



# Inquiry Into the City of Perth

## OPENING SUBMISSIONS

### Introduction

1. The Inquiry into the City of Perth has embarked upon the important task of investigating the affairs of the City of Perth. It is a difficult task which is necessary to restore public confidence in the City of Perth.
2. The Minister for Local Government's decision to implement this Inquiry was particularly timely. It coincides with the Government's programme of local government reform. The matters that arise in this Inquiry, which is an inquiry into our State's capital city and foremost local government, will no doubt inform that reform process.
3. This is an independent Inquiry into the proper functioning of the two arms that conduct the operations of the City of Perth. Those two arms are the elected member group, known as the council, and the City's staff, known as the administration.
4. The allegedly fractious relationships between those two groups has already been widely reported.
5. The responsibility with which the Inquiry has been tasked is significant. Its function and purpose are broad.

## **Inquiry Into the City of Perth**

6. The Terms of Reference cover a number of issues central to the proper functioning of the City of Perth.
7. Since the Terms of Reference were issued, much work has been undertaken.
8. After the appointment of the Inquiry Panel, there was an establishment phase and by about mid-June 2018 the Inquiry was operational. During that phase, steps were taken to recruit staff and put in place the necessary infrastructure for the operation of the Inquiry, including to establish a website, locate suitable premises and make them operational.
9. The Western Australian Industrial Relations Commission has made office space available to the Inquiry and provided access to hearing rooms for both private and public hearings, including this hearing room today. On the Inquiry's behalf, I thank the Western Australian Industrial Relations Commission.
10. The Inquiry has recruited an experienced and hardworking team of investigators and intelligence analysts. The Inquiry also has an instructing solicitor, research assistant as well as executive and administrative support. These staff are integral to ensuring that the Inquiry thoroughly and properly carries out its function.
11. Before the Inquiry was appointed, on 8 January 2018, the Acting Director General, Department of Local Government, Sport and Cultural Industries, authorised a Local Government Inquiry into the acceptance of tickets and

events and the accompanying sponsorship arrangements. The dates for that Authorised Inquiry was the 10 years from 1 January 2008 to 8 January 2018. On 20 February 2018 that Authorised Inquiry was expanded. It was not as broad as this Inquiry and, in any event, a final report was not issued.

12. As a consequence, once established, the Inquiry immediately commenced a thorough and careful discovery phase. The purpose of that discovery phase was to conduct broad investigations to address the broad Terms of Reference and identify the issues that would require more specific investigations and thereby enable the Inquiry to perform its function. The Inquiry team, in particular the Inquiry's investigators and analysts, have worked tirelessly to gather and analyse information from many different sources.
13. The Inquiry obtained information in a variety of ways, including by interviewing individuals who work or have worked at the City, as well as from people who have had dealings with the City. The Inquiry team has, so far, interviewed no fewer than 44 people. The Inquiry currently holds about 2.9 million electronic documents. It also holds 22 archive boxes of hard copy materials as well as 88 electronic devices.
14. The Inquiry has the powers of a Royal Commission and has made use of its coercive powers under the *Royal Commissions Act 1968*. Those powers permit the Inquiry to require recipients of notices to produce documents and to produce information in the form of a statement of information.

15. Thirty-five notices have been issued to date. It is expected that the Inquiry will continue to issue notices to produce at regular intervals, as it continues its investigations. The Inquiry has also received materials from a number of other Government agencies, including the Corruption and Crime Commission, the Public Sector Commission, the Department of Local Government, Sport and Cultural Industries, the Local Government Standards Panel and the Western Australian Electoral Commission.
16. Many of these documents have been reviewed, and all form part of the holdings to which the Inquiry staff continue to have regard.
17. As a result of the work done analysing its holdings, the Inquiry has identified a number of significant issues. Those significant issues have been and continue to be investigated.
18. These submissions do not touch on those issues with any specificity. It is important not to do so for the integrity of the ongoing investigations. It would also not be appropriate to do so at this early stage of the Inquiry's hearings. However, these submissions will touch on some broad themes which have been revealed by the investigations.
19. During its discovery phase, the Inquiry also sought to engage with the public. It is with the involvement and support of the public that the Inquiry will best inquire into and report on the City and its functioning.
20. On 29 June 2018 the Inquiry issued a media release and invited the public to email submissions to it. It has received a number of them. The Inquiry has

been greatly assisted by submissions it has received to date from members of the public.

