

INQUIRY UNDER SECTION 438U OF THE LOCAL GOVERNMENT ACT

BALRANALD SHIRE COUNCIL

Public Hearing

Held at
Balranald Shire Council Chambers
70 Market Street
Balranald, New South Wales

On Wednesday, 31 July 2019 at 10.00am

Before Ms Roslyn McCulloch, Commissioner

1 THE COMMISSIONER: Good morning, everyone. We'll get
2 started now. My name is Roslyn McCulloch. I'm the
3 Commissioner who's been appointed by the Minister For Local
4 Government to conduct this inquiry. We actually started in
5 Sydney last week. We heard from four witnesses who had
6 been invited by the Commission to give evidence, and the
7 reason we started with those witnesses in Sydney was that
8 they would have had trouble getting to Balranald. So
9 I'll just repeat a few of the opening remarks I made last
10 week in case not everybody here has read the transcript.
11 I would be surprised if you have. So let's start.

12
13 The role of this public inquiry is to inquire and
14 report on matters that largely relate to the governance of
15 Balranald Shire Council. Its terms of reference are broad,
16 however it's not possible to inquire into every matter that
17 might possibly fall within those terms of reference. That
18 would require the expenditure of an unreasonable amount of
19 time and resources.

20
21 I won't read onto the record the terms of reference,
22 but they have been available on the inquiry's website for
23 some months now, and I did read them on at the beginning of
24 the proceedings.

25
26 The councillors and staff of local councils play a
27 vital role in the affairs and in the administration of
28 local government. The councillors control the affairs of
29 the council subject to and in accordance with the Local
30 Government Act. The councillors help create council
31 policies and objectives. They represent the interests of
32 residents and ratepayers, and are in a position to provide
33 leadership and guidance to their communities. The staff
34 also play an important role in management and policy
35 formulation at senior levels and the implementation of
36 those policies at all levels.

37
38 The Local Government Act contains an overarching
39 provision requiring that all councillors and staff act
40 honestly and exercise reasonable care and diligence in the
41 carrying out of their functions under the Act. Councillors
42 and staff of local councils must comply with a model code
43 of conduct. The code contains obligations which require
44 councillors and staff to act lawfully, honestly and with
45 reasonable care and diligence in relation to the carrying
46 out of their functions under the Act.

47

1 But at the top of the local government system are the
2 residents and ratepayers, and this is reflected in term of
3 reference 4, which authorises this inquiry to look into
4 whether the elected representatives of the council command
5 the confidence of the community.

6
7 This is an administrative inquiry. It is here to find
8 facts and to make recommendations. But it just does that.
9 It doesn't make any determinations, it doesn't implement
10 any recommendations, and its recommendations don't bind the
11 minister. The minister is still then free to reject them.

12
13 A number of submissions have been received, and
14 I determined that it was not appropriate to put the
15 submissions on a public website for reasons including that
16 what was received were generally just submissions and no
17 more than that. In some instances they contained untested
18 assertions, and some submitters requested anonymity.
19 Interested parties, if they make application, may see the
20 submissions with the exception of those submissions whose
21 authors requested anonymity.

22
23 The proceedings, other than any evidence which is
24 taken in private, will be transcribed and the transcript
25 will eventually be available on the inquiry website. But
26 while we are sitting in Balranald we have arranged for it
27 to be uploaded to the council's website as soon as it
28 becomes available to our Commission, and it is generally
29 that afternoon or the following morning.

30
31 I hope the inquiry can be conducted with the minimum
32 of formality, however everyone attending and appearing
33 should be mindful of the purpose of the inquiry and should
34 be respectful of those people participating in it. Though
35 we are in a council chamber this is not a council meeting.
36 Only witnesses may speak. There should be no interjecting,
37 no applause and no comments.

38
39 For media, there should be no photographs or filming
40 or recording of the proceedings, and we request that the
41 media refrain from contacting council staff. Any inquiries
42 should be directed to the mayor or the general manager.

43
44 So we have an order of witnesses, which has been
45 published on the inquiry website, and we are starting this
46 morning with the mayor, Councillor Purtill. Councillor,
47 could you come forward, please.

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<ALAN PURTILL, sworn:

[10.04am]

THE COMMISSIONER: Thanks, Councillor. Take a seat. So, Councillor, can you just give me a bit of background on your experience? I understand it's quite extensive in local government?

A. Yes. I was elected I think in 1982, except for a four-year period in between, so I have been on council about 35 years, and I've been the mayor on numerous occasions going back to 1999 until now.

Q. And you are currently in a two-year term as mayor?

A. Yes.

Q. When does that expire?

A. September next year.

Q. And what's your background experience-wise?

A. I was a local newsagent for 40 years. So basically that's the only experience I have had. I haven't had any other jobs.

Q. Okay. So you ran a local business?

A. Yes.

Q. And you had plenty of contact with the community in that business, presumably?

A. Yes.

Q. Okay. Do you intend to run for council again at the expiry of the current --

A. Probably not. I have just turned 70. I think I've probably served my time. But it will depend on what happens in the next 12 months.

Q. Is there any other reason you wouldn't run for council other than your age?

A. No, no. No, I've enjoyed it, actually.

Q. Now, you have made a complaint back in 2013 regarding the conduct of Councillor O'Halloran and Councillor Cooke?

A. Yes.

Q. Were you satisfied with the outcome of that complaint?

A. No.

1 Q. Why was that?
2 A. I felt the decision - the one I complained about was
3 when Mr Littlemore's contract was ceased. The lady
4 who - Councillor Cooke, who moved that motion, was actually
5 under a code of conduct violation by council - by
6 Mr Littlemore when he'd reported her, and that hadn't been
7 resolved, and I didn't feel that she should have been able
8 to move that motion.
9
10 Q. Were you aware of that at the time --
11 A. Yes, I was.
12
13 Q. At the time the resolution was made?
14 A. Yes.
15
16 Q. Did you say anything at the meeting?
17 A. I did point it out to the mayor, yes.
18
19 Q. And what was the outcome of your complaint?
20 A. I believe they - a letter came back from OLG saying
21 that the mayor had talked to Councillor Cooke and that it
22 had been resolved before the meeting.
23
24 Q. That was the requirement of the investigator?
25 A. Well, to be honest, I don't know what the requirement
26 was.
27
28 Q. Okay. And you weren't satisfied that that was
29 sufficient?
30 A. No, no.
31
32 Q. What was your view on what ought to have happened in
33 that council meeting?
34 A. Well, I believe that the mayor should have instructed
35 Councillor Cooke to leave the room. I don't think she
36 should have been able to vote, and especially not be able
37 to move the motion.
38
39 Q. During the conduct of an inquiry by Nick Symonds of
40 AIB - do you remember that? He interviewed you for that
41 particular complaint?
42 A. (Indistinct).
43
44 Q. You made a statement for an investigator; do you
45 recall doing that?
46 A. No, I don't, actually, to be honest.
47

1 Q. Okay. You said in the statement that you believed
2 Councillor O'Halloran was involving himself in operational
3 matters. Is that something that you have observed over
4 your years serving with Councillor O'Halloran?
5 A. Yes, I have.
6
7 Q. Can you describe that, please?
8 A. Describe that particular incident?
9
10 Q. No, just what you've observed over time?
11 A. Yes, I think - and it's not necessarily reserved to
12 Councillor O'Halloran either. It happens - I've been on
13 council a long time, a lot of councillors think that it's
14 their job to actually instruct staff on what they should be
15 doing rather than letting the staff run the business
16 themselves.
17
18 Q. Do you know of any specific examples?
19 A. I know of examples where roads have been graded
20 because a councillor has or a mayor has told the staff that
21 that needs to be done.
22
23 Q. Do you know who that was?
24 A. Well, it was Councillor O'Halloran, yes.
25
26 Q. When he was mayor?
27 A. Yes.
28
29 Q. Is there anything else that you have observed him
30 becoming involved in at an operational level?
31 A. I think even recently it's become a little bit
32 difficult with the dealings we have had with the caravan
33 park.
34
35 Q. Is that in the same nature or is that a different
36 aspect of behaviour?
37 A. It's probably - he hasn't been able to instruct anyone
38 to do anything, but he's certainly been involved.
39
40 Q. So part of the model code of conduct requires
41 councillors not to have interactions with contractors,
42 particularly while there's a tender process going on?
43 A. Yes.
44
45 Q. Did you have any knowledge of Councillor O'Halloran
46 being in contact with contractors during --
47 A. Not specifically, no. No.

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Q. Now, you mentioned that there were other councillors who would get themselves involved in operational matters?

A. Yes, I'm talking over a long period. Going back, I can't - some of the councillors have already ceased, so it would be probably wrong to name them. But it happens quite frequently.

Q. Is it still happening?

A. To a lesser extent it is happening, unfortunately. We do have training, and the new councillors especially are told not to be involved in operational matters. Sometimes they tend to either forget or maybe they want to forget.

Q. There was some suggestion that a complaint register system might be introduced for the councillors like there is for the general public. Has that happened, do you know?

A. I believe it has. I'm not too sure if it's working very well, but I think it's been implemented. You'll have to ask the general manager, but I'm pretty sure it has.

Q. We will be speaking to him. There was a meeting on 8 February 2018; do you recall that meeting? It was, if I can help you, an extraordinary meeting to adopt the budget, the delivery plan, the operational plan for the ensuing financial year?

A. I can understand - I can't recall exactly, but I know what you - yes.

Q. Okay. There was a report that Councillor O'Halloran was guilty of misconduct at that meeting. He was insulting and making personal reflections on the mayor and you; do you recall that meeting?

A. Yes, I do remember that, yes.

Q. What was the nature of the comments that were made to you?

A. It was rather interesting. Councillor O'Halloran walked into the meeting late, slammed his papers down and started ranting, and, to be honest, I'm not too sure what the - what it was all about. He kept telling us we know, we know, we know, but no-one knew what he was talking about, and we still don't know what he was talking about. I think it probably was - or it could have been a ploy not to be able to - so we wouldn't have to vote for the special rate review.

1 Q. And did he vote in that --
2 A. He voted against it.
3
4 Q. And what was the decision of the council?
5 A. Council resolved to go ahead with the special rate
6 review.
7
8 Q. This is the special rate review for you to apply to
9 IPART?
10 A. Yes.
11
12 Q. So as a result of that behaviour Councillor O'Halloran
13 was suspended for two months?
14 A. Yes.
15
16 Q. Has his behaviour improved since that occasion?
17 A. Not really, no.
18
19 Q. Is there any more recent example that you could give
20 me?
21 A. Yes.
22
23 Q. When was that?
24 A. We had a special meeting. Two councillors wrote to me
25 and asked for an extraordinary meeting to discuss aspects
26 of the caravan park. We actually had to notify Office of
27 Local Government because they had asked us to notify them
28 if there was anything to do with the caravan park. We
29 notified them. We asked our lawyers to brief council on
30 confidentiality.
31
32 Q. This is your lawyers who --
33 A. Marsdens lawyers, yes.
34
35 Q. -- are acting for you in the Supreme Court
36 proceedings?
37 A. Yes. However, for some reason Councillor
38 O'Halloran tended to - well, he walked into the meeting and
39 you could say hijacked the meeting. There was a lot of
40 ranting and raving about things that probably didn't have
41 to do with the caravan park. He was very, I guess,
42 insulting to the lawyers there. I had trouble controlling
43 him, I have to say. I couldn't. And I was very pleased
44 when Councillor Roberts actually moved a motion to - that
45 we have no further discussions about the caravan park --
46
47 Q. Was that --

1 A. -- until the - I think it was sub judice - until it
2 was out of the courts, yes, and that was carried.
3
4 Q. At that meeting?
5 A. Yes.
6
7 Q. Okay. What steps did you take to try to control
8 Councillor O'Halloran during that meeting?
9 A. Well, for a start I stood, which normally if the mayor
10 stands the councillor will stop talking. That didn't
11 happen. I haven't got a gavel. I could have used that,
12 I suppose. But, no, I had - I have to admit I had trouble.
13 I'm not - I don't normally have that sort of trouble, but
14 I did on that occasion.
15
16 Q. Did you ask him to stop talking?
17 A. Oh, yes, yes.
18
19 Q. Did you ask him to leave?
20 A. No.
21
22 Q. So the motion that was moved by Councillor Roberts,
23 that was carried. Did Councillor O'Halloran vote on that
24 resolution?
25 A. He voted against it.
26
27 Q. Was he the only one who voted against it?
28 A. No. It was carried 5-3. So there were three
29 councillors against it.
30
31 Q. Who else voted against it?
32 A. I think Councillor Jolliffe and Councillor Mannix.
33 But that's only going on memory.
34
35 Q. Okay. We will check the minutes. What do you
36 understand of your role as a councillor in representing the
37 community as a whole?
38 A. I see the council - well, obviously there's lots of
39 bow to a councillor, but representing the community. It's
40 basically a conduit between the community and council so
41 that a person can come to me with a view and I can actually
42 pass it through to the general manager or whoever and have
43 it dealt with. So I guess a conduit would be the --
44
45 Q. So on that basis is it only the people who come to you
46 that are represented by you?
47 A. No, no, no, of course not. I mean, anybody, if

1 there's a submission or if there's something given to the
2 general manager, you deal with the community, the whole
3 broad community.
4

5 Q. So when you were making a decision about, for example,
6 the special rate variation did you look at the individual
7 ratepayers or did you look at the whole system?

