

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 Thursday, 1 August 2019 at 10.00am

Before Ms Roslyn McCulloch, Commissioner

1 THE COMMISSIONER: Thanks, everyone. We'll start now.  
2 Councillor Jolliffe, if you would come forward, please.

3  
4 <TREVOR JOLLIFFE, sworn: [10.01am]

5  
6 THE COMMISSIONER: Thanks, Councillor Jolliffe.  
7 Councillor, can I ask: you were invited to make a  
8 submission to the inquiry but you didn't, a written one.  
9 Is there any reason for that?

10 A. No, I can tell you here, if you like.

11  
12 Q. No, is there a reason you didn't make a written  
13 submission?

14 A. Well, like I said, any submission, I think council put  
15 one in. I didn't think it was necessarily for me to put  
16 one in, so I didn't.

17  
18 Q. Did you read the council submission before it was  
19 lodged?

20 A. I did.

21  
22 Q. Okay. And you agree with that submission, do you?  
23 How long have you been a councillor on Balranald?

24 A. It would be seven years in September.

25  
26 Q. And have you ever done a stint as mayor?

27 A. No, I haven't.

28  
29 Q. Deputy mayor?

30 A. No.

31  
32 Q. And what was your background apart from the council?

33 A. Twenty years in the shearing industry, 22 years in  
34 real estate and stock and station agency and a past hobby  
35 farmer.

36  
37 Q. Now, you're familiar with the code of conduct that  
38 applies to the council?

39 A. I am.

40  
41 Q. Have you done some training?

42 A. We did do training. It would have been several years  
43 ago. There was only one course of each.

44  
45 Q. Of each?

46 A. Code of conduct and finance.

47

1 Q. Finance. Okay. So you didn't do a meeting practice  
2 training?  
3 A. No, I missed one and I think that might have been it.  
4  
5 Q. I see. Now, there's been some complaints made that on  
6 some occasions in council you have behaved in a manner that  
7 has threatened the staff who have been present at the  
8 meetings. Are you aware of those complaints?  
9 A. No, I haven't heard of any.  
10  
11 Q. Do you believe that you have acted in that way in any  
12 meetings?  
13 A. I express my thoughts and my opinions.  
14  
15 Q. And do you sometimes do that by raising your voice?  
16 A. I do raise my voice.  
17  
18 Q. Do you sometimes do that by pointing your finger at  
19 people?  
20 A. Well, I wave my hands around a fair bit.  
21  
22 Q. So that could be the case, that you've pointed your  
23 finger at somebody while you were talking?  
24 A. I didn't think it was an issue, to be honest.  
25  
26 Q. Are you aware that as a councillor you have to take  
27 care of the worker health and safety of the staff of  
28 the council?  
29 A. Yes, I have read that in the code of conduct, yes.  
30  
31 Q. And do you believe that your actions might have  
32 jeopardised the health and safety of any staff members?  
33 A. I don't think so.  
34  
35 Q. Are you aware of the council's policy relating to  
36 interactions with staff members?  
37 A. Well, we've probably had, since I've been on council,  
38 probably three policies, council policies.  
39  
40 Q. And what's the current policy issue --  
41 A. I haven't actually gone through that one as yet.  
42  
43 Q. Okay. Do you understand the people you are allowed to  
44 interact with who are staff members?  
45 A. We have had that given to us by the former GM, which  
46 I believe I haven't gone out of my range, area range on  
47 that matter. The only time I do have communication with

1           them people is mainly in here.  
2  
3           Q.    So you've never directed staff in the performance of  
4           their job?  
5           A.    No.  
6  
7           Q.    Never asked anyone to do grading on a particular road?  
8           Grading on a particular road in the shire?  
9           A.    No, I haven't.  But if you want an answer to that,  
10          I have brought it up at meetings where particular roads  
11          need maintenance grades and so forth.  
12  
13          Q.    To discuss at a council meeting?  
14          A.    Yes.  
15  
16          Q.    But you haven't ever directed a staff member to do  
17          that?  
18          A.    No.  
19  
20          Q.    Okay.  And are you aware of your obligations in  
21          relation to contact with contractors to the council?  
22          A.    Yes.  
23  
24          Q.    And what do you understand them to be?  
25          A.    With contractors?  
26  
27          Q.    Yes?  
28          A.    Well, as far as I know, the contractors, they're  
29          appointed by the general manager and his directors and  
30          that's about it.  
31  
32          Q.    And are you entitled to have contact with contractors  
33          to the council?  
34          A.    No, I'm not.  
35  
36          Q.    Okay.  
37          A.    Under their policy.  
38  
39          Q.    Under the code of conduct?  
40          A.    Code of conduct, yes.  
41  
42          Q.    And have you ever had contact with contractors to the  
43          council?  
44          A.    As in business or just on a personal day matter?  
45  
46          Q.    Both?  
47          A.    I know I've spoken to many a contractor, local

1 contractors, that is.  
2  
3 Q. And have you spoken to them about their contracts?  
4 A. No, I haven't.  
5  
6 Q. So in particular in relation to the caravan park, have  
7 you ever spoken to the former lessees of the caravan park  
8 about the lease of the caravan park?  
9 A. Yes, what period of time? How far back are you going?  
10  
11 Q. Ever?  
12 A. Well, I'd be lying if I said "no". I was on the  
13 caravan committee. I've been on that for probably five  
14 years until it was exonerated, and that's a business side  
15 of it. As a local person I know them, I've known them for  
16 30-odd years or longer and I speak to them at the football  
17 match or wherever.  
18  
19 Q. Apart from social occasions when you're not talking  
20 about the lease and committee meetings of the Caravan Park  
21 Committee, are there any occasions when you have spoken to  
22 the lessees of the caravan park about the lease of the  
23 caravan park?  
24 A. I have, yes.  
25  
26 Q. Do you understand that to be a breach of the code of  
27 conduct?  
28 A. No, I don't.  
29  
30 Q. Okay.  
31 A. If you want to recall that again, I did have a  
32 contract of the lease put in front of me at council; right?  
33 And it went out for viewing, for tender, and it come back  
34 to council that a tender was in place for a particular  
35 person and the matter arose that the contract was different  
36 or the tender was different to the one that was put out in  
37 the first place.  
38  
39 Q. What I'm asking you about, Councillor Jolliffe, is  
40 your contact with the caravan park lessees. Not your  
41 activity on the council, but whether you spoke to them  
42 about their lease; do you understand?  
43 A. Yes.  
44  
45 Q. Yes?  
46 A. Yes, they spoke to me about it.  
47

1 Q. Yes. And you didn't tell them that you couldn't speak  
2 to them because it would be a breach of the code of conduct  
3 to speak to them?  
4 A. No, I didn't, no.  
5  
6 Q. And on one of the occasions when you spoke to them you  
7 made a call to the general manager and said, "I am with the  
8 car park operators and we're talking about the lease"; is  
9 that correct?  
10 A. No.  
11  
12 Q. You don't recall making that telephone call?  
13 A. No. I've said I wasn't - I did not say that I was  
14 with the caravan park people.  
15  
16 Q. Were you at the caravan park?  
17 A. No, I wasn't.  
18  
19 Q. Have you ever been at the caravan park to talk about  
20 the lease for the caravan park?  
21 A. No, I haven't.  
22  
23 Q. Did you go there with a group of councillors one  
24 afternoon?  
25 A. No, I didn't.  
26  
27 Q. Okay. Do you understand your role as a councillor in  
28 terms of the separation between the strategic decisions you  
29 make and operational matters within the council?  
30 A. Yes, I do.  
31  
32 Q. Do you ever get involved in operational matters within  
33 the council?  
34 A. No, I don't, not the operational, but strategic I do.  
35  
36 Q. What do you understand your obligations in terms of  
37 the interests of the community as a whole?  
38 A. Well, I'm very passionate about our community. That's  
39 why I put my hand up to be a councillor. Any concerns with  
40 the community I bring back to the table here and I express  
41 my opinion on particular matters, and I think that's what  
42 part of my role is.  
43  
44 Q. Is it only the people who approach you that you  
45 advocate for?  
46 A. Exactly.  
47

1 Q. So, for the people who don't come to you, you don't  
2 take their interests into account?  
3 A. Some that come through letter or email I do, but  
4 mostly it's through word of mouth.  
5  
6 Q. What I'm talking about, Councillor Jolliffe, is the  
7 people who don't make a complaint, who don't approach you  
8 or otherwise write to you. Do you take their interests  
9 into account when you're making decisions at the council?  
10 A. I do. I do it for the whole community.  
11  
12 Q. Have you ever provided a copy of the minutes of the  
13 caravan park meeting to anybody who's not on the council?  
14 A. No, they can go through our website and get all  
15 those - all those matters.  
16  
17 Q. You believe they are on the website, do you?  
18 A. They are, except confidential.  
19  
20 Q. I'm talking about the Caravan Park Committee?  
21 A. Well, they weren't put in our agenda.  
22  
23 Q. So unless they are in the agenda for the meeting, you  
24 won't be able to find the minutes of the caravan --  
25 A. Yes, but normally we have a caravan park meeting and  
26 then that information is put in the council agenda, right,  
27 and then that's out there for viewing, the public.  
28  
29 Q. Is there any reason that you're aware of that the  
30 Caravan Park Committee meeting minutes would not be  
31 reported to the next council meeting?  
32 A. Well, I don't know. They used to be, but not for  
33 several years.  
34  
35 Q. And you've not noticed that occurring?  
36 A. I have noticed that occurring.  
37  
38 Q. Have you?  
39 A. And I've brought it up at council.  
40  
41 Q. That the committee meeting minutes --  
42 A. Because there hasn't been a committee for three years.  
43  
44 Q. I'm talking about when there was a committee, were you  
45 aware that the minutes from the committee weren't always  
46 being reported up to council?  
47 A. Yes.

1  
2 Q. Did you bring that up with the council?  
3 A. Yes.  
4  
5 Q. Do you remember when?  
6 A. No, I can't. I can't.  
7  
8 Q. Did you provide a copy of a letter dated 3 November  
9 2017 from the Office of Local Government to the council to  
10 the caravan park lessees?  
11 A. No, I didn't.  
12  
13 Q. Have you seen that letter?  
14 A. No, I haven't.  
15  
16 Q. What about a letter of 6 November from the Office of  
17 Local Government to the council?  
18 A. No.  
19  
20 Q. You haven't seen that letter?  
21 A. No.  
22  
23 Q. Okay. Have you ever made a threat to sack a general  
24 manager of the council?  
25 A. What, verbally?  
26  
27 Q. Yes?  
28 A. No, I haven't.  
29  
30 Q. Have you made it in writing?  
31 A. Yes.  
32  
33 Q. When was that?  
34 A. It would have been back when the GM Drenovski was  
35 here.  
36  
37 Q. And what was the nature of the writing that you --  
38 A. It wasn't in writing; it was verbally.  
39  
40 Q. Sorry, you made a verbal threat to sack him?  
41 A. Yes.  
42  
43 Q. Okay. And is that the only time you've ever  
44 threatened to sack a general manager at the council?  
45 A. No, I said he should be replaced because he was  
46 lacking in experience and he wasn't fulfilling his job as  
47 far as carrying out his duties.



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Q. Had you been involved in the appointment of Mr Drenovski?

A. Yes.

Q. Did you have any concern when he was appointed that he didn't have the correct experience for the position?

A. Well, not necessarily, but apparently he was an employee on council prior to his application to be for the general manager's position, which I didn't know him. My first viewing with him was when he come to council regarding the application.

Q. Did you have anything to do with the decision to not re-appoint general manager Littlemore?

A. Yes, I was.

Q. And how did you vote on that?

A. Well, you vote in council. That's how we voted on it.

Q. Did you vote to re-appoint him or to not re-appoint him?

A. Not re-appoint him.

Q. Thank you, Councillor Jolliffe. That's all the questions I have. Did you want to make any statement to the public inquiry since you haven't made a written submission?

A. Yes, well, I do. Like, before I come on council I was approached probably 15 year ago. I didn't. I said I felt I didn't have the time, I wouldn't be involved in the committee or a council or any type of position as that if I couldn't give at least 80 or 90 per cent of my time. So, in doing that I applied and I was, well, proudly elected by the community for the position. At that particular time our council was - our township actually was in a downhill slide. We had the termination of the red gum industry. We had a big property on the east side of us bought out by the government, turned into a national park. We had another property in Nimmie-Caira. That was sold. Employment for the township was dying and we didn't get any help from state government or fed government or industry to employ people. So, my main issue was to come on council and try and get some small business and big business into the town. In doing that, probably luck, I don't know, but things have turned around in the last probably two years with the, as you people know, solar farms, almonds and so forth. I was

1 very proud of my position in achieving some of this and  
2 it's just been the last two or three years on council  
3 there's been a few decisions made by council which  
4 I opposed and, as you people would know, it's a continuing  
5 concern now to the community which I believe at the time  
6 could have been resolved by meeting in this council and now  
7 it's gone out of our hands in the court action.

8  
9 Other than that, there has been several other concerns  
10 with the hostel which you would know. You've probably had  
11 submissions to do with this. When I come on council it was  
12 doing very well, 12,000 in the black, 14,000, and all of a  
13 sudden we were 400,000 in the red. The next time we get  
14 it, it was documented that if we continued it would be  
15 600,000 in the red. So a change of administration seemed  
16 to be a turnaround. We are now looking at a profit at the  
17 end of the financial year which has just gone. And, to me,  
18 my accusations properly towards the previous general  
19 manager were made on those circumstances and his directors  
20 and I feel now that we're on the right track and hopefully,  
21 hopefully, we're still around in 12 months or whatever,  
22 10 years time. But, other than that, that would be enough.  
23 Thank you.

24  
25 Q. I did forget to ask you a question. Do you intend to  
26 run for council again at the next election?

27 A. Well, if we're still here I will, yes, for sure.  
28 I actually enjoy the job.

29  
30 Q. I don't have any further questions. Thank you very  
31 much, Councillor Jolliffe.

32 A. Thank you.

33  
34 **<THE WITNESS WITHDREW**

35  
36 THE COMMISSIONER: The next witness is Michael KitzeImann,  
37 general manager.

38  
39 **<MICHAEL KITZELMANN, sworn: [10.19am]**

40  
41 THE COMMISSIONER: Thanks, Mr KitzeImann, take a seat.  
42 Just before you start, I'll just let the public know that  
43 we did have a problem with the transcript yesterday. The  
44 council's email was down. I believe it's now on the  
45 council's website. If you search the words "public  
46 hearing" you'll be able to find it. It's also going to be  
47 posted on the Office of Local Government website on the

1 Balranald Inquiry page today.

2

3 Q. Thanks, Mr KitzeImann. Now, you've made a written  
4 submission to the inquiry?

5 A. Yes, Commissioner.

6

7 Q. And if I could just follow on and get you to expand on  
8 a couple of the things that you've stated in there. You  
9 said that when you arrived here there was an organisational  
10 culture of fear and general mistrust of the executive and  
11 the elected members. What do you mean by that?

12 A. When I was going through a recruitment process to  
13 enter into the role, the conversations with Mark Anderson  
14 from LG New South Wales, who was doing the recruitment on  
15 behalf of council, highlighted some issues with  
16 the performance improvement order that that council was  
17 under and highlighted some of the challenges there in the  
18 interests of being fully open with the process.