21. The Inquiry again invites the public to make submissions on any matters relevant to the Terms of Reference - by the end of December 2018. Following today's address the Inquiry will publish further information to the public to encourage their involvement. The public may also wish to visit the Inquiry's website to consider what matters may be of interest to it.
22. The role of the public in this process is not to be underestimated, particularly given the importance of this Inquiry's role in restoring confidence in the City of Perth.
23. Each of the issues that have been identified to date are being diligently investigated to ensure that the Inquiry carries out the task at hand thoroughly and properly. Any additional issues that arise as a result of public submissions will be attended to with equal care to ensure that the Inquiry meets its objectives, and its necessarily broad Terms of Reference.
24. The Inquiry will also embark upon a series of public hearings. The date for those hearings is yet to be confirmed but, given the number of significant issues that have been identified, those hearings will need to take place over a number of months.
25. The work of this Inquiry is, of course, not limited to public hearings. Much of the Inquiry's work is done away from the public eye. That work includes research, investigation and analysis, among other things.

26. This Inquiry will be as transparent as it can be in its work. However, while the Inquiry would like to be in a position to conduct all hearings in public, circumstances will sometimes dictate that some matters be dealt with in private hearings. They will deal with sensitive matters and will often be necessary to avoid prejudicing the ongoing work of the Inquiry. Private hearings will take place before the Commissioner. They will not be open to the public or any party not involved directly in the hearing. They will be attended to with the same rigour as the public hearings and persons affected will be afforded procedural fairness.
27. All of the Inquiry's work is being done with a view to its ultimate requirement to report to the Minister for Local Government. That report must contain any recommendations that the Inquiry considers appropriate. Those recommendations may be to dismiss or reinstate the council.
28. Much work is required before the Inquiry will be in a position to make such recommendations. However, closing submissions will likely address more than just the role of the council, and will deal with the relationships and interactions between council and administration, and within each of those groups.

## City of Perth

29. The City of Perth is, of course, this State's capital city.
30. The City of Perth covers an area of just over 26 sq km<sup>1</sup> and has a population of over 27,000 people.<sup>2</sup>
31. The area under the jurisdiction of the City includes the central business district and some surrounding suburbs. Many of the State's most important landmarks and institutions are within the City's boundaries. These include Parliament House, the Supreme Court and the University of Western Australia.
32. Ratepayers within the City are made up of residents and business owners.<sup>3</sup> Over 12,000 businesses are located within the City.<sup>4</sup> Those businesses range from small businesses to multinational corporations.
33. Unlike other local governments in Western Australia, as the capital, the City of Perth has special significance and responsibilities.
34. In 2016 this significance was enshrined in statute by the *City of Perth Act 2016* (WA). The City of Perth Act brought the City in line with other Australian capital cities and acknowledged its central role in tourism, business and economic development. That Act sets out the ten objects of the City.<sup>5</sup> They include to

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<sup>1</sup> City of Perth, *City of Perth Annual Report 2016/17*, p 6

<sup>2</sup> Australian Bureau of Statistics, *Region Data Summary: Perth (C) (LGA) (57080)* (9 November 2018) <<http://stat.abs.gov.au>>

<sup>3</sup> City of Perth, *City of Perth Financial Statements 2016/17*, p 31 (as annexed to the *City of Perth Annual Report 2016/17*)

<sup>4</sup> Australian Bureau of Statistics, *Region Data Summary: Perth (C) (LGA) (57080)* (9 November 2018) <<http://stat.abs.gov.au>>

<sup>5</sup> Section 8 *City of Perth Act 2016* (WA)

provide for good government, and to represent the community and encourage community participation in decision-making. These objects are not definitive or all-encompassing, but are aspirational and to be applied to decision-making within the City.<sup>6</sup>