8 A. I looked at the strategic side of it. I think - we
9 had a - as you know, the performance order put onto us.
10 That was one of the requirements of the performance order,
11 was that we needed to be more self-sufficient. So we took
12 a strategic look at it. It hasn't pleased everybody,
13 I have to say. But I believe it was the right decision.
14

15 Q. And there is provision within council's policies for
16 people who are residential or farmland ratepayers to seek
17 assistance if they are suffering hardship?

18 A. From us?
19

20 Q. Yes. Did you know that?

21 A. No.
22

23 Q. So you wouldn't be aware of any applications under the
24 hardship provisions?

25 A. No, no. I have to say that the rating system is very,
26 very difficult to get your head around. Most councillors,
27 including myself, have trouble with it. So we do need good
28 advice from our staff.
29

30 Q. Were you aware before the special rate variation was
31 implemented of the relative rates that were charged in
32 Balranald compared to equivalent councils, if I can call it
33 that?

34 A. Yes, yes. No, we have known for some time our rates
35 were very low. I believe - I think there's a benchmark of
36 60 per cent that you have to - you are supposed to be able
37 to fund or reach. We would never get that in a million
38 years.
39

40 Q. No.

41 A. But, having said that, I think we probably over the
42 years, some of the councillors, we have been a little bit
43 lenient, I suppose. We could have probably put - even
44 though we have had rate pegging, so the general rate
45 couldn't go up, our fees and charges, maybe they could have
46 been raised a little bit over the years.
47

1 Q. Okay. I will go on to the fees and charges but, while
2 we are on the rates, at the rate review meeting this year
3 there was an issue raised about a rate that was going to be
4 implemented for a gypsum mine?
5 A. Mm-hm.
6
7 Q. You recall that? What was your view on the
8 implementation of the rates on that property?
9 A. That mine had been rated "business". It was now being
10 rated "business mining", which is a different category, and
11 had raised - was going to go up substantially, I think
12 1,000 per cent. But, having said that, it has probably
13 been very low in the past. So I thought it was a fair
14 rate. I did advise the proprietor that if he wasn't happy
15 he could go to IPART and ask for a rule.
16
17 Q. So there's provision for individual ratepayers to seek
18 relief?
19 A. Yes.
20
21 Q. That didn't occur because --
22 A. I'm not sure. I don't think so --
23
24 Q. Sorry, the rate was varied?
25 A. The rate was varied, yes. It went from 12 - it wasn't
26 12 - 000012 to 00808. It went down a quarter.
27
28 Q. So if we call it 12 cents to eight cents?
29 A. Yes.
30
31 Q. And that difference in the rates, how was that
32 accommodated in the balance of the rates, do you know?
33 A. That had to be then distributed across the other
34 businesses.
35
36 Q. Now, there was also a question of charges raised that
37 night, and one of the issues was the pedestal charge?
38 A. Yes.
39
40 Q. What was your view on the reasonableness of the
41 pedestal charge?
42 A. I thought the pedestal charge was fair. I think it
43 worked out at 70 cents per day. But that was varied as
44 well.
45
46 Q. Do you know how the figure was arrived at for the
47 pedestal charge?

1 A. No. I think you would have to ask the general manager
2 that, exactly how it was arrived at.
3
4 Q. So it was originally proposed to be a \$200 per
5 pedestal charge?
6 A. Yes.
7
8 Q. And that was an annual charge?
9 A. Yes.
10
11 Q. And it was reduced at that meeting to 100?
12 A. To 100.
13
14 Q. Okay.
15 A. But only for the motels. The accommodation village
16 stayed at 200 because it had been set the year before.
17
18 Q. And this pedestal charge had in fact been flagged in
19 the previous --
20 A. Yes.
21
22 Q. -- rating review?
23 A. It had.
24
25 Q. Twelve months earlier?
26 A. Yes. Most councils have it. Not necessarily called a
27 pedestal charge, but sometimes it's a --
28
29 Q. It is quaint.
30 A. Yes. But most councils do have it.
31
32 Q. And it was an area where it was identified that the
33 council should have been charging for something that it
34 hadn't been charging for many years; is that right?
35 A. It is, yes. The sewer reserve, although we had built
36 it up to 1.5 million over the years, had been spent because
37 unfortunately when our sewer was put in it was put in by
38 the department of public works and they used clay pipe.
39 I think it was the last town in Australia to have clay
40 pipes in, and they have been breaking down and it's cost us
41 quite a bit.
42
43 Q. And I don't know if you are aware of the financial
44 state of the sewer assets, are you?
45 A. No. We have put a new asset management plan in place,
46 but exactly what the sewer - well, I'm not too sure.
47

1 Q. The staff might have a better idea?
2 A. Yes.
3
4 Q. And the last item at that meeting that was varied was
5 the fee for the football club?
6 A. Yes.
7
8 Q. Now, there was one - is it one member of the council
9 was on the board of the football club?
10 A. Yes. He declared an interest in that.
11
12 Q. He sat in the meeting and voted?
13 A. No, he didn't vote. He sat in the meeting - didn't
14 leave the meeting, but he didn't vote.
15
16 Q. That was Councillor Mannix?
17 A. Yes.
18
19 Q. And that vote resulted in a reduction of the fees that
20 were to be charged to the football club?
21 A. Yes, it was reduced from 5,200 down to 3,000.
22
23 Q. Do you know how that compared to what the football
24 club was already paying?
25 A. The 5,200 would have been double. So it was - 3,000
26 was just over. \$400 extra.
27
28 Q. What was your view on the reasonableness of that
29 decision?
30 A. I think the football club should have been able to pay
31 \$5,200. I know the football is very - people are
32 passionate about football and I know we need a football
33 club. However, there is quite a large building over there
34 that's hired out regularly, owned by the council but the
35 football club actually keep the funds from it if it is
36 hired out. So I didn't think it was unreasonable.
37
38 Q. Is there some contract that you have with the football
39 club, the council?
40 A. There is a contract, yes.
41
42 Q. So that permits the football club to operate functions
43 and retain proceeds?
44 A. Yes.
45
46 Q. Do you know when that contract is going to be
47 reviewed?

1 A. I think it's up for review shortly. I don't know
2 exactly what date, but I think it's shortly.
3
4 Q. Councillor, have you ever felt intimidated to the
5 point where you didn't want to debate something in a
6 council meeting?
7 A. I wouldn't say I felt intimidated. There are times
8 when it gets a little bit out of hand and you think, "Oh,
9 gosh, I wish we could get this over and done with." But
10 "intimidation" is not a word I - I don't intimidate very
11 easily.
12
13 Q. Then are you reluctant to debate in some
14 circumstances?
15 A. No.
16
17 Q. Have you ever voted contrary to your own opinion?
18 A. Never.
19
20 Q. Have you ever abstained in order to avoid --
21 A. No. If you don't vote it becomes a "no" vote.
22
23 Q. Have you ever left the chamber to avoid having to
24 vote?
25 A. No. To clarify that, only if I have declared an
26 interested in something.
27
28 Q. Oh, yes, when you are obliged to leave the meeting?
29 A. Yes.
30
31 Q. But, no, I meant left the chamber to avoid having to
32 vote where you would have been entitled to vote?
33 A. No, never.
34
35 Q. Okay. Do you know anything about the set-up of the
36 Caravan Park Committee?
37 A. The Caravan Park Committee now I believe is the full
38 committee of council. It was a - every September we used
39 to set our committees, and it was a separate committee for
40 quite a while, I think three or four councillors on it, and
41 the lessees but the lessees didn't have a vote, of course.
42
43 Q. And the committee at that stage didn't have any power
44 to make decisions?
45 A. No.
46
47 Q. It had to recommend to the council?

1 A. Yes. All committees have to recommend to council.
2
3 Q. Is there any reason why the Caravan Park Committee
4 minutes weren't regularly brought back to the council?
5 A. Not that I can - that I know. I would have thought
6 they always were.
7
8 Q. I don't know if you recall, but at some stage in
9 history there was a request by the lessees to have the
10 council pay for pest control at the caravan park?
11 A. I don't know.
12
13 Q. You don't know?
14 A. I can't recall it. I wasn't on the Caravan Park
15 Committee.
16
17 Q. Okay. But you are now?
18 A. Well, everybody is now, yes.
19
20 Q. I'm just reading from an article in the press back in
21 September 2018 when you had been appointed as mayor and you
22 said you would make yourself available every Tuesday to
23 speak to constituents. Does that still happen?
24 A. Yes.
25
26 Q. Do you have any other means by which you communicate
27 formally with constituents?
28 A. Personally?
29
30 Q. Yes.
31 A. No, not really. I'm obviously available on my phone
32 or - whenever people want to talk to me.
33
34 Q. Do you contribute to the newsletter?
35 A. Yes. There's a mayoral column.
36
37 Q. Do you contribute to the radio interviews that happen?
38 A. I prefer not to, to be honest. I have done a few of
39 the interviews, but I usually leave that to the general
40 manager.
41
42 Q. Why is that?
43 A. I think he's got his head around things better than we
44 have. He's involved all the time, where we are only
45 involved now and again.
46
47 Q. He's just doing what you decide, though?

1 A. Yes, I know. I keep telling him he's got the golden
2 tonsils, you know, he can talk better than I can.

3

4 Q. I don't have any more questions for you, Councillor
5 Purtill, but is there anything that you wanted to say to
6 the inquiry other than what you have already said in your
7 written submission?

8 A. Written submission, no. I'm pleased we are able to
9 have this inquiry, and I have said in my submission I think
10 we are travelling a lot better now than we were two years
11 ago, a hell of a lot better. So hopefully you will be able
12 to - you will see that as well.

13

14 Q. Thank you.

15 A. Thanks very much.

16

17 **<THE WITNESS WITHDREW**

18

19 THE COMMISSIONER: Now, we might just take a small break,
20 and we are just going to check on Councillor Byron because
21 he's our next witness.

22

23 **SHORT ADJOURNMENT**

24

25 THE COMMISSIONER: Thanks, we'll restart now. Thank you,
26 Mr Barrett, if you would come forward, and thank you very
27 much for accommodating us this morning.

28

29 **<ROBERT BARRETT, sworn: [10.51am]**

30

31 THE COMMISSIONER: Thanks, Mr Barrett. Take a seat. So
32 your name is Robert Barrett?

33

34 A. Yes.

35

36 Q. And you run the Balranald Pizza & Takeaway cafe?

37

38 A. I do.

39

40 Q. Okay. You made a submission to the inquiry. You
41 don't have to repeat anything that you said in the
42 submission because we have got that in writing. I do have
43 a few questions for you. You have referred to in your
44 letter council meetings. Could they have been committee
45 meetings of the Caravan Park Committee?

46

47 A. Yes, they could have been.

48

49 Q. Because you say that they took place at the caravan
50 park on a Friday, so it's not a council meeting day; okay.

1 A. Mm-hm.
2
3 Q. How did you obtain the minutes from those meetings?
4 A. Well, they are on the public record.
5
6 Q. You think they are on the public record?
7 A. Yes.
8
9 Q. And what if I told you that they are not on the public
10 record?
11 A. Yes.
12
13 Q. Did anybody give you those minutes?
14 A. No, I think my wife located the information for me.
15
16 Q. And where did she get the --
17 A. I was under the belief --
18
19 Q. -- the minutes of 20 November 2015?
20 A. Yes, I know the one you mean. In regard to the
21 caravan park manager's concern in regard to the moneys?
22
23 Q. I'm just interested in how you obtained the minutes
24 from that committee meeting. You weren't on the committee,
25 were you?
26 A. No. No, no.
27
28 Q. No.
29 A. No, no. As far as I'm aware, they were - it's a
30 public - it was there for the public.
31
32 Q. Okay. Do you know whether you obtained them from a
33 website or --
34 A. I would imagine she uses that famous thing Google.
35
36 Q. Your wife?
37 A. Yes.
38
39 Q. And that would be the same for the minutes of the
40 Caravan Park Committee meeting of 4 March 2016?
41 A. Correct.
42
43 Q. Okay. What about the letter that you appended to your
44 letter, which is from the Office of Local Government? How
45 did you get that?
46 A. That was the - it was addressed to the mayor?
47

1 Q. Yes.
2 A. The same way.
3
4 Q. What do you mean "same way"?
5 A. Well, the information is gathered through the same
6 channels, off the web.
7
8 Q. You think you got this letter off the internet, do
9 you?
10 A. Well, that's where I would imagine she would have got
11 it from, yes.
12
13 Q. You don't recall anyone handing you this letter?
14 A. No, I don't.
15
16 Q. Now, in your submission you said that you are
17 concerned that the council lacks direction. That letter
18 was written back in April. Do you still hold that concern?
19 A. Most certainly do.
20
21 Q. And why do you say that it lacks direction?
22 A. There's a lot of projects being carried out in the
23 community at the moment that either (a) haven't started or
24 (b) haven't been finalised, and obviously the major portion
25 of my submission was in relation to the process that's
26 developing with the caravan park. We don't seem to have
27 anybody willing enough to step up and find a solution to
28 any of these matters.
29
30 Q. Well, I'm not going to go into the caravan park --
31 A. No, no, that's - yes, yes, yes.
32
33 Q -- because that's a matter that's before the Supreme
34 Court. But what other project do you say has not started
35 or not completed that you are concerned about?
36 A. Well, the main street development for a start.
37
38 Q. Are you concerned that it hasn't started?
39 A. Mm-hm.
40
41 Q. Do you know how that's funded?
42 A. Obviously by grant.
43
44 Q. Do you know why it hasn't started?
45 A. I believe - I'm led to believe, and there's been
46 nobody from within the council come directly to our
47 business anyway to notify us, that there's going to be a

1 change in that development. Originally the overhead
2 powerlines were going to be taken away and replaced with
3 underground. We're led to believe that that's not going to
4 happen now, for whatever reason, whether it's cost or
5 difficulty. But they are still going to go ahead with the
6 streetscape.