19

20 Subsequent conversations with the then mayor,  
21 Councillor Byron, and the councillors highlighted some of  
22 the challenges that were faced and then conversations with  
23 the temporary general manager, Mr Bob Stewart, highlighted  
24 some of the challenges. So, I came into council fairly  
25 well aware of the challenges that were being faced and what  
26 had to be addressed.

27

28 Upon arriving I was shocked at the level of the  
29 culture in council and the morale in council. I had  
30 several staff members who wished to sit down and talk with  
31 me and they expressed the concerns they had. I was made  
32 aware of 30 complaints which had been made to the union by  
33 staff members around bullying and harassment, staff  
34 reportedly having things thrown at them, being yelled out.  
35 So it was quite a severe situation that needed to be  
36 resolved.

37

38 Q. Can I just ask you: those complaints about bullying  
39 and harassment of staff, who was alleged to have been  
40 carrying out the bullying and harassment?

41 A. The accusations were made against the general manager.

42

43 Q. The former general manager?

44 A. The former general manager, yes, Mr Drenovski, if  
45 that's how it's pronounced.

46

47 Q. Drenovski?

1 A. Drenovski. So it was quite a toxic culture, putting  
2 it in a simple way, when I arrived. Now, that's of grave  
3 concern because the safety and wellbeing of the staff, both  
4 mental and physical, is a priority that needs to be looked  
5 at. It also become apparent that the community were very  
6 disappointed with council. We had businesses refusing to  
7 offer a line of credit to council and payment had to be  
8 made in advance if we wanted to purchase things. That was  
9 part of the whole cultural challenge which was here. The  
10 mayor and the councillors were very clear in their  
11 directive that they wanted these matters resolved, and they  
12 emphasised the details within the performance improvement  
13 order what needed to be addressed as a priority and to work  
14 with staff to turn things around.

15  
16 Q. Can I just stop you there. The performance  
17 improvement order largely related to financial matters?

18 A. Yes.

19  
20 Q. But was your concern beyond financial matters when you  
21 came to the council?

22 A. Most definitely beyond financial matters. Financial  
23 matters in themselves, they stem from the management  
24 practices and the cultural approach to how council  
25 operates. So, they in one respect are a symptom of how the  
26 organisation operated. It was difficult because there were  
27 some very, very good staff here who felt that they had  
28 their hands tied. They'd make recommendations that  
29 wouldn't be looked at and listened to. That was at varying  
30 levels, so I'm not saying that was just the elected body or  
31 the GM, but it was at varying levels throughout the  
32 organisation. So the culture, the staff, there was a real  
33 fear. There was a concern with my role, what am I going to  
34 be like, and the staff were genuinely afraid of what they  
35 were going to be approaching with a new general manager  
36 coming in and what that meant for them because they had  
37 been through some pretty traumatic times.

38  
39 As a result, my focus was on rebuilding the staff  
40 confidence and turning that culture around. So, with the  
41 executive team, Mrs Bilske, the director of corporate and  
42 community services, and the then Director of Infrastructure  
43 and Development, we started to work with the team about  
44 setting the expectations on the performance standards we  
45 wanted, but also letting people know that it's okay to make  
46 a mistake, we can work together to resolve the problem, and  
47 it's better that we work together. We started to be a

1 little bit more jovial where I don't believe in the "my  
2 office door is always open, please feel free to come and  
3 see me". I think that is the wrong approach because that  
4 means the staff have to come to me. I don't need to sit in  
5 an ivory tower and wait for staff to come to me. My office  
6 door is always open, but I much prefer the management  
7 practice of going to the staff, talking to them and being  
8 hands-on with them. So they're not chasing me; I'm working  
9 with them as part of a team.

10  
11 Q. Did you observe any conflict between the staff and the  
12 councillors?

13 A. There was a substantial amount of friction between the  
14 customer service staff and the executive assistants in  
15 executive services in their relationship with a couple of  
16 the councillors, one councillor in particular, Councillor  
17 O'Halloran.

18  
19 Q. And there was a complaint made by a customer service  
20 officer about his behaviour?

21 A. There was a complaint made by one of the customer  
22 service officers in relation to that and there was a  
23 disciplinary procedure which was followed for that. That  
24 has now gone through its processes. There were other  
25 matters which were not referred as complaint because the  
26 staff members didn't want to put themselves out there and  
27 be exposed to reprisal as a result.

28  
29 Q. And do you feel that you could talk about those within  
30 this public inquiry?

31 A. The detail in generics, yes.

32  
33 Q. Who are the councillors or councillor concerned?

34 A. Once again it was Councillor O'Halloran. But I'd just  
35 like to emphasise that the behaviour of one councillor can  
36 be quite distracting to an organisation and I'm very  
37 cognisant of the fact that we don't want this to look like  
38 it's an approach directly at one councillor.

39  
40 Q. And how do you say it's disruptive to the  
41 organisation?

42 A. Staff have reported that they don't feel comfortable  
43 to talk openly because things will be held against them and  
44 that they will only provide the required information to  
45 ensure that councillors are provided an informed - the  
46 ability to make an informed decision, but the general  
47 conversation around things they're not comfortable to have

1 because they feel it will be held against them. That's  
2 disappointing. That's not a culture of trust and cohesion  
3 worrying together.

4  
5 Q. And is that at director level or is it at --  
6 A. At all levels.

7  
8 Q. At all levels. So you even have directors who are  
9 reluctant to be open with the council?

10 A. I myself am reluctant in the words that I use simply  
11 for fear that they will be used negatively by some  
12 individuals.

13  
14 Q. Have you ever been threatened with the sack at this  
15 council?

16 A. Several times. Several times.

17  
18 Q. Who by?

19 A. Councillor O'Halloran. I don't mean to downplay this,  
20 but it is a running joke of how long you'll last before  
21 you're threatened with the sack.

22  
23 Q. Amongst the general managers and --

24 A. Amongst the general managers. The former acting  
25 general manager, Bob Stewart, he lasted by memory about  
26 four weeks or five weeks before he was threatened with the  
27 sack. Then the joke was, "Well, how long are you going to  
28 last, Michael, before you're threatened with the sack?"  
29 And by memory I lasted about two and a half months before  
30 I was threatened with the sack. We now have - the joke is  
31 continuing now with our director of infrastructure, "You're  
32 the golden-haired boy at the moment. How long before you  
33 get threatened with the sack?" It's pretty poor when you  
34 turn a threat about your livelihood and your ability to  
35 provide for your family into a joke as a way of dealing  
36 with it. Those threats have been made directly to me.  
37 Those threats have been made indirectly through junior  
38 staff members.

39  
40 Q. So can you tell me about that?

41 A. In one instance two of the councillors were together  
42 and Councillor O'Halloran made the threat to the director  
43 of infrastructure in the presence of the executive  
44 assistant that, "We need to sack him. Don't think our  
45 boy's working out for us."

46  
47 Q. And that came back to you?

1 A. Yes, it came back. One of the things I'm very strong  
2 on with the team is they are able to talk openly with me.  
3 I even accept them having a go at me if I've made a  
4 decision they don't agree with. That's in the interests we  
5 are all here to do a job. So mostly - and I'm hoping that  
6 I am correct on this - mostly the staff feel comfortable  
7 with approaching me and talking openly and expressing their  
8 concerns, and that results in information being presented  
9 that may not ordinarily get to a general manager.  
10  
11 Q. Have any similar threats to be sacked been made to any  
12 other staff members that you're aware of?  
13 A. Yes. So Terri Bilske, the director of corporate and  
14 community services, on several occasions threats were made  
15 that she needed to be sacked, comments were made that, "You  
16 can't trust this woman's figures," and that was in a  
17 council meeting.  
18  
19 Q. Do you remember which council meeting that was?  
20 A. No. It was roughly - and I do say  
21 roughly - August/September last year.  
22  
23 Q. Do you remember what the topic that you were  
24 discussing was?  
25 A. That was in relation to the Bidgee Haven Hostel.  
26  
27 Q. Do you have any reason to think that Ms Bilske's  
28 figures on the finances of Bidgee Haven Hostel are  
29 incorrect?  
30 A. No, not at all. I'm 100 per cent confident.  
31  
32 Q. Is that the only topic that Ms Bilske's been attacked  
33 about?  
34 A. No. There's been challenges in relation to the  
35 general duties of the director of corporate and community  
36 services around the financial management, the budget  
37 preparation, setting of rates, fees and charges.  
38 Effectively the professionalism of Mrs Bilske has been  
39 challenged on numerous occasions, unjustifiably might  
40 I say.  
41  
42 Q. So you are confident in her ability?  
43 A. I would suggest that Mrs Bilske is probably one of the  
44 most professional directors of corporate and community  
45 services I've seen.  
46  
47 Q. What effect have you observed those attacks to have

1 had on Ms Bilske?

2 A. I've seen her extremely angry, where she has wanted to  
3 respond and has struggled to hold herself back from  
4 actually letting loose and explaining how things are and  
5 that it's inappropriate. I must say that at times it is  
6 difficult not to retaliate in the same way that you're  
7 being approached. So, it's distressing.

8

9 Q. Do you recall a workshop that was held with the  
10 councillors in which both you and the two directors who  
11 were present left the meeting?

12 A. Yes.

13

14 Q. Can you tell me about that?

15 A. That workshop was in relation to the Balranald Caravan  
16 Park. As you are aware, there's some ongoing legal  
17 proceedings in relation to that and there was a lot of  
18 abusive yelling, finger pointing and tempers were flared.  
19 I'd like to say that it was in the best interests of having  
20 an open conversation but just inappropriate conduct, but  
21 unfortunately there were quite heated words. I had been  
22 subject to some intimidation tactics by unknown persons and  
23 two of the councillors or three of the councillors'  
24 response was, "You need to understand that the operators of  
25 the caravan park, they're local people with a young family  
26 and you'll just have to get over it," to which I lost my  
27 temper and rather than losing my temper in the chamber  
28 I excused myself from the meeting and said, "I'm done.  
29 We're out of here," and got up and left the room, along  
30 with two directors and the executive assistant.

31

32 Q. You made a complaint about that behaviour?

33 A. Yes.

34

35 Q. And do you know what's happened with that complaint?

36 A. I believe that complaint is still being investigated  
37 by the Office of Local Government and being dealt with  
38 there. I also believe it was referred as part of an ICAC  
39 referral.

40

41 Q. You've been sitting on every council meeting since you  
42 came, other than when you've been on holidays?

43 A. I believe I've missed two because of holidays.

44

45 Q. What have you observed about the following of meeting  
46 practice by the council?

47 A. I will refer a little bit to yesterday with Mr Davy



1 where he commented in a rural area things are a little bit  
2 more relaxed, and I'll say exactly the same thing. In  
3 small rural councils because of the culture in a community,  
4 how it operates, things are a little bit more relaxed.  
5 Would it genuinely comply with the requirements under the  
6 code of meeting practice and the Local Government Act? No,  
7 it would not. However, not in a negative manner most of  
8 the time. So, most of the time where things such as moving  
9 and seconding a recommendation of a staff to then go into  
10 debate around a motion may not be perfect, but it's not  
11 with a negative intent; it is with the intent of getting  
12 the job done, having the conversation. So in that regard,  
13 no, the meetings don't follow the code of meeting practice  
14 properly. But I don't think that's the severe issue.  
15 I think the severe issue is around the deliberate breaching  
16 of the code of meeting practice rules of not interjecting  
17 over each other, of not putting new agenda items on the  
18 table which had not been put on the agenda, and of not  
19 paying proper respect to the role of the chair. Both the  
20 current mayor and the former mayor, despite their best  
21 attempts, struggled to keep some of the councillors on  
22 track and to stop interjecting and to not bring matters to  
23 the table which shouldn't be at the table.

24  
25 Q. Did you ever hear a chairman of a meeting ask somebody  
26 to leave?

27 A. Almost.

28  
29 Q. "No" is the answer?

30 A. That's a silly answer, I know. The chair did  
31 interject and call a councillor to order. The councillor  
32 continued. The councillor was then advised, "If you do not  
33 cease, I will ask you to leave."

34  
35 Q. Can you just tell me the names of the people so that  
36 we can identify them?

37 A. I believe that chair was Councillor Purtill, the  
38 mayor, and it was in relation to Councillor  
39 O'Halloran - I'm just trying to think of the topic.  
40 Anyway, it was Councillor O'Halloran and the chair advised  
41 him that if he didn't stop and sit back down, so to speak,  
42 that he'd be asked to leave the room. It didn't actually  
43 get to the point where he was directed to leave.

44  
45 Q. Was that an effective strategy then?

46 A. No, it resulted in further abuse being directed at the  
47 councillor - at the mayor for a few seconds and then after

1 the meeting.

2

3 Q. So the abuse continued after the meeting?

4 A. Yes.

5

6 Q. What did you observe?

7 A. I walked out of the chamber and went into my office,  
8 which is next door to the chamber, and I overheard the  
9 conversation which was to the effect of, "You can't shut me  
10 up. I've got a right to say what I want to say," words to  
11 that effect.

12

13 Q. That was Councillor O'Halloran speaking to Councillor  
14 Purtill?

15 A. Yes.

16

17 Q. And is that the only occasion when you've seen the  
18 chair of a meeting having to call order like that?

19 A. No, it's almost every meeting the chair will make  
20 comment of some sort of, "That's not on the agenda. I'll  
21 ask you to keep on track with the debate which is at hand,"  
22 or similar to that.

23

24 Q. But they're less serious circumstances?

25 A. Less serious, yes.

26

27 Q. Okay. In relation to the declaration of non-pecuniary  
28 interests, I'm particularly asking about the meeting where  
29 the rates review was being considered. There was a  
30 declaration of a non-pecuniary interest by Councillor  
31 Mannix because of his position as secretary of the football  
32 club?

33 A. That's correct, yes.

34

35 Q. Would you have regarded that position as being  
36 significant enough to warrant exclusion from the decision  
37 making?

38 A. No, as it was only one minor item of the larger fees  
39 and charges that were being discussed and reviewed. If it  
40 was a separate item, then a complete removal from  
41 the chamber, yes. But Councillor Mannix declared that he  
42 had an interest as secretary and he was not then involved  
43 in the discussion around that matter or the decision making  
44 on that matter, but for the remainder of the fees and  
45 charges which were part of that same report he was  
46 involved.

47

1 Q. But he did stay in the chamber for the vote on the  
2 football club fees?

3 A. Yes.

4

5 Q. And you think he should have stepped out of the  
6 chamber for that, though?

7 A. For the football club side of things, yes.

8

9 Q. Have you observed any other similar declarations of  
10 pecuniary or non-pecuniary interest where a councillor has  
11 remained in the chamber while a decision has been made?

12 A. Predominantly if there's an interest, the councillors  
13 will step out and so will the senior staff if they have an  
14 interest. There are instances where it's minor in nature,  
15 such as "it's my third cousin" and they declare it in the  
16 interest of being transparent and they may not vote on the  
17 matter but they don't leave the room because they're not  
18 impacted or having an impact on the decision-making  
19 process.