35. That Act does not exist in isolation and the City is bound by the obligations set out in the *Local Government Act 1995 (WA)*. There are no fewer than 15 other pieces of legislation that apply to the operations of the City.
36. The City's affairs are governed by the council, which is responsible for the performance of the City's functions. The City of Perth has eight councillors, plus a popularly elected Lord Mayor.
37. Councillors are elected to represent the interests of the residents, ratepayers and visitors. They also govern for people working within the City, local, national and international visitors and the broader community. It follows that the interests of the City of Perth's community are diverse.
38. As a local government, the City of Perth needs to work with these diverse interests. For example, it needs to govern for the corner store owner, as well as the property developer and the multinational corporation. It needs to govern for its residents as well as those in the restaurant or entertainment industries.

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<sup>6</sup> Sections 8(2), 11(2)(h), (i) *City of Perth Act 2016 (WA)*



39. Local government is about community needs. It is expected to be driven by and connected to the community most affected by it. It is a form of “grassroots” government.
40. Ordinary elections for councillors take place in October every 2 years.<sup>7</sup> At each biennial election half the City of Perth councillors are elected for terms of four years. Ordinary elections for the Lord Mayor take place in October every 4 years.<sup>8</sup> Once elected each councillor declares formally that they will duly, faithfully, honestly and with integrity, fulfil the duties of the office *for the people*.<sup>9</sup> This is not a declaration that should be made lightly.
41. Residents in the City and people or companies owning or occupying property in the City are eligible to vote.<sup>10</sup> The elections are conducted by postal vote, and election packages are posted out about three weeks before election day.<sup>11</sup> Unlike State or Federal elections, it is not as simple as one person, one vote. For example, where a company owns or occupies property, two people may be nominated to vote on behalf of that company.<sup>12</sup>
42. Once elected, the councillors conduct the business of the council by meetings. Councillors are paid to attend meetings.<sup>13</sup> The council meets regularly to make decisions on governing the local government. Some of that work is done by

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<sup>7</sup> Sections 4.5, 4.7(1)(b) *Local Government Act 1995* (WA)

<sup>8</sup> Section 4.7(1)(a) *Local Government Act 1995* (WA)

<sup>9</sup> Section 2.29 *Local Government Act 1995*; Rule 13(1)(c) and Form 7, Schedule 1 *Local Government (Constitution) Regulations 1998* (WA)

<sup>10</sup> Sections 4.29, 4.30 *Local Government Act 1995* (WA)

<sup>11</sup> Western Australian Electoral Commission, *2017 Local Government Ordinary Elections: Election Report* (2017) p 8

<sup>12</sup> Sections 4.29, 4.30, 4.31 *Local Government Act 1995* (WA)

<sup>13</sup> Section 5.98 *Local Government Act 1995* (WA)

committee. The Lord Mayor presides at the meetings, which are otherwise attended by the councillors, the Chief Executive Officer, directors, some administration staff, as well as interested members of the media and the community. Usually the papers for a meeting are prepared by the administration and provided to councillors about four days prior to the meeting. Briefings are also sometimes provided.

43. The council cannot function without the support of the City's staff. The City of Perth employs over 700 people.<sup>14</sup>
44. The council employs a Chief Executive Officer. The role of the Chief Executive Officer is to provide overall strategic direction, leadership and coordination of the organisation. The Chief Executive Officer is also responsible for management issues, complaints and liaison between the staff and the council. The Chief Executive Officer is required to develop and put into practice the council's policies and resolutions. Along with the directors and staff, the Chief Executive Officer acts on the council's decisions.
45. The City of Perth operates under an Executive Leadership Group. It is important to understand the role and function of the administration and the Executive Leadership Group in the context of this Inquiry.
46. There are five directors who hold their own directorates. Each is a distinct directorate responsible for aspects of the City's operations. The directorates

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<sup>14</sup> City of Perth, *City of Perth Financial Statements 2016/17*, p 84 (as annexed to the *City of Perth Annual Report 2016/17*)

are community and commercial services, planning and development, construction and maintenance, economic development and activation, and corporate services. Each directorate has a number of staff working within it.

