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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 124

TUESDAY, 8 OCTOBER 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MR PHILIP URQUHART

COUNSEL APPEARING:

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

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

.08/10/2019

HEARING COMMENCED AT 10.03 AM:

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

10 Mr Urquhart.

MR URQUHART: Thank you, sir. The next witness will be Robert David Mianich and Mr Mianich is already in the hearing room. Thank you, sir.

15 COMMISSIONER: Thank you, sir. Mr Mianich, please come forward and take a seat in the witness box to my left. Mr Mianich, will you take an oath or make an affirmation?

20 MR MIANICH: An oath, please.

COMMISSIONER: Thank you. Madam Associate.

MR Robert David MIANICH, sworn:

25 COMMISSIONER: Thank you. Take a seat, please, Mr Mianich. I will hear applications. Mr Bourhill.

30 MR BOURHILL: With your leave, Commissioner, with Ms Randall, I would seek leave to appear for Mr Mianich.

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

35 MR URQUHART: There is not, sir, nor will there be for the application that's about to made by Ms Saraceni.

COMMISSIONER: Thank you. Leave is granted in that case, Mr Bourhill. Ms Saraceni.

40 MS SARACENI: Commissioner, I seek leave to appear, together with my friend Mr Tuohy, on behalf of Mr Mileham to protect his interests when this witness is giving evidence.

45 COMMISSIONER: Yes, of course. Leave is granted. Mr Urquhart, are you ready to proceed?

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

EXAMINATION-IN-CHIEF BY MR URQUHART

Mr Mianich, is your date of birth 30 August of 1959?---Correct.

5 That makes you 60 years of age?---Correct.

And were you the Director of Corporate Services at the City of Perth from November 2005 to May of this year?---Incorrect, I was Director from - - -

10 Incorrect, okay. So - - -?--- - - - November 2005 until 30 June 2019.

When was your last day at work?---I was on sick leave up to that date. My last day physically in the office was 12 March 2019.

15 Are you presently working?---Unemployed.

Have you retired?---No.

Are you actively seeking employment, are you?---I wouldn't describe it as active.

20

So the description would be?---Exploring opportunities.

What, in the area of commerce, accountancy or somewhere else?---Related areas. I'm a chartered accountant so related to that sort of field.

25

So you were Director of Corporate Services from November 2005 to 30 June of this year. During that time, did you also hold the position of Acting CEO at the City of Perth?---Correct.

30 When was that?---I've acted many times, so I've acted for periods when Martin was on leave and Gary Stevenson was on leave, and in fact, going back to when Frank Edwards was CEO. So I don't recall the exact dates but durations have been, I think, from literally a few days up to, I think at the most, about five or six weeks I recall.

35

And the reasons were for leave being taken by the substantive CEOs?---Correct.

Can you tell us, please, your qualifications?---Qualifications, Bachelor of Commerce and I'm a chartered accountant.

40

So you completed your Bachelor of Commerce from the University of Western Australia?---Correct, 1979.

45 And you became a certified practising accountant when?---No, not a CPA, a chartered accountant. So you've got two groups of accountants, you've got CPAs and chartered, both at different institutes. So I became a member of the Institute of Chartered Accountants in Australia and New Zealand in - it would have been

1983.

5 And the reason why you didn't pursue the certified practising accountant qualification?---At the time, upon leaving uni, back at that period of time, the normal course of a career was to go and work for the large chartered accounting firms. I initially worked for what now is KPMG and it was logical that you sort of did the professional year, they called it back then, and you had to work for three years with an accounting firm to get the qualification.

10 Did you then work as a chartered accountant until 1997?---Yes. Well, yes, I did. I worked in public practice for about six years, so a chartered accounting practice. I spent a couple of years in venture capital and then I was financial controller of a large-ish privately owned retail company before I joined the State Treasury in 1997.

15 And you worked there until 2005?---Correct.

20 And then you became the Director of Corporate Services with the City in November that year?---That's correct.

25 Were you the longest serving Director as at the time you left the City?---As at the time of leaving, yes. There were, going back a few years, a couple of very long serving Directors prior to me.

30 Do you regard that as an advantage, that you were there for so long?---I'm not sure I would use the word advantage. It certainly gave - - -

35 What word would you use?---It certainly gave me a breadth of, let's say, corporate knowledge of past events.

40 That's an advantage, is it not?---Well, you could say that I guess.

45 I'm asking you?---I didn't consider it an advantage.

50 No?---No.

55 Having that store of corporate knowledge?---No, I didn't consider it an advantage.

60 Why not?---Why not?

65 Yes?---I was employed to do a job and I did that on a day to day basis.

70 Why didn't you regard that store of corporate knowledge as an advantage?---I never really looked at it in that perspective, all I looked at it was that - - -

75 I'm asking you now though?---Yes, and I'm trying to answer your question. I didn't see it as a particular advantage.

Was it a disadvantage?---It wasn't a disadvantage, no.

5 So was it an advantage?---Well, it wasn't a disadvantage so I guess - look, if you want to call it an advantage, you probably could.

How would you describe the working relationship you had with the City's CEO, Mr Mileham?---Professional.

10 Yes?---Martin and I, I think, worked together okay.

Was it a good working relationship?---Yes, I would describe it as that. I didn't have any need to question the working relationship.

15 Did you get on well with him?---Yes.

Did you and he share the same views on how the City should be running?---Generally, yes, but we didn't agree on everything, I think would be fair to say.

20 Did you agree on most things?---I would say the majority, yes.

Any significant things that you didn't agree with?---None spring to mind immediately here.

25 That therefore suggests that they weren't very significant?---Yes, you could probably say that.

Do you agree with that?---Sorry, could you repeat your question?

30 Do you agree with that? You've said a couple of times now "you could say that" but I'm just asking you whether you agree with it?---Sorry, agree with what?

35 Agree with my proposition that because you can't remember anything you disagreed with with respect to Mr Mileham, therefore they weren't significant?---Look, I think we certainly had disagreements over items but whether they constitute significant, you know, I'm not sure on that.

40 Can you name one?---Okay. Let's say the probationary period relating to another Director. So Martin had the task when he took over as Acting CEO to confirm appointments of a couple of Directors and I think certainly with respect to one of those positions, my views were different from his

[10.15 am]

45 Whose view prevailed?---Well, the CEO obviously has the call on that.

Did he agree with you or disagree with you on that? It sounds like he disagreed?---Yes.

Would that affect the working relationship that you had with him?---No.

5

I want to ask you now about what areas reported to you when you were a Director of Corporate Services?---Yes. So this did change over time.

10 How about we stay then with the period 2015 to 18?---Okay. Certainly the areas included Finance, Human Resources, Information Technology, Data and Information and Asset Management and at times included Governance. At some stage the Governance function moved to the CEO Office, I just don't recall the exact dates but in that time period that you've mentioned, I think, a part of that time period, Governance as well.

15

What was your reaction to the news that Governance wouldn't be reporting to you?---I was okay with that. We had a discussion at the time and I think there was a mutual agreement that rather than moving a sort of a part of the function of Governance, it made more sense to move the function in its entirety. This was around the time of dealings with Elected Members and I think we agreed in the end it made sense to move the complete function, otherwise the Manager of Governance would have had, in effect, a dual reporting line.

20

Did you suggest it?---I don't recall. I could have. I certainly think it made sense.

25

So let's answer this question on the basis that Governance was no longer reporting to you. Approximately how many staff then were reporting to you under those other four arms, Finance, HR, IT or Data Information and Asset Management, so that five?---Five, yes. Well, direct reports were obviously the managers of those units and plus my PA, so that's six direct reports.

30

But how many staff?---Staff? I would say, excluding Governance did you say?

Yes?---Excluding Governance, probably around 85, something around that sort of level.

35

How did you cope with your workload?---It was a full job. I mean, any corporate function is a full-on job.

40 The question is, how did you cope with your workload?---How did I cope?

Yes?---I thought I coped okay. There were particular periods of stress which I think have been well documented so during periods of significant stress, I had some medical issues with elevated blood pressure.

45

When you say well documented, there's obviously that time when you were Acting CEO in 2018?---February 2018.

Yes, is that what you're referring to?---That's one of them, yes, and then more recently in March 2019.

5 But prior to February of 2018?---Prior to February of 2018, I think it would be fair to say my health was reasonably good.

So therefore, am I right in saying you were coping reasonably well with your work load?---Up until, I'd say, the period that you referred to, the February 2018 period.

10

If we can just have a look at those five areas then. We will leave aside Governance. So starting first with the Information and Technology, how many staff was within that section, just approximately?---So we should explain possibly that when we had the corporate restructure back in 2015, we had one Information

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Technology Unit. That had approximately - I think it was around 35 staff at the time, something like that. As part of the restructure, it was decided to create a new Data and Information Unit, so as part of that restructure, there was an agreement to supplement resource into the data area, so we created a new unit.

20

Was that called Information, Communication and Technology?---Data and Information. So to answer your question, the IT unit back probably in 2015 was maybe around 40-ish type people. Into 2015 it got split into IT and Data but the numbers of staff did increase.

25

What services did those two sections provide?---IT and Data?

Yes. I know it sounds self-explanatory but I want you just to go into some more detail?---Yes, that's fine. So firstly the Information Technology Unit was - predominantly you could consider it the sort of hardware side of the business. So it had, I guess, two or three main functions. One was to make sure that the City's

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computer systems ran appropriately. That involved - - -

Efficiently?---Yes. That involved - that's the systems that were in place, of course. That involved stuff such as IT security, cyber threats, et cetera, et cetera. Another component of the IT Unit was in effect a help desk. So if staff had IT issues there were about four or five staff who would assist staff in resolving those issues. Then the balance of staff at the time in IT, some staff were dedicated to GIS Information, which is our data information that feeds into rates and the like, and then we had a team of people who would sort of, for want of a better word, be sort of analysts who would work on, say, particular IT problems.

35

40

Okay?---That's the IT Unit. Did you want me to explain Data?

If you could do it in maybe just one line, one sentence?---Okay. So the Data Unit was responsible for records, so the records function moved to Data and was trying to get the City to a state where it could have one source of truth with respect to its data sources. So they did a lot of work in the digital space, trying to make our

45

work processes more electronic based rather than paper based.

Did that work?---It was a work in progress.

5 A work in progress?---Yes.

So it hadn't been completed by the time you left?---No, it was - when we engaged the manager, we had a sort of, I guess, timeframe of potentially three to five years to implement what was on the agenda.

10

Human Resources, how many staff were there between 2015 and 18, again just roughly?---Approximately 15.

I know the name implies what they do?---Yes.

15

But just explain to us what services Human Resources provide to the City?---The functions revolved around a number of areas. We had a Learning and Development team, we had an industrial relations or IR, Employee Relations Team that would handle disputes, if you like, with staff. The main thrust of the HR function was the majority of staff were business partners with the Directors and units to service their broad HR needs but predominantly during the period that you referred to, predominantly it revolved around recruitment because that took up a lot of time of the HR Unit during that period.

20

25 Would that be because there was a lot of recruiting going on?---Exactly right. So the staff turnover at the City in one of those years was around 20 per cent, so that's 150 positions in a year, that's three a week and that took up a lot of HR time.

20 per cent?---Yes.

30

That's a huge turnover?---It was. The City had traditionally, over a long period of time had a very, I would say, low staff turnover rate, it was generally in the vicinity of 8 to 10 per cent per annum. As I said, from the restructure in 2015, there was a huge turnover of staff. There was a churn of, I think, something in the vicinity of 150-odd positions.

35

This is 2015?---Yes.

40 There are various reasons as to why staff leave, but was one of these reasons that you noticed staff dissatisfaction?---That was one of the reasons. Some of reasons for those movements related to restructures.

Let's just stay with dissatisfaction for the moment. Was that a large reason?---I'm not aware of the exact numbers.

45

I didn't ask you that. Was it a significant reason?---Based on our employee surveys which we conducted on a reasonably regular basis, some staff expressed

the view of being dissatisfied in the workplace, yes.

Did that concern you?---It certainly did.

5 Was their dissatisfaction well grounded?---I think the period you're talking about was a reasonably unsettled workplace. You had a major restructure, probably the biggest restructure of any Local Government in the entire State in 2015. Whenever you restructure, staff become concerned with their positions. Then you fed into the 2016 period, Gary Stevenson's departure in January 2016, and then that led to the elections in 2015, 2017. So I think it's fair to say that the workplace was not - far from ideal from an employee point of view.

15 So what did you do to address that?---We did various issues. We increased - firstly, increased the resources committed to HR. We introduced additional measures to assist employees with - Employee Assistance Programs and training. We introduced particular, a significant amount of resource dedicated to the documentation and training with regard to workplace bullying. So it certainly engaged a fair amount of time of the HR resource unit.

20 Did it work? Did these changes work?---I think it was a work in progress once again. I think it certainly did improve but I think any changes such as that won't happen overnight and I'd still regard it as a work in progress.

[10.30 am]

25 Were you concerned about the numbers of staff leaving in 2015, 16 and 17?---Yes, I was concerned about staff turnover levels. Apart from the obvious concern for the well-being of the staff, it was disruptive to the management of the organisation having such a large churn of new people coming in, older people - older staff members leaving.

35 I know Governance only reported to you for a short time during that 2015-18 period, but can you just let us know how many staff approximately worked in that section?---Governance would have been somewhere around the 10 level, maybe 12.

40 Again, what services did they provide to the City?---Governance provided a handful of services. They were obviously the main officers that dealt with the Council and assisted with the Council agendas, minutes, took minutes at meetings, liaised with Councillors with regard to queries. They handled the electoral function and yes, that was probably it in summary.

45 Did you believe Governance had sufficient staff?---Yes, I think the staff level was about right compared to the sector.

How would you assess the performance of Governance, first when they were reporting to you? So just prior to it not reporting to you, how would you rate its

performance?---The performance of the unit per se?

Yes. Were they doing their job effectively?---I believe they were. There were some areas where - I'm just trying to reflect on the time period you're referring to.

5 There was, in 2016, I recall a lot of work being done on the gifts issue. During that time, the City also spent a lot of time on risk management, so about that time I think the resources in the risk management area were increased. That was part of the Governance area that I should have mentioned previously as a function of Governance. Overall, I thought they were going okay given the broader
10 environmental issues that they were faced with.

What rating would you give their performance? You can either do it out of 5 or a letter of the alphabet, you choose?---A rating for Governance?

15 Yes?---I'm a pretty hard marker so I would say somewhere between 3 and 4.

So there was room for improvement?---Yes. I think there's room for improvement in every unit at the City.

20 Did the internal audit section report to you as well?---Yes. That's another area that was in a bit of a state of flux and I'm trying to recall the exact timing. At one stage - yes, you're correct, the internal auditor did report to me.

25 When you say at one stage, when was that?---Probably 2016, it probably started around there. So when Gary Stevenson was there, internal audit initially reported to Gary and then towards the end of Gary's reign, he suggested that I take over the reporting arrangement, if you like, with regard to the two staff that were in internal audit. I don't remember the exact dates, you would have to check the City records.

30 We do know that Mr Stevenson's employment was terminated in January of 2016, so might it have been the previous year?---It could have been 2015, yes.

What was your working relationship with Mr Stevenson?---I would say sound, professional.

35 Better, worse or the same as your working relationship with Mr Mileham?---I would say different. Gary was a different - had a different approach to the role, I guess. Gary was an engineer, Martin's an architect, so I think the characteristics of those professions go with their leadership styles. So Gary was very reserved. Yes,
40 his style was reserved. I think he was less outgoing than Martin. He tended to like to stay pretty much in his office, whereas Martin would get out and about a fair bit more. So yes, different sort of styles of management. I think Martin is more of a people person than Gary.

45 I will come back to my question, I suppose you want me to ask it again. Was your working relationship better, worse or the same with Mr Stevenson compared to Mr Mileham?---Yes, I would say about the same.

About the same?---Yes.

5 I want to focus now on the Finance section that reported to you. We have been
through the others now, we will concentrate on this. So what responsibilities did
you have with respect to financial services?---The same responsibilities as I had
with the other units. So the Manager, Finance ran the Finance team. That was
quite a large team, there was probably 30, 32 people, something like that. So the
10 Manager, Finance was in charge of the financial operations and I spent a
proportionate percentage of my time reviewing and commenting on financial
matters.

15 Of those areas that reported to you, the time you devoted most, was that to
financial matters?---Yes, it's an interesting question. What I found over that -
you're still talking the period 15 to 18?

20 Yes?---It varied, depending on the circumstances of what was on, on the big issue
at the time. So what I found over that period is, for one week I may spend a lot of
time with HR, with the HR Manager. If it was leading into the budget process, I
would spend more time with Finance and the units and Directors. I spent a lot of
time at periods of time on asset management and I was spending a lot of time on
IT, particularly on looking at systems. In fact, during that period of time, I dare
say that I probably spent more time than most on looking at our solutions for IT
issues through an ERP solution.

25 Did you spend a sufficient amount of time reviewing financial matters?---I believe
so.

30 You believe so?---Yes.

You're certain about that?---Yes, I think so. Yes.

35 Were there any staff outside your division that provided financial management
support in the other divisions?---Yes. So just to explain there - - -

40 Firstly, how many? How many staff did that?---I'm not sure of the exact numbers
but each Directorate had what they called a Directorate accountant, so that's at
least four Directorate accountants, five including my Directorate, but she did other
work as well. Then the Parking Unit, for example, had some fairly high level
accounting staff that they did internally themselves. So I would say senior
financial staff members outside of Finance, there would have to be about 10
probably.

45 Why was that?---I think a couple of reasons. One was the devolved nature of some
of the functioning. So for example, procurement and tenders tended to be
generated out of the particular unit or Directorate. In the case of CPP, they tended
to run autonomously so therefore, if you like, almost created their own financial

set of data in relation to car parks that wasn't part of the wider macro Finance One system.

Was that an ideal set-up?---It had advantages and disadvantages.

5

Was it an ideal set-up?---Well, as I said, it had advantages for possibly the unit but had disadvantages in terms of creating silos of information.

Precisely?---Yes.

10

You don't want that, do you?---Not ideally.

No. So that's a major problem then, wasn't it, with this set-up?---I wouldn't necessarily describe it was a problem.

15

No?---No.

A disadvantage?---Yes, possibly a disadvantage.

20

Possible or definitely a disadvantage?---Well, as I said, it's got advantages and disadvantages so yes, you could say it has disadvantages.

You don't want to siloed effect, do you?---Well, I think it's well documented that the City structures were very siloed.

25

The question is, you don't want a siloed effect?---No, not ideally, yes, I agree.

Particularly in the area of Finance?---Yes, I would agree with that.

30

So whose idea was it to have these four Directorate accountants and a separate parking accountant or unit?---To answer the parking one initially, the parking - the CPP Parking Unit had always been autonomous from the City's Finance Unit, so you would have to go back literally decades in relation to that structure.

35

That doesn't necessarily make it right, does it?

MR BOURHILL: The question was whose idea was it, not whether it was right.

40

MR URQUHART: We have moved on. We can go back to that. That's not ideal, is it?---It can offer advantages to the particular unit but in terms of getting a consolidated macro view of finances, no.

So what did you do to change that, in your 14 years as a Director of Corporate Services?---13 years, but - - -

45

[10.45 am]

13?---The suggestion with regard to - to answer the question, I think there was a concerted effort by our Finance Unit to have more engagement with the Finance staff in CPP. So for example, a few years ago a senior financial analyst was employed to interrogate data at a much more vigorous level.