20

21 Q. So that would fall within the non-significant  
22 non-pecuniary interest?

23 A. Yes.

24

25 Q. But the position on the board of the football club  
26 would be a significant non-pecuniary interest?

27 A. Yes.

28

29 Q. The history of the council in terms of its staff  
30 indicates a fairly high turnover of staff. Has that  
31 changed at all since you've been at the helm?

32 A. Yes and no. So, there was a fairly high turnover and  
33 we've continued with what I consider an unreasonably high  
34 level of turnover of staff. Some of that has been through  
35 natural attrition with staff retiring, moving on, finding  
36 other career opportunities. Some of it has been through  
37 disciplinary procedures. The ones that I'm most concerned  
38 about is where staff are leaving because they're not happy  
39 and we have had three staff members who have left because  
40 they're not happy.

41

42 Q. Who are they?

43 A. I won't mention their names, but one of them was a  
44 customer service officer, another one was an outdoor worker  
45 in the general equipment operations, and another one was in  
46 our hostel.

47

1 Q. Okay.

2 A. So across three different workplaces. But they are  
3 the concerns to me where they're not happy with being an  
4 employee of council and it's not because they've got a  
5 career advancement opportunity or something better to go to  
6 and it's simply that they're not happy. That's a concern.

7

8 Q. And is it not happy with the organisation at the staff  
9 level or is it something else?

10 A. It's been a combination of things. Unfortunately  
11 council doesn't have a good reputation. Decisions of the  
12 past have continued to impact on council and trying to  
13 rectify the financial position of council and the actions  
14 of the past means that council has to make some pretty  
15 tough decisions which aren't popular and that does  
16 reverberate throughout the community, which the majority of  
17 our staff members have grown up here, they've been here  
18 their whole life and they're working here, so it impacts  
19 them that way.

20

21 Q. What have staff reported to you about the attitude of  
22 the community to them?

23 A. I've got some staff members who say they don't even  
24 feel welcome going into business houses in town, and that's  
25 not good. I had one of the ladies break down in tears  
26 because she had an argument with a long-term friend because  
27 they didn't agree with the decision of council, and because  
28 that particular staff member wouldn't give an opinion, it  
29 fired things up, and that's distressing.

30

31 Q. Was that a senior staff member or just a --

32 A. Relatively junior. Not quite management, but, yes.

33

34 Q. But not somebody in a position to be really affecting  
35 the decision making process?

36 A. No, definitely not. And the staff understand that,  
37 even though they are subject to the decisions of council  
38 themselves because they're ratepayers here and they're  
39 community members here, they cannot provide an opinion on  
40 the decisions of council, so they don't.

41

42 Q. Have you ever had to ask staff to take leave for their  
43 mental health?

44 A. Several times, yes. I've currently got one staff  
45 member on special leave because of the stress associated.  
46 I have referred several staff to our employee assistance  
47 program. I've had our employee assistance service provider

1 come here to Balranald to talk to staff. We've got posters  
2 everywhere and the staff are going through that. The  
3 employee assistance program is there for the mental  
4 wellbeing of staff, but it also recognises that inside work  
5 and outside work it's the same person. So, the challenges  
6 they face here, they are facing those same challenges in  
7 the community and they take them home. So it is in our  
8 interest to make sure that we do provide that support.  
9 I have actually currently got two staff members I'm very  
10 concerned about and having a conversation with every couple  
11 of days, "How are things going? Are you okay? Is there  
12 anything we can do?"  
13

14 Q. And what's the cause of your concern for those staff  
15 members?

16 A. The cause of the concern is - well, one of the ladies  
17 lost her temper and had a complete dummy spit, completely  
18 out of character. That's not this individual. This is a  
19 very strong person and for her to have a dummy spit in the  
20 office at the general manager over a trivial matter  
21 demonstrates the level of stress that is occurring.  
22

23 Q. But what do you think is causing that stress for that  
24 particular staff member?

25 A. The recommendations that we need to put forward to  
26 council for adoption to turn the financial position of  
27 council around, to get on top of the asset management and  
28 asset maintenance and those elements to it. An unfortunate  
29 consequence of the performance improvement order and the  
30 subsequent public inquiry is some members in the community  
31 see it as, "Oh, council's fair game. We're going to have a  
32 go at everyone."  
33

34 Q. So do you think the work environment at the council is  
35 safe and healthy at the moment?

36 A. It is safer and healthier than it was, but it's fairly  
37 fragile at the moment. Every single member of staff does  
38 their best to look after each other, but it is fairly  
39 fragile at the moment and we need to be cognisant of that.  
40

41 Q. And what about you? How do you feel as a staff member  
42 effectively as well?

43 A. I'm furious about how some things have come about.  
44 I'm disgusted in the lies and the misinformation which are  
45 being spread.  
46

47 Q. At what level?

1 A. By some of our community members. I am upset at the  
2 fact that some of our councillors do not stand by their  
3 decisions and they will publicly advertise that they didn't  
4 like it and they voted against it, and I know for a fact  
5 that Councillor O'Halloran has gone out of his way to point  
6 out comments such as, "Oh, the minutes were changed. No,  
7 I didn't see that. That wasn't in a report. The general  
8 manager slipped that in." Now, he hasn't said that  
9 directly to me in public. He has accused me of changing  
10 the minutes several times and I have had staff members who  
11 have been in public with Councillor O'Halloran where  
12 they've said, "Oh, he's saying that you've changed the  
13 meeting reports again, that you slipped things in."  
14

15 Q. But the minutes are reviewed and then adopted at the  
16 following meeting?

17 A. Reviewed, adopted at the following meeting, reviewed  
18 by each councillor and voted on by each councillor.  
19

20 Q. And I don't believe I've seen a circumstance where  
21 there's been a request to change minutes?

22 A. There was one occasion or two occasions where there  
23 was a clarification made, but it wasn't to change the  
24 minutes as such. It was to more clearly clarify the  
25 wording which was in the minutes, which is completely  
26 appropriate, and those minutes were then subsequently  
27 adopted with those minor amendments.  
28

29 Q. And the minutes are video recorded as well as being  
30 hand-recorded by your executive assistant?

31 A. They are now, yes. They weren't always. The live  
32 broadcasting, roughly June of 2018 it commenced, and we've  
33 been live broadcasting since then.  
34

35 Q. And so those allegations about changing the minutes  
36 occurred before June 2018?

37 A. Before and after.  
38

39 Q. Okay. Now, you were present at the meeting that dealt  
40 with the rates and charges review?

41 A. Yes.  
42

43 Q. And there were three matters that were raised contrary  
44 to the recommendation of the staff. Can I just take you to  
45 the gypsum mining variation. Would that have been, in your  
46 experience, a usual practice to invite one ratepayer to  
47 address a meeting on the rates of the whole shire?

1 A. That's the difficulty we have being a small rural  
2 country area, large geographically but a small population  
3 base. When rating categories are set in a larger  
4 metropolitan area you'll have multiple businesses in that  
5 category. The unfortunate thing we have here is there is a  
6 rating category and there's only one operator in it. So,  
7 where it might have ordinarily been the voice was across an  
8 industry group, here unfortunately it was the voice of an  
9 individual who was the industry group. A deputation,  
10 that's one thing this council is very strong on. Council  
11 is very open to allowing members of the public to give  
12 deputations and provide information. The rules are a  
13 little bit relaxed where they do have a time limit, but if  
14 it needs an extra few minutes there's no concern over that  
15 because it is about the benefit of finding that information  
16 out. And as the last rates, fees and charges and the  
17 adoption of those changes were quite significant, council's  
18 interest was ensuring that they had heard the voice of the  
19 community members in relation to that. So, slightly  
20 unusual, but not unusual in the fact that if we had have  
21 been in a large metropolitan area it wouldn't have been one  
22 individual, it would have been an industry group.

23  
24 Q. And is there no equivalent industry group for the  
25 gypsum mine?

26 A. For the gypsum mine, larger mining activities occur.  
27 But under the legislation, gypsum is actually not  
28 classified as a metalliferous mine, which is why it's in  
29 the business mining category.

30  
31 Q. Okay. What about sand?

32 A. Mineral sands, we do have a mineral sands mine but  
33 they are actually in the mining category.

34  
35 Q. So you don't treat them as an equivalent category for  
36 rating purposes because of the similar nature of the  
37 consequences of those industries?

38 A. We treat them the same based on the fact that they are  
39 similar consequences, the impact on our road  
40 infrastructure, et cetera, et cetera, and we look at the  
41 same there. The difference with our current mineral sands  
42 mine that we have, it was approved by state government as a  
43 strategic project and it went through that process there  
44 and they've got quite stringent obligations that they have  
45 to comply with. Those obligations far exceed the  
46 obligations that were being proposed for the gypsum mining  
47 activity. So, with the gypsum, we viewed it and it came to

1 an ad valorem rate based on its value as attributed by the  
2 Valuer-General, which was less than the mineral sands mine  
3 but not significantly less. I think the mineral sands by  
4 memory are 12.5 cents in the dollar value and the gypsum  
5 was at 12 cents in the dollar value was the proposal. It  
6 must also be noted the lease agreement which was in place  
7 did have an obligation for the gypsum mine to pay for their  
8 impact on the road infrastructure as a separate  
9 contribution to the local government authority.

10  
11 Q. And do you know whether that has ever been collected  
12 by Balranald Council?

13 A. No, it has never been collected.

14  
15 Q. Is there a reason for that?

16 A. I couldn't say, because it was before my time, whether  
17 it was as a result of a deliberate decision not to  
18 challenge and charge for those fees or whether it was an  
19 inadvertent error in not collecting those fees. I couldn't  
20 say.

21  
22 Q. Do you have any proposal to collect them from now on?

23 A. We have started a process. To be able to charge fees,  
24 we need to be able to demonstrate the impact and the  
25 damage. So we have started a process of doing conditioning  
26 assessments of the road - well, I have requested the  
27 director of infrastructure do it, to look at the impact of  
28 their activities on our road infrastructure so that we are  
29 able to charge a justifiable fee.

30  
31 Q. Okay. One of the other matters that night was the  
32 pedestal charge. Could you just explain to me how that  
33 charge was calculated at \$200 per pedestal?

34 A. So, that charge was actually brought in last financial  
35 year and it wasn't fully applied across all industry in the  
36 shire because we were in the process of doing a rating  
37 review and still had quite a bit of work to do to be able  
38 to do that. We spoke to the operators of the accommodation  
39 camp and explained that to them and they were quite  
40 satisfied that, "No, it's fair and reasonable. We're happy  
41 to be charged even though we know you're not charging  
42 everyone else yet," and so we started those charges last  
43 year.

44  
45 The way the methodology for that was calculated was we  
46 had identified that our sewer fund was in dire straits. We  
47 needed to inject a lot of money towards it or we would not



1 have been able to fund the maintenance on it, let alone any  
2 upgrades. Therefore the only way that can be done is it  
3 comes out of general revenue, which means we are taking  
4 money out of the budget away from other projects, roads  
5 maintenance, parks and gardens, et cetera. So we looked at  
6 what the cost of delivering that function was across the  
7 shire and we did some very simplistic approach of, "How  
8 many pedestals do we have, how many toilets do we have in  
9 the shire," which is approximately 1,800. We then divided  
10 the cost by the number of the toilets and I think by memory  
11 it came to \$229 per toilet is what it cost us to manage the  
12 sewerage network.

13  
14 Q. And you've rounded that down to 200?

15 A. Rounded it down to 200.

16  
17 Q. Did you look at occupancy rates for businesses?

18 A. We looked at the occupancy rates for the motels by  
19 industry reported standards. So we didn't look at the  
20 individual motels here in Balranald; we looked at the  
21 industry reported standards which was achieved from a  
22 simple internet search and the industry reported standard  
23 was 68 per cent.

24  
25 Q. Was it relevant to this area, though?

26 A. The rough sample that was conducted demonstrated that  
27 it was reflective of the reality here locally.

28  
29 Q. And that was factored into the cost per pedestal?

30 A. That was factored into the cost per pedestal that was  
31 charged to the motels or proposed to be charged, should  
32 I say, to the motels.

33  
34 Q. Now, that pedestal charge was reduced?

35 A. Yes.

36  
37 Q. And I understand that there was then some quid pro quo  
38 increase of the discharge rate, the amount charged for the  
39 discharge; is that correct?

40 A. So, the officer recommendation which was put up was  
41 \$200 per pedestal, of which there was a significant amount  
42 of feedback and submissions came to council. I think every  
43 single operator made a submission to council for  
44 consideration. Council then considered that based on that  
45 feedback and said, "Well, we think your comments are fair  
46 and reasonable," and they reduced the pedestal charge and  
47 then, to offset that lost revenue, the sewerage discharge

1 rate was raised from \$0.25 a kilolitre to \$1 per kilolitre.

2

3 Q. And that discharge rate, does that apply only to the  
4 motels or does it apply across the board?

5 A. No, the discharge rate applies to all businesses.

6

7 Q. Not residences?

8 A. Not residences; to all businesses. So, the service  
9 station when they flush their toilet; the mechanics  
10 workshop, so for his water usage the discharge rate will  
11 apply to those activities. In addition there was a  
12 decision by council to put a \$25 per rateable assessment  
13 charge as well.

14

15 Q. And that covered the whole shire, did it?

16 A. That covered residential, businesses, motel  
17 operators --

18

19 Q. So it was made up by --

20 A. And that was to cover the lost revenue. Apart from  
21 the fact of the level of the assets and how they were being  
22 maintained, one of the things to identify is that in the  
23 performance improvement order it specifically mentioned  
24 about asset management. It specifically mentioned a  
25 requirement to conduct a rates review and to raise revenues  
26 through own source opportunities to cover the cost of  
27 operating. How the sewer fund was operating with the costs  
28 that were there, it was actually going backwards very  
29 rapidly and the figure was in the vicinity of the revenue  
30 raised was approximately \$180,000 less than the operating  
31 cost, but I'd have to clarify that.

32

33 Q. So the council wasn't taking full advantage of the  
34 rates that it was entitled to charge for sewer?

35 A. Council hasn't been taking the full advantage that  
36 they could for many, many years. This is not just a recent  
37 event.

38

39 Q. No?

40 A. Unfortunately what's happened is that sewer network is  
41 approximately 30 years old and in the first few years  
42 there's no maintenance effectively because it is a brand  
43 new network. But as it's getting older now, the  
44 maintenance costs are getting higher and higher and there  
45 is more regularity required as it's coming to end of life.  
46 The fees that have been charged for the last 30 years have  
47 been insufficient to ensure that the revenue is available

1 to service that asset now and which is putting this council  
2 in a position of a real concern into the future because the  
3 fees we're charging now, we can't make up for the last  
4 30 years, for several reasons. One, it would be unjust  
5 but, two, the community could not afford that, the industry  
6 could not afford that. So we've set the charges now to  
7 reflect the actual costs of operating that infrastructure  
8 today.

9

10 Q. It won't solve the backlog?

11 A. It won't solve the backlog, but it will make sure that  
12 from this point forward we are funding it appropriately.