7
8 Q. And does that please you or displease you?

9 A. Well, we'd like to know as a business operator what
10 effect it's going to have on my business.

11
12 Q. Have you asked the council?

13 A. I have.

14
15 Q. Who did you ask?

16 A. Mr Helgeland. Gavin.

17
18 Q. Mr?

19 A. Helgeland.

20
21 Q. I'm sorry, I don't know that name.

22 A. Well, I probably didn't pronounce it right then. He
23 works - I'm not sure what his role is here at the shire.

24
25 Q. He's a staff member at the council?

26 A. Yes, yes.

27
28 Q. And why would he be in a position to know?

29 A. Well, he was the one that had some - you could attend
30 some information sessions. He initially came to the
31 business to say that these sessions were on at a particular
32 time at a particular location, but obviously because of the
33 nature of our business it was held during a busy time and
34 there was no way known we could get across to it.

35
36 Q. You couldn't attend?

37 A. No. But since the change in planning from burying the
38 overhead wires to now just being a streetscape we have had
39 no contact whatsoever from any member of the council.

40
41 Q. When was it that you contacted Mr - is it Helgeland?

42 A. Oh, yes, look, it would have been in the last six
43 months, I suppose, or more, yes.

44
45 Q. And is that the only project that you are concerned
46 about that hasn't started?

47 A. Well, there's another project obviously going on in

1 the community that concerns me because I'm a passionate
2 supporter of anything in our community, is the football
3 club grant money for the development of the big hall over
4 there at Greenham Park.
5
6 Q. And where did that money come from, do you know?
7 A. Here again a grant.
8
9 Q. Federal or state, do you know?
10 A. State, I think.
11
12 Q. And what's your concern there? That it hasn't
13 started?
14 A. Mm-hm.
15
16 Q. Do you know whether it's been planned yet? What's --
17 A. Well, I believe it's still in the tender form.
18 I don't think - I don't think a plan can be agreed upon on
19 what nature in terms of where that money should be spent or
20 how the money should be spent.
21
22 Q. And have you made any enquiries of the council about
23 that one?
24 A. No, I haven't.
25
26 Q. So when you say it's in tender form do you mean it
27 hasn't gone to tender yet?
28 A. Yes. I think they are still trying to come up with
29 the plans.
30
31 Q. So it's still in the planning stage?
32 A. Mm-hm. I appreciate the situation they are in at the
33 minute because of the football - we are in the middle of a
34 football season. But you would think with four weeks to go
35 they would be getting ready to commence the project.
36
37 Q. But they haven't let tenders yet?
38 A. Not that I'm aware of.
39
40 Q. Okay. So are those the two projects that you are
41 concerned about?
42 A. Oh, well, yes, as I say, apart from the outcome down
43 at the park.
44
45 Q. That's not a project of the council's?
46 A. But some - a lot of people in the community think it's
47 become the project.

1
2 Q. All right, I'm not going to go into that.
3 A. Yes, no, that's all right.
4
5 Q. You also say in your statement that you hope that the
6 council is mindful to act in the best interests of the
7 ratepayers, residents and wider community. In what manner
8 do you say they are not acting in the best interests of the
9 ratepayers, residents and wider community?
10 A. Well, here again we are not going to go there, are we?
11 The caravan park is one of the major issues, and obviously
12 things like the sporting clubs. I don't know whether I'm
13 allowed to refer to a previous presentation that's been
14 made here or not, but my view is that sporting clubs like
15 the football club, et cetera are vitally important to, you
16 know, our community, and I don't see the Balranald Shire
17 Council at the moment assisting to make their jobs in
18 sustaining those clubs any easier. If anything, I think
19 they are making it harder.
20
21 Q. By increasing their fees?
22 A. Increasing fees, access, in the general consultation
23 in terms of what's required over there in facilities.
24
25 Q. Are you a member of the football club?
26 A. I am.
27
28 Q. Are you on the board?
29 A. No.
30
31 Q. So how do you get your information about the amount of
32 contact that the council has with the --
33 A. In any small community I think you'll find that it's
34 general knowledge or common knowledge, that it gets
35 discussed openly because people source outside of the board
36 themselves - they will source information and assistance
37 from their members, and this is what's happening at the
38 moment with our council. They don't go to the public
39 enough or the ratepayers or the citizens or call it
40 what - small businesses enough for opinions.
41
42 Q. You would accept that not everybody would have your
43 opinion, wouldn't you?
44 A. Oh, absolutely.
45
46 Q. So it's not necessarily a matter of the council not
47 agreeing with you?

1 A. No way.
2
3 Q. You think that the council needs to consult wider; is
4 that what you are saying?
5 A. Yes, exactly what I'm saying. That's probably why I'm
6 so passionate about the community in that I don't think
7 there's anybody in this community that's made more mistakes
8 than me but the community are always there for you, if you
9 are prepared to show a genuine interest into that
10 community, and at the minute we are not getting that same
11 interaction between our council and the community.
12
13 Q. Now, you seem to be quite passionate about the caravan
14 park, and I'm not going to ask you questions about that?
15 A. Yes.
16
17 Q. Are you friends with the operators?
18 A. I'm friends with everybody. I've known the mayor all
19 my life. I'm - you know, like, everybody knows me. But,
20 yes, I am. I have known the Jesses.
21
22 Q. So you don't think your opinion is swayed because of
23 that friendship?
24 A. Commissioner, I sincerely hope before this journey is
25 over you can get to walk up the street and ask some people
26 about other issues apart from the people who have put
27 submissions in, and I would dearly love you to visit our
28 caravan park to see what all the kerfuffle is about, the
29 effort this family has put in over seven years. Now,
30 regardless of whether I know this family or not, that's
31 irrelevant. The community are looking for an outcome. We
32 want our council to step up and get an outcome. That's
33 basically it in a nutshell.
34
35 Q. I have to say it's not within the ambit of this
36 Commission --
37 A. No, sorry --
38
39 Q -- and I can't go walking along the streets and take
40 evidence?
41 A. Yes, no. As I said, I love this town. This town has
42 been very, very good to me and my family through a lot of
43 different types of scenarios, and I like to think I could
44 put some energy back in. But we want some outcomes. We
45 want some honesty. We want some transparency. That's all
46 we are asking.
47

1 Q. Good. Anything else that you wanted to say?
2 A. Well, as I say, just - I mean, obviously my submission
3 was about the park.

4
5 Q. Mm-hm.

6 A. And obviously the manner in which all this kicked off,
7 and I won't go into it in depth, but we have talked about
8 the code of practices that are in place with councillors,
9 we have talked about the same sort of code of practices
10 that are in place for our senior staff. I think it's
11 probably time commonsense starts to play a role in the
12 council and we put our egos aside, because at the end of
13 the day, like you just said to me, "Hey, Rob, just because
14 it's your opinion it doesn't necessarily mean it's right,"
15 and I accept that.

16
17 Q. I don't think I said that.

18 A. Oh, well --

19
20 Q. I said it might not be shared by others.

21 A. -- you probably said it in a nicer way. But the
22 community wants some answers. I mean, we have got a
23 vibrant town happening here. There's a lot going on, and
24 we all need to work together, and at the minute there's too
25 much finger pointing going on, "I don't like you", "I don't
26 like" - I mean, I've heard talk about some councillors here
27 overstepping the mark, and rightly so. But a couple of the
28 councillors are really passionate about our community and
29 sometimes you've got to bang the table a little bit to get
30 a response. As I said, I've got nothing but respect for
31 the people who hold these positions because it's more about
32 the positions I hold, I guess. But, as I say, I just hope,
33 Commissioner, you get an opportunity before you leave to
34 visit our little park, and you will get the vibe the moment
35 you walk in. The amount of effort and the work that's gone
36 in down there is amazing, and it directly affects my
37 business, I'm not going to deny it, but there's a lot of
38 businesses in town it affects also. So when that park's
39 full, our little town is going along okay.

40
41 Q. Thank you, Mr Barrett. I can see you are a passionate
42 supporter of them.

43 A. Good on you. Thanks for your time.

44
45 **<THE WITNESS WITHDREW**

46
47 THE COMMISSIONER: So we will hear now from Councillor

1 Byron.

2

3 <LEIGH BYRON, sworn:

[11.06am]

4

5 THE COMMISSIONER: Thanks, Councillor. Now, you have made
6 a written submission to the inquiry, and you don't have to
7 repeat anything you have said in that. Can I just ask you
8 a few questions. First of all, you have been the mayor at
9 the council from time to time?

10 A. Yes.

11

12 Q. How long have you been on the council altogether?

13 A. Eleven years.

14

15 Q. And how many of those years were you mayor?

16 A. Four.

17

18 Q. So was that two separate stints?

19 A. No.

20

21 Q. Or one stint?

22 A. Well, three separate stints, but it's extended four
23 years.

24

25 Q. Okay. And what's your background?

26 A. Started off with the old PMG way back and then I ran
27 my own business.

28

29 Q. Gee, I'm even old enough to know what that means.

30 A. And for the last 30-odd years I've ran my own
31 business, financial planner, and I've just retired due to
32 family commitments.

33

34 Q. Do you propose to run for council again?

35 A. If you'd asked me that probably four months ago
36 I would have said "no", but, because there's so much going
37 on and this council is going to be booming with the sand
38 mines, solar farms, all the horticultural expansion all
39 over the whole shire area, I'm thinking about it, and that
40 will really depend on how well the wife is.

41

42 Q. So subject to health and family issues?

43 A. Yes.

44

45 Q. Do you think your background brings some expertise to
46 the council?

47 A. I think so.

1
2 Q. So you don't have any difficulty understanding the
3 financial reports that come before the council?
4 A. No.
5
6 Q. Is that true of everybody on the council, do you
7 think?
8 A. Sorry?
9
10 Q. Is that true of everybody on the council?
11 A. No.
12
13 Q. Now, at one stage you tried to organise some training
14 for the councillors about financial matters?
15 A. Yes.
16
17 Q. What happened with that?
18 A. That's going back a few years now. The general
19 manager at the time and I went and did a financial training
20 course over at Griffith, I think it was.
21
22 Q. It was General Manager Drenovski?
23 A. Yes; and we got a lot out of that, especially the
24 general manager because he wasn't really right up to date
25 with the financial side of things.
26
27 Q. It wasn't his background. I understand he's an
28 engineer.
29 A. He's an engineer; and we talked about organising some
30 financial training for the councillors.
31
32 Q. And what happened with that idea?
33 A. We didn't have the budget. Just basically money.
34
35 Q. Would it be of benefit to have some more?
36 A. Oh, definitely.
37
38 Q. And did it ever arise again, that suggestion of having
39 financial training for councillors?
40 A. We have discussed it off and on last year with our new
41 GM, and he's looking - and it's come up at joint
42 organisation meetings as well that especially Local
43 Government New South Wales are looking at getting some
44 training organised.
45
46 Q. And you might be able to do that through the joint
47 organisation?

1 A. Yes.
2
3 Q. Just while we are on the topic of the joint
4 organisation, were you somebody on the council who was
5 supportive of that idea?
6 A. Oh, very much so.
7
8 Q. And it's now coming, come to fruition?
9 A. Yes, it has, and we were actually up in Cobar earlier
10 this month and the - we've got the western division, which
11 is eight councils, and we are split into two JOs and while
12 we were in Cobar we had our JO meeting and the northern JO
13 sat in on it and put their two bobs worth in as well, and
14 we are working - the west division is working well.
15
16 Q. And that is obviously part of the terms of reference
17 that I'm looking at.
18 A. Yes.
19
20 Q. Do you think that's assisting the council, that
21 cooperation with other councils?
22 A. Oh, definitely. You have got to remember that we, so
23 we have been told so many times, are unique out in the west
24 and we have always helped each other out. I can remember
25 two years ago, I suppose, Cobar sent one of their RMS
26 people down and spent almost a month here to help us out
27 when we were short-staffed, and we have had staff up at
28 Broken Hill this month being trained.
29
30 Q. And what are they being trained in?
31 A. I'm not sure.
32
33 Q. Do you know what type of staff they are?
34 A. I know the GM's EA was up and I believe the tourist
35 organiser was up there as well earlier. But other than
36 that I'm not sure.
37
38 Q. So not outdoor staff?
39 A. No.
40
41 Q. Now, you were mayor when the performance improvement
42 order, PIO, was put in place?
43 A. Yes. That really come about because we had - the
44 state government had that Fit for the Future. None of us
45 in the west were fit for the future. So then they had the
46 Far West Initiative organised for the councils, the
47 Commonwealth and the state government to try to get

1 together and get things organised out in the west. That
2 didn't last too long at all. The Commonwealth didn't
3 support it, and then the state departments weren't
4 supporting it, so that just fell over. And, to be honest,
5 we were the worst council in the eight when all the figures
6 were put out.