5

Did you do anything to change the set-up?---It was not my position to change the structure of another unit or Directorate.

Or suggest it to the CEO?---I don't recall having any particular discussions individually about CPP and the CEO, but to put that into context - - -

10

Would that therefore be the case that you did not?---No, that's not correct. If I could finish my answer - - -

You say you can't recall whether you spoke to a CEO about that. That being the case, is it therefore likely that you did not?---No, that's not the case. If I could finish my explanation - - -

15

Okay. Can you recall talking to a CEO about this?---Yes. It certainly arose in discussions we had back in probably 2015. I remember when we had a workshop of the Executive with Gary Stevenson and we discussed structure and we did discuss at some time the options regarding the parking business and we did discuss - put on the table various options, including having Parking as a separate Directorate and even at one stage there was thoughts later on of potentially Parking moving out of the Community and Commercial Directorate into the Corporate Directorate. So to answer your question, yes, it was raised at various stages between - from 2015.

20

25

But the status quo remained, did it not?---Correct.

30

Getting back now to my question, we will devote your answer to the four Directorate accountants and that set-up; whose idea was that?---I don't recall the original propagator of the idea. It came about as part of the 2015 restructure and I think possibly would have been the suggestion of most of the Directors, possibly. So just to explain, I think at the time at least two of those Directorates had some Finance assistance. So I think as part of the restructure, it was agreed by the Executive that the level, like the qualification level if you like, of the people doing those jobs would be elevated. So in effect, they moved from, let's say a Level 6 type role to possibly a Level 8 type role and that was an Executive decision.

35

40

Why were the Directorates saying they wanted this?---I think to provide additional analysis of financial information to assist the unit managers in particular with the budget process, to assist with procurement matters and the like.

Were they unhappy with the arrangement that had previously been in place?---Not that I'm aware.

45

No?---No.

Had some concerns?---None that I can recall specifically expressed to me.

5 Again, staying with the timeframe 2015-2018, did the City have a Chief Accountant?---Yes, Mr White. The term was Chief Accountant.

And a Finance Manager?---Yes, Mr Richards.

10 So Mr White and Mr Richards. Were these important roles in the financial management of the City?---Very important roles.

Did either of Mr White or Mr Richards hold professional accounting qualifications?---I think certainly Mr Richards held qualifications from the UK.

15

The equivalent of a certified public accountant?---I believe so.

Or certified practising accountant, rather?---Yes, I believe so. I think it was the - I can't recall the exact body in the UK but it was sort of the equivalent of the CPAs in Australia. Mr White, I'm not too sure on because he'd been at the City for a very long time and I never had the opportunity to see his credentials.

20

Wouldn't it be important that the Chief Accountant have such credentials?---Yes, I tend to agree with - yes, it's important that they have credentials, yes.

25

Specifically, either the equivalent of a certified practising certificate or a chartered accountant?---As I said, I'm not aware of his qualifications, so I can't speculate on what his qualifications are.

30

Or are not?---Yes. I honestly don't know.

Should have you known?---He'd been at the City for 30-odd years so he was very hard working, competent at his job, so - - -

35

So you know with some certainty that Mr Richards had the English equivalent of a CPA?---Yes, and the reason for that was partly because I was involved with the employment process.

Were you and he the only officers who had, to your knowledge, professional accounting qualifications?---No, there would have been others.

40

There would have been?---Yes - there is others. So you've got, and this is from memory now, there were a couple of officers in the Parking Unit that had, I think, the equivalent of CPA qualifications. There was the Senior Management Accountant who was responsible for the budget. I think she might have had chartered qualifications, but I can't be 100 per cent certain but she was certainly a qualified accountant, either CPA or chartered. The Systems Accountant was a

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long-serving CPA and I think there were possibly - certainly one and maybe two other members in Finance that had professional qualifications.

No-one had the title of Chief Financial Officer?---Correct.

5

In your time at the City of the Perth, so I'm not just talking about 2015-18 but from 2005, is that correct?---Correct.

10 So who had that role?---Okay. Well, there was no-one no specifically titled that but in our structure and looking at the work function of the person, you would have to say that the Finance Manager in effect was the Chief Financial Officer.

The Finance Manager?---Yes.

15 Who was?---Mr Richards, at the time of me leaving.

20 Do you see any benefit in a Local Government such as the City of Perth, bearing in mind its size, to have a dedicated and suitably qualified CFO?---I certainly do. I had been of the view for a period of time that the City should create that role and that that person should sit at the Executive table.

25 So what happened then to that? It never happened?---No. It had been discussed informally over, I guess, a period of time but I guess was overtaken by events of the period that you referred to which was, as I said, a very difficult working environment and hasn't eventuated.

30 Was it given the priority that it deserved?---I'm not sure about priority. Let's just say there were possibly other more urgent matters that needed the addressing of the Executive at the time.

They must have been pretty urgent?---I think the events of the period that you referred to are well and truly documented as to what the Executive had on its plate at the time.

35 You were here yesterday during some of Mr Nicolaou's evidence, weren't you?---That's correct.

You saw the bar charts?---Yes.

40 That were up on display on the screens?---Yes.

And you saw revenue expenditure?---Yes.

45 Those bar graphs?---Yes.

And the decrease in gap between revenue that was raised by the City and revenue expenditure?---Yes.

Over the course of financial years 2011/12 through to 17/18?---Yes.

5 Didn't that information cry out for a CFO?---That's an interesting question because

10 I know, that's why I asked it?---Those exact graphs I presented to Council at least
two, three years ago, that showed the exact scenario that were presented in those
graphs that John showed yesterday. So you would need to check the City records
but back in around 2016, I remember I had a briefing of Council, I think it was a
budget related briefing and I told Council at the time that they would have a deficit
15 budget by 2019 unless expenditure growth was restrained. Expenditure was
growing at about 6.6, 7 per cent per annum, revenue was growing at 4 per cent per
annum; you could easily work out that your surplus was going to evaporate over a
period of time. Council were advised of that by me years ago.

20 So you're saying in 2016?---You would need to check the City records, it would be
on our records at the City because it was presented in a PowerPoint presentation to
Council, I think around 2016.

And was that a Council meeting or briefing session, do you recall?---That was a
briefing session. It was either a briefing session or attached to the Finance and
Administration Committee meeting, I can't recall exactly.

25 So those matters that you raised in that briefing session, were they addressed?---I
think Council noted the scenarios but - to answer your question, addressed, no.
They weren't addressed at the time, no.

30 Did you specifically press though for the appointment of a CFO?---Not at that
time, no.

35 Was there a reason for that?---As I said, I think it was other matters on the time -
other priorities at the time and really, the decision on creating a role such as that
needed to have unilateral support across the Executive. I'm not exactly sure all the
Executive agreed with that view

[11.00 am]

40 Nevertheless, your view would carry some sway, would it not, being the Director
of Corporate Services?---I think my view would be put at the same level as the
views of any of the other Directors.

45 You're responsible for financial management, you're pushing for or you could have
pushed for a Chief Financial Officer?---Yes.

So clearly then your views would carry more sway than, say, the Director of the
Planning Unit?---Yes, I tend to agree with that, yes.

I've asked you about your working relationship with the CEOs, Gary Stevenson and Martin Mileham; what was your working relationship with Michael Jorgensen.

5 MR BOURHILL: Murray.

MR URQUHART: Sorry, Murray. My apologies, Murray?---So you're talking the current CEO.

10 That's right, not Michael, Murray.

MR BOURHILL: Can I ask how that - - -

COMMISSIONER: Sorry, you have an objection?

15

MR BOURHILL: Yes.

COMMISSIONER: Should I hear the objection in the absence of the witness or not?

20

MR BOURHILL: I don't think the objection will affect - - -

MR URQUHART: May I just approach my friend and see if we can resolve it?

25 COMMISSIONER: Thank you.

MR URQUHART: I won't be able to resolve it, sir.

COMMISSIONER: I see. I will hear the objection in the absence of the witness.
30 Mr Mianich, I will have you excused from the hearing room. Thank you, Madam Associate.

WITNESS WITHDREW.

35 MR BOURHILL: Commissioner, it's a fact that Mr Jorgensen didn't start until after the period the Inquiry is concerned with. In discussion with my learned friend, the reason he's asking the question is because he wants to take the witness to a letter written by Mr Jorgensen to Mr Mianich. My submission is that
40 whatever the working relationship between them was, it doesn't influence or affect what's in the letter. If he wants to raise issues in the letter, he should just raise the issues in the letter, or in relationship to the letter.

COMMISSIONER: Thank you, Mr Bourhill. Mr Urquhart, what do you say in response?

45

MR URQUHART: I wish to establish, sir, what the working relationship was like. If it was good, then therefore the matters raised in the letter would be

regarded as objective and impartial. If it was a bad working relationship, it might be suggested that there was/could be an agenda behind those matters raised by Mr Jorgensen. I expect the answer would be that it was good and then we move on.

5

COMMISSIONER: Thank you, Mr Urquhart. Do you wish to respond, Mr Bourhill?

MR BOURHILL: I don't think establishing whether the working relationship was good or bad answers the question whether there was an agenda behind the letter.

COMMISSIONER: It may or may not but it may be that Mr Urquhart's going to pursue that line of questioning to the point where it can be ascertained with some degree of certainty whether there was an agenda or not. I would expect him to do that, and if he does that, then it seems to me it's an appropriate line of questioning.

15

MR BOURHILL: I'm very happy with that.

COMMISSIONER: Thank you, Mr Bourhill. Mr Urquhart, you've heard what I've had to say.

20

MR URQUHART: Yes, sir.

COMMISSIONER: There's no need to respond to that. I will just have the witness brought back in the hearing room.

25

MR URQUHART: Thank you, Commissioner.

COMMISSIONER: Madam Associate, would you please bring Mr Mianich back into the hearing room. Mr Mianich, please resume your seat in the witness box

30

MR Robert David MIANICH, recalled on former oath:

COMMISSIONER: Mr Mianich, in your absence I heard an objection from your counsel, which was properly made. That has been resolved and I want to make it clear to you that your exclusion from the hearing room during that objection is no reflection on you whatsoever?---Okay, thanks.

35

Mr Urquhart.

40

MR URQUHART: Thank you very much, Commissioner.

So the question I asked you, Mr Mianich, was how would you describe your working relationship with Murray Jorgensen?---Okay, so obviously we are talking a much shorter timeframe. So Murray commenced in, I think, November. I think our relationship commenced okay. I think Murray probably was reliant on me for a fair bit of information as to past history at the City but I believe that relationship

45

probably changed a bit. I noted a sort of change in approach in approach from probably about January onwards, until obviously - I had my last day at the City working there was 12 March, so during the period January to March, hard to put in a word but I think it was different from when it commenced.

5

It was not unreasonable for him to rely on you for information regarding the past history of the City of Perth given the fact you'd been there for such a long time?---Yes, I thought that was reasonable, yes.

10 And am I right in saying that the responses you provided to him, he didn't regard as adequate?---You'd have to ask him that but at the time he didn't relay any concerns to me as to adequacy.

15 So would I be right in saying that your relationship with him was reasonable up until the time you received a certain letter from him?

MR BOURHILL: Sorry, that's not what he said.

COMMISSIONER: It's not the evidence, Mr Urquhart.

20

MR URQUHART: No.

25 I'm just trying to get a timeframe as to when it was that the relationship changed?---Okay. To assist you, Murray and I had discussions regularly from when I returned back from leave in January. That would have been around 7 January, somewhere around there, whatever the Monday is there. Murray presented to me a view that he had been informed that I wanted to leave the City, myself and another Director. I told him at the time that that wasn't my view and I'm not sure I could comment on the other Director, and those discussions took
30 place virtually over that first week that I came back to work. So that takes you to around mid-January and I detected at the time the relationship was a bit different. So that led into a process whereby Murray put in place a feedback process in relation to all the Directors. I think it was called a 360.

35 360 degree, yes?---Yes. So I can't remember the exact timing, you would have to check that but it probably was late January. So a 360 degree feedback was done on all Directors. Those results were collated in February and being a consultant, Murray engaged additional consultants to assist him with particular aspects. So a finance consultant was engaged and a HR consultant was engaged. So I met with
40 the HR consultant on 27 February to give me the feedback from the 360 degree feedback form, or assessment. I've just explained, all the managers commented on that. The feedback provided to me was generally positive. The only negative feedback related to innovation. There was a view amongst the Executive that I was not innovative enough. At that meeting, when Alasdair Malloch provided me
45 the feedback, he also suggested to me at the conclusion of the meeting, "Mr Mianich, have you considered exiting the business", to which I replied I was less than two months into a five year contract and I had no intention of exiting the

business. He then said that, "As you're aware, we could commence performance management matters with yourself." That was the end of that meeting on 27 February and on 12 March, Murray invited me to a meeting in his office at 4 pm to discuss - I think the title was strategic HR matters. In the meeting was Malloch and Murray and they gave me a package of documents which I took home and had a look at a number of days later. Does that assist you?

That's the letter dated 12 March 2019?---That's it, correct.

10 Upon receipt of that letter at least, the relationship changed markedly?---Yes.

And you're aware that letter and the attachments was some of the material that was provided to your legal representatives last week?---Yes.

15 Have you had an opportunity of looking at that material?---Yes, I have.

In that letter Mr Jorgensen requested explanation from you regarding a number of matters that he had raised, do you remember that?---Correct.

20 And did you provide any explanations to Mr Jorgensen?---Okay. So firstly, the next day - - -

Could you just answer that question first?---Yes, I'm trying to.

25 It's either yes or no and we will go from there?---Sorry, what was your question again?

Did you provide any explanations to Mr Jorgensen to the questions that - any of the questions that he raised in that letter?---No.

30 I'm going to give you the opportunity today of providing answers to a number of those matters that he's raised, okay?---Yes.

35 Do you agree that your primary function as a Director of Corporate Services was to develop and maintain a financially sustainable and effective operation within the City of Perth?---That would have been one of them.

Yes. They are not my words, that's the Position Description?---Yes, the Position Description has a lot of words in it as well.

40 Just concentrating on those words, did you achieve that?---The financial sustainability of the City had its challenges and I certainly was aware of it, as I explained, with regard to that briefing I gave to Councillors a number of years ago, and I think the reasons - there were enormous pressures being put on the financial sustainability of the City. It's been well documented that parking revenue was flat, flatlined, employee costs had increased. In fact, generally, as I mentioned previously, costs had increased, so that questioned sustainability

[11.15 am]

5 I can assure you, Mr Mianich, I'm going to ask you about those two areas in a little more detail but would I be able to get an answer to my question?---And your question was?

10 My question was, did you achieve the development and maintenance of a financially sustainable and effective operation within the City of Perth?---Yes, I think relatively speaking, the City was a lot more sustainable than many other Local Governments.

So you say yes, relatively speaking?---Relatively speaking.

15 That's so notwithstanding the fact the City's operating surpluses have been noticeably shrinking in the seven years to 2018?---Yes. So you need to put that into perspective. Councils aren't there to make massive operating surpluses, Councils are there to raise rates and use that money for Community Services. So
20 the City's surpluses going back, say, seven to 10 years, were somewhere in the vicinity of \$25 million per annum, largely - - -

I can tell you exactly, \$26.1 million in 2012/13, shrinking steadily to \$8.2 million in 2017/18?---That sounds correct. So - - -

25 You would have heard those figures yesterday?---I've seen those figures before, yes.

30 So you maintain though your answer, notwithstanding that fact?---Yes, because as I just said, it is not the function of a Local Government to be making significant surpluses at the cost of ratepayers.

35 So are you saying it's not necessarily a cause of concern that there's been that dramatic decrease in revenue?---No, I didn't say that. You've got a couple of rungs. You've gone to revenue now, whereas previously you were talking surplus.

I'm just staying with surplus, you know what I mean, surplus?---Hang on minute, there's a big difference between surplus and revenue.

40 All right, surplus. That's not a concern?---Which one are you talking about?

That it's dropped, the surplus has dropped from \$26.1 million in 12/13 to \$8.2 million in 17/18?---Yes, that certainly was a concern to me, yes.

45 So you still maintain you developed and were maintaining a financially sustainable and effective operation?---Yes, I do because most Local Governments in the State would be very happy with an \$8 million surplus.

Most Local Governments would be very happy with the huge revenue that the City of Perth was getting from its parking?---That's true. That's true, so - - -

5 And the City of Perth stood alone in that regard, didn't it?---Yes, but parking revenue contributed about \$70-odd million per annum.

10 We are going to get to that, I can assure you. Human Resources, you've already said that you were responsible for overseeing the Human Resources Unit?---Correct.

15 And the Inquiry has heard evidence that 41 per cent of the City's total expenditure growth from 11/12 to 17/18 was due to staffing costs. That sounds about right, doesn't it?---Was that a figure produced yesterday?

20 Yes?---Okay, I'll believe that, yes.

25 And direct staff expenditure increased from \$53.4 million to \$75.4 million over that period?---That sounds about right.

30 And was a full-time equivalent cap introduced in late 2016, does that sound about right to you?---There have been attempts to introduce various caps on employee numbers.

35 Was that done in late 2016?---I don't recall the exact date but that could be correct.

40 Given the fact that the Director of Corporate Services is responsible for Human Resources and Finance, do you agree it's essential that this director knows at all times the number of FTEs at the City of Perth?---Yes. You need to put that question in perspective.

45 I'm just asking you, do you agree it was essential?---I don't think it's essential to know within the exact number each day what the FTE numbers are at the City, no.

50 Why not?---Because it might vary between - you know, if it varies by five, it's not material.

55 Did you have that knowledge when you were a Director, of the number of FTE staff at the City of Perth?---Just to explain - yes, I did.

60 What, at all times?---Not at all times, no. So just to explain - - -

65 No, just wait. Could you have readily attained the exact number of FTEs if requested to do so?---Yes, it could be obtained but it did take some time to get the information because the information sat in two different systems. So if I could just explain - - -

70 Why did it sit in two different systems?---So just how to explain how the numbers

were accumulated, so - - -

5 Could you just explain it was in two different systems?---Okay. The HR payroll system was a discrete system from the Finance One finance system. So what you had was that, in preparing the budget within the Finance One accounting system, each unit would develop, as part of the budget packs, a detailed analysis of employees by title, name, dollar amount and FTE portion. So each unit could tell you at the beginning of the year what their total FTE was, what their budget was and that accumulated to the City's total number that you referred to of in the 10 \$75-odd million. I think the most recent budget was in the vicinity of 78. So at a point in time, i.e. when the budget started, the City knew exactly what that was based on in terms of FTE numbers, it knew where the positions were and the total dollars.

15 So at one point in time in the year?---At one point in time in the year, yes.

You knew?---Yes. Now - - -

20 What about the other 364 days?---It was getting to that.

25 Good?---So what happens at that point in time is - and then those people were paid through the payroll system, through Empower, so each fortnight you may have, say, 730-odd people paid and the total actual working number may have been, say, 760. Where the problems became apparent is where casual contract staff were used to supplement full-time equivalent employee staff and of course, the data for those two sets of employees or staff members, sat in two different accounting systems. So you had the Empower system which could tell you at any point in time exactly how many staff members were paid on a fortnightly basis, no 30 problems in getting that data. Where the problems really became apparent was getting out of our creditors system the exact details of the contractors who were employed to supplement the employees that had resigned.