13

14 Q. So the backlog will have to be funded from general  
15 revenue?

16 A. The backlog --

17

18 Q. Or grants?

19 A. We are in a fortunate position with the accommodation  
20 camp. Part of that is open to the public. They are paying  
21 \$200 per pedestal. That is going to contribute towards  
22 fixing some infrastructure issues that are there in the  
23 sewerage fund and help fix that backlog, and there's also  
24 some commercially agreed charges that they're paying which  
25 are not transparent because of the commercial in confidence  
26 elements that the accommodation camp pays.

27

28 Q. Is the accommodation camp a permanent development,  
29 though?

30 A. No, it will only be here for a couple more years, so  
31 we're lucky in the fact that that will offset some of those  
32 costs today and they are being charged a significant  
33 amount.

34

35 Q. Now, you raised some concern with the Office of Local  
36 Government about the accuracy of the values that had been  
37 attributed to assets within the council. Can you tell me  
38 why you are concerned about that?

39 A. Yes. So I will just rephrase your words there,  
40 Commissioner, if I may. The concerns in simple terms were  
41 that the condition of the assets was overstated, which,  
42 yes, is the values. But it needs to be looked at that  
43 roads were put down as being in fair condition when some of  
44 those roads hadn't been serviced with a grader or a council  
45 vehicle for in excess of 12 years. So how can it be in  
46 fair condition? It was actually marked as being fair.  
47 When I did an inspection myself, it was two wheel tracks

1 with grass growing in the middle of the road. That's a  
2 gazetted road.

3  
4 Q. How did that information make its way into the  
5 Morrison Low report?

6 A. Unfortunately it is very, very time consuming and  
7 expensive to do a 100 per cent asset condition assessment.  
8 We are doing that now because it is required. The process  
9 that was undertaken by the previous general manager, the  
10 Morrison Low report relied heavily on information that was  
11 provided to them on asset condition, and that process then,  
12 obviously you put flawed data in, flawed data comes out the  
13 other end. So, what we're doing now is we have reviewed  
14 all roads, we've given a preliminary assessment as to their  
15 condition. To go out there and look at the  
16 hyperelevations, the formation of a road, et cetera, takes  
17 a lot longer time, so we've gone with a preliminary  
18 assessment of the road condition and how much gravel is on  
19 it, how long since it's had a gravel resheet or is it down  
20 to the natural surface and the base course of the  
21 environment around it. So, we've started that process to  
22 build up a better picture.

23  
24 The engineering team is working on establishing new  
25 designs for roads. On top of that they're looking at our  
26 water infrastructure which we will need to get a specialist  
27 in on because it is obviously quite a complex system in  
28 understanding hydrological flow patterns, all that sort of  
29 thing, and the director of infrastructure is not a  
30 hydrological engineer so he will be getting someone in to  
31 look at that properly. We have identified things already  
32 such as we don't have sufficient valves in the network to  
33 be able to clean the water pipes ourselves and we have to  
34 get a contractor in to do it. So we're looking at the  
35 longer term plan of how much will it cost to upgrade, put  
36 the additional valves in so we can do that physical  
37 cleaning system ourselves, rather than paying a contractor  
38 to come in continually into the future. So, that process  
39 is underway and it will take time. I would suggest that we  
40 are going to be struggling to complete it in a 12 month  
41 timeframe, but we need to.

42  
43 Q. Just to get the information?

44 A. To get the detailed assessment. A preliminary review  
45 is not sufficient to inform a long-term financial plan. We  
46 need a detailed inspection so that we can start to forecast  
47 actual expectations of maintenance costs, capital

1 improvements, capital renewal arrangements, et cetera, into  
2 the future.

3

4 Q. So, you've talked about roads and water. What other  
5 aspects?

6 A. It goes through every single aspect.

7

8 Q. All infrastructure?

9 A. All infrastructure. Our buildings, some of our  
10 buildings are atrocious, really atrocious. We have one  
11 building here in town, a magnificent building, that I'm not  
12 comfortable to allow people to use one area of it because  
13 of the exposure to the hazards for their health.

14

15 Q. Okay. You also raised a concern about the state of  
16 the waste depot. Has that been rectified?

17 A. It is in the process of being rectified now. So,  
18 council self-reported to the EPA. We came across a serious  
19 concern where for many years illegal dumping had been  
20 occurring of oil and contaminated engine oil products and  
21 that that was obviously in breach of the EPA guidelines  
22 with how they are to be disposed of, and we found a dumping  
23 site where oil had been leaking out of drums, rusted drums,  
24 for so long that it had turned the sand around it to  
25 bitumen almost and it was evident that it was travelling  
26 towards an agricultural activity. So, we self-reported our  
27 concern in relation to that.

28

29 We also identified that there were exposed pits which  
30 contained asbestos, a serious concern, old general  
31 household waste pits which hadn't been capped off properly.  
32 So there was major, major mismanagement of the waste  
33 facilities. So, we self-reported that. The EPA were very  
34 good and have worked with council, helped us develop a  
35 program to - not repatriate, wrong word.

36

37 Q. Decontaminate?

38 A. Decontaminate.

39

40 MS ANNIS-BROWN: Remediate?

41 A. Rehabilitate, thank you. Rehabilitate the site to an  
42 acceptable standard and we have actually engaged with a  
43 company, Cleanaway, at the moment and they're out there  
44 working now to do that. The good thing about that is a  
45 decision of council - we have a substantial amount of waste  
46 coming out of the solar farms and an agreement was reached  
47 with Cleanaway that we would take that waste and they would

1 mulch it because it is predominantly pallets, cardboard  
2 boxes, and they would mulch that and use that to cap some  
3 old cells off and as part of the agreement that they would  
4 clean up our facility for us. So, it's not costing the  
5 ratepayer any money out of pocket, but we are achieving the  
6 outcomes at the end of the day where the facility is  
7 cleaned up, we are sorting out the hazard in relation to  
8 that spilt oil and the asbestos, which are both very  
9 serious matters.

10  
11 THE COMMISSIONER: So that's sort of a financial  
12 neutral --

13 A. No, council will be making a small amount of revenue  
14 out of that which will go towards the further upgrade of  
15 the facility out there. Cleanaway, the company itself, a  
16 lot of their payment has been taken in upgrades and  
17 improvements to the facility to offset that cost, but  
18 there's also a strict payment component that they will be  
19 paying which council will then use to do further upgrades  
20 to that facility.

21  
22 Q. But that will only continue while the solar farm is  
23 under construction?

24 A. That's correct. The detailed program was put together  
25 so that by the time that process is over, our waste  
26 management facility will be compliant with the requirements  
27 under the Act, which is a good thing. But it was pretty  
28 severe and it had been going on for not one or two years.  
29 I'm saying some of the - well, for an oil drum, 44-gallon  
30 oil drum to rust out, we're not talking five years, we're  
31 talking 30 years, or maybe not 30. Fifteen, 20 years.

32  
33 Q. But unlike that situation, the condition of  
34 the infrastructure is going to have a financial impact on  
35 the bottom line for the council?

36 A. Definitely, and a long time into the future. So,  
37 council is not going to recover our financial position and  
38 get those assets up to the condition that they are required  
39 to be within the next five to 10 years. It's going to take  
40 a long time because it is extremely costly.

41  
42 Q. So there might be more hard decisions to be made in  
43 the future?

44 A. Undoubtedly there will be a lot more hard decisions to  
45 be made. One of the things that we are trying to balance -  
46 and I will refer to one of Councillor Jolliffe's comments  
47 earlier. This community did go through a rough time with

1 some industry shutting down, et cetera, and council is very  
2 proactively working towards trying to create new  
3 opportunities. We need to continue that because the  
4 current industry that is in town, the current population  
5 base, it cannot support the costs associated with running a  
6 local government area. This council is 100 per cent  
7 reliant on FAGs grants and other source revenue. If we  
8 didn't have that revenue, we would not be able to function.  
9 It's as simple as that. The likelihood of a rural council  
10 with a small rate base like this ever achieving the  
11 60 per cent own sourced revenue target, it's almost  
12 impossible.

13  
14 Q. Yes, I heard that from the special adviser and he  
15 thought it was more realistic to accumulate the federal  
16 grants and own sourced revenue to reach the 60 per cent  
17 figure.

18 A. Yes. It is a big challenge that we have and the  
19 community will lift their share if they see their money is  
20 being spent wisely. Unfortunately, a lot of the community  
21 are not confident of that at the moment.

22  
23 Q. And why do you think there is a lack of confidence in  
24 the community with the council?

25 A. There'd be multiple reasons and I would be giving my  
26 personal opinion, but when you see a divided council, that  
27 doesn't instill confidence in a community.

28  
29 Q. How does that play out in the decision making in the  
30 council?

31 A. We have some very colourful debate, but debate is a  
32 good thing. It's when the debate is had with blinkers on  
33 where it's not open to see the bigger picture, that is  
34 where it's a concern.

35  
36 Q. Mr Davy expressed a concern that some councillors  
37 seemed reluctant to enter debate. Have you observed that?

38 A. Most definitely. We have two more junior councillors  
39 - they're younger as well but that's not the intent, it's  
40 that they've had less time on council - who do not say a  
41 lot.

42  
43 Q. That's Councillor Roberts and Councillor Allen?

44 A. Councillor Roberts and Councillor Allen. I'd be  
45 putting words in their mouth if I was to say why they don't  
46 say a lot, but they don't really get the opportunity  
47 either.

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Q. Could I just ask the members of the public to refrain from making comments, please. That's been your observation?

A. Yes, and what I mean by that is when they do try to present and talk to matters, they'll quite often be talked over. Councillor Roberts has expressed to me herself that she doesn't know why she talks because they just ignore her completely, where she will make a presentation and then it won't even be discussed in detail what she said by some members in the council. She expressed to me that she was accused of being a flunky of the mayor and that she's been dangled by strings as to what she was to do.

Q. Is that consistent with your observation of Councillor Roberts?

A. Definitely not. Definitely not. Councillor Roberts is probably the most proactive councillor on council, to be honest. Unfortunately I'll get two to three phone calls a week about matters affecting the Euston community, so information comes through, whether it be a phone call or an email, just to highlight things such as the stormwater drains near the Euston Club were blocked up and the whole road was flooded. Photos of that were sent through. "Just to give you a heads-up, this has occurred." So I then send that through to the works manager to look into what's going on. "There's concerns about X, Y and Z. Can we sort that out?" The Euston sports facility didn't have many users there. It was predominantly - it got used for two games a year. Councillor Roberts was working with some other sporting groups to try and get them on board to use the facility more, was talking to myself and a couple of the staff members about, "Could we do this, could we do that."

Q. But that's an appropriate --

A. 100 per cent appropriate.

Q. In terms of contact between councillors and staff, I heard or read that there was some suggestion at some stage that like a complaint register system would be established - not a complaint, but a system would be established?

A. Yes. So we do have a system that's underutilised in the practical finance system. It's not a very good system and it creates some challenges where the front counter records information and sends it through. We also have Content Manager which is our electronic documents and



1 records management system. Both of them are fairly  
2 detailed to operate and interact with. So, council last  
3 year - yes, it was last financial year's budget - approved  
4 the budget to implement Infocouncil. That's a system  
5 through LG New South Wales. A lot of Local Government  
6 Associations around Australia use Infocouncil. We have  
7 partially implemented that. We implemented the report  
8 writing element Bigtincan and that's how we share the  
9 electronic agendas with councillors through their iPads,  
10 and we are in the process of implementing the remainder of  
11 Infocouncil now. We are hoping it will be in by the end of  
12 the year, to have that implemented.

13  
14 Q. And will that operate like a customer request system?

15 A. It will operate like a customer request system. We  
16 can allocate tasking through it, provide information to  
17 community members with it. It can link into the council  
18 website so that we have an intranet sort of tool for staff  
19 members to log into things separately. A policy register.

20  
21 Q. And is that intended to provide a facility for  
22 councillors as well as the public?

23 A. There's an element to it which is specifically for  
24 councillors, an element which will be specifically for  
25 staff, and an element for the public.

26  
27 Q. Okay. Has a section 94A plan been adopted by the  
28 council?

29 A. A section 94A plan has been adopted.

30  
31 Q. Sorry, I should talk in the current term. Section  
32 7.12?

33 A. However, the detailed projects that contributions will  
34 be allocated to has not been finalised. So at the moment  
35 that plan reflects the community and strategic plan and  
36 issues and priorities. It does not reflect specific  
37 projects such as upgrading of the footpath along the main  
38 street.

39  
40 Q. Is it being implemented? Is it being utilised in  
41 development applications?

42 A. It will be, yes. So, since it was adopted we've had  
43 no relevant development applications come through that  
44 would trigger the contribution plan.

45  
46 Q. And what type of developments does it apply to?

47 A. It applies to all developments over a set value.

1  
2 Q. And what's that value?  
3 A. A million dollars, by memory.  
4  
5 Q. It's fairly substantial?  
6 A. Yes.  
7  
8 Q. So how many million dollar developments would  
9 Balranald Council see in a year?  
10 A. At the moment numerous. So, at the moment the two  
11 solar farms, the mineral sands mine, the increase to the  
12 nut farms. The nut farms, they're in the hundreds of  
13 millions.  
14  
15 Q. And are they development applications that have been  
16 approved or are they in the process of --  
17 A. No, they've already been through a process and  
18 approved. Some of them were state significant projects so  
19 they went through a separate pathway.  
20  
21 Q. So they wouldn't be subject to 94A contributions?  
22 A. No, not those state ones. One of the things which did  
23 need to be clarified, which those people who looked at the  
24 live streaming, was there was confusion about how it  
25 worked.  
26  
27 Q. I observed that.  
28 A. That has since been clarified so that the councillors  
29 understand that, no, those contributions come to council.  
30 The decision not to do one in the past, I can't say as to  
31 why it didn't occur, but it may have been that  
32 misunderstanding that the revenue doesn't come to us, so  
33 why do it.  
34  
35 Q. Section 94 revenue has always gone to councils.  
36 A. Yes. So there was some concern, which is unfortunate.  
37 So we have clarified that and it is understood now that it  
38 is revenue which comes back to community for community  
39 benefit.  
40  
41 Q. In council meetings, just on that topic, do you think  
42 councillors or all councillors understand the business  
43 papers?  
44 A. I have seen councillors sit down at the chamber and  
45 open the envelope. So those ones who have --  
46  
47 Q. Who have you seen do that?

