for improvement, across these issues. For example, there was involvement by some council members in recruitment and termination processes for certain staff, the inappropriate use of deeds of mutual separation in circumstances where misconduct was suspected and dismissal from employment was arguably warranted, and the making of generous termination payments which were inconsistent with relevant Award or contract provisions or policies.

## Financial management and planning

A local government controls significant finances on behalf of its community. The City had an operating revenue of approximately \$200 million per year during the Inquiry period. This included approximately \$70 million generated by the City of Perth Parking business. The adequacy of the management of those funds, and the potential for future improvement in respect of them, goes directly to the questions posed for the Inquiry by Terms of Reference, Part A.1.

The Inquiry conducted an in-depth examination of the financial management and strategic planning for the City. The Inquiry identified a number of significant weaknesses in the City's systems and processes, and examined how those are being, and can in the future be, addressed.

The principal finding of the Inquiry in respect of financial management and planning was that the systems for undertaking those measures were separate and siloed within business units. While the City had a finance section which was intended to be centralised, each directorate and some business units had their own accountants and finance staff who operated independently of central oversight. The consequences of this fractured system of financial management were significant. There was a lack of information sharing, poor record-keeping and decentralised control of financial matters.

A further significant finding arising from this part of the Inquiry's investigations was the deficient way in which the City of Perth Parking business was managed. There was no business plan for that business, despite that being a requirement of the LG Act. The principles of competitive neutrality were not applied. Internal costs allocated to the parking business were not properly identified or recorded, with the result that it is possible that other costs, not relating to the parking business, were allocated to it. There is no reliable way to tell.

The siloed nature of the City's finances, and the issues with the City of Perth Parking business, point up systemic failings within the City's systems for the management of financial matters. There was an insufficient integration of the City's strategic and financial planning documents, and the City did not have appropriate systems and governance regimes in place to manage and monitor its financial performance. An example is that the City could not state with any certainty how many staff it employed.

The problems caused by these deficiencies were compounded by the lack of an effective audit process. The City and its financial management are complex. It is not a straightforward business proposition. Despite this, its audit processes were immature. There was no assurance map or strategic internal audit plan. The City's audit programme was limited to compliance audits. Audit reports did not reflect the risks of the audit or provide for better practice audit report structure and content elements.

While, in an organisation of the size and complexity of the City, resourcing constraints are real, more can and should have been done to ensure the proper management of the City's finances. In this, the leadership failed. Systemic failures developed and were allowed to embed themselves.

## Procurement and contracting

The City, like many local governments, undertakes a significant amount of procurement activity. Throughout the period of the Inquiry's Terms of Reference, for example, it spent approximately \$50 million per year on procurement.

Poor procurement practice is a well-known fraud and corruption risk. Recent events in Western Australia, uncovered by the CCC, speak loudly to that, and it has been recognised time and again, including most recently and emphatically by a committee of the Legislative Council. Local governments are not immune to these issues. On the contrary, local governments generally have high risks of fraud and corruption, because of the large volume of goods and services they buy and the usually devolved nature of decision-making and delegated authorities to commit funds. In consequence, it is important that the City, and local governments generally, understand these risks and actively manage them with appropriate controls.

Against this background, and in pursuit of Terms of Reference, Part A.1 and A.3(v), the Inquiry investigated five specific procurement exercises conducted by the City, in which the consequences of failing to follow appropriate procedures ranged from unauthorised expenditure to possible fraud and corruption.

The first of those five matters concerned the tender process for irrigation services to be supplied to the City. The process was riddled with flaws ranging from a failure by the evaluation panel to properly apply compliance criteria to the tenders they were evaluating, to possible misconduct by the project officer in connection with the conduct of a pricing analysis that, in the event, turned out to be decisive in the decision to award the contract.

A complaint was made by a competing tenderer to the City and the CCC about the potential influence of one of the City's staff in relation to the tender. The investigation of that complaint by the City was poorly done. The point in issue, namely, whether a benefit had been improperly gained, was not dealt with as part of the investigation. Consideration of possible bias and misconduct were, inexplicably, removed from the final report. The City's response to the CCC was misleading.

The second of the five matters concerned the engagement of a private business to provide culture and values training, and associated services, to the City's leadership. The Inquiry's principal concerns in relation to that matter were twofold. First, was the tender process transparently conducted? Secondly, did the CEO, Mr Mileham, properly declare a gift he received from the eventually successful tenderer? In the event, the Inquiry considered that the tender process was free of improper influence, but that Mr Mileham failed to accurately declare the gift he received and in so doing contravened the City's Code of Conduct.

The third matter concerned the handling by the City of a complaint made by an unsuccessful tenderer for certain street and path works. As with the matter involving the irrigation tender, the complaints process was initially poorly managed by the City. Most critically, and surprisingly, the CEO referred the complaint to the head of the directorate responsible for the tender and that director involved the subject of the complaint in the preparation of the City's response.



Unsurprisingly, the complainant was dissatisfied with the City's handling of the matter and referred the complaint to the CCC. Following that referral, the City engaged an independent investigator and the complaint was appropriately considered. Much of it was substantiated, including concerns about misconduct by City employees connected with the tender award. Despite this, the City permitted the employees involved to resign by way of a deed of settlement, rather than terminating their employment as appears to have been open on the findings of the independent investigation.