35 So why weren't those problems addressed?---They were being addressed and Finance had in fact recently changed the system there with regard to the allocation of costs, but to put it into perspective - - -

Hold on. Was this just another work in progress, was it?---No, I think the work had largely been completed.

40 Had it been completed as of the beginning of this year?---Yes, I believe so. So just to put that into perspective in terms of your question on numbers, roughly there might have been 30 staff members employed on a contract basis and our payroll would have shown, say, 730 or something. So the total number is about 760. So at any one point in time it was very, very difficult to get an instantaneous number 45 on the exact number of head count, if you like, that was present in the building at an instant in time. Sorry that's a very long explanation, but that may assist.

That was a deficiency in the system, wasn't it?---It was an outcome of having discrete computer systems to report information.

5 It was a deficiency in the system, wasn't it?---I'm not sure I would use the word "deficiency", I would just say it was an outcome.

A deficient and unsatisfactory outcome?---They are not my words, they are yours.

10 I know, but do you agree with them?---No.

I just want to read from a portion of that letter that Mr Jorgensen sent to you on 12 March of this year?---Okay.

15 Sir, it's at 3.1276, TRIM number 21535. Madam Associate, you won't need to bring it up on the screen, I hope. Paragraph 12:

20 *Despite requests by both the Commissioners and myself for the accurate full-time equivalent staff numbers, these have not been supplied in a timely fashion. We note that you have responded to such a request by providing FTE staff numbers with a stated margin or error of "plus or minus 10 or so employees".*

25 Was that your response to the request from the Commissioners and Mr Jorgensen?---I don't recall the Commissioners ever asking me on staff numbers. Certainly Murray did.

Okay, let's stay with him then?---Yes.

30 Was that your response to him?---I don't recall those exact words but as I've alluded to you, I think I said five, was it, earlier?

He does, because he's quoted you, saying "plus or minus 10"?---As I said, I don't recall those words.

35 But that sounds about right from the system that you've described?---10 seems high to me. As I say said, I think I answered your question earlier, I said around five, a difference of around five. So you need to put that in a material concept of 760 staff, you're talking about a difference in number of, say, five at an instant in time.

40 But if you're response to Mr Jorgensen was "plus or minus 10 or so employees", would you accept that your response was inadequate?---No.

45 No?---I don't even accept they are my words.

But if they were?---But I don't accept them, no.

But if they were your words?---They weren't my words.

5 Yes, if they were - if, if they were, Mr Mianich, that answer would be inadequate, would it not, that a CEO has asked you for an accurate number of FTE staff and that response is given? Let's just say that as a hypothetical, that would be an inadequate response, would it not?

MR BOURHILL: I object.

10 COMMISSIONER: Yes. On what basis do you object?

MR BOURHILL: The witness has just spent a considerable period of time explaining why it would take some time to obtain an accurate number and therefore to suggest that an answer that says "plus or minus 10" is inadequate would depend entirely on the circumstances in which the question is asked, whether it's asked at a particular point in time, whether it's asked with four days notice and we don't know that.

20 COMMISSIONER: I accept that and I will give it appropriate probative value.

MR BOURHILL: Thank you, sir.

[11.30 am]

25 MR URQUHART: So, if that was an answer that was given and sufficient time was given for the response, it wouldn't be adequate, would it?---I'm an accountant so I tend to look at things in terms of materiality.

30 Just an answer, yes or no?---I don't think it's as simple as a yes or no.

Are you saying it's adequate?---Sorry, I don't understand your question.

35 Exactly that, is it an adequate answer?---Based on the systems that we had in place, as I've already explained, to provide an accurate number would have taken a bit of time.

How long?---I think certainly days.

40 Days?---Days, yes.

Days?---Yes.

45 Because of the software that had been set up?---As I explained previously - - -

Yes, I know. Is that an accurate summation of it?---It's not so much software.

Or the system?---That's a contributing reason but what needed to happen is to get an accurate assessment, you would need to go to the Directorate accountants to get what their current contract staff were and of course, that could change on an hourly basis almost.

5

Siloed effect, isn't it?---They are your words.

Well, it is, isn't it? It's the problems with the siloed effect, given your answer?---It's an outcome. It's one of those outcomes.

10

It's a problem, isn't it?---It's not - it's far from ideal.

That makes it a problem, doesn't it?---Not necessarily.

15

Really?---No.

You wouldn't accept that it was a problem that it would take you days to provide an answer to what seems to be a relatively straightforward question?---But what - - -

20

Can I have an answer to that?---Yes, I'm trying to answer your question.

I'm going to stop you if you're not going to answer it?---Well, if - - -

25

It's a very discrete, succinct question?---I'm trying to get to the answer. So in terms of materiality, if I replied to the CEO the number was 750 and four days later the assessment was done and the number was 753, what is the issue? I don't really see what the issue is.

30

Is it a problem that it would take you days to provide an answer to this question?---It was far from ideal, but that's the system I was working with.

You won't concede that that was a problem?---No. From a materiality aspect, it was not a material issue to running the City.

35

So this is the system that you were working with, but you had oversight of IT, didn't you?---Oversight, correct.

And Data and Information?---Correct.

40

We are going to have a break soon but just before we do, I've read your résumé in which you state that you have "the ability to use relevant technology where necessary"; was that accurate?---That's - I don't tend to make up statements in my résumé.

45

So that's accurate?---I believe so.

And you have such an ability?---I believe so.

5 But you didn't have a software program in place that would provide accurate staffing numbers at any one time?---That was a work in progress. So the HR Unit were developing a Human Resources information system which would have solved the issue of producing realtime FTE numbers.

10 And when was this starting to be introduced?---Look, you would have to check whether it's in place now but certainly at my time when I left, it was a work in progress. The software provider had been selected and it was in the process of being implemented.

And has it taken you 13 years?---To - - -

15 MR BOURHILL: Sorry, I object to that question.

COMMISSIONER: I think that question needs to be put slightly differently. It needs to be broken down, Mr Urquhart.

20 MR URQUHART: You're the Director of Corporate Services in November of 2005, you only started addressing this issue relatively late in your time there, is that right?

25 MR BOURHILL: I object.

MR URQUHART: I said "is that right", I hadn't put a proposition to him.

MR BOURHILL: There is no evidence that there was a problem.

30 COMMISSIONER: A question is being asked in an open-ended way, Mr Bourhill. I'm going to allow it.

35 WITNESS: You might have to repeat your question. Sorry, but could you repeat that?

40 MR URQUHART: To address this issue of being able to accurately provide FTE staff numbers in a timely fashion, it took you towards the end of your position, your time as Director of Corporate Services, is that right?---There had been a series of projects done to produce an enterprise resource solution for the City which would have produced coordinated - much more coordinated data.

I'm just interested in this particular matter?---It had been a long term issue, yes.

45 And it was only addressed towards the end of your time at the City of Perth?---It was to be addressed as part of the implementation of the HRIS system.

So is the answer to my question yes?---I'm just reflecting back on your question.

Yes, I guess I can live with that, yes.

COMMISSIONER: Mr Urquhart, now might be a convenient time to have the morning adjournment.

5

MR URQUHART: Yes, sir.

COMMISSIONER: I will adjourn for 15 minutes.

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WITNESS WITHDREW

(Short adjournment)

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HEARING RECOMMENCED AT 11.53 AM

MR Robert David MIANICH, recalled on former oath:

5 COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

10 Mr Mianich, I want to talk now about, as I said I would, the staffing levels at the City of Perth over the course of a number of years. Madam Associate, if we could just have a look, please, at 3.1484, TRIM number, sir, 25087.

COMMISSIONER: Thank you.

15 MR URQUHART: Mr Mianich, I expect these two graphs would be familiar to you, seeing that you were present during the course of Mr Nicolaou's evidence yesterday. I just want to draw your attention to the bar graph on the left-hand side. I think you've already agreed that there was an upward trend on employee costs and contract staff for the City over that seven year period, 11/12 through to 17/18
20 and we can see that demonstrated in the bar graph on the far left-hand side there, do you see that?---You're referring to the "Staff" column?

Yes?---Yes.

25 And then also it could be supplemented by the column relating to "Contractors" you see on the far right-hand side?---Yes.

You were overseeing these staff increases, were you not?---I'm not sure the word "overseeing". I've explained how the numbers were put together.

30 Were you aware of these staff increases?---I was aware of the increases, yes, over a period of time.

35 Did you put in place any controls to manage these staff increases?---Yes. Various controls were put in place and you've already referred to one in terms of the cap on FTEs. It needs to be noted that - - -

40 Hold on. Any other controls apart from caps?---There were regular discussions at Financial Management Task Force and budget meetings with regard to staffing numbers. I know it was a matter of interest .

I'm sure it was. It should have, shouldn't have it?---Most certainly.

45 And not just an interest, but a cause for some concern?---Well, as I was alluding to, there were various reasons for that. What you have there is not so much - - -

Am I right then, that it was a cause for some concern? If it wasn't, it wasn't your

concern, that's fine, we will move on?---No.

Was it of concern to you?---If I could have the opportunity to comment.

5 Was it of concern to you? You don't comment, you get to answer my questions.
Was it of concern to you?---Yes, the matter was concerning. You're referring to - -
-

10 And so - - -?--- - - - staff numbers, these are actual dollars, not staff numbers.

But of course, it means the same thing, doesn't it?---Well, no.

Let me finish. If there is an increase in dollars, there is an increase in staff
numbers?

15 MR Bourhill: Objection.

MR URQUHART: I'm asking him as to whether he agrees with that, he can or
not. Are you saying he can't answer that question?

20 COMMISSIONER: Just - - -

MR URQUHART: Sorry, sir.

25 COMMISSIONER: Please don't do this across the Bar table. I've heard the
objection, I understand the objection. If the question is put more precisely, it will
not be problematic. Please continue.

30 MR URQUHART: There was an increase in staff numbers over this
time?---Correct, so I - - -

35 That also reflected an increase in staffing costs?---Correct, but if I can just explain,
these numbers here in terms of dollars, for example, would including about \$7
million in termination payments to staff over a four year period. So to answer your
question in terms of numbers and dollars, in any analysis that I've presented to
Council, I've always excluded the termination payments and I think it's possibly a
little misleading to present staff cost numbers - - -

40 Okay, we will move on from that?--- - - - without excluding, there were one-off
termination costs.

45 There were regular discussions, you've said, regarding staffing numbers and I
gather those discussions arose because of concerns that you and others had about
the increase in staffing numbers, yes?---Yes.

So what then was done about it?---We have already touched on that to some
extent. Largely the control was put in place that at various times from 2016

onwards, a regime was put in place whereby the request for an additional staff member had to go to the weekly Executive meeting of the Executive, the ELG, and it was discussed at those meetings and ultimately the decision was up to the Executive and the CEO as to whether there was enough justification, if you like, to substantiate an additional staff request. So the process was, the form identified the position, and this was for all vacancies, this process was put in place as every vacant position came up, it was interrogated by the Executive as to whether there was a necessity to replace that position

10 [12 noon]

Was it effective?---I believe it certainly brought the Executive's attention to staff numbers and the necessity for all positions.

15 COMMISSIONER: Just stop there, Mr Urquhart. The question was, was it effective, and I would like an answer to that, please?---Yes, I believe it was effective.

Thank you.

20

MR URQUHART: I will get you to look at the second graph there up on the screen and ask you to pay attention to the orange line which reflects the "City of Perth plus contractors", do you see that? I want you to pay attention to a timeframe of financial year ending 17 and 18, do you see that?---Yes.

25

I will ask you that question again, was it effective?---As I've already explained, the numbers that have gone into that line graph have come from the bar chart which includes termination payments. So comparing to an index that would exclude termination payments doesn't seem to be a fair basis because obviously the City of Perth number is going to be higher.

30

I will stop you there, Mr Mianich. I want you to look at the purple line and see how it's relatively straight, do you see there, right at the end?---Yes - well, it actually declines at the end.

35

Declines even?---Yes.

But look when you see the orange line which includes the cost of contractors, it continues to rise?---Yes.

40

So that strategy that you've mentioned, was it effective in light of that data you see in front of you?---I think it was effective in certainly bringing to the attention of the Executive the numbers involved.

45

Was it effective in reducing the costs of staffing, including the costs of contractors?---Based on that data there, no but I actually think, as I said before, the data includes some material costs that are termination payments that should be

excluded from the analysis.

5 Mr Mianich, with respect to that part of that line graph I'm drawing your attention to, termination payments are not a particularly relevant factor, are they?---I disagree.

Why?---Because as I said, the quantum of termination payments was something like \$7 million.

10 But it would be reflected in the purple line?---Yes, that's correct.

Thank you?---That's correct.

15 COMMISSIONER: If we take - if we look at the X axis for the moment, that is the bottom axis, if we look at the financial year ending 2017 and you look upwards to those two lines, the orange and the purple, you can see that one, as you say, the purple one, goes downwards?---Yes.

20 And the orange one goes upwards to a point where they both sit above financial year 17 on the X axis. If I assume that the purple line includes termination payments?---It would appear so.

Let's assume that for the purpose of this question?---Yes.

25 If you took those termination payments out, then the purple line, it would seem to me, would decline at an even sharper rate, wouldn't it?---I would speculate that the purple line would get closer to those grey lines.

30 So it would decline at a sharper rate?---Yes.

Thank you. Mr Urquhart.

MR URQUHART: Thank you, sir.

35 Would one explanation be, or one possible explanation be for that discrepancy between the orange line and the purple line right at the end there, once the purple line plateaus, is one explanation that clearly the City was making more use of contractors in that time?---I think you could draw that conclusion from the data but what I would question is, what were the contractors working on? So for example,
40 in 2018, there may have been a particular need to employ contractors at the City to perform, say, a capital project or whatever, which may have resulted in a spike in contract labour.

45 And another explanation for a spike in contract labour might be that if a FTE staff member wasn't replaced, or a position that was requested by whatever Directorate it was, was not advertised, then that work could have been allocated to a contractor?---Correct. I suspect it's a combination of those reasons, but I mean, to

be fair, you're showing me a graph that this is the first time I've seen a graph of data - yesterday I was at the back of the room, I couldn't see the graphs properly so, I would like to interrogate the data further if I could.

5 Wasn't this sort of analysis done by the City in your time?---We obviously produced data on numbers and costs, yes. I don't think we did too much comparison as Allens have done here with regard to indexes, et cetera.

Why not?---I'm not sure it was particularly useful.

10

Really?---Well, economists like producing various sets of numbers, but - - -

And you were concerned about staffing numbers?---And dollars.

15 Yes?---Yes.

So wouldn't something like this be of assistance?---Yes. In terms of, you need to make sure that the data that is fed into those graphs is based on a comparable set of data to the indexes. I'm not sure it is in this case.

20

The City of Perth would have been able do that if it wanted to?---Yes - I'm not sure.

You're not sure?---No.

25

Why aren't you sure?---I'm not sure we have got the same access to data to what Allen Consulting had.

30 Allen Consulting got their data from the City of Perth?---They wouldn't have got these comparable indexes from the City of Perth.

Apart from that?---That's what you're indicating.

No. With respect to - - -?---That wasn't clear.

35

40 With respect to the data that ACIL Allen used for its graphs and material that related to the City of Perth, it was all obtained from the City of Perth?---Yes. I understand that but it's obvious to me that they did not dig down to another level of detail. So for example, as I've already explained, it includes significant termination payments which aren't relevant.

Mr Mianich, the City of Perth when you were there, didn't even do the detail that appears here?---That's not correct.

45 I thought you said that you didn't?---No, that's not correct.

I thought you said that the City of Perth didn't prepare data like this?---We

presented data to Council on staff costs in particular, because Council were asking on staff costs and as I've already explained, I was careful to make sure that the data bases were on a comparable basis, so therefore in analysis provided to Council, I seem to recall we excluded material termination payments because it biased the data to higher cost.

5 Did you present something like this to Council?---Left-hand side, yes; right-hand side, no.

10 Would not the right-hand side be invaluable in what you say you were trying to get across to Council?---I don't know about invaluable. You would need to ask Council that. Council never requested me to provide that information.

15 I'm asking you?---Sorry, can you repeat your question?

That the graph that appears on the right-hand side would have been of great assistance in your submissions to Council about the increase in staffing levels and the concerns that you had?---It could have been information that could have been provided but as - - -

20 I know it could have been but it would it have been of considerable assistance?---I don't think considerable assistance, no.

25 Why not, because you're using comparisons?---If you let me explain, which I've already done, it would appear that on a comparable basis, the purple line would have been closer to the grey line. So unfortunately, you've lobbed graphs on me in here that is literally the first time I've seen them.

30 You saw these yesterday?---Well as I've said, I was at the back of the room, I couldn't see the graphs clearly. I think that's a bit unfair.

All right. Have you finished your answer?---Yes.

35 Your evidence has been that the termination payments amounted to a figure of some \$8 million?---I think I said 7.

All right, \$7 million, and what years are you relying on there?---Just to explain - - -

40 No, just what years. What years are you saying there, that's all?---Well - - -

If you listen to the question, Mr Mianich, we can get through this a lot quicker. What years are you referring to there?---I believe from the restructure, so 2015 onwards. So you're talking what, four financial years.

45 Bear with me for one moment, please. So whether you have termination payments there or not, would not a graph that we see on the left-hand side, with comparisons between other WA Local Governments, and the State Government - - -

COMMISSIONER: On the right-hand side.

5 MR URQUHART: Sorry, on the right-hand side, my apologies, with Local Governments in WA, Local Governments in Australia and the State Government, would be a good way of getting your message across to Council?---Yes. The message may be different because as I said, from 2015, I suspect, and you're asking me to comment on a graph prepared by someone else - - -

10 I'm not asking you about this, a graph like that. I know you're going to harp on about termination payments, I accept all that - - -?---Yes, if you let me finish the answer - - -

15 No, let me finish. Mr Mianich, a graph that you would have presented would have been an effective way of getting your message across like this. It's a yes or a no?---It's not that quite simple because the Perth number would have been very close to the grey number, probably.

[12.15 pm]

20 Really?---It certainly would have been further down the axis and as the Commissioner has commented, closer to the grey so therefore, in terms of getting the message through to Council, it would have been, yes, the City of Perth's wages cost was - I would concede is higher than the Local Government or whatever that next grey number is, State Government, is it - is higher but the point I'm making is that that gap is believe is a little misleading.

25 What about the Local Government of WA, so that's the middle grey line there?---That's the bottom one, isn't it?

30 That's Local Government Australia?---Local Government WA, yes, got you.

35 Even on your revised estimate, it would still be well above that, wouldn't it?---It would be above it, I don't know about well above it, but it probably would be above, but you're asking me to speculate on numbers.

Yes. You don't agree?---I generally don't speculate on numbers.

40 In your time at the City, and we will just concentrate on 2015-2018, did you make any attempt to reduce the use of contractors that were supplementing the City's workforce?---Yes, we did.

I'm asking if you did?---Well, as part of the Executive I did, yes.

45 What did you do?---What we did and what I did - - -

No, I want to know what you did, not we. If I wanted to ask about we, I'll ask. I

want to know what you did?---Okay. Data was collected and I emphasise, I didn't collect the data, the Finance Unit would have, on detailed information on every major contractor used by name and that information was provided to Executive as part of the budget process. So what happened was, the Executive, and it was led by the CEO, would go through the list, trying to - and interrogating Directors as to, "Why are you using this contractor, what are they doing, is there scope to reduce expenditure in this area." That process probably was part of the budget process for at least the last two years.

