

WINGECARRIBEE SHIRE COUNCIL PUBLIC INQUIRY

**At Wingecarribee Shire Council Chambers, Civic Centre,
Elizabeth Street, Moss Vale, NSW 2577**

Before: Mr Ross Glover (Commissioner)

**Mr David Parish (Counsel Assisting)
Mr Angus Broad (Officer Assisting)
Ms Bron Hewson (Officer Assisting)**

On Friday, 1 April 2022 at 10am

(Day 5)

1 THE COMMISSIONER: Mr Parish, are you ready to proceed?

2
3 MR PARISH: Yes, Commissioner.

4
5 THE COMMISSIONER: Yes, who's your next witness?

6
7 MR PARISH: The next witness is Sandra Jones.

8
9 <SANDRA JONES, sworn: [10.01am]

10
11 THE COMMISSIONER: Thank you, Ms Jones. Mr Parish.

12
13 <EXAMINATION BY MR PARISH:

14
15 MR PARISH: Q. Thank you, Ms Jones. Can I start by
16 asking you for a bit of personal background, your vocation,
17 how long you've lived in the shire?

18 A. Sure. I moved to the shire in November 2013. Prior
19 to that I had been a manager with head office with the New
20 South Wales Department of Education and Training.
21 Primarily my time there had been as a manager, I managed a
22 small team in the communications section. I'd also had
23 some other secondments across the department.

24
25 During my time I was also a director of the Public
26 Relations Institute of Australia, I was also on a number of
27 other community-based committees such as the Equine
28 Advisory Committee with Centennial Park and Moore Park
29 Trust. I was also a precinct chair with Leichhardt Council
30 and what that meant was, I chaired a residents' committee.
31 We met monthly, we heard residents' concerns or I invited
32 particular officers from council to talk to residents about
33 a particular issue. If there were concerns from the
34 meeting they were passed via a resolution through to
35 council, and also in that capacity I had dealings with our
36 ward councillors and council senior staff.

37
38 So, since moving to the shire I have been a long-term
39 volunteer with the Wingecarribee Animal Shelter. I was
40 president of the local Animal Shelter Committee - I was a
41 member, rather, from 2015/2016 and then assumed the role of
42 vice-president for 12 months. I've also been on a number
43 of other committees here, most recently the local Film
44 Society.

45
46 Q. Thank you. You're also a member of the incorporated
47 association, Friends of Wingecarribee Animal Shelter, is

1 that correct?

2 A. I was, I was a member of that particular association.

3

4 Q. Did you hold any executive roles in that?

5 A. Yes, as mentioned I was on the committee, I think
6 initial role was assistant treasurer, and then I served as
7 vice-president for 12 months.

8

9 Q. Thank you. I'm going to ask you about some specific
10 incidences in a second, but I also understand you attended
11 ordinary meetings of council from time to time; is that
12 correct?

13 A. I did.

14

15 Q. Being that you moved here in 2013, was that in respect
16 of both the previous 2012-2016 term as well as the
17 2016-2020 term?

18 A. Correct. I remember that after moving down, because
19 I'd had such a big involvement with the former Leichhardt
20 Council, I did attend a meeting of council just to see what
21 it was like, so that would have been either late 2013 or
22 early 2014.

23

24 Q. And what was your impression in that meeting?

25 A. What I recall of that first meeting I attended was the
26 amount of bullying that I saw between councillors.

27

28 Q. Between councillors?

29 A. Correct.

30

31 Q. Do you recall any impressions about the interaction
32 between councillors and members of the public who attended
33 those meetings?

34 A. There was one council meeting I attended later on,
35 Garry Turland may have been in the chair, and I believe -
36 that would have to be checked - that he may have been
37 deputy mayor at that time. There was a group of residents
38 there obviously to hear council debate on a particular
39 item. They were a little concerned obviously because, you
40 know, there was some mutterings going on, and I do remember
41 that Mr Turland threatened to eject them from the chamber.

42

43 Q. Do you have any specific recollections of your
44 impressions of meetings that you may have attended in the
45 2016-2020 term?

46 A. Yes. Again, during that period for those meetings I
47 attended what I witnessed was, again, some bullying amongst

1 councillors. I recall that one councillor in particular
2 threatened to sue another councillor, and I recall from
3 that period too that some councillors made personal slurs
4 against other councillors.

5
6 Q. Thank you. As I understand it, you had an experience
7 of having a formal complaint made against you in March
8 2018; is that correct?

9 A. Correct.

10
11 Q. Can you please tell the Commissioner a little bit
12 about that?

13 A. The background was that - and I was no longer a member
14 of the organisation Friends of Wingecarribee Animal Shelter
15 and just continued to serve as a normal volunteer at the
16 shelter. So, basically we come along every morning
17 whatever the weather and we take the dogs out for a walk.

18
19 I had been invited as a volunteer to come along and
20 participate in a short interview at a local community-based
21 radio station about volunteering at the shelter, how it
22 worked, what we did, how to get involved and so on. About
23 a week or two after that I was alerted to the fact that
24 there had been a complaint made about me based on that
25 interview. The complaint was made by Friends of
26 Wingecarribee Animal Shelter claiming initially that I had
27 spread misinformation about council and that organisation.

28
29 Q. Who was that complaint made to?

30 A. It was made - well, I - there were two things: I
31 received what I would call a heads-up from one of the
32 presenters of that particular program. She showed me an
33 email that she had received from, I assume the station
34 manager, I can't exactly remember who that person was, but
35 it had come from the then secretary of the Animal Shelter
36 Committee.

37
38 Q. Do I understand that the nature of the complaint was
39 an alleged breach of the memorandum of understanding
40 between the council and FOWAS?

41 A. That came later. It was in a letter that was emailed
42 to me by an officer from council; that letter arrived on
43 Anzac Day of 2018, so it was a public holiday, and the
44 number of allegations were couched in terms of, I had
45 breached the memorandum of understanding.

46
47 Q. Were you a party to that memorandum of understanding?

1 A. No.
2
3 Q. Were you a member of FOWAS at the time?
4 A. No.
5
6 Q. Can you tell me what happened next in respect of that
7 complaint?
8 A. Well, given it was a public holiday, I recall I was
9 about to leave the country to catch a flight to Rome and I
10 had just happened to log on to my emails and saw it. I had
11 been given 21 days to respond, but I had - during that time
12 within 21 days I'd be on my way back into the country. I
13 remember emailing Mr Wilton, because the letter was signed
14 off by him, seeking an extension of time. There was no
15 response.
16
17 Q. What impression were you left with about the
18 communication and administration of the council's roles at
19 least in respect of the animal shelter at this time?
20 A. Council's role in terms of management issues?
21
22 Q. Well, insofar as it was interacting with you at that
23 time, what was your impression?
24 A. On a day-to-day basis the shelter and its management
25 and my interaction with management and with the shelter
26 was, I thought, above board and there was certainly no
27 problems in my dealings with staff and certainly no
28 problems in walking animals and dealing with other
29 volunteers.
30
31 Q. Do you know what happened to that complaint? Were you
32 ever apprised of any further information about the
33 procedure?
34 A. Well, I mean, there was a complaint and so I thought I
35 was obliged to respond. So, I recall that whilst I was in
36 Rome I prepared my response and responding to each point of
37 the allegations made against me. Mr Wilton's letter stated
38 that I should send my response to the general manager of
39 Wingecarribee Shire Council which I did. I heard nothing
40 from that, to answer your question, until September.
41
42 Q. And what happened in September?
43 A. One evening I received an email, I just happened to be
44 online, an email from Mr Wilton - if I can just turn to
45 that in my notes - dated 13 September, it arrived at
46 7.20pm. The letter from Mr Wilton said that there had been
47 an investigation into the matter and no further action

1 would be taken, but I however was reminded of my
2 obligations to the memorandum of understanding regarding
3 interactions between FOWAS, Animal Shelter Committee
4 members and council staff, and also reminded again in terms
5 of the memorandum of understanding that friends of the
6 Wingecarribee Shelter shall promote the council in a
7 proactive manner.
8

9 Q. Thank you. Can I now turn to a council briefing that
10 occurred on 24 July 2019. You were at that briefing; is
11 that correct?

12 A. Correct.
13

14 Q. In what capacity were you at that briefing?

15 A. I attended that briefing as a volunteer at the animal
16 shelter; other volunteers also attended that meeting.
17

18 Q. Just to be clear, you were not a member of FOWAS at
19 that time, you had no engagement with them at that time?

20 A. No, no ties with that organisation.
21

22 Q. Could you tell the Commissioner what the purpose of
23 that meeting was?

24 A. Volunteers at the shelter were told that the
25 councillor briefing would be an opportunity for volunteers
26 to ask questions about the animal shelter of councillors.
27

28 Q. Were you aware of the reason that the president of
29 FOWAS and FOWAS members were there?

30 A. I don't recall being aware that she had been invited
31 to the councillor briefing.
32

33 Q. Can you tell me what happened when you first got to
34 the meeting?

35 A. I recall there may have been 12 approximately other
36 people, other volunteers from the shelter who gave up their
37 time that morning to attend. We arrived downstairs in the
38 council building because we weren't sure where the meeting
39 was going to be held. I recall seeing Mr Wilton
40 accompanied by the president of Friends of Wingecarribee
41 Animal Shelter and the team leader shelter operations, they
42 walked past us. We then, I think, followed them to a
43 meeting room which at that stage was located on the other
44 side of the council building.
45

46 Q. Were you asked to speak or given an idea at that point
47 what your role at that meeting might be?

1 A. Mr Wilton downstairs had approached me and asked if I
2 was the contact person for volunteers. Now, I had no idea
3 what he meant because, again, we had been led to believe
4 that this was an opportunity for volunteers to ask
5 questions of councillors, it was a simple Q&A. So, I may
6 have said, "Well, yes", not knowing really what he meant.
7

8 Q. Were you expecting to talk at all?

9 A. No.
10

11 Q. This sounds like a slightly odd question, but can you
12 explain the geography or the set out of the physical room
13 at that time and how it was set up?

14 A. All right. So, the meeting room, if I can use this
15 space I suppose as an example. So, we walked into the
16 space, there were a number of chairs at the back of the
17 room. Councillors were seated in, say, a square U-shaped
18 but facing that way (indicating). On the side I believe
19 there was Mr Wilton, team leader shelter operations, her
20 line manager, president of the Friends of the Wingecarribee
21 Animal Shelter, general manager was there, Duncan Gair was
22 there as mayor and a number of other councillors, so we
23 were in fact facing the councillors' backs.
24

25 Q. Can I ask what your impression was when you were
26 seated facing the councillors' backs?

27 A. I wasn't terribly impressed, it wasn't a terribly
28 inclusive set-up, and I know that some other volunteers
29 were upset with that because we were looking at people's
30 backs when we thought we could attend on an equal footing
31 to ask questions of councillors.
32

33 Q. Can I ask if you had any impression about the position
34 of the president of FOWAS seated at the same table?

35 A. Well, given that we were clearly meant to sit at the
36 back of the room it was, I suppose, unusual that she was
37 seated alongside council staff.
38

39 Q. As I understand it, there was a discussion from the
40 president of FOWAS about the preferred location of a new
41 animal shelter; is that correct?

42 A. Correct. What I recall was that she gave a
43 presentation, I do recall she had speech notes, and then
44 she was asked by Councillor Peter Nelson for her preferred
45 location for a new animal shelter.
46

47 Q. What was your view of her being asked that?

1 A. Well, I thought it was unusual; I mean, the animal
2 shelter, firstly, is a council-run facility, it's council
3 managed. The Friends of Wingecarribee Animal Shelter raise
4 funds to provide additional care for animals at the
5 shelter, whether that be bedding, whether that be
6 specialist food. I know that the Animal Shelter Committee
7 through its fundraising efforts does contribute towards
8 veterinary costs for animals, but I wasn't aware that this
9 briefing - and I wasn't aware of the briefing agenda that
10 councillors had received, but I wasn't aware that there was
11 an agenda item to talk about a new shelter or are a new
12 shelter build, so I thought that the question that former
13 Councillor Nelson asked the president of Friends of
14 Wingecarribee Animal Shelter was unusual.

15
16 Q. Can I take it from that evidence that it was your
17 impression that the reason you thought you were at the
18 meeting was different from the way the meeting was
19 proceeding?

20 A. Correct.

21
22 Q. Did you then speak at the meeting?

23 A. I did. Well, watching the presentation from the
24 president of Friends of Wingecarribee Animal Shelter I
25 realised that in fact this was not a question and answer
26 session at all, but a presentation was required from
27 volunteers, so I recall scribbling a few notes and I was
28 asked to speak.

29
30 Q. Did you have any interactions with councillors after
31 speaking or during your speech?

32 A. I did. I recall former Councillor Nelson, not so much
33 asking about what volunteers did but he suggested or told
34 me what I should be doing and that was raising funds to
35 build a new animal shelter.

36
37 Q. And, what impression were you left with when --

38 A. Well, I thought it was unusual to say the least.
39 Again, I wasn't sure what the agenda was for this
40 particular agenda item in the councillor briefing and
41 whether a new council - sorry, a new animal shelter was on
42 the agenda and, you know, things to do with that such as
43 location and cost, but I thought the question was very
44 unusual. I mean, I'm a volunteer, I'm not in a position to
45 go out into the community and raise funds; there are
46 certain legal obligations anyone in any organisation has to
47 undertake in order to do that and I would have thought that

1 was common knowledge.

2

3 Q. Can I ask if you were left with any impressions about
4 the way that Mayor Gair chaired this meeting?

5 A. Having chaired meetings myself, having seen this
6 former council operate and being heavily involved with
7 former Leichhardt Council knowing how it operated, I was
8 surprised by former Councillor Nelson's persistence in
9 questions to me, because it seemed particularly off topic,
10 possibly off the agenda, and I was wondering why the mayor
11 as chair of the meeting didn't remind former Councillor
12 Nelson what the agenda was all about and bring him back to
13 that particular agenda, so his questioning was allowed.

14

15 Q. Is it fair to say that you found the questioning from
16 Councillor Nelson adversarial rather than collaborative?

17 A. Correct.

18

19 Q. Were any other volunteers asked to speak at the
20 meeting?

21 A. No.

22

23 Q. Were the volunteers acknowledged by the councillors or
24 council staff?

25 A. No.

26

27 Q. Was there any opportunity for them to ask questions
28 about the shelter?

29 A. No.

30

31 Q. What impression were you left overall with at the end
32 of that meeting about the treatment by councillors of the
33 volunteers and the way they interacted with you and others?

34 A. I believed that it had been a deliberate, and I've
35 used the words "set up" or "ambush".

36

37 Q. What about the particular behaviour of the
38 councillors, did you think that was appropriate or
39 effective?

40 A. I thought former Councillor Nelson was particularly
41 antagonistic, and I didn't know the reason why. No other
42 councillors asked any questions or said anything during
43 that particular presentation.

44

45 Q. Can I just tie it back to your experience in the old
46 Leichhardt Council. Was this, in your experience, part of
47 the usual cut and thrust of local government, or was

1 this --

2 A. Are we comparing the two councils?

3

4 Q. Yes, as somebody who's had experience in another
5 council?

6 A. No. No, I found - and certainly, after some of the
7 councillors moved on following the election, I found
8 Leichhardt Council, the council meetings were well run,
9 they were very tightly run; the focus was on responding to
10 agenda items when members of the public had attended. So,
11 standing orders had been suspended to allow for basically a
12 re-arrangement of the agenda to allow for those matters
13 when members of the public were present to speak, we can
14 indicate that from the floor, so it was very much focused
15 on dealing with the public and looking and examining public
16 needs and listening to what the public had to say.
17 Equally, my experiences in dealing with the executive team
18 of the former Leichhardt Council were professional, they
19 were amiable, they were helpful.

20

21 Q. Can I ask you to compare this now to at least your
22 experience in the July 2019 briefing?

23 A. I found, based on the experience with the former
24 Leichhardt Council, I found that the former councillors,
25 many were uninformed of their obligations as a councillor
26 and the responsibilities to the public and the community
27 who had elected them. I found for some councillors their
28 attitude towards the community to be unprofessional, at the
29 least. There was certainly an adversarial feeling between
30 the councillors - some councillors - and members of the
31 public. There were instances of bullying amongst the
32 councillors themselves; that behaviour, I found and saw,
33 was not pulled up by the chair, Code of Conduct was never
34 mentioned, and then I saw instances where individual
35 members of the public who had come to speak to a particular
36 agenda item I felt were treated rather badly.

37

38 Q. Was the chair generally speaking, Mayor Gair, over
39 that time?

40 A. The instances I refer to were generally when he was
41 mayor.

42

43 Q. Could I just bring it back to that July 2019 briefing.
44 Did you talk to other members or volunteers after that
45 meeting?

46 A. I did.

47

1 Q. Do you recall what impression, if any, they reported
2 to you that they had?

3 A. My impression, and they - well, they were upset and
4 they were angry. They were upset that they had arrived at
5 council chambers thinking they could ask questions about
6 the shelter of councillors, to find out it was a very
7 different situation altogether. They were upset that they
8 were placed at the rear of the room facing councillors'
9 backs, and one of them I recall said that they had been set
10 up.

11
12 MR PARISH: Thank you. I have no more specific questions,
13 Commissioner.

14
15 THE COMMISSIONER: Thank you, you covered in your last
16 little passage the areas that I wanted to go to, so you
17 proceed.

18
19 MR PARISH: Q. Thank you. Is there anything else you
20 want to generally address the Commission on in respect of
21 the terms of reference?

22 A. Well, I think, my overall feeling is that for the
23 previous council and certainly some of the councillors is
24 that their behaviour, and certainly towards me, my
25 co-volunteers at the animal shelter when we refer to that
26 briefing session, were certainly unprofessional, certainly
27 contemptuous. We're ratepayers, we're residents, and just
28 because we're volunteers doesn't mean we don't deserve
29 respect. And the feeling I had was that volunteers, and
30 certainly at the animal shelter are not respected or were
31 not respected certainly by the former council; that we were
32 considered a nuisance. All of that was unnecessary.

33
34 THE COMMISSIONER: Q. In answer to some of Mr Parish's
35 earlier questions you described an adversarial type of
36 interaction between councillors and members of the public
37 at meetings. Do I take it from that - I withdraw that.
38 Clearly enough there will always be some level of
39 disagreement in the operation of council --

40 A. Certainly.

41
42 Q. -- that will always be. But do you think, where there
43 was disagreement between some or all of the councillors and
44 members of the public on a particular issue, whatever it
45 was, that that disagreement was expressed and managed in a
46 respectful way?

47 A. No.

1
2 Q. Do you think that when there were those occasions when
3 the councillors, the governing body, disagreed with the
4 public on a particular issue, that they displayed
5 appropriate levels of civil civic leadership in dealing
6 with those areas of departure?

7 A. No.

8
9 THE COMMISSIONER: Thank you. Mr Parish?

10
11 MR PARISH: Nothing arising, Commissioner.

12
13 THE COMMISSIONER: Other applications?

14
15 CR SCANDRETT: No, Commissioner.

16
17 THE COMMISSIONER: Thank you. Thank you for coming along.

18
19 THE WITNESS: Thank you for the opportunity.

20
21 THE COMMISSIONER: Mr Parish, is there any reason why I
22 shouldn't excuse the witness from her summons?

23
24 MR PARISH: No, Commissioner.

25
26 THE COMMISSIONER: You're excused from further attendance,
27 thank you for your time this morning, you're free to go.

28
29 THE WITNESS: Thank you so much.

30
31 **<THE WITNESS WITHDREW**

32
33 THE COMMISSIONER: Next witness, Mr Parish?

34
35 MR PARISH: The next witness is Mr Derek White.

36
37 THE COMMISSIONER: Thank you.

38
39 **<DEREK WHITE, affirmed:** [10.29am]

40
41 THE COMMISSIONER: Thank you, Mr White. Mr Parish.

42
43 **<EXAMINATION BY MR PARISH:**

44
45 MR PARISH: Q. Mr White, can I start by getting a bit of
46 personal background from you, your personal background and
47 your vocation?

1 A. Okay. My name's Derek White as you know. I was born
2 in the back blocks of Queensland in a sheep station, so
3 that was a little bit different from where I am now. I did
4 a mining engineering degree at the University of
5 Queensland, worked in mining operations around the world.
6 I've done some marketing and arrived in the Southern
7 Highlands, oh, I'd say six years ago from Sydney, because
8 most of my working life was actually spent in Sydney either
9 as a consultant or a contract executive or even a project
10 manager as well, so a varied experience, but this is a new
11 one for me. After my 75 years on this earth I have never
12 been subpoenaed, so this is quite a different one.

13
14 THE COMMISSIONER: Q. Well, everyone should have that
15 pleasure once. Don't feel nervous, don't feel troubled?

16 A. Thank you. It's a bit difficult but I'll try.

17
18 Q. There's no criticism of you, you have some insights
19 that Mr Parish wants to explore which he thinks will help
20 me, so that's ultimately why you're here. And summonses
21 were issued to any witness Mr Parish may wish to call as a
22 matter of formality, so there's nothing to worry about
23 those processes.

24 A. In my understanding, Commissioner, it's more of a
25 conversation than an inquisition.

26
27 THE COMMISSIONER: Quite. Well, I certainly hope so in
28 your case.

29
30 MR PARISH: Q. You can tick it off your bucket list,
31 Mr White. Now, you're the secretary of WinZero
32 Incorporated; is that correct?

33 A. That's correct.

34
35 Q. Can you tell the Commissioner a little bit about that
36 group?

37 A. Certainly. In fact, I was hoping we'd get an
38 opportunity because it does put it in context. You may
39 remember that the Wingecarribee Shire Council somewhat
40 reluctantly declared a climate emergency in February 2020.
41 WinZero was formed soon thereafter to try and generate one
42 voice from the environmental groups in the shire, of which
43 we have 12 affiliates, in working with the council to
44 actually make something happen on the climate front. We
45 had three main purposes: one was to prevent the worst of
46 climate change effects, primarily by minimising and
47 reducing greenhouse gas emissions in the shire as quickly

1 as possible with the aim of getting it to net zero well
2 before 2050.

3
4 We wanted to preserve the few remaining precious
5 environmental assets we have left in the shire because
6 they're disappearing fast, not only in this shire but
7 around Australia and around the world, and we wanted to
8 protect the residents of the shire from the worst effects
9 of climate change which we saw was inevitably going to
10 happen even if we do our best to minimise the carbon
11 emissions that are around the place.

12
13 So, in doing that I was the first or the founding
14 chair of that organisation which was around March-April of
15 2020. We have now been in existence just over two years
16 and, as the counsel said, I am now the secretary for my
17 sins and I'm the one who made the presentation or the
18 submission to this inquiry but I'm not the person with the
19 intimate detail of the submission and I'm very pleased that
20 you've allowed my colleague, Clive West, to attend later on
21 today as he's on the environmental sustainability committee
22 and he has been intimately involved in these matters for
23 some years.

24
25 If I could go on a little bit longer, it is now over
26 two years since that climate emergency declaration. In
27 that time we have been involved in a process with the
28 council and a consultant to develop what was called a
29 climate change strategy. At this stage we have not seen
30 that strategy, let alone an action plan because, as you
31 know, once you do a strategy it's going to take probably
32 a year and a budget to produce a plan. So, we are
33 absolutely amazed that, someone declares an emergency and
34 here it is two years later but we haven't seen one iota of
35 evidence that things are happening on that front, in a
36 serious way, put it that way; obviously there are things
37 happening but very slowly.

38
39 Q. May I just say at this stage from what you've said
40 about your role with WinZero, if at any time I ask you a
41 question where you understand your group's positions may
42 differ from yours personally, by all means feel free to
43 distinguish between the two positions.

44 A. Understood.

45
46 Q. Can I just ask you, you've referred to 12 affiliates,
47 I take it that doesn't mean members, does that mean there

1 are subgroups coming off?
2 A. There are two separate groups, if you like. There are
3 100 members in our organisation, or roughly 100, and there
4 are 12 affiliated organisations like Landcare, Low Carbon
5 Living, Southern Highlands, Wombatised and 350.org, I won't
6 bore you with them all, but yes, but they have similar
7 like-minded environmentally focused interests, and we try
8 as best we can to reflect the views of those affiliates in
9 our dealings with council.

10
11 Q. I understand you had an experience in 2016 with a
12 community petition. That predated WinZero. Were you part
13 of any particular group which organised that petition or
14 was that something which came out of your role as a private
15 citizen?

16 A. I was not, we only arrived here in late 2015 and I was
17 still finding my feet in the local community at that stage.

18
19 Q. Can you at least start by giving me a bit of
20 background about that community petition in 2016 of 500 or
21 so people, what it sought to address?

22 A. No, I'm sorry, I am not aware of the detail of that
23 submission and I suggest maybe you can save that question
24 for Mr West, who was certainly here at that stage.

25
26 Q. Okay, thank you. Can I ask you then about The Green
27 Web and the Koala Project; are you able to talk to that?

28 A. I can certainly talk to part of it at least, seeing my
29 wife has been fairly intimately involved in some of those
30 issues recently.

31
32 Q. Okay. Can you tell me what your concerns and a bit of
33 background of that project is?

34 A. Well, The Green Web, as I understand it, is primarily
35 a mapping project to give detailed layer maps of the
36 wildlife observations in the shire, the wildlife corridors,
37 wildlife habitats, which in our view were an essential part
38 of any development decision-making process and they should
39 be made publicly available in some shape or form so that
40 the general public can actually see what the council has
41 mapped over all those years.

42
43 We do understand that there's been a sum of around
44 \$450,000 already contributed to make koala investigations
45 and recordings, and as of yet we have not seen any output
46 from that and we're finding it very difficult to access it,
47 and it would have been very critical in a couple of the

1 advocacy things that we have done recently in regard to
2 development applications that impact negatively on our
3 environment.

4
5 Q. Have you had correspondence or communications with the
6 council seeking such matters?

7 A. I need to clarify here as to what period you're
8 talking about, because I think you're only looking at the
9 2015-2020 sort of period?