1 A. Several councillors. Councillor Ugarte has looked at  
2 his papers when he's arrived. Councillor O'Halloran has.  
3 It has happened with several councillors over time. The  
4 concern there is that the reports haven't been read  
5 properly so an informed decision won't be able to be made.  
6

7 Q. Are they provided with these in an electronic form  
8 prior to the meeting?

9 A. They are now. Previously it was printed. Now it is  
10 electronic and it is sent out through Bigtincan is the name  
11 of the app, terrible name, as part of the Infocouncil  
12 system. It's sent out through that. There are still some  
13 teething problems and challenges with that, and that's  
14 being honest. We purchased iPads and the iPad pencil for  
15 the councillors and that is a dedicated system with a  
16 dedicated email account for the councillors to get those.  
17 But not everyone is IT savvy, so there's varying degrees of  
18 sophistication in the use of that system and we still have  
19 a few teething problems we are working through. But that  
20 information is sent out. We tend to send an email out or a  
21 text message out where needed if it's something that  
22 urgently needs to be looked at.  
23

24 Q. And all of the councillors have email?

25 A. All of the councillors have email. They were  
26 previously operating their own personal email accounts.  
27 The concern there obviously is conducting council business  
28 on a personal email account. They are public documents and  
29 public records and therefore are subject to the Records Act  
30 and the archiving requirements, et cetera. If someone  
31 wishes to see those emails, how do we access them, how do  
32 we manage it, how do we ensure that it is protected in the  
33 future. So, we've gone through a process of establishing  
34 council dedicated emails for each councillor.  
35

36 Q. Okay. And the iPad is a supplement to that, is it?

37 A. The iPad goes - yes, so their emails come through on  
38 that iPad. I think two of the councillors have their  
39 emails going through to their phone as well, because an  
40 iPad is quite big to take around, because they want to see  
41 it as it happens and that's set up there. There were a  
42 couple of challenges getting that to work properly on one  
43 of them.  
44

45 Q. Does that not pose a security problem for the council  
46 or are they council phones?

47 A. No, no. The email being on a councillor phone, they

1 are their own personal phones but that information is on a  
2 web server so it's hosted on the server, so we can recall  
3 it remotely if need be.

4  
5 Q. Councillor training, was any of that conducted while  
6 you were the general manager?

7 A. So, councillor training occurred prior to my arrival  
8 as general manager. Then, with the code of meeting  
9 practice there was an updated code of meeting practice and  
10 model code of conduct. There was discussion around the  
11 training and we're currently working with the Far West JO  
12 for a combined training for councillors and senior staff.

13  
14 Q. In both the code of conduct and the model code of  
15 meeting practice?

16 A. The code of conduct, model of meeting practice,  
17 understanding financial reporting. There's one about  
18 governance reporting. So, there was a suite of about five  
19 training programs that we were looking at with the JO. One  
20 of the things which has been very specific and very clear  
21 by this council is they don't want it to be online  
22 training. They want the trainers face-to-face.

23  
24 Q. That may involve costs then for the council?

25 A. It does involve costs. However, doing it with the JO,  
26 it shares that cost across four councils rather than one

27  
28 Q. And how soon do you think that type of training can be  
29 undertaken?

30 A. The executive officer for the JO is trying to organise  
31 a calendar of events for that as we speak. We met last  
32 Friday in Broken Hill and he gave an update and it's been  
33 programmed.

34  
35 Q. So the next few months?

36 A. Within the next few months definitely.

37  
38 Q. Good. In your submission to the inquiry in response  
39 to whether the council is acting in accordance with the  
40 guiding principles, you say in the final paragraph:

41  
42 *Recent actions to improve community*  
43 *confidence are slowly achieving the desired*  
44 *outcome. However, it should be noted that*  
45 *they are all operational and are not the*  
46 *actions of a cohesive council.*

47

1 Why do you say that?

2 A. There's been some significant challenges and community  
3 confidence was low. We have implemented strategies to turn  
4 it around, so more regular updates on Facebook, for  
5 example, live broadcasting through Facebook. We have  
6 weekly radio interviews, the newspaper articles and a lot  
7 more active in doing that. But we also have manager of  
8 community and tourism and manager of strategic development,  
9 two dedicated positions in council who are forward focusing  
10 to community, to get out there and talk to community and  
11 gain an understanding. Yesterday Mr Barrett referred to  
12 Gavin Helgeland, who is the manager --

13  
14 Q. Could you spell that for the record, please?

15 A. H-E-L-G-E-L-A-N-D. He's the manager of strategic  
16 development. Although he's not a long-term local, he is  
17 married to a long-term local family and is fairly highly  
18 regarded in the community for how he operates. He's out  
19 there actively talking to the sporting groups, talking to  
20 the businesses, talking to the community about things that  
21 are happening and I think that's where Mr Barrett yesterday  
22 was referring but he hasn't seen an update from Gavin. But  
23 those actions are slowly having a positive result.

24  
25 This financial period now with this calendar year,  
26 it's \$11.6 million in grant funding. That is a significant  
27 input to this small community with getting projects done.  
28 Unfortunately they're not necessarily the grants that we  
29 want, but if an opportunity comes up, we apply, and the  
30 government, be it state or federal government, decide which  
31 grants will be successful in getting in. We are obviously  
32 tied to spending the money on what they approve the grant  
33 for, but \$11.6 million is significant in grant funding for  
34 a small community like this. It was a little bit of a  
35 perfect storm with federal and state government elections  
36 coinciding together and concern about who was going to get  
37 into power, which really did help, but what must be  
38 recognised is the work of the operational team in being  
39 prepared to take up those opportunities to attract that  
40 money.

41  
42 Q. So that might not be a future source of income or to  
43 that extent, anyway?

44 A. Not to that extent, but it will continue. There's  
45 routine grant programs which - I'm remembering a  
46 conversation roughly with the councillors in relation to  
47 applying for grants and it was along the lines that it was

1 being discussed with the former general manager and his  
2 response was, no, he doesn't need someone to do that, he'll  
3 do it himself. That very promptly resulted in no grants  
4 being really applied for.

5  
6 Q. This is Mr Drenovski?

7 A. Yes. So we had a lack of grant applications going  
8 through the process. We didn't have a bookshelf full of  
9 ready-to-go projects that we could apply for grants for.  
10 So that's what the team are working on now and at any one  
11 time we would have 15 grant applications into various  
12 agencies to try and get money in.

13  
14 Q. And I understand you have a dedicated staff member for  
15 that?

16 A. That's the manager of strategic development.

17  
18 Q. Just on Mr Barrett's concerns about the main street,  
19 do you know where that's at?

20 A. So, the main street project was delayed. It is still  
21 within the project timeframes required by the government  
22 for its completion. Council was originally looking to  
23 underground the power and estimates were provided on how  
24 much that was going to cost. However, when we went out and  
25 tested the market, it turned out that it was in excess of  
26 30 per cent greater than what we had budgeted for, and that  
27 was without the unknown factors along the main street. So,  
28 members of the community have highlighted concerns around  
29 old fuel tankers under the street and under a footpath that  
30 are still there and they don't know the condition of them;  
31 wet sink holes or wet spots where we get a lot of rising  
32 water from the river and how that's going to impact. So,  
33 it was already around 30 per cent over budget without  
34 taking into account those unknown elements. So it was  
35 presented back to council that that was a risk and council  
36 determined that they would do a scope variation to the  
37 project and continue with the overhead powerlines, but do  
38 some upgrading to the lighting, et cetera, and continue  
39 with the main street project. The tenders did go out to  
40 market for that and it was actually approved on Monday  
41 night at the most recent council meeting for the preferred  
42 supplier for the conduct of that work, so it will commence  
43 very, very soon. The successful preferred supplier was  
44 actually in Balranald yesterday afternoon doing an  
45 inspection up and down the street.

46  
47 Q. Okay. So that's all ready to go, all the designs have

1       been completed?

2       A.    The preliminary designs have been completed. The  
3       technical designs around the power, water infrastructure  
4       have been completed. The architectural designs and urban  
5       design has been completed for how it's going to look and  
6       now it will just be the finalisation of those as part of  
7       the normal specification and delivery with the contractor,  
8       who I think this will be the fourth local government main  
9       street project in New South Wales that contractor has  
10      worked on.

11

12      Q.    So it's an experienced contractor?

13      A.    An experienced contractor who has worked with local  
14      businesses and understands the impact of doing it.

15

16      Q.    We might just take a break now. It's 11.30. We will  
17      have a morning tea break. If you don't mind,  
18      Mr Kitzelmann, just come back in about 20 minutes.

19

20      **SHORT ADJOURNMENT**

21

22      THE COMMISSIONER:   Okay. We'll resume. Mr Kitzelmann,  
23      one of the complaints that a number of people made about  
24      the pedestal charge was more to do with the lack of notice  
25      that they received. I think the Sturt Motel and the  
26      Balranald Motor Inn both complained that the letter was  
27      dated the 17th, they received it on 21 June, and the matter  
28      was going before the council on the 27th, so they didn't  
29      have very much time. Was that the only notice that people  
30      received about it?

31      A.    No. Through the Local Government Act council has an  
32      obligation to disclose those changes and go out to  
33      consultation for 28 days. That occurs through advertising  
34      in newspapers and the council website. This council took  
35      the extra step of doing a live broadcast about the proposed  
36      changes on Facebook, posted it on Facebook, did some radio  
37      advertising and sent the letter out. Unfortunately, we  
38      have got no control over how long Australia Post take to  
39      deliver a letter. But the requirement was for the  
40      newspapers and the website. We took the extra step of  
41      doing those things. So unfortunately being in a remote  
42      community some newspaper - The Guardian newspaper in Swan  
43      Hill, for example, reports on Balranald, but then for  
44      Euston is - not The Grazier --

45

46      Q.    A different newspaper.

47      A.    A different newspaper. So what that means is it's a

1 little bit disjointed in how people see the advertisements  
2 which go out and not everyone reads the newspaper.  
3 Unfortunately, our local newspapers are not large in web  
4 presence either for those who read the on-line newspapers.  
5 In actual fact their on-line versions are fairly behind  
6 when it comes to getting the information out there, which  
7 is why council took the step of doing the Facebook  
8 promotion of it as well, a live broadcast about the changes  
9 and some information to explain it, and then the direct  
10 letters. So that was to the motels. We took the same  
11 action with the gypsum mine, because it was a significant  
12 variation and we wanted to ensure that that information was  
13 shared as early as possible. Unfortunately - I haven't  
14 tested this, but I have been informed that mail for  
15 Balranald goes from here to Melbourne and then back to here  
16 to be sent to places.

17  
18 Q. It wouldn't surprise me.

19 A. I haven't tested it, but that's what I've been  
20 informed. That may explain why there was a delay.

21  
22 Q. One of the Queensland recipients got the letter two  
23 days before the Balranald recipients.

24 A. So it's unfortunate because the intent was to get the  
25 information out as soon as possible, which is why we did  
26 the live broadcast on Facebook et cetera and it was being  
27 genuinely talked about. But some people may not have been  
28 aware until they received the letter in the post, but it's  
29 unfortunate.

30  
31 Q. Do you have any idea why the Caravan Park Committee  
32 minutes were not posted to council's website?

33 A. The Caravan Park Committee in its previous form was  
34 under the previous general manager, Aaron Drenovski. Why  
35 they weren't put up I'm not aware of. I would hate to  
36 attribute any reason for it at all other than that it  
37 should have been in the agenda.

38  
39 Q. Because that was my next question, and on occasions  
40 the Caravan Park Committee minutes didn't even make it to  
41 the next meeting.

42 A. There are genuine reasons why sometimes the minutes  
43 don't make it to the next meeting. They may not have been  
44 completed being typed up in time to get into the agenda for  
45 the next meeting. That does happen. We have actually had  
46 a few instances of that here where the councillors as a  
47 whole have said they are not satisfied that the tourism



1 minutes weren't in the meeting in a timely manner. They  
2 went to the next month. So that may have been the reason  
3 for it. But that was prior to my commencement.  
4

5 Q. And since you have been here there hasn't been a  
6 committee; is that correct?

7 A. The entire council is the committee for that. Because  
8 of the ongoing issues there, there hasn't been a formal  
9 meeting because for that process to work the council needs  
10 to finalise the council meeting that we're in, the ordinary  
11 meeting, go into a meeting as the trust, and hold a meeting  
12 separate to the ordinary meeting of council. That hasn't  
13 occurred because of the ongoing matters trying to be  
14 resolved.  
15

16 Q. Do you recall the meeting that was held in Euston in  
17 November 2018?

18 A. Yes.  
19

20 Q. It was reported that you were abused by Councillor  
21 O'Halloran before the meeting.

22 A. Yes.  
23

24 Q. Do you recall that?

25 A. Yes.  
26

27 Q. What happened?

28 A. That was on Councillor O'Halloran's return from his  
29 suspension under the direction from the Chief Executive  
30 Officer of Local Government. That was his first meeting  
31 back - I believe it was his first meeting back - and  
32 Councillor O'Halloran before the meeting commenced in front  
33 of the entire assembled gallery and other councillors and  
34 staff took the opportunity to have a go at me over the fact  
35 that he was suspended and being reported, and that when he  
36 received a letter from me because he was requesting  
37 information I sent a letter saying that, "No, you are  
38 currently suspended as a councillor. Therefore that  
39 information cannot be provided." It was in relation to a  
40 confidential council report. The comments were that,  
41 "I wasn't suspended as a councillor. I was suspended from  
42 attending the council meetings, and you're wrong," to which  
43 I said, "No, that's not true. You were suspended as a  
44 councillor. Therefore you had no entitlement to that."  
45

46 He then went on to make comments about that I'm not a  
47 local, "it might be done differently in Queensland"

1 et cetera, et cetera to which I said that I took offence to  
2 his words and that I came to this community with my family.  
3 "We have made a commitment to this community. Whether we  
4 are local or not is irrelevant. The fact that we have come  
5 here for this community is what's relevant." It was not  
6 heated but it was quite strongly worded. And then  
7 afterwards again Councillor O'Halloran demanded that he was  
8 going to have me sacked.  
9

10 Q. And you were rattled by that?

11 A. You are rattled before - if someone takes an  
12 opportunity to have a go at you where there is an imbalance  
13 of power, of course you are going to be rattled. So  
14 councillors employ the general manager. So if councillors  
15 decide they are going to take the opportunity to be bullies  
16 and harass, there is an imbalance of power where your  
17 employment is potentially in jeopardy if you retaliate.  
18 I'll be honest with you, there have been times where I have  
19 wanted to retaliate.  
20

21 Q. Was that one of those times?

22 A. It was one of those times and it took my self control  
23 not to, and it's happened on numerous occasions. One of  
24 the practices which - whether it was deliberate or  
25 otherwise, there was a bit of a game of having a dig right  
26 before a council meeting to put you - unsettle you before a  
27 meeting commenced. Since then I've had a discussion with  
28 Councillor O'Halloran that he will only meet with me when  
29 he makes an appointment.  
30

31 Q. And is that working?

32 A. There's been no appointments made since.  
33

34 Q. And do you remember the meeting that then ensued in  
35 Euston, was there any incident during that meeting?

36 A. There was a fair bit of ranting occurring during the  
37 meeting by Councillor O'Halloran. I can't remember the  
38 specifics, but I do know it went for about 40 minutes and  
39 it was hard to follow the path of what was trying to be  
40 communicated at some stages during that.  
41

42 Q. Is that uncommon for Councillor O'Halloran to have a  
43 monologue?

44 A. No, no. Councillor O'Halloran would be the loudest  
45 and most frequently heard voice in the chamber.  
46

47 Q. There was an incident at your home where spotlights

1 were directed at your home. Were you at home that night?  
2 A. Yes. So that started from around about midnight,  
3 1 o'clock in the morning.  
4

5 Q. Do you remember what date it was?

6 A. No. I can get the details because there is a police  
7 report on it, where unknown persons - putting it  
8 nicely - decided it was a good idea to use intimidation  
9 tactics of pulling right up, putting the big spotlights on  
10 the front of a vehicle on and spotlighting the house in the  
11 wee hours of the morning and lighting up the entire house,  
12 and then taking off revving the engine. That went on for a  
13 few hours. Subsequently the police directed that I install  
14 security cameras at that residence and that the executive  
15 staff have security cameras installed.  
16

17 Q. And that's occurred now?

18 A. No, it has not. I haven't installed those security  
19 cameras. We got quotes, and it was going to cost in the  
20 vicinity of \$18,000 to have the security cameras installed.  
21 I refuse to accept that a minority or one or two  
22 individuals are reflective of this community. They are not  
23 reflective of this community. So why should the whole  
24 community be paying for security cameras to be installed  
25 because of those one or two? If it happens again, then it  
26 will be reassessed. The concern that I had was a couple of  
27 days later Councillor O'Halloran approached me and informed  
28 me that I was mistaken, they weren't doing that to be  
29 intimidating and cause trouble, they were looking for their  
30 hunting dogs. I have spoken to the guys about it, and they  
31 were looking for their hunting dogs.  
32

33 Q. Do you live in a remote area, do you?

34 A. No, in town here. But a lot of - being in a rural  
35 community a lot of our community members do have dogs they  
36 use to go pigging, kangaroo shooting et cetera. I wouldn't  
37 say how many, but it's not unusual in a rural community  
38 that people have those animals for that purpose. That was  
39 the excuse Councillor O'Halloran gave to me, to which  
40 I responded with, "No, you're incorrect, and you obviously  
41 know who they are so you are aware of what's been  
42 occurring."  
43

44 Q. In your submission to the inquiry you say that you  
45 think a number of the issues relating to the caravan park  
46 are the direct result of councillors interfering in  
47 operational matters. Why do you say that?