10 So were these efforts and the collation of data successful in reducing the use of contractors?---They were certainly successful in bringing Directors' attention - focusing Directors' attention on contract cost. As you can see from your graph there on the left-hand side, costs - - -

15 I've moved on from the graphs, we can take that down now, thank you, Madam Associate. I want to know whether it was effective in reducing the cost of contractors, that's all?---In places, yes.

20 But in the main, no?---Well, it would depend on the purpose of the contractors. So for example, during that period of time, the City I think initiated additional street cleaning services which would have been a contract cost. So that was due to the cleanliness of the main streets in Perth, so there was an example whereby, and we are talking hundreds of thousands of dollars being spent on contracting in the period that you've referred to, that wasn't in the previous period. So I think you need to look at the purpose for which the contractors have been used.

25 Do you say that the increase in staffing numbers at the City of Perth - we will stay with the years 2015-2018 - was a responsible increase?---I don't fully understand your word "responsible".

30 Exactly that, was it responsible?---Well, as I've explained the regime that was in place, there was certainly interrogation of each position as it came up in the later years of the period that you referred to.

35 So is your answer therefore yes or no?---Responsible? I think by implication, each of those later positions would have had much discussion at the Executive table, so if that's responsible, I guess the answer is yes.

40 Was sufficient attention given by the financial services to this increase in staffing numbers?---I believe so.

Something raised by Mr Nicolaou - you weren't present for the entirety of Mr Nicolaou's evidence, were you?---Correct.

45 Mr Nicolaou made this observation, that it was an issue that the City of Perth could not provide actual staff numbers, either by FTEs or actual head count. He has said that there was no Centralised Workforce Management Function in place; do you

accept that?---No, incorrect statement.

No? You maintain that there was a centralised - - -?---Okay - - -

5 No, let me finish - a Centralised Workforce Management Function?---The City had a Workforce Plan.

Do you say it was a Centralised Workforce Management Plan?---Well, you said function before, now you're saying plan.

10

Either?---We had a workforce - - -

Because there's going to be no function if there's not a plan, is there?---Well, if I can explain.

15

Thank you?---I've explained how we came up with the FTE numbers so it's not a correct statement to say the City did not have FTE numbers or head count numbers because those numbers were readily available out of the City's payroll system on a fortnightly, or any basis.

20

Was there a Centralised Workforce Management Plan?---A Centralised Workforce Management Plan? There was no document titled that, or a function titled that.

Was there a document titled - that reflected that?---Yes.

25

What was that?---A Workforce Plan.

A Workforce Plan?---Yes.

30

Was that centralised?---No, it didn't have the word "centralised" in it.

Was it a centralised Workforce Plan?---It covered the entire City, yes.

35

Was there just the one?---Yes. So as part of the integrated planning and reporting framework, the City annually produced a Workforce Plan. So if you're defining that as a plan, that was the plan.

40

Did it work?---It was very high level, I've got to say, but generally the numbers were pretty accurate in terms of the actual outcomes for the year, if you go back and look at the past plans.

So therefore you say it did work?---I said, yes, the numbers proved to be reasonably accurate.

45

Did it work?---Work in terms of what?

Exactly that, did it work? Did the plan work?

MR Bourhill: With respect, I object.

5 COMMISSIONER: Yes. I will hear this objection in the absence of the witness.
Sorry, Mr Mianich, I will have you excused from the hearing room.

WITNESS WITHDREW.

10 COMMISSIONER: Yes, Mr Bourhill.

MR Bourhill: The word "work" can mean all sorts of things. To ask if something worked obviously depends on what its function is. The witness has answered the question, there was a plan, it had a number of expected and the numbers were correct. To then say, "Did it work" - - -

15 MR URQUHART: I will stop my learned friend there. I accept that. I will be more precise with my question, thank you, sir, if that would assist.

20 COMMISSIONER: It would assist because that objection is well made. I will have the witness back in, thank you, Madam Associate. Mr Mianich, please resume your seat in the witness box.

MR Robert David MIANICH, recalled on former oath:

25 COMMISSIONER: Mr Mianich, in your absence I heard an objection by your counsel. The matter has been resolved satisfactorily. Your exclusion from the hearing room is no reflection on you?---Okay, thank you.

Mr Urquhart.

30 MR URQUHART: Thank you, sir.

35 The question, Mr Mianich, is this: did this plan work in the sense that it reduced staff costs?---No. As you can see, staff costs were increasing but that is probably not the primary objective of the plan.

40 Why not?---Well, if you refer to the guidelines in relation to the Integrated Planning Framework, the purpose of a Workforce Plan is largely for the Council to reflect in its workforce planning what it needs to achieve in its Corporate Business Plan. So there may be very valid reasons why a Council could see employee costs going up. Say, for example, they are acquiring a new service or they needed to do a new function so that may be articulated in the Corporate Business Plan and therefore you would see the Workforce Plan will say, "We need an additional three or four staff." So that's the purpose of the plan.

45 Mr Mianich, if your concern was the increase in staff levels, should not the plan have had an objective of reducing staff costs?---Not necessarily.

Why?---Because I've just explained - - -

But should it not have been that objective as well?---Not necessarily.

5

But you had a concern about increasing staff costs?---Yes.

Why could not this plan have an objective of reducing those staff costs that you were concerned about?---Well, we were, in effect, doing that as part of the regime I mentioned with regard to the interrogation of each position as it came up, but - - -

10

I accept all that?--- - - - the overall demand for services, so for example, take the library, for example, during this period, Council made a decision to build the library. The direct operating impact of that was to double the operating costs of the library. So the employee costs in the library doubled overnight when the City of Perth opened its new library. That was during this period that you're referring to.

15

[12.30 pm]

20

So this was a Workforce Management Plan that did not have as its objective, managing the staff costs?

MR BOURHILL: How is that?

25

COMMISSIONER: It's the way in which the question is asked, because it assumes evidence that was not given. That's the objection, if I'm right, Mr Bourhill?

MR BOURHILL: Yes, thank you.

30

MR URQUHART: So to more precise, this was a Workforce Management Plan introduced in an environment where there were concerns about the increase in staff costs, yet it did not have as an objective a plan to reduce those staff costs?---The primary motivation for introducing the Workforce Plan was coming out of the Integrated Planning and Reporting Framework. That was the primary objective.

35

So is the answer to my question yes or no?---Could you repeat your question, please?

40

Look, Mr Mianich, I don't know if you're aware but I have been doing this now for many, many, many, many, many weeks and I get increasingly frustrated at the need to repeat the question that I have asked that most of the time just requires a yes or no answer and I don't get a yes or no answer?---Well - - -

45

No, let me finish. I am explaining to you: I get a non-responsive, evasive answer to the question and then when I ask the witness to answer the question, they want

me to repeat the question again. Okay?---I'm trying to answer your questions but you are putting words into my mouth.

5 No, I'm not. I'm just simply asking you to answer the question?---Okay, and I'm entitled to ask you to repeat the question.

All right, but - - -

10 COMMISSIONER: Can I just get you to stop there, please, Mr Urquhart. I may be of some assistance here. Mr Mianich, I understand your concerns and your frustrations but there is a process at work here and the process is that Counsel
15 Assisting will ask you a question. That may, when it is asked, cause you to think of a number of things and you may feel it's appropriate to inform the Inquiry about those matters, but what I would like you to do in the first instance is make sure that
20 you understand the question, and if you do understand the question, then to answer that question, to give a responsive answer. If you don't understand the question, then you should make that plain to Counsel Assisting and the question will be put in a way that you will understand it. If questions are asked and you are giving
25 responsive answers, as you have on many occasions in the course of the hearing today, then there will be no difficulty with that. If counsel asks you a question and you are giving a responsive answer and Counsel Assisting cuts you off on the basis that you are not giving a responsive answer, then your counsel will object and I
30 will hear the objection, sometimes in your absence, sometimes not. It's not always necessary to hear the objection in your absence. If a question is asked in an unfair way, and that has occurred once or twice so far, maybe more, but in any event, your counsel will object and I will hear the objection, either in your absence or with you present and rule on it. So there is a process in play here but the main thing that I would like you to do, and it's not a criticism of you, is I would like you to listen carefully to the questions and answer them as best you can, that is, answer the question. All right?---Thanks, Commissioner. I'm endeavouring to do that.

I don't doubt that for a moment but all I'm asking you to do is perhaps pay a little more attention to the question that's asked of you when it's asked of you. All right?---Okay, thank you.

35 And if you do need a question repeated, ask for it to be repeated but not in a situation where the question is simple and you've not answered it and then you ask for it to be repeated. That can cause frustration with all counsel from time to time?---Yes, but some of the questions being asked aren't a simple yes or no.

40 Yes, and I can judge that as well as you can. Okay?---Okay, thank you.

That's all right. It's my pleasure. Mr Urquhart.

45 MR URQUHART: Thank you, sir.

Mr Mianich, the question is this, and I might not get the precise wording right: am

I right in saying that this Centralised Workforce Management Plan which was introduced in an environment where you had concerns about increasing staff levels, did not have an objective in it to reduce those increased staffing levels?---You've used the term "centralised", it was a Workforce Plan so I've probably been through that but the answer to your question is, no, it wasn't the objective in the City's Workforce Plan as an objective to reduce - - -

That's all I wanted to know?---Okay, thank you.

10 COMMISSIONER: Thank you, Mr Mianich.

MR URQUHART: There is a section in the Local Government Act, it's section 5.38, you may not know precisely the number of the section but I hope you know this provision in the Local Government Act. It requires that each staff member of over 12 months service has at least one Performance Review annually. Were you aware of that provision in the Local Government Act?---I was aware of the provision, I'm not exactly aware of the section. I will take your advice on that.

Was that section complied with at the City when you were Director of Corporate Services?---The level of compliance increased significantly from a sort of medium type base. So the HR Unit introduced a new Performance Appraisal system for staff, back probably a few years ago and what we found was, the participation rates or if you like, the satisfaction rates in satisfying the section that you've referred to, increased significantly during the period of the Inquiry review. So from memory, I think the City's numbers went from probably mid 50 per cent to, in my case, my Directorate, high 90s.

So distilling your answer to that question, is it the case that that section was not always complied with at the City when you were Director of Corporate Services?---Correct.

Why not?---The responsibility for a staff appraisal firstly would rest with the immediate supervisor of that staff member which should be monitored by the relevant Unit Manager and those statistics were regularly reported by HR and Directors would have access to that information. So as I explained, there was a different and I think fair to say, a more robust system put in place and I think it was one of those areas at the City that needed to be improved and in fact, was demonstrably improved over the period of the Terms of Reference.

40 Who was responsible for this non-compliance?---The responsible officer would be the direct supervisor of the staff member.

Do you bear any responsibility?---No, other than my Directorate.

45 You don't bear any personal responsibility for that non-compliance?---As I said, other than my - I will bear responsibility for the matters that are under my direct control.

5 But this is a Human Resources issue, is it not?---It's generally a Human Resources issue but the issue of the supervision and performance management of staff rests with the relevant supervisor and Unit Manager. So HR were only reporting the data.

10 Am I right in saying that towards the end of your term there, that less than 50 per cent of the City's staff had received any reviews at all?---I don't believe that number's accurate. As I've alluded to, the number that I saw was in the mid 50s but I believe if you were to examine the current or 2018 numbers or 2019, you will see that the City's effective rate is much higher than that now.

15 Yes, but that was as a result of the intervention of the CEO, Mr Jorgensen, was it not?---No, that's not correct.

Who was it?---It would have been during Martin Mileham's time predominantly.

20 COMMISSIONER: Can I just clarify one thing with you? You spoke of it being in the mid 50s; when you said that, did you mean something like 50 to 54 people, for example, or are you talking in percentages?---No, Commissioner, talking percentages. So we had - - -

That's all I need?---Okay.

25 Thank you.

30 MR URQUHART: So mid 50 per cent of the City's staff had received any review at all?---They may have received a review, whether it was annual. Those statistics are annual. So for example, they may have received a review the year before but to answer your question, they are annual statistics so a large number wouldn't have received a review during that particular financial year.

35 Do you recall giving a briefing to Councillors on 1 May of 2018 regarding an Annual Performance Review process known as Performance Shaping?---I don't recall the exact date but I do recall a presentation being made to Council on Performance Shaping. I'm not sure I had much of a role, it might have been more the HR Manager.

40 When you say the Council, are you referring to the Commissioners that were appointed?---Sorry, your date was May 2018?

Yes?---Yes, well definitely was not Council. I think you said Council, didn't you?

45 No, I said Commissioners?---Okay, I was wrong, it should be Commissioners.

It was Mr Jorgensen's letter I'm relying on here. He says that you gave a briefing on that occasion?---Mr Jorgensen's letter's not particularly accurate in a lot of

respects.

That's why I'm asking you now about it, to give you the opportunity to comment on it?---Okay.

5

So this is one. So you do recall attending a briefing session that was titled, "Performance Shaping"?---Yes, I recall the subject matter, I don't recall the exact date and I seem to recall it might have been either the HR Manager or the officer who was responsible for preparing the documentation gave a briefing to
10 Commissioners.

[12.45]

15 I will continue. Sir, this is at page 3.1277 of Mr Jorgensen's letter of 12 March of this year, paragraph 15. Mr Jorgensen wrote this to you:

The briefing was comprehensive, however, no mention was made of the City's compliance with section 5.38 of the Local Government Act.

20 Which is that section I've just cited to you a little earlier:

*Which requires each staff member of over 12 months service to receive an Annual Performance Review. It was only when the question was asked by a Commissioner that you admitted that less than 50 per cent
25 of City staff had received a review.*

Do you recall a question being asked of you by one of the Commissioners, to which that was your response?---Okay, I will take that in two parts. Commissioner Hammond asked a question from memory, and my answer wouldn't have been less
30 than 50 per cent because as I've already stated, I think we came from a low base of mid 50s, so I doubt would have said "less than 50 per cent."

You also admitted that you had not received a review for two years?---At that time, that's possible, yes - sorry, the date again? 2018?

35

Yes?---I can't be 100 per cent sure, sorry, but it is possible.

Did that cause you concern, that you yourself had not been assessed as required by the Act?---I don't know whether "concern" would be the right word but look, the
40 environment at that time was challenging. There was a lot on the plate and I guess that was one matter that got pushed out in terms of timing.

The letter continues:

45

Your action to concerns raised by Commissioners at the briefing was to justify this poor performance by saying, "It was much the same in all other metropolitan Local Governments".

Do you recall saying something like that?---I don't recall those exact words. I think - - -

5 I wouldn't expect you to, Mr Mianich?---Yes. I recall a briefing quite a while ago, words that I may have said at a briefing back in May last year.

So, did you say words to the effect of - - -?---I can't recall at this stage.

10 "It's much the same in all other metropolitan Local Governments"?---I remember having the discussion with Commissioner Hammond and he mentioned the equivalent rate at the City of Rockingham when he was there. I seem to recall he was saying it was in the 90s.

15 Was that your understanding, that the level of reviews conducted by the City of Perth was similar to other Local Governments?---My understanding is that nearly all Local Governments I have reviewed in terms of their completion of their Compliance Audit Report each year, indicates that as an area of non-compliance, almost unilaterally, every Council that I have viewed.

20 So is the answer to my question yes?---Sorry, you're going to have to repeat your question.

25 Was it your understanding that the level of Performance Review at the City of Perth was similar to that of other Local Governments?---Similar? I would have thought Perth was probably lower.

So much the same?---No, I said lower.

30 That didn't cause you any concern?---As I've already said, we'd put in place measures.

It had started to be addressed?---Yes, it was concerning and we put in place measures and the issue has largely been addressed.

35 This compliance of around 55 per cent, was that about the level throughout your time before it was addressed, throughout your time as Director of Corporate Services?---Difficult to answer because I don't recall the stats particularly well, although I suspect compliance may have been higher in the earlier years and then
40 due to a combination of reasons, may have dropped off in the initial period that you're referring to, around that 2016/17 period. I can only speculate that maybe - -
-

45 COMMISSIONER: I don't want you to speculate?---Okay, I won't answer that any more.

MR URQUHART: So that greater degree of non-compliance was not something

that you were responsible for?---Not responsible for, no, other than my own Directorate.

5 Were you responsible for addressing it before it eventually was addressed?---As I've explained, I think the matter was noted. There was a concern and a significant investment was made - - -

10 I know all that, but was it your responsibility to address that before that came about?---The responsibility there, as I've explained, rests with the supervisor and the manager and the particular Director of the Directorate.

15 So you still maintain it wasn't a matter that you were responsible for addressing?---Why would I be responsible for addressing a matter in another Directorate?

Because you were overseeing Human Resources, that's part of your job description?---Part of my job - - -

20 I thought that would be obvious, so that's my answer to your question?---Okay.

So?---So part of my job description does not entail ensuring the Performance Review of every staff member at the City of Perth.

25 Just to make sure there is compliance with section 5.38 of the Act, that that is happening?---And I think I've explained that that was noted and the matter has been addressed so that the compliance level now is significantly higher.

It wasn't noted by you though, was it?---Yes, it was.

30 You raised this?---Yes. I was the one who commenced the work with HR on the new system. That was way before Jorgensen's time.

35 Yes, but I thought you said Mr Mileham?---Well, as I said, it was during Mileham's time - - -

So you identified the problem?---We - - -

Did you identify the problem?---We - I can't recall. The problem was identified.

40 But you don't know whether it was you or not?---I can't recall.

Do you know who identified the problem?---It could have been the HR Manager.

45 So it wasn't you, was it?---It could have been - you're asking me to identify who identified a problem years ago.

Exactly?---I don't recall, sorry.

If it was you, there should be some written record of that, should there not?---You would need to check the City records.

5 I know that, but there should be a written record if it was you identifying the problem?---What you will find in the records is me reviewing various versions of the new documentation that was provided and if you ask the HR staff, they will - -
-

10 I'm not asking about that.

COMMISSIONER: That's not the question, is it, really? The question is, if you identified the problem, that is you did it, there should be some written record of that; do you agree with that proposition or not?---Yes, there would be emails or
15 something to the effect, if that's what you're getting at.

That's what counsel's getting at, yes. Thank you. Sir, I'm about to move on to another area. Could we just adjourn a little earlier now and just start a little
20 earlier?

COMMISSIONER: It's 12.55 now so I will adjourn the Inquiry to 2.10.

MR URQUHART: Thank you, sir.

25 **WITNESS WITHDREW**

(Luncheon Adjournment)

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45

HEARING RECOMMENCED AT 2.14 PM

MR Robert David MIANICH, recalled on former oath:

5 COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

10 Mr Mianich, in his letter to you in March of this year, Mr Jorgensen stated that the City did not have a Strategic Information Communication and Technology Plan integrated with the City's Corporate Business Plan; would you accept that proposition?---Yes. The title's a bit long-winded but the City had a draft IT Data Strategic Plan that was a work in progress at the time, including discussion with Commissioners at the time. So in terms of a final document, no, but there was
15 certainly a version of a document floating around.

But it hadn't been incorporated into the City's Corporate Business Plan?---There's no statutory requirement to incorporate such a document.

20 That might be so?---Yes.

But it wasn't?---Correct.

25 And the reason for that?---Because it was a work in progress. It was being - just if I can take a moment, the whole issue of IT was subject to quite a bit of work and as I mentioned earlier, it was an area that I spent a bit of time on, so the plan for the City was to introduce an Enterprise Resource Plan that was largely looking at a \$10 to \$15 million investment to basically get all the IT systems talking to one another. So the plan that you're referring to articulated the strategy behind that and
30 the linkage of data.