10
11 Q. Well, we're looking at the 2016-2020 council, but we
12 are always interested in your impressions as an engaged
13 community member.

14 A. We have been engaging with council almost
15 continuously - the staff primarily rather than the
16 councillors. We have had access, but I have to say up
17 until the appointment of the interim administrator we
18 haven't really seen a whole lot of engagement by the senior
19 staff at council on matters of environment. It's our view,
20 and if I could carry on a little bit here?

21
22 Q. Yes.

23 A. It's our view that the environment is very much given
24 a back seat in council - has been given a back seat in
25 council deliberations. In our view it should be as equally
26 important as matters of infrastructure, of maintenance, of
27 servicing, all the - and it hasn't been the case in our
28 experience as long as WinZero has existed. We also see
29 that in the budgetary area where there is an environmental
30 levy but that environmental levy has been allowed to
31 diminish as a proportion of the rate takings. It started
32 off in 2000, I think at around 4.5 per cent of rate
33 takings; it's now down to nearly 2.5 per cent, and that is
34 the function of an application made to IPART some years ago
35 that allowed the levy to be increased at the rate peg but
36 took no account of increasing land valuations and or
37 increasing numbers of ratepayers in the shire, so to my
38 behind that indicates that the environmental wasn't seen as
39 important by the council or the senior staff of council.

40
41 Q. How did you, at WinZero, engage with councillors to
42 make your views and positions known.

43 A. That was difficult, I've had one-on-one conversations
44 with a couple of councillors, but nothing - one area that I
45 certainly had engagement with one councillor was around the
46 increasing of electric vehicle charging capacity in the
47 shire, but that came to nothing, and it wasn't long before

1 the suspension occurred, so I don't think it's entirely
2 that gentleman's fault.

3
4 Q. Who was that councillor?

5 A. That was Garry Turland, and the other councillor we've
6 engaged with a lot is Larry Whipper, who was obviously the
7 chair of the Environment and Sustainability Committee, and
8 it was with Larry's help that we were successful in getting
9 the formation of a climate change advisory panel which was
10 to report to the Environment and Sustainability Committee.
11 And our understanding was that that panel would have input
12 to and maybe even some influence over decisions of council
13 that impacted on the environment, which would obviously
14 relate to development applications and also any other
15 decisions of council.

16
17 Since that was formed, which was September 2020 from
18 memory that that was formed, it's only met a few times and
19 to my knowledge has never had any impact on any decision of
20 council, and I think that again reflects the lack of focus
21 on the environment by the council senior staff.

22
23 Q. Those interactions with councillors Turland and
24 Whipper, did you feel they were useful interactions - not
25 necessarily in the sense of what came out of them, but did
26 you feel like they listened quite easily --

27 A. Can I use the word "positive"? They were positive
28 interactions but unfortunately the outcomes were - other
29 than the Climate Change Advisory Panel, which I don't think
30 has really had a great deal of - well, benefit to the
31 environment - no outcomes of significance.

32
33 Q. Did you ever attend council meetings?

34 A. I viewed some of them on the web, yes. I didn't
35 actually physically attend. I have attended what they
36 have, these information sessions which the councillors
37 attended, but it was prior to WinZero being formed, it was
38 in relation to an upgrade of an all abilities playground at
39 Berrima, and that was very positive, I have to say; the
40 council was extremely supportive, and in fact we jointly
41 applied for grants and ended up getting funding from the
42 council to make it all happen, so I have to say that was a
43 positive engagement but it was completely unrelated to the
44 environment that I'm talking about.

45
46 Q. What year was that, do you recall?

47 A. Would have been 18/19. I know Councillor Gair was the

1 mayor at the time, pre-COVID.

2

3 Q. In respect of the council meetings you viewed online,
4 did they leave you with any particular impression, positive
5 or negative?

6 A. I'd say particularly towards the end of the period of
7 the council appointment I thought they were very negative,
8 I thought there was an atmosphere of adversarial attitude
9 between councillors and it would appear to have been
10 cliques and hidden agendas that I think affected the
11 functioning of the council quite significantly.

12

13 Q. Are there any particular examples which left you with
14 that impression or was it a general impression?

15 A. No, I think it was an overall - you watched the
16 meetings and they would descend into arguments and
17 accusations, and I just thought it was a very unproductive
18 way to go about managing \$170m assets and budgets.

19

20 Q. As someone who has an engagement with the council on a
21 particular issue and seeks change on a particular issue did
22 your experience in viewing these meetings leave you with
23 the impression that they were well equipped to deal with
24 the sorts of issues that you wished them to deal with?

25 A. I have a corporate background, I've worked for
26 multi-million dollar mining companies: I think the whole
27 structure of council is fraught because we are expecting
28 people to basically manage a very big enterprise, with a
29 whole lot of activities and 500 staff, and they're not paid
30 like people that are senior managers or board members of an
31 organisation. So, I just think that it's - it's maybe not
32 an individual councillor's problem, I think it's a function
33 of the whole structure of the local government
34 organisations; but that's a personal view only, that's not
35 a WinZero view necessarily.

36

37 Q. Yes, of course. Can I just bring that back to
38 behaviour of councillors in meetings. Was there anything
39 in the behaviour of the meetings which left you with a
40 positive or negative impression about the possibility to
41 deal with the sorts of issues that you view need to be
42 dealt with?

43 A. It was difficult because a lot of the - I think the
44 more contentious matters were dealt with in closed
45 sessions, so it made it very difficult for the general
46 public to really work out what was going on half the time;
47 we just saw the surface and there was a lot of paddling

1 going on under water that we don't see. So, I can't think
2 of any specific examples, quite honestly, it was just an
3 impression.

4
5 MR PARISH: I don't have any further specific questions,
6 Commissioner, unless you did?

7
8 THE COMMISSIONER: Q. In answer to one of Mr Parish's
9 earlier questions you described what you observed to be an
10 adversarial relationship between the councillors. Did you
11 observe at any of those council meetings or briefing
12 community meetings, whether or not WinZero related or just
13 in your general experience, did you observe how the council
14 interacted with members of the public who came to speak at
15 those meetings?

16 A. It was I think more as a member of the public than a
17 member of WinZero that I formed those impressions.

18
19 Q. Yes, I understand.

20 A. None of those subjects really directly impacted on our
21 affairs or our purposes, they were more around, and mostly
22 about development applications and other issues.

23
24 Q. Yes. I appreciate that it wasn't necessarily a matter
25 relating to your organisation's work, but did you observe
26 on those other issues how the councillors interacted with
27 members of the public who were at those meetings?

28 A. Not so much in those meetings, but I am a member of
29 the key stakeholders group and I think one of your previous
30 witnesses has talked about some of the activities --

31
32 Q. I'm interested in your experience on that group?

33 A. And again, the environment wasn't necessarily high on
34 the agenda of a business or economic development group, but
35 I have attended - I did attend the breakfast or the lunch,
36 whatever it was --

37
38 Q. In December?

39 A. -- in December about the destination plan and --

40
41 Q. What was your view of that event?

42 A. I think it was an unfortunate one where it ended up in
43 a bit of a dog fight between the mayor and one of the
44 attendees at that luncheon. I hesitate to criticise the
45 council staff because I wasn't intimately involved in the
46 process, and I didn't get involved in the detail of how
47 that plan was put together, but there was an indication at

1 that luncheon that there would be groups set up to look at
2 various pillars of the economic - of the development plan -
3 sorry, destination plan, and I made a very strong case that
4 the environmental organisation should get a voice on those
5 and as of now nothing's come out of that, so - probably
6 because the whole plan basically was canned at that stage
7 because of the --

8
9 Q. Yes, when you say nothing came of it, do I understand
10 that you mean nothing came of these groups that were to be
11 set up?

12 A. Not that I'm aware of, no. I mean, they may have been
13 done but we were not invited. A more recent example of
14 something similar is that there was a - I think there was a
15 KPMG specially convened strategic planning session which
16 the current interim administrator managed. I urged the
17 administrator to make sure that the environment was
18 involved in those discussions because I think it was
19 equally important as some of the others things that were
20 being talked about, and we weren't in fact - none of our
21 groups as I'm aware of were invited to attend that, so to
22 my mind that's another example of the way that the
23 environment has been not - treated badly, if you like, by
24 the council over the years.

25
26 THE COMMISSIONER: Yes, I understand.

27
28 Yes, Mr Parish?

29
30 MR PARISH: Q. Nothing specifically arises out of those
31 questions but I might just ask more generally if you wish
32 to address the Commissioner on any matter within the terms
33 of reference?

34 A. Funnily enough, I just checked my notes and I seem to
35 have got most of them.

36
37 Q. Good.

38 A. So, no, I don't think there is, but I do urge you to
39 listen to Mr West who's the deputy chair of WinZero, has
40 been a leading light in the environmental affairs of the
41 shire for many years and I think his commentary will be
42 more specific and perhaps more revealing than some of the
43 areas that you've been questioning me about.

44
45 THE COMMISSIONER: Q. Thank you. You can be assured
46 that I'm paying close attention to everybody who comes
47 along and once we all depart from here I'll be left alone

1 with the transcripts to go through very closely again. So,
2 I thank you for your attendance this morning and --
3 A. Thank you. An early mark.
4

5 Q. -- for coming along. Hopefully your one and only
6 experience in the witness box wasn't too bad.
7

8 Is there any reason why Mr White shouldn't be excused?
9

10 MR PARISH: No.
11

12 THE COMMISSIONER: Q. You're excused from further
13 attendance under your summons and you're free to go.
14 A. Thank you very much, Commissioner, I look forward to
15 reading the transcript.
16

17 MR PARISH: Commissioner, due to that incisive and
18 efficient questioning we're actually a bit ahead of
19 schedule.
20

21 THE COMMISSIONER: Yes.
22

23 MR PARISH: Ms Christine Rowell is due to be here at
24 11.10.
25

26 THE COMMISSIONER: 11.10?
27

28 MR PARISH: So, might I suggest an early morning tea to
29 resume at 11.10 with Ms Christine Rowell?
30

31 THE COMMISSIONER: All right. Why don't I take the full
32 20 minutes and then Ms Rowell can have a couple of
33 extra minutes to get herself sorted and into the witness
34 box. So, I'll adjourn until 11.15.
35

36 MR PARISH: Thank you, Commissioner.
37

38 **SHORT ADJOURNMENT** 39

40 THE COMMISSIONER: Mr Parish, are you ready to resume?
41

42 MR PARISH: Yes, Commissioner.
43

44 THE COMMISSIONER: Yes, your next witness?
45

46 MR PARISH: The next witness is Christine Rowell-Miller.
47 Just for the transcript, Rowell is spelt R-o-w-e-l-l.

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<CHRISTINE ROWELL-MILLER, affirmed: [11.24am]

THE COMMISSIONER: Thank you, take a seat.

CR SCANDRETT: Commissioner, could I just request application for the next three witnesses, please?

THE COMMISSIONER: Yes, I think what I'll do is I'll adopt the same procedure as yesterday. We'll proceed with Counsel Assisting's examination. If at the end you wish to make an application I'll deal with it that way, because it may be that he covers all the ground you wish to or the application may be more confined. When you do make your application I think it'll be necessary for you to come to that side because I imagine the transcribers are having some difficulty picking you up from there. Thank you.

Yes, Mr Parish.

<EXAMINATION BY MR PARISH: [11.25am]

MR PARISH: Q. Thank you, Ms Rowell-Miller, could I start with your background, personal and vocational.
A. Yes. I originally trained as a teacher, then went through some corporate management roles, and then a longer management role in a not-for-profit environment for some 20 years.

Q. When did you move to the shire?
A. We purchased land in 2000 and have lived here since 2006.

Q. Are you involved with any particular incorporated association or group within the shire?
A. Oh, yes. Within the shire?

Q. Yes.
A. Yes, I've been a member of the Bundanoon Community Association since we - well, before we moved here, and I have been on the committee including president and other roles with the Bundanoon Community Association for about 15 years, and I have been part of a number of voluntary groups within the shire on and off depending on how the garden goes and the weather goes and things like that, but I have been very involved in voluntary roles, yes.

1 Q. Are you involved in the Southern Villages group as
2 well?

3 A. I am, yes.
4

5 Q. Can you tell us a little bit about that?

6 A. Yes, the Southern Villages came together through three
7 gentleman from Canyonleigh, Bundanoon and Exeter to bring a
8 voice, a reminder I think to council every now and again
9 that the Southern Villages existed, because the big three,
10 of course, have a very different role. So, Southern
11 Villages is probably now about 15 years in action, I am
12 still part of the Southern Villages group on behalf of
13 Bundanoon and the group meets every couple of months during
14 a year, just to see what we're all doing, where we're up
15 to, and we have had council come and speak with us and work
16 with us as well as going back to council with feedback on
17 how things are going in the various smaller villages in the
18 southern part of the shire.
19

20 Q. You referred to the big three, are you referring there
21 to Bowral, Mittagong and Moss Vale?

22 A. Yes, correct.
23

24 Q. Am I correct in thinking that the Southern Villages
25 group are made up of a Bundanoon Community Association, a
26 Canyonleigh Community Association, and an Exeter Community
27 Association?

28 A. Picton, Wingello, Exeter and Tallong, although that's
29 not part of Wingecarribee, that's a small village in a
30 similar environment. So, Tallong has been invited and
31 always participated in that role, so they're all small
32 villages that talk together because they have similar
33 limitations also challenges and really good ideas.
34

35 Q. How many members does the Bundanoon Community
36 Association have, do you know roughly?

37 A. Oh, 400, 500 at the moment.
38

39 Q. Is that a combination of businesses and residents?

40 A. It's mainly residents, but certainly the work and the
41 goals of the Bundanoon Community Association is about the
42 whole community. There are a number of strong groups,
43 Lions and history group and so on in the village as well,
44 but they work very much together.
45

46 Q. Your evidence before was that part of the role of the
47 Southern Villages group was to engage with council on

1 issues?

2 A. Yes.

3

4 Q. How did that engagement take place?

5 A. It would usually be that either the representative of
6 the village on the Southern Villages group would go to
7 council with Southern Villages group aware or Southern
8 Villages convenor would go to council with an idea, a
9 recommendation or a concern if there was one of
10 specifically the Southern Villages nature. For example,
11 recently council was in touch regarding the 355 committee
12 structure which they're looking - they're reviewing, and
13 this is about the halls and environments within the
14 villages. Bundanoon has a beautiful hall of great historic
15 value and length and the other villages have smaller halls,
16 but we all work together for working with council to have
17 the villages' hall facilities available to everybody.

18

19 For example, one of the limitations that council might
20 have were they to not have 355 any more is literally, who's
21 going to buy the toilet paper, who will empty the rubbish
22 bins, because the hall groups look after their halls for
23 those when people use them, and that would be a very big
24 job for council to take on, let alone when the bride's an
25 hour late and they can't get into the hall, and this is a
26 Saturday and where's the key. So, a lot of different ways
27 the concerns and interests of the Southern Villages group
28 are brought to council but it's never just an individual
29 making a point.

30

31 Q. When you say go to council, does that involve
32 attending council meetings or do you have meetings with
33 individual councillors or staff?

34 A. No, that would be reaching out to the staff that are
35 linked with the Southern Villages environment and then
36 taking advice from council from there.

37

38 Q. Did you ever have in your role as a member of these
39 associations one-on-one meetings with groups of
40 councillors?

41 A. I have not had - I personally haven't had a one-on-one
42 but, no, I can't think of any time when any of that group
43 has been working with council that there wasn't more than
44 one person on behalf of the group.

45

46 Q. Did you ever seek meetings with councillors to discuss
47 issues?

1 A. No, not with councillors because the relationship is
2 with council staff. I mean, councillors are welcome to the
3 Southern Villages environment, they can't - nobody just
4 turns up at a meeting, of course, but certainly over
5 the years we've had, as I said, council staff and sometimes
6 councillors with us, but not in an unprofessional manner.

7
8 Q. I'm not at all suggesting that.

9 A. No, I'm just trying to clarify how we'd run it.

10
11 Q. May I ask why you did not seek audience with specific
12 councillors? Was it simply a matter of, you thought the
13 better process was to go through council or?

14 A. Yes, we would not think it would be the right way to
15 only go to a councillor.

16
17 Q. Do you know of other community organisation groups who
18 would go directly to certain councillors?

19 A. I don't know but I - I'm absolutely sure it happens.

20
21 Q. Do you have a view on whether it's appropriate that
22 that happens or not?

23 A. From my background I don't think it's appropriate. I
24 mean, casual conversation or social opportunities, "Oh,
25 how's it going?", of course you don't say, "Oh, I can't
26 talk to you", but if you want the structure of the council
27 environment plus the councillors in my view to be
28 successful and satisfactory and professional, you need to
29 be very transparent and you know you go to council for this
30 and, if council is involved it comes back through the
31 councillor's structure when they meet here and so on, not
32 directly to an individual.

33
34 THE COMMISSIONER: Q. Was there a framework in which you
35 would engage with council staff as an organisation, that
36 is, a process or a policy that would govern that
37 interaction that you're aware of?

38 A. No just, we would go to the person in council who has
39 that job.

40
41 Q. Do you think that it would be a useful thing to have
42 for a community organisation, a framework of how the
43 organisation can interact with council and an understanding
44 about how things will be dealt with?

45 A. I think when things go wrong those sorts of structures
46 are really good to have, but I think the informality of
47 knowing council staff and councillors in the manner that we

1 often do in these sorts of environments should also be
2 maintained, but people need to be responsible about saying,
3 "Look, I can't give you that information, go and see Bob,
4 but let me know how you go", that sort of --

5
6 Q. Yes, that's the sort of issue that I'm thinking of,
7 there'd be guidelines --

8 A. Yes, guidelines would always be good but not structure
9 to the point of strategic writing.

10
11 THE COMMISSIONER: Yes, I understand.

12
13 MR PARISH: Q. Do I take it that you attended council
14 meetings from time to time --

15 A. Many, many times.

16
17 Q. -- or at least viewed them.

18 A. Many, many times. Mostly attended, I'm not good on
19 IT, but I have done both, but over the years more
20 attendance.

21
22 Q. Did you attend meetings prior to the 2016-2020 term of
23 council?

24 A. Oh, yes, yes.

25
26 Q. Were you left with any impressions about the way
27 meetings were conducted or the way councillors behaved
28 prior to the 2016-2020 term?

29 A. I would have to say from the very first meeting that I
30 attended I was often puzzled at words or behaviours or
31 outcomes from my expectation.

32
33 Q. Can I get an idea of when those first meetings were
34 that you attended?

35 A. I would think that I was attending and observing since
36 about 2010.

37
38 Q. So, two terms back?

39 A. (Witness nods.)

40
41 Q. Yes, thank you. Skipping forward to the 2016-2020
42 term, can I start with your general impression as to how
43 councillors conducted themselves both with respect to
44 interactions between them and interactions with the
45 community in those meetings?

46 A. Increasingly of concern.

1 Q. Can you explain why you were left with that
2 impression?

3 A. It's never easy in a meeting if you don't think what
4 someone else is saying is correct or fair, but if the
5 meeting structure is as council meetings here are and as
6 many meetings I've been in are also, you sort of have to
7 just follow procedure and maybe set up an opportunity at
8 the next meeting to discuss something that happened in this
9 meeting. But, you know, language and body language and
10 words and behaviour and other areas of response that I
11 viewed, I felt were very unprofessional and as a ratepayer
12 I used to go home and rattle on a bit about, "Oh, you know,
13 what are we paying them for?", sort of thing, and I know
14 that's a phrase that doesn't necessarily apply.
15

16 But it was disappointing as I know that there was a
17 lot of time put into what could be done for councillors
18 themselves to work differently and senior management and so
19 on to work with themselves and then also with the
20 councillors. A lot of things were tried, as I understand
21 it, but it didn't seem to be having much impact. And I can
22 think of a couple of instances where I know at a particular
23 meeting in Bowral when a gentlemen went to the mayor - one
24 of the councillors at the time to say, as it turned out to
25 basically say, "You gotta be joking", but the person from
26 council took it as, "Oh, hello, you're here to shake my
27 hand and tell me how wonderful I am". I happened to be
28 sitting in the row behind, and this member of our community
29 just said, you know, "This is the biggest joke I have ever
30 attended and I'm insulted that you would think that this is
31 enough for you all to be behaving like this". And this was
32 only just probably a year before COVID stopped everything
33 and it was a voice, a comment that was very well spoken of
34 by many others, not that specific instance, but the same
35 sort of thing: "Come on, what is this about? What are you
36 guys on about?", not literally guys as, in only males, just
37 this tension between the councillors themselves and between
38 council and senior staff.
39

40 Q. Is it fair to say from that answer that, therefore,
41 that attitude was something you experienced as fairly
42 commonplace in the community, at least the people you
43 interacted with?

44 A. Commonplace within the council; not within the
45 community as such, no.
46

47 Q. The impression of the community of the behaviour of

1 council?

2 A. Oh, yeah, without doubt.

3

4 Q. I take it from your previous answer as well that
5 you're conversant in at least basic meeting procedure as
6 well; is that fair?

7 A. Yes.

8

9 Q. Do I take it from your previous answer that you
10 perceived that basic meeting procedure wasn't being
11 followed?

12 A. Yes.

13

14 Q. Is that your impression?

15 A. Yes.

16

17 Q. Did you have any impression as to the way these
18 meetings were chaired?

19 A. I've chaired meetings, it's not easy. I don't think
20 there was a lack of - and I'm not involved at that level,
21 so this is just my perception - that there was no shortage
22 of training as I understood it - people comment and talk,
23 it's not a secret. And I could never work out why the
24 group didn't seem to understand that, rightly or wrongly,
25 that person is the chair and they do this job and you're on
26 the part of the group and you do that response. It was
27 very confusing to me that a group of this significance
28 within our shire and any shire would appear to not
29 understand meeting procedure as was evident through
30 language and behaviour and outcomes.

31

32 Q. Thank you. Could I just ask you a few questions about
33 your experience of how staff and councillors interacted.
34 Did you witness either firsthand or gain an experience of
35 how those interactions took place?

36 A. Yes, probably to both. I think the greatest
37 clarification that I could possibly give, because there are
38 lots of examples but they're story-telling, so to speak -
39 was a person within council staff who I knew on and off
40 over a number of years, just casual conversation, "How are
41 things going?" "Oh, it just seems to be getting really
42 difficult", in council, and that wasn't about the staff or
43 councillors, it was about the general operation. And I
44 said, "Oh, that's a shame, you guys work really hard", and
45 blah, blah. And this person said, "It's just so difficult
46 because I go to the boss to say, you know, 'Councillor Bob
47 has asked me about this and I'm not sure what to do because

1 it's not really - it's for you to speak to them, not for
2 me'". And it had got to the point as I understand it that
3 in some areas the staff would get a response similar from
4 their supervisor or manager as JDI, "Just do it", because
5 there was so much frustration and misunderstandings and
6 pressure within the whole environment that the staff didn't
7 know where to go because they should go to their boss, but
8 a councillor is an important person, so the boss was just
9 saying, "Just do it. JDI, I can't give you any other
10 outcome. I know it's difficult but if you're asked a
11 question do the best to answer it".

12
13 Q. Do I take it from that answer that the cause of at
14 least some of that attitude was an attempt to avoid
15 conflict with councillors?

16 A. Yes, and because most of the staff would know that
17 generally, other than casual social conversation, the
18 councillors go through the mayor and the staff go through
19 the GM, and then they get together and say, "Well, okay,
20 you go and speak to this or that", but for direct contact
21 with a staff member from a councillor to do something is a
22 very difficult thing for the staff member and generally
23 would be unacceptable.

24
25 Q. Is that something that you heard from staff members
26 was happening direct --

27 A. Yes.

28
29 Q. -- contact between councillors and staff --

30 A. Yes.

31
32 Q. -- below the general manager, senior executive level.
33 How did you come into this information, was that because of
34 your interactions with staff in your role as a member of
35 the Southern Villages group?

36 A. And also from the Bundanoon Community Association.

37
38 Q. And the Bundanoon Community Association. How often
39 was your interaction with staff, would you say?

40 A. It would be hard to say because it really focuses on
41 what's happening in my area rather than - it's not about
42 that's happening within council. It wouldn't be monthly,
43 it's probably maybe half a dozen times a year.

44
45 Q. And over how many years were those interactions going
46 on? I'm just trying to --

47 A. I don't know how long they were going on; I didn't

1 hear about them from my first awareness and participation
2 in things with council.

3
4 Q. Pardon me, I'm trying to get an idea of your first
5 awareness of participation; was it back to 2016 at least
6 that you were having interactions with staff members?

7 A. Oh, well, no, I would have had interactions with staff
8 members prior, but probably as I was around longer and they
9 knew me and I knew them, my guess is that some of the
10 commentary to me about that was not, "Oh gosh, this has
11 just started to happen", but, "Oh, yes, we know her, she's
12 around a bit", so they relax. But I can't give, if that's
13 what you're seeking, a measure of time at which that
14 happened for the first time because I'm sure when it did
15 come to me the first time it wasn't new.

16
17 Q. Yes. In terms of your impression though at least,
18 when did you start hearing about those sorts of matters?

19 A. I think they were probably alluded to quite early on
20 but I didn't pick up on it because I didn't know much about
21 what was going on, I was new and doing things in Bundanoon.
22 But I guess 16 - where are we, I have to think now -
23 probably 15, 14/15 onwards.

24
25 Q. Can I ask you about your interactions with councillors
26 at meetings held by community associations. Since when did
27 you start attending those sorts of meetings?

28 A. In Bundanoon or Southern Villages?

29
30 Q. Yes.

31 A. Probably 10 - probably 2012 onwards. I mean,
32 councillors were invited to meetings in Southern Villages
33 and villages, BCA meetings as an opportunity to learn and
34 share, and they get to know us and we get to know them;
35 it's a very broad family in some ways but it's like all
36 families, there's a point at which you've got to ask it
37 this way and not that way and some of those normal
38 guidelines were a bit ignored.

