



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

**COMMISSIONED UNDER S 438U OF THE LOCAL GOVERNMENT ACT 1993
(NSW)**

DIRECTIONS HEARING

THURSDAY, 26 FEBRUARY 2026

AT 12.00 PM

APPEARANCES

BEFORE COMMISSIONER ROSS GLOVER

**MS T MCDONALD SC
MS B ANNIWELL
MR D PARISH
MR P ENGLISH
MS J SANDERS
MS T AHERNE
MR J HUNT
MR N SALAGARAS
MR S GOWAN
MS Z JONES
MR T BOYLE
MS J GALLAGHER
MR C HODGETTS
MS A JONES
MS L HENDERSON
MS A BEATTIE
MS B BURKE
MS C PALMER
MS C HAMILTON-JEWELL
MS M SHIELDS
MS J BROWN**

<THE HEARING COMMENCED

5 **COMMISSIONER:** All right, good morning everybody. Again I'll have, like last time, the assisting team make a note of the appearances. And I remind everybody that this hearing is being recorded for the purposes of generating a transcript. I've been provided with a form of proposed direction.

UNIDENTIFIED SPEAKER: (indistinct)

10 **COMMISSIONER:** Sorry, someone is not on mute. Thank you. Ms McDonald, is that now an agreed position between all of the parties?

15 **MS MCDONALD SC:** Yes, as I've indicated, we haven't heard from Mr O'Neill, who was representing Ms Boustani. But my understanding is he really hasn't got an active role in the proceedings. So on that basis we have been informed by all the parties that they agree with the orders.

20 **COMMISSIONER:** All right. can I raise a couple of matters? Why is the time in order two different from the time in order five? That is, why would the time for any councillor who did not seek authorisation to appear to respond to the submissions be any different from a councillor or any other party who did?

25 **MS MCDONALD SC:** From my - from counsel assisting's part, we can't really justify or rationalise that. I think the only explanation was that the orders were discussed and negotiated at different times, and it may have just been - reflects slippage when that order was proposed and agreed to when the subsequent orders were agreed to.

30 **COMMISSIONER:** All right. Does anyone have any wish to be heard against the proposition that the time in order to would be the same as the time in proposed order five? That is ordered the time for the OLG or any of the individual councillors who, I might note, did not seek, not that they were not granted, but did not seek authorisation to appear to provide any response to the submissions of counsel assisting being 4pm 21st April.

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All silent? All right, I'll do that. Mr. Parish, you're online? Yes, can I raise proposed order four with you, are you there?

40 **MR PARISH:** Yes.

COMMISSIONER: I'm sorry, you're not on my screen, but I can hear you. That's okay. I've seen the correspondence from yesterday, and there's a statutory construction argument, which I'm not sure I need to get into.

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MR PARISH: Yes.

COMMISSIONER: Would it not be more convenient to - for me to make a direction of a similar kind to that which is proposed in 3(b) that would permit the council to show the submissions, to any staff member it felt necessary to obtain instructions on, on similar terms, rather than relying on a statutory construction argument about which ones might differ.

MR PARISH: That would be more convenient, Commissioner.

COMMISSIONER: All right. Can you propose a form of wording? It seems to me that something very similar to what is proposed in 3(b) could be adopted for that purpose, which would then provide some certainty –

MR PARISH: Yes –

COMMISSIONER: To those in your team in seeking those instructions.

MR PARISH: Thank you, Commissioner. We'll do that.

COMMISSIONER: All right. Does anyone else have anything to raise with the proposed directions other than those two matters? At the moment, and I don't profess to have digested the whole of the submission, but I've only identified the Office of Local Government and the individual councillors who aren't authorised parties. And as I say that, I'm not sure Dr Green was an authorised party as opposed to appearing as a witness, and I understand she has resigned, is that right?

MR PARISH: Yes.