Am I right in saying that there were a number of works in progress at or about the time you left the City?---I think that's a fair statement, yes.

35 You've identified at least three or four so far and what, there might be more?---I think we have probably addressed the main ones but it's fair to say there was a lot on the plate of the Executive in the years that are of attention to yourself.

40 Was this because there were a number of matters that had remained unaddressed for some time, that were finally being addressed?---I'm not sure that was the predominant reason. I think it was a view, if we take the IT strategy for example, I think the City sort of knew what the problems were and the solutions were not without risk. So at the time I was observing what was happening at the City of Hobart with regard to a similar implementation to what we were proposing at
45 Perth. So from a risk management point of view, I think it made sense to maybe not proceed immediately but to see how another sort of capital city Council was going about a similar exercise to what Perth needed to embark on. The other

salient point for the Inquiry is the market for technology solutions for Local Government is extremely narrow. There are basically only a handful of suppliers and hence it was very difficult to get competitive tension with - one of the suppliers was the incumbent supplier of the City's finance system.

5

So in that regard, you were waiting to see what the City of Hobart did?---Not so much waiting as we were briefed - I was briefed by senior officers from Hobart as to what they were doing.

10

That was a much smaller City though, wasn't it?---Yes. I'm not quite sure what I can say in the public environment, but put it this way, there were two major suppliers. The City of Perth's finance system was the incumbent. Hobart chose to go down the alternate supplier pathway, so that is virtually the first time in Australia that that supplier had looked at introducing an ERP solution for a Council of reasonable size. Hobart's not as big as Perth but was a capital city Council. So I think it was probably prudent from a risk management point of view, given the potential expenditure of over \$10 million, to proceed with some caution.

15

20

So risk management was more of a concern for you than say, introducing innovation?---I wouldn't quite phrase it in that way. Risk management certainly was very important to me. I think it's fair to say I was risk adverse and in terms of your question on innovation, I think it's important to bear in mind all the bad examples of major ERP software projects throughout the sector, both State and Local Government sector. I can hasten to add that the State example here, the State Government here obviously had a major cost impact with regard to the failed shared services model.

25

30

You mentioned there how you were risk adverse and by all means that can be an attribute but that can also lead to the maintaining of status quo, can it not?---Possibly, yes.

35

Did it in your instance, in your position as Director of Corporate Services?---I'm not sure I can answer that. Status quo with respect to what?

40

Keeping the same systems in place?---Okay. In relation to systems, the City had invested literally tens of millions of dollars over a period of time. So each application, the costs would have been in the multi million dollars. So for a Local Government authority to make a decision to change vendors is, in my view, one of the biggest decisions that can be made in the sector because the risk parameters are quite high, the cost impacts can be enormous and the documented experience throughout the sector is that these projects tend to go over time and over budget. So I was a bit risk adverse to those potential negative outcomes to the City.

45

Another observation that was made in Mr Jorgensen's letter was the duplication of manual data input and reconciliation processes and he was quoting a Strategic Financial Management Review that had been done by Mr Michael Kent. Do you

accept that, that there was a duplication of manual input data and reconciliation processes?---Very difficult to give an exact answer because it was an extract from a report. Mr Kent had been at the City for a couple of weeks - - -

5 I appreciate all of that. I just want to know whether you accept that there was a duplication of manual data input and the reconciliation processes?---There may have been some. I'm not privy to the exact details of all the reconciliations that took place.

10 What about the duplication of manual data input?---That is something that I - personally, no staff members had brought it to my attention.

Did it exist?---As I said, no staff members had brought it to my attention.

15 Were you aware that it existed?---Mr Kent pointed it out.

Yes, were you aware that it existed?---There would have been some duplication, yes.

20 So why wasn't that addressed?---It was being addressed as part of the wider IT Enterprise Resource Plan in terms of the wider IT solution.

Another part of something that was a work in progress?---Yes, that was a work in progress. That was a very, very large project, multi years.

25

The observation by Mr Kent, I'm sure you recall this, was that:

Management reports had to be reconfigured into alternative formats to suit the needs of the various Business Units.

30

Do you recall Mr Kent making that observation?---I think I remember him saying that. Putting it in context, I think I met with him twice.

35 Do you accept that?---The Directorate accountants from various Directorates did produce alternate format information for their Directors, yes, that's a correct statement.

40 Was that adequate?---Not a very usual practice in Local Government because the financial system producing financial statements in Local Government is not in a particularly user friendly format. So if a Director or a manager wants to interrogate some aspects of the data in more detail, largely that analysis needs to be done outside of your general ledger system. So from what I can see, it's certainly not unusual.

45 Yes, but it's not adequate?---It's not ideal. It would be better if it could be manipulated in the mainframe core finance system but unfortunately, that's not possible at times.

Why wasn't it attempted at the City of Perth?---Measures were taken to assist and I can't remember the exact detail but I think additional software packages were purchased in relation to the Finance One software and they were being certainly
5 used as part of the budget process which assisted the officers with regard to data, but in terms of the particular point being raised, I think largely, from memory, this data was produced in a Excel format that downloaded the data from the Finance One system and pretty much just manipulated the data into a format that the Director or manager found more suitable.

10 So was this another work in progress?---Well, not really because I think the Directors had got the information in the format that they wanted and the City was at a macro level, looking at I guess an integrated IT solution. I'd hasten to say, even once an ERP solution would have been introduced, there would be nothing to
15 stop the continuation of the practice that you've just described.

So are you saying it couldn't be fixed?---It's not a matter of being fixed, it's a matter of someone's - - -

20 Being addressed or changes being made so that this reconfiguration didn't have to take place?---As I was about to say, it's not a matter of that, it's more a matter of the user need and whether the software is able to exactly replicate what the user wants from that data. The practice that's been described is quite a normal practice, both in commercial and in government accounting.

25 So that observation being made by Mr Kent, if it was a criticism by him, wasn't well-founded?---I think you have to put it in the context that Mr Kent had been there for a couple of weeks and had interviewed with a few staff and had come up with that report.

30 What's the answer to my question?---My view? I don't think it was a particularly good report

[2.30 pm]

35 What about just this matter?---I don't think the matter is accurately captured.

40 So any criticism that he was making was not well-founded, in your view, because that was my question?---You're now getting me confused a bit with your questions.

Really? You've made some observations about the remarks made by Mr Kent?---Yes.

45 And I'm just asking you, from what you're saying, you're saying that if Mr Kent was leveling some criticism at the City about this particular matter, that management reports had to be reconfigured into alternative formats, if that was a criticism, it wasn't well-founded?---Okay. I don't necessarily accept it was a

criticism, I think it was more an observation.

If it was?---If it was a criticism?

5 Yes?---If it was a criticism, I don't agree with it.

So it wasn't well-founded?---I think it's a valid observation.

10 But you're saying because it's done across the board, then it doesn't need to be fixed?---Well, what I'm trying to - it's not an unusual practice if a user of financial information wants to extract particular details of financial information, they get the database, which is your core data, they put it into a Excel spreadsheet and they manipulate the data to give them the information that they particularly are interested in. I can tell you that is a very, very common practice both in
15 commercial and government accounting.

So I just want to quote a section from Mr Kent's report. This is at page 3.1273, sir. At paragraph 11 he says this:

20 *There is evidence of significant duplication of effort in manual data input and reconciliation processes and frequent reconfiguration of management reports into alternative formats that better suit the Business Unit's needs.*

25 So that's not paraphrasing, that's what he said?---And that's pretty much what I just told you.

So you're of the view that didn't really need to be raised?---As I said, I think it's a valid observation.

30 But one that doesn't require any changes?---You don't seem to be understanding that the solution is not available from the core system so that data is manipulated by another system, so I don't quite understand your questioning because there is no solution. If the user wants data in a particular format, the solution that was
35 currently operating is the only solution that I'm aware of.

This seemed to be feedback that he was receiving from City of Perth staff?---I'm not aware of that.

40 It would seem to be the case, would it not?---I don't know.

I think you've already accepted before lunch that the City's Directorates operate in a silo fashion. Did that then lead to the potential of the duplication of tasks?---I think there could be the risk of that, yes.

45 And did in fact that occur at the City when you were there?---Yes, I think to some degree. In fact, the examples you've quoted about rehashing financial data might

be a good example.

That was one matter that Mr Kent observed that was cited in Mr Jorgensen's letter and the other one he cited was:

5

A habitual rather than a considered approach to financial management reporting.

Do you accept that?---I don't understand that comment.

10

People were just habitually approaching financial management reporting, rather than giving it due consideration?---It's an observation of Mr Kent.

Did you observe that?---No.

15

At all?---No, I don't believe. No-one ever brought that to my attention.

He also commented that there was, "Confused project and information handovers"; is that something you observed?---Well, you're getting into a whole different field there. Project management, yes, the City did have some challenges with regard to its management of projects. Most of those major projects were in other Directorates than Corporate.

20

Information handovers, confusion there, did you encounter that?---I'm not sure what that means, what information?

25

Exactly that. It speaks for itself, there was confused handovers with respect to information?---But information for what?

30

So you're saying you cannot comment on that?---No comment, no.

No comment?---I don't understand the comment.

No concern that you ever had?

35

MR Bourhill: Could I just raise an objection?

COMMISSIONER: Yes, of course. Do you want to do that in the absence of the witness?

40

MR Bourhill: No, it's okay.

MR URQUHART: Wait a minute. I will just confer with my learned friend, sir, and see if we can deal with it that way.

45

COMMISSIONER: Mr Bourhill, do you still want to press the objection or is it resolved?

MR Bourhill: My friend says he's going to rectify the problem. I will wait and see.

5 COMMISSIONER: It's good for me to know that.

MR URQUHART: It reads, and I'm sure you can recall this - - -?---I can't actually.

10 Okay, I will read it out?---Is it possible to get it up in front of me?

Even better, 1274, thank you, Madam Associate. As long as we just concentrate on the sections of the letter that - - -?---You're quoting from a letter - - -

15 Mr Mianich, we are going to deal with it in this way?---Okay.

As you've requested. So this is page 6, sir.

COMMISSIONER: Yes.

20

MR URQUHART: And it's TRIM number 21535. There we go, second full paragraph there, starting with:

25

Finance related processes, timelines and accountabilities do not appear to enjoy a shared understanding or commitment across the organisation and there is a view that Directorates within the City operate in a siloed fashion, resulting in significant duplication of effort, a habitual rather than a considered approach to financial management reporting.

30

Then the third dot point:

Confused project and information handovers.

35

So the observation there being made by Mr Kent, looking at that, is that Directorates have confused project and information handovers. You've said to me that you identified that there were, and correct me if I'm wrong, at times confused project handovers. Now I'm asking you - - -

40

MR Bourhill: I think he said confused project management.

MR URQUHART: Okay?---Yes, I didn't say handovers.

45

This last dot point, "Confused project and information handovers", did you experience that or encounter that or know of that with respect to project and information handovers between Directorates?---Yes, I'm just trying to ascertain the context of that comment because as far as I understood, Mr Kent only spoke to - - -

Mr Mianich, I'm just asking you whether you observed anything of that nature?---I'm trying to answer your question.

5 Can you answer the question first yes or no?---I'm trying to put some context on it.

Just answer yes or no and then we will get to the context?---Well, I can't really because it says "information handovers", it's not clear from the correspondence - -

10 Can you answer my question or not?---No.

All right, that's fine. That can come down now, Madam Associate. If we can put up 1494, please. This is a page from Mr Nicolaou's report that went up on the screen yesterday that you may or may not have seen?---No, I haven't seen it.

15 COMMISSIONER: You haven't seen it?---No.

Just take a moment to read it?---Okay, thank you.

20 I think that's only fair.

MR URQUHART: And concentrate on the first dot points on the left-hand side?---Okay. I've read the first two.

25 I will take you to other matters there in due course because he then moves on to other matters. So it's those first two dot points there that are the one subject. So Mr Nicolaou's observation was that the trends in the City's financial performance can be traced to issues in relation to its Governance. Do you agree with that observation?---I'm not sure I fully understand the summary, the linkage of
30 financial performance to Governance.

The next dot point - really, you don't understand the connection?---In the context of those words there, yes. You've given me the summary, maybe if I read the whole report it would give me more context.
35 :

40 *A review of the City's strategic planning documents found that while they fulfilled its statutory requirements under the Act - that is the Local Government Act - there is limited integration of these planning documents.*

I can read to you some additional information that Mr Nicolaou provided in his evidence yesterday with respect to what he said there. This, sir, is a page in the transcript that appears after the morning break, it's presently numbered 1 but I
45 assume it will ultimately be numbered page 25.

COMMISSIONER: Thank you.

MR URQUHART: Line 35. So I asked Mr Nicolaou as we were taking him to that particular page:

5

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

10

What do you mean by that?---So what our review of all the City of Perth's planning documents was that it ticked the boxes in terms of its requirements under the Act, Local Government Act 1995 in terms of developing an integrated planning and reporting framework, as it's termed, and that gives the necessary structure around the City's strategic direction and it's certainly legislated under the Act as well.

15

Would you accept that was an accurate observation made by Mr Nicolaou? The answer won't be found there, in that document. So I'm just asking you now about his transcript, so I want you to pay attention to what I'm asking you rather than you looking at that, okay?---I am paying attention.

20

So do you agree with that assessment that he made?---Not really.

[2.45 pm]

25

Are you saying it didn't tick the boxes in terms of its requirements under the Act?---Okay.

In fact, he's not being critical of the City with respect to that part of his answer?---Yes.

30

He's actually saying that it did tick the boxes in terms of its requirement under the Act, in terms of developing an integrated plan and reporting framework, and that it gives the necessary structure around the City's strategic direction, and it's certainly legislated under the Act as well. So I would have thought in those circumstances, Mr Mianich, you wouldn't take issue with that observation?---The issue of the integrated planning and reporting document, the suite of documents that go with it is - - -

35

Just stay with this for the moment?---That is the subject matter, so - - -

40

Do you agree with that assessment that he's made or not?

COMMISSIONER: Just give it to Mr Mianich one more time so he understands exactly what you're asking him to agree with or disagree with.

45

MR URQUHART: Again, Mr Mianich, I think you were paying undue attention

to the document there in front of you, rather than what I was saying to you?---Take it away, if you like.

5 Yes, because you've looked at me at all times when I've asked you questions, except for that one?---Okay. I'll have another go.

Rather, I'll have another go. So I asked Mr Nicolaou, or I referred him to that quote, "Limited integration of strategic planning documents", I asked him, "What do you mean by that", so listen carefully:

10

So what our review of all the City of Perth's planning documents was that it ticked the boxes in terms of its requirements under the Act, Local Government Act 1995 in terms of developing an integrated planning and reporting framework, as it's termed, and that gives the necessary structure around the City's strategic direction and it's certainly legislated under the Act as well.

15

I'm just asking you, would you agree with that observation made by Mr Nicolaou?---I agree obviously that they complied with legislation. My observation with regard to those documents was that they were being continually improved by the City. So if you go back a number of years and have a look at the versions of the documents from, say, two or three years ago, the most recent version of the documents that you're referring to, which I assume are the Strategic Plan, the Corporate Business Plan, the Asset Management Plan and the Long-Term Financial Plan, you will find that there have been changes to those documents over that period of time, particularly the Corporate Business Plan, and that they certainly meet the compliance requirements.

20

25

So Mr Nicolaou was agreeing then?---I agree with that comment, yes.

30

Okay, then he continues - as the ad would say, "Wait, there's more"?---I can hardly wait.

Yes, I'm sure:

35

While that was all well structured and well presented, the documents that we were able to observe, there just didn't seem to be the integration of those planning documents between the very high level, the 10 year plans, right down to the annual budgets and then the documents that sit under that.

40

There's another sentence:

45

So without those linkages, and those linkages ultimately come together through financial forecasting - over the page - without that, then they have limited value as a tool to govern the performance of the City of Perth.

5 So he was questioning the limited integration of these documents. What do you say regarding those observations made by Mr Nicolaou?---Well, I probably need more information. There's only one 10 years plan for a start, that's the financial plan. The rest of the documents make no reference to 10 year timeframes, so I assume from what you've said that - - -

10 I'll stop you there, that's fine. He says there is the integration of these planning documents between the very high level and he refers to the 10 years plans and then he continues "right down to the annual budgets"?---Okay.

"And then the documents that sit under that"?---The point I'm making, it's not plans. There's only one 10 year document, so what's the other one?

15 It might have been a problem with the typing. This hasn't been checked yet, but it will be?---I was commenting on what you've read.

20 I think you're missing the point and I just want you to make an observation or whether you want to comment on that observation, apart from picking up whether he's used the plural "plans" or "plan", okay? I don't want to get into the nitty-gritty of it all, I just want to know what you have to say about his observation that there didn't seem to be the integration, the integration of these planning documents?---I would accept that that was an area that the City needed to do more work in and as I mentioned, I think it was an area that improved significantly in recent years but
25 was still, dare I say it, a work in progress for the City in terms of meeting probably the highest level specification for the Integrated Planning and Reporting Framework.

30 So then his observation in his concluding remark was this:

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.

35 ?---I don't agree with that statement.

You don't agree?---No.

40 But you do agree that there were some deficiencies with the integration?---I agree they could have been integrated better, I wouldn't use the word "deficiency".

45 But you don't agree then that without that integration, these plans or documents, or what he's referring to as having limited value as a tool to govern the performance of the City?---I would agree with that.

So again, this was another matter was being rectified?---It was. Yes, a significant amount of City resources was going into this so a lot of time and effort had been

5 spent on the Asset Management Plans and they had significantly improved and the information that John's referring to, I think I concede the linkage between the Asset Management Plan and your Long-Term Financial Plan, there had been significant improvements made in that area. If you go back, say, three years, there was very little integration between those two suites of documents.

10 And the reason for that?---The reason for that is the City had not really invested the appropriate amount of resource into its asset management planning and we, as part of going back to the restructure in 2015, there was more emphasis put on asset management back then. In other words, in effect the City employed additional expertise in that area and we are now seeing the results now.

15 I'm going to move on to now the City of Perth Parking. A very general question: how significant was the revenue raised by City of Perth Parking?---It was significant, \$70-odd million out of a budget of about \$200 million.

20 Were you aware that the City of Perth had by far the largest number of not just car parks, but also the highest number of car parking bays under its control than any other capital city in Australia?---I was certainly aware of car parks, not so much aware of car parking bays.

One would generally follow the other though, wouldn't it?---You're talking on-street and off-street.

25 No, just car parks?---Sorry?

Yes, car parks and car parking bays. Yes, I understand, off-street and on-street, okay?---On-street is out here on St Georges Terrace.

30 Yes, I realise that?---I'm not sure it is.

It had the most number of car parks in any capital city in Australia?---Yes, certainly knew that, yes.

35 And they had the highest number of car parking bays under its control than any other capital city in Australia, did you know that second point?---That's the point I'm making, I'm not sure how many on-street car parking bays are available in Melbourne and Sydney.

40 Not as many as Perth?---Okay, I'll take your word for that.

45 Let's put it this way, the combined total of car parking bays in car parks and on-street parking, the City of Perth had far more, the combined total, than any other capital city in Australia?---Okay.

Were you ever aware of the provisions in the Local Government Act when a Local Government takes on what is described in the Act as a major trading

undertaking?---I'm aware of the legislative provisions, yes.

5 When did you become aware of those?---Well, I've been aware of those for some time. I think you would need to check the legislation but I assume that provision came into operation in 1995 with the new Local Government Act.