39
40 Q. Do I understand that in the early days as it were,
41 2012-ish, councillors attended those meetings?

42 A. In the villages?

43
44 Q. Yes.

45 A. If invited. Occasionally they would come to AGMs,
46 they would often be invited to AGMs. Bundanoon always has
47 a "meet the candidates for elections" and that was an open

1 invitation, but we would often tell the councillors and/or
2 senior staff what we were doing in Bundanoon and if they
3 asked to come or turned up we would always acknowledge
4 them, because it's important for the village people and
5 those out of the bigger areas to know that council is
6 involved, aware, supportive.
7

8 Q. Was there a point in time which you saw that
9 attendance and interaction by councillors with these
10 community associations stop or slow down?

11 A. Um, well, that's an interesting observation. I don't
12 think it stopped or slowed down. I think, as it appeared
13 tensions were increasing between senior staff and
14 councillors, that some people who used to come a lot more
15 to the Southern Villages they weren't able to or didn't
16 want to, but I didn't pick up when those unable-tos
17 occurred that meant anything, if that's - if I'm reading
18 you correctly.
19

20 Q. Did you ever witness inappropriate behaviour from
21 councillors towards staff at any time? I'm asking you the
22 question whether you personally witnessed any - we've
23 talked about your impressions --

24 A. Yes.
25

26 Q. -- that you received from staff?

27 A. No, not council staff and councillors, but in my
28 environment, no.
29

30 Q. Just going back to those council meetings that you
31 attended, I think I asked you a few questions about your
32 impression of how councillors dealt with each other in the
33 meeting procedures. Can I just ask you about your
34 impressions of how the councillors in the 2016-2020 term
35 engaged with the community or your impressions of how the
36 councillors engaged with the community in those meetings?

37 A. I would say increasingly arrogant and disrespectful.
38

39 Q. Can you give some examples of what led you to that
40 impression?

41 A. People not, um - well, interrupting each other and,
42 "No, no, no, that's not your area", or, "No, you're wrong,
43 you're wrong, you've been told about that before". It's
44 sort of, I guess I'm a bit old-fashioned but I just think
45 that sort of juvenile dialogue in a meeting of a council
46 with councillors and/or staff is shocking.
47

1 Q. And that's how you saw behaviours towards members of
2 the community in these meetings?
3 A. And members of staff.
4
5 Q. Can I ask about your engagement, if any, in the
6 Southern Villages group with other incorporated
7 associations or other friends of groups. Was there much
8 engagement between the groups?
9 A. Well, I'll just see if I'm with you. Where for
10 example you ask about other groups: we, before the fires,
11 leading up, anticipating things ahead, we had fire-related
12 groups come to Southern Village group and say, these are
13 some of the things and so on and so on. Is that what you
14 mean?
15
16 Q. That is partly, yes, if you could expand on that?
17 A. We certainly, Southern Villages and BCA certainly
18 reached out beyond just council staff and councillors for
19 information and also sometimes just to share what we do and
20 what they do.
21
22 Q. Did you gain any impression from those other groups
23 about how they perceived councillor interaction with those
24 groups?
25
26 THE COMMISSIONER: Sorry, Mr Parish, when you're saying
27 "groups" are you referring to other community association
28 groups?
29
30 MR PARISH: Yes, I am.
31
32 THE COMMISSIONER: Right, just for my benefit, thank you.
33
34 THE WITNESS: So, was I aware of other groups like
35 Bundanoon Community Association and Southern Villages
36 having concerns as I've expressed?
37
38 MR PARISH: Q. Yes?
39 A. Yes, they were.
40
41 Q. Can you tell the Commissioner of any specific concerns
42 those other groups had and perhaps whether you agreed with
43 those concerns? Were there common themes coming through
44 from other groups you interacted with?
45 A. Yes. I wouldn't say it was whether or not I agreed, I
46 probably agreed with everything, but I might have taken a
47 different approach in trying to fix it or sort it out, but

1 they were mostly about the disrespect that seemed to be
2 inherent in most of the councillors towards council. And,
3 you know, there were council people who weren't good and
4 there were councillors who weren't good, but structure and
5 successful operation of groups like this requires time and
6 place.

7
8 There's a time to vent your frustration but not
9 necessarily in the public meetings when there's agendas and
10 things that have been backgrounded and discussed that need
11 to be decided, so I think people used to get frustrated
12 that it seemed that time was being wasted. You know, "What
13 are you carrying on like that for now? Can't you do that,
14 you know, in a different environment because these are the
15 public meetings?" And people who come from the shire or
16 observe, increasingly through IT, and they get a very
17 different impression if they don't know any of the
18 councillors individually, or come to meetings and know
19 staff, that things are pretty rough.

20
21 Q. You referred there to the disrespect between the
22 councillors and the council; are you referring to the staff
23 when you referred to the council?

24 A. Yes.

25
26 Q. We've had some evidence this week from other members
27 of associations and individuals who have had an impression
28 that is often negative about the ability of the council and
29 the councillors to conduct business and meetings and some
30 of them have related that back to how that actually affects
31 them and their day-to-day lives. Can you give the
32 Commissioner your impression of how this impression that
33 you were left with in council actually affected your
34 ability to both work in the Southern Villages group and the
35 things you were trying to achieve?

36 A. I mean, the obvious one is that you're disappointed
37 and at times embarrassed, but it means that you keep going
38 and going and going and, you know, two steps forward, one
39 step back; I think it has become often where you just try
40 and find a way around it to get what you need because you
41 can't get any further with the normal structure of these
42 things being discussed and decided - not breaking the law
43 or anything but, okay, we're supposed to do it this way and
44 we've sent three emails and had one phone conversation,
45 nothing's happened, we'll just have to go ahead because
46 it's happening this weekend. So, I think there was
47 disappointment more than anything because the voluntary

1 roles of most of the people that I'm referring to, other
2 voluntary work and the giving of their time is something
3 they like to do and they do it to try and help.
4

5 THE COMMISSIONER: Q. This is obviously not your case,
6 but does it lead to or do you observe it leading to some
7 disengagement by members of the community with --

8 A. Oh, gosh, yes. Oh, yes, without doubt, "Oh no, I'm
9 not going to have anything to do with bloody council any
10 more ...", absolutely, why not? Because I guess my
11 experience, I was - not that there were many others with me
12 more experienced, but it's sort of not unusual in the
13 structure that we have that there was frustration, so you
14 either keep trying to find another way in or you walk away
15 because you don't have an authority that you would in your
16 employment to do something about something like that.
17

18 THE COMMISSIONER: Thank you.
19

20 MR PARISH: Q. In your experience are you aware of
21 people who have disengaged and walked away --

22 A. Yes.
23

24 Q. -- otherwise engaged community members who have
25 determined that there is to point in engaging in the
26 council process?

27 A. Yes.
28

29 Q. Can I get your personal impressions about the use of
30 engaging in the council process, at least in the 2016-2020
31 term?

32 A. As in, did I walk?
33

34 Q. Did you either walk or did you feel like you ought to?

35 A. No, and it's not, it's not - no, I wouldn't do that
36 because I have a really great faith in this environment in
37 which we live and also the council structure and the
38 councillors; they're genuinely in there, within their mind,
39 to do the best they can. Leadership here, leadership
40 there, it's all responsible for bringing things together
41 and, if all the troops start walking away, nothing will
42 happen.
43

44 And, I'm not as involved in the Bundanoon Community
45 Association in a senior role for some time now, but I am
46 still part of the community and Bundanoon is a very strong
47 community and I would keep - I mean, I listen to the

1 meetings on IT and I come in often now for these meetings -
2 the meetings here, and I think you just have to keep going
3 because I do think things are starting to show progress
4 and, if everybody walks away, you won't help the staff and
5 you won't support the councillors.
6

7 And it is a difficult environment, the structure of
8 all of the councils in the state, of the country and a
9 similar structure around the world, it's not the easiest
10 way to run a day, but it's a marvellous combination to have
11 professional staff and volunteers, and I come from a family
12 background of volunteering, because that's what you do, and
13 you don't walk away when somebody gives you the irritants, or
14 the structure's not what it should be, you go to the right
15 person who might be able to change the structure: you don't
16 sort of kill the messenger.
17

18 Q. Can I ask what you're referring to as the positive
19 signs that you were referring to just then? What positive
20 things are you seeing?

21 A. Well, as a very simple example, when you ring - as I
22 do because I don't understand all of the IT stuff - council
23 I would say now the very - the voice, the words: you would
24 previously say, "Hello I'm Christine, I'm over at
25 Bundanoon, I was wondering if you could help me with this?"
26 "Oh, um. Oh, right, um, just a moment". And then somebody
27 would come back and say, "Look, Bob's not in but if you
28 ring another time he'll be able to help you". Whereas now
29 if you ring the voice is very, in its own self,
30 "Wingecarribee Shire Council, can I help you?", the voice
31 is better and that's obviously from a person. "Hello, I
32 was wondering if you could help me with this?" "Look, just
33 a moment I'll check, Bob might not be in, we have staff now
34 who often work from home; bear with me". And then they
35 come back and say, "Sorry to have kept you, Bob's available
36 but if he could ring you back because he's just in
37 something", and then Bob rings you back.
38

39 And that is not new, and I understand the hard work
40 that they are doing, but in a lot of ways when you ask for
41 something now you get, "I'll put you through", or, "This
42 isn't something we can do today", you get an information,
43 whereas before it seemed as if nobody really knew what to
44 do. And funnily enough sometimes now people say, "Oh,
45 Christine, haven't heard from you for a while, how are
46 things?" So, it does take time, but those little nuances
47 of, I'm human and you're human and we're in this together

1 are now more evident.

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And I have one particular staff member I often catch on the reception has actually said, and I said, "Oh, you're sounding as if everything's bopping along, how are you?", not only about council, "No, no, look, things are pretty good. We've got lots of things to finish, but we have got some good this or happy that" or, and I do really, really think there is a great change in that.

I know there's a huge amount of work to do, and I know some very good staff have left, and I know they can't all be replaced or be very good at their jobs straight away, but I get a strong sense of community developing within council itself which shows when you speak to council, when before it was a lot of exhaustion and frustration.

I mean, I - for example, watching the meetings on IT I seem to often not be able to get through, and I approach it with an apology because I'm old and IT doesn't rest well with me, "It's all right, just wait a moment. Don't worry, we'll find it for you. Now, what did you do? Okay", that sort of - whereas before it was, "Well, it's there". And I sort of, "Well, I have the screen open in front of me", "Well, what did you press? No, that's not the right one".

There's a whole change now in - and I don't think it's just, you've gotta be more helpful than that, I think it's just people are feeling a bit better and I think we're getting the benefits of that, and I have every reason to believe the next year will bring councillors and council structure increasingly to a really good level.

Q. When did you appreciate or notice that change? Was that after the appointment of the interim administrator or was that something that had happened before that?

A. Pretty much, yep, I'd say up until then - and there was, as you would know, an enormous friction and stress for some time, but once that - I guess the line in the sand, right, that's it, we've gotta make some changes, I think that was a breath of fresh air for a lot of people.

MR PARISH: Commissioner, I don't have any more specific questions at this stage.

THE COMMISSIONER: Thank you, you proceed.

1 MR PARISH: Q. Mrs Rowell-Miller, is there anything else
2 you want to address the Commissioner on in respect of the
3 terms of reference?

4 A. No, just thank you. Thank you very much all of you
5 and we're on the right track. It's an arduous - might be a
6 very long road, but Wingecarribee is a very special
7 environment and increasingly so from the city and so on,
8 and we want it to be wonderful Wingecarribee, not wining
9 Wingecarribee.

10

11 MR PARISH: Thank you.

12

13 THE COMMISSIONER: Is there an application?

14

15 CR SCANDRETT: No, Commissioner.

16

17 THE COMMISSIONER: Thank you for coming along today.

18

19 THE WITNESS: Thank you.

20

21 THE COMMISSIONER: Your attendance is much appreciated and
22 you're excused from further attendance under your summons,
23 free to go.

24

25 <THE WITNESS WITHDREW

26

27 THE COMMISSIONER: Mr Parish, is your next witness here or
28 are we running slightly ahead today? Not here?

29

30 MR PARISH: He was scheduled for 12.20.

31

32 THE COMMISSIONER: Yes, that's all right. I'll just
33 adjourn for 15 minutes until 12.20. Thank you.

34

35 **SHORT ADJOURNMENT**

36

37 THE COMMISSIONER: Yes, we'll resume, I apologise
38 everybody watching for that short delay. Mr Parish.

39

40 MR PARISH: Thank you, Commissioner. My next witness is
41 Clive West.

42

43 <CLIVE WEST, affirmed: [12.32pm]

44

45 THE COMMISSIONER: Thank you, Mr West. Mr Parish.

46

47 <EXAMINATION BY MR PARISH:

1
2 MR PARISH: Q. Thank you, Commissioner.
3

4 Q. Mr West, can I start with a bit of background
5 personally and vocationally about you? Can you tell us a
6 little bit about yourself?

7 A. Yes. Well, I'm 72 years old and I was fortunate
8 enough to retire about 25 years ago. Since that time I've
9 been pretty well full-time on community issues and actions
10 and so forth. I'm a member on various committees in the
11 shire. My personal background is retired government lawyer
12 from the Federal Attorney-General's Department. I was in
13 the office of commercial law which is part of the old -
14 used to be Crown Solicitors but now it's the Australian
15 Government Solicitor's Office.
16

17 Q. How long have you lived in the shire for?

18 A. About 22 years.
19

20 Q. Thank you. You're involved in two groups who have
21 made submissions to the inquiry: WinZero; is that correct?

22 A. That is correct, yes.
23

24 Q. And also the Berrima Residents Association; is that
25 correct?

26 A. That's correct, yes.
27

28 Q. We've heard this morning some evidence from Mr White
29 who provided some background as to WinZero, so I might skip
30 over that, but can you tell me what your current position
31 is within WinZero?

32 A. I'm on the board of management of WinZero. WinZero is
33 an incorporated association with DGR status so, we have a
34 public fund which can issue tax deductible receipts, so it
35 is a fairly serious organisation - or it is a serious
36 organisation, concerned with climate change and not just
37 how to reduce emissions but also to build resilience.
38

39 Q. In that role you have regular interactions with
40 council; is that fair to say?

41 A. Yes, we do. Like - as Derek probably would have
42 explained, we have regular meetings with senior management
43 in council, in particular with Lisa Miscamble, the general
44 manager, and also in separate meetings with Geoff King, the
45 deputy general manager.
46

47 Q. Did you used to have interactions with the previous

1 general manager, Ms Prendergast?
2 A. No. We did occasionally but not on a regular basis.
3 Through the Berrima Residents Association we would meet
4 maybe once or twice a year to talk about particular village
5 problems, but in the last few years of the last council
6 that fell by the wayside; they didn't appear to be
7 interested in meeting with us.

8

9 Q. What about councillors? Did you meet with councillors
10 at all?

11 A. Yes, we did on an informal basis. So, we met with
12 people like Ian Scandrett and, yeah, and we did
13 occasionally meet with the mayor on particular issues but
14 it wasn't on a regular basis like we have at the moment.

15

16 Q. Thank you. WinZero has raised specific concerns about
17 planning recommendations for land within threatened
18 ecological communities; can you tell the Commissioner a bit
19 about those concerns?

20 A. Yes. I have had a personal concern because I'm a
21 member of the Environment and Sustainability Advisory
22 Committee. The question of threatened ecological
23 communities came before the environment committee in 2016,
24 and there we had to consider the situation of a Bundanoon
25 DA that had been approved - might have been a planning
26 proposal, or certainly it involved critically endangered
27 ecological community, quite a large area of forest.

28

29 A community petition of 500 people, mainly based in
30 Bundanoon, had signed a petition protesting about this
31 development, if you like. The councillors actually on the
32 basis of that petition went out to Bundanoon to inspect the
33 land, but when they got there it had already been cleared,
34 and so, that huge swath, it was quite a large area of
35 critically endangered - it's listed at the federal level -
36 had been destroyed.

37

38 Then we had a meeting of the Environment and
39 Sustainability Committee to discuss this situation, and Ann
40 Prendergast sat next to me in the meeting and I took the
41 meeting while the meeting was going on to say, "Ann, we
42 really need a protocol", it's very important to have a
43 planning protocol so that, as soon as a DA or planning
44 proposal comes up that has land with a threatened
45 ecological community on it, there should be a red flag
46 raised and that DA or planning proposal should be referred
47 to the environment section just to get their views. Ann

1 didn't really respond to that.

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1 roadways into ravines to get access, and those really
2 should not - they're not appropriate and so there should be
3 more control over that, yeah.

4
5 Q. Forgive me, does that not suggest that the planning
6 instruments are not appropriate if something which is
7 technically permissible but not really suitable can still
8 be done?

9 A. Yes, it does. It does, and I think landowners are
10 very quick and very happy to take the benefit of a
11 re-zoning when it goes from rural to residential, but they
12 don't want to go the other way and I think this is
13 something that the council has to face: is it effectively
14 an appropriation by council to re-zone from environment
15 living or residential back to rural.

16
17 You'll understand that the difference is, with rural
18 it's one dwelling right for every 40 hectares, and with
19 residential or environmental living it can go down -
20 environmental living can go down to 1 acre. In Berrima
21 we've got environmental living that goes down to 1 acre.
22 So, where there could be only one dwelling for 100 acres,
23 suddenly you've got 100 dwellings.

24
25 Q. You refer as well to the Berrima landscape
26 conservation area and some problems around that in 2019;
27 can you just explain your concerns with that?

28 A. Yes. That was one of the areas that was subject to a
29 planning proposal, and you have to distinguish between a
30 planning proposal and a development application. A
31 planning proposal is to create new, new dwelling rights;
32 whereas a DA is to simply apply under the existing zoning
33 for your permissible right.

34
35 In this case in Berrima it was for a planning
36 proposal, so there was nothing obligatory about it. If a
37 DA is refused the landowner has the right to appeal to the
38 Land Environment Court. If a planning proposal is refused
39 they do not. So, the council is in a very strong position
40 to refuse planning proposals.

41
42 So, in the case of Berrima, that was a particularly -
43 because I live in Berrima and actually I'm an adjoining
44 landowner to some of the land - not all of the land, but
45 some of the land that was to be given extra running rights;
46 I suppose I became emotionally involved as well as involved
47 as a lawyer and a member of the Residents Association, and

I just felt very offended by the way this was approached.

The particular - the one lot that particularly upset me was 10 acres almost completely covered in bushland within the landscape conservation area, and within that bushland - I think it was about 15 or 20 per cent - was a threatened ecological community, the Southern Highlands Shire Woodland, and there was only one sliver of clear land that was available for a house to be built, but to get to it you'd have to put a road through the bush. That particular lot was one of a parcel of four lots which the landowner bought by way of converting grazing rights to freehold, I think back in the 1960s, but he paid \$350 for the four, 10 acre lots.

In the 1980s he wrote to the engineer, chief engineer of council which was Ken Halstead at the time, back in the 1980s, and he asked, "If I sell one or two of the lots from my parcel of four, do I retain my dwelling right? And Ken Halstead wrote a very good letter saying, "No you did not. If you break-up the parcel you lose your dwelling right, the one dwelling right for the four lots".

And then the landowner nevertheless went ahead and first sold two lots and then sold a third lot and retained the fourth lot, and that was close to the house where he lived. So, this same lot which had been told - which the councillor said in the 1980s "You don't have a dwelling right, you're going to lose it", was effectively given back a dwelling right and in that very environmentally sensitive area. That was particularly upsetting for me, yeah.

Q. In your view, what were the deficiencies or problems with the process that you think caused the concerns that you had? Was it a systematic issue, was it a resourcing issue?

A. This issue of planning proposal first came up in a review of the local planning strategy, and when the first draft came out and we saw that there was a proposal to re-zone or to give Schedule 1 exemptions to the zoning, for not just the land on our side of the Old Hume Highway, but on the other side which was actually crucially more important because it's the land - the rural land between New Berrima and Berrima. Just prior to the strategic draft coming out Mark Pepping, the deputy general manager, had assured us in an email that that land between Berrima and New Berrima would not be re-zoned, it was protected for the

1 purposes of keeping the two villages separated by the green
2 between. And yet, they did in fact in the strategic
3 planning review, they did in fact give - they wanted to
4 give - they recommended giving three additional dwelling
5 rights.

6
7 Now, three additional dwelling rights in that very
8 rural zone: you go from being rural to not even semi-rural.
9 On those size lots you get mansions and they become
10 gardens, they're no longer rural, they become gardens.

11
12 And Berrima, as you probably know, is a very unique
13 village, it's one of the very early colonial plan towns but
14 never grew beyond a village, and so, the rural landscape is
15 absolutely crucial to giving a sense of its heritage, which
16 is a rural small - very small rural village and surrounded
17 by rural - rural and bushland surroundings, yeah.

18
19 Q. Is it fair to say that you didn't think the
20 communication and interactions you had with council on that
21 issue then were well dealt with?

22 A. Look, it came to a head, we actually had a meeting -
23 because we had the - at that stage we still had twice
24 a year meetings with council to discuss village issues. We
25 raised our serious concerns at that meeting and that
26 meeting had Ann Prendergast, the two deputy general
27 managers, Mark Pepping and Barry Paull, and I think Larry
28 Whipper was the mayor at the time and Larry was sitting at
29 our end of the table.

30
31 And Mary Cawood was the president of the BRA and she
32 immediately, when we put forward our concerns about the
33 strategic plan review, she said, "But, Mark, why have you
34 put in this recommendation for re-zoning or Schedule 1
35 changes to the use?" And, Mark said, "Oh, it was a
36 compromise with the landowners". And, Mary said, "But why
37 compromise?" And he just said - he basically just said,
38 "Well, that's the way it is, we compromised". So, we were
39 left with the impression that there'd been some sort of
40 arrangement or --

41
42 THE COMMISSIONER: Just pause there. That's our
43 transcription microphone. I just want to make sure it's
44 still working. I didn't turn my microphone on so you
45 couldn't hear me.

46
47 THE WITNESS: And at the meeting we had about four or five

1 representatives from the Berrima Residents Association,
2 including myself and Mary Cawood, Mary Moore and Eric
3 Savage, and we all took issue. But by that stage, because
4 that was later in the meeting, most of the people had left,
5 and so, Ann Prendergast had left, I think Barry Paull,
6 there was just Mark Pepping I think left, perhaps Larry
7 Whipper, although he says subsequently he didn't recall or
8 he doesn't recall that conversation, but certainly with
9 Mark Pepping the four of us from the Residents Association
10 took issue with why there's a sudden change of approach.
11

12 The landowners who put in the request for a change had
13 been refused several times in the past, so this was a sort
14 of a turnabout for the council. So, we just wanted to know
15 what was the cause of this change of mind and Mark's
16 response to that was that it was - I've forgotten the word
17 now, sorry - it was accommodation or he said it was a
18 compromise - sorry, a compromise. Compromise implies some
19 sort of negotiated dealing with the landowners, and once I
20 heard this notion of compromise it immediately raised in my
21 mind the notion of apprehended bias or a predetermined
22 outcome. Because we thought, you know, having got the
23 public to protest at the draft strategic plan that this was
24 inappropriate, and there was a lot of public outcry about
25 it, then the next issue of the draft review it would have
26 been dropped but it wasn't. So, quite a number of other
27 planning proposals had been dropped, recommendations for
28 planning proposals had been dropped but this one wasn't.
29

30 Q. Can I ask about the use of the phrase "apprehended
31 bias". Am I correct in thinking that that was a phrase
32 that was used by a Berrima Residents Association person in
33 a council meeting around 22 May 2019?

34 A. Yes.
35

36 Q. Can you describe the events of what happened after
37 that meeting --

38 A. Yes.
39

40 Q. -- not in respect of the conservation issue but in
41 respect of issues you may have had with councillors at that
42 time?

43 A. It wasn't expressed as apprehended bias at that time
44 as such, it was our concern that this notion of compromise
45 implied some sort of understanding and therefore the
46 council was sort of locked in to keeping up that
47 recommendation. As the process progressed and we got into

1 a serious consideration of the draft strategic plan we made
2 contact with quite a few other people in the shire,
3 including the Sutton Forest people, and they put in quite a
4 large number of submissions, because there's similar issues
5 with Sutton Forest as there are with Berrima, it's a
6 heritage landscape, so they were also feeling concerned
7 that if the council can just change things because they've
8 reached a compromise with landowners, then they also felt
9 vulnerable so they put in a large number of submissions.

10
11 We also had about five or six of the state's top
12 heritage experts, including the authors of a heritage
13 landscape study, Colleen Morris and Christine - I've forgot
14 Christine's second name - but they put in - they prepared
15 finance by the coal, anti-coal people but sponsored by the
16 Berrima Residents Association. Those two people prepared a
17 165-paged report on the importance of the Sutton Forest and
18 the Berrima landscape to preserving the heritage
19 significance of Berrima and Southern Forests.

20
21 Both of the authors put in strong submissions saying
22 this was a very bad idea. Council's own heritage advisor
23 said, this was a very bad idea, will create a bad
24 precedent, because if you allow these two landowners -
25 there was about 200 to 300 town lots from the old town plan
26 that are not developed, so if you give it to these two
27 landowners, why shouldn't you give it to others?

28
29 So, the heritage advisor, Peter Cabala, said it would
30 create a bad precedent. Mark Pepping's response was to
31 say, "Precedent is no longer relevant because each case is
32 decided on its merits. But, of course, the merits include
33 whether it will create a precedent, so it was a sort of a
34 silly - I think a silly comment.

35
36 Q. Can I ask about the events of a council meeting on
37 22 May 2019. Were you at that meeting?

38 A. Yes, I gave the presentation on behalf of the Berrima
39 Residents Association in which we objected to the planning
40 proposals.

41
42 Q. Am I right in saying that out of that presentation
43 came an inference at least from some councillors that that
44 presentation was suggesting that they were corrupt; is that
45 correct?