47. The *Local Government Act 1995* (WA) requires that employment decisions are made on the basis of fairness, merit and consistency.<sup>15</sup> Employment should not be based on friendships, influence or willingness to turn a blind eye.
48. The Inquiry recognises that many of the staff at the City conduct themselves with professionalism and in the interests of the City.
49. The City of Perth, as a local government, does not function in a vacuum. It operates within a complex operating environment.
50. At the highest level, the Minister for Local Government is responsible for overseeing the system of local government in WA. The Minister acts as champion for the local government sector and supports and monitors the system of local government.
51. The Minister does so with the assistance of the Department for Local Government, Sport and Cultural Industries.
52. Neither the Department nor the Minister are directly involved in the day to day operations of individual councils.

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<sup>15</sup> Section 5.40 *Local Government Act 1995* (WA)

53. The Department has a number of roles. It advises local government and the Minister for Local Government. It oversees the administration of the *Local Government Act 1995* (WA). The Department also works with councils to improve their capacity to respond to their community, and to improve levels of accountability and legislative compliance.
54. In addition to the Minister and the Department, the Western Australian Local Government Association, or WALGA for short, is an important body in the Western Australian local government environment. WALGA is not a government department or agency, but the peak industry body or association representing and advocating on behalf of WA's local governments. Its constitution identifies a number of objectives, including to provide services, such as training, to councillors and officers in key areas and initiatives.
55. The City of Perth, its employees and members of its council also fall within the jurisdiction of a number of integrity agencies, including the Corruption and Crime Commission, the Public Sector Commission and the Office of the Auditor-General.

## What do the Terms of Reference require?

56. It is apparent from their drafting that the Terms of Reference expressly require this Inquiry to focus its attention on the issue of “good government”.
57. The Inquiry must consider whether there has been a failure to provide good government, the prospect of there being good government in the future and what steps are required to ensure that there is good government in the future.<sup>16</sup>
58. But what does that mean?
59. Generally, good government is understood to reflect how Government (at whatever level) meets its legitimate objectives.
60. For the City of Perth those objectives are set out in the City of Perth Act, and other relevant legislation. The Lord Mayor and councillors must have regard to their responsibilities under the *Local Government Act 1995* (WA) as well as the objects of the City of Perth Act in their actions and decision-making.
61. The first of those objectives referred to in the City of Perth Act is good government itself.<sup>17</sup> Good government for residents, ratepayers and visitors.
62. There are nine other objectives which are directed toward<sup>18</sup>:
- (a) Community engagement and community participation in decision-making.

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<sup>16</sup> Terms of Reference, [A.1]

<sup>17</sup> Section 8(1)(a) *City of Perth Act 2016* (WA)

<sup>18</sup> Sections 8(1)(b)-(j) *City of Perth Act 2016* (WA)

- (b) The provision of a safe and clean city, with continuously improving services and facilities which are to be promoted to and used by the community.
  - (c) Initiating and promoting growth, innovation and environmentally sustainable development with regard to business, cultural and entertainment precincts as well as the natural environment.
  - (d) Developing and maintaining collaborative inter-governmental relationships at all levels within Australia and abroad.
  - (e) Striking a balance among the complementary and competing civic, economic, social, cultural and environmental considerations, including considerations relating to visitors and tourists.
63. Good government requires openness and accountability. A failure to be open and accountable is not good government.
64. A concept related to good government is “good governance”. Generally, governance is about the decision-making process and ensuring that there are necessary and appropriate checks and balances in place. It is about legitimate, accountable, and effective ways of obtaining and using public power and resources. Anything less, including the misuse of position and power, is not good governance.

65. Decisions at the City of Perth are regularly made on a large range of issues, including recruitment, planning and development, sponsorship, what services to provide, tourism, development and community engagement.
66. The legislative framework for the City requires that the decision-makers have access to advice and information to make decisions in an informed manner. They should make decisions on the merits of the issue.<sup>19</sup>
67. In a community such as ours and for the City of Perth, it is expected that such decision-making is transparent and free from improper influence, whether self-interest and improper external pressure.
68. The Inquiry must consider whether there has been improper or undue influence or improper or unlawful conduct.<sup>20</sup> Those issues require the Inquiry to consider, objectively, the standards of conduct that would be expected by the community of the people occupying the relevant roles at the City of Perth.