7
8 Q. Financially you mean?

9 A. Yes.

10
11 Q. So what did you find the attitude of the councillors
12 when the performance improvement order was put in place?

13 A. It was hard to convince them that we had a problem.
14 Not all of them, a couple of councillors, they didn't think
15 we had a problem. But when Alan McCormack, who was the
16 adviser that was appointed, he had very many meetings with
17 the council and individually, and pointed out that we were
18 not going very well at all.

19
20 Q. Who were the councillors who didn't think there was a
21 problem?

22 A. Councillor O'Halloran and Councillor Jolliffe.

23
24 Q. And was Mr McCormack able to persuade them that there
25 was need to reform?

26 A. In the long run, yes, because we signed off on the
27 improvement order in March 2018 after a lot of work by our
28 staff to get - there was 39 points in that improvement
29 order and it started off with 16, I think, and Mr McCormack
30 found a few others that he added to it, and, as I said, it
31 took an awful lot of the staff time to get to that stage
32 where we could get through to it all, and, as I said, it
33 was signed off on by the Acting GM at the time, Bob
34 Stewart, and our new GM, Michael, and handed over to OLG
35 and the minister in March 2018.

36
37 Q. You had some concern in that period that once the
38 performance improvement report of the compliance report had
39 gone in that there was - I think your words were "it was
40 going to be business as usual at the council". Do you
41 recall saying that to anybody?

42 A. Not off the top of my head, no.

43
44 Q. Was that a sentiment that you recall having at that
45 time?

46 A. Initially.

47

1 Q. This is after the compliance report was lodged with
2 the minister?
3 A. We signed off on so many things. You've got to
4 remember where we were five years ago to where we are now,
5 we've dragged ourselves from here right up to here to keep
6 up with the compliance and all the red tape that we just
7 never did before, apparently. Like, when I first become
8 the mayor it was just - kept doing what we were doing all
9 the other mayors were doing, and the rules and the
10 regulations have changed so much.
11
12 Q. When Robert Stewart was the acting general manager he
13 talked to you about being threatened with the sack; do you
14 remember that?
15 A. Sorry?
16
17 Q. Do you remember when Robert Stewart spoke to you about
18 being threatened with the sack? Not by you.
19 A. Yes, yes.
20
21 Q. You do recall that?
22 A. Yes.
23
24 Q. What was your view on the appropriateness of that
25 threat?
26 A. Not good at all.
27
28 Q. Did he deserve it because of his performance?
29 A. No.
30
31 Q. Was he a good acting general manager?
32 A. Oh, brilliant. He was the one that turned this
33 council around basically in the four months, five months he
34 was here.
35
36 Q. Then why would he have been threatened with the sack?
37 A. I put it down that he was a strong GM and wouldn't
38 take any rot from anyone, and if anyone stepped over the
39 line he let them know.
40
41 Q. Can I take you back to 2013. You were here when you
42 heard Councillor Purtill's evidence this morning about
43 that. You also made a complaint about Councillor Cooke
44 moving the motion --
45 A. Yes.
46
47 Q. -- not to renew the contract?

1 A. I was deputy mayor at the time, and I didn't know that
2 there had been a code of conduct put on Councillor Cooke
3 from Mr Littlemore. I only found out just before - no,
4 after Chris had been basically sacked by the council that
5 Councillor Cooke put the motion and that it hadn't been
6 resolved.

7
8 Q. Did you hear Councillor Purtill complain that it was
9 not appropriate to hear the motion?

10 A. Yes, but I didn't understand why at that time.

11
12 Q. Mr Littlemore, was he a good general manager in your
13 view?

14 A. After seeing what we have had in the last 16 months,
15 he was average.

16
17 Q. So you think you have had better general managers
18 since?

19 A. The last two we have had have just been brilliant.

20
21 Q. And by them you are referring to Bob Stewart and
22 Michael KitzeImann?

23 A. And Mike KitzeImann, yes.

24
25 Q. Are you aware that Michael KitzeImann has also been
26 threatened with the sack?

27 A. Yes.

28
29 Q. Can you tell me about that?

30 A. He lasted - Bob Stewart lasted four weeks before I got
31 a phone call, or probably not even four weeks, to sack him.
32 Michael lasted two months, I suppose, before I got a phone
33 call to say we should sack him.

34
35 Q. Who rang you?

36 A. Councillor O'Halloran.

37
38 Q. What did you say?

39 A. Basically we had to get rid of him; not good for the
40 council.

41
42 Q. What did you say? Did you think Mr KitzeImann wasn't
43 good or was that what was said to you?

44 A. That was what was said to me, and in my opinion, as
45 I've said, I think he's a great GM and the councillors as a
46 whole should support him.

47

1 Q. And what's your view generally about the
2 appropriateness of threatening general managers with the
3 sack?
4 A. Well, to be honest, I don't know how Aaron Drenovski
5 kept his sanity because he was getting phone calls nearly
6 every single day. He told me he was even getting them on
7 the weekend. Now, no-one should have to operate like that.
8
9 Q. Who was he getting phone calls from?
10 A. Councillor O'Halloran.
11
12 Q. And what was the nature of the calls?
13 A. I'm not sure on that. He just told me he was - it was
14 constant, every day, including weekends.
15
16 Q. Was Councillor O'Halloran the mayor then?
17 A. Sorry?
18
19 Q. Was he the mayor at that stage?
20 A. No, no.
21
22 Q. Now, as a result of the code of conduct complaint
23 Councillor O'Halloran was to apologise to you. You did
24 write to say that the apology hasn't occurred. Has it
25 since occurred?
26 A. It occurred on Monday night before I went home.
27
28 Q. This week?
29 A. Yes.
30
31 Q. And that was a code of conduct complaint back from
32 2013?
33 A. No, it was --
34
35 Q. It was the more recent one, was it?
36 A. Yes, 2018. I honestly don't know - there was 13
37 charges against him back in 2013, and 11 of them were
38 sustained, but because our procedures were obsolete nothing
39 could happen out of that. So I never saw a report on that
40 at all. That was all confidential between Mr Littlemore
41 and Mr O'Halloran.
42
43 Q. So this apology was to do with a later code of conduct
44 complaint?
45 A. From last year, yes.
46
47 Q. And what was that incident?

1 A. That was when he walked into the council on February
2 and started abusing me.
3
4 Q. What did he say?
5 A. He just said I was dragging the council down, I'm
6 doing everything wrong and just yelling and screaming and
7 pointing at me. Then when Councillor Purtill called a
8 point of order he was then verbally abused by Councillor
9 O'Halloran, and to this day I still don't know why.
10
11 Q. You expressed a view in November 2017 that you thought
12 the council might be better off if it was put into
13 administration?
14 A. I did mention that.
15
16 Q. Is that still your view?
17 A. No.
18
19 Q. Why is that?
20 A. Because if you go into administration we are finished
21 as a council for the next five years, thereabouts, because
22 that's the standard practice. If a council is suspended
23 it's for this term and the next term, and it wouldn't be
24 good for the whole shire.
25
26 Q. Why do you say that, though?
27 A. I'd seen what happened in Central Darling when they
28 first went there. They closed the swimming pool and there
29 was no funds for any of the sporting facilities. It was
30 just pure business and that was it. I've never seen
31 another council, so I've got no idea.
32
33 Q. So that's the only one that you've observed then
34 operated under an administrator?
35 A. Yes.
36
37 Q. Do you think the democratic process is important?
38 A. Oh, definitely.
39
40 Q. Now, are you a member of the football club?
41 A. No. Sorry, I am. I pay my - every year. But
42 I haven't seen a game in two years. I haven't seen a game
43 down at Euston-Robinvale either.
44
45 Q. You are not on the board of the club, though?
46 A. No.
47

1 Q. And you don't regard your membership of the club as
2 being an interest that you need to declare when you are in
3 the council?
4 A. Not really.
5
6 Q. What opportunity have you had to see any councillors
7 interacting with contractors, if any?
8 A. All councillors were notified when it came to the
9 tender process that they were not to talk to any of the
10 applicants.
11
12 Q. This is the tender process for the caravan park?
13 A. Yes, and Councillor O'Halloran has told me a couple of
14 times that he's been talking with them. Every time I spoke
15 to OLG the first question they asked was have I or did
16 I know of any councillor talking with any of the tenderers.
17 And I could honestly say I hadn't and I had reported that
18 Councillor O'Halloran had mentioned that he had been
19 talking with them.
20
21 Q. And is he the only councillor that you are aware of?
22 A. He was the only one that I was aware. But I believe -
23 but this is only hearsay basically - that Councillor
24 Jolliffe and Councillor Mannix and Councillor Ugarte back
25 in the early days. Now, in the transcript from last week
26 in Sydney someone said that Councillor Ugarte put a press
27 release out re the caravan park. No councillor has ever
28 put a press release out to the press itself. Councillor
29 Ugarte put something on Facebook that the press grabbed,
30 but he did not contact the press to do it.
31
32 Q. Has he ever been quoted in the press?
33 A. I never saw the article. I heard all about it. But
34 I never saw the article itself. I believe it was almost
35 word for word for what he had put on Facebook.
36
37 Q. And what was your view on the comments that were made
38 on Facebook and in the press?
39 A. I informed all councillors by email and verbally that
40 they should be very careful what they do and that "OLG are
41 watching us", I think was the last statement.
42
43 Q. Is that why they should be careful, just because OLG
44 is watching?
45 A. That was part of it because of the improvement order
46 and we had many meetings with OLG on a few items and, yes,
47 they informed us that they were watching us.

1
2 Q. Do you think it's important for councillors to support
3 council decisions even if they don't agree with them at the
4 time?
5 A. Oh, they have to. They mightn't be happy, but once a
6 decision is made by council you have to support it.
7
8 Q. Do you think that's always happened?
9 A. No.
10
11 Q. When didn't it happen?
12 A. Well, Councillor Ugarte's comments on Facebook for a
13 start. Councillor O'Halloran and Jolliffe have said in
14 council meetings that they haven't been happy. But it's
15 been a decision made by the whole of council and not just
16 one person.
17
18 Q. And what do you think that does to the public's
19 perception of the council?
20 A. Not good.
21
22 Q. Have you ever observed councillors interacting with
23 staff to the extent of directing them to do their job in a
24 particular manner?
25 A. No, I have never seen it.
26
27 Q. Have you heard about it?
28 A. I have definitely heard about it.
29
30 Q. What have you heard about it?
31 A. Telling staff how to do things, that they have got to
32 do it this way because "I got you the job here", or "you do
33 this or your husband will be sacked"; those sort of things.
34
35 Q. And who was the people or person directing?
36 A. Sorry?
37
38 Q. Who was doing the directing?
39 A. Councillor O'Halloran.
40
41 Q. Anybody else?
42 A. No.
43
44 Q. Have you observed the effect on staff members of those
45 interactions?
46 A. I have seen staff crying, yes, female staff.
47

1 Q. What about the general managers?

2 A. As I said, back in Aaron Drenovski, how he kept his
3 sanity and he was not happy, and he was only doing what
4 council instructed him to do. No GM will ever go and do
5 things without the council approval.

6

7 Q. So you received an apology from Councillor O'Halloran
8 this week. Since that February 2018 meeting have you
9 observed any change in his behaviour at council meetings?

10 A. No.

11

12 Q. Has it got any worse?

13 A. Sorry?

14

15 Q. Has it got any worse?

16 A. Oh, no. It couldn't get any worse than what that was,
17 to be honest. That was - yes.

18

19 Q. Thank you very much, Councillor Byron. I don't have
20 any more questions, but if you want to make any further
21 comments to the commission now is your chance.

22 A. As I said before, this shire is booming and with the
23 JOs and that it's going to be nothing but sunshine in the
24 future.

25

26 Q. Thank you very much.

27

28 **<THE WITNESS WITHDREW**

29

30 THE COMMISSIONER: If you just stay seated, we'll keep
31 going. We're just going to make some enquiries of members
32 of the public who are here who are on our list, because we
33 are moving a bit quicker than we anticipated. Is there
34 anybody else here who had applied to speak? Then we will
35 have to adjourn until 2 o'clock because that's the next
36 witness that we have got scheduled. Can I just inform you
37 that we have a witness who won't be long, he's a staff
38 member, but then we are going into a private session and
39 the court will be closed then. Thanks.

40

41 **LUNCHEON ADJOURNMENT**

42

43 THE COMMISSIONER: Okay. We'll get started again for this
44 afternoon's session. Adrian Gorman has come forward and he
45 wants to speak. So, Mr Gorman, would you come up to the
46 witness box, please.