The fourth matter concerned the engagement of a service provider to supply leadership coaching to the CEO and the members of the ELG, and the decision to engage that provider under a sole supplier arrangement, and in the absence of other procurement controls, in circumstances where engagement on that basis was not justified. This case study demonstrates that, even when processes were in place to guide the exercise of decision-making, they were not always followed.

The final matter concerned the refurbishment of the ground floor of Council House. In this case, an unrealistic timeframe for completion appears to have been motivated by reasons other than the proper and orderly planning of a construction project. The effects of this failing were compounded by further failings within the City to properly manage the exercise. Those with responsibility for the project had limited training in matters related to planning, which was highlighted when they failed to obtain planning approval, heritage advice or a building permit for works on the City's own flagship Council building. Also considered in connection with this case study, was the subversive effect that the City's unwritten policy on carry-forward had on the proper and orderly planning of, and expenditure on, capital works projects.

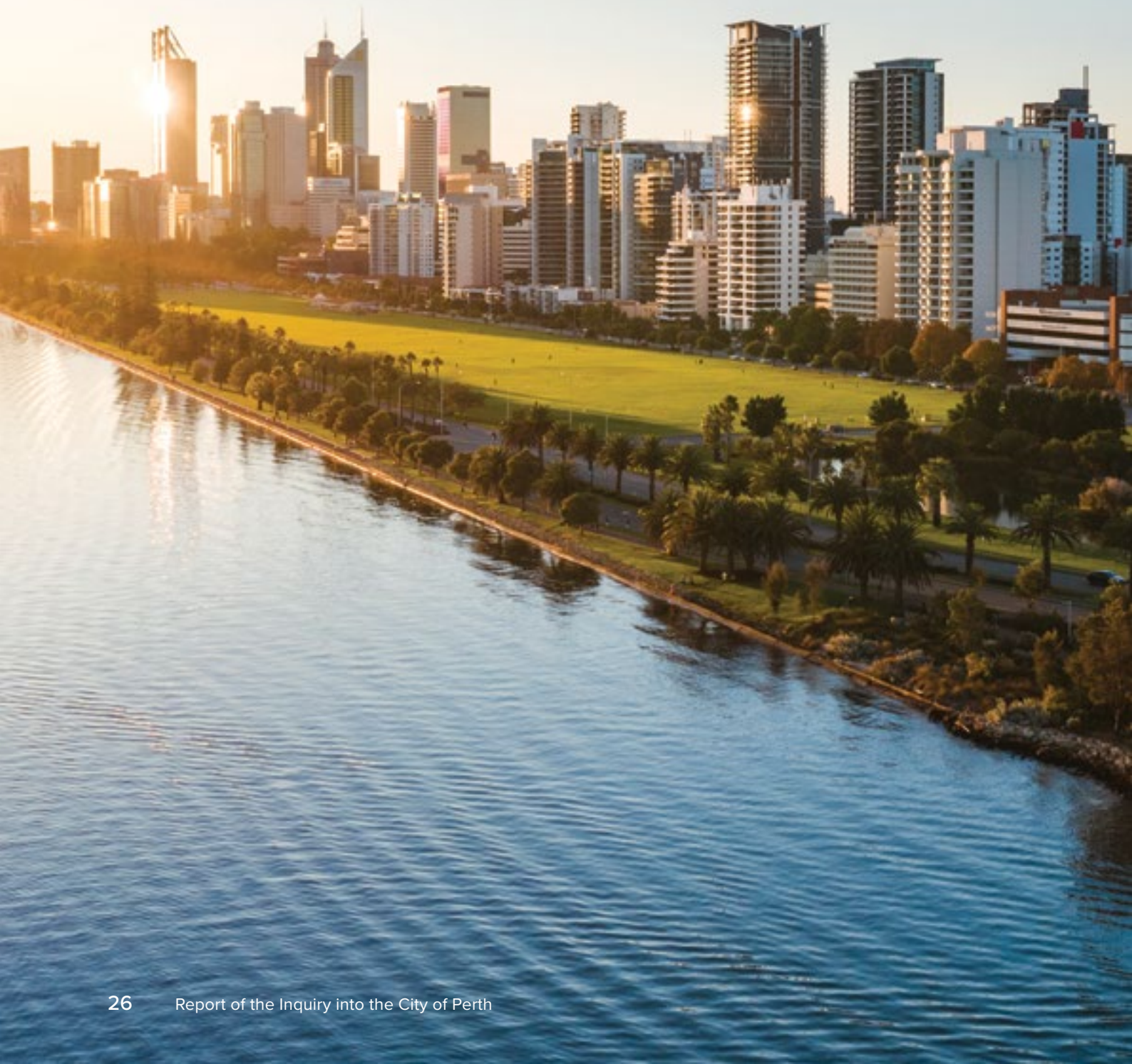
## Final days

In broad terms, in this Part, the Inquiry dealt with those matters and events leading to the suspension of the Council, in accordance with Terms of Reference, Part A.1 and A.3(iii). They concern 'Project Percy', and the effect that had on Mr Mileham in February 2018, the steps taken by some council members to appoint an Acting CEO of their choosing, and the apparent response to that by some members of the ELG when they activated the Crisis Management Plan. As described above, this part of the Volume highlights the growing dysfunction, and distrust, within and between the Council and the ELG in the closing days of February 2018.



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.

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