### **Some relevant events**

69. By its Terms of Reference the Inquiry must look into the aspects, operations and affairs of the City between 1 October 2015 and 1 March 2018. The Terms of Reference also expressly allow the Inquiry to investigate earlier dates if

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<sup>19</sup> Section 5.92 *Local Government Act 1995* (WA); Rules 3(1)(a), (f) *Local Government (Rules of Conduct) Regulations 2007* (WA)

<sup>20</sup> Terms of Reference, [A.3.i.], [A.3.ii.]

necessary.<sup>21</sup> The matters that took place during this period are to be considered in the context of those questions of good government.

70. Without descending into detail, these submissions now address some key events that took place during the relevant period.
71. In October 2015 there was an election.
72. At that election there was a contest for Lord Mayor. The incumbent, Lord Mayor Scaffidi, was re-elected. The election turnout rate was 36.67%. The Lord Mayor received about 55% of the votes and (now) Councillor Harley received about 45%.<sup>22</sup>
73. For the remaining councillor positions there was a turnout rate of 35.93%. Councillors Adamos, Chen, Davidson and Green were elected.<sup>23</sup>
74. A few months after the 2015 election, in January 2016, the then Chief Executive Officer, Mr Gary Stevenson, had his contract terminated and Mr Martin Mileham was appointed acting Chief Executive Officer. Mr Mileham had previously been the director of planning at the City.
75. On 1 September 2016 Mr Mileham was appointed as Chief Executive Officer.

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<sup>21</sup> Terms of Reference, [A.2]

<sup>22</sup> Western Australian Electoral Commission, *Local Government Elections: 2015 Ordinary Election Perth Results* <<https://www.elections.wa.gov.au/index.php/elections/local/election>>. The Lord Mayor received 2,266 votes and Councillor Harley received 1,872 votes, with less than 400 votes between them.

<sup>23</sup> Western Australian Electoral Commission, *Local Government Elections: 2015 Ordinary Election Perth Results* <<https://www.elections.wa.gov.au/index.php/elections/local/election>>. Councillors Adamos, Chen, Davidson and Green received 2,052, 1,927, 2,203 and 2004 votes, respectively.



76. Shortly after he was appointed Mr Mileham implemented some changes to the operations, and the way councillors and staff within the City could interact. Notably he introduced an email address, the “Chief Executive Inbox”, for queries from councillors. It appears that the turnaround or reply time for emails sent to the “Chief Executive Inbox” was about 5 days.
77. In the October 2017 elections the voters were electing four councillors only. There was a turn out rate of 37.08%.<sup>24</sup>
78. Councillors Barton, Harley, Hasluck and Limnios were elected.<sup>25</sup>
79. A number of events then transpired. Some of these events will be the subject of examinations of witnesses in private and public hearings.
80. On 12 February 2018 a letter was sent to the Director General, Department of Local Government, Sport and Cultural Industries. The letter was authored by the (then) Chief Executive Officer and co-signed by the (then) five directors of the City.
81. The author advises that he had commissioned legal advice into interaction and communication between the council and the administration, focusing on workplace safety.

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<sup>24</sup> Western Australian Electoral Commission, *Local Government Elections: 2017 Ordinary Election Perth Results* <<https://www.elections.wa.gov.au/index.php/elections/local/election>>.

<sup>25</sup> Western Australian Electoral Commission, *Local Government Elections: 2017 Ordinary Election Perth Results* <<https://www.elections.wa.gov.au/index.php/elections/local/election>>. Councillors Barton, Harley, Hasluck and Limnios were elected with 1,989, 2,056, 2,209 and 2,009 votes, respectively.

82. The letter then goes on to list a number of measures that the administration (with the cooperation of the council) had put in place to improve the conduct of council business, interaction and communication.