47

1 <ADRIAN GORMAN, sworn: [2.02pm]

2

3 WITNESS: That's the first time I've ever made an oath.

4

5 THE COMMISSIONER: That's probably a good sign, Mr Gorman.

6 A. I've made plenty of oaths, but not the official one.

7

8 Q. Fair enough. Thanks, Mr Gorman. So you made a
9 submission, a written submission --

10 A. I'm sorry, I'm a bit deaf. Could you talk a bit
11 louder?

12

13 Q. You made a written submission to the inquiry. We have
14 that.

15 A. Yes.

16

17 Q. So did you want to speak to me today about that
18 submission?

19 A. Yes.

20

21 Q. Okay.

22 A. I would like to.

23

24 Q. Give me a little bit of background. So you live in
25 Balranald?

26 A. Pardon?

27

28 Q. You live in Balranald?

29 A. Yes.

30

31 Q. And how long have you lived here?

32 A. Ninety-one years.

33

34 Q. Oh, that's good. And what's your background?

35 A. Do you want right back to the --

36

37 Q. Just a thumbnail sketch?

38 A. I have owned a sheep property in the district for the
39 last 60 years. I'm now retired.

40

41 Q. Okay. So you have never had anything to do with local
42 government?

43 A. No. I've chaired a few local government committees,
44 subcommittees.

45

46 Q. And what type of committees were you on?

47 A. Sorry?

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Q. What type of committees?

A. Bicentennial Australia Day committees.

Q. Bicentennial, was it?

A. Yes, bicentennial.

Q. Okay. Have you got something prepared there that you wanted to say?

A. Yes, I have, if I can find it. I'll read this whole thing.

Q. Yes, that's fine. You can read it onto the record?

A. The example I'm going to give is intended to advise on the problems Balranald Council has. Lessons should be learned to improve council's ability to operate for all ratepayers regardless of personal opinions. That's just sort of a statement. I believe in a small town councils are essential but councils have a duty to consider the big picture.

I instigated the Honour Our Veterans story, plus plaques, and received shire agreement in principle. Mayor O'Halloran objected to this program, demanded I withdraw from a delegate's deposition under threat of withdrawing council permission for the project. Permission, I might add, to install the plaques took five years.

I reported Councillor O'Halloran for bullying, to receive an invitation to talk with me - that is, himself. I refused this, and I was then informed - served a notice my time for lodging a complaint had expired, so no further action was taken. Finally shire permission was granted, only to have the signs erected outside the RSL club on a nature strip condemned as a traffic hazard by Balranald RTA committee, quite curious considering the chairman of that committee was Bill O'Halloran.

I believe local representation in the town is essential, but the way to remove vexatious councillors should be part of a councillor's duty. That's --

Q. What do you mean by that, Mr Gorman? The way to remove a vexatious councillor?

A. If you have a vexatious councillor, how you create so much havoc in the council, there's so much problems that - he can be vexatious over a lot of things. But at the

1 moment there's no way that the other councillors can get
2 rid of him that I know of, and it just doesn't - it's so
3 detrimental to the efficiency of the council to have such a
4 person on it.

5

6 Q. Have you seen that over the years that you have been
7 watching the council or --

8 A. Very much so. I'm very interested in council,
9 actually.

10

11 Q. When was it that you started this project for the
12 veterans?

13 A. Pardon?

14

15 Q. When was that project started?

16 A. Eight years ago now.

17

18 Q. And it took five years to get an approval?

19 A. It took five years to get approval, yes. We got
20 permission, we got the approval in - just at the start we
21 got approval to go ahead, but the money that went to
22 actually put the plaques in - after we got the money and
23 marked plaques up, we had to wait five years before we got
24 permission to install them.

25

26 Q. And did you install them where you wanted to install
27 them?

28 A. First - no, we didn't. First installation was all
29 done by council in incorrect positions, and after a year we
30 got those positions changed.

31

32 Q. And did anything come of the condemnation by the
33 traffic committee of its location, the location --

34 A. That was just vexatious. There's four big signs.
35 They are back off the street. They are in front of the
36 club. They are on the nature strip. I rang the RTA
37 officer and I said, "You know, terrible things had
38 happened. I hope you didn't give the position," and we got
39 permission the next day. It's just ridiculous.

40

41 Q. It's an RMS road, is it?

42 A. It is?

43

44 Q. The road that the signs are erected on was --

45 A. RTA.

46

47 Q. Okay. Did you want to expand at all on anything that

1 you said in your written submission?
2 A. Pardon?
3
4 Q. Did you want to add anything to what you said in your
5 written submission? Did you keep a copy? Do you know what
6 you said?
7 A. I can't remember.
8
9 Q. Okay. You basically set out some categories of area
10 that you thought the council should develop: structural -
11 and by that I think you meant infrastructure?
12 A. Yes.
13
14 Q. Sporting, tourism, natural advantages. Now, I took
15 that to mean nature; is that what you were talking about?
16 A. Not so much. We have got the Yanga National Park. We
17 have got the Lower Bidgee Floodplain. We have got the
18 Mungo Man. There's so many local things in Balranald that
19 are tourist worthy.
20
21 Q. Then you mention tourism again and - the river tourism
22 in particular, and employment opportunities?
23 A. Pardon?
24
25 Q. Employment opportunities?
26 A. Yes. I think there's got to be a public-private
27 endeavour to get people to come here. If I can give you an
28 example. There's a big almond farm in the town. It would
29 require a very large labour force. The rumour talk is that
30 that will be put in Swan Hill, where there's labour. Well,
31 if it were put in Balranald and labour were attracted to
32 Balranald it would be - it would help build the town up.
33
34 Q. So you think the council should encourage that
35 industry to --
36 A. I think the council should enter into public-private
37 partnerships. Like, they should build - if you want an
38 almond factory, they should offer to build the factory and
39 then advertise it out for some entrepreneur to take over
40 running it. They did this some years ago. They bought the
41 freehold of a big service station out of town and they ran
42 it for a - leased it out for a number of years. Then a
43 couple of years ago they sold it for I think \$3 million, or
44 it's this price. So they must have made a fair profit on
45 that deal.
46
47 Q. Yes, I recall reading that, and it helped

1 substantially the financial position that the council was
2 in at the time.

3 A. Yes.

4

5 Q. Okay. Is there anything else you wanted to say?

6 A. No. Just that it's a great town. The council on the
7 whole are very supportive, but they find it hard to get
8 behind something because it's split into two and there's
9 two opposing forces on the council, or there has been for
10 the last 20 years. It may be better at the moment.

11

12 Q. Would you be concerned if the democratic rights of the
13 ratepayers were removed, if an administrator was appointed
14 in Balranald?

15 A. Sorry, I missed that.

16

17 Q. Would you be concerned if an administrator was
18 appointed instead of the council?

19 A. I think it would be a very backward step. The
20 ratepayers have the town at heart. The councillors have
21 the town - you know, I hear terrible stories about
22 administrators, like they closed down non-profit
23 organisations that are really the backbone of the town. So
24 I think you need the input of councillors to operate a
25 town, an area, successfully.

26

27 Q. Okay. Thank you very much, Mr Gorman.

28 A. Thank you for hearing me.

29

30 <THE WITNESS WITHDREW

31

32 THE COMMISSIONER: Now we are going to hear from Raymond
33 Davy.

34

35 <RAYMOND DAVY, sworn:

[12.14pm]

36

37 THE COMMISSIONER: You seem a little more experienced than
38 Mr Gorman at that, and I won't ask you why.

39 A. Perhaps so, Madam. It's fair to say that my career
40 has probably had more meanderings than the lower reaches of
41 the Murrumbidgee River. It's taken me through a few
42 tribunals in my time.

43

44 Q. So what's your current position, Mr Davy?

45 A. I am the Director of Infrastructure and Development at
46 Balranald Council.

47

1 Q. You are the DID, the D-I-D?

2 A. Yes.

3

4 Q. We see that a lot. How did you come to be in this
5 position?

6 A. Well, I suppose - I became aware that council was
7 looking for an experienced engineer to come into the role
8 and I - perhaps by way of background, I've spent much of
9 the last 15 years or so working with regional towns and
10 regional economies in Western Australia either as a
11 consultant or in contract sort of executive roles. It's a
12 bit of a passion of mine, and I thought, "Balranald" -
13 I read a bit about it. I thought, yes, there's a town that
14 actually needs a bit of help. I ended up talking to
15 Michael Kitzelmann and I was pretty inspired by the things
16 that he had to say about what he thought could be achieved
17 here, and so I thought, "Yeah, righto, come and put all of
18 those great ideas into practice and make a difference."

19

20 Q. So, apart from your work in regional
21 Western Australia, you have worked at policy level in
22 government as well?

23 A. Well, if you want the full history, after an early
24 career in the construction industry in both the state
25 sector and the private sector, I ended up in fact over in
26 New Zealand running a major project management business,
27 and that morphed into a consulting role to the New Zealand
28 government around a lot of their restructuring in the late
29 '80s and early '90s, some of their major railways and stuff
30 like that. And also I had the opportunity at that time -
31 probably the most satisfying role I've ever played in my
32 life was as a senior adviser to the traditional owners of
33 the South Island in the successful settlement of their
34 Treaty of Waitangi claim.

35

36 But then on the back of successfully being involved in
37 the restructuring of New Zealand rail I was invited to go
38 over to Western Australia to do a similar thing over there,
39 and so I worked as an adviser to the Commissioner for
40 Railways and to the Minister for Transport on restructuring
41 Western Australian railways.

42

43 Then I went back to New Zealand for personal reasons,
44 commuted backwards and forwards between Perth and
45 Western Australia, got involved in local government, I got
46 involved in various ministerial inquiries into machinery of
47 government. In New Zealand I advised the government on

1 strategy for the temporary accommodation needs of displaced
2 households after the Christchurch earthquakes.

3
4 So, yes, it's been a bit of a varied role. But for
5 the last six or seven years I've been fairly heavily just
6 involved in doing executive contract roles, plus working on
7 restructuring the Local Government Act in
8 Western Australia.

9
10 Q. So --

11 A. A long answer.

12
13 Q. Yes, well, it's very detailed; thank you. But it
14 shows me that you have a wealth of experience.

15 A. Yes.

16
17 Q. Probably unlike most people who are staff members in
18 Balranald Council?

19 A. Most people who hear any of that say, "What are you
20 doing in Balranald?"

21
22 Q. Why are you in Balranald?

23 A. I like it. I like the idea of it, and it might sound
24 a bit - I don't know, a bit sort of naive or touchy-feely
25 but I came from a small country town and when I was working
26 on a particular ministerial assignment over in
27 Western Australia which took me across the wheat belt
28 region, a lot of sort of small regional towns, I became
29 very conscious of the challenges that those towns and local
30 economies had to remain relevant and viable, and it struck
31 me that these are the places where there's the most need
32 for quality professional advice and performance but they
33 are conversely the places that can least afford it.

34
35 So for some time through my consultancy business
36 I have had a bit of a Robin Hood attitude where wealthy
37 city councils were subsidising the services that I was
38 giving to the smaller towns. So, you know, Balranald
39 ticked the boxes. It's a place that's got some really
40 interesting challenges. It's a nice town, it's a really
41 nice town. I mean, compared with some other places I have
42 worked in in the last few years, there's no social
43 problems, there's no graffiti, there's no - I don't have
44 operation staff out cleaning up broken glass and that sort
45 of thing. Certainly if I contrasted it with places like
46 Port Hedland, where I spent a year or more, or where
47 I spent six months, it's a bit of paradise. It's got a

1 couple of good regional cities nearby. Close to Adelaide.
2 Close to Melbourne.

3
4 Q. So you have provided us with a written submission, and
5 the gist I get from you is that this council is not the
6 best and not the worst you have seen; would that be fair?

7 A. That's very fair.

8
9 Q. Okay. If I can just take you through a few of those
10 matters. So you have only been at the council since
11 January 2019?

12 A. That's correct.

13
14 Q. So about seven months now. You came with all this
15 experience. What first struck you about the council as an
16 operating entity when you arrived?

17 A. At a functional staff level, clearly the - it was in
18 recovery and reconstruction mode with the general manager
19 and the fairly newly appointed Director - my counterpart
20 director - of Community and Corporate, Terri Bilske.
21 I think the staff generally were feeling that they probably
22 hadn't had the sort of leadership and support in the past
23 that they needed but that things were turning around and
24 coming forward. Certainly as far as my operational staff,
25 by which I mean the outdoor workforce, the construction
26 crews and things like that I think felt that there had been
27 a lack of leadership. But the general sense was that there
28 was a new era around and that I think a lot of support for
29 what Michael was doing, and I have certainly found in the
30 time right from the beginning, you know, there was a sense
31 of enthusiasm about a response to this whole idea of,
32 "Look, let's put all that behind us and let's get things
33 sorted out. Let's sort of move on and make it a whole lot
34 better." At the council table level I was disappointed,
35 but, as I said, I've seen worse, I've seen a lot better.

36
37 Q. Now, you sit in on the council meetings generally?

38 A. I do.

39
40 Q. What's been your observation of behaviour within the
41 meeting?