10 That's right, yes. Do you accept that the City operated a major business undertaking as defined in the Act, namely, the City of Perth Parking?---City of Perth Parking was in excess of \$5 million so by definition, yes, it would be a major undertaking.

15 Did you understand whether the provisions of the Local Government Act meant that therefore the City of Perth Parking required a Business Plan?---A Business Plan would have been required in 1995, yes, when the legislation was introduced.

When was the first Business Plan for City of Perth Parking produced by the City?---I'm not sure. I think in the pack of documents that you sent to me there was a version of a Strategic Plan there for parking in that, or a Business Plan.

20 From very recently?---I believe so. Of course, as part of the Deloitte's report from mid 2017, that was one of the findings, in fact I think it was the first finding they highlighted in their report, that the City had not done this and I've got to say, I was very surprised at that conclusion, because I would have assumed when the legislation was introduced some 24 years ago, that that process would have been
25 attended to at that time.

30 Why would you assume that?---I think it would be a reasonable position to take, that the Executive and officers associated with the parking business back in 1995 would have complied with their legislative - a new legislative requirement.

You then say that you only became aware that there had never been a Business Plan for the City of Perth Parking until you read the Deloitte's report?---Correct.

[3.00 pm]

35 Is that a failure on your behalf?---No.

40 Why do you say that?---Because as I mentioned, such a document should have been produced way earlier than what was discovered by Deloitte's, in fact, should have been produced in 1995.

45 And something as significant as that, a Business Plan for a major trading undertaking, would be brought to the attention of the Director of Corporate Services, would it not?---Back in 1995?

From 2005 onwards?---Why would that be the case?

Wouldn't it be?---No.

No?---No.

5 Not at all?---No.

10 You would not be provided with a copy of a Business Plan for a major trading undertaking that deals in revenue in the amount of \$70 million annually?---No, because that document is a once-off document, so I would have expected that would have been done in 1995. It would be a reasonable assumption to expect going forward, any new major undertakings of the City, I would have seen the Business Plan.

15 Hold on. Are you saying then that if a Business Plan had been done for the City of Perth parking in or about 1995, there would not have been a replacement Business Plan in all the time that you were a Director of Corporate Services?---There's no legislative requirement to update the plan.

20 That might be so but realistically, that plan wouldn't have stayed in operation for in excess of two decades, surely?---I don't know. You would need to, I think, direct that question to the director responsible for the parking business.

25 I'm directing it to you, being Director of Corporate Services with respect to a major undertaking that was generating significant cash flow for the City?---Yes. As I said, there's not a legislative requirement to do it, so - - -

30 Not a legislative requirement, but are you saying a Business Plan could operate for that length of time with respect to a major undertaking such as City of Perth Parking?---Well, unfortunately, that's what the legislation requires of Local Government and potentially, it's an area of legislative reform.

Presumably then you would have asked at some point in time to look at the Business Plan for the City of Perth Parking; did you do that?---No.

35 Why not?---I had no need to ask for a document that I would have expected would be decades old.

And needed another one, yes?---Not necessarily.

40 Did you find out when it was that the City of Perth last did a Business Plan for its parking?---No.

Why not?---Because I think I've explained that.

45 You haven't?---Well, I have.

Well, you haven't explained it very well and I'm giving you an

opportunity?---Okay. My expectation would be that when new Local Government legislation was introduced in 1995, I think it would be a reasonable expectation that the City and its staff and Executive addressed that new legislative requirement back then.

5

Whether it was a legislative requirement or not, for something as significant as this, it would require an ongoing and up-to-date Business Plan, would it not?---Well, there would be - no, there's no legislative requirement.

10 I know that, whether there's a legislative requirement or not?---That's a question that, yes, needs to be directed to the relevant Parking Unit.

I'm directing it to you, that it seems you never even bothered to find out if there was a Business Plan for City of Perth Parking, is that right?---Well, based on the
15 Deloitte's findings, it would appear that every officer at the City of Perth was in the same boat.

I'm asking you. I'm asking you as a - - -?---Yes.

20 - - - as the Director of Corporate Services?---Yes. No, I agree. I wasn't aware of that. I've already said that, that was news to me.

But you never sought a copy of the Business Plan or, it seems, asked any questions of the Directorate as to whether or what was its Business Plan?---I think it would
25 be most unusual that a Director would seek to review a document from 20 years ago.

You never asked them about the Business Plan they had, did you?---I don't recall.

30 Well, the answer would have been, "No, we haven't got one" and that would have set alarm bells ringing, wouldn't have it?---No, I don't agree with that because as I said, when Deloitte's made their finding in mid 2017, that finding was a surprise to everyone at the City of Perth. So I would imagine it would have been a surprise to the staff in the Parking Unit as well.

35

And it's a surprise, is it not, that the Director of Corporate Services for 11 years was not aware of that?---Well, it was 13 years actually, but - - -

I'm talking about the time the Deloitte's report was handed down?---Right.

40

It is a surprise, is it not, that the Director of Corporate Services, in that position for in excess of a decade?---Yes.

45 Seemingly or did not have any idea whether a Business Plan existed or not?---I was not aware - as I said and I've already answered this question about three times, my expectation that was a plan was prepared back in '95/'96.

And it never crossed your mind that it might be time to update that Business Plan prior to the Deloitte's report?---Well, there was a clear - there must have been a clear view within the City that a plan had been done, otherwise - - -

5 I'm asking you, did it ever cross your mind that this Business Plan that you assume existed in the mid 90s, needed to be updated?---Did it ever cross my mind? Not particularly.

10 Why not?---Because I would have thought the issue in relation to - any issues in relation to parking would have been addressed by the relevant Director in charge of the Parking Unit.

15 So you absolve yourself of any responsibility with respect to this matter, do you?---I can't see how you would expect a Director, Corporate Services, to ask officers to produce a document that should have been produced 20-odd years ago.

Do you absolve yourself of any responsibility with the fact that the City of Perth did not have a Business Plan for its parking?---Yes.

20 Did you understand that a Compliance Audit Return had to be submitted to the Department of Local Government annually in accordance with the Audit Regulations?---Yes.

25 And I understand from your earlier evidence that those in internal audit were responsible to you?---Sorry, I'm a bit confused with your question.

Yes. You said to me - I asked you did the internal audit section report to you as well and you said, "They started reporting to me in 2015", that's where I got that?---Around there, yes. I'm not exactly sure on the dates.

30 So you're aware of these Compliance Audit Returns?---Just to explain back then - yes, I am aware of the Compliance Audit Returns, but the reporting line with regard to the internal audit function was an administrative reporting line to myself but the internal auditor had a direct reporting line to the CEO as well for
35 governance issues.

So were you responsible for any parts in that return?---In the Compliance Audit Return?

40 Yes?---Directly responsible? I reviewed the entire return but what would happen is the internal auditors would go through each question, and there's quite detailed questions - I seem to recall it's 90-odd questions - and would produce an audit trail of information in relation to each one of those questions and my role was to review the final product, if you like, before it went to Council for endorsement.

45 And if there were any errors in that final product, what would you do?---I don't quite understand what you mean by error?

If you found any errors in that audit report, what would you do?---I would query it with the officers concerned and endeavour to rectify it.

5 How carefully did you review these audit returns?---Pretty carefully. I would have had a couple of meetings with the relevant audit staff to go through it. So that return's required on a calendar year basis, so that work commences probably January and it's got to be lodged by 31 March, so over that period.

10 Bear with me for one moment, please. Madam Associate, could you bring up, please, 3.0727. This wasn't a document that was provided to your legal representatives, Mr Mianich, and I'll give you an opportunity of looking at it now. 21467 is the TRIM number, sir.

15 COMMISSIONER: Thank you. Just enlarge that, please, Madam Associate. Thank you.

MR URQUHART: Mr Mianich, this is the 2016 Compliance Audit Return which was signed by the then Lord Mayor and Mr Mileham on 14 March of 2017. If we
20 can just go to 0738 to see that, Madam Associate. So that's the first page of the document.

COMMISSIONER: 728, is it, or 738?

25 MR URQUHART: 0738, sir.

COMMISSIONER: Thank you. Just enlarge that, please, Madam Associate. Thank you. Mr Bourhill, if you need more time to read any part of this document,
30 just indicate that.

MR BOURHILL: Thank you, Commissioner

[3.15 pm]

35 MR URQUHART: If we can go back then, please, to 0727, the first page. So this is the very first item, Mr Mianich under the heading, "Commercial enterprises by Local Governments", number 1 is the reference to section 3.59 of the Local Government Act which deals with commercial enterprises by Local Governments and the question was:

40

Has the Local Government prepared a Business Plan for each major trading undertaking in 2016?

45 Do you see that? Response, "N/A" which presumably means not applicable. "Comments: no major trading undertakings in 2016." That's not right, is it?---I don't know. That's the answer provided by the internal auditor, I can only assume it's correct.

Seriously? Is that seriously your answer?---Yes.

5 No major trading undertakings in 2016? What, are you saying that the City of Perth Parking only got revenue of under \$5 million that year?---I think you may be a little mistaken with the legislative requirement. My understanding is that the requirement for a major trading undertaking is done on a once-off basis, it's not a recurring, yearly requirement.

10 "Has the Local Government prepared a Business Plan for each major trading undertaking in 2016"; there was no Business Plan in place for City of Perth Parking, but that comment, "No major trading undertakings in 2016", that's not accurate, is it?---This is referring to new undertakings, not existing. So using your analogy, you would say that a Business Plan would be prepared every year since
15 1995 for the parking business.

I'm not saying that at all. Would I be right then in saying that would have been, it would seem, the same answer that was given in all the other Compliance Audit Returns prior to this one?---I don't recall, I would have to look at the returns but
20 certainly in relation to parking, that would be the response. There may have been, and I don't recall off the top of my head whether there were any other major trading undertakings during the period but the intent of that answer is, there were no major new undertakings in 2016.

25 That's not what it says?---Well, that's the comment but if my interpretation of the legislation is incorrect, you'll need to advise me because that's not my understanding.

30 The legislation, the point I'm making, makes it abundantly clear that a Business Plan is required for the City of Perth Parking?---Correct.

I will give you another opportunity: are you saying you bear no responsibility for the fact that there was never a Business Plan prepared for the City of Perth Parking until Deloitte's raised it in their report?---So you - - -
35

I've asked you this same question before, I'm just giving you an opportunity of reconsidering your evidence?---I don't think - how could I be responsible for a requirement that was required by officers back in 1995.

40 And no blame can be attributed to you for assuming that this Business Plan that you assumed was in existence in 1995, was just - - -?---I had - - -

45 Let me finish - was just continuing on for in excess of two decades?---I had no reason to question whether a plan had been done and as I've said repeatedly, it was a surprise to me when Deloitte's pointed out that no plan had been done. I was surprised at that finding.

That you would suggest you never, ever addressed your mind to whether a Business Plan existed for the City of Perth Parking?---Yes. My mind didn't extend back to what was happening in 1995.

5 What about from November 2005 onwards?---I assumed or expected that any legislative requirement would have been attended to prior to that.

10 Leaving aside the legislative requirement, it didn't strike you as odd that in all the years you were a Director of Corporate Services up until 2017, no mention had ever been made of the Business Plan with respect to the City of Perth Parking?---Not particularly.

15 Not particularly? So a little bit?---Not particularly. I mean, to put that into context, as I said, I was surprised no plan had been done. I think everyone at the City was surprised. So you're asking me to comment on the functionality of a unit, a stand alone unit in another Directorate, absolutely nothing to do, in terms of direct reporting line, to the Corporate Services Directorate.

20 It had a lot to do though with finances though, didn't it?---That's right, and I did meet with officers to discuss revenue projections but I can tell you, in all those discussions no matter of, "Have you guys prepared a Business Plan" ever came up.

25 When you speak about revenue projections with them, did you ever say, "Well, are these projections in accordance with the Business Plan"?---No.

Why not?---Because we would - - -

30 Let me go back a step: what is the purpose of a Business Plan?---The purpose of a Business Plan is to articulate what that particular business undertaking is trying to achieve and I'm not sure whether there is any legislative definition of it in the Local Government Act.

I'm just asking you as an accountant?---Yes.

35 What your understanding is of a Business Plan?---Do you want me to go into a bit of detail on that?

But you know what it is, the purpose of it, obviously?---Yes.

40 It also has goals, doesn't it?---Yes.

It looks into the future?---Yes.

45 Have you ever come across - you're familiar with Business Plans?---I believe so.

Have you ever come across a Business Plans that has projections and goals 20 years ahead of when it was implemented?---Well, I think you need to put that in

perspective. There would have - - -

Have you? I'm just asking that question: have you ever come across a Business Plan that has projections more than 20 years in advance?---No.

5

So when you discussed with City of Perth Parking staff about revenue goals, again, surely the question of whether those goals were consistent with the Business Plan would have come up?---No, I don't recall. The issue that we were faced with, say, as you've rightly pointed out, over the period of interest from 2014/15, was that the revenue for parking had largely flatlined and there was a lot of discussion with officers as to different strategies to try and fine tune pricing mechanisms, to have favourable revenue impacts. So I hasten to say that that flatlining of revenue was really due to reduced occupancy. So if you go back post 2014, City of Perth car parks were virtually operating at 100 per cent occupancy. When you had the broader economic correction post the mining boom, the occupancy rates fell reasonably significantly. So most of my discussions with officers in Parking revolved around stuff like, "Well, we have got a car park that's 50 per cent empty, is it worth looking at maybe reducing prices there to get the car park to 100 per cent capacity" because the marginal cost of the additional car that went into the car park was virtually zero. So even if it was reduced revenue per hour, it was revenue that went straight to the bottom line. That was the sort of discussions I had with the parking officers.

COMMISSIONER: So the sort of discussion where you might be interested in the financial effect on the Local Government, the City of Perth?---Well, that would have a financial effect, yes, hopefully additional revenue.

And would the financial effect on the City of Perth be of interest to you?---Yes.

You asked earlier whether there's a statutory definition of a Business Plan. In section 3.59(3) there is a description of what a Business Plan is to include. So this is a Business Plan for a major trading undertaking and I will just read it to you?---Okay.

So you're properly informed:

The Business Plan is to include an overall assessment of a major trading undertaking and is to include details of: (a), its expected effect on the provision of facilities and services by the Local Government; (b), its expected effect on other persons providing facilities and services in the district; (c), its expected financial effect on the Local Government; (d), its expected effect on matters referred to in the Local Government's current plan prepared under section 5.56; (e), the ability of the Local Government to manage the undertaking for the performance of the transaction; and (f), any other matter described for the purposes of this subsection.

5 So it's quite a prescriptive set of requirements, and given your last answer to me, it would seem that the Business Plan should be of interest to you because it should deal with the expected financial effect on the Local Government, do you agree with that?---I'm not sure I necessarily agree with that. I guess my attention was more at the revenue line, as I've described, so certainly interested in what I've described in terms of options there but as I've answered, I certainly didn't raise with officers, "Is this consistent with your Business Plan?" I don't recall any of that discussion.

10 Thank you. Mr Urquhart.

[3.30 pm]

15 MR URQUHART: So those matters that you raised with City of Perth Parking regarding revenue, flatlining, ways to improve the services, these were all matters that would be in a Business Plan, would it not?---Well, these are matters that are constantly changing, so would need to be something that would be addressed by the particular management of the unit.

20 Would you like to answer my question now? Would you like to answer my question now.

25 COMMISSIONER: I think in fairness to Mr Mianich, you should repeat the question.

MR URQUHART: Yes.

30 The matters that you raised with City of Perth Parking regarding the flatlining of revenue, how matters could be improved, these would all be part of a Business Plan, would they not?---You could have that expectation.

35 They are aspects of any Business Plan that would have been prepared for the City of Perth Parking, yes?---Yes, noting my answer that I would have expected that plan to be prepared back in '95.

40 Of course, which gets back to the point. I'm just a humble barrister with no qualifications whatsoever in accountancy and commerce but I just can't understand why no-one, or particularly you, particularly you in these meetings did not say, "Well, what does the Business Plan say? Are these matters addressed in the Business Plan"?---I find that a bit of an unusual observation because in discussing the particular aspects of parking business, my discussions were more concerned about probably at a slightly different level. So I was concerned about income and expenditure, I wasn't really asking questions about the broader business strategy, because the way I saw that, that was being handled by other Executives in the City.

45 The Commissioner's taken you through what details are to be included in a Business Plan for a major trading undertaking so I ask the question again: do you

take any responsibility for the failure of the City of Perth to have a City of Perth Parking Business Plan in effect in your time as a Director of Corporate Services from November 2005 to when the Deloitte's report was provided?---No.

5 None whatsoever?---I've answered your question, no.

None at all?---I've answered your question.

None at all?

10

MR BOURHILL: I object.

MR URQUHART: Okay, that's fine.

15 Did you oversee the preparation of the draft City of Perth Business Plan?---Are you referring to the version of the document that I got sent?

That's it. There's only one?---No, I wasn't. That was largely, if not totally prepared by the Parking Unit overseen by the Director responsible for that unit.

20

Would I be right in saying that you at least read the draft before it was submitted to the Commissioners in March of 2018?---I generally read every document that pretty much went through the City. There was a bit of a history on this document. I think it was prepared in a draft version and then sort of sat in abeyance for a period of time and I don't exactly recall the timing issues, but I think if you check the records, you will find a draft was prepared, I think it was discussed with Commissioners, and in effect, they said I think words to the effect that, "This needs a bit more work and they went away and did some more.

25

30 I'm entirely aware of the history. What I did not know is whether you had read the draft before it was submitted to the Commissioners. That's why I asked you that question rather than the history of the draft making its way to the Commissioners?---Yes, but I thought that was useful context, so the answer - - -

35 How about answering the question first?---I'm trying to.

You haven't, Mr Mianich. I'm asking you, did you read the draft before it was submitted to the Commissioners in March of 2018?---I would have read the draft Business Plan as part of our agenda settlement process. So as I said, I pretty much read every document so the answer is yes, I would have read the draft.

40

COMMISSIONER: Do you recall reading it or not?---Sorry?

Do you recall reading it or not?---Not really. I've read hundreds of documents. I don't particularly recall reading that document.

45

Mr Urquhart.

MR URQUHART: It was an important document though, was it not? This is a document that should have been done over 20 years ago?---Correct.

5 So it was important, wasn't it?---Yes, it would be an important document.

I'm going to read to you Mr Nicolaou's observations regarding that draft report. Sir, this will be at page 20 of the transcript from yesterday, 7 October 2019.

10 COMMISSIONER: Thank you.

MR URQUHART: Commencing just above line 35.

COMMISSIONER: Is this also unverified transcript?

15

MR URQUHART: It is, sir, yes.

COMMISSIONER: Thank you.

20 MR URQUHART: :

Did you have an opportunity of looking at the Business Plan that was in place for the City of Perth Parking?---We did. We had access to that. I think that was made available to us as part of our discovery.

25

Yes, and when you had a look at that, did you draw that conclusion, that it was not an adequate one?---Certainly it wasn't - we didn't see it as a Business Plan. It certainly didn't tick off on the requirements of a detailed Business Plan that, I guess, a normal commercial operation would be required to do. It didn't have that adequate requirement to explore the financial costs and benefits or otherwise, the risks, governance and the like. It was quite a short sort of targeted brochure style plan that, I don't know, we saw as something being for public consumption rather than for internal use in planning the strategy around the City of Perth Parking business.