46 A. Yes, yes.
47

1 Q. Can you explain those events?
2 A. It came as a shock. It was a bit like walking into a
3 swimming pool full of sharks. I think they'd obviously had
4 a meeting before the council session, all the councillors
5 have a briefing before the session, and I think -
6 I believe, it's my feeling anyway, that Mark Pepping had
7 threatened to resign unless something was done about it,
8 and that was confirmed - I haven't got the text of the
9 recording, but Mark Pepping at one point, when I turned to
10 Mark in the session and said, "Mark, you recall that",
11 meaning his reference to a compromise with the landowners,
12 he just really lost his temper and I think slammed the desk
13 and said, "This is outrageous. If something is not done
14 about this I'm leaving the council", not leaving the
15 session but leaving the council. So, I think he had said
16 to the - my feeling is he had said to the councillors in
17 the pre-session briefing that he would - he was expecting
18 them to back him.
19

20 Q. And that was in relation to an inference that some
21 councillors took, was it, that you are alleging that they
22 were corrupt?

23 A. No. I made very clear that I was not insinuating or
24 saying that they were corrupt. I said that, "When you have
25 a situation like this where all the heritage experts,
26 council's own heritage advisor and a very large public
27 outcry was opposing it, then if you proceed with the
28 recommendation for approval you run the risk of a
29 perception of corruption", and I repeated that several
30 times that, "I'm not saying you're corrupt, I'm saying that
31 you have a risk of the community perceiving this
32 recommendation as being a form of corruption, it's a
33 perception".
34

35 Q. Can you tell the Commissioner of a threat of legal
36 action which came after that meeting?

37 A. Yes. The next day I received an email from Duncan
38 Gair, the mayor at the time, saying that, "What you have
39 done is outrageous", and da-da-da, it was quite personal,
40 and we are considering taking legal action against you".
41

42 Q. Can I ask whether that email expressed whether or not
43 Councillor Gair was acting in a personal capacity, in a
44 capacity as a single councillor, or in a capacity as
45 representing all of the councillors or the governing body,
46 do you recall?

47 A. I think the impression I got was that he was sending

1 it as the mayor and therefore on behalf of council. So, I
2 don't think all of the councillors would have supported
3 legal action, no, but I think Duncan Gair was, I think,
4 using his position as mayor, and I think writing as mayor,
5 I think he might have signed as mayor actually. But
6 fortunately, because I have a legal background, I'd
7 recommended some years before to the Berrima Residents
8 Association that they have officers and association
9 insurance and that covers defamation. So, when we received
10 that email we immediately referred it to our insurers and
11 they said, "Look, no, don't worry, you're covered by the
12 insurance, but the best thing is to diffuse it and you can
13 do that by giving a public apology and avoid the whole
14 issue".

15
16 Q. Can I just ask, from your recollection of the letter,
17 was there a specific reference to the legal action that
18 might be being considered, was that legal action defamation
19 or was it - was that particularised?

20 A. It was unclear, but certainly defamation was, if you
21 like, wafting in the air, and the reason why I say that is
22 that the Greens councillor - I think they'd had this, on
23 the day of the session which considered the recommendation
24 for the strategic plan, on the day that planning proposal
25 came forward the Greens councillor came in and after my
26 presentation, he was the first to ask a question. He said,
27 "I have here in front of me an email that you sent to
28 councillors yesterday and in that email you say that the
29 deputy general manager" - sorry - "that this planning
30 proposal is a deal between the landholders and the planning
31 staff". And he said, "What do you mean by deal?" And I
32 said, "I'm referring to this reference to a compromise.
33 Mark Pepping had said [previously] that this planning
34 proposal represented a compromise between the planners and
35 the landowner".

36
37 Then, so having satisfied that, then I didn't realise
38 I had to give evidence - sorry, I had to make a
39 presentation for the second parcel of lots. I thought I
40 was giving a presentation for the two different parcels,
41 but then so I was a bit shocked to be called again to the
42 stand to then talk about the second parcel, which I can't
43 remember whether it was the - I think it was the east or
44 the west side of the Old Hume Highway. But again, after my
45 presentation the Greens councillor, Gordon Markwart, again
46 was the first to ask the question and he repeated the
47 question in identical terms, "I have here an email sent

1 yesterday to all the councillors in which you refer to this
2 planning proposal as representing a deal between the
3 landowners and the planners. What do you mean by deal?"
4 I'm a member of the Greens Party and I was a bit shocked
5 that there was this aggressive - I have differed with
6 Gordon Markwart on a number of things, but I was
7 nevertheless shocked that he appeared to be the assassin,
8 if you like. I think it was all agreed beforehand who was
9 going to ask what and so forth, but it was very
10 disconcerting and quite upsetting, yeah.

11
12 Q. I want to come back to the threat of legal action in a
13 second, but just while we're on the topic, did you feel
14 that the interactions that you had with councillors about
15 planning matters was appropriate and effective, or was
16 there a feeling that it was unnecessarily antagonistic?

17 A. On that particular issue the language used which is
18 recorded in the session; Ken Halstead, for instance, said,
19 "I particularly resent any intimation of corruption and you
20 can call it perceived perception or whatever, but you're
21 saying that there's corruption". And then at one point he
22 said, "I'm not going to look at him, I know who he is" -
23 this is talking about me - "I'm not going to look at him, I
24 know who he is, how dare he come into this chamber and",
25 da-da-da. It was a very personal attack, yeah.

26
27 Q. How did that leave you feeling?

28 A. As a retired government lawyer I was outraged. This
29 is not process and it's not probative.

30
31 Q. Can I now go back to that threat of legal action
32 letter and lean perhaps slightly on your legal knowledge.
33 I think your evidence was that there was no specific
34 reference to defamation in it. And forgive me if this is
35 post your time as lawyer, but there are procedures in the
36 Defamation Act to take steps to withdraw or recant
37 imputation; was there anything about that in the letter
38 that you recall?

39 A. Not - it was an email.

40
41 Q. Pardon me, email?

42 A. Nothing in the email, but subsequently after we
43 consulted with our insurer we approached - we sent an email
44 to Duncan, I think Eric Savage as the president of the BRA
45 sent an email to Duncan Gair saying, "We have consulted
46 with our insurer and we would be happy to give a public
47 apology for any offence caused", and yes.

1
2 So, defamation wasn't particularly mentioned, but as a
3 lawyer I was sort of acutely aware of Gordon Markwart's
4 question talking about a deal twice, he asked that
5 question, "What do you mean by deal?" And also with Mark
6 Pepping's response of outrage, I just felt that that was
7 what it was all about; it was all about defamation on the
8 part of Mark Pepping perhaps.
9

10 Q. Do you have that email with you?

11 A. No. No, I'm sorry, I didn't come prepared for the
12 Berrima Residents Association submission.
13

14 Q. Do you recall whether you understood that the threat
15 of legal action was being taken on behalf of Mr Gair by
16 himself or on behalf of all councillors?

17 A. I wasn't sure what - how that was going to be based.
18 About that same time there was a case in the Blue Mountains
19 where a staff member, the council supported - paid the
20 legal costs for a staff member who had apparently been
21 defamed, and I thought perhaps council was proposing to
22 run, if you like, finance - I think Mark Pepping would have
23 had - would have argued that he had a cause of action
24 because there was no - it was only Mark Pepping that was
25 really the person who made that comment about compromise.
26

27 Q. Yes. Could I just show you what I think is the email
28 that you're referring to and I'll just start by asking you
29 to confirm that.

30 A. Shall I read it out or?
31

32 Q. Can I just ask to confirm that that's the email that
33 you've been referring to?

34 A. That is the - yes:
35

36 *I will be seeking legal advice after*
37 *reviewing the audiotape of the meeting as*
38 *to ...*
39

40 Q. I'll just pause there. What's the date of the email?

41 A. The date is 23 May 2019.
42

43 Q. And, who is the email sent - what address is the email
44 sent from?

45 A. It's sent from duncangair@wsc.nsw, yeah.
46

47 Q. Does Councillor Gair express, and take your time to

1 read it if you need to, precisely who he is sending this
2 letter on behalf of?
3 A. He says that they're going to get legal advice after
4 reviewing the audiotape, and he also says:

5
6 *I also believe that your comments have*
7 *affected councillors' sense of credibility*
8 *and honesty within the general community*
9 *and again I will be seeking a legal*
10 *position on this.*

11
12 Q. Any reference to Mr Pepping in that letter?

13 A. No, there's not.

14
15 Q. Is there any reference to steps that you could take to
16 recant or withdraw what you said?

17 A. No, there's not. It was the Berrima Residents
18 Association that initiated the idea of an apology, we
19 initiated the idea of an apology and then the response to
20 that was Duncan Gair coming back to us and saying, "Yes, we
21 will accept an apology provided it's a public apology and
22 it's given at the beginning of the next council session".

23
24 Q. What was your impression about the request that it be
25 a public apology in the next council session?

26 A. I was very upset because it seemed to me to be
27 intimidating and it was basically trying to show that I was
28 being dressed down in public, yeah, basically it was
29 rubbing salt in the wound. I already felt aggrieved by the
30 fact that, yes, it had become very personal and also they'd
31 disregarded the legal issues about saying that it was a
32 compromise.

33
34 Q. Did you find the email of 23 May 2019 intimidating?

35 A. Did I find it, sorry?

36
37 Q. Did you find the 23 May 2019 email that you have in
38 front of you intimidating?

39 A. I did, yes, because we're volunteers, we don't get
40 paid for what we're doing, we're community members who have
41 been actively involved for - I've been here 22 years and
42 I've been actively involved with the community all that
43 time, and we'd put our necks on the line a bit when we come
44 out and opposed things, so it was very difficult, yes, I
45 felt very intimidated, and yeah, just made to feel bad,
46 yeah.

47

1 Q. Did you feel as if it were a proportionate response to
2 the comments you had made at the meeting the day before?

3 A. It was proportionate to the councillors' response that
4 there was mutterings about corruption, and so, it was -
5 yeah, so the email reflected the outrage that the
6 councillors - it's not just what they said, it's the way
7 they said it, and that's again all on the recordings.

8
9 Q. Can you explain what your impression was of how they
10 said it?

11 A. Yes. There's a number of the councillors who directly
12 said, "How dare you come into the chamber and suggest
13 that", it was a sort of an accusation, it was quite
14 accusatory, that's why I think there had been quite a lot
15 of discussion before the session. They came in primed,
16 they went straight into the attack.

17
18 Q. How did the events that we've just been talking about
19 affect you and your engagement and advocacy in the
20 community and with respect to the council?

21 A. The net result was that I became more determined to
22 fight what I considered to be - the word "corruption" is
23 very broad, I don't think people understand how broad
24 corruption is, the term "corruption" is. My understanding
25 is that it covers official misconduct and it needn't
26 involve bribes or any personal benefit, it's basically
27 where you are undermining the integrity of the system, and
28 as a government lawyer that was central to my role as a
29 government lawyer.

30
31 I was an advisor on what they call major projects in
32 the government, and so, \$10 million was a very small
33 contract. It was mainly contracts worth hundreds of
34 millions of dollars for Defence or for strategically
35 important contracts like purchasing big art objects for the
36 Museum - or the National Gallery. So, probity and due
37 process was absolutely central to that, and I could see
38 that the council was way off-line.

39
40 And in fact not only was I drawing this to the
41 council's attention about Mark Pepping's comment about
42 compromise, they should have actually been pursuing that,
43 and their role as councillors is to ensure that the
44 planning section does not go into deals in the loose sense
45 with landowners.

46
47 MR PARISH: Thank you. Commissioner, I don't have any

1 other specific questions at this time.

2

3 THE WITNESS: Can I just say that when it came time to
4 give the apology, I'd written it out and I read it very
5 quickly, but coincidentally the same day was the day that
6 the council was considering whether they should use part of
7 the environment levy for funding for five years a regional
8 gallery, and there'd been a lot of protest about that and I
9 personally organised a major meeting at the East Bowral
10 Community Hall to stop it, and that led to another public
11 meeting in the Bowral Memorial Hall, but because of my
12 dispute with Duncan Gair, Duncan Gair refused to deal with
13 me on the environment levy issue, he refused to be in the
14 same room, and my insurer said I should not be in the same
15 room as the mayor.

16

17 And so, when that public meeting was held I was not
18 able to attend the public meeting and I just thought, this
19 is really going from bad to worse. But on the day that the
20 council was considering the environment levy was - I had to
21 give the public apology at the start of the session and
22 that was the day when that environment levy was being
23 considered so the public gallery was absolutely packed and
24 most people know me because of my involvement in the
25 community, and when I gave the apology and talked about the
26 word "corruption" and "corrupt" was just heard, all they
27 could hear was either corrupt or corruption, and so
28 actually I think it backfired on council because I think
29 that - I know the friends of mine who were in the audience
30 were saying that people around them were saying, "Why is
31 Clive talking about corruption?"

32

33 So, yes look, the whole thing ended up giving council
34 a very bad image.

35

36 THE COMMISSIONER: Q. Just going back, I just wanted to
37 pick up part of your answer where there was the - after the
38 council meeting at which you delivered the apology, there
39 was a community meeting after the council meeting; is that
40 what you're saying?

41

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1 the mayor refused to be in the same room with you.
2 A. That was the - yeah, so there were negotiations with
3 environmentalists and the mayor and on the environment
4 levy, there were private meetings on that, but I was
5 excluded from joining those meetings.
6
7 Q. Those meetings, I'm sorry, I've conflated the meetings
8 in my own mind. And when you say you were excluded, who
9 excluded you?
10 A. Duncan Gair, he said, "I will not be in the same
11 room".
12
13 Q. Was this after you delivered the apology?
14 A. No, before.
15
16 Q. Was it in between the two meetings?
17 A. Yes.
18
19 Q. At the time he excluded you, had you made known that
20 you were going to proffer the apology?
21 A. I'm not sure, it's all about the same time; it was all
22 within a matter of days, yeah.
23
24 THE COMMISSIONER: I see, thank you. Mr Parish.
25
26 MR PARISH: Q. Bearing in mind the time constraints that
27 we have on this inquiry, it may not be possible for you to
28 speak next week on other topics. Is there anything else
29 you want to say now within the terms of reference more
30 generally?
31 A. Yeah, there is.
32
33 Q. This is probably your only opportunity.
34 A. There is. You will notice from the WinZero submission
35 that we've had a concern for some time about the planning -
36 sorry, about the community access to council mapping, and
37 that's actually a current concern.
38
39 So, WinZero have been actively involved in the
40 Frensham litigation which council is involved in.
41 Council's retained counsel, Senior Counsel and so forth,
42 and also ecologists and it's cost a lot of money. We find
43 us - we, the WinZero team who are helping the council side,
44 the Marsden solicitors who are helping them and Ann
45 Clements, the ecologist, are finding ourselves as being the
46 go-between between those people, the solicitors and the
47 barrister and council, the environment section.

1
2 THE COMMISSIONER: Sorry, Mr West, just pause for a
3 moment. Mr Parish, what term of reference does this fall
4 into?

5
6 MR PARISH: I'm not sure.

7
8 THE WITNESS: What I'm getting at is there's a systematic
9 problem within council bureaucracy where you have silos.

10
11 THE COMMISSIONER: I see.

12 A. The silo in this case is that the environment
13 section will not get involved with planning matters, they
14 refuse to get involved with planning matters in terms of
15 DAs and --

16
17 Q. Yes, it's a common experience of silos where one
18 doesn't speak to the other, is that the issue you're
19 describing?

20 A. Yes. So, for instance, I had a request by Ann
21 Clements who's the ecologist acting for the council in the
22 litigation, she said, "Can you find out" --

23
24 Q. Don't tell me anything about what's happening in the
25 litigation, that's outside my terms of reference, try and
26 address your comments more generally, if you can. I well
27 understand the issues of silos not speaking to one another;
28 in fact, at a firm I once worked in we were all put into
29 silos as named, which was perhaps slightly odd, so I
30 understand that issue. So, if you can generally describe
31 to me your concerns about how the silo is operating, but I
32 don't - given it's well outside my terms of reference I
33 don't think I should hear what's happening in the
34 litigation.

35 A. In the litigation, okay. Yes, so, I'm just wondering
36 how I can express that without referring to the litigation.

37
38 Q. Is the general issue that there are important matters
39 coming from the environment side which you perceive are not
40 feeding into the development side?

41 A. That's right, yes.

42
43 Q. I appreciate that may be at a higher level than the
44 particular examples, but have I understood the general
45 issue correctly?

46 A. Yes, I think there's a systematic problem in council
47 in terms of access to information on the environment.

1 Then, for instance, I've requested - I requested from the
2 manager of the environment section a map showing
3 biodiversity corridors in various parts of the shire and
4 they haven't been forthcoming. One of the lower level
5 staff did make a map available which, it turns out, was
6 from the 2003 biodiversity strategy of council, so it's an
7 approved document, but for some reason I wasn't given the
8 information - only subsequently when I asked a lower level
9 officer, yeah.

10
11 THE COMMISSIONER: I understand that point, yes.
12 Mr Parish?

13
14 MR PARISH: Nothing further.

15
16 THE COMMISSIONER: I understand there's an application or
17 may be?

18
19 CR SCANDRETT: Yes.

20
21 THE COMMISSIONER: Yes, what are the topics firstly?

22
23 THE WITNESS: So, have I finished?

24
25 THE COMMISSIONER: Not yet. There's an application by
26 Councillor Scandrett to ask you some questions and I'm just
27 going to deal with that now.

28
29 CR SCANDRETT: Commissioner, my application in relation to
30 Mr West relates to some of the evidence he's just given, in
31 particular, was the mayor's letter clearly on behalf of all
32 councillors? The letter regarding legal action. And also,
33 he's touched on communication, so I'd like to clarify
34 something there.

35
36 I'd also like to find out if Mr West feels there are
37 any other areas for the mayor's attitude towards him in
38 relation to his profile in the community.

39
40 And I also would like to ask Mr West, were there any
41 other matters, public matters that he was involved in in
42 the community? I will be naming Station Street as the
43 possible one there - that he might want to comment on that.

44
45 And finally, I have a couple of questions about the
46 reference to the environmental levy and the two public
47 meetings in East Bowral and Bowral regarding the

1 apportionment of those funds to the art gallery.

2

3 THE COMMISSIONER: Let's deal with the first topic first,
4 the email.

5

6 Q. Do you still have the email, Mr West? Not with you
7 but do you have it?

8 A. No, I haven't got it here because I was expecting to
9 speak next week, yes.

10

11 Q. I understand, but do you have it?

12 A. I have it, yes.

13

14 Q. Would you produce that to the inquiry?

15 A. I could. Do you want me to come along next week?

16

17 THE COMMISSIONER: Just send it to Mr Broad.

18

19 So, I think, Councillor Scandrett, we are going to get
20 the email, it may be somewhere in our committee papers
21 already. Ultimately it's a matter for me, isn't it, to
22 determine how I read that email? I mean, the evidence has
23 already been given of what he perceived about that. Is
24 there some issue that I'm missing

25

26 CR SCANDRETT: Commissioner --

27

28 THE WITNESS: The email that you're referring to, Angus
29 just passed me on the iPad.

30

31 THE COMMISSIONER: Okay, so it looks like we have a --

32

33 CR SCANDRETT: I don't doubt that you are the person to
34 make that, of course, but I'm interested in Mr West's
35 clarification of his perception of that because it's not
36 clear.

37

38 THE COMMISSIONER: I see. Yes, I understand. Ask your
39 question.

40

41 <EXAMINATION BY CR SCANDRETT: [1.21pm]

42

43 CR SCANDRETT: Q. My question, Mr West, is the email
44 that you received about the alleged defamatory
45 statements --

46

47 THE COMMISSIONER: No, no, that's not what I said.

1
2 THE WITNESS: There's no reference to defamation.
3

4 CR SCANDRETT: Q. I'm sorry, let me rephrase that. The
5 email you received from Mayor Gair the day after that
6 meeting in 2019, 23 May I think it was, was it clear that
7 was on behalf of all councillors or what?

8 A. He referred to all councillors in a broad sense but I
9 did take it as an email from the mayor as the mayor, on
10 behalf of council.
11

12 Q. On behalf of councillors, not on behalf of
13 Councillor Gair as himself?

14 A. No, I took it on behalf of.
15

16 Q. From the mayor on behalf of all councillors, thank
17 you.
18

19 THE COMMISSIONER: Councillor, try not to speak over the
20 witness when you're interacting, just let the witness
21 finish because it makes it not only a very difficult
22 transcription service but then I can't when I read it later
23 work out which bit the witness is responding to, so just
24 bear that in mind.
25

26 CR SCANDRETT: Thank you.
27

28 THE COMMISSIONER: Yes, next topic?
29

30 CR SCANDRETT: Q. Mr West, you've touched on
31 communications with councillors and the staff; could you
32 give me your expanded view on how effective communication
33 was with the organisation and the various parts of that?

34 A. I'm in a fortunate position to be on the environment
35 committee so I do in a sense have access to officers in the
36 environment section, so I do - I have - yes, I have and
37 continue to deal directly with certain action officers, if
38 you like, or officers on the ground, and so I'm very
39 grateful for that facility, if you like, yes.
40

41 Q. May I expand on that to say, as a community member and
42 I think you're a member still of the BRA, Berrima Residents
43 Association, would you like to comment on communication
44 from that perspective?

45 A. As I said in earlier years, going back 15 years or so,
46 the Berrima Residents Association had a very good and open
47 relationship with council, but during the last council, the

1 last five years or so, things have become much more
2 difficult, and we do get the impression that the Berrima
3 Residents Association is on the nose a bit in the council,
4 and so we just felt that communications have dropped away.

5
6 CR SCANDRETT: Thank you.

7
8 THE COMMISSIONER: Is that all?

9
10 CR SCANDRETT: My next question relates to the approach by
11 Councillor Gair towards Mr West and I'd like him to comment
12 whether he thinks any other matters were at play there.

13
14 THE COMMISSIONER: I'll reject that question. You need to
15 give examples of other interactions.

16
17 CR SCANDRETT: Mr West said that he felt that the
18 councillors were primed at the briefing prior, and that
19 Councillor Gair refused to deal with him after this
20 occasion. I would like to know if Mr West thinks that that
21 was in relation to his proposed candidacy as a councillor
22 for 2020?

23 A. No, I don't think it was, no. I think it's more that
24 Councillor Gair wanted to defend his staff, and I can see
25 why he would want to do that, but it was very heavy-handed
26 the way it was done. Am I permitted to ask the questioner
27 a question?

28
29 THE COMMISSIONER: Not generally. What is the issue you
30 wish to raise?

31 A. It's just that Ian was at the briefing before the
32 council session and I just wanted to know whether or not --

33
34 Q. No.

35 A. -- Mark Pepping. No you can't, okay.

36
37 CR SCANDRETT: My fourth question, Commissioner, relates
38 to other community matters. Mr West indicated that he was
39 involved in those and I nominated Station Street as an
40 experience that - I think it was the BRA particularly we
41 were interested in.

42
43 Q. Could you just comment on your experience with
44 communication in that space, please?

45 A. Yes. Again, it was quite antagonistic. The Berrima
46 residents, not just the association, but the Berrima
47 residents have a constant - every day it's a problem. We

1 come down Oxley Hill Road, we turn left onto, whatsaname --

2

3 Q. Wingecarribee Street.

4 A. Not Wingecarribee but you have to do - but anyway, you
5 have to go over the bridge and it's a very difficult
6 corner, there's a blind spot --

7

8 Q. Kirkham Road.

9 A. -- you tentatively go forward and there's always a
10 near accident sometimes, so we wanted to see a bridge at
11 the brickworks - Kirkham Road - on Kirkham Road at the
12 brickworks. And I'm on the austral community liaison
13 committee, so for the last few years I've been aware that
14 the brickworks is closing and will be moving to New
15 Berrima, they've got a DA for a new brickworks there, so I
16 was aware that the brickworks would be vacated. So, I
17 suggested to the Berrima Residents Association that they
18 put forward a concept plan for the brickworks which would
19 make it a 20 hectare park using the quarry as a lake, and
20 also use the opportunity to put a bridge where the railway
21 is near the brickworks. So we put forward this concept
22 plan, it was immediately dismissed out of hand. Barry
23 Paull's response was that the bridge there would cost 60 to
24 \$80m, and Duncan Gair was parroting that.

25

26 In fact we got a qualified engineer who specialises in
27 railway bridges and for the simple two lane bridge that we
28 were proposing, with a roundabout at each end, the estimate
29 was 5 to \$10 million, not 60 to 80. So, this is typical of
30 a way of sort of smashing ideas.

31

32 I must say since then we had a meeting with Lisa a
33 couple of weeks ago and at the end of the meeting I just
34 mentioned the fact that we had this concept plan which had
35 been squashed by the previous regime, and she said, "Oh,
36 please send it to me", and that was a very good response, I
37 just thought, what a breath of fresh air that is. And I
38 explained in a covering note to Lisa that we were not
39 expecting the council to pay for this, because it would be
40 probably a couple of hundred million dollars, it's a huge
41 thing to create a park that size, but what we were looking
42 for was a feasibility study which would cost probably
43 between \$30,000 and \$50,000, but the previous council
44 wouldn't even consider that either, so there's been a
45 complete change in council.

46

47 THE COMMISSIONER: Thank you.

1
2 CR SCANDRETT: Q. Just following on from that, so you're
3 saying that the current interim administration and new
4 general manager are receptive to ideas?

5 A. Absolutely and --

6
7 Q. And you'd compare it to the council?

8 A. You cannot believe the stress that's left my shoulders
9 since we've had the administrator; it's been fantastic,
10 yeah.

11
12 Q. And you're comparing that to the council of 16-20?

13 A. Sorry?

14
15 Q. You're making that comparison, I take it --

16 A. Yes.

17
18 Q. -- to the councillors --

19 A. Things were getting bad, and as you would know,
20 Councillor Scandrett, things got really bad and Station
21 Street was really the issue that really galvanised
22 everyone, and you opposed it from the start. But no, I
23 can't explain - it's like a relief that we're finally being
24 heard, the community's being heard, yes.