83. However, the author then states that, notwithstanding those measures:

“... it is my opinion that the conduct of the Council should continue to be closely monitored and that corrective measures, should same be indicated, are applied swiftly”.

In my submission, it is at odds with the local government statutory framework for the administration to have a role of oversight and regulation over council.

84. The letter then goes on to list 5 examples of alleged “dysfunction” and to suggest that the Department’s Authorised Inquiry be expanded to consider those matters and seeks “counsel” on the matter.

85. Of course, the extent to which there was dysfunction is a matter for this Inquiry.

86. Subsequently, on 16 February 2018 the Chief Executive Officer, Mr Mileham, took personal leave and Mr Mianich was appointed acting Chief Executive Officer.

87. On about 26 February 2018 Mr Mianich also took personal leave.

88. On that date the agenda for a special council meeting to appoint an acting CEO was circulated. The meeting was scheduled for 5pm on 27 February 2018.

89. Before that meeting, on 27 February 2018, the administration enacted the City's "Crisis Management Plan".
90. The "Crisis Management Plan" is a plan that the City had developed in the event of a "major incident" or "crisis". Its over-riding objective is described as "[t]o reduce the risk and impact of a disruption that may have an effect on the life, safety or reputation of the City of Perth and its employees".
91. There are three priority levels of incident that the plan addresses. The lowest, priority 3, contemplates loss or damage to critical assets or minor injury to staff. The highest, priority 1, contemplates prolonged interruption (over 24 hours) to the City's operations, including irreparable damage or total loss of critical assets or death or injuries to staff or visitors requiring hospitalisation. This is classified as a "crisis". The administration relied on such a "crisis" to implement the "Crisis Management Plan".
92. A priority 1 crisis allowed the administration to take certain steps in terms of managing communications and to appoint, in the absence of a Chief Executive Officer, the director of community and commercial services or a nominated member of the Executive Leadership Group to the role of Crisis Manager.
93. Subsequently, on 2 March 2018, the Minister for Local Government suspended the council and appointed the three Commissioners, who are currently at the City.
94. The Minister then appointed this independent Inquiry Panel to investigate the affairs of the City.

95. A number of issues arose within the City during the Inquiry’s period of interest that have already been aired publicly.
96. The media has reported on numerous CCC investigations (including into the Lord Mayor), workplace safety issues, donations, use of billboards, the City’s “media gag”, and alleged misconduct. While those matters are of interest to the Inquiry, the purpose of this Inquiry is not to unnecessarily re-work those issues. They will, of course, be part of the Inquiry’s considerations.
97. Throughout the period of the Inquiry’s Terms of Reference the City continued to conduct its operations. It continued to employ and manage staff and to provide services to the people of the City. For example, in 2017 the City provided about 77 different services.

### **City’s revenue and expenditure**

98. In the year ending 30 June 2018, the City earned over \$200 million in revenue.<sup>26</sup> More than half of that was from fees and charges collected.<sup>27</sup> About 44.5% came from rates levied.<sup>28</sup> Significantly, the City collected about 36.5% of its revenue (that is, \$73 million) from parking fees.<sup>29</sup> The City’s revenue base from fees and charges (which includes parking fees) significantly exceeds other local governments in Western Australia.

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<sup>26</sup> City of Perth, *City of Perth Budget 2018/19*, p 1: \$200,606,684

<sup>27</sup> City of Perth, *City of Perth Budget 2018/19*, p 1: About 50.8% came from fees and charges collected by the City being \$101,980,198

<sup>28</sup> City of Perth, *City of Perth Budget 2018/19*, p 1: \$89,354,805

<sup>29</sup> City of Perth, *City of Perth Budget 2018/19*, p 31: \$73,396,642

99. In the 2016/2017 financial year the City collected about \$99 million in fees and charges<sup>30</sup>, which was nearly double the nearest local government in Western Australia. The nearest local government was the City of Stirling, which collected about \$53 million from fees and charges.<sup>31</sup> Comparatively, the City of Stirling has a population of almost 220,000 and covers over 100sqkm.<sup>32</sup>
100. On the other side of the ledger, in the year ending 30 June 2018, the City spent over \$188 million.<sup>33</sup> About 39.59% of that (or about \$74.5 million) was on staff costs. The next biggest area was the City's expenditure on materials, supplies and contracts which was about \$48 million.<sup>34</sup> Over half a million was spent on elected member or council remuneration.<sup>35</sup>
101. The previous financial year's figures reflected a similar division. Again, more than half a million dollars was spent on elected member remuneration. Almost \$300,000 of which was for meeting fees.<sup>36</sup>
102. It may be recalled that the media reported that the expenditure on the dining room for councillors at Council House was costing rate payers about half a