42 A. I think what I alluded to in my submission is that
43 what I found surprising and disappointing was that there
44 was a lack of real debate about things that I would have
45 thought would have attracted a lot of debate. Clearly
46 there are tensions between various members of council that
47 predate my arrival. I found it extraordinary I think in my

1 first ordinary meeting here that there was difficulty in
2 even getting councillors to move the staff recommendations
3 to even bring things on for debate. It was as if nobody
4 wanted to be on the record, especially with the live
5 streaming, I suppose, but nobody wanted to be on the record
6 as actually being involved in making any sort of decision,
7 and then after sort of a fairly perfunctory discussion
8 usually involving just the staff presenting their reports
9 and there might be one or two questions, and then things
10 just be voted through. There was rarely any challenge.
11 You know, in my experience, I'm used to being challenged a
12 lot more, I guess, or councillors wanting to understand the
13 implications for decisions a bit more and so on, and, yes,
14 I just felt - I thought it was quite a strange atmosphere
15 around the council table.

16
17 Q. Now, has that changed since you have made your
18 submission?

19 A. I think it has improved, yes. I think certainly the
20 last couple of council meetings have been much more
21 animated. I think there's been more willingness of
22 councillors to actually say something as opposed to perhaps
23 feeling that if they opened their mouths somehow they would
24 be either put upon by others or by members of the
25 community, or felt almost embarrassed to get involved in
26 arguing about decisions. It has improved over the last
27 couple of meetings, but I have only got a fairly small
28 sample space.

29
30 Q. Is there any particular councillors who you perceived
31 as being reluctant to enter debate?

32 A. Yes, I think the two younger, newer councillors,
33 Councillor Allen and Councillor Roberts, I think tend to
34 feel intimidated from - well, sorry, that's supposition on
35 my part. Whatever their reasons are, they rarely - and
36 Councillor Mannix rarely makes any contribution to debate.
37 So it's unfortunate. The discussion does tend to be
38 completely dominated by Councillors O'Halloran and
39 Jolliffe, and they have a particular perspective on various
40 aspects, and it's not for me to say that that's right or
41 wrong, but I think that the lack of broader discussion
42 around issues from people with different perspectives
43 probably lets the community down.

44
45 Q. Now, you suggested in your submission that a council
46 like Balranald should be given some leeway because it's,
47 you know, a rural small council. Were you talking about,

1 for example, rules of debate or were you talking more about
2 ethical standards?

3 A. I don't think ethical standards should be compromised.
4 I think the reference I made was that - what was the
5 wording I used?

6
7 Q. "Minor and non-consequential breaches of proper
8 standards".

9 A. "Minor and non-consequential breaches", yes. Yes.
10 Madam, the reality is in a town like this everyone's
11 connected and, whilst I certainly don't condone breaches of
12 confidentiality or blatant conflicts of interest, and
13 I think those need to be disciplined fairly heavily, but,
14 you know, the reality is that if you want members of the
15 community in such a small community to actively participate
16 in the council then you are going to have to expect that
17 they won't necessarily - I will put it this way. In a
18 normal metropolitan council for a start none of the staff
19 probably live in the municipality anyway, and therefore
20 when they are dealing with their families, when they are
21 dealing with the butcher and the coffee barista and things
22 like that they are not talking to people who are remotely
23 interested in what happens in the place where they work
24 because it's two municipalities away or whatever.

25
26 Now, that sort of thing just doesn't really happen in
27 a town like this. I mean, even the most casual throwaway
28 comments in terms of just the normal pleasantries of
29 getting your coffee or getting your sandwich made or
30 something like that can slip into, you know, perhaps
31 breaches of what might be an absolutely strict black letter
32 application of some of those rules, and I guess it was
33 really just saying you have to be a bit realistic about the
34 fact that there are family relationships and personal
35 relationships that put people under strain in a way that
36 probably doesn't happen in a larger or metropolitan
37 council.

38
39 Q. But do you acknowledge that it could put people under
40 strain?

41 A. Absolutely.

42
43 Q. That closeness of relationships?

44 A. Absolutely, and I think that makes it difficult. It
45 makes it difficult - if somebody is going to put their hand
46 up to go on council, it's that much harder in a place like
47 this to be objective and to perhaps distance themselves

1 from the undercurrents of what's going on in the community.

2

3 Q. So you mentioned staff there. Does that extend to
4 councillors as well?

5 A. In what respect?

6

7 Q. You said that the staff don't normally live in the
8 council area but --

9 A. No, ordinarily you would expect councillors to live in
10 the area, yes.

11

12 Q. Ordinarily councillors would, yes.

13 A. Again, though, the small - I suppose this goes -
14 I mean, a general observation about the performance of
15 councils. I mean, in larger councils, and I have worked
16 with some of the largest, or I have been involved in one
17 way or another with some of the largest in
18 Western Australia anyway, the interests, for example, of an
19 individual - let's say a vet - who's got a bit of a beef
20 with some sort of council decision that's affecting his
21 business. He's probably one of half a dozen vets in the
22 municipal area. So, you know, whatever lobbying or
23 representations he's going to make to one of his local
24 councillors, the local councillor will recognise that he's
25 also got half a dozen other people in the same sort of
26 thing and, you know, there are those sort of things. If
27 you are in a town where there's only one of them, you know,
28 suddenly those problems become elevated to sort of a
29 greater level. If you marry that with the fact
30 that - look, when people get elected to council generally
31 speaking they come on here with the expectation that they
32 are going to change things and, you know, "Things aren't
33 good in this town, so I'm going to get elected and I'm
34 going to make a difference," and it comes as a horrible
35 shock to them when they get on the council and they realise
36 that their ability to actually make any difference at an
37 operational level is almost zero.

38

39 Q. Is that because they come with the expectation that
40 they will have the right to effect --

41 A. Absolutely. Yes.

42

43 Q. So how do we solve that problem?

44 A. It's not easy because people, generally speaking,
45 aren't interested in knowing the finer points of governance
46 and the like. In a metropolitan context, I have long been
47 an advocate for larger councils rather than small councils

1 because I think it actually achieves some of that sort of
2 separation and you get a better sort of corporate
3 structure. But it's simply unrealistic in small regional
4 towns.

5

6 But, yes, I mean, I don't think that we should in any
7 way do anything to discourage people from getting
8 enthusiastic in getting involved, but I think a lot of it
9 goes to the calibre of the senior - well, first of all, the
10 mayor and the senior council staff, so that, you know, if
11 somebody goes out there and decides they want to make a
12 difference and they decide to get themselves elected and
13 they get the numbers and they get elected, I think first
14 and foremost they need to be taken under the wing of the
15 mayor and the GM, CEO, and encouraged to find a way to sort
16 of channel that enthusiasm into getting better policies or,
17 you know, getting better strategies and things like that
18 and to steer them away from trying to get themselves
19 involved in operational stuff, which, as we know, just
20 creates all sorts of problems. But then if that's not done
21 properly, then there's a sense of frustration. They are
22 likely to express that frustration to their friends and
23 family and so on, and then suddenly the narrative is, "Oh,
24 the council is useless because the council won't do
25 anything about this, and I went on there and I decided and
26 I tried to get this done and they wouldn't do anything
27 about it," instead of, "Oh, I didn't realise that the way
28 this had to be done was to go through", you know, blah,
29 blah, blah, blah.

30

31 Q. Have you ever experienced somebody directing you on
32 how to do your job in this council?

33 A. I have experienced people in a not-so-subtle way
34 trying to.

35

36 Q. And what happened? What were the circumstances?

37 A. I listened politely and said, "Thank you for your
38 advice."

39

40 Q. And who was it?

41 A. Councillor O'Halloran.

42

43 Q. And what was he suggesting that you do?

44 A. Councillor O'Halloran and I have travelled to meetings
45 together in places like Swan Hill and so on, and, you know,
46 you can't not have a conversation about things, and when
47 matters are raised, if observations are made about the

1 calibre of particular staff or the way in which things are
2 being handled or mishandled in his particular view or
3 whatever, you know, you listen politely and you say, "Well,
4 you know, I'll certainly give that some thought."
5

6 I think one of the points that I made in my written
7 submission and the danger - I don't feel the least bit put
8 upon or intimidated by that. I didn't hang around for as
9 long as I have to not know how to deal with that. But, if
10 I were 20 years younger and this was my first experience of
11 being in this sort of executive role, I would find it
12 intimidating. I would find that there was pressure being
13 put on me to take a particular view about individual
14 employees or the way they went about their work. Even if
15 it is expressed, as it often is, with a sort of a
16 good-natured disclaimer, you know, "I know I really
17 shouldn't say this sort of thing to you but" --
18

19 Q. And you know they really shouldn't.

20 A. Oh, absolutely. But, as I say, if I were a younger
21 engineer who'd just made it onto the director level in a
22 small local council and I wanted to see this as the next
23 step to becoming - you know, to going on to bigger and
24 better things, you know, I would probably find it a bit
25 more intimidating.
26

27 Q. And have you observed any intimidation in anybody else
28 at the council, dealing particularly with Councillor
29 O'Halloran --

30 A. What do you mean?
31

32 Q. Have any staff members --

33 A. Have I observed intimidation towards other people or
34 by other people?
35

36 Q. Any other staff members - other staff members who
37 might have been intimidated by Councillor O'Halloran?

38 A. No, not directly, and of course we do have a procedure
39 which requires councillors to not interact with staff other
40 than the directors and the GM. So hopefully they are
41 protected from that. I can't speak for what might happen
42 outside of the formal discussions. I have not had any
43 complaints to me. But, again, clearly because of
44 the nature of relations in a town like this, I mean, it's
45 well known that, you know, various councillors and various
46 staff members socialise through football or through various
47 other things like that, and, you know, there will

1 inevitably be comments made.

2

3 Q. And is that the sort of thing where you say you've got
4 to have a bit more flexibility because of the size of the
5 town?

6 A. I think - those words are going to come back to bite
7 me, aren't they?

8

9 Q. I'm putting that onto --

10 A. I think it's a matter of ensuring that the
11 most - I suppose two things. Ensuring that they are purely
12 non-consequential. You know, if they are non-consequential
13 and if it is more in the nature of an exchange of opinions
14 or whatever like that as opposed to something that could be
15 seen to be putting pressure on, then I don't see that
16 there's any value in coming down like a tonne of bricks on
17 somebody because it's unrealistic; it's not going to stop
18 it happening. I think that's the point. I think that if
19 you focus your compliance efforts (a) towards education but
20 (b) towards just making sure that there is no damage done,
21 I think that's the best that you can hope for in a town
22 like this.

23

24 Q. Now, have you witnessed any of the council meetings
25 that have been the subject of evidence where the
26 proceedings have been disrupted by Councillor O'Halloran?

27 A. I have at one closed session.

28

29 Q. And what was that for?

30 A. Am I allowed to talk about what happened in a closed
31 session?

32

33 Q. No, but you can tell me what the nature of the
34 discussion was about. Was it to do with the - was it
35 caravan park, was it rates?

36 A. Well, I made references in my submission to one
37 occasion, which was a closed session. It was to do with
38 the caravan park, and some of the language and behaviour
39 that was directed towards the general manager by
40 Councillors O'Halloran and Jolliffe was quite unacceptable.

41

42 Q. So you wouldn't put that incident in the category that
43 you could brush off because Balranald is a small town?

44 A. No, absolutely not.

45

46 Q. Okay.

47 A. Not when you've got finger pointing and shouting and

1 so on of that nature. I think - I mean, there have been
2 other occasions when - I mean, I suppose one of the things
3 that you deal with here, and, again, when emotions get a
4 bit high, I mean the sort of references to, you know, "you
5 don't really know how things work here because you come
6 from somewhere else", I mean that sort of notion that the
7 senior staff, because they aren't from here, somehow are
8 not connected with or don't have a clear understanding of
9 what needs to happen or what should happen or what the
10 community wants to have happen, and sometimes that's
11 expressed in fairly disparaging terms. But --

12
13 Q. Have you experienced that?

14 A. No. So far everybody seems to love me spreading fairy
15 dust around the place and getting infrastructure built, and
16 I have tried to stay away from all that stuff.

17
18 Q. You have a position that is visible in terms of its
19 output, don't you?

20 A. Very, yes.

21
22 Q. Whereas others perhaps don't, if they are in
23 governance or --

24 A. I think it also helps, Madam, to be blunt, that
25 I think I inherited a situation where there was quite a
26 backlog of stuff to be done and we have achieved some
27 pretty, if I say so myself, impressive results in the last
28 six months, and I think that's being seen in the community,
29 particularly out in our rural areas, and the feedback that
30 I'm getting now compared with what we were getting back in,
31 say, February is very encouraging. So, yes, look, it's
32 always nice to be the person that gets to spend the money
33 rather than the people that are taking it away from people.

34
35 Q. There's been a concern expressed that the asset
36 management plan on which the council's budget is based is
37 perhaps overvaluing some of the assets that the council
38 holds. Do you have a view on that?

39 A. I think that the asset management plan that I have
40 inherited is inadequate in a number of respects, and one of
41 the "to do" list items for this financial year is to sort
42 of properly get that revamped.

43
44 As to the valuation of the assets, I read those
45 criticisms. I suspect that there may be some value in
46 those criticisms, but until I have really done a
47 comprehensive review of the asset management plan I would

1 be reluctant to get too specific about it. I certainly
2 think that we have or the council has neglected a lot of
3 its assets in recent years for one reason or another, and
4 part of that has been its financial capacity to deal with
5 the assets that it's got, and whether or not those assets
6 have been properly depreciated and therefore whether they
7 are overvalued, from my experience I would suggest that
8 it's more likely than not that that's the case. But, as
9 I say, I can't be too precise about it at this stage.