1 A. So the Act is very clear on what fees and charges need  
2 to be applied. That Act was not being complied with. So  
3 to not charge the full fees and charges actually needs  
4 ministerial consent. That did not occur. The process then  
5 in relation to the tendering that was occurring, Councillor  
6 O'Halloran highlighted the fact that he's reviewing the  
7 contract with the lessees and working with them to go  
8 through the contract.

9

10 Q. What do you mean he highlighted that? Did he say  
11 that?

12 A. He said that in the chamber and he said it numerous  
13 times after that.

14

15 Q. Did anybody in the chamber inform Councillor  
16 O'Halloran that it would be a breach of the code of conduct  
17 to have that type of contact with the contractors?

18 A. Not in those words. By memory Councillor Byron, who  
19 was then mayor, made comment that that was inappropriate.  
20 But that's as far as it went, to my recollection. But  
21 obviously that's a clear breach of the code of conduct; a  
22 clear breach. In addition to that, it's been reported  
23 about other activities which have occurred which I won't go  
24 into detail because of the legal proceedings.

25

26 Q. I understand and I don't want to ask --

27 A. But I'm more than happy to discuss that  
28 confidentially.

29

30 Q. Yes. I don't want to tread on the toes of the Supreme  
31 Court. You also say that some councillors have direct  
32 personal relationship with the caravan park operators and  
33 have not made a disclosure. So that would be a  
34 non-pecuniary interest?

35 A. It would be a pecuniary interest as well as a  
36 non-pecuniary interest.

37

38 Q. Can you explain that to me?

39 A. So one of our councillors has a business around  
40 tourism and has not disclosed that a lot of the business  
41 for that councillor is from the caravan park. Previously,  
42 and I'm not sure now how it is, but a lot of bookings were  
43 made because he had his paraphernalia on display at the  
44 caravan park. I'm not sure if that's still the case now.  
45 That would have to be declared as a pecuniary interest,  
46 that relationship, because although not business partners  
47 in any way, shape or form the advertising and supporting of

1 a business solely owned and operated by a councillor is  
2 benefitting from it.

3  
4 Q. And personal relationships, what were they?

5 A. Friendships. So in a small community like this it is  
6 very difficult; very, very, very difficult. A lot of the  
7 community does attend the football club. So people become  
8 friends over many years; they have grown up together, acted  
9 together. So declaring it isn't saying that you aren't  
10 able to be involved in a process, but it's about putting on  
11 public record that, "Look, I have known the contractor for  
12 30 years as a family friend," for example, or "as a  
13 personal friend", or "we went to school together" or  
14 whatever and having it on the record that there is that  
15 there so that it's open, it's disclosed.

16  
17 Q. And there hasn't been any non-pecuniary interests --

18 A. Not in relation to that.

19  
20 Q. Or pecuniary interests disclosed in relation to the  
21 caravan park?

22 A. No.

23  
24 MS ANNIS-BROWN: I was just going to go on from that  
25 question to ask do you believe it's your responsibility to  
26 advise councillors whether they should disclose a conflict  
27 of interest or not?

28 A. The disclosure of a conflict of interest is a  
29 councillor's obligation, and you don't have a right to say  
30 whether they have a conflict or not. However, I have  
31 provided advice when requested.

32  
33 THE COMMISSIONER: I don't have anything further,  
34 Mr Kitzelmann. Did you want to make any further statement  
35 to the inquiry?

36 A. One of the biggest concerns I have is that I entered  
37 into this role with the clear directive from the elected  
38 governing body to help resolve matters, and there was no  
39 doubt in my mind what the obligations were. We are going  
40 through that process of doing that. However, when it comes  
41 to some of the difficult decisions that council need to  
42 make - because they are not the decision of the general  
43 manager; they are the decision of the council, which is  
44 specifically aligned with compliance with that performance  
45 improvement order and the requirements that are in place  
46 under the various Acts - it becomes very challenging.

47

1           Although council does make decisions, sometimes those  
2 decisions are not made based on reviewing the longer term,  
3 bigger picture implications and it's more emotive in some  
4 cases. It's a tough job that councillors have in making  
5 those decisions because it has an impact on everything into  
6 the future. The difficulty is when then some of those  
7 councillors go out and publicly undermine the decisions of  
8 council. That's not instilling confidence in the  
9 community. To have some councillors go out and say, "No,  
10 I voted against that. I don't support it. It's  
11 ridiculous. I'll get it overturned," that can't happen.  
12 That's distracting from the good work that is occurring.  
13

14           One of the other issues which is a serious concern is  
15 the staff are doing the job they are directed to do. But  
16 they are suffering reprisal because of doing their job.  
17 That's a concern. I have some staff members who openly say  
18 they don't feel comfortable going into the business houses  
19 because they get abused, not by the business house itself,  
20 the operators, but by other people in there. And that's  
21 for doing their job. They shouldn't have that. They are  
22 doing as they are directed.  
23

24           I actually put a radio interview and I talked about  
25 the fact that, "Please, just remember they are doing as  
26 they are told. They don't make the decisions. They are  
27 your friends, your neighbours, your family. Please, be  
28 respectful," because some of the staff are very fragile at  
29 the moment as a result of the abuse they are copping, and  
30 most of it is unjustified. Well, no abuse is ever  
31 justified, but most of the comments are founded on  
32 misinformation.  
33

34 Q. Thank you. Now, Mr KitzeImann, I might need to recall  
35 you, depending on what further evidence we hear. But you  
36 are excused for the time being.

37 A. Thank you, Commissioner.  
38

39 **<THE WITNESS WITHDREW**

40  
41 THE COMMISSIONER: Now we will adjourn until 2 o'clock  
42 when we have Councillor Roberts.  
43

44 **LUNCHEON ADJOURNMENT**

45  
46 THE COMMISSIONER: Okay, we'll start now. A couple of  
47 minutes early, but that's okay. I call Councillor Roberts.

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<JO ROBERTS, sworn:

[1.57pm]

THE COMMISSIONER: Thanks, Councillor Roberts. Now, how long have you been on the council?

A. This is my first term, so I was elected in September 2016.

Q. And no previous experience in local government?

A. Not in local government. I've had experience with volunteering, committees, et cetera, in my community, so to me this was the next step.

Q. Okay. And what's your background?

A. Administration.

Q. And what sort of community involvement did you have?

A. I've fundraised for various clubs. I've been secretary on the football/netball club. I've been treasurer on the netball club. I've been on the school as a treasurer as well.

Q. You live in Euston?

A. Euston, yes.

Q. You have made a submission to the inquiry. One of the terms of reference is whether the conduct of the council has - the council's reputation in the community. How do you see that now?

A. How we stand in the community?

Q. Yes?

A. Well, no good at the moment. I think this term, unfortunately I come on it this term, we're copping a lot of issues that we're facing now that not only stem from our term. I think you can look back for years and see where things have started going wrong, tough decisions weren't made and it's all come to a head in the term I'm on. And I don't think the community quite understands what has happened leading up to a lot of the issues, not all of them, but a lot of them.

Q. And what type of issues would you include in that category that are historic?

A. Rates, fees, charges. I don't think any of them were appropriately incremented over the years, but it's fallen on now. Our improvement order said that we needed to

1 review those because obviously they could see they were  
2 lacking. So, the community wouldn't have noticed it as  
3 much if every year or two it gradually went up. It didn't.  
4 Now it's here. We're going, "Bang, here we are."  
5

6 Q. And do you think the council has done enough to sell  
7 that information or get that information out to the  
8 community?

9 A. Look, I think Michael has had an open door. A lot of  
10 this stuff is, for someone like me, hard to grasp, so I do  
11 go to Michael so I can understand things better. I do  
12 refer people to speak to him because he's the expert.  
13 I don't think the people in the community do grasp what  
14 we're facing and I don't know how - because I think they're  
15 whipped up into a frenzy and a lot of them aren't listening  
16 that this just isn't this term, like "You can get rid of  
17 us, but we're not the ones who caused a lot of the issues,  
18 not all of them, but a lot of them."  
19

20 Q. And do people come to you and talk to you about it?

21 A. I have had people come to me about different issues,  
22 yes.  
23

24 Q. And rates and charges is one of them?

25 A. Yes.  
26

27 Q. And what's the sentiment?

28 A. Well, they don't want to pay more. I don't want to  
29 pay more. I'm a single mum. It's hard. But I'm part of  
30 the shire. I'll pay my rates no matter what they are. And  
31 I can see where previous councils, mayors, GMs, senior  
32 staff have fallen by not keeping us going.  
33

34 Q. And are there any other issues that you said - not all  
35 of them are historic. What are the ones that are not  
36 historic that you feel have impeded the council in your  
37 term?

38 A. Definitely the caravan park has been a huge issue.  
39 Although, if you look back, I don't think - I have some  
40 knowledge on caravan contracts and the contract to me when  
41 we were told we should review it, I read through it and it  
42 was lacking in a lot of ways.  
43

44 Q. In what ways?

45 A. I don't think there was enough regulation on cash,  
46 like the cash accounting side of things. I don't think  
47 that - the contract to me I would have thought - well, when



1 it started I've been told that we're very lucky that the  
2 managers took it on because it was in a terrible position  
3 and they've brought it a long way, which is fantastic. But  
4 usually, or in the caravan parks that I know, usually there  
5 is more input from managers. They'll buy cabins in,  
6 they'll have more of a financial input to it, so not only  
7 does it benefit us, it also benefits them because they can  
8 get higher occupancy.

9

10 Q. And what is your experience with caravan parks?

11 A. I actually have friends in caravan parks, so I have  
12 over the years been close and have looked at --

13

14 Q. Have you run caravan parks?

15 A. Yes, yes.

16

17 Q. Not in the shire?

18 A. No.

19

20 Q. Okay. You say you don't know the caravan park  
21 operators?

22 A. No.

23

24 Q. And you believe that you've made your decisions in an  
25 unbiased way?

26 A. I do believe that because I don't know them at all.  
27 I don't even think I have ever spoken to them. I think  
28 I know what Dee looks like, she plays in the local  
29 basketball team. But other than that, that's all I know.

30

31 Q. The caravan park was one of the issues in the  
32 performance order, wasn't it?

33 A. Yes.

34

35 Q. And do you think that the council has met its  
36 obligations in relation to the caravan park under the  
37 performance order?

38 A. It's a hard one to --

39

40 Q. In relation to the caravan park?

41 A. Yes. Look, I think the council probably made some  
42 wrong decisions to start with. We were told in the  
43 performance order to review that contract. There were  
44 several councillors who didn't want to review it, they just  
45 wanted to award it to the existing managers. That didn't  
46 follow procedures and to me you could have the same outcome  
47 but you needed to follow the procedures.

1  
2 Q. So you weren't making a choice at the time; you were  
3 making a decision to follow a procedure. Is that what  
4 you're saying?  
5 A. Yes.  
6  
7 Q. Have you ever engaged in any conduct outside of  
8 the council that you think might have brought the council  
9 into disrepute?  
10 A. No.  
11  
12 Q. Do you ever comment about council meetings on Facebook  
13 or in the media?  
14 A. No.  
15  
16 Q. What's the extent of your interaction with the staff  
17 at the council?  
18 A. Most of the staff, very little. I deal a lot with our  
19 general manager, mostly our general manager. So, if I get  
20 an issue brought to me, I will then message or ring him and  
21 discuss it and then leave it with him to deal with.  
22  
23 Q. And the directors?  
24 A. I do have some contact with Ray Davy, just when  
25 following up on what's sort of happening around. But, no,  
26 mostly it's all through the GM.  
27  
28 Q. And are you familiar with the council's code of  
29 conduct?  
30 A. Yes.  
31  
32 Q. And the code of meeting practice?  
33 A. Yes.  
34  
35 Q. Do you think the code of meeting practice is always  
36 followed at the council?  
37 A. Possibly. It's hard to say, really. Sometimes  
38 I don't think the meetings are controlled, maybe, as well  
39 as they should be.  
40  
41 Q. And in what circumstance?  
42 A. In regards to councillors either speaking about things  
43 that aren't on the agenda or speaking over other  
44 councillors or implying there's conspiracies or --  
45  
46 Q. Who have you observed doing that?  
47 A. Councillor O'Halloran.

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Q. Is he the only one?

A. He would be mostly, yes.

Q. It's been suggested that you don't speak very much at council meetings. Do you think that would be a fair assessment?

A. In a way, yes. I find I get talked over, I am not respected and when I do choose to talk, and I will talk about things I'm passionate about, I could look around and there will be several councillors with their heads down writing and they're not listening. So, unless it's something I'm really passionate about I'll speak up or if I think something needs saying I certainly will. But I don't believe there's a lot of - not protection, but obviously there is a councillor there that has a lot to say and he doesn't really leave a lot of room for anyone to say anything and he can be quite intimidating.

Q. Does he intimidate you?

A. I'm not scared of him. He has a great knowledge. Sometimes I think, "Well, maybe my knowledge is not as extensive as his." So it intimidates me from speaking up because he holds the floor, he is loud, he is very specific, he quotes acts and events that have happened years ago, so sometimes I find that intimidating.

Q. But the rules have changed over time. You don't think you are as familiar with the current rules as he might be?

A. Look, I think I'm doing everything I can. I think I've learnt a lot. I think I'm doing all right. Can I quote everything and sound like I know everything? No. No. But I put in everything I can with the time I have.

Q. Have you ever felt like you wanted to speak on something but didn't because you were intimidated?

A. Look, probably in the early days I was told by a couple of councillors that, "For the first 12 months of your first term, don't say anything. Sit, listen and learn." And probably back then, and I can't recall exactly what, but there were probably times when I wanted to say something but I thought, "No, I've been told," and even by previous councillors that are no longer on here, "Sit, listen and learn for the first 12 months. Don't speak."