25
26 Q. Thank you, Mr West. My last question, Commissioner,
27 relates to the environment levy, the proposed diversion of
28 the environment levy, part of the environment levy to
29 funding the regional art gallery, which also involved, as
30 you would recall, Mr West, a reduction of services at the
31 RRC by reduction of hours.

32
33 THE COMMISSIONER: Sorry, Councillor Scandrett, in that
34 form it makes no sense to me. You'll have to break it up.

35
36 CR SCANDRETT: Okay, Mr --

37
38 THE COMMISSIONER: And, if you want the witness to agree
39 with propositions, you'll have to give them an opportunity
40 to agree with the propositions that you're putting. So,
41 just break it up step-by-step.

42
43 THE WITNESS: I can proffer a response to that if you
44 like?

45
46 THE COMMISSIONER: Well, I don't actually understand what
47 the question was.

1
2 THE WITNESS: Okay.
3
4 THE COMMISSIONER: So, I think it has to be redone.
5
6 CR SCANDRETT: I'll restate this, thank you, Commissioner.
7
8 Q. Mr West, you've mentioned the two meetings at East
9 Bowral and Bowral Memorial Hall, they were large public
10 meetings relating to the proposed reallocation of the
11 environment - part of the environment levy to the regional
12 art galley. Would you --
13
14 THE COMMISSIONER: Just stop.
15
16 Q. Do you agree with all that?
17 A. Yes.
18
19 CR SCANDRETT: Thank you, Commissioner.
20
21 Q. So, would you like to comment on that? And may I also
22 ask you for your comments on the proposed diversion of RRC,
23 reduction of RRC hours which was also part of that
24 proposal?
25
26 THE COMMISSIONER: Q. Well, just firstly, I think the
27 first part of the question is directed towards the
28 meetings. Do you have any observations about the meetings?
29 A. Yes, I wasn't able to attend the second larger
30 meeting, and so I had people there doing that for me. But
31 yes: no, I think Ian's right, part of the problem with this
32 diversion of funds was that it reduced the amount spent on
33 the environment.
34
35 Q. Sorry, I just want to get the sense of: you were at
36 one of the two meetings?
37 A. I organised the first meeting, yeah.
38
39 Q. I see, and who else was there?
40 A. Councillor Larry Whipper, and I think Ian, were you
41 there?
42
43 Q. No, don't look to the questioner.
44
45 CR SCANDRETT: I can't answer that.
46
47 THE WITNESS: I can't recall exactly, but I know

1 Larry Whipper --

2

3 THE COMMISSIONER: Q. So, some councillors?

4 A. Some councillors were there, yes.

5

6 Q. And any management?

7 A. I don't recall.

8

9 Q. And what was the purpose of the meeting?

10 A. The meeting was to discuss the proposed diversion of -
11 I think it was quite a lot of money - from the environment
12 levy to the regional gallery.

13

14 Q. Yes, I see. And, what was the outcome of that
15 meeting?

16 A. There was a resolution saying that the meeting opposed
17 it and so it was a very strong resolution.

18

19 Q. And was that communicated to council?

20 A. Yes.

21

22 Q. And, was there any response?

23 A. There was further - well, there was and that went into
24 negotiations with Duncan Gair, but I was excluded from
25 that.

26

27 Q. That was the bit you were excluded from?

28 A. Sorry?

29

30 Q. They were the negotiations you were later excluded
31 from?

32 A. There were negotiations directly - it was myself,
33 Geoff Byrne, and I can't remember the third person, but we
34 were negotiating directly with Duncan Gair on that.

35

36 Q. About what?

37 A. About just what the - how to - well, from our
38 perspective how to stop it; from his perspective how to
39 rationalise it.

40

41 Q. Yes, I understand, all right.

42 A. But I think after the second big public meeting, which
43 was packed out, Duncan Gair turned up to that meeting and
44 he publicly stood up and said, "We are not going to divert
45 the funds".

46

47 THE COMMISSIONER: I see, all right. Okay, and what was

1 the second part of the question, sorry?

2

3 CR SCANDRETT: Q. Mr West, do you recall that the other
4 part of the proposal of the diversion of funds, if you
5 wish, was by reducing services at the RRC hours of
6 operation?

7 A. Yes, I do. That was also upsetting. From an
8 environmental point of view the RRC is doing a wonderful
9 job, they really have top recycling provisions for green
10 waste and so forth, so they reduced the hours which I think
11 is a huge loss on the part of the community, so the whole
12 thing was just really messy and the net result was either
13 way the community was going to lose out.

14

15 Q. Just summing up, if I may ask you: so, do you feel
16 these were decisions of the whole of the council?

17

18 THE COMMISSIONER: I reject that.

19

20 CR SCANDRETT: Okay.

21

22 Q. Do you think these decisions were being discussed in
23 briefings not available to the public?

24

25 THE COMMISSIONER: I reject that.

26

27 THE WITNESS: I'm not sure about the briefings but --

28

29 THE COMMISSIONER: How would he know?

30

31 THE WITNESS: Sorry, it was not the view of all --

32

33 THE COMMISSIONER: Stop, please, sir. How would the
34 witness know that?

35

36 CR SCANDRETT: Commissioner, I think it's sort of by
37 omission because he stated before that those briefings were
38 not public and that he felt that they - a certain matter,
39 which was the matter in discussion here, was already
40 defined in the briefings prior to the council.

41

42 THE COMMISSIONER: Well, that was his perception of what
43 happened at the meeting.

44

45 CR SCANDRETT: Perception, yes, that's right.

46

47 THE COMMISSIONER: So he's given plenty of evidence about

1 that. I think there's no controversy that the briefings
2 were not open to the public, so asking a witness what he or
3 she thinks happened in them is not going to help me.

4
5 CR SCANDRETT: Yes. I would like to thank the witness for
6 his time today. Thank you, I'm finished now.

7
8 THE COMMISSIONER: Right. Mr Parish, anything arising?

9
10 MR PARISH: No.

11
12 THE COMMISSIONER: Thank you for coming along today in
13 giving your evidence and answering your summons.

14 A. Thank you for allowing me to - yeah.

15
16 Q. You are excused from further attendance under your
17 summons and free to go.

18 A. I'm sorry?

19
20 Q. You're excused and you can go on your way.

21 A. Would you like me to attend again next week, because
22 that was going to be on the (indistinct).

23
24 Q. Have a chat to Mr Broad, I think Mr Parish has covered
25 all the areas he wished to address you with, but just check
26 with Mr Broad on your way out.

27 A. Okay, that's perfect.

28
29 THE COMMISSIONER: We're well into the luncheon
30 adjournment, shall we resume at quarter past 2 or?

31
32 MR PARISH: Yes, Commissioner.

33
34 THE COMMISSIONER: Is that sufficient?

35
36 MR PARISH: Yes, yes, definitely.

37
38 THE COMMISSIONER: Yes, all right. I'll adjourn until
39 quarter past 2.

40
41 <THE WITNESS WITHDREW

42
43 LUNCHEON ADJOURNMENT
44
45
46
47

1 UPON RESUMPTION

2

3 THE COMMISSIONER: Yes, Mr Parish.

4

5 MR PARISH: Thank you, Commissioner. My next witness is
6 John Burgess.

7

8 <JOHN BURGESS, sworn: [2.21pm]

9

10 THE COMMISSIONER: Thank you, Mr Burgess. Mr Parish.

11

12 <EXAMINATION BY MR PARISH:

13

14 MR PARISH: Q. Thank you, Commissioner. Mr Burgess, can
15 I start with some personal background and then I'll move to
16 your role within the council because I understand you held
17 several positions. Can I start with some personal
18 background, how long you've lived in the shire and your
19 vocation generally?

20 A. Sure. I don't live in the shire, I live on the
21 central coast. I used to commute down Monday morning and
22 go home Friday afternoon. I lived in a suburb called
23 Bateau Bay in the previous fabulous Wyong Shire, now part
24 of Central Coast, and I'm a very unhappy ratepayer having
25 to pick up the debts, seeing as I was in charge of finance
26 at Wyong Shire.

27

28 THE COMMISSIONER: Q. That's another Commissioner's
29 problem, I think.

30 A. It is, Commissioner.

31

32 MR PARISH: Q. When did you commence working in this
33 council?

34 A. Oh, my birthday in August of - the year eludes me, it
35 was seven years, so it would be 2014, August 2014.

36

37 Q. What was your role at the council at that time?

38 A. I initially came here as a contractor to assist the
39 council with the development of a package they had for some
40 considerable time, it was a meeting package. That brief
41 was for about two months, I returned home and received a
42 phone call from the council asking whether I'd come back
43 and act in the role of human resources until they went
44 through a recruitment process. I held that role, that
45 morphed into include risk about six or eight months later.
46 And then over time, I think about three years ago, they
47 changed the role from manager organisation development to

1 group manager organisation development. Those dates may
2 not be absolutely perfect but I'm sure your records
3 will ...

4
5 Q. I might be able to show you a document in tender
6 bundle A. Page 4 of tender bundle A.

7 A. Page 4, "Organisational structure".

8
9 Q. That's the one. It says 28 April 2015 and this is
10 version 8 as at 30 September 2016. You're in there as
11 three-year fixed term on the right-hand side about the
12 middle, manager organisational development. Does that
13 sound about right at that time?

14 A. That's correct.

15
16 Q. And, how long did you hold that role?

17 A. Assuming that they are, the name change from manager
18 organisation development to group manager --

19
20 Q. Yes.

21 A. -- it would have been for a period from May 2015 until
22 22 April or thereabouts, 2021.

23
24 Q. On 22 April 2021 what role did you then assume?

25 A. Unemployed.

26
27 Q. Post your unemployment role did you have another role
28 in council at that time?

29 A. No, I did not, I --

30
31 Q. Can I ask whether, before 22 April 2021, your role did
32 in fact change from group manager organisational
33 development and you held temporary roles further up the
34 chain, as it were?

35 A. Sorry, they were acting roles --

36
37 Q. Yes.

38 A. -- for very short periods of time.

39
40 Q. Can you tell me what those acting roles were?

41 A. One acting role was for a very short time for finance.
42 One was for assets, I think it was called back then, and I
43 think that became project delivery. And I acted on
44 occasion for the deputy general manager operations, finance
45 and risk in his absence for a short period.

46
47 Q. Any other roles that you can recall?

1 A. Not that I can recall.
2
3 Q. Were you the acting general manager for a time?
4 A. Oh, recently?
5
6 Q. Yes?
7 A. For a week, yes. My apologies, I forgot that one.
8
9 Q. Obviously a memorable position. I think my questions
10 will mainly focus around your time as manager and group
11 manager of organisational development, but by all means if
12 you feel the need throughout your answers to distinguish
13 between any roles, let me know.
14
15 Who did you report to as manager or group manager of
16 organisational development?
17 A. The deputy general manager operations, finance and
18 risk.
19
20 Q. Was that Mr Barry Paull for most of your time?
21 A. Yes.
22
23 Q. How many staff did you manage in your role?
24 A. At the commencement, probably around about six or
25 seven, and as risk - once risk was added and changes -
26 minor changes to part of the operations of organisation
27 development, about 16 or 17.
28
29 Q. As part of your role were you required to attend
30 briefing sessions with councillors on most Wednesdays of
31 the month?
32 A. No, rarely if ever, except at the invitation of the
33 general manager or the deputy general manager.
34
35 Q. Were you required to attend council meetings?
36 A. No, again at the request of the general manager or the
37 deputy general manager; unless of course if I was acting up
38 in Mr Paull's role.
39
40 Q. And that did happen from time to time, that you
41 attended council meetings and you did from time to time
42 attend briefings?
43 A. Not - yes, briefings I attended irregularly depending
44 on what the issues were if they were risk-based issues. I
45 did attend council meetings irregularly depending on the
46 reports that may have been listed on a business paper, but
47 that would normally have been directed towards

1 organisational issues as distinct from whether it was
2 engineering, planning or some other form.

3
4 Q. I apologise, this is probably chronologically a
5 question I should have asked earlier, but prior to 2014
6 were you working in other councils or in respect of other
7 local government roles?

8 A. No, I wasn't, I was working for myself after I had a
9 bout of prostate cancer.

10
11 Q. So, you were an independent contractor before you took
12 on your role in 2014, roughly?

13 A. Yes, I was; I was involved with my son's business.

14
15 Q. In your other roles as an independent contractor did
16 you interact with other local councils at all? Was this
17 your first experience dealing with local government and
18 councils?

19 A. No. I have previously held roles as general managers.
20 I have been since the commencement of my career of town
21 clerk way back when, for a little country town called Glen
22 Innes where I was town clerk appointed in 1982. I left
23 there to go to Wyong where I held a variety of positions at
24 Wyong: finance, corporate services, deputy shire clerk, and
25 acted for the shire clerk for an extended period when his
26 wife was very, very ill with brain cancer.

27
28 Q. Did you have occasion to attend either briefings or
29 council meetings of Wyong Shire Council from time to time?

30 A. At Wyong I was required to attend all meetings of
31 council. Wyong Council did not have formal briefings, we
32 had weekend workshops where we spent time on strategic
33 issues. In terms of the business paper, was a business
34 paper prepared by the general manager and all questions
35 were asked either in the chamber or directly to the general
36 manager prior to the meeting, but in terms of formal
37 briefings rarely, if ever.

38
39 Q. Can I ask you about your experience in dealing with
40 briefings in this shire council, and given when you
41 commenced working here I might just break it up between the
42 2016-2020 term and the 2012-2016 term. Can I first ask you
43 about your experience, if any, with briefings during the
44 2012-2016 term?

45 A. Oh, Commissioner, with respect, as I say, I rarely
46 attended, but the ones - the briefings and the council
47 meetings I attended seemed to be quite cordial.

1
2 Q. In 2016-2020 was that your experience as well, in
3 respect of briefings?

4 A. Briefings were by and large in that period, oh, I
5 would say depending on the subject, convivial; on other
6 subject issues, such as Station Street or some of the hot
7 issues around at that stage, they were very, very caustic.
8

9 Q. And this is in briefings as distinct --

10 A. In briefings.
11

12 Q. Yes. Did you ever get reports either in your role as
13 organisational development manager or from the staff that
14 you directly managed about people's impressions of
15 councillor behaviour in briefings in the 2016-2020 term?

16 A. I would get some comments from my staff and my comment
17 to them very strongly was, "Council staff were always to
18 report to the council, the council then makes a decision,
19 it's then up to the staff to implement that decision".
20 Staff used to listen to 2ST and I directed that be turned
21 off as a result of what I was hearing on the radio
22 stations.
23

24 Q. Can you be specific about what you were hearing on the
25 radio stations and what led you to the conclusion that the
26 best thing to do was to turn the radio off?

27 A. Specifically only to the extent that I can recall
28 that, after council meetings 2ST would have a session and
29 it invariably was negative towards the council and that was
30 affecting my staff in terms of the perception, because they
31 not only work for the council they also lived in the
32 community and thought it was unfair, as staff, that they
33 didn't have a voice and they should not be treated as such
34 in newspapers or in the radio.
35

36 Q. Were the negative things being broadcast on the radio
37 coming from the journalists who were interpreting what was
38 happening in the meetings or was it councillors speaking to
39 2ST?

40 A. A combination of both.
41

42 Q. So, your evidence is that there were councillors going
43 on 2ST post meeting being critical of council staff?

44 A. And the council process, yes.
45

46 Q. Can you give me any specific examples that stick in
47 your mind of that sort of behaviour?

1 A. Councillor Scandrett was a regular, there were other
2 councillors who made some minor comments, but the mayor of
3 course, he was there as the mayor and he regularly spoke
4 about the business of the council, which you would expect
5 that he should. Very little or no comment from the general
6 manager or staff.

7
8 Q. But in terms of the negative statements that caused
9 you to decide to turn off the radio, where were those
10 comments by and large coming from if there was a theme that
11 came through?

12 A. Principally about the activities of the councillors in
13 the chamber.

14
15 Q. You talked before about your instructions to staff
16 about their role to report to the council governing body
17 and to implement what the council governing body did. Do I
18 understand that to mean that you were clear on the
19 distinction between operational and strategic when it came
20 to the operation of council?

21 A. Very much so.

22
23 Q. In your view, and I'll ask at a general level first,
24 was there a stepping over the line or a transgression by
25 councillors into the area of operational?

26 A. Can you be a little more clear? Are you saying from
27 my role as organisational development?

28
29 Q. I'll start with from the perspective of your role. In
30 your experience or in your view did councillors or the
31 governing body intrude on operational matters?

32 A. In organisational development, no.

33
34 Q. Did you gain an impression from things you heard or
35 things you witnessed that that was happening in other areas
36 of the council?

37 A. Yes.

38
39 Q. Did that come partly from criticisms of staff or
40 negative matters conveyed in these 2ST radio grabs post
41 meeting?

42 A. No.

43
44 Q. Can you explain what that --

45 A. Comments about councillor interference came directly
46 from other managers who sought my advice as to what they
47 should properly do.

1
2 Q. Can you give me some examples of instances that
3 brought those other members of staff to you?

4 A. Yes. One incident where the then mayor had the
5 approval of the general manager to address the
6 infrastructure staff in how to fix potholes. So, all staff
7 were brought in and they were directed by Councillor
8 Halstead, or Mayor Halstead at that stage, as to how they
9 should fix potholes, and some of the staff were castigated.

10
11 The managers of those staff were - one couldn't accept
12 that permission had been given for a councillor to tell the
13 staff how to fix potholes, albeit recognising that
14 Councillor Halstead was in fact a qualified engineer, but
15 the staff themselves in an attempt to make sure that they
16 were safe had in fact engaged the USU to represent them and
17 say, why do we have to attend a compulsory pothole filling
18 exercise?

19
20 And there were many other like comments from managers
21 who were so unsure of their own role; I would initially
22 direct them, having listened to them, send them to Mr Paull
23 or to in fact go and discuss with the general manager those
24 particular concerns. I then started getting those same
25 concerns from the general manager and from staff who were
26 in attendance at the meetings for all sorts of issues,
27 particularly bullying.

28
29 Q. Do I understand your evidence just then that the
30 general manager was coming to you in your role as
31 operational risk manager to discuss issues of bullying from
32 the council?

33 A. Correct.

34
35 Q. Is that the right way around? Thank you. Can you
36 give - I'd better put some timeframes around that first.
37 When was that happening? Perhaps I should start with the
38 pothole incident, do you recall roughly when that was,
39 given that I think Councillor Halstead was mayor between
40 2016-2018?

41 A. It started - in reality it started after
42 Councillor Gair was re-elected as mayor. I think that's
43 when, from my professional view, not going to meetings but
44 occasionally sitting in and then moving off, that's when
45 the meetings seemed to become very caustic.

46
47 Q. In respect of the potential transgression of the

1 strategic operational demarcation, was that during
2 Councillor Gair's time as mayor as well given that
3 Councillor Halstead was mayor 2016-2018?

4 A. No, I think from my point of view, being a former
5 general manager, I saw some councillors from their point of
6 view seeking information, but I think the role of seeking
7 information on occasions transgressed into trying to
8 influence staff in potentially recommendations and reports
9 to council, and that seemed to be common in the planning
10 area.

11
12 Q. Do you recall if there were any specific council
13 policies around the information and the way that staff
14 interacted with councillors?

15 A. There was the Code of Conduct. I think from memory, I
16 think, there was a - whether there was a policy or
17 certainly a general manager directive that staff should not
18 interact with councillors, be pleasant, and refer the
19 councillors to her or to the deputy general managers.

20
21 THE COMMISSIONER: Q. Is a policy of that kind important
22 in the ordinary function of local government in your view?

23 A. Absolutely, Commissioner.

24
25 Q. Can you tell me why?

26 A. Back in my days in Glen Innes, which was a small
27 country town, different dynamics obviously, and to Wyong
28 which was growing, an organisation that prided itself in
29 having great governance systems; it was to stop councillors
30 knowingly or unwittingly approaching staff to try and
31 influence. That was to lock out that influence long before
32 at Wyong and Glen Innes before the local government
33 department brought in their Code of Conduct.

34
35 Q. Do you have a view about the effects it may have on an
36 organisation when that policy is not adhered to?

37 A. Absolutely destructive. I saw that when I went to
38 Auburn, it was absolutely chaotic and destructive, and it
39 pitted staff against each other, it pitted councillors
40 against councillors, and I think that's what we were seeing
41 played out here.

42
43 Q. Who do you think has the primary responsibility for
44 ensuring that policy is upheld?

45 A. General manager.

46
47 Q. Do you think the councillors bear responsibility to

1 adhere to it as well?

2 A. I think very progressive councils understood their
3 role very clearly; whether it was written or unwritten,
4 they didn't transgress. But in most cases, certainly in
5 the case of Glen Innes, Wyong and Auburn when those sort of
6 policies went to the councils the fair-minded councillors
7 adopted those very, very quickly.

8

9 Q. And in a council where there is such a policy is it
10 fair to say that the councillors bear a significant part of
11 the responsibility not to overstep their proper role?

12 A. Correct.

13

14 THE COMMISSIONER: Thank you. Yes, Mr Parish.

15

16 MR PARISH: Q. Given your experience, Mr Burgess, and
17 your reference to the Code of Conduct do you think it's
18 sufficiently clear to councillors that it is inappropriate
19 to transgress into areas of operational?

20 A. Yes and no. Yes, if you're a reasonable person, the
21 Code of Conduct would provide the guidance. No, if the
22 councillor or a staff member was of a mind to breach that,
23 it wouldn't matter what Code of Conduct you had or who
24 imposed it or how it was written.

25

26 Q. Could I ask you about some evidence before that you
27 gave about the general manager coming to you about bullying
28 that she was witnessing at council meetings. Firstly, do
29 you recall roughly when the time period was that that
30 happened?

31 A. From memory, it was after the fires in 2020, January
32 2020, and pre-COVID, so it would have been January through
33 to March-April of 2020.

34

35 Q. Were the matters of bullying that the general manager
36 was raising with you in respect of her or other staff that
37 she was witnessing being bullied in these meetings?

38 A. All of the above.

39

40 Q. In your role as someone who had to deal with risk, how
41 did you deal with a general manager coming to you and
42 saying that she was being bullied by councillors?

43 A. Firstly, I spent some considerable time watching
44 council meetings that I hadn't bothered to watch, and
45 observed the behaviour and the treatment that was directed
46 towards Miss Prendergast and other staff in the room.

47

1 I then spoke to, certainly to our lawyers, Sparke
2 Helmore, to seek some advice from them because they had
3 represented - they have a number of councils they represent
4 in this region and across New South Wales, and Murray shire
5 had just been sacked or previously been sacked for issues
6 where the council had not put resources into work health
7 and safety and provided a safe workplace. The Act is very
8 clear, the councillor shall provide a safe workplace, as
9 shall the general manager, and that was clearly not evident
10 from the council meetings that I saw.

11
12 Q. And when you went back and watched those council
13 meetings other than the impressions that you've just given,
14 what was your view on the way that the councillors were
15 conducting themselves both in respect to each other and to
16 members of the public from time to time who were at the
17 meetings?

18 A. Can I answer that in two parts, please?

19
20 Q. Certainly.

21 A. There were certainly councillors who did not
22 participate directly or indirectly in some of the comments
23 that were being made across the chamber.

24
25 The mayor was being taken to task on every part of the
26 Code of Meeting Practice in his chairing of the meetings by
27 potentially three of the councillors and I can name those
28 councillors if you so desire.

29
30 Q. That's not necessary at this stage, unless the
31 Commissioner wants to hear the names?

32
33 THE COMMISSIONER: I'd like to know.

34
35 Q. Yes, please, who do you put into each category? I
36 think you started by saying there were some who didn't
37 engage in that conduct, so however you want to answer it
38 you can by exclusion or inclusion?

39 A. I'll name the councillors who didn't.

40
41 Q. Yes.

42 A. I won't include or exclude the mayor, Councillor Gair
43 at that stage, but Councillor Markwart, Councillors Nelson,
44 Councillor Grahame was his first - I'm sorry, I can't think
45 of his --

46
47 Q. I'll show you the page of the annual report with their

1 photos, that might help you; it certainly helps me from
2 time to time.
3 A. Thank you, Commissioner.
4
5 MR PARISH: Q. Page 180 of the bundle you might have in
6 front of you there.
7
8 THE COMMISSIONER: Exhibit A, Volume 1?
9
10 MR PARISH: That's correct.
11
12 THE WITNESS: Councillor Grahame alphabetically. We'll go
13 through them, if that's appropriate?
14
15 THE COMMISSIONER: Q. Yes, the answer is, yes.
16 A. Councillor Andrews, Councillor Markwart, Councillor
17 McLaughlin, Councillor Nelson, and Councillor Whipper.
18
19 THE COMMISSIONER: Thank you. Mr Parish.
20
21 MR PARISH: Q. Well, I may as well then ask, who were
22 the three who you did view as behaving inappropriately?
23
24 THE COMMISSIONER: Well, isn't it obvious? I withdraw
25 that, you can ask the question.
26
27 MR PARISH: People who are listening to it don't have that
28 information.
29
30 THE COMMISSIONER: Yes, I understand.
31
32 THE WITNESS: That was Councillor Scandrett, Councillor
33 Halstead and Councillor Turland. Again, it was
34 issue-based.
35
36 MR PARISH: Q. Yes, thank you. Can you give me your
37 impressions of how the meetings were chaired? Was it your
38 view that whomever was chairing, I take it, to usually have
39 been Mayor Gair was doing the best they can, or did you
40 think that there were things that could be done differently
41 there?
42 A. Yes, I think given the circumstance.
43
44 Q. In your experience having dealt with other councils
45 had you ever witnessed behaviour of councillors to the
46 point that a general manager felt bullied, accepting that
47 you yourself were a general manager from time to time?

1 A. I have never seen behaviour like that.

2
3 Q. And, just to round that out, although the answer
4 probably follows, do I take it then that this behaviour
5 that you saw when you went and reviewed the meetings was
6 behaviour you had not experienced or seen in other councils
7 that you had been involved in?