10
11 Q. You have read the Morrison Low report --

12 A. I have.

13
14 Q. -- which seemed satisfied with the values that were
15 attached to roads and buildings but was - I forget what the
16 term was but - little confidence in the --

17 A. Madam, it was, as far as I can see, pretty much a
18 desktop analysis. It didn't really involve getting out
19 there and seriously looking at the assets. When I said
20 I regard the asset management plan as inadequate, you know,
21 I'm not aware of what Morrison Low's brief was, so, you
22 know, I'm not going to sheet home any sort of - too much
23 criticism towards them as a firm. Indeed, Malcolm Morrison
24 and Doug Low are old colleagues of mine from New Zealand,
25 so I know the firm. But, as I say, I don't know what their
26 brief was. But the asset management plan, all I will say
27 is it doesn't give me a sound base for making my investment
28 decisions in terms of the assets. That's why I need to go
29 back and review it all. I think it's too generic, probably
30 too much of a once over lightly, tick-the-box exercise.

31
32 Q. And how long is that process going to take?

33 A. For me to review it? Well, the objective is to have
34 it all done in time for us doing the review of the budgets
35 and the 10-year financial plan and so on for the next
36 financial year. So the objective would be to have it all
37 done by the end of this financial - not by the end of the
38 financial year; by probably about March in order that any
39 adjustments to it can be factored into forward financial
40 planning.

41
42 Q. And is it budgeted, the expense of doing that review?

43 A. No.

44
45 Q. How is it going to happen if it's not budgeted?

46 A. I'm going to work late nights.

47

1 Q. But you can't physically do all the work that's
2 necessary to review the asset management plan.

3 A. No. Sorry, as far as the asset condition reports and
4 so on are concerned, I have got people, I have made it a
5 priority both with the staff that I've got internally and
6 the external staff to actually get that data gathered. So,
7 you know, when you have got people out doing maintenance
8 grading or when you have got people out, you know, doing
9 stuff out there, it's not that difficult to get them to hop
10 down and inspect the culverts as they go or to check the
11 state of the grids or to give you an assessment of how much
12 life there is in the gravel, if there is any gravel, on the
13 road and so on. What I've said that I want this year is
14 comprehensive data. I come from an old-fashioned school
15 which says if you don't have data you can't plan. I have
16 made it a bit of a mantra that we haven't planned properly
17 for the work that we do, and that's going to change. But
18 in order for that to change I need good data, and so -
19 I can get that data together.

20

21 Q. So you are not outsourcing the data? That's what --

22 A. I'm not outsourcing the data gathering. There may be
23 particular areas - I mean, I have no personal expertise in
24 water systems management, and so there might be areas like
25 that where I might rely on a consultant or a contractor to
26 give me some assistance. But, as far as building assets,
27 road assets, all of that sort of infrastructure, I'm pretty
28 confident in my capacity to do that sort of work.

29

30 Q. And do you have any concern about the state of the
31 sewer assets at the moment?

32 A. The sewer assets were found by my predecessor to have
33 some significant problems as a result - well, the mains,
34 and so a relining program was set up. I think it was a
35 three-year contract. We are moving into the third year of
36 that contract.

37

38 As to how much else needs to be done, I mean,
39 certainly we do have - one of the areas we do have is a
40 pretty good, in fact long-term water and sewer asset
41 management program, and I have no reason to believe that
42 what is planned to be done will not be adequate as far as
43 those assets are concerned. I have concerns about the
44 inability to fund the sewer program. For whatever reason
45 in the past, council has garnered insufficient funds to
46 have a sufficient reserve for sewer works to be able to
47 finance what needs to be done. But we will get it there.

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Q. In that regard are you referring to the recent debate about the pedestal charges or --

A. No.

Q. Was it a more general comment?

A. I mean just generally. I mean, the amount of money that's sitting in the sewer reserve is fairly inadequate to provide any sort of ongoing thing. Now, whether that can be sheeted home to the fact that the charge has been too low historically or the failure to have a pedestal charge or whatever, I'm not really buying into that debate. I simply make the comment that not enough money has been taken for sewer assets to be able to keep those assets in a decent condition.

Q. In your submission you are concerned that the council has failed to adequately engage with the community?

A. The feedback that I've had since I arrived here - well, initially, because I wrote this submission - I think it was in May but --

Q. April, actually.

A. It was probably written in April. All of the narrative back from, you know, getting out and about and talking to ratepayers in the course of my job, and I get out as much as I can, has been that there's been a lack of feedback and a lack of communication and so on. On the other hand, I'm also getting told that that has improved significantly. I think that the newsletter has gone down well. I think the live streaming of council meetings has been a good thing. I'm certainly getting the sense that they've got - there is clearly - you know, the elephant in the room is always still the caravan park and the fact that there's been no adequate communication plan to the community to really explain the council's position and the background of the council's decision making around that, and in that vacuum there has been a lot of speculation, misinformation, and the fact that the council has not responded to that simply creates the impression that there's some sort of conspiracy, there's some sort of cone of silence.

But within my own area of - around the infrastructure, again, the feedback that I'm getting out and talking to people is they appreciate that they are seeing myself and staff out there perhaps a bit more than we had been before

1 and that we are engaging to talk. So, again, I think it's
2 in that general thing that, you know, in the past there
3 might have been issues but I think there is a sense - if
4 you put that one major issue aside, I think there is a
5 general feeling in the community that we are moving in the
6 right direction as far as everything, including openness
7 and communication, is concerned. Certainly that's the
8 feedback that I get to the extent that I have
9 conversations.

10
11 Q. In the final paragraph of your letter you say that you
12 are critical of a one-size-fits-all approach to councils,
13 and you say:

14
15 *This especially relates to various programs*
16 *where eligibility for funding is predicated*
17 *on the prior preparation and adoption of*
18 *plans that are in themselves simply*
19 *unaffordable.*

20 A. Yes.

21
22 Q. Would you put the SRV, special rate variation,
23 application into that category?

24 A. I didn't have that in mind. No, I was thinking more
25 in sort of straight infrastructure terms. I mean, a
26 classic example is our stoush over a water treatment plant
27 where the former minister for water explicitly gave the
28 mayor and the general manager an undertaking about funding
29 for a new water treatment plant, admittedly prior to the
30 election - it wasn't an election commitment, though; it was
31 prior to that - but then hit the bureaucratic roadblock and
32 suddenly this is, "Oh, no, you can't even have that request
33 considered unless you have spent \$200,000 on an integrated
34 water cycle management plan." I have had standup arguments
35 where I have said, "What sort of a strategy do you actually
36 think we need? We've got a river, we've got an intake,
37 we've got a water treatment plant, we've got a distribution
38 system. Tell me what kind of a strategy you are actually
39 expecting to come out of this."

40
41 Q. It sounds fairly simple.

42 A. And yet to spend - and then subsequently, yes - and,
43 of course, when we said, "How about funding for doing the
44 integrated water cycle management plan," we are told, "No,
45 sorry, funding for that has run out. So we are not
46 actually accepting any applications for it anymore."
47 I mean, that was a typical example.

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At the time I was having a particular argument with a particular bureaucrat over this, and he said, "What is it you actually want?" I said, "What I want is people who sit in Sydney or even Wagga to actually come here and understand the realities of what it is day to day to actually run a council like this." At the time we had our north road project going, which is 175-180ks north of here, with no mobile phone reception between here and there. I said, "If something comes up and I have to go out and deal with an issue there, I drive two hours to get there, I spend an hour on the site, I spend two hours to get back. That's five hours out of my day. Who do you think I've got" - "in my office in a council like this, who do you think I've got in my office who can do things like prepare those plans and write those strategies and so on? Do I spend a couple of hundred thousand dollars of ratepayers money, you know, to do this stuff, or do I try and do it inhouse, which means I've got to take a lot of the load? And when do I do that if I'm spending five hours just going out and dealing with some problem out on a road?" It's that kind of thing - you know, doing regional transport strategies, doing strategies for this and plans for that and so on. At a certain point you've just got to go, "You know something. There's a need. It's obvious. You know, fix it."

I can understand the - and having been part of government, state government restructuring in Western Australia and national level over in New Zealand, I totally understand the arguments about needing to have rigorous criteria, evaluation criteria for why you are going to spend money somewhere and the need to actually make your business case. But to write a business case for even a simple piece of infrastructure is not a simple thing. If you can write a business case that's going to pass muster with Treasury or the Department of Transport or whatever, as I say, you are either paying ridiculous amounts of money relative to the budget of a council like this for consultants or you are reliant on it - now, because Balranald has someone with my experience, I know how to put these things together. I've rarely got the time to do it. But if I go to another - if I went to another council of a similar size, they don't have people who have written, you know, major infrastructure restructuring plans or government advice or whatever. They don't know how to write this stuff, you know, and it's just - there's that

1 kind of lack of - well, certainly a lack of empathy, but
2 certainly just a lack of understanding of what the
3 challenges of day-to-day life are to actually just deliver
4 stuff here.

5

6 Q. So what was the outcome for the water treatment plant?

7 A. We are still waiting, Madam, for - after the general
8 manager took his ugly pills and sort of ramped up the
9 rhetoric a little bit, we were told, "Okay, well, we'll get
10 you some money for the integrated water cycle management
11 plan, and separately we will also consider your
12 application." We are still waiting to hear any progress on
13 any of that.

14

15 Q. So you haven't written the business case yourself?

16 A. Yes.

17

18 Q. You have written it; okay.

19 A. No, we actually paid somebody to do it and we wrote
20 the business case and we actually put it in the hands of
21 the minister. But that, of course, wasn't good enough for
22 the bureaucrats.

23

24 Q. And those sort of challenges are regularly faced by
25 the council?

26 A. They are, and they go - look, they are systemic for
27 the western division. I mean, it's not just Balranald.
28 Any kind of, quote/unquote, needs based assessment of
29 investment in infrastructure is always going to see areas
30 like this underfunded. And I get it. I mean, if I've got
31 to weigh up the relative merits of funding - even getting
32 away from the eastern seaboard, if I've got to weigh up the
33 relative merits of funding road improvements somewhere in
34 the sort of Wagga/Narrandera area, Deniliquin, you know,
35 Parkes, somewhere like that, it's always going to stack up
36 more than funding keeping the roads in a decent condition
37 here, where, you know, you've got far less traffic.

38

39 Now, the fact that that traffic is disproportionately
40 important to the few people that rely on it doesn't seem to
41 get across to people. We have a road, what we call the
42 Ivanhoe-Mildura road. It's 130-odd ks of unsealed, largely
43 unimproved road which up until a few months ago you would
44 not have been able to drive a truck down it more than 40-50
45 kilometres an hour. The alternative for farmers carting
46 hay or stock or whatever to get, say, to Mildura was to add
47 1,000 kilometres to their round trip rather than use that

1 road. But the number of vehicles using that road was never
2 going to even be a blip on the radar on a sort of
3 region-wide or a statewide basis. But, as I say, the
4 relative importance of that, that extra - the alternate
5 route adding 1,000ks and adding that cost to a struggling
6 farmer in the drought is that much more important than the
7 fuel delivery for a fuel depot out of Parkes where if he
8 doesn't go this way he will go another way and it might add
9 60 or 70ks.

10
11 Q. So what happened with the Mildura-Ivanhoe road?
12 Something good?

13 A. We did actually get some Commonwealth government
14 drought funding and I have turned it into a
15 100-kilometre-an-hour road. But how long it will stay in
16 that condition without money to keep reinvesting in it is
17 another question because without ongoing funding - and this
18 of course is another general issue which not only applies
19 here but applies to local government generally.
20 Governments are always happy to give you capital to build
21 things, but they are not so happy to give you money to
22 maintain them. I spent \$300,000 of Commonwealth government
23 money getting that road into a really good shape, but now
24 it's up to the ratepayers to keep the graders on that road,
25 to keep it in condition. Most of it doesn't have any
26 gravel on it. It's just graded clay. It cuts up in the
27 wet. You get rain on it, it will become quickly
28 impassable. It takes that much more cost to even get it to
29 a shape. You know, there's just not a sufficient
30 recognition outside of the state roads system.

31
32 Then of course beyond that - I mean, I will go back to
33 the water treatment plant. I mean, the plant here is
34 1950s-1960s technology. In the height of the heatwave in
35 the early part of this year we had crews working - I think
36 they worked 28 hours straight at one stage literally
37 tipping activated carbon into water. I mean, how primitive
38 is that in a situation like this where you have got people
39 working around the clock, the biggest risk to the water
40 supply of Balranald was one of those people falling over
41 just through sheer exhaustion because you can't continue to
42 run a town water supply, something that is so basic to life
43 and health? Relying on a couple of people working
44 outrageous hours using primitive technology, you know, it's
45 just not good enough.

46
47 Q. Okay.

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MS ANNIS-BROWN: I just wanted to clarify - just to take you back to council meetings and the Commissioner asked you whether you attended meetings, and you do. I wanted to ask you about your views on the effectiveness of the chairing of council meetings?