Q. You don't think that your responsibility as a councillor overrode that advice?

1 A. Well, in my first year I felt like I was still  
2 learning, so I didn't - I wasn't 100 per cent sure I was  
3 doing the right thing, and we did have training. When we  
4 got elected there was a training day to introduce us and  
5 that was an absolute shemozzle and I learnt not one thing.  
6  
7 Q. Can you tell me about that? What did it involve?  
8 A. It's going back a few years now. So that was where we  
9 were just supposed to learn - well, it was for all  
10 councillors and we were just supposed to learn a bit about  
11 what our role involved, what was expected of us, and it  
12 was - it was horrible. It was taken over by a councillor  
13 --  
14  
15 Q. Councillor?  
16 A. O'Halloran. No one pretty much had anything to say or  
17 got to say anything else because he spoke most of that  
18 whole workshop. Some of it was in regards to events from  
19 the years before, which I wasn't here. I did speak to  
20 another new councillor after the meeting and he agreed with  
21 me it was absolutely useless.  
22  
23 Q. Who conducted the training?  
24 A. So it was - Aaron Drenovski was here, Leigh Byron was  
25 the mayor. So it was just, yes, just training through them  
26 just telling us what to expect or --  
27  
28 Q. So it was no one external coming to talk to you about  
29 how to implement the codes?  
30 A. No.  
31  
32 Q. Okay.  
33 A. I did also after the meeting speak to the general  
34 manager and the mayor and said, "I'm sorry, but that was  
35 terrible, and is this what I'm to expect?"  
36  
37 Q. And what was the response you got?  
38 A. They just sort of laughed and said, "That's Steve."  
39  
40 Q. And is that the only training that you had since  
41 you've been here?  
42 A. No, there's been other training workshops over the  
43 years. There was a financial, like, to help us understand  
44 the figures. I couldn't tell you when that was. That was  
45 fantastic.  
46  
47 Q. Who conducted that?

1 A. I couldn't tell you who it was.  
2  
3 Q. Somebody outside the council?  
4 A. Somebody outside, yes, and I got a lot out of that,  
5 although I wished, like, you'd have one every month for a  
6 while just to keep it fresh in your head. Like, one lesson  
7 and I left that lesson thinking, "This is awesome.  
8 I understand the figures a lot better." Three or four  
9 weeks down the track I'm like, "Now, hang on, what was it?"  
10 You know, I think it could have been done more to really  
11 help us out.  
12  
13 Q. And were you given hard copy materials or online  
14 materials?  
15 A. To be honest, I can't remember. I think there was  
16 materials because we were going through - yes, we were  
17 going through some materials, yes.  
18  
19 Q. But that assisted you in your role as a councillor,  
20 you think?  
21 A. Yes.  
22  
23 Q. At least initially?  
24 A. Yes, yes, it did. That was probably a year into my  
25 term, that training, which we should have really received  
26 right at the start and then again maybe down the track as  
27 well.  
28  
29 Q. And so those two sessions are the only training - you  
30 can have your drink. Go ahead?  
31 A. There have been other trainings. To be honest, we've  
32 had that many meetings and workshops and it is hard to  
33 remember every one of them. We have had, you know, some  
34 weeks there's three or four meetings. I mean, it's slowed  
35 down a bit now since Michael Kitzelmann has come on, but  
36 before then it was so many meetings. I cannot recall what  
37 happened at every single one and who was taking it. But we  
38 have had other training, yes.  
39  
40 Q. So do you think there was a necessity for so many  
41 meetings then?  
42 A. No. No, because I don't think - some of the meetings  
43 never accomplished anything. I remember coming out of  
44 meetings going "What?" Other than making me knock off my  
45 work early and come here, nothing was achieved.  
46  
47 Q. And so the pace of the meetings has slowed down, the

1 frequency of meetings?

2 A. Yes, yes. I think that has a lot to do with our now  
3 general manager, Michael. I find him a lot easier to deal  
4 with. He has a greater knowledge than our previous, Aaron,  
5 the general manager. He can handle stuff, whereas Aaron,  
6 being my first term I'm not 100 per cent sure, but he  
7 didn't quite seem to have the knowledge needed, so he'd  
8 call a workshop for everything. Everything was workshop,  
9 workshop.

10

11 Q. And a workshop, what do you understand by a workshop?

12 A. So, there's no minutes taken at a workshop. It's just  
13 a sort of free-for-all to discuss whatever issues.

14

15 Q. And did it help the progress of the council meeting  
16 that came later, that followed the workshop?

17 A. Well, yes, a lot of the time we'd be able to hash out  
18 stuff in workshops, but there was always issues during the  
19 meetings usually as well.

20

21 Q. Have you ever voted contrary to your opinion?

22 A. No. In our workshops sometimes I've wished for a  
23 different outcome, but we've come to a compromise. No,  
24 because if there's anything I'm dead against, I won't vote  
25 for it.

26

27 Q. Okay. Have you ever abstained or left the chamber  
28 rather than voting?

29 A. No.

30

31 Q. Do you think you would run for council again?

32 A. Probably not, because I work full-time, I'm a single  
33 mother, and it has taken a lot more time and effort, the  
34 council, than I was sort of explained it would when I was  
35 approached to run, and my employers, Matt and Erin Leslie,  
36 have been very, very generous letting me take days off  
37 here, there and everywhere. I don't think I could put them  
38 through that again.

39

40 Q. And would that be the only reason you wouldn't run for  
41 council again?

42 A. Look, there's probably a few reasons. That would be  
43 the major one. That would be the major.

44

45 Q. You mentioned in your letter that you had expected  
46 that there would be mentoring when you came to the council,  
47 but that you didn't receive that. Who did you expect would

1 be your mentor or mentors?  
2 A. I was probably naive. I probably thought - I thought  
3 we'd all work as a team and the new ones that had come on,  
4 the older, more experienced councillors would, you know,  
5 help them out, give them advice, "This is the way things  
6 run," or "You can do this or you can do that," and just  
7 none of that happened to me. It was just an eye-opener.  
8 As soon as I got on, I was just like, "Oh, okay. So we  
9 don't work as a team and" --  
10  
11 Q. How did you see it working in practice once you  
12 arrived at the council?  
13 A. Look, I saw pretty much Councillor O'Halloran, he just  
14 has the say all the time. Whatever meeting it is, he has  
15 the most to say, he's the loudest in saying it and, you  
16 know, everyone else tries to get in and speak but, yes, it  
17 just wasn't at all what I was expecting and that is naive,  
18 I suppose.  
19  
20 Q. Did you ever observe staff who attended the meetings  
21 being attacked?  
22 A. Oh, all the time, yes, especially Aaron - well, all  
23 general managers, the finance, yes. Absolutely, yes.  
24  
25 Q. So in your term it started with Aaron Drenovski?  
26 A. Yes.  
27  
28 Q. And then Bob Stewart?  
29 A. Yes.  
30  
31 Q. And now Michael Kitzelmann. So all of those general  
32 managers?  
33 A. Yes, yes.  
34  
35 Q. And what about other staff?  
36 A. Not that I've, no, been part of, no, nor seen, no.  
37  
38 Q. I'm saying you haven't observed any of them being  
39 attacked in a council meeting or --  
40 A. No, I'd say the general managers and our finance  
41 director would be the ones that I've noticed the most.  
42  
43 Q. Yes, that's what I'm saying.  
44 A. Yes.  
45  
46 Q. So it wasn't just the general managers; the finance  
47 director as well?

1 A. Yes.  
2  
3 Q. And there was a different director of - I'll get the  
4 name wrong now - infrastructure before Mr Davy?  
5 A. Yes. There's been a couple of different ones.  
6 I can't quote them all. There's been a few fill-in ones.  
7 Yes, they probably also have copped it, but not as much as  
8 the general manager and finance.  
9  
10 Q. Did that make you feel - or how did it make you feel?  
11 A. I just felt and I feel like there is just no respect.  
12 I can disagree with someone, but I can hold my tone and  
13 I will not wave and point and accuse and say there's  
14 conspiracy theories. I'll sit and have a discussion with  
15 them. I just thought that's what would happen, like we'd  
16 work together as a team and we'd work out the issues, but  
17 that's not how it goes.  
18  
19 Q. That's not what you observed?  
20 A. No.  
21  
22 Q. You said that you thought some councillors were  
23 letting personal friendship cloud their judgment?  
24 A. Yes.  
25  
26 Q. Who in particular?  
27 A. In regards to the caravan park in particular,  
28 Councillor Mannix and also Councillor O'Halloran and  
29 Jolliffe and to an extent Ugarte. I felt there was some  
30 sort of a friendship or they were just very determined to  
31 get the outcome they wanted without following procedure,  
32 and that - I'm not saying I didn't want the same outcome.  
33 I wanted it to be done legally.  
34  
35 Q. You said that the caravan park managers you thought  
36 acted unprofessionally and with aggressive tactics. What  
37 did you mean?  
38 A. Well, as I said in there, I think everyone has a part  
39 in what went wrong and in my opinion they too played a part  
40 in that, inciting anger within the community to the point  
41 where our GMs had faced vandalism, et cetera. I just think  
42 the easiest thing in the world to do, and I've thought of  
43 it before, is put stuff on Facebook, but that doesn't  
44 resolve anything. Whipping up that sort of frenzy is not  
45 going to get you your outcome.  
46  
47 Q. You say that you're perplexed as to why a public



1 inquiry was commenced. Now, obviously the process for it  
2 commenced a long time ago. But do you think that the  
3 performance improvement order, that that would be the end  
4 of it?

5 A. I reckon if there was going to be a public inquiry, it  
6 would have happened way back when I started my term or  
7 possibly even before. I honestly feel now with our general  
8 manager and our finance director we are making some really  
9 good strides ahead, we really are. We are starting to sort  
10 out, you know, a number of little issues that maybe the  
11 community don't even know about, but we are making steps.  
12 We are looking at becoming more financially stable and  
13 sustainable. So it just perplexes me as to why it has  
14 happened, yes, because I thought it would happen earlier.  
15 But now with the improvement order ticked off, you know,  
16 there are still some issues but, you know, maybe that issue  
17 could have been dealt with in other ways than putting us  
18 all through this.

19

20 Q. Do you understand, though, that the inquiry isn't just  
21 about compliance with the performance improvement order?

22 A. Yes, yes.

23

24 Q. Would you be concerned if the council was dismissed  
25 and an administrator was appointed in this shire?

26 A. Yes, I would, because I don't think anyone understands  
27 what happens when an administrator takes over.

28

29 Q. Have you had experience of it?

30 A. No, I've read up a bit on it. But things that we're  
31 passionate about, so the swimming pool here, we're  
32 passionate about keeping it as a community thing. The  
33 administrator may look at that and go, "Look at all the  
34 money that's going down the drain with that. Close it.  
35 There you go, that helps your financial sustainability."

36

37 Q. So you'd be concerned that an administrator would look  
38 purely in financial terms at things?

39 A. They're not going to be as passionate, no, about the  
40 community.

41

42 Q. That might be an advantage in some ways?

43 A. Well, yes, it could be and there certainly wouldn't  
44 be, one would think, any bias, so I can certainly  
45 understand that side of things. I still wouldn't recommend  
46 it, no.

47

1 Q. Okay. Do you think the council can function into the  
2 future?  
3 A. Yes, I do. I think with the leaders that we have, our  
4 senior staff, are certainly heading in the right direction  
5 and I think there are a number of good councillors.  
6 I think we can. We can move forward and keep going. But  
7 we have to get over a tough time. The community doesn't  
8 understand everything that's happening with the rate rises  
9 and the charges, so maybe we need to look at other ways to  
10 help them understand how it's happened and that. But,  
11 look, I still think there's hope for the council.  
12  
13 Q. I understand that you're very complimentary about the  
14 staff, but what about at the councillor level?  
15 A. Look, as I said, there are some really good  
16 councillors and I believe that we could move forward, yes.  
17 I think it's probably obvious Councillor O'Halloran  
18 certainly has some issues that maybe need to be worked  
19 through or --  
20  
21 Q. Do you not think Councillor O'Halloran has had plenty  
22 of opportunity to work through those issues over the years?  
23 A. Yes, he has. Yes, to be honest I don't know what the  
24 answer is with that. You know, I think - yes, I don't know  
25 how we fix that situation.  
26  
27 Q. Now, I don't have any more questions. Ms Annis-Brown?  
28  
29 MS ANNIS-BROWN: Just one. I was just interested to hear  
30 from you about whether you think the information you're  
31 being provided as a councillor is sufficient to enable you  
32 to do your role, because ultimately you can only make  
33 decisions at council meetings. So, all that information  
34 contained in the business papers needs to be fairly  
35 comprehensive?  
36 A. Yes.  
37  
38 Q. So what's your view about whether that's the case or  
39 not?  
40 A. Look, I think we're getting good information. When  
41 I get the papers I'll go through and if there's anything  
42 I'm not sure on I will seek advice from the general manager  
43 until I understand or until I get any further information  
44 that I need.  
45  
46 Q. So that would necessarily mean you would have to be  
47 reading your business paper before you come to the council

1 meeting?  
2 A. That's why we get it four days early. I think it's  
3 four days early, yes.  
4  
5 Q. So you do read those business papers before you come  
6 to a meeting?  
7 A. I sure do, yes.  
8  
9 Q. And, as you say, any need for clarification in between  
10 the time you get the business paper and the council meeting  
11 you take the opportunity to seek that clarification?  
12 A. I do, yes.  
13  
14 Q. And when you do that, you seek that clarification,  
15 from what you said earlier, from the general manager and  
16 you feel that's sufficient for your purposes?  
17 A. Yes. I always go to the general manager first. There  
18 has been an occasion where I've sought further advice on a  
19 particular issue that I wanted to make sure I was doing the  
20 right thing, the legal thing, the morally right thing, so  
21 I sought help from our adviser from OLG, Alan McCormack,  
22 and with his advice and also the general manager's, I voted  
23 accordingly.  
24  
25 Q. And what's your view about how other councillors are  
26 reading or not reading their business papers before they  
27 attend the council meeting?  
28 A. I don't have knowledge of whether they do or don't.  
29 I probably get the feeling possibly not or they're not  
30 understanding it because there's a lot of questions  
31 sometimes.  
32  
33 Q. So you believe there wouldn't be as many questions  
34 potentially if they had read their business papers?  
35 A. I suppose so, yes. Well, I would assume they'd do  
36 what I do. Read it, any questions, then seek advice before  
37 the meeting so you're well aware of what's going on.  
38  
39 Q. Okay. That's all from me.  
40  
41 THE COMMISSIONER: Did you want to add anything to your  
42 submission to the inquiry?  
43 A. Look, I think I've probably pretty much covered it  
44 all, yes. No, I think - I had plenty written down, but  
45 I think we've covered most of it in what I've had to say,  
46 so thank you.  
47

1 Q. Thank you. Thank you for attending.

2

3 <THE WITNESS WITHDREW

4

5 THE COMMISSIONER: I'll now hear from Councillor Mannix.

6

7 <JEFF MANNIX, affirmed: [2.28pm]

8

9 THE COMMISSIONER: Thanks, councillor. How long have you  
10 been on the council?

11 A. This is my fourth term, so it would be about 15 or  
12 16 years.

13

14 Q. And have you ever taken the role of mayor or deputy  
15 mayor?

16 A. No.

17

18 Q. Now, you have provided a written submission to the  
19 inquiry. It's fairly brief. Can I just ask you a few  
20 questions about your responses?