30

35

So that was his observations regarding that draft Business Plan. I just want to take you to Mr Jorgensen's letter from March of this year and specifically, Madam Associate, if you could get that up on the screen, 3.1270. Paragraph 1 under the heading, "Financial leadership", if you could go to paragraph 2:

40

Following the OCCA report - that's been referred to as the Deloitte's report by yourself - a draft document called the City of Perth Parking - Major Trading Undertaking Business Plan (Draft CPP Business Plan) was prepared. It is noted that the Council has refused to adopt the Draft CPP Business Plan because of major shortcomings. The Draft CPP Business Plan contains none of the basic financial information,

45

such as operating expenditure, capital expenditure, and asset management expenditure that was required for informed decisions to be made under that plan. I consider that the reason for the - - -

5 We will just stop there. We will go to the next observations he makes in a moment. Are all the electronic devices turned off?

COMMISSIONER: We have had one interruption already to the proceedings with someone's phone going off.

10

MS SARACENI: I apologise, Commissioner. I did turn it off, I thought I had but I have turned it off now.

COMMISSIONER: Could we have all the electronic devices that are making noises off, please, unless you're using them for these proceedings. Please continue, Mr Urquhart.

15

MR URQUHART: I just want to make sure Mr Bourhill has done that. He seems to be struggling a little bit.

20

COMMISSIONER: I'm sure he's doing it now.

MR URQUHART: Yes, sir.

COMMISSIONER: Please continue.

25

MR BOURHILL: Carry on.

MR URQUHART: Thank you:

30

The Draft CPP Business Plan contains none of the basic financial information such as operating expenditure, capital expenditure and asset management expenditure that is required for informed decisions to be made under that plan.

35

Do you accept that observation made by Mr Jorgensen?---I don't recall the exact content of the plan but I would accept that it was light-on with respect to the financial information detailed there.

40 So you essentially agree with what he says?---I'm just trying to recall what was in the plan.

You've had the opportunity of having a look at it recently?---It was a very quick review. I don't recall it having detailed financial information in there.

45

He continues:

5 *I consider that the reason for the absence of financial data in the Draft
CPP Business Plan is the inability of the City's financial management
system, for which you are responsible, to provide any level of accurate
expenditure detail, including but not limited to the allocation of
quantified and relevant administrative overheads. Noting a key
component of your role is the overall management of the City's
financial risk and reputational risk arising out of the detrimental
financial management, I shall be grateful for your explanation.*

10 I gather you don't accept the reason given by Mr Jorgensen?---It's an inaccurate
statement.

15 So what was the reason then?---So there are two components to that. The first
component is the level of accurate expenditure detail. So there is literally a
truckload of expenditure detail that the CPP Business Unit has access to in relation
to any matter that would be required at an operating level. So they have got data
by car park, by time, by date, so there's an enormous amount of City financial
expenditure detail available. So I think to make a comment of "accurate
expenditure detail" is fundamentally flawed.

20 Can I stop you there? The reason I'm asking you is, what is reason for the
observations that Mr Jorgensen makes when he says, "The Draft CPP Business
Plan contains none of the basic financial information, such as operating
expenditure, capital expenditure and asset management expenditure that is
25 required for informed decisions to be made under that plan." He says that the
reason for that is an inability of the City's financial management system, you say
that's not the case. So I'm asking what then is the reason for the lack of
information in the Business Plan?---I can't be sure. You would need to ask the
preparers of the plan. So I can't speculate on an answer on that

30 [3.45 pm]

35 You read it before it went to the Commissioners, I would expect you would have
identified the deficiencies in the Business Plan, did you not?---I don't recall us
having a detailed discussion of this plan at our agenda settlement process.

40 I'm not asking you whether you had that, I'm just asking you when you read it, did
you not identify the problems that have been identified by Mr Jorgensen, that was
also identified by Mr Nicolaou in his evidence yesterday which I read out to
you?---I accept that it, from my memory, was light-on on financial information but
you need to put that into context that that plan was being prepared in relation to a
statutory requirement, legislative requirement from some 24 years ago.

45 A legislative requirement that was still in place at the time of the Business Plan,
and also as the Commissioner read out to you, the Local Government Act was
assisting the preparation of such a Business Plan by outlining what it needed to
include. Did you have some concerns about the adequacy of the draft Business

Plan?---I don't recall at the time. 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.

5

Did you regard it just as a case of ticking the box?---That wasn't my regard. You would need to address that to the relevant officer.

I'm addressing that to you. Just from that last answer you gave, that would suggest that you regarded this more as a ticking the box, complying with legislation, rather than it being a useful document for City of Perth Parking?---I'm not sure I would agree with that comment.

10

I just got that from your answer a moment ago?---Yes.

15

You said this was just a legislative requirement?---Well, it was addressing the legislative requirement coming out of the Deloitte report, so there was a requirement and I've got to say, a little unusual to have a requirement to prepare a Business Plan that was required in '95, to prepare the document in whatever date this is, 2018 I think you said. It was obviously way after the requirement to prepare it.

20

Are you saying it's odd for an entity that's raising revenue of \$70 million annually, that it's odd for it to have a Business Plan in force?---No, I didn't say that, they were your words.

25

All right. Your expression was, it was odd that a Business Plan should be drawn up when it should have been done back in 1995?---I think you need to put this into context that there was a lot of work done in regard to strategies, cost controls, et cetera, et cetera, which went to the heart of trying to run the business and had impacts on the financial operations of the City much more broadly.

30

They weren't working, were they?---That's your opinion.

35

It flatlined, the revenue being raised was flatlined. It's not my opinion, it's the facts?---Can I just explain that? So I've already touched on why the revenue - - -

Sorry, what are you going to explain now?---Your opinion on why there was no growth in the revenue.

40

The fact that there was no growth in the revenue would cry out for something like a Business Plan, would it not?---The fact that there was flatline revenue growth reflected the broader macro economic environment that the City was working in. It was impacted by the continual rise of the parking levy by the State Government, so that by the time this plan was being done, 25 cents in each dollar raised at a car park went to the State Government. So that was the reason why you had flatline growth.

45

Yes.

5 COMMISSIONER: The question counsel asked you was whether the flatlining
would require a Business Plan, or at least consideration of a Business Plan if the
question was coming from me. You've explained why it was flatlining and I'm
grateful for that, but knowing that, would you not then think it's necessary to at
least consider what kind of Business Plan might deal with that?---I think they were
10 giving consideration to, I would describe them as strategies as such but not
necessarily Business Plan.

So are you answering me by saying no, in effect, because I don't understand your
answer?---Yes.

15 I will ask the question again and I want you to listen to it this time, please:
knowing that the business was flatlining, did you think that required consideration
of a Business Plan which would address that?---I think I can understand how you
would - - -

20 Just answer my question, please?---I didn't think per se a Business Plan was
required but I would have thought strategies should be articulated to address the
flatlining growth.

25 A strategy presumably to assist the Local Government manage the undertaking
itself?---Sorry, I missed that.

A strategy, presumably, to allow the City of Perth to manage that
undertaking?---Yes. I've missed the - - -

30 Do you agree or not?---I've missed the point.

You've talked about it requiring a strategy for flatlining, not per se a Business Plan,
to use your words?---Yes.

35 Would you regard that strategy as something that should be directed at managing
the undertaking, that is, the City of Perth Parking undertaking?---I think that's a
reasonable position to take.

40 That is one of the things that I read out to you earlier should be in a Business
Plan?---Yes.

So wouldn't that then require, in your view, consideration of a Business Plan to
address that flatlining?---No, I don't necessarily think it requires a Business Plan. I
think it requires, as I said, a strategy to address the problem.

45

Mr Urquhart, how much longer do you think you might be with this witness?

MR URQUHART: Could I answer it this way, sir, we are not going to finish, even if we were to go for another hour tonight.

5 COMMISSIONER: I would like to press on for a bit longer please, because we have a schedule to keep. I'm going to suggest that seeing as Mr Mianich has been in the witness box now for over an hour and a half, that we take a short 10 minute adjournment.

10 MR URQUHART: Thank you, sir.

COMMISSIONER: Mr Bourhill, would you have a difficulty with that?

MR Bourhill: I'm perfectly fine with that.

15 COMMISSIONER: Ms Saraceni?

MS SARACENI: Thank you, sir.

20 COMMISSIONER: Very well. I will adjourn the Inquiry for 10 minutes.

WITNESS WITHDREW

(Short adjournment)

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HEARING RECOMMENCED AT 4.07 PM

MR Robert David MIANICH, recalled on former oath:

5 COMMISSIONER: Yes, Mr Urquhart.

MR URQUHART: Thank you, Commissioner.

10 Mr Mianich, did you see any benefit for the City to have a Business Plan for City of Perth Parking introduced in or about 2018?---Yes, I would think there would be a benefit.

15 Would you agree with me it needed to be something more than the bit light-on draft Business Plan that had been prepared?---It's quite possible that the level of detail that you're looking for might have been available in the Business Plan of the unit. So each unit in the City is required to prepared, on a yearly basis, their own Business Plan. So I've got to say, I haven't actually seen that document but - - -

20 I'm not looking for anything. I want to know if you, in your position as Director of Corporate Services, needed something more in the Business Plan that was contained in the draft?---I would have liked to have seen a bit more financial information in that document, but the document was not mine, it was prepared by another Director.

25 That might be so but having read the draft and seen the deficiencies in the financial side of things?---Yes.

30 Did you say anything?---Look, I've been thinking about that. I can't recall exactly but it would be unusual if I did not comment on such a matter at the process by which those sorts of documents are examined.

Would there be written documentation of that?---There's no minutes as such, so just to explain, we had - the City had - - -

35 So is the answer to that question, no?---Sorry, the question again?

40 Is there any written documentation of you raising any concerns that you might have had with the draft Business Plan?---Not at the forum I was talking about. There may be emails, I can't be sure, you would have to check the City records.

45 And if there wasn't anything there in the City records?---As I said, it would be unusual that I did not raise that at the agenda settlement process, because that's the forum by which officers can question the content of documents that find their way through to the Council meeting agenda.

But Mr Mianich, it seems that this draft Business Plan went through without any changes that it seems that you had identified with the financial aspect of it?---That

would appear to be an outcome but I can't recall the exact version of the document that was originally tabled at that agenda process. So I can't even recall - - -

5 Let's assume it was the same one that made its way to Council, the one that you've had an opportunity of looking at?---Yes.

10 Let's assume it was that; there's no changes made?---I've already answered that question a few times. In my view, I believe it should contain more detailed financial information.

So do you bear any responsibility at all for it going to the Council in the state that it was in?---I think I've answered that question as well.

15 I'm giving you the opportunity - - -?---I have answered that question no because the Director responsible for the Parking Unit is the officer that you need to direct your attention to.

So you're blameless in this regard, are you?---When - - -

20 Just yes or no to that.

MR BOURHILL: Commissioner, I'm not sure that's an appropriate question.

25 COMMISSIONER: I - - -

MR BOURHILL: This isn't about allocation - - -

30 COMMISSIONER: Just hang on, Mr Bourhill - just hang on. Mr Mianich, I will have you excused from the hearing room, please. I will ask you to leave the hearing room, please.

WITNESS WITHDREW.

35 COMMISSIONER: Mr Bourhill, when I ask you to hang on, it's for a good reason.

MR BOURHILL: My apologies, Commissioner.

40 COMMISSIONER: What's the objection?

45 MR BOURHILL: The objection is that whether Mr Mianich accepts any blame or not is, with great respect, irrelevant to the exercise you are undertaking. He has said that he would have preferred the document to have more detail. It's not been established, to my knowledge, that he has any other control over the tabling of the document beyond saying, as he's said he might have done, to the person who's created the document, "Shouldn't it have more financial information in it?" To put to him that he's blameless is, with respect, just an inflammatory observation.

COMMISSIONER: Thank you, Mr Bourhill. Mr Urquhart, what do you say in response?

5 MR URQUHART: I have asked him whether he bears any responsibility for the way in which that document was prepared and then submitted to the Council. He's denied that and I'm just simply asking for his opinion as to whether he regarded himself as blameless for this document going to Council in the manner that it was and in my respectful submission, given the fact that he was Director of Corporate
10 Services, it was entirely relevant, more so now because he's identified that there were deficiencies in the plan with respect to financial aspects.

COMMISSIONER: Mr Bourhill's objection though is not based on your question about responsibility. As a manager, of course, you are responsible for some things
15 and not for others. Whether he accepts responsibility or not may be very relevant to the findings I make in this Inquiry but blame is a word which has other attributes and some of them are inflammatory and it has connotations, which I think is what Mr Bourhill is concerned about and with all due respect to you, Mr Urquhart, I on this occasion agree with the objection that's been made. Is there
20 some other way the question can be put, if it needs to be?

MR URQUHART: Given the fact that he has absolved himself of any responsibility, it doesn't need to be phrased in any other way and I've given him several opportunities to consider his evidence in this regard, so I think procedural
25 fairness has been more than complied with, sir.

COMMISSIONER: Thank you.

MR URQUHART: I shall move on to another matter, sir.

30

[4.15 pm]

COMMISSIONER: Thank you. Very well. Can we have Mr Mianich back in the room, please, Madam Associate. Mr Mianich, please come forward and resume
35 your seat in the witness box.

MR Robert David MIANICH, recalled on former oath:

COMMISSIONER: In your absence, Mr Mianich, your counsel made an
40 objection. The matter has been resolved and although I probably don't need to say it, I will: your absence from the hearing room while I heard that objection is no reflection on you whatsoever?---Okay, thanks.

Mr Urquhart.

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MR URQUHART: Thank you very much, Commissioner.

Madam Associate, could we just go to the next page, please, that's up on the screen, so that would be 3.1271. Still the same TRIM number, sir, 21535.

COMMISSIONER: Thank you.

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MR URQUHART: So this is page 3 of Mr Jorgensen's letter to you in March of this year and I just want to take you, please, to the paragraph numbered 4 there, and I will just read it out:

10

In respect of CPP, the annual budget which you are responsible for preparing, proposed to spend approximately \$17 million over two financial years on an Integrated Parking Management System (IPMS).

15 I will just stop there for a moment and can I ask you whether you agreed with the contents of that sentence?---I just don't recall the total dollars but they, I think, got adjusted but they were of that order, somewhere in that order. I can't be sure on the \$17 million but - - -

20 But somewhere around that figure?---Yes, somewhere around that number.

And that the annual budget for which you are responsible for preparing, you take no issue with that?---Well, I oversee the Finance Manager in the preparation of the budget.

25 So is that a yes or a no to my question?---Well, I oversee the process.

It continues:

30 *The IPMS is proposed to be implemented over two financial years with \$6.5 million of expenditure in 18/19 and \$10.5 million expenditure in 19/20.*

Again, just assuming that those amounts are correct, it continues:

35 *Despite the significant cost of the IPMS there was no mention whatsoever of the IPMS or the project's expenditure within the Draft CPP Business Plan.*

40 Do you accept that?---Yes.

That there was no mention?---Yes, from what you've shown me previously, yes.

45 Is that a financial matter that in your view should have been included?---It somewhat depends on the timing of all this. I just can't recall exactly when this issue was being discussed, Integrated Planning Management System and when the draft Business Plan was prepared, I think you said it was mid 2018. So the Integrated Parking Management System had been subject to a lot of discussion and

the timing on the system and the financials had been changed on quite a regular basis. So I would expect - I don't know whether they had resolved the situation by that time.

5 Assuming it was, because we can see there that it was already in the annual budget; do you see that, first line?---It's an interesting comment. It's factually incorrect because the budget is an annual number so we wouldn't have had a number over two years in the budget. So I don't know where that's come from. Obviously your budget is an annual reflection of expenditure so the statement there
10 is incorrect.

Given the fact that there's a \$6.5 million dollars of expenditure in 18/19 would suggest that that had been allocated at least in the annual budget?---Yes, that's the point I'm making.

15 So therefore, at least that part of the IPMS should have been referred to in the Draft CPP Business Plan?---You could take that view.

It's the obvious view to take, is it not?---As I said, you could form that view but as I also said, this was very much a - it hadn't been resolved at that stage exactly how
20 it was going to be implemented. In fact, I think for 18/19, from memory, from when I left, very little of that money had been expended, from memory.

What's that got to do with whether or not it should have been included in the draft Business Plan for CPP? This is expenditure for the future?---Yes. I think there probably should have been commentary in the plan, even ignoring the financial numbers, there certainly should have been commentary in the plan as to what was the intent in implementing an Integrated Parking Management System.

30 Should have there also been a business case prepared to support the proposed expenditure for the IPMS?---Yes, as part of the budget process I would have expected a business case to be prepared. Any items of that magnitude would have had a business case prepared.

35 That goes to paragraph 5 then:

*Furthermore, I am concerned that a business case was never prepared to support the proposed \$17 million expenditure for the IPMS. A business case was only prepared after a request from the
40 Commissioners, well after the first stage of the project had entered into a formal procurement process.*

Do you accept that?---I'm not aware of those details.

45 Do you accept that a business case was only prepared after a request from the Commissioners?---I'm not sure.

You certainly don't have any recollection that that was not the case, do you?---Well, I don't actually have any recollection of it being the case, actually.

5 Let's assume that it was the case, so we are making that assumption, all right?---Do you want me to continue reading here?

10 No, I just want to emphasise, that let's make that assumption, so I don't want you to say in answer to my next question, "Oh, I don't know if it was or not." I want us to assume that that is in fact correct, okay? I want you to assume?---So you're asking me to assume comments made in a letter that I had a lot of problems with, everything in the letter is correct?

15 No, I want you to assume that a business case was only prepared after a request from the Commissioners, well after the first stage of the project had entered into a formal procurement process. That is all I want you to assume in this letter for the purposes of my examination of you now, okay?---Yes.

It continues:

20 *A project of this significance in terms of both cost and risk should not have evolved beyond concept phase until such time as a properly articulated and documented business case clearly justified and supported the project.*

25 I gather you would accept that, would you not?---Yes.

30 So Mr Jorgensen asked you if you could provide an explanation for this, given your responsibility to both the Finance and Procurement portfolios. So assuming the accuracy of the contents of that paragraph, are you able to offer an explanation?---No. As I said, I'm surprised at some of the commentary there and I am - - -

35 Why can't you provide an explanation, given your responsibility for both the Finance and Procurement portfolios?---So the process with regard to the project, we introduced a fairly robust system for the preparation of Business Plans for major projects. In fact, we went down to a much lower level, in terms of expenditure, than the types of dollars you're talking about here.

40 Mr Mianich, I'm only interested in this particular example?---I'm trying to get the answer.

45 Maybe you could start by providing an answer to the question and then going on to explain why the answer is. So what I want you to do is provide an explanation for this particular instance?---Yes.

Not what was generally introduced or followed?---Okay.

Okay?---Is that a question?

Yes. I want you to answer my question?---Okay. So as I said - - -

5 I want you to provide an explanation?---I don't have any explanation for that. I suggest you direct that question to the relevant Director because I am very, very surprised at that comment in there about not having a plan, given the literally hundreds of plans that I would have seen.

10 Mr Mianich, if you're responsible for overseeing the annual budget?---Yes.

You should have been aware if there was a business case or not for this particular matter?---I'm not aware of every single business case. I seem to remember there was literally about three lever arch files of business cases that I would have looked at.

15 But there was no business case for this matter, I want you to assume that that's the case?---I can't be sure because I find it very surprising.