A. Seen better; seen worse.

Q. Could you elaborate?

A. I think Mayor Purtill strives to be a good chairman, but I don't think there is - I don't think chairmanship is a natural skill for him, which is not to be disparaging at all, and he tries to keep the worst excesses in check. But I think when there are strong personalities you probably need a fairly strong personality from the chair and you need some pretty - perhaps a more robust management of debate. I think one of the comments I made earlier about perhaps the reluctance of some councillors to get involved in the debate may or may not stem from the fact that there isn't really a kind of concerted effort to move people into the debate as opposed to sort of passively saying, "Does anybody have anything else to say?" Maybe that's more like a behind-the-scenes thing that needs to happen rather than necessarily in the formal process of council.

Q. So you would be aware that council operates under a code of meeting practice?

A. Yes.

Q. And so how well do you believe the council is adhering to the rules under that code of meeting practice?

A. Generally speaking, yes, it's okay. I think it's more sort of the detail around the edges rather than does this strictly comply or not strictly comply. It's more about leadership of the council. As I say, that's not a criticism of Mayor Purtill, but I think he is reluctant to get into a stoush perhaps when that's maybe what's needed.

Q. And you would agree that the code of meeting practice does allow for members or councillors who are not conducting themselves in an appropriate manner to be asked to leave the council meeting?

A. I am aware of that.

Q. Has that ever occurred in your experience?

A. Not in my time here, no.

1 Q. The only other thing I wanted to address again around
2 meetings was just to point out that councillors can only
3 make decisions at a council meeting?

4 A. Mm-hm.
5

6 Q. And councillors only have one vote, and I guess what
7 I wanted to ask around that is how well do you believe
8 councillors are understanding the information provided to
9 them, clearly because it's very vital for them to ensure
10 they are making informed decisions? So how well do you
11 believe that information is being understood? For example,
12 do you believe that most councillors have read the agenda
13 papers - the business papers, rather, before the council
14 meeting?

15 A. In some cases it's hard to tell. Because they don't
16 say anything in the meeting, it's a bit hard to know
17 whether they have understood what's in front of them or
18 not.
19

20 Q. So would that be an indication perhaps that they
21 haven't read the council business papers?

22 A. No, not necessarily. It may just be that they don't
23 want to say anything. I think the fact - so I - no,
24 I mean, I think there are - generally speaking, I think
25 there are - well, from one or two councillors only,
26 unfortunately, there are questions directed to Terri Bilske
27 in terms of what's in the finance report and certain
28 questions there. The fact that I don't get too many
29 questions about what are in my infrastructure reports
30 either means that they are terrifically comprehensive
31 reports or that they don't understand them. I can't give
32 you a speculation as to which it is.
33

34 Q. That was going to take me to my next question. How
35 many requests for information do you receive to clarify
36 information that you have provided in the business papers?

37 A. Virtually none. But then I do try to write
38 comprehensive reports, informative reports.
39

40 Q. I'm sure you do. All right. Thank you. That's all
41 from me.

42 A. Madam, if I could make a comment in relation to
43 something just for the record. Mr Gorman made reference to
44 the almond farms and concerns about - well, concerns that
45 the council should get involved in trying to advocate.
46 I can say that we are working very diligently not only with
47 the almond farms but with other people around trying to

1 bring business and investment into this town, and as far as
2 the almond farms are concerned, yes, we have met with those
3 people quite recently and we have advocated very strongly.
4 We have asked them what we can do to help them make the
5 decision to want to locate such a facility here. It's by
6 no means a done deal that it won't come here. Their
7 indications are that at the moment there is no pressing
8 demand for a new facility. They are using existing
9 facilities. There will need to be another one, and they
10 are considering the options, and I think in good faith they
11 will engage with us as to whether or not that could be
12 brought to this town.

13
14 One of the challenges that the council has and as
15 Mr Gorman pointed out, even with the farms, let alone the
16 processing facility, that creates employment but there's a
17 lack of housing opportunities for people to come here. We
18 are not talking about transient workers. We are talking
19 about permanent. Again all I can say is that the general
20 manager and I are working very actively towards how we can
21 develop strategies to get better housing in the town and
22 make that attractive for people to come here. So for the
23 record it's something we are sort of actively working on.

24
25 I wonder if I - if you have no other questions, there
26 is one other comment I probably would like to make in
27 closing.

28
29 THE COMMISSIONER: I just want to go back to you said
30 there were one or two councillors who directed questions to
31 Ms Bilske. Who were those councillors?

32 A. Generally O'Halloran and Jolliffe.

33
34 Q. And do you think they are unreasonable questions; was
35 that your point?

36 A. No, no. I just make the point that once again it
37 seems to be only those two who have questions to ask.
38 There's sometimes a bit of a theme to what those questions
39 are. Councillor O'Halloran seems to have a particular
40 interest, shall I say, in the finances of the Bidgee Haven
41 Hostel; asks a number of questions about that. There are
42 occasional questions about the caravan park reserve. But,
43 no, I don't want to suggest that questions are only about
44 those topics.

45
46 Q. Okay. And you wanted to say something?

47 A. Yes. I guess on the big question of where your

1 recommendations might end up regarding the future of the
2 council and whether you might end up recommending to the
3 minister the appointment of an administrator, it's not my
4 position to advocate one way or the other on that but
5 I would make two observations.

6
7 One is that the appointment of an administrator, while
8 it might do wonders for the efficiency of the staff, isn't
9 going to solve the long-term problems if the cultural and
10 structural issues are not resolved. There's no point
11 in - and I have seen situations in Western Australia, two
12 circumstances, where councils were sacked; commissioners,
13 as they call them over there, came in; and then as soon as
14 democracy was restored the same people got themselves
15 elected, the same problems occurred, and in one case they
16 got sacked again.

17
18 So I make the point I'm not suggesting that would
19 necessarily happen, but to make the point that an
20 administrator coming in without a proactive process of
21 engagement with the community and about the role of local
22 government over that period of four or five years that an
23 administrator would be in place, that the government needs
24 to get in behind the council as represented by the
25 administrator to do that engagement process.

26
27 But the other thing is this. I know I have talked
28 about our water treatment plant and I have talked about
29 some of the other issues. If there's a perception in the
30 community that the place has got problems because it's got
31 outdated infrastructure, because we have problems coping
32 with water supply in periods of drought and high
33 temperatures and so on then, you know, the average citizen
34 is going to go, "Why would I put my hand up to get on the
35 council only to get beat over the head because of the
36 crappy state of our infrastructure?"

37
38 I mean, if government is of a mind to want to go down
39 that path then one of the best things they could do to
40 encourage people to come forward and to want to actually be
41 part of governance of this town going forward would be to
42 put some decent investment into helping us to actually
43 upgrade some of our older buildings, some of our outdated
44 infrastructure and so on so the people who (indistinct) the
45 place think, "Yes, this is great, this is a good place and
46 I would be proud to actually be seen to be a member of that
47 council." So I just make that point.

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Q. I was going to ask you how do you solve that first question. If you don't appoint an administrator how do you change the culture to avoid the dichotomy that seems to exist at the moment?

A. A poison chalice.

Q. It is a poison chalice. I'm holding it.

A. As I say, Madam, as a senior member of staff I don't know that it's my role to advocate for one outcome or the other.

Q. No, no, I was just wondering if you have any ideas on how one would go about changing the culture within the councillors without --

A. I think that there are - I mean, we have a situation if you look at personnel on the council, we have a number of people who have been there for a very long time. That's admirable on the one hand, but it is also indicative of the fact that perhaps there's not --

Q. You are talking about councillors now?

A. Councillors, yes. And it's indicative of the fact perhaps of two things: one, that there aren't alternatives who want to put themselves forward or are confident to do it; and perhaps also indicates that the community sees that those people that have been here for a long time are saying and doing exactly the things that the community wants, which gives you a bit of a negative feedback loop in terms of never being - there's never been the initiative to change.

So, to be blunt, I think it would be difficult to get fundamental cultural change unless there were a turnover of membership around the table. I understand that at least two or three of the existing councillors have indicated that they wouldn't be standing for re-election, and that does create an opportunity, I guess. The idea of the clean sheet is attractive, but it's a drastic step that would be seen to disenfranchise the community, and I guess a lot would depend on the calibre of the administrator.

I did have the experience of being asked to provide advice on organisational restructure to the Shire of Derby-East Kimberley - sorry, Wyndham-East Kimberley in northern WA. They had a commissioner in place, a bit of a local government legend by the name of Ron Yuryevich, who

1 had been a mayor of Kalgoorlie for something like 15 years
2 and who as a one man councillor was as engaged with the
3 community as any council could be. I saw he went out and
4 he had that confidence of the community and there was this
5 sense of, "All we are doing here is we are just getting
6 stuff reset, we are solving a few problems and then we are
7 handing it back to you; but, boy, it's going to be great
8 when we get there." I saw that in action when I was
9 working up there.

10
11 So I think the right administrator can do a great job,
12 but they have got to be paid enough and they have got to be
13 given - they have got to be selected with an eye to the
14 fact that that's an important part of their job. It's not
15 just running the books and paying the wages.

16
17 Q. And is that your only experience of a council under
18 administration?

19 A. No.

20
21 Q. What was the other one?

22 A. City of Canning, a very large metropolitan council.
23 City of Belmont. Again that was the one that had been
24 sacked twice. I mean, in both instances you are talking
25 about larger metropolitan councils where really the
26 day-to-day management of council was more akin to a large
27 corporation rather than --

28
29 Q. So different circumstance to the --

30 A. Very different. And I have to say from my long
31 experience in New Zealand I am quite an advocate of very
32 much the New Zealand model, but you can't transition to it
33 overnight. In New Zealand the councils are larger, by and
34 large, but it's established practice for most operational
35 stuff to be corporatised under council ownership, and so a
36 model of what they call over there council controlled
37 organisations, which are basically companies in which the
38 council is the shareholder but which have professional
39 boards.

40
41 So your water and sewer system would be - it might be
42 called Balranald Water Pty Ltd. The council might be
43 100 per cent shareholder. It would have a board of three
44 or four people who were appointed for their expertise as
45 company directors. The operations would be - and so on.
46 These don't have to be profit-making exercises. I was
47 involved and I have been involved in setting up and

1 chairing or being a board member of a number of these
2 entities in New Zealand.

3
4 I was involved in setting up a company called Manukau
5 Leisure. The former city of Manukau, which is now part of
6 the Greater City of Auckland, decided to put their leisure
7 services or their leisure centres, swimming pools and
8 things like that, into a CCO not with the intention of
9 making a profit but simply to get more efficient
10 utilisation of resources and to bring expertise. So the
11 board of Manukau Leisure was people that came from
12 the fitness sector, people that came from the sporting
13 sector and things like that as well as obviously your
14 normal sort of company director types.

15
16 The objective of that was to say, whereas as a
17 director of Manukau's property company we had a target rate
18 of return to achieve on running the property portfolio,
19 their target rate of return was like negative whatever.
20 You know, "Here is the amount of subsidy that we are
21 looking to put into these services. Show us how well you
22 can run it with that subsidy whilst retaining council
23 ownership."

24
25 Under that model council is there to set the strategy.
26 Council is there to set the policies. But there is
27 absolutely no illusions about whether or not councillors
28 having involvement - indeed there is a two-step thing. As
29 a director of a couple of these companies not only could
30 council not direct what was happening; the council couldn't
31 even direct the board as to what was happening. They could
32 sack us if they didn't like what we were doing as a board,
33 and we were accountable to them through our statement of
34 corporate intent and through our regular consultation
35 processes. But it made for highly efficient operations.
36 It meant that the councillors focused solely on strategy
37 and policy and, you know, the big picture questions about
38 how to deliver outcomes or - no, what outcomes needed to be
39 delivered and how those needed to be funded. But having
40 decided that it was like, "Okay, the professionals are
41 given the job of doing that." Even in relatively small
42 councils that happens.

43
44 Q. Does it exist in New South Wales?

45 A. I'm a newbie in New South Wales, I'm afraid, Madam.
46 I don't know that there are any. I have worked pretty hard
47 in Western Australia to get the Act changed to enable it

1 over there. In South Australia they have entities called
2 subsidiaries and regional subsidiaries which are set up to
3 run as businesses to run waste and water and things like
4 that. Queensland has a model called beneficial enterprises
5 which is I think sort of the commercialisation of entities
6 which are not capable of running at a profit in the
7 short-term but ultimately to get them to that sort of
8 stage. I think Tasmania has a somewhat similar model as
9 well. That's purely an observation from left field, Madam.

10
11 Q. Yes, it might be something at a government level
12 rather than anything --

13 A. It's something that in due course I would be more than
14 happy to get into the ear of the Minister for Local
15 Government about, but I have too much on my plate here at
16 the moment.

17
18 Q. It sounds like you do. Thank you, Mr Davy. I don't
19 have any more questions.

20
21 MS ANNIS-BROWN: Neither do I.

22
23 THE COMMISSIONER: You are free to go. Thank you.

24 A. Thank you very much. Can I just wish you well in
25 untangling the Gordian knot that confronts you. You could
26 of course do what Achilles did: just take the sword to it.

27
28 **<THE WITNESS WITHDREW**

29
30 THE COMMISSIONER: So that's it for the public hearings
31 for today. We will adjourn again until 10 o'clock tomorrow
32 morning.

33
34 **AT 3.23PM THE INQUIRY WAS ADJOURNED TO**
35 **THURSDAY, 1 AUGUST 2019 AT 10.00AM**

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