8 A. Never.

9
10 Q. Can I ask your impression of how behaviour of
11 councillors affected other senior staff in the executive
12 level, including the general manager? Do you have the view
13 that that affected how they did or could do their jobs?

14 A. I don't believe that the councillors' behaviour
15 affected the three executive members to the extent that
16 they tried to shield the staff in their direct reports from
17 any criticism that may have occurred.

18
19 In the initial days, early days, I guess they put it
20 down to the issues at hand, but as it continued, and there
21 were no resolution of long-standing issues around Station
22 Street and others, and the deputy general managers and the
23 general manager became threatened whether it was in council
24 meetings or by texts or by direct phone calls, they still
25 continued to, in my view, put the community first and try
26 and deliver services this council had agreed through the
27 community plan and the delivery plan, operational plan, to
28 deliver. They protected the finances of this organisation,
29 they did a great job of that. So, in essence, they
30 shielded the staff where they possibly could.

31
32 Q. We have some evidence that, at least in the perception
33 of some who worked within the staff, that over time senior
34 staff executives became defensive and had to focus on
35 managing councillors rather than more freely perform their
36 role; do you have any view on that? Do you disagree or
37 agree?

38 A. I think there were elements of that that existed but I
39 don't believe it was a strong element.

40
41 Q. What about staff who reported to you or staff outside
42 the senior or executive levels? Do you have a view about
43 whether, if they had to come into contact or interact with
44 councillors, they were defensive or unable to fully equip
45 themselves in their role?

46 A. No, I don't have a view on that.

1 THE COMMISSIONER: When you say "defensive" that might
2 mean different things to different people. What are you
3 driving at?
4

5 MR PARISH: I think the evidence yesterday, Commissioner,
6 it might have been, was that senior executives had to pivot
7 towards more managing of councillors and their
8 personalities rather than fully equip their roles.
9

10 THE COMMISSIONER: Yes.
11

12 Q. You understood that was what Counsel Assisting was
13 asking?

14 A. (Witness nods.)
15

16 THE COMMISSIONER: Yes, just me again.
17

18 While Mr Parish is conferring. Mr Riley, I do
19 apologise, I didn't acknowledge your appearance. Obviously
20 enough, you have leave to appear for Mr Burgess while he
21 gives his evidence, but I do apologise for that.
22

23 MR RILEY: Thank you, Commissioner.
24

25 MR PARISH: I was going to move on from the topic of
26 Mr Burgess's impressions on how that affected staff, if
27 that's okay.
28

29 THE COMMISSIONER: Yes.
30

31 MR PARISH: Q. Mr Burgess, did you ever witness or have
32 come to your attention any allegations of disclosure of
33 confidential information by councillors?

34 A. No.
35

36 Q. Did you ever witness or hear of staff limiting
37 information that was to go up to councillors?

38 A. No.
39

40 Q. Can I ask your general impression about the culture
41 within the council staff. There was some conclusions after
42 the interim administrator was appointed that the workplace
43 may have been toxic and that there were reputational risks
44 and occupational health and safety risks within the
45 organisation. Do you have any view on those conclusions or
46 impressions?

47 A. There were parts of the organisation, minor parts of

1 the organisation, that were toxic. Any organisation has
2 within its structure individuals who can change their
3 management style to get a better outcome, to be more
4 consultative. What the interim administrator has gleaned
5 from his discussions with staff, I don't know, I've not
6 been privy to those, they're not being shared, they
7 certainly weren't shared when I was here, but from a
8 general point of view the staff in this organisation, when
9 I turn my mind back to things like the fires, the droughts,
10 the fires, the floods, the COVID and the delivery of
11 services during COVID, an organisation that was so heavily
12 splintered would never have delivered services to the
13 community as they did.

14
15 Q. We've had some evidence from a witness that after the
16 bushfires she said, "It was like it would have been better
17 if the council had not even been here", or, "It was like
18 they weren't even here", and she didn't include staff
19 members in that.

20 A. Sorry?

21
22 Q. And she didn't include staff members in that, she
23 praised staff members. Was that an impression you ever got
24 in the community when you were at the council?

25 A. Yes. Yes, with the exception that the staff I don't
26 believe received the praise they should have from their own
27 councillors as a result of what they did during those
28 fires. They were a broken unit as a whole on 6 January
29 2020 when I returned and I immediately brought in external
30 assistance with some psychological counselling.

31
32 They had worked tirelessly to assist the community.
33 As a result of that and then the move to COVID, yes, I
34 think they had recovered when COVID lockdown came along,
35 but in general, yes, they had done a great job and I don't
36 think they ever received any recognition, particularly for
37 keeping things like water in pipes, in reservoirs so they
38 could fight fires; or taking staff out to restart the
39 Bundanoon sewerage - water treatment plant which had been
40 impacted by fire and they had to get that plant working
41 again. All of that went unsaid, all of it.

42
43 Q. In your view were the 2016-2020 councillors as a
44 governing body providing effective civic leadership to the
45 local community? And you can break that up into certain
46 time periods if you have different answers for different
47 times.

1 A. I would say no from the time of the fires forward.

2

3 Q. In your view, was that partly caused by the way they
4 conducted council business before the fires, as in, was it
5 a lack of preparation and engagement on some issues which
6 led to their ineffective leadership, civic leadership,
7 after the fires?

8 A. Look, I really don't think I'm in a position to
9 comment on that.

10

11 MR PARISH: Commissioner, I was going to move on from
12 specific topics.

13

14 THE COMMISSIONER: Yes.

15

16 MR PARISH: Q. Have you been contacted by any
17 councillors since the announcement of this inquiry?

18 A. No.

19

20 Q. Is there anything else you wish to say at this stage
21 that pertains to the terms of reference?

22 A. No.

23

24 THE COMMISSIONER: Is there an application?

25

26 CR SCANDRETT: Yes, Commissioner.

27

28 THE COMMISSIONER: Mr Riley we'll have to perhaps make
29 space for you so you can - I'm sorry, Mr Riley take
30 Mr Parish's place so you can be heard and transcribed. In
31 case there's a need to make objection, Mr Parish can shout.

32

33 What are the topics?

34

35 CR SCANDRETT: Thank you, Commissioner. The matters I'd
36 like clarification on from the witness, please, will be the
37 meetings that were attended, just refining that because I
38 found some concerns in that space.

39

40 The fact that Mayor Gair was excluded from his
41 comments regarding councillors and the chairing of
42 meetings. I'd like to also ask a little about his
43 experience at Auburn Council because he's introduced that.

44

45 THE COMMISSIONER: Why would that matter?

46

47 CR SCANDRETT: Well, Commissioner, Mr Burgess was making

1 comment about behaviour at other councils, such as Glen
2 Innes and Auburn and so on, and my recollection, sir, is
3 that Auburn was a very interesting council and had some
4 behavioural matters reported in the press, so I'd like to
5 just ask his qualification of that, please. I may have one
6 matter arising from that, sir.

7
8 THE COMMISSIONER: No, stop. I think Mr Burgess's
9 evidence about Auburn was said in the context of his wide
10 experience in local government in observing other councils.
11 What relevance is it of the particular issues that arose at
12 Auburn that you wish to ask the witness about?

13
14 CR SCANDRETT: Well, I guess we were, again, focusing on
15 conduct and behaviour at other councils by councillors, and
16 I think that Auburn seemed - there was some matters in the
17 press that were - required the intervention of government,
18 obviously had some issues with (indistinct).

19
20 THE COMMISSIONER: Sure, I think it's common knowledge
21 that Auburn had some issues, but unless I'm confusing
22 councils in my own mind, but in any event what does it - I
23 must say, councillor, I'm struggling to understand how
24 that's relevant to me.

25
26 Mr Burgess referred to Auburn in the context of things
27 he saw or did not see at other councils in answering
28 Counsel Assisting's questions. But how about, rather than
29 take any more time on it, you ask your first question and
30 when we get to that topic I'll rule on it on a
31 question-by-question basis, but at the moment I don't see
32 how it arises.

33
34 CR SCANDRETT: Yes. And, Commissioner, I'm sorry, I did
35 not mention the evidence about 2ST where I'd like to ask
36 some dates and things like that. I'll start with that, if
37 you prefer?

38
39 THE COMMISSIONER: Ask your first question, we'll see how
40 we go.

41
42 <EXAMINATION BY CR SCANDRETT: [3.10pm]

43
44 CR SCANDRETT: Q. Mr Burgess, good afternoon. With your
45 evidence regarding 2ST and the direction you gave to staff
46 to turn the radio off in the building, could you tell me if
47 you kept a diary of those broadcasts that you're saying

1 were not helpful to council?

2 A. No.

3

4 Q. And, if you didn't have a diary, did you keep any
5 notes whatsoever as to who was speaking on 2ST? You
6 mentioned that Mayor Gair was there. Did you keep any
7 notes of any other councillors speaking on 2ST?

8 A. Yes.

9

10 Q. Are they notes that you have with you here today?

11 A. No, they're from my recollection.

12

13 CR SCANDRETT: Right. Well, Commissioner, I would tender
14 that those notes might be relevant to the discussion and
15 timelines that have been already covered in this inquiry.
16 I don't know whether it's possible for those notes to be
17 obtained.

18

19 THE COMMISSIONER: Take it up with Counsel Assisting,
20 councillor. That's a matter you can take up with Counsel
21 Assisting.

22

23 CR SCANDRETT: Thank you.

24

25 THE COMMISSIONER: They're not here, so I think that's as
26 far as it can be taken at the moment.

27

28 CR SCANDRETT: Yes.

29

30 Q. Mr Burgess, you talked about operational versus
31 organisational and planning. Did you keep any records in
32 the council system or otherwise of councillors' calls and
33 visits to the staff and whether they were appropriate in
34 terms of the delegations given?

35

36 MR PARISH: I object to that line of questioning.

37

38 THE COMMISSIONER: What's the objection?

39

40 MR PARISH: It doesn't follow at all from the first part
41 of Mr Scandrett's question about operational and
42 organisational structure issues about the keeping of notes
43 of particular staff.

44

45 THE COMMISSIONER: Yes. You may have to - put in that way
46 I don't think it's a fair question, so ask what you want to
47 get at in a different way and we'll see if we get there in

1 a way that's fair to the witness, but I don't think in that
2 form it's fair.

3

4 CR SCANDRETT: Q. We had very clear guidelines,
5 Mr Burgess, as you will recall and they were updated on the
6 access to executive senior staff and the delegations in
7 that space. So, when I heard you say at 2.42 this
8 afternoon that the councillor interference with staff, and
9 the staff were incensed, and the staff got 2ST to protest
10 in relation to the pothole lecture by Councillor Halstead
11 that you've given evidence on, I'd just like to know if
12 there were records kept of those processes and those
13 councillor calls and visits that were allegedly
14 inappropriate according to the approved delegations?

15

16 THE COMMISSIONER: No, that question's got too many
17 propositions in it. I think what you want to know is this.

18

19 Q. Mr Burgess, were there records kept of interactions
20 between councillors and staff that were reported as being
21 in breach of the policy?

22 A. If they came to me, Commissioner, yes.

23

24 THE COMMISSIONER: Yes.

25

26 CR SCANDRETT: Q. Consequent to that, Commissioner,
27 there was a councillor request system which Mr Burgess
28 was - would have been well aware of where --

29

30 THE COMMISSIONER: Councillor, I said earlier today that
31 when you are asking your questions, if you want the witness
32 to agree with a proposition, it's very unfair to assume in
33 your question that the witness will agree. I'm sure it's
34 not a matter of controversy, I've seen it in the papers --

35

36 CR SCANDRETT: Thank you --

37

38 THE COMMISSIONER: -- but if you want Mr Burgess to agree
39 to a proposition you should put it to him and give him the
40 opportunity to respond.

41

42 CR SCANDRETT: Thank you.

43

44 Q. Mr Burgess, are you aware of the councillor request
45 system?

46 A. Yes.

47

1 Q. Were you involved during any of your roles in managing
2 the responses that were given to councillors in that
3 system?

4 A. Rarely unless I was acting up.

5

6 Q. And are you aware of the usage of that system and by
7 councillors which was via email? The level of usage, is
8 what I'm saying?

9 A. No.

10

11 Q. Do you recall the statement from general manager
12 Prendergast at the time stating that one councillor was the
13 clear - my words here - the clear winner in terms of number
14 of matters referred through that system as per the
15 directive?

16 A. Sorry, what's the question, Commissioner?

17

18 THE COMMISSIONER: I'm not sure myself. What's the
19 question?

20

21 CR SCANDRETT: Thank you.

22

23 Q. Mr Burgess, are you aware of the statement that the
24 general manager Prendergast made as to the number of
25 requests made through that system, that the level of the
26 number of requests per councillor, each councillor?

27

28 THE COMMISSIONER: Is the witness aware of statements made
29 by the general manager, when, at what time?

30

31 CR SCANDRETT: Q. That would be variously in this term,
32 2016-2020, are you aware of any statements made by the
33 general manager as to the level of council requests by
34 councillors?

35 A. No.

36

37 Q. On the matter of meetings, Mr Burgess, you made some
38 evidence there as to which meetings you attended, which
39 briefings you attended, generally you were only attending
40 those - you said - let me qualify it: did you not say that
41 you only attended briefings, council meetings and so on as
42 necessary for the roles you were in generally?

43 A. Correct.

44

45 Q. Accordingly, Mr Burgess, the meetings you later said
46 you attended, the council meetings - bearing in mind they
47 would be some, as you've just said, you attended as per

1 your role at the time - were those meetings that you've
2 reflected on ones that you regularly attended? Did you
3 regularly attend council meetings?
4

5 THE COMMISSIONER: I'm sorry.
6

7 MR PARISH: I object.
8

9 THE COMMISSIONER: I think you'll have to withdraw that
10 and start again.
11

12 CR SCANDRETT: Thank you, I withdraw that.
13

14 CR SCANDRETT: Q. Mr Burgess, did you attend regularly
15 council meetings?

16 A. No.
17

18 THE COMMISSIONER: I think his attendance at meetings has
19 been well covered, I think.
20

21 CR SCANDRETT: Yes. Where I'm going with this,
22 Commissioner --
23

24 THE COMMISSIONER: Don't tell me, you ask your next
25 question and we'll see where we get to.
26

27 CR SCANDRETT: Q. Mr Burgess, you've since given
28 evidence later in your appearance today about the quality
29 of the meetings and the interactions across the chamber;
30 you talked about - you named councillors at about 2.50 this
31 afternoon that didn't participate in the comments across
32 the chamber; is that correct?
33

34 THE COMMISSIONER: Yes, it is.
35

36 CR SCANDRETT: Q. And you then named three councillors
37 but you then made the point that Councillor Gair was not
38 part of that. Could you qualify what you were trying to
39 say there about Councillor Gair?
40

41 MR PARISH: I object to the form and coherence of that
42 question.
43

44 CR SCANDRETT: I might have to reformat that.
45

46 THE COMMISSIONER: If you can, yes.
47

1 CR SCANDRETT: Q. Mr Burgess, you stated that Councillor
2 Gair - you did not include Councillor Gair in your comments
3 about comments across the chamber about councillors; could
4 you explain why?
5 A. Councillor Gair was the chair of the meeting.
6
7 Q. Right, as mayor?
8 A. Correct.
9
10 Q. Are you aware, Mr Burgess, of council's policy of
11 communication with the media?
12 A. Yes.
13
14 Q. Could you comment on whether all media were receiving
15 communications from council promptly and equally?
16
17 THE COMMISSIONER: Q. Was it anything to do with your
18 role, Mr Burgess?
19 A. No, Commissioner, it was not.
20
21 THE COMMISSIONER: I think that answers that question.
22
23 CR SCANDRETT: Commissioner, at one point Mr Burgess was
24 acting general manager and at another point --
25
26 THE COMMISSIONER: For a week. For one week, he said.
27 His evidence was he acted in the general manager's role for
28 one week.
29
30 CR SCANDRETT: Yes. So, there was a period at which he
31 was responsible for those communications --
32
33 THE COMMISSIONER: Q. Mr Burgess, in those seven days do
34 you have any recollection of media releases going to media
35 on certain issues?
36 A. Only the fact that the council had been dismissed and
37 that went to every media outlet from the media team.
38
39 THE COMMISSIONER: Thank you.
40
41 CR SCANDRETT: Q. I think there's a point I'm trying to
42 make here and it is, at any time were you aware that there
43 was different treatment of different media in the council
44 and, for example, in the libraries?
45
46 MR PARISH: I object.
47

1 THE COMMISSIONER: What's the objection?
2
3 MR PARISH: Well, there's no temporal limits placed on
4 that, for a very start; there's no real foundational basis
5 upon which that question's put to him, it contains multiple
6 assumptions and propositions.
7
8 THE COMMISSIONER: Yes. I'm also wondering what term of
9 reference this goes to?
10
11 CR SCANDRETT: To No.4, sir.
12
13 MR PARISH: I still object. I've already given my
14 submissions on (indistinct) --
15
16 THE COMMISSIONER: Yes, in that form it's not fair to the
17 witness because it has a few assumptions within it with
18 which he may not agree. Rather than putting positive
19 propositions you may be better, and it's a matter entirely
20 for you, to ask more open questions. In a sense, ask the
21 witness what he knew about things, without the assumed fact
22 in it, might be a way you can ask that type of question.
23
24 CR SCANDRETT: Okay.
25
26 Q. Mr Burgess, what did you know about the matter, the
27 various matters involving asbestos at the RRC and related
28 contamination to various projects in the shire?
29
30 MR PARISH: I object.
31
32 THE COMMISSIONER: What's that got to do with any of the
33 terms of reference?
34
35 CR SCANDRETT: Well, it's a communications thing again,
36 sir.
37
38 THE COMMISSIONER: What's the ultimately issue you're
39 wanting to tease out?
40
41 CR SCANDRETT: Mr Burgess was in charge of staff at that
42 point in time during that period of those issues. I was
43 actively involved in - I was concerned about those issues,
44 but there was, apparently, a direction of sorts given to
45 staff to not participate in any matters to do with that. A
46 number of councillors were interested in --
47

1 THE COMMISSIONER: Matters to do with what?
2
3 CR SCANDRETT: The asbestos contamination at the RRC, sir.
4
5 THE COMMISSIONER: So, what is the direction you want to
6 ask the witness about?
7
8 CR SCANDRETT: Was Mr Burgess aware of any instruction or
9 direction given to staff to not be involved or not answer
10 questions on that matter.
11
12 THE COMMISSIONER: Right.
13
14 Q. Can you answer that question?
15 A. No.
16
17 Q. No, you weren't aware?
18 A. No idea.
19
20 Q. Thank you.
21 A. Not involved and I would doubt that sort of
22 instruction would ever be issued by anybody in management.
23
24 Q. What causes you to make that second comment?
25 A. Commissioner, the people who were in senior management
26 of this organisation were people who were very ethical
27 about what they did and how they did things.
28
29 THE COMMISSIONER: Thank you.
30
31 CR SCANDRETT: My last question arises from that answer.
32
33 Q. Mr Burgess, what is council's policy on
34 whistleblowers, and did you have any interaction in that
35 space in your various roles?
36
37 THE COMMISSIONER: When?
38
39 CR SCANDRETT: Primarily during that period.
40
41 THE COMMISSIONER: So, was there a council policy on
42 whistleblowing from 2016-2020, first question?
43
44 CR SCANDRETT: Yes, that's correct.
45
46 THE COMMISSIONER: Q. Can you answer that question?
47 A. Yes, there's a policy.

1
2 THE COMMISSIONER: Yes, all right. What's the next
3 question?
4
5 CR SCANDRETT: Q. Following from that, was there any
6 interaction in your various roles with staff on the matter
7 of whistleblowing?
8
9 THE COMMISSIONER: I'm sorry, Mr Riley?
10
11 MR RILEY: I object to that question, it's an unfair
12 question to put to this witness.
13
14 THE COMMISSIONER: Yes.
15
16 MR RILEY: If there is a policy, it would be a
17 confidential policy and the point of having a question and
18 answer (indistinct) --
19
20 THE COMMISSIONER: Yes, I reject that question.
21
22 CR SCANDRETT: Mr Riley, with respect --
23
24 THE COMMISSIONER: I reject the question.
25
26 CR SCANDRETT: Oh, you reject?
27
28 THE COMMISSIONER: Yes.
29
30 CR SCANDRETT: Could I ask it this way then.
31
32 Q. Are all policies of council in relation to staff
33 public, i.e. on the web?
34 A. No.
35
36 Q. Right, and would you be able to document, to the best
37 of your recollection, which policies in relation to staff
38 are not public?
39 A. Commissioner, operational issues subject to the
40 direction and control of the general manager.
41
42 THE COMMISSIONER: Thank you.
43
44 CR SCANDRETT: Mr Burgess, thank you for your answers.
45
46 THE COMMISSIONER: Mr Riley, do you seek leave to examine
47 Mr Burgess?

1
2 MR RILEY: I don't. Thank you.
3
4 THE COMMISSIONER: Mr Parish, anything arising?
5
6 MR PARISH: No, Commissioner.
7
8 THE COMMISSIONER: Thank you. Mr Burgess, thank you for
9 coming today, I appreciate that answering your summons has
10 brought you away from home on an afternoon where you'd
11 probably be somewhere else, so I appreciate the effort
12 given you've had to travel.
13
14 Should Mr Burgess be excused?
15
16 MR PARISH: Yes.
17
18 THE COMMISSIONER: Yes, you're excused from further
19 attendance and thank you.
20
21 THE WITNESS: Thank you, Commissioner.
22
23 <THE WITNESS WITHDREW
24
25 THE COMMISSIONER: And, Mr Riley, you don't need to raise
26 anything with me this afternoon?
27
28 MR RILEY: No. Thank you.
29
30 THE COMMISSIONER: Thank you.
31
32 MR PARISH: That's all the witnesses for week one,
33 Commissioner. The witnesses for week two are just being
34 finalised now and will be up on the web shortly.
35
36 THE COMMISSIONER: Is Monday settled?
37
38 MR PARISH: Monday is not completely settled, no. I will
39 say at this stage that we do have some further community
40 witnesses first.
41
42 THE COMMISSIONER: Yes.
43
44 MR PARISH: That will be dealt with on Monday as best we
45 can.
46
47 THE COMMISSIONER: Yes.

1
2 MR PARISH: We'll then move into the week two
3 administrator, general manager, staff members, ex-staff
4 members.

5
6 THE COMMISSIONER: Yes.

7
8 MR PARISH: I think we should be able to possibly put up a
9 witness list for week three as well with all the
10 councillors.

11
12 THE COMMISSIONER: I see. Well, the witness list for next
13 week or, if it can't be the whole week, Monday go up
14 sometime this afternoon?

15
16 MR PARISH: Yes.

17
18 THE COMMISSIONER: Yes, all right, very good. Well, if
19 there's nothing further, I'll adjourn until 10am Monday.
20 Thank you.