21 A. Mm-hm.

22

23 Q. In relation to this second term of reference you  
24 simply state, "I feel we are meeting our obligations," and  
25 the obligation is to act as a responsible employer  
26 providing a safe, consultative and supportive working  
27 environment. Are you aware of threats that were made to  
28 General Manager Littlemore, acting General Manager Stewart,  
29 General Manager Drenovski and General Manager Kitzelmann to  
30 have them sacked?

31 A. No.

32

33 Q. You are not aware of that at all. Okay. Have you  
34 observed any treatment of council staff in meetings that  
35 you might have considered to be unsupportive of those  
36 staff?

37 A. That's in council meetings?

38

39 Q. Yes?

40 A. Yes.

41

42 Q. And what have you observed?

43 A. Just I've observed a councillor - well, what would you  
44 say - being disrespectful of their positions, and  
45 I wouldn't say that there have been threats, but it's  
46 not - I wouldn't say it's proper conduct.

47

1 Q. And who did you observe?  
2 A. Councillor O'Halloran.  
3  
4 Q. He's the only one?  
5 A. Yes.  
6  
7 Q. Did you ever speak to him about it?  
8 A. No.  
9  
10 Q. Did you hear anybody else commenting to him about it?  
11 A. No.  
12  
13 Q. Not the chair of the meeting?  
14 A. The chair - if it ever happens, the chair tries to  
15 pull him into line, get back to the meeting.  
16  
17 Q. Is it successful?  
18 A. Most occasions not, no.  
19  
20 Q. Would you agree with Councillor Roberts' assessment  
21 that he tends to dominate the meetings?  
22 A. I do.  
23  
24 Q. There's been a suggestion that you don't actively  
25 participate in the debate in the meetings. Would you agree  
26 with that?  
27 A. I do. Like, I read the agendas and if there's  
28 anything to be said about a particular item I'll say it.  
29 But most times the agendas are set and most times on the  
30 issues if they're not, you know - like, I think Councillor  
31 O'Halloran speaks on probably every line item even if he  
32 doesn't have to, but he does. I'm one that tries to follow  
33 committee meeting procedures and, you know, the quicker we  
34 get through them, the quicker we get home, but not unless  
35 I have to speak on them. Most of the recommendations  
36 I either vote for or against.  
37  
38 Q. But you don't debate with your fellow councillors?  
39 A. If I have to on certain issues, but most of them are  
40 just people either, you know, a councillor will either  
41 speak for or against and there's only a certain amount that  
42 are allowed to do that. But most of the times I've got my  
43 opinion and that's what I vote on.  
44  
45 Q. So in the last 12 months would you have participated  
46 in a debate within the council meeting?  
47 A. Not a full-on debate, no.

1  
2 Q. You know what I mean by a debate? So a motion is  
3 moved?  
4 A. Yes.  
5  
6 Q. A speaker for, or two speakers for, two against?  
7 A. Yes. There wouldn't have been too many. Probably the  
8 last time I would have spoke would have been about the  
9 rates that we've had recently that we had to go through.  
10  
11 Q. That was in a confidential meeting?  
12 A. It was.  
13  
14 Q. So nothing on the recorded meetings on the --  
15 A. Probably not, no.  
16  
17 Q. How do you understand your role as a councillor in  
18 relation to operational matters of the council?  
19 A. Operational matters we shouldn't have too much to do  
20 with. It's the general manager's area. I think the only  
21 time we should comment on that is if the general manager  
22 raises an issue.  
23  
24 Q. And what do you understand by operational issues?  
25 A. That's just the running of the shire, indoor and  
26 outdoor.  
27  
28 Q. Contracts?  
29 A. Contracts, yes.  
30  
31 Q. You've said in your statement to the Commission that  
32 the reports on the hostel showed that the hostel was losing  
33 500,000 a year, but you thought that that was wrong?  
34 A. Yes.  
35  
36 Q. There's been reports since Mr Drenovski's left that  
37 have confirmed that that was the case?  
38 A. Well, he was putting up budgets that would say that we  
39 were losing 4 or 500,000 a year. We felt that the hostel  
40 wouldn't be losing that amount. It probably did because  
41 I'm pretty sure that we weren't collecting the right fees.  
42  
43 Q. That's correct.  
44 A. Yes.  
45  
46 Q. There were a couple of issues. So you accept that  
47 there was a serious problem with the operation of the

1 hostel?  
2 A. There was.  
3  
4 Q. And that it appears to have been rectified?  
5 A. It has been. It's sort of justified the councillors  
6 that wanted to keep the hostel, it justified their  
7 decision. We were getting reports that the hostel wasn't  
8 feasible and it had got close that we were going to get rid  
9 of it.  
10  
11 Q. It was. It had cost the council a lot of money,  
12 hadn't it, over the years?  
13 A. Yes.  
14  
15 Q. And I heard from the council staff that it was  
16 something in the order of a million dollars that the  
17 council had put into the hostel to keep it afloat?  
18 A. Yes. That'd be right.  
19  
20 Q. You say that the current managers of the caravan park  
21 have lifted the profile of the park, and I don't think  
22 there is any debate; I haven't heard anybody say that they  
23 haven't been doing a wonderful job at the park. But you  
24 then go on to say that, "The council at no time passed a  
25 motion to cease the current manager's lease." Are you  
26 aware of the resolution of 28 June 2017?  
27 A. I do now, yes.  
28  
29 Q. You became aware after this letter, did you?  
30 A. Well, I went back to check, but my recollections are  
31 it goes back to late 2016. We had a workshop about various  
32 issues with council and one of the issues was the auditors  
33 had been through and they made sort of recommendations or  
34 whatever. One of the recommendations was the handling of  
35 cash or how we control the cash down at the caravan park.  
36 The discussion led to - the GM at that stage - led to,  
37 "Well, for us to get that issue off we might look at a  
38 long-term financial plan down there." So, in other words  
39 council offloads the caravan park to someone else that  
40 comes in and we don't have to worry about it then. So,  
41 I think it led from there that we would ask an expert to  
42 draw up a long-term financial plan and management plan of  
43 the caravan park and I believe at that stage that we said  
44 we'd look at it, but I'm sure that we said we weren't going  
45 to terminate the contract with the lessees down there at  
46 that stage.  
47

1 Q. It wasn't a termination; it was a decision of the  
2 council not to further extend the existing lease. Do you  
3 remember that?  
4 A. Yes.  
5  
6 Q. And then there were other resolutions afterwards?  
7 A. Yes. I don't think the councillors really knew what  
8 they were voting on there at that stage.  
9  
10 Q. You didn't know?  
11 A. The way I looked at it was that we'd look at these  
12 business plans and all that type of stuff and most  
13 councillors assumed that the current people would be  
14 maintained at the caravan park.  
15  
16 Q. And did you understand that the caravan park wasn't  
17 owned by the council?  
18 A. I knew we ran the caravan park, yes.  
19  
20 Q. That you were trustees because it was Crown land?  
21 A. Trustees, yes.  
22  
23 Q. And did you understand that because it was Crown land  
24 there were different requirements to if it had been council  
25 owned land?  
26 A. Not really. Not really. Like, a lot of that has come  
27 to the fore after all this has happened. Like, even the  
28 issue of tendering out the caravan park, it never happened  
29 before all this issue come up. It was based on an  
30 application process. So, I don't know if it's changed  
31 from, you know, in the meantime. But I know when they got  
32 up and said the caravan had to go to tender, that's the  
33 first time I've ever heard that we ever put it to tender.  
34  
35 Q. There are provisions in the Local Government Act that  
36 require contracts of a certain value to be put to tender?  
37 A. Yes.  
38  
39 Q. And it may be that in the past that didn't occur.  
40 A. Yes. If you're talking monetary wise, well, it  
41 probably should have gone to tender previously, but it  
42 never did.  
43  
44 Q. So, knowing that, you voted against a resolution to go  
45 to tender?  
46 A. Yes. I felt the decision we made in terminating  
47 the - not, you know, extending the lease was wrong. So we



1 put in - I put in a rescission motion to overturn that.

2

3 Q. Did you know about the legal advice to the council  
4 that said that you would have to proceed with a tender  
5 process?

6 A. I think we got advised that, but I just thought that  
7 if we could - we knew that we voted the wrong way and I did  
8 speak to the general manager at that stage. I said, "If we  
9 don't go with this 25 lease plan and management plan, we  
10 vote against that, where do we stand?" I said, "We've got  
11 no people running the caravan park." And he said, "Well,  
12 I probably shouldn't have written the letter to terminate  
13 the, you know, not to extend the lease."

14

15 Q. This was Mr Drenovski at that stage?

16 A. Yes.

17

18 Q. At the conclusion of your letter you say that, "The  
19 Office of Local Government must be more proactive on  
20 councillors flaunting the code of conduct rules"?

21 A. Yes.

22

23 Q. Which councillors are you talking about there?

24 A. The only one - well, the one that's probably had the  
25 most code of conducts is Councillor O'Halloran. I know at  
26 one stage the Office of Local Government referred it back  
27 to council to deal with the punishment of what he should  
28 receive. I said - to me at that stage it was a waste of  
29 time because it was a divided council and if Councillor  
30 O'Halloran - if he had councillors on his side, well, what  
31 punishment would they issue?

32

33 Q. Was that the complaint in 2013?

34 A. Yes, that would be that one.

35

36 Q. It actually didn't go to the Office of Local  
37 Government; it was dealt with under the council's  
38 provisions. So they appointed an external investigator who  
39 made that recommendation?

40 A. Yes.

41

42 Q. But you think that was an ineffective recommendation?

43 A. It was, yes.

44

45 Q. What about the steps that the Office of Local  
46 Government did take in requiring Councillor O'Halloran to  
47 be censured and to suspend him? Were they appropriate

1 steps?  
2 A. Yes, they were all right.  
3  
4 Q. Did it have any effect?  
5 A. I don't think so.  
6  
7 Q. Would you be concerned if the council was dismissed?  
8 A. I would be.  
9  
10 Q. Why?  
11 A. The Balranald public or, well, Balranald Shire, the  
12 people of the Balranald Shire wouldn't have any  
13 representation. I'm the same opinion as Councillor  
14 Roberts. Like, if you get an administrator in, well, it  
15 depends what type of person you've got in the job. You  
16 wouldn't know what would happen.  
17  
18 Q. Have you ever experienced a council that's been run by  
19 an administrator?  
20 A. No.  
21  
22 Q. What, you would be concerned that the public would  
23 lose its vote?  
24 A. Yes, that's my concern. If they walk in and - you  
25 know, like, depending on the finance of the shire, I reckon  
26 if they walk in they would cut services and, I don't know,  
27 may even lay off employees.  
28  
29 Q. It would depend on the administrator who was  
30 appointed?  
31 A. That's right. If you had a harsh one or --  
32  
33 Q. Or somebody who understood the area.  
34 A. Yes, that's right.  
35  
36 MS ANNIS-BROWN: I just wanted to ask you, Councillor  
37 Mannix, what's your understanding of disclosure of  
38 conflicts of interest at council meetings?  
39 A. I always - you know, like, you read your report and  
40 all that type of stuff, and the conflict of interest I've  
41 always raised it with either the GM or anything like that  
42 if there's any - if they feel there's a conflict they  
43 recommend, "If you think there is a conflict there, just  
44 note it and step aside."  
45  
46 Q. So you seek the advice of the general manager?  
47 A. Most of the times, yes, in council, yes.

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Q. What would you say if I said to you that the code requires you to make the decision; it's your obligation to determine if you have a conflict of interest or not?

A. You know, it gets hard, if there's going to be a vote somewhere or whatever and - I'd say, "Well, I think there may be, but what's the opinion?" I think I had asked the GM. He said - well, yes, he probably handballed it back to me and said, "If you don't feel comfortable, you just" - but most of the times I think I'm pretty right.

Q. So you understand the distinction between a pecuniary and a non-pecuniary conflict of interest?

A. Yes, I've got a bit of an idea about it.

Q. A bit of an idea?

A. Yes.

Q. All right. Thank you.

A. It's all vague but, yes.

THE COMMISSIONER: I will just follow on from that. Do you understand that it's about the public perception?

A. Yes.

Q. What it looks like when you are making a decision that affects something that you are involved in?

A. Yes.

Q. So it might be that you in your mind can keep the things entirely separate, but it's what people outside the organisation see?

A. Yes. They mightn't perceive anything with me. I'm not in business and anything like that. I think councillors that have businesses and all that type of stuff, they might have a lot more concerns than what I would.

Q. They would be of a pecuniary nature, presumably. But, for example, you are the secretary of the football club.

A. Mm-hm.

Q. Would you think that that's a significant non-pecuniary interest?

A. It would be if there's a decision with the football club, yes.

1 Q. So, for example, the vote - the rate meeting.  
2 A. Yes.  
3  
4 Q. You didn't vote, but you were present during the vote.  
5 A. Yes.  
6  
7 Q. And do you understand that the code of conduct  
8 requires you to absent yourself from the room during a vote  
9 in which you have a substantial non-pecuniary interest?  
10 A. I don't know about that. No, I think I would ask the  
11 GM if I needed to leave the --  
12  
13 Q. Do you understand that it's your responsibility,  
14 though, not the GM's?  
15 A. No. Yes. It will get to the stage where a lot of us  
16 might be sitting out there a lot more than sitting in here,  
17 you know what I mean, especially in a small community.  
18  
19 Q. But it's still a question always of whether it's a  
20 substantial non-pecuniary interest, and there was no-one  
21 else in that meeting who had a substantial non-pecuniary  
22 interest in the football club. There might have been  
23 members, but you were the secretary.  
24 A. Yes. Still a grey area.  
25  
26 Q. I don't have anything further. Do you?  
27  
28 MS ANNIS-BROWN: I don't.  
29  
30 THE COMMISSIONER: Did you want to say anything further to  
31 the inquiry, Councillor Mannix?  
32 A. No, not really. It's just I've put my submission in  
33 and all that type of stuff. I just hope, hopefully, that  
34 all the councillors give you people the knowledge that you  
35 need to make a decision and all that type of stuff, and  
36 I just hope that - I know the councillors are picking up -  
37 as far as I know the councillors are picking up pretty well  
38 this term. My last four years, that was the worst four  
39 years of my shire career. I just hope, hopefully,  
40 everything goes our way.  
41  
42 Q. I have received a lot of assistance both from the  
43 councillors and the staff.  
44 A. Yes.  
45  
46 Q. Thank you.  
47 A. Okay.

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**<THE WITNESS WITHDREW**

THE COMMISSIONER: So Councillor Mannix is our last witness for this afternoon. We will adjourn until 10 tomorrow.

**AT 2.48PM THE INQUIRY WAS ADJOURNED TO  
FRIDAY, 2 AUGUST 2019 AT 10.00AM**

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