20 I want you to assume that there was no business case, I want you to assume that. If that was the case, when you were overseeing the process for the budget, you should have picked that up; would that be not fair to say?---No, I don't agree with that comment.

25 No?---No.

So you would be signing off on this \$17 million expenditure without sighting a business case?---I wasn't signing off on the expenditure, the relevant Director would have been - - -

30 Signing off on the budget?---Sorry?

Signing off on the budget, overseeing the budget?---Yes, the budget's got a lot of numbers in it

35 [4.30 pm]

40 I know that, and this is a big number, \$17 million?---Yes, and as I said, I'm surprised no plan had been - if that is in fact the case, I am surprised and it's obviously an oversight, because expenditure of that amount of money requires a Business Plan.

Or in this case - - -?---A business case.

45 Yes. So it was an oversight by the Directorate?---By the unit, the Director in charge of the unit, and if you like to include me in that, it may have been an oversight on my behalf.

5 I don't like to, I'm just asking you whether you are included in that oversight?---If in fact the oversight is correct, I don't recall not seeing a version of the document for that and given it was a big number, that's surprising because the Executive reviewed the business cases for the major items of expenditure.

COMMISSIONER: If that oversight did occur, would you accept some responsibility for it in your role at that time?---If that is correct, yes.

10 Thank you.

MR URQUHART: Thank you, Madam Associate, that can come down now. Can I ask you a general question now and that is, what methodology did the Finance area use for the allocation of indirect or overhead costs?---The methodology
15 largely revolved around activity based costing, so there is quite comprehensive documentation going back a number of years as to the basis of how you would allocate overheads. So, for example, the allocation of overheads on my time would have been based on time. So if I said I spent 20 per cent of my time on Finance, 20 per cent on IT, those percentages would have been used to allocate my
20 direct cost to the overhead. A similar sort of methodology was employed with regard to overheads generally.

Was it a sound methodology?---I think the principles are quite sound, yes.

25 When was it last reviewed in your time there as a Director, can you recall?---Look, you'd have to check the City records. It would be years but it was continually fine tuned to a certain extent as additional information became available. So for example, a good area of example was our Properties Unit. So where it became relevant to a Property Unit that they received, say, a valuation on a property - say
30 it's a car park - and the valuation was significantly higher than the previous valuation, there would have been a review to the notional rental charged to the particular user. So that was done on a little bit of an ad hoc basis, as the Property Unit got the necessary information to make the adjustments. So that was an ongoing issue.

35 Was there a manual or documents which outlined the basis for the allocation of indirect costs?---Not a manual but there was a document.

40 What was that document?---Sorry?

What was that document? Where was it, who prepared it?---The document was prepared by the Senior Management Accountant and there would be versions available in our TRIM records, I would assume. I had a version of it, I think in my office. That document would be dated some years ago and as I've just explained,
45 maybe some of the rationale in it may have changed but I don't recall seeing an updated version of the document in recent years.

Isn't it important for a document of that nature, that it is regularly updated?---Not necessarily, no.

5 Or updated at all?---As I explained, there's a comprehensive document there to explain the rationale and largely, what you're talking about is the non-cash entry for the allocation of internal charges. So in terms of the cash operations of the City, the impact was zero.

10 COMMISSIONER: Mr Mianich, you said that the rationale for this document may have changed. Given that, was it important for a document of this kind to be regularly reviewed, even if not updated?---Yes, I guess it depends on the definition of "regular". I would suggest you wouldn't be reviewing this document on a yearly basis but I would have thought good practice would dictate that you would look at it at least every three or four years, would be my view.

15 And if the rationale was no longer applicable, would that be a reason to revise the document?---I think what the Finance officer would have been doing would be making a running list, if you like, of changed rationales and - - -

20 Come back to my question, please. What's the answer to my question?---You may have to repeat your question.

I suspect I will. If the rationale had changed, would that be a reason for updating the document?---At some point in time it would be, yes.

25 If you reviewed it, and you realised on the review the rationale was no longer applicable, would there then not be a need to immediately update it?---No.

I see?---Not in my view.

30 Thank you. Yes, Mr Urquhart.

MR URQUHART: Thank you, sir.

35 Madam Associate, could we please have 3.0078 up on the screen. Sir, this is TRIM number 21352.

COMMISSIONER: Thank you.

40 MR URQUHART: Mr Mianich, while that's being done, I will just indicate to you that this is page 13 of the more comprehensive report that was prepared by ACIL Allen, and specifically, Mr Nicolaou?---So I haven't seen this before?

45 That's right. I'm showing it to you now?---Excellent. Do you want me to read it?

I'm going to take you to the relevant paragraph on the page. It's the second last paragraph on that page, so Madam Associate, maybe if we could just enlarge it a

little bit. It starts:

5 *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 floor space occupied by each Business Unit.*

10 He's talking about there City of Perth Parking, okay? Is that document the one that you're referring to, the Microsoft Excel workbook?---No.

15 So that book or that document that you refer to, would that have been the policy document that outlined the rationale for the allocations?---Yes. Look, I don't recall the title but it, in some detail, took the reader through the basis of the allocation, yes, but I don't recall the title. I think this is more a process. This was, if you like, the end process but I don't agree with this comment that "none was available"; they obviously asked the wrong officers because there's a copy of the document in my office, or my former office.

20 What officers should have been asked for this document?---I would have assumed the Senior Management Accountant. I'm not sure, you've given me a document that I've never seen before.

25 I'm just trying to locate - - -?---Yes, senior management accountant should have a copy of the document. The document should be in TRIM and if you go to my former office, you will find a document in my Finance and Admin file.

30 Mr Mianich, apparently the Inquiry did actually ask the Manager of Finance; is that the person that should have been able to locate the document?---No, I said the Senior Management Accountant.

35 So the Manager of Finance would seem to be not aware of the existence of this document?---It's possible because he's been at the City for about three or four years, so I think you will find the document is all of that in age.

The Manager of Finance should be aware of such a document should he or she not?---Well, you'd need to ask them.

40 I'm asking you. I can assure you, Mr Mianich, when I'm directing a question, I'm directing a question to you, not somebody else. There's no-one in this room, specifically not in the witness box?---Right.

45 My question of you is, the Manager of Finance ought to be aware of a document such as this?---I would have thought so.

You would have thought so?---Yes.

It should be definitely so?---I would have thought he would be aware but as I said, I suspect the document was prepared before he commenced at the City.

5 Yes, so?---But should be aware of its content, for sure. Certainly I would have thought, as I said, the Senior Management Accountant who's responsible for the allocation of overheads would have been aware of the document. I'm not sure if she was asked.

10 You are positive such a document existed?---I've answered that question, I've given you three locations for the document.

Yes, I'm just confirming with you, that's all?---Yes.

15 And it was a document that was followed by the City with respect to the - - -?---Largely followed by the Finance Unit that was responsible for the allocation of the overheads. So it was - - -

So largely followed?---Well, was followed.

20 Shouldn't it always be followed?---Yes, apart from that the updates that I spoke about with the Commissioner whereby some aspects may have changed due to changed circumstances, which probably fed into this Excel document that you're referring to.

25 COMMISSIONER: Can you give me the name of the Senior Management Accountant, please?---At the moment that would be Reshma. I'm sorry, I don't recall her surname.

30 What's her first name?---Reshma, R-e-s-h-m-a, I think it is.

Is she the senior manage accountant about whom you were speaking a moment ago?---She would be aware of the location of the document, I would expect, because she replaced, in effect, the author of the document.

35 Thank you.

MR URQUHART: Sorry, sir, I'm just conferring here.

40 COMMISSIONER: That's all right.

MR URQUHART: So you agree with me the Manager of Finance ought to be aware of this document; who else? Who should be aware of this document?---Well, I was aware of it. Possibly a couple of other of the accountants in Finance that were responsible for putting together the budget.

45

[4.45 pm]

They should definitely be aware of it, shouldn't they?---Yes.

Who are they or who were they when you were there?---You're asking me the names of staff members now.

5

Yes?---All right. Let me give that some thought, given that I've left the City. One of them would be Neil Jackson. He's the, and I can't remember the exact title, possibly something like Capital Accountant, or something similar. Neil would probably be aware of the document. He's been at the City for a fairly long time. Possibly Fiona Marsden, the Project Accountant, because she would have been responsible for the allocation process of the overheads through the Finance One system. I'm struggling a bit with other names.

10

COMMISSIONER: That's all right, as best you can remember is fine?---Does that help you at all?

15

MR URQUHART: Yes, it does. We see up there, that paragraph I took you to?---Yes.

20 There's a footnote that appears there, footnote 5, do you see that?---I can't see the footnote, I can see the number.

I know, we are going to go down to the footnote now. That might need to be enlarged a little bit more, Madam Associate, if that can be done. So back to 0078, if not - I think we had this problem before.

25

COMMISSIONER: Let's just go down to the end of the page.

MR URQUHART: Let's just go down or I can read it aloud if need be. So the footnote is:

30

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.

35

?---Yes.

So it would seem from that, that Mr Jackson wasn't aware of that document. If that is the case, does that surprise you?---Most certainly.

40

Because it then becomes or could become a potential problem, can't it?---In what respect?

Well, the Manager of Finance seems to be unaware of it, and now Mr Jackson?---Yes.

45

And he was one of the accountants responsible for the budget?---Yes, as I said,

he's more on the capital side but the only reason I could possibly suggest is that the allocation of the capital budget didn't get into overheads as such. This only applies to the operating budget, of course, which Reshma would have been more heavily involved with.

5

But if in fact those responsible for Finance weren't aware of this document, is there not a risk that under-performing parts of the organisation might remain concealed?---Sorry, under-performing parts of the City?

10 Yes?---In terms of the allocation of overheads?

Precisely?---I'm just trying to think through the ramifications of that. Bearing in mind this is all non-cash, the only - a possible outcome is that the financial performance of, say, for example, the parking business may have been overstated if the rental values ascribed to overhead charges were based on lower valuations of freehold land and the like. So that would be a potential ramification.

15 Yes. I just want to show you now a paragraph that was prepared by Mr Nicolaou regarding indirect costs that were allocated to City of Perth Parking and, Madam Associate, that can be found at 3.1488. TRIM number, sir, 25087.

20 COMMISSIONER: Thank you.

MR URQUHART: I just want to concentrate on the bar graph on the left-hand side, Mr Mianich. I will just give you an opportunity of looking at that.

COMMISSIONER: Take as long as you need, Mr Mianich?---There doesn't seem to be any bin levy in that graph.

30 MR URQUHART: Too small to be included?---Okay. I get the general trend. So the cost allocations increased over a period of time.

Yes?---And that's due to rents increasing and internal cost allocations increasing would be my initial observation, which is reasonably consistent with what I said previously.

35 And as Mr Nicolaou has observed in the note that appears underneath the bar graphs:

40 *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 PPL.*

Which is the Perth Parking Levy?---Mm hmm.

45

:

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.

5 Do you see that?---Yes.

So you accept there's a possibility that overheads may have been allocated to City of Perth Parking to improve the financial positions of other Directorates?---No.

10 No?---No.

Not at all?---No. That was never considered.

15 It might not have been considered by you but is there potential for that?---There's potential for it but never considered by me, and there are probably some logical reasons why that cost allocation had increased. So I think I've explained the rents. So if the value of a freehold parking premises has increased, it's logical to expect that the Properties Unit would levy a higher rent charge on the parking business to more accurately reflect the market value of the rent. With respect to the internal
20 cost allocations, I was aware that Parking were utilising additional, particularly IT resources, particularly hardware. So I would not be surprised if you checked the records, that the allocation of overhead from, say, our IT Unit may have increased to CPP because on a proportional basis, they were consuming more IT resource than the balance of the business, would be my initial response to something you've
25 just put in front of me two seconds ago.

A bit longer than that and you were given the opportunity to take as much time as you liked. Do you want some more time to look at it?---I've given you my initial
30 reaction. If you give me a little bit of time to think, I could possibly think of additional reasons why that cost has increased but in terms of materiality, it's neither here nor there really. I would say it's hard to - - -

Why do you say that?---It's \$4 million in a business that's turning over 70 and as I've explained, part of it is rental and I assume part of it is direct. I'm just trying to
35 think. Other areas of the business that might have allocated additional costs to parking might be, for example, the marketing area. CPP engaged in extensive marketing activities. So for example, if there was a promotional period associated with Christmas or whatever, it is quite possible that the City's Marketing and Promotions Unit may have allocated more cost because more of their time was
40 being spent on parking related promotions.

So given those answers that you've provided, I gather you would say that the indirect cost allocations to the City of Perth Parking appropriately reflected the overhead costs to it?---I haven't got that level of detail. I would need to look at the
45 supporting data but what you've shown me here, I'm not really surprised at that trend because my assessment would be that possibly the initial years of the analysis, and maybe even going back earlier than that, probably understated the

equitable and probably accurate allocation of overheads to the business.

5 Do you mind if I deal with just one more subject matter to do with City of Perth Parking now? It's entirely up to you, Mr Mianich. You've been giving evidence all day, if you want to stop now - - -

COMMISSIONER: I think it's entirely up to me at the end of the day, isn't it?

10 MR URQUHART: I gathered though Mr Mianich's views would carry some weight, sir, if I could put it that way.

COMMISSIONER: Mr Mianich, how are you feeling?---Look, I've got to say I'm a bit jaded. How long's it likely to take?

15 MR URQUHART: I've got about 10 minutes for this one?---I could do 10 minutes.

COMMISSIONER: In that case, we will proceed for another 10 minutes.

20 MR URQUHART: Thank you, sir.

Are you aware of the term, competitive neutrality?---Yes, I'm aware of the term.

25 And the National Competition Policy that was introduced by the Federal Government in, and we have heard this year before, 1995?---I believe that's correct, yes.

Which led to the National Tax Equivalence Regime?---Yes.

30 What was your understanding of this regime's objective?---You want a brief explanation?

35 Yes?---Okay. In my view, the legislation was predominantly aimed at government trading enterprises. So what it was designed to do was to levy an equivalent tax charge to the likes of, say, for example, a Western Power, a Water Corp, so that their cost of service delivery reflected taxes that would have been paid in relation to State and Federal Government charges.

40 Right?---That money, I think, ended up at the State Treasury in relation to those entities, but I may stand corrected to that.

Essentially, was it to ensure that public owned businesses or undertakings did not have pricing or cost advantages over privately owned competitive businesses?---That's not a bad summary.

45

[5.00 pm]

And, more precisely, where the advantage is solely due to the tax benefit?---Yes.

For the public ownership?---Yes.

5 Did this regime apply to City of Perth Parking, bearing in mind it didn't have a monopoly?---I'm not sure. You probably would have to reflect back on decisions and advice received by the City in 1995 when the regime came into operation.

Really?---Yes, I think you would.

10

Was this regime being applied to City of Perth Parking when you were at the City?---I don't believe so but I think you would need to check, but I would have thought the City would have received appropriate legal/financial advice back when the regime was introduced, to ascertain whether such a regime would apply to the parking business.

15

It seems, Mr Mianich, that the City of Perth was unable to produce to the Inquiry any documentary evidence that suggested it was familiar with the National Tax Equivalence Regime?---Why are you asking me that?

20

Or that it had any appropriate policies regarding the application of the regime's principles?---I'm a little surprised with your first, that there was no response on that.

25 Any documentary evidence?---Yes, I'm surprised at that. I would have thought when such a regime was introduced in '95 that you would have expected the matter would have been addressed at that time.

30 But let's move on now to closer in time, okay? There didn't seem to be any appropriate policies in place regarding the application of the regime's principles with respect to the City of Perth Parking?---I'm not sure on that. You would need to check with the relevant unit and Director responsible for the business.

I'm asking you?---I'm not aware of it, no.

35

Were you aware whether the regime was even recognised with respect to City of Perth Parking?---Look, there wasn't a lot of discussion about the regime. I honestly don't recall it being raised in any Executive discussions or - I think in all my time at the City, I think I can recall it probably being raised once or twice and that was in the context of, I think, correspondence from probably another parking supplier.

40

Wilson's?---I don't know, I don't recall the proponent but it could well be, but you may have - - -

45

That would be something that a private competitor would raise, wouldn't it?---Yes. Look, I'm sorry, I don't recall the proponent but I do recall we had a discussion

many years ago in relation to some piece of correspondence, yes. I do recall that but I don't recall the outcome. You're talking - I'm talking a long time ago.

5 It should be in the Business Plan though, shouldn't it?---You've changed subjects back to the Business Plan?

10 Yes, the Business Plan for the City of Perth Parking, it should be included in that, shouldn't it?---Well, dependent on the advice received by the City back in '95, would be - yes, would be my answer.

15 With respect to the City of Perth Parking, do you know whether consideration was given to application of the regime's principles - that's you, yourself?---I'm not aware of it, no.

20 Is that something you should have been aware of?---As I said, I was aware of the existence of the regime. I would have expected that a new notional tax regime introduced back in '95 would have been appropriately addressed by officers of the City at that time, and I'm not aware of any entity or compliance entity bringing that to my attention.

25 Which would suggest then, would it not, that the principles weren't being applied with respect to City of Perth Parking?---Yes, it would appear so, yes. Yes, it would appear so.

30 I think that's 10 minutes. Thank you, Mr Mianich, and I've finished asking you questions on that subject matter. Sir, is that an appropriate time?

COMMISSIONER: Yes. We are running behind schedule so what time do you have in mind to commence tomorrow, Mr Urquhart?

35 MR URQUHART: Could we have 9.30, please, sir.

COMMISSIONER: Mr Bourhill, is there any difficulty with that early start?

40 MR BOURHILL: I have no difficulty with that, sir.

COMMISSIONER: Ms Saraceni?

45 MS SARACENI: Not with 9.30, sir, but I've explained to the solicitor assisting that I have a Federal Court appointment that will need me to vacate for a while and have Mr Tuohy in the chair tomorrow morning.

COMMISSIONER: What time is that?

50 MS SARACENI: About quarter to 11.

COMMISSIONER: How long do you think it will take?

MS SARACENI: It's a reserved decision, sir, it depends if there's going to be any issue on some of the orders that arise. I'm not sure, it's a three year wait for this decision.

5

MR BOURHILL: In the Federal Court.

COMMISSIONER: Mr Bourhill, that's on the transcript now.

10 MS SARACENI: In short, sir, I can't answer. I would imagine the minimum would be an hour for me to get there, even if it's a short decision, and come back but it could go for an hour and a half. So if I left at quarter to 11 - - -

COMMISSIONER: We will work around you, Ms Saraceni, don't worry.

15

MS SARACENI: Thank you, sir.

COMMISSIONER: A 9.30 start would suit you?

20 MS SARACENI: Not a problem.

COMMISSIONER: Thank you very much. Mr Mianich, is there any reason why you can't be here at 9.30 tomorrow morning?---So the expectation is that I will continue tomorrow?

25

Correct?---No, I guess I can make that. I wasn't expecting to be here actually all day today.

30 Neither was I, expecting you to be here all day today but sometimes these things don't work out as they are planned?---I'm more than happy to accommodate the wishes of the Inquiry.

35 Thank you very much, I appreciate that. So I would like to thank you, Mr Mianich, and all of those at the Bar table as well, for accommodating the Inquiry with a late sitting today. It's very much appreciated. I will otherwise adjourn the Inquiry to 9.30 am tomorrow morning.

**AT 5.08 PM THE MATTER WAS ADJOURNED
UNTIL WEDNESDAY, 9 OCTOBER 2019**

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45