21
22 **AT 3.30PM THE INQUIRY WAS ADJOURNED TO**
23 **MONDAY, 4 APRIL 2022 AT 10.00AM**
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\$	1982 [1] - 421:22	2021 [3] - 419:22, 419:24, 419:31	72 [1] - 391:7	acted [3] - 419:43, 421:25, 438:27
\$10 [2] - 404:32, 412:29	2	2022 [2] - 354:36, 443:23	75 [1] - 366:11	acting [9] - 399:43, 407:21, 419:35, 419:40, 419:41, 420:3, 420:37, 436:4, 438:24
\$170m [1] - 371:18	2 [2] - 417:30, 417:39	2050 [1] - 367:2	8	action [14] - 358:47, 367:30, 376:11, 399:36, 399:40, 400:3, 400:17, 400:18, 401:12, 401:31, 402:15, 402:23, 408:32, 410:37
\$30,000 [1] - 412:43	2.21pm [1] - 418:8	21 [2] - 358:11, 358:12	8 [1] - 419:10	actions [1] - 391:9
\$350 [1] - 395:13	2.42 [1] - 435:7	22 [7] - 391:18, 397:33, 398:37, 403:41, 419:22, 419:24, 419:31	80 [1] - 412:29	actively [4] - 403:41, 403:42, 406:39, 439:43
\$450,000 [1] - 368:44	2.5 [1] - 369:33	23 [4] - 402:41, 403:34, 403:37, 410:6	A	activities [3] - 371:29, 372:30, 423:12
\$50,000 [1] - 412:43	2.50 [1] - 437:30	24 [1] - 359:10	abilities [1] - 370:38	acutely [1] - 402:3
\$80m [1] - 412:24	20 [4] - 374:32, 375:28, 395:6, 412:19	25 [1] - 391:8	ability [2] - 386:28, 386:34	added [1] - 420:25
'	200 [1] - 398:25	2577 [1] - 354:21	able [10] - 368:27, 384:15, 388:15, 388:28, 389:19, 405:18, 414:29, 419:5, 441:36, 443:8	additional [3] - 361:4, 396:4, 396:7
'councillor [1] - 381:46	2000 [2] - 369:32, 375:31	28 [1] - 419:9	absence [1] - 419:45	address [9] - 364:20, 368:21, 373:32, 390:2, 393:36, 402:43, 407:26, 417:25, 424:5
1	2003 [1] - 408:6	2ST [10] - 422:20, 422:28, 422:39, 422:43, 423:40, 433:35, 433:45, 434:5, 434:7, 435:9	absolutely [11] - 367:33, 378:19, 387:10, 396:15, 404:37, 405:23, 413:5, 419:2, 425:23, 425:37, 425:38	adhere [1] - 426:1
1 [6] - 354:36, 394:20, 394:21, 395:40, 396:34, 428:8	2006 [1] - 375:32	3	accept [2] - 403:21, 424:11	adhered [1] - 425:36
1.21pm [1] - 409:41	2010 [1] - 379:36	3.10pm [1] - 433:42	accepting [1] - 428:46	adjoining [1] - 394:43
10 [3] - 383:31, 395:4, 395:14	2012 [1] - 383:31	3.29PM [1] - 443:22	access [7] - 368:46, 369:16, 394:1, 406:36, 407:47, 410:35, 435:6	adjourn [4] - 374:34, 390:33, 417:38, 443:19
10.00AM [1] - 443:23	2012-2016 [3] - 356:16, 421:42, 421:44	30 [1] - 419:10	accident [1] - 412:10	ADJOURNED [1] - 443:22
10.01am [1] - 355:9	2012-ish [1] - 383:41	300 [1] - 398:25	accommodation [1] - 397:17	adjournment [1] - 417:30
10.29am [1] - 365:39	2013 [3] - 355:18, 356:15, 356:21	350.org [1] - 368:5	accompanied [1] - 359:40	ADJOURNMENT [3] - 374:38, 390:35, 417:43
100 [4] - 368:3, 394:22, 394:23	2014 [5] - 356:22, 418:35, 421:5, 421:12	355 [2] - 377:11, 377:20	according [1] - 435:14	administration [2] - 358:18, 413:3
10am [2] - 354:36, 443:19	2015 [3] - 368:16, 419:9, 419:21	4	accordingly [1] - 436:45	administrator [8] - 369:17, 373:16, 373:17, 389:35, 413:9, 430:42, 431:4, 443:3
11.10 [3] - 374:24, 374:26, 374:29	2015-2020 [1] - 369:9	4 [3] - 419:6, 419:7, 443:23	account [1] - 369:36	adopt [1] - 375:9
11.15 [1] - 374:34	2015/2016 [1] - 355:41	4.5 [1] - 369:32	accusation [1] - 404:13	adopted [1] - 426:7
11.24am [1] - 375:2	2016 [5] - 368:11, 368:20, 383:5, 392:23, 419:10	40 [1] - 394:18	accusations [1] - 371:17	adversarial [5] - 362:16, 363:29, 364:35, 371:8, 372:10
11.25am [1] - 375:21	2016-2018 [2] - 424:40, 425:3	400 [1] - 376:37	accusatory [1] - 404:14	advice [5] - 377:36, 402:36, 403:3, 423:46, 427:2
12 [6] - 355:42, 356:7, 359:35, 366:43, 367:46, 368:4	2016-2020 [15] - 356:17, 356:45, 369:11, 379:22, 379:28, 379:41, 384:34, 387:30, 393:36, 421:42, 422:2, 422:15, 431:43, 436:32, 440:42	5	achieve [1] - 386:35	advisor [4] - 398:22,
12.20 [2] - 390:30, 390:33	2018 [2] - 357:8, 357:43	5 [2] - 354:39, 412:29	acknowledge [2] - 384:3, 430:19	
12.32pm [1] - 390:43	2019 [10] - 359:10, 363:22, 363:43, 394:26, 397:33, 398:37, 402:41, 403:34, 403:37, 410:6	50 [1] - 393:13	acknowledged [1] - 362:23	
13 [1] - 358:45	2020 [8] - 366:40, 367:15, 370:17, 411:22, 426:31, 426:32, 426:33, 431:29	500 [4] - 368:20, 371:29, 376:37, 392:29	acre [3] - 394:20, 394:21, 395:14	
14/15 [1] - 383:23		6	acres [2] - 394:22, 395:4	
15 [6] - 375:43, 376:11, 383:23, 390:33, 395:6, 410:45		6 [1] - 431:28	Act [2] - 401:36, 427:7	
16 [2] - 383:22, 420:27		60 [2] - 412:23, 412:29	act [1] - 418:43	
16-20 [1] - 413:12		7		
165-paged [1] - 398:17		7.20pm [1] - 358:46		
17 [1] - 420:27				
18/19 [1] - 370:47				
180 [1] - 428:5				
1960s [1] - 395:13				
1980s [3] - 395:16, 395:18, 395:28				

<p>398:29, 399:26, 404:31</p> <p>Advisory [3] - 355:28, 370:29, 392:21</p> <p>advisory [1] - 370:9</p> <p>advocacy [2] - 369:1, 404:19</p> <p>affairs [2] - 372:21, 373:40</p> <p>affect [1] - 404:19</p> <p>affected [7] - 371:10, 386:33, 403:7, 429:11, 429:13, 429:15, 430:26</p> <p>affecting [1] - 422:30</p> <p>affects [1] - 386:30</p> <p>affiliated [1] - 368:4</p> <p>affiliates [3] - 366:43, 367:46, 368:8</p> <p>affirmed [3] - 365:39, 375:2, 390:43</p> <p>afternoon [7] - 418:22, 433:44, 435:8, 437:31, 442:10, 442:26, 443:14</p> <p>agenda [12] - 361:9, 361:11, 361:39, 361:40, 361:42, 362:10, 362:12, 362:13, 363:10, 363:12, 363:36, 372:34</p> <p>agendas [2] - 371:10, 386:9</p> <p>aggressive [1] - 401:5</p> <p>aggrieved [1] - 403:29</p> <p>AGMs [2] - 383:45, 383:46</p> <p>ago [5] - 366:7, 369:34, 391:8, 412:33, 418:46</p> <p>agree [8] - 413:38, 413:40, 414:16, 429:37, 435:32, 435:33, 435:38, 439:18</p> <p>agreed [6] - 385:42, 385:45, 385:46, 393:9, 401:8, 429:26</p> <p>agreement [1] - 364:45</p> <p>ahead [5] - 374:18, 385:11, 386:45, 390:28, 395:24</p> <p>aim [1] - 367:1</p> <p>air [3] - 389:41, 400:21, 412:37</p> <p>albeit [1] - 424:13</p> <p>alerted [1] - 357:23</p>	<p>allegations [3] - 357:44, 358:37, 430:32</p> <p>alleged [2] - 357:39, 409:44</p> <p>allegedly [1] - 435:13</p> <p>alleging [1] - 399:21</p> <p>allow [3] - 363:11, 363:12, 398:24</p> <p>allowed [4] - 362:13, 367:20, 369:30, 369:35</p> <p>allowing [1] - 417:14</p> <p>alluded [1] - 383:19</p> <p>almost [2] - 369:14, 395:4</p> <p>alone [3] - 367:30, 373:47, 377:24</p> <p>alongside [1] - 360:37</p> <p>alphabetically [1] - 428:12</p> <p>altogether [1] - 364:7</p> <p>am [1] - 380:27</p> <p>amazed [1] - 367:33</p> <p>ambush [1] - 362:35</p> <p>amiable [1] - 363:19</p> <p>amount [3] - 356:26, 389:11, 414:32</p> <p>Andrews [1] - 428:16</p> <p>angry [1] - 364:4</p> <p>Angus [2] - 354:29, 409:28</p> <p>Animal [13] - 355:39, 355:40, 355:47, 357:14, 357:26, 357:35, 359:3, 359:41, 360:21, 361:3, 361:6, 361:14, 361:24</p> <p>animal [10] - 358:19, 359:15, 359:26, 360:41, 360:45, 361:1, 361:35, 361:41, 364:25, 364:30</p> <p>animals [3] - 358:28, 361:4, 361:8</p> <p>Ann [7] - 392:39, 392:41, 392:47, 396:26, 397:5, 406:44, 407:20</p> <p>announcement [1] - 432:17</p> <p>annual [1] - 427:47</p> <p>answer [20] - 358:40, 361:25, 364:34, 372:8, 380:40, 381:4, 381:9, 382:11, 382:13, 405:37, 414:45,</p>	<p>427:18, 427:37, 428:15, 429:3, 440:9, 440:14, 440:31, 440:46, 441:18</p> <p>answering [3] - 417:13, 433:27, 442:9</p> <p>answers [4] - 420:12, 431:46, 438:21, 441:44</p> <p>antagonistic [3] - 362:41, 401:16, 411:45</p> <p>anti [1] - 398:15</p> <p>anti-coal [1] - 398:15</p> <p>anticipating [1] - 385:11</p> <p>anyway [2] - 399:6, 412:4</p> <p>Anzac [1] - 357:43</p> <p>apologies [1] - 420:7</p> <p>apologise [4] - 390:37, 421:4, 430:19, 430:21</p> <p>apology [14] - 389:20, 400:13, 401:47, 403:18, 403:19, 403:21, 403:25, 405:4, 405:21, 405:25, 405:38, 406:13, 406:20</p> <p>appeal [1] - 394:37</p> <p>appear [4] - 371:9, 381:28, 392:6, 430:20</p> <p>appearance [2] - 430:19, 437:28</p> <p>appeared [2] - 384:12, 401:7</p> <p>application [11] - 369:34, 375:7, 375:12, 375:14, 375:15, 390:13, 394:30, 408:16, 408:25, 408:29, 432:24</p> <p>applications [4] - 365:13, 369:2, 370:14, 372:22</p> <p>applied [1] - 370:41</p> <p>apply [2] - 380:14, 394:32</p> <p>appointed [2] - 421:22, 430:42</p> <p>appointment [3] - 369:17, 371:7, 389:35</p> <p>apportionment [1] - 409:1</p>	<p>appreciate [5] - 372:24, 389:34, 407:43, 442:9, 442:11</p> <p>appreciated [1] - 390:21</p> <p>apprehended [3] - 397:21, 397:30, 397:43</p> <p>apprised [1] - 358:32</p> <p>approach [4] - 385:47, 389:19, 397:10, 411:10</p> <p>approached [3] - 360:1, 395:1, 401:43</p> <p>approaching [1] - 425:30</p> <p>appropriate [10] - 362:38, 365:5, 378:21, 378:23, 393:43, 394:2, 394:6, 401:15, 428:13, 434:33</p> <p>appropriation [1] - 394:14</p> <p>approval [2] - 399:28, 424:5</p> <p>approved [3] - 392:25, 408:7, 435:14</p> <p>APRIL [1] - 443:23</p> <p>April [7] - 354:36, 367:14, 419:9, 419:22, 419:24, 419:31, 426:33</p> <p>arduous [1] - 390:5</p> <p>area [12] - 369:29, 369:44, 382:41, 384:42, 392:27, 392:34, 393:5, 394:26, 395:5, 395:31, 423:25, 425:10</p> <p>areas [12] - 364:16, 365:6, 373:43, 380:10, 382:3, 384:5, 393:45, 394:28, 408:37, 417:25, 423:35, 426:19</p> <p>argued [1] - 402:23</p> <p>arguments [1] - 371:16</p> <p>arises [3] - 373:30, 433:32, 440:31</p> <p>arising [4] - 365:11, 417:8, 433:6, 442:4</p> <p>arose [1] - 433:11</p> <p>arrangement [2] - 363:12, 396:40</p> <p>arrived [6] - 357:42,</p>	<p>358:45, 359:37, 364:4, 366:6, 368:16</p> <p>arrogant [1] - 384:37</p> <p>art [4] - 404:35, 409:1, 413:29, 414:12</p> <p>asbestos [2] - 439:27, 440:3</p> <p>aspect [1] - 393:33</p> <p>assassin [1] - 401:7</p> <p>assets [3] - 367:5, 371:18, 419:42</p> <p>assist [2] - 418:38, 431:32</p> <p>assistance [1] - 431:30</p> <p>assistant [1] - 356:6</p> <p>Assisting [6] - 354:28, 354:29, 354:30, 430:12, 434:19, 434:21</p> <p>Assisting's [2] - 375:11, 433:28</p> <p>association [7] - 355:47, 356:2, 375:35, 385:27, 391:33, 400:8, 411:46</p> <p>Association [26] - 375:40, 375:42, 376:25, 376:26, 376:27, 376:36, 376:41, 382:36, 382:38, 385:35, 387:45, 391:24, 392:3, 394:47, 397:1, 397:9, 397:32, 398:16, 398:39, 400:8, 402:12, 403:18, 410:43, 410:46, 411:3, 412:17</p> <p>associations [5] - 377:39, 383:26, 384:10, 385:7, 386:27</p> <p>assume [3] - 357:33, 419:24, 435:32</p> <p>assumed [2] - 355:41, 439:21</p> <p>assuming [1] - 419:17</p> <p>assumptions [2] - 439:6, 439:17</p> <p>assured [2] - 373:45, 395:46</p> <p>AT [2] - 443:22, 443:23</p> <p>atmosphere [1] - 371:8</p> <p>attack [2] - 401:25, 404:16</p>
--	--	---	---	--

<p>attempt [2] - 382:14, 424:15</p> <p>attend [21] - 356:20, 359:37, 360:30, 367:20, 370:33, 370:35, 372:35, 373:21, 379:22, 405:18, 414:29, 417:21, 420:29, 420:35, 420:42, 420:45, 421:28, 421:30, 424:17, 437:3, 437:14</p> <p>attendance [11] - 365:26, 374:2, 374:13, 379:20, 384:9, 390:21, 390:22, 417:16, 424:26, 437:18, 442:19</p> <p>attended [30] - 356:10, 356:25, 356:32, 356:34, 356:44, 356:47, 359:15, 359:16, 363:10, 370:35, 370:37, 372:35, 379:13, 379:18, 379:30, 379:34, 380:30, 383:41, 384:31, 420:41, 420:43, 421:46, 421:47, 432:37, 436:38, 436:39, 436:41, 436:46, 436:47, 437:2</p> <p>attendees [1] - 372:44</p> <p>attending [4] - 377:32, 379:35, 383:27, 436:39</p> <p>attention [3] - 373:46, 404:41, 430:32</p> <p>attitude [5] - 363:28, 371:8, 380:41, 382:14, 408:37</p> <p>Attorney [1] - 391:12</p> <p>Attorney-General's [1] - 391:12</p> <p>Auburn [10] - 425:38, 426:5, 432:43, 433:2, 433:3, 433:9, 433:12, 433:16, 433:21, 433:26</p> <p>audience [2] - 378:11, 405:29</p> <p>audiotape [2] - 402:37, 403:4</p> <p>August [2] - 418:34, 418:35</p> <p>austral [1] - 412:12</p>	<p>Australia [2] - 355:26, 367:7</p> <p>Australian [1] - 391:14</p> <p>authority [1] - 387:15</p> <p>authors [2] - 398:12, 398:21</p> <p>available [6] - 368:39, 377:17, 388:35, 395:9, 408:5, 416:23</p> <p>avoid [2] - 382:14, 400:13</p> <p>aware [26] - 359:28, 359:30, 361:8, 361:9, 361:10, 368:22, 373:12, 373:21, 377:7, 378:37, 384:6, 385:34, 387:20, 402:3, 412:13, 412:16, 435:28, 435:44, 436:6, 436:23, 436:28, 436:32, 438:10, 438:42, 440:8, 440:17</p> <p>awareness [2] - 383:1, 383:5</p>	<p>402:17, 420:44, 428:34</p> <p>basic [2] - 381:5, 381:10</p> <p>basis [7] - 358:24, 392:2, 392:11, 392:14, 392:32, 433:31, 439:4</p> <p>Bateau [1] - 418:23</p> <p>Bay [1] - 418:23</p> <p>BCA [2] - 383:33, 385:17</p> <p>bear [4] - 388:34, 410:24, 425:47, 426:10</p> <p>bearing [2] - 406:26, 436:46</p> <p>beautiful [1] - 377:14</p> <p>became [5] - 394:46, 404:21, 419:43, 429:23, 429:34</p> <p>become [6] - 386:39, 396:9, 396:10, 403:30, 411:1, 424:45</p> <p>bedding [1] - 361:5</p> <p>before [1] - 384:43</p> <p>beforehand [1] - 401:8</p> <p>beginning [1] - 403:22</p> <p>behalf [14] - 376:12, 377:44, 398:38, 400:1, 402:15, 402:16, 403:2, 408:31, 410:7, 410:10, 410:12, 410:14, 410:16</p> <p>behaved [1] - 379:27</p> <p>behaving [2] - 380:31, 428:22</p> <p>behaviour [20] - 362:37, 363:32, 364:24, 371:38, 371:39, 380:10, 380:47, 381:30, 384:20, 422:15, 422:47, 426:45, 428:45, 429:1, 429:4, 429:6, 429:10, 429:14, 433:1, 433:15</p> <p>behavioural [1] - 433:4</p> <p>behaviours [2] - 379:30, 385:1</p> <p>behind [2] - 369:38, 380:28</p> <p>below [1] - 382:32</p> <p>benefit [4] - 370:30, 385:32, 394:10,</p>	<p>404:26</p> <p>benefits [1] - 389:30</p> <p>Berrima [30] - 370:39, 391:24, 392:3, 394:20, 394:25, 394:35, 394:42, 394:43, 395:44, 395:46, 395:47, 396:12, 397:1, 397:32, 398:5, 398:16, 398:18, 398:19, 398:38, 400:7, 402:12, 403:17, 410:42, 410:46, 411:2, 411:45, 411:46, 412:15, 412:17</p> <p>best [9] - 367:10, 368:8, 382:11, 387:39, 400:12, 422:26, 428:39, 441:36, 442:44</p> <p>better [7] - 378:13, 388:31, 389:29, 424:36, 431:3, 431:16, 439:19</p> <p>between [35] - 356:26, 356:28, 356:32, 357:40, 359:3, 363:29, 364:36, 364:43, 367:43, 371:9, 372:10, 372:43, 379:44, 380:37, 382:29, 384:13, 385:8, 386:21, 394:29, 395:43, 395:46, 396:2, 400:30, 400:34, 401:2, 406:16, 406:46, 412:43, 420:13, 421:41, 423:19, 424:39, 435:20</p> <p>beyond [2] - 385:18, 396:14</p> <p>bias [2] - 397:21, 397:43</p> <p>bias [1] - 397:31</p> <p>big [7] - 356:19, 371:28, 376:9, 376:20, 377:23, 404:35, 415:42</p> <p>bigger [1] - 384:5</p> <p>biggest [1] - 380:29</p> <p>bins [1] - 377:22</p> <p>biodiversity [2] - 408:3, 408:6</p> <p>birthday [1] - 418:34</p> <p>bit [28] - 355:16, 357:11, 365:45,</p>	<p>366:3, 366:16, 366:35, 367:25, 368:19, 368:32, 369:20, 372:43, 374:18, 376:5, 380:12, 383:12, 383:38, 384:44, 389:29, 391:4, 391:6, 392:18, 399:2, 400:41, 401:4, 403:43, 410:23, 411:3, 415:27</p> <p>blah [2] - 381:45</p> <p>blast [1] - 393:47</p> <p>blind [1] - 412:6</p> <p>blocks [1] - 366:2</p> <p>bloody [1] - 387:9</p> <p>Blue [1] - 402:18</p> <p>board [3] - 358:26, 371:30, 391:32</p> <p>Bob [4] - 379:3, 381:46, 388:33, 388:37</p> <p>Bob's [2] - 388:27, 388:35</p> <p>body [7] - 365:3, 380:9, 399:45, 423:16, 423:17, 423:31, 431:44</p> <p>bopping [1] - 389:5</p> <p>bore [1] - 368:6</p> <p>born [1] - 366:1</p> <p>boss [3] - 381:46, 382:7, 382:8</p> <p>bothered [1] - 426:44</p> <p>bought [1] - 395:12</p> <p>bout [1] - 421:9</p> <p>Bowral [8] - 376:21, 380:23, 405:9, 405:11, 408:47, 414:9</p> <p>box [2] - 374:6, 374:34</p> <p>BRA [4] - 396:31, 401:44, 410:42, 411:40</p> <p>brain [1] - 421:26</p> <p>breach [3] - 357:39, 426:22, 435:21</p> <p>breached [1] - 357:45</p> <p>break [5] - 395:21, 413:34, 413:41, 421:41, 431:45</p> <p>break-up [1] - 395:21</p> <p>breakfast [1] - 372:35</p> <p>breaking [1] - 386:42</p> <p>breath [2] - 389:41, 412:37</p> <p>bribes [1] - 404:26</p> <p>brickworks [7] -</p>
---	---	---	--	---

<p>412:11, 412:12, 412:14, 412:15, 412:16, 412:18, 412:21 bride's [1] - 377:24 bridge [5] - 412:5, 412:10, 412:20, 412:23, 412:27 bridges [1] - 412:27 brief [1] - 418:40 briefing [18] - 359:9, 359:10, 359:14, 359:15, 359:25, 359:31, 361:9, 361:40, 363:22, 363:43, 364:26, 372:11, 399:5, 399:17, 411:18, 411:31, 420:30 briefings [20] - 416:23, 416:27, 416:37, 416:40, 417:1, 420:42, 420:43, 421:28, 421:31, 421:37, 421:40, 421:43, 421:46, 422:3, 422:4, 422:9, 422:10, 422:15, 436:39, 436:41 bring [5] - 362:12, 363:43, 371:37, 376:7, 389:31 bringing [1] - 387:40 broad [7] - 383:35, 404:23, 409:17, 410:8, 417:24, 417:26 Broad [1] - 354:29 broadcast [1] - 422:36 broadcasts [1] - 433:47 broken [1] - 431:28 Bron [1] - 354:30 brought [6] - 377:28, 424:3, 424:7, 425:33, 431:29, 442:10 bucket [1] - 366:30 budget [1] - 367:32 budgetary [1] - 369:29 budgets [1] - 371:18 build [3] - 361:12, 361:35, 391:37 building [3] - 359:38, 359:44, 433:46 built [1] - 395:9 bulldozers [1] - 393:47 bullied [3] - 426:37,</p>	<p>426:42, 428:46 bullying [7] - 356:26, 356:47, 363:31, 424:27, 424:31, 426:27, 426:35 Bundanoon [22] - 375:39, 375:42, 376:7, 376:13, 376:25, 376:35, 376:41, 377:14, 382:36, 382:38, 383:21, 383:28, 383:46, 384:2, 385:35, 387:44, 387:46, 388:25, 392:24, 392:30, 392:32, 431:39 bundle [3] - 419:6, 428:5 bureaucracy [1] - 407:9 Burgess [33] - 418:6, 418:10, 418:14, 426:16, 430:20, 430:31, 432:47, 433:26, 433:44, 434:30, 435:5, 435:19, 435:27, 435:38, 435:44, 436:23, 436:37, 436:45, 437:14, 437:27, 438:1, 438:10, 438:18, 438:23, 438:33, 439:26, 439:41, 440:8, 440:33, 441:44, 441:47, 442:8, 442:14 BURGESS [1] - 418:8 Burgess's [2] - 430:26, 433:8 bush [2] - 393:47, 395:10 bushfires [1] - 431:16 bushland [4] - 393:45, 395:4, 395:6, 396:17 business [8] - 372:34, 386:29, 420:46, 421:13, 421:33, 423:4, 432:4 businesses [1] - 376:39 buy [1] - 377:21 BY [7] - 355:13, 365:43, 375:21, 390:47, 409:41, 418:12, 433:42 Byrne [1] - 415:33</p>	<p>C</p> <p>Cabala [1] - 398:29 cancer [2] - 421:9, 421:26 candidacy [1] - 411:21 candidates [1] - 383:47 canned [1] - 373:6 cannot [1] - 413:8 Canyonleigh [2] - 376:7, 376:26 capacity [6] - 355:35, 359:14, 369:46, 399:43, 399:44 carbon [1] - 367:10 Carbon [1] - 368:4 care [1] - 361:4 career [1] - 421:20 carry [1] - 369:20 carrying [1] - 386:13 case [11] - 366:28, 369:27, 373:3, 387:5, 394:35, 394:42, 398:31, 402:18, 407:12, 426:5, 432:31 cases [1] - 426:4 castigated [1] - 424:9 casual [3] - 378:24, 381:40, 382:17 catch [2] - 358:9, 389:3 category [1] - 427:35 caused [4] - 395:34, 401:47, 423:8, 432:3 causes [1] - 440:24 caustic [2] - 422:7, 424:45 Cawood [2] - 396:31, 397:2 cent [4] - 369:32, 369:33, 393:13, 395:6 Centennial [1] - 355:28 Central [1] - 418:24 central [3] - 404:28, 404:37, 418:21 Centre [1] - 354:20 certain [6] - 361:46, 378:18, 410:37, 416:38, 431:45, 438:35 certainly [30] - 358:26, 358:27, 363:6, 363:29, 364:23, 364:24, 364:26, 364:30, 364:31,</p>	<p>364:40, 366:27, 366:37, 368:24, 368:28, 369:45, 376:40, 378:4, 385:17, 392:26, 397:8, 400:20, 425:17, 426:4, 427:1, 427:20, 427:21, 428:1, 431:7 chain [1] - 419:34 chair [10] - 355:29, 356:35, 362:11, 363:33, 363:38, 367:14, 370:7, 373:39, 381:25, 438:5 chaired [6] - 355:30, 362:4, 362:5, 381:18, 381:19, 428:37 chairing [3] - 427:26, 428:38, 432:41 chairs [1] - 360:16 challenges [1] - 376:33 chamber [9] - 356:41, 401:24, 404:12, 421:35, 423:13, 427:23, 437:29, 437:32, 438:3 Chambers [1] - 354:20 chambers [1] - 364:5 Change [1] - 370:29 change [18] - 366:46, 367:9, 367:29, 370:9, 371:21, 388:15, 389:9, 389:27, 389:34, 391:36, 397:10, 397:12, 397:15, 398:7, 412:45, 419:17, 419:32, 431:2 changed [1] - 418:47 changes [4] - 389:40, 396:35, 420:25, 420:26 chaotic [1] - 425:38 charge [2] - 418:25, 439:41 charging [1] - 369:46 chat [1] - 417:24 check [2] - 388:33, 417:25 checked [2] - 356:36, 373:34 chief [1] - 395:16 Christine [6] - 374:23, 374:29, 374:46, 388:24, 388:45,</p>	<p>398:13 CHRISTINE [1] - 375:2 Christine's [1] - 398:14 chronologically [1] - 421:4 circumstance [1] - 428:42 citizen [1] - 368:15 city [1] - 390:7 Civic [1] - 354:20 civic [3] - 365:5, 431:44, 432:6 civil [1] - 365:5 claiming [1] - 357:26 clarification [3] - 381:37, 409:35, 432:36 clarify [3] - 369:7, 378:9, 408:33 clear [13] - 359:18, 393:18, 395:8, 399:23, 409:36, 410:6, 423:18, 423:26, 426:18, 427:8, 435:4, 436:13 cleared [1] - 392:33 clearly [5] - 360:35, 364:38, 408:31, 426:3, 427:9 Clements [2] - 406:45, 407:21 clerk [4] - 421:21, 421:22, 421:24, 421:25 climate [8] - 366:40, 366:44, 366:46, 367:9, 367:26, 367:29, 370:9, 391:36 Climate [1] - 370:29 cliques [1] - 371:10 Clive [3] - 367:20, 390:41, 405:31 CLIVE [1] - 390:43 close [2] - 373:46, 395:26 closed [1] - 371:44 closely [1] - 374:1 closing [1] - 412:14 co [1] - 364:25 co-volunteers [1] - 364:25 coal [2] - 398:15 coast [1] - 418:21 Coast [1] - 418:24 Code [7] - 363:33, 425:15, 425:33, 426:17, 426:21, 426:23, 427:26</p>
---	--	---	---	---