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<sup>30</sup> City of Perth, *City of Perth Budget 2017/18*, p 1: \$98,676,641

<sup>31</sup> *City of Stirling Financial Statements for the year ended 30 June 2017*, p 14: \$53,323,267

<sup>32</sup> Australian Bureau of Statistics, *Region Data Summary: Stirling (C) (LGA) (57910)* (9 November 2018) <<http://stat.abs.gov.au>>

<sup>33</sup> City of Perth, *City of Perth Budget 2018/19*, p 1: \$188,431,849

<sup>34</sup> City of Perth, *City of Perth Budget 2018/19*, p 1: \$48,055,626

<sup>35</sup> City of Perth, *City of Perth Budget 2018/19*, p 21: \$532,612 was spent on remuneration for the elected members, including \$282,453 in meeting fees paid to elected members, \$135, 909 for the Lord Mayor's allowance and \$80,273 in reimbursing elected members for expenses

<sup>36</sup> City of Perth, *City of Perth Budget 2017/18*, p 30: \$298,004

million dollars each year, or about \$10,000 per week. This being a cost in addition to the official meeting costs.<sup>37</sup>

103. Since 2013/14 the growth in the City's expenditure has exceeded revenue growth. The City's total revenue has increased at a compound annual growth rate of 4.0%, whilst total expenditure has increased at a compound annual growth rate of 6.6%.<sup>38</sup>

104. This may need to be considered in the context of the growth of the provision of discretionary services. Notably, of the 77 services provided by the City only 16 of those were compulsory, or required by law, and two - relating to affordable housing and pollution control - were delegated to the City by the State Government. The remaining 59 services were optional services that the City chose to deliver without being required to do so.<sup>39</sup>

### **Culture of the City of Perth**

105. It is against that background that this Inquiry must perform its task.

106. These submissions now address the matters of interest to the Inquiry.

107. These submissions are not an occasion to set out with precision the issues that are being investigated, or how those investigations have developed. The

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<sup>37</sup> David Prestipino and Ray Sparvell, 'Perth City Council and Lisa Scaffidi's big dip: \$3m annual expenses bill', *WAToday*, 16 October 2015 < <https://www.watoday.com.au/national/western-australia/perth-city-council-and-lisa-scaffidis-big-dip-3m-annual-expenses-bill-20151016-gkb0me.html> >

<sup>38</sup> Deloitte Australia, *City of Perth Organisational Capability and Compliance Assessment* (6 June 2017) p 13

<sup>39</sup> Deloitte Australia, *City of Perth Organisational Capability and Compliance Assessment* (6 June 2017) p 23

purpose of these submissions is to allow the public to understand the workings of the Inquiry and be in a position to contribute, if they so wish.

108. What is clear from the investigations to date is that there are a large number of very serious matters which arise for investigation.
109. The issues are complex. They often overlap. They appear to be endemic at the City.
110. It is important for the public to hear about these issues, to understand them and to know what can be done so they do not arise in the future.
111. The best way in which that process can be undertaken is by the series of hearings that will follow.
112. As I have stated, some of them will take place in private.
113. However, the Inquiry will conduct a series of public hearings that will examine these serious issues thoroughly and show how they are interconnected, with a view to restoring public confidence.
114. There is a fundamental issue at the City of Perth. That fundamental issue is the culture of the City of Perth.
115. The culture of an organisation permeates all aspects of its functioning, including governance, accountability, integrity and compliance.
116. It is essential to this Inquiry that it understand the City's culture, how it has developed, how it has continued and, importantly, how it might be improved.