COMMISSIONER: So Dr Green would be in that category in my view. Although she's no longer a current councillor, she was a councillor in this term, so she would be within order one. But does anyone else have anything else to raise? Ms Palmer, are you online? Yes.

MS PALMER: Good morning, Commissioner. I apologise, I can't get my camera to turn on.

COMMISSIONER: That's all right. I can hear you clearly, that's fine. What is to happen with the non-publication direction over counsel assisting's submissions that expires at 5pm tomorrow?

MS PALMER: We've got no instructions to press any further NPO application in connection to that, Commissioner. My understanding is simply that the submissions will be subject to the Section 12(b) orders that the commissioner has otherwise made and parties need to obviously consider how that order applies.

COMMISSIONER: When you say the 12(b) orders, you're referring to orders that I've made over documents and evidence?

MS PALMER: Correct, and as I understand it, where there's references within counsel assisting's submissions to material that is subject to a Section 12(b) order, caution should be exercised in publishing any of that material.

5 **COMMISSIONER:** Yes, and I made a direction about that on the 23rd of December I think, to make clear that any part of the submissions that refer to such material are not to be published.

MS PALMER: Yes, that's my understanding too, Commissioner.

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COMMISSIONER: All right, well if anything changes between tomorrow and 5pm, you can approach me urgently in chambers, but otherwise that order will expire at 5pm tomorrow. Unless anyone else seeks to press for an extension of it now. All silent, all done. All right can I - Ms McDonald, can I ask that the assisting team
15 prepare an annotated version of your submissions, which include exhibit notations against each of the documents. It's very helpful to have the document IDs, of course, but for my part I'm working off an exhibit bundle, so if that could be done and circulated, I'd be most grateful.

20 **MS MCDONALD SC:** Yes.

COMMISSIONER: And for the other parties when preparing their submissions, the same goes if referring to a document by doc ID and exhibit number, and also as
25 counsel assisting has done when referring to evidence that was given in private session. If that could be noted in the relevant reference, that will just assist me to ensure that I tread carefully when referring to that material in the drafting. All right well, Mr Parish, can I first leave it with you to propose the reworked version of four into something that looks like 3(b) and then the timing two will become 4pm, 21st
30 April 2026. So the assisting team will then tidy up a form of order that I will make in chambers this afternoon.

As I said on the last occasion, I do expect that these timetables to be complied with. There is - I know there's been some delay, but there is a lengthy time now before the
35 parties submissions are due and the parties have had some time before now to think about some positive findings or recommendations that they would like to propose to me. So I do expect that timetable to be completed to ensure that this inquiry can be brought to a close.

The other thing I wanted to raise with the parties is that counsel assisting have, if I
40 may say so helpfully at schedule one, set out a summary of recommendations. It would assist me greatly if the parties were to engage, perhaps directly, with those recommendations, whether it be agreement, opposition or something in between. Variation and the like. In addition to, of course, proposing recommendations that
45 counsel assisting might not have.

And one thing I would like the parties to consider is whether, if there be a recommendation that the council do something, whether accompanying such a

recommendation, it would be open and appropriate for me to recommend to the Minister that some form of performance improvement order accompany that to give effect to that recommendation. All right. Is there anything else anyone wishes to raise at this point?

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MS MCDONALD SC: No.

COMMISSIONER: If anyone encounters difficulty with the timetable, please approach me as soon as that happens and we'll release the matter for directions as necessary. All right, thank you everybody. I'll adjourn to a date to be fixed, if that be necessary, in accordance with what will become direction eight this afternoon. And, Mr Parish, you can liaise with Ms McDonald and the team. And Ms McDonald will provide me with a form of order in chambers this afternoon, which I'll make and circulate to the parties.

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MR PARISH: Thank you. Commissioner.

MS MCDONALD SC: Thanks.

20 **COMMISSIONER:** Thank you everybody. I'll adjourn.

MS PALMER: Thank you Commissioner.

<THE HEARING CONCLUDED