117. Culture is reflected in many different aspects of the City's operations.
118. Culture is part of the election process. Culture is part of the recruitment process. To that extent, it is fundamental and foundational. Elections in a local government setting are unique in the Australian government landscape. Voting is not compulsory and voting numbers are generally low. Few votes separate being elected or not being elected. In the case of the 2015 election at the City of Perth only 130 votes lay between being elected or not being elected.<sup>40</sup> In 2017 it was less than 300 votes.<sup>41</sup>
119. The low turn-out along with the small margins for election might suggest a weakness in the system and perhaps a need to reflect on how voting occurs. The Inquiry notes that the Government's programme for reform is considering how to increase voter turnout in elections and increasing community engagement. An example of how that may be done would be by allowing electronic voting.<sup>42</sup>
120. Recruitment within the local government landscape should be fair and meritorious. The *Local Government Act 1995 (WA)* acknowledges the importance of merit in ensuring that those best able to perform the relevant

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<sup>40</sup> Councillor Chen received 1,927 votes. Rob Butler (who had been the Deputy Lord Mayor) received 1,804 votes. There was less than 1% difference between them.

<sup>41</sup> Councillor Barton received 1,989 votes. Dianne Bain received 1,710 votes.

<sup>42</sup> Department of Local Government, Sport and Cultural Industries, *Local Government Act 1995 Review. Summary discussion paper: Elections*, pp. 1-2  
<<https://www.dlgsc.wa.gov.au/resources/publications/Publications/Elections/Elections%20summary%20discussion%20paper.pdf>>>



roles are those who receive them. Recruitment should not be based on favouritism or on any basis unrelated to merit.

121. Culture is also relevant to how people perform their roles. The focus of local government should be community. The culture of a functional local government should guard against self-interest of council members or staff - whether at the election or recruitment stage or in the operations of the local government itself.
122. Another significant part of local government business is decision-making. As previously indicated decision-making should be free from improper influence, whether external or internal. There should also be transparency in the decision-making process. For example, the community is entitled to know whether voting blocks are formed, how councillors communicate and the extent to which there is influence, whether overt or covert, improper or otherwise.
123. Those within each arm of local government should be able and qualified to perform their roles. The culture should also ensure that council and staff be *enabled* to perform their roles. Certainly, in terms of the administration, there should be communication and collaboration across portfolios and across the organisation as a whole. This is required in order to provide good government.
124. Many of the significant issues which are being investigated fall broadly within that concept of the culture of the organisation. Culture is reflected in good government for the residents, ratepayers and visitors to the City of Perth.

125. The Terms of Reference also require certain specific matters be investigated. They will be carefully considered. Some of these are matters about which the public is already aware, such as sponsorship, tickets and grant administration, as well as the acceptance and disclosure, or lack of disclosure, of financial interests and travel and entitlements.
126. The Inquiry's call for public submissions may well bring further issues to light. The Inquiry hopes it will. This will allow the Inquiry to ensure that it does everything within its power to consider the public's concerns and to try to restore public confidence in the City of Perth.

#### **Next stage of the Inquiry**

127. Public hearings will begin in due course and the public will be given notice of them.
128. The Inquiry has prepared a comprehensive set of practice directions which will be available on its website. Witnesses and counsel appearing at the Inquiry should read these practice directions to understand the approach that the Inquiry intends to take to many of the procedural issues that will arise.
129. It is to be remembered that the function of this Inquiry is an investigative one. This is not litigation in the usual adversarial manner and those coming before the Inquiry are invited to approach it with that role in mind.

130. The matters raised in these submissions cover only part of the Inquiry's work. The Inquiry team is working to assist the Inquiry to address the large and difficult task before it.
131. At the appropriate time public hearings will take place at which, among other things, the Inquiry will hear, in many cases for the first time, about many serious issues requiring close and rigorous scrutiny - matters concerned with, among other things, honesty, fairness, accountability and transparency.
132. The Inquiry team welcomes the challenge to assist to restore community confidence in our State's capital, the City of Perth.

**KR Lendich**

21 November 2018