<p>coherence ^[1] - 437:41</p> <p>coincidentally ^[1] - 405:5</p> <p>collaborative ^[1] - 362:16</p> <p>colleague ^[1] - 367:20</p> <p>Colleen ^[1] - 398:13</p> <p>colonial ^[1] - 396:13</p> <p>combination ^[3] - 376:39, 388:10, 422:40</p> <p>coming ^[15] - 365:17, 368:1, 374:5, 385:43, 390:17, 395:45, 403:20, 407:39, 417:12, 422:37, 423:10, 424:30, 426:27, 426:41, 442:9</p> <p>commence ^[1] - 418:32</p> <p>commenced ^[1] - 421:41</p> <p>commencement ^[2] - 420:24, 421:20</p> <p>comment ^[16] - 380:33, 381:22, 398:34, 402:25, 404:41, 408:43, 410:43, 411:11, 411:43, 414:21, 422:16, 423:5, 432:9, 433:1, 438:14, 440:24</p> <p>commentary ^[2] - 373:41, 383:10</p> <p>comments ^[14] - 403:6, 404:2, 407:26, 414:22, 422:16, 423:2, 423:10, 423:45, 424:20, 427:22, 432:41, 437:31, 438:2, 438:3</p> <p>commercial ^[1] - 391:13</p> <p>Commission ^[1] - 364:20</p> <p>Commissioner ^[61] - 354:26, 355:3, 357:11, 359:22, 364:13, 365:11, 365:15, 365:24, 366:24, 366:35, 372:6, 373:32, 374:14, 374:17, 374:36, 374:42, 375:6, 385:41, 386:32, 389:43,</p>	<p>390:2, 390:15, 390:40, 391:2, 392:18, 399:35, 404:47, 408:29, 409:26, 411:37, 413:26, 414:6, 414:19, 416:36, 417:32, 418:5, 418:14, 418:30, 421:45, 425:23, 427:31, 428:3, 430:5, 430:23, 432:11, 432:26, 432:35, 432:47, 433:34, 434:13, 435:22, 435:26, 436:16, 437:22, 438:19, 438:23, 440:25, 441:39, 442:6, 442:21, 442:33</p> <p>COMMISSIONER ^[153] - 355:1, 355:5, 355:11, 364:15, 364:34, 365:9, 365:13, 365:17, 365:21, 365:26, 365:33, 365:37, 365:41, 366:14, 366:27, 372:8, 373:26, 373:45, 374:12, 374:21, 374:26, 374:31, 374:40, 374:44, 375:4, 375:9, 378:34, 379:11, 385:26, 385:32, 387:5, 387:18, 389:46, 390:13, 390:17, 390:21, 390:27, 390:32, 390:37, 390:45, 396:42, 405:36, 406:24, 407:2, 407:11, 408:11, 408:16, 408:21, 408:25, 409:3, 409:17, 409:31, 409:38, 409:47, 410:19, 410:28, 411:8, 411:14, 411:29, 412:47, 413:33, 413:38, 413:46, 414:4, 414:14, 414:26, 415:3, 415:47, 416:18, 416:25, 416:29, 416:33, 416:42, 416:47, 417:8, 417:12, 417:29, 417:34,</p>	<p>417:38, 418:3, 418:10, 418:28, 425:21, 426:14, 427:33, 428:8, 428:15, 428:19, 428:24, 428:30, 430:1, 430:10, 430:16, 430:29, 432:14, 432:24, 432:28, 432:45, 433:8, 433:20, 433:39, 434:19, 434:25, 434:38, 434:45, 435:16, 435:24, 435:30, 435:38, 436:18, 436:28, 437:5, 437:9, 437:18, 437:24, 437:34, 437:46, 438:17, 438:21, 438:26, 438:33, 438:39, 439:1, 439:8, 439:16, 439:32, 439:38, 440:1, 440:5, 440:12, 440:29, 440:37, 440:41, 440:46, 441:2, 441:9, 441:14, 441:20, 441:24, 441:28, 441:42, 441:46, 442:4, 442:8, 442:18, 442:25, 442:30, 442:36, 442:42, 442:47, 443:6, 443:12, 443:18</p> <p>Commissioner's ^[1] - 418:28</p> <p>Committee ^[9] - 355:28, 355:40, 357:36, 359:3, 361:6, 370:7, 370:10, 392:22, 392:39</p> <p>committee ^[11] - 355:30, 356:5, 367:21, 375:41, 377:11, 392:23, 393:7, 393:9, 409:20, 410:35, 412:13</p> <p>committees ^[3] - 355:27, 355:43, 391:10</p> <p>common ^[5] - 362:1, 385:43, 407:17, 425:9, 433:20</p> <p>commonplace ^[2] -</p>	<p>380:42, 380:44</p> <p>communicated ^[1] - 415:19</p> <p>communication ^[7] - 358:18, 396:20, 408:33, 410:32, 410:43, 411:44, 438:11</p> <p>communications ^[7] - 355:22, 369:5, 410:31, 411:4, 438:15, 438:31, 439:35</p> <p>communities ^[2] - 392:18, 392:23</p> <p>Community ^[12] - 375:39, 375:42, 376:25, 376:26, 376:35, 376:41, 382:36, 382:38, 385:35, 387:44, 405:10</p> <p>community ^[57] - 355:27, 357:20, 361:45, 363:26, 363:28, 368:12, 368:17, 368:20, 369:13, 372:12, 376:42, 378:17, 378:42, 379:45, 380:28, 380:42, 380:45, 380:47, 383:26, 384:10, 384:35, 384:36, 385:2, 385:27, 387:7, 387:24, 387:46, 387:47, 389:14, 391:9, 392:27, 392:29, 392:45, 395:7, 399:31, 403:8, 403:40, 403:42, 404:20, 405:25, 405:39, 406:36, 408:38, 408:42, 410:41, 411:38, 412:12, 416:11, 416:13, 422:32, 429:25, 429:27, 431:13, 431:24, 431:32, 431:45, 442:39</p> <p>community's ^[1] - 413:24</p> <p>community-based ^[2] - 355:27, 357:20</p> <p>commute ^[1] - 418:21</p> <p>companies ^[1] - 371:26</p> <p>compare ^[2] - 363:21,</p>	<p>413:7</p> <p>comparing ^[2] - 363:2, 413:12</p> <p>comparison ^[1] - 413:15</p> <p>complaint ^[8] - 357:7, 357:24, 357:25, 357:29, 357:38, 358:7, 358:31, 358:34</p> <p>complete ^[1] - 412:45</p> <p>completely ^[3] - 370:43, 395:4, 442:38</p> <p>compromise ^[14] - 396:36, 396:37, 397:18, 397:20, 397:44, 398:8, 399:11, 400:32, 400:34, 402:25, 403:32, 404:42</p> <p>compromised ^[1] - 396:38</p> <p>compulsory ^[1] - 424:17</p> <p>concept ^[3] - 412:18, 412:21, 412:34</p> <p>concern ^[6] - 377:9, 379:46, 392:20, 397:44, 406:35, 406:37</p> <p>concerned ^[4] - 356:39, 391:36, 398:6, 439:43</p> <p>concerns ^[17] - 355:31, 355:33, 368:32, 377:27, 385:36, 385:41, 385:43, 392:16, 392:19, 394:27, 395:34, 396:25, 396:32, 407:31, 424:24, 424:25, 432:38</p> <p>conclusion ^[1] - 422:25</p> <p>conclusions ^[2] - 430:41, 430:45</p> <p>conduct ^[3] - 386:29, 427:37, 433:15</p> <p>Conduct ^[6] - 363:33, 425:15, 425:33, 426:17, 426:21, 426:23</p> <p>conducted ^[3] - 379:27, 379:43, 432:4</p> <p>conducting ^[1] - 427:15</p> <p>conferring ^[1] -</p>
---	---	---	---	--

<p>430:18</p> <p>confidential [2] - 430:33, 441:17</p> <p>confined [1] - 375:14</p> <p>confirm [2] - 402:29, 402:32</p> <p>confirmed [1] - 399:8</p> <p>conflated [1] - 406:7</p> <p>conflict [1] - 382:15</p> <p>confusing [2] - 381:27, 433:21</p> <p>consequent [1] - 435:26</p> <p>conservation [3] - 394:26, 395:5, 397:40</p> <p>consider [2] - 392:24, 412:44</p> <p>considerable [2] - 418:40, 426:43</p> <p>consideration [1] - 398:1</p> <p>considered [5] - 364:32, 400:18, 400:23, 404:22, 405:23</p> <p>considering [3] - 399:40, 405:6, 405:20</p> <p>consistently [1] - 393:30</p> <p>constant [1] - 411:47</p> <p>constraints [1] - 406:26</p> <p>consultant [2] - 366:9, 367:28</p> <p>consultative [1] - 431:4</p> <p>consulted [2] - 401:43, 401:45</p> <p>contact [5] - 360:2, 382:20, 382:29, 398:2, 429:43</p> <p>contacted [1] - 432:16</p> <p>contains [1] - 439:5</p> <p>contamination [2] - 439:28, 440:3</p> <p>contemptuous [1] - 364:27</p> <p>contentious [1] - 371:44</p> <p>context [3] - 366:38, 433:9, 433:26</p> <p>continue [1] - 410:37</p> <p>continued [3] - 357:15, 429:20, 429:25</p> <p>continuously [1] - 369:15</p> <p>contract [2] - 366:9,</p>	<p>404:33</p> <p>contractor [3] - 418:38, 421:11, 421:15</p> <p>contracts [2] - 404:33, 404:35</p> <p>contribute [1] - 361:7</p> <p>contributed [1] - 368:44</p> <p>control [2] - 394:3, 441:40</p> <p>controversy [2] - 417:1, 435:34</p> <p>convened [1] - 373:15</p> <p>convenor [1] - 377:8</p> <p>conversant [1] - 381:5</p> <p>conversation [6] - 366:25, 378:24, 381:40, 382:17, 386:44, 397:8</p> <p>conversations [1] - 369:43</p> <p>converting [1] - 395:12</p> <p>conveyed [1] - 423:40</p> <p>convivial [1] - 422:5</p> <p>cordial [1] - 421:47</p> <p>core [2] - 393:11</p> <p>corner [1] - 412:6</p> <p>corporate [3] - 371:25, 375:26, 421:24</p> <p>correct [31] - 356:1, 356:12, 356:18, 356:29, 357:8, 357:9, 359:11, 359:12, 360:41, 360:42, 361:20, 362:17, 366:32, 366:33, 376:22, 376:24, 380:4, 391:21, 391:22, 391:25, 391:26, 397:31, 398:45, 419:14, 424:33, 426:12, 428:10, 436:43, 437:32, 438:8, 440:44</p> <p>correctly [2] - 384:18, 407:45</p> <p>correspondence [1] - 369:5</p> <p>corridors [2] - 368:36, 408:3</p> <p>corrupt [6] - 398:44, 399:22, 399:24, 399:30, 405:26, 405:27</p> <p>corruption [10] - 399:29, 399:32, 401:19, 404:4,</p>	<p>404:22, 404:24, 405:26, 405:27, 405:31</p> <p>corruption [1] - 401:21</p> <p>cost [4] - 361:43, 406:42, 412:23, 412:42</p> <p>costs [2] - 361:8, 402:20</p> <p>couched [1] - 357:44</p> <p>council [218] - 355:32, 355:35, 355:36, 356:11, 356:20, 356:34, 356:38, 357:27, 357:40, 357:42, 359:4, 359:6, 359:9, 359:38, 359:44, 360:37, 361:2, 361:41, 362:6, 362:24, 363:5, 363:8, 364:5, 364:23, 364:31, 364:39, 366:43, 367:28, 368:9, 368:40, 369:6, 369:11, 369:14, 369:19, 369:24, 369:25, 369:39, 370:12, 370:15, 370:20, 370:21, 370:33, 370:40, 370:42, 371:3, 371:7, 371:11, 371:20, 371:27, 372:11, 372:13, 372:45, 373:24, 376:8, 376:15, 376:16, 376:47, 377:7, 377:8, 377:11, 377:16, 377:19, 377:24, 377:28, 377:31, 377:32, 377:36, 377:43, 378:2, 378:5, 378:13, 378:26, 378:29, 378:30, 378:35, 378:38, 378:43, 378:47, 379:13, 379:23, 380:5, 380:26, 380:38, 380:44, 381:1, 381:39, 381:42, 382:42, 383:2, 384:5, 384:27, 384:30, 384:45, 385:18, 386:2, 386:3, 386:22,</p>	<p>386:23, 386:28, 386:33, 387:9, 387:26, 387:30, 387:37, 388:22, 389:6, 389:15, 389:31, 391:40, 391:43, 392:5, 393:11, 393:35, 394:13, 394:14, 394:39, 395:17, 396:20, 396:24, 397:14, 397:33, 397:46, 398:7, 398:36, 399:4, 399:14, 399:15, 400:1, 402:19, 402:21, 403:22, 403:25, 404:20, 404:38, 405:6, 405:20, 405:28, 405:33, 405:38, 405:39, 406:36, 406:40, 406:43, 406:47, 407:9, 407:21, 407:46, 408:6, 410:10, 410:47, 411:3, 411:32, 412:39, 412:43, 412:45, 413:7, 413:12, 415:19, 416:16, 416:40, 418:16, 418:33, 418:37, 418:39, 418:42, 419:28, 420:35, 420:41, 420:45, 421:29, 421:31, 421:40, 421:46, 422:17, 422:18, 422:28, 422:29, 422:31, 422:43, 422:44, 423:4, 423:16, 423:17, 423:20, 423:36, 424:32, 425:9, 425:12, 426:9, 426:28, 426:44, 427:6, 427:10, 427:12, 429:23, 429:26, 430:41, 431:17, 431:24, 432:4, 433:3, 434:1, 434:32, 436:33, 436:41, 436:46, 437:3, 437:15, 438:15, 438:36, 438:43, 440:41, 441:32</p> <p>COUNCIL [1] - 354:13</p> <p>Council [14] - 354:20, 355:29, 356:20,</p>	<p>358:39, 362:7, 362:46, 363:8, 363:18, 363:24, 366:39, 388:30, 421:29, 421:31, 432:43</p> <p>council's [8] - 358:18, 358:20, 398:22, 399:26, 404:41, 406:41, 438:10, 440:33</p> <p>council-run [1] - 361:2</p> <p>councillor [37] - 357:1, 357:2, 359:25, 359:31, 361:40, 363:25, 369:45, 370:4, 370:5, 378:15, 382:8, 382:21, 385:23, 395:28, 399:44, 400:22, 400:25, 400:45, 410:19, 411:21, 414:40, 422:15, 423:45, 424:12, 426:22, 427:8, 428:16, 433:23, 434:20, 435:8, 435:13, 435:27, 435:30, 435:44, 436:12, 436:26</p> <p>Councillor [42] - 360:44, 361:13, 361:32, 362:8, 362:11, 362:16, 362:40, 370:47, 399:43, 402:47, 408:26, 409:19, 410:13, 411:11, 411:19, 411:24, 413:20, 413:33, 423:1, 424:7, 424:14, 424:39, 424:42, 425:2, 425:3, 427:42, 427:43, 427:44, 428:12, 428:16, 428:17, 428:32, 428:33, 435:10, 437:37, 437:39, 438:1, 438:2, 438:5</p> <p>councillor's [2] - 371:32, 378:31</p> <p>Councillors [1] - 427:43</p> <p>councillors [153] - 355:36, 356:26, 356:28, 356:32, 357:1, 357:3, 357:4,</p>
---	--	---	--	---

<p>359:26, 360:5, 360:17, 360:22, 360:31, 361:10, 361:30, 362:23, 362:32, 362:38, 362:42, 363:7, 363:24, 363:27, 363:30, 363:32, 364:6, 364:23, 364:36, 364:43, 365:3, 369:16, 369:41, 369:44, 370:23, 370:36, 371:9, 371:38, 372:10, 372:26, 377:33, 377:40, 377:46, 378:1, 378:2, 378:6, 378:12, 378:18, 378:27, 378:47, 379:27, 379:43, 380:17, 380:20, 380:24, 380:37, 381:33, 381:43, 382:15, 382:18, 382:29, 383:25, 383:32, 383:41, 384:1, 384:9, 384:14, 384:21, 384:27, 384:32, 384:34, 384:36, 384:46, 385:18, 386:2, 386:4, 386:18, 386:22, 386:29, 387:38, 388:5, 389:31, 392:9, 392:31, 397:41, 398:43, 399:4, 399:16, 399:21, 399:45, 400:2, 400:28, 401:1, 401:14, 402:16, 404:6, 404:11, 404:43, 408:32, 410:7, 410:8, 410:12, 410:16, 410:31, 411:18, 413:18, 415:3, 415:4, 420:30, 422:38, 422:42, 423:2, 423:12, 423:25, 423:30, 425:5, 425:14, 425:18, 425:19, 425:29, 425:39, 425:40, 425:47, 426:6, 426:10, 426:18, 426:42, 427:14, 427:21, 427:27, 427:28, 427:39,</p>	<p>428:45, 429:11, 429:35, 429:44, 430:7, 430:33, 430:37, 431:27, 431:43, 432:17, 432:41, 433:15, 434:7, 435:20, 436:2, 436:7, 436:34, 437:30, 437:36, 438:3, 439:46, 443:10</p> <p>councillors' [7] - 360:23, 360:26, 364:8, 403:7, 404:3, 429:14, 434:32</p> <p>councils [15] - 363:2, 388:8, 421:6, 421:16, 421:18, 426:2, 426:6, 427:3, 428:44, 429:6, 433:1, 433:10, 433:15, 433:22, 433:27</p> <p>Counsel [7] - 354:28, 375:11, 406:41, 430:12, 433:28, 434:19, 434:20</p> <p>counsel [2] - 367:16, 406:41</p> <p>counselling [1] - 431:30</p> <p>country [5] - 358:9, 358:12, 388:8, 421:21, 425:27</p> <p>couple [8] - 368:47, 369:44, 374:32, 376:13, 380:22, 408:45, 412:33, 412:40</p> <p>course [8] - 371:37, 376:10, 378:4, 378:25, 398:32, 409:34, 420:37, 423:3</p> <p>Court [1] - 394:38</p> <p>covered [6] - 364:15, 395:4, 400:11, 417:24, 434:15, 437:19</p> <p>covering [1] - 412:38</p> <p>covers [3] - 375:13, 400:9, 404:25</p> <p>COVID [7] - 371:1, 380:32, 426:32, 431:10, 431:11, 431:33, 431:34</p> <p>CR [66] - 365:15, 375:6, 390:15, 408:19, 408:29, 409:26, 409:33,</p>	<p>409:41, 409:43, 410:4, 410:26, 410:30, 411:6, 411:10, 411:17, 411:37, 413:2, 413:36, 414:6, 414:19, 414:45, 416:3, 416:20, 416:36, 416:45, 417:5, 432:26, 432:35, 432:47, 433:14, 433:34, 433:42, 433:44, 434:13, 434:23, 434:28, 435:4, 435:26, 435:36, 435:42, 436:21, 436:31, 437:12, 437:14, 437:21, 437:27, 437:36, 437:44, 438:1, 438:23, 438:30, 438:41, 439:11, 439:24, 439:35, 439:41, 440:3, 440:8, 440:31, 440:39, 440:44, 441:5, 441:22, 441:26, 441:30, 441:44</p> <p>create [6] - 393:4, 394:31, 398:23, 398:30, 398:33, 412:41</p> <p>credibility [1] - 403:7</p> <p>critical [2] - 368:47, 422:43</p> <p>critically [2] - 392:26, 392:35</p> <p>criticise [1] - 372:44</p> <p>criticism [2] - 366:18, 429:17</p> <p>criticisms [1] - 423:39</p> <p>Crown [1] - 391:14</p> <p>crucial [1] - 396:15</p> <p>crucially [1] - 395:42</p> <p>culture [1] - 430:40</p> <p>current [4] - 373:16, 391:30, 406:37, 413:3</p> <p>cut [1] - 362:47</p>	<p>dare [2] - 401:24, 404:12</p> <p>DAs [1] - 407:15</p> <p>date [2] - 402:40, 402:41</p> <p>dated [1] - 358:45</p> <p>dates [2] - 419:1, 433:36</p> <p>David [1] - 354:28</p> <p>day-to-day [2] - 358:24, 386:31</p> <p>days [8] - 358:11, 358:12, 383:40, 406:22, 425:26, 429:19, 438:33</p> <p>DCP [1] - 393:39</p> <p>deal [18] - 370:30, 371:23, 371:24, 371:41, 375:12, 400:30, 400:31, 401:2, 401:3, 402:4, 402:5, 405:12, 408:27, 409:3, 410:37, 411:19, 426:40, 426:41</p> <p>dealing [7] - 358:28, 363:15, 363:17, 365:5, 397:19, 421:17, 421:39</p> <p>dealings [3] - 355:35, 358:27, 368:9</p> <p>deals [1] - 404:44</p> <p>dealt [6] - 371:42, 378:44, 384:32, 396:21, 428:44, 442:44</p> <p>death [1] - 371:44</p> <p>debate [1] - 356:38</p> <p>debts [1] - 418:25</p> <p>December [2] - 372:38, 372:39</p> <p>decide [1] - 423:9</p> <p>decided [3] - 386:11, 386:42, 398:32</p> <p>decision [3] - 368:38, 370:19, 422:18</p> <p>decision" [1] - 422:19</p> <p>decision-making [1] - 368:38</p> <p>decisions [4] - 370:12, 370:15, 416:16, 416:22</p> <p>declaration [1] - 367:26</p> <p>declared [1] - 366:40</p> <p>declares [1] - 367:33</p> <p>dedicated [1] - 393:28</p> <p>deductible [1] - 391:34</p> <p>Defamation [1] -</p>	<p>401:36</p> <p>defamation [7] - 400:9, 400:18, 400:20, 401:34, 402:2, 402:7, 410:2</p> <p>defamatory [1] - 409:44</p> <p>defamed [1] - 402:21</p> <p>Defence [1] - 404:34</p> <p>defend [1] - 411:24</p> <p>defensive [3] - 429:34, 429:44, 430:1</p> <p>deficiencies [1] - 395:33</p> <p>defined [1] - 416:40</p> <p>definitely [1] - 417:36</p> <p>degree [1] - 366:4</p> <p>delay [1] - 390:38</p> <p>delegations [3] - 434:34, 435:6, 435:14</p> <p>deliberate [1] - 362:34</p> <p>deliberations [1] - 369:25</p> <p>deliver [2] - 429:26, 429:28</p> <p>delivered [3] - 405:38, 406:13, 431:12</p> <p>delivery [3] - 419:43, 429:27, 431:10</p> <p>demarcation [1] - 425:1</p> <p>depart [1] - 373:47</p> <p>Department [2] - 355:20, 391:12</p> <p>department [2] - 355:23, 425:33</p> <p>departure [1] - 365:6</p> <p>deputy [13] - 356:37, 373:39, 391:45, 395:45, 396:26, 400:29, 419:44, 420:17, 420:33, 420:37, 421:24, 425:19, 429:22</p> <p>Derek [3] - 365:35, 366:1, 391:41</p> <p>DEREK [1] - 365:39</p> <p>descend [1] - 371:16</p> <p>describe [2] - 397:36, 407:30</p> <p>described [2] - 364:35, 372:9</p> <p>describing [1] - 407:19</p> <p>deserve [1] - 364:28</p> <p>desire [1] - 427:28</p> <p>desk [1] - 399:12</p> <p>destination [2] - 372:39, 373:3</p>
---	---	--	--	---

<p>destroyed ^[1] - 392:36</p> <p>destructive ^[2] - 425:37, 425:38</p> <p>detail ^[3] - 367:19, 368:22, 372:46</p> <p>detailed ^[1] - 368:35</p> <p>determine ^[1] - 409:22</p> <p>determined ^[2] - 387:25, 404:21</p> <p>develop ^[1] - 367:28</p> <p>developed ^[1] - 398:26</p> <p>developers ^[1] - 393:44</p> <p>developing ^[1] - 389:14</p> <p>development ^[2] ^[1] - 368:38, 369:2, 370:14, 372:22, 372:34, 373:2, 392:31, 394:30, 407:40, 418:39, 418:47, 419:1, 419:12, 419:18, 419:33, 420:11, 420:16, 420:27, 422:13, 423:27, 423:32</p> <p>DGR ^[1] - 391:33</p> <p>dialogue ^[1] - 384:45</p> <p>diary ^[2] - 433:47, 434:4</p> <p>differ ^[1] - 367:42</p> <p>differed ^[1] - 401:5</p> <p>difference ^[1] - 394:17</p> <p>different ^[1] ^[8] - 361:18, 364:7, 366:3, 366:12, 376:10, 377:26, 385:47, 386:14, 386:17, 400:40, 425:27, 430:2, 431:46, 434:47, 438:43</p> <p>differently ^[2] - 380:18, 428:40</p> <p>difficult ^[1] ^[4] - 366:16, 368:46, 369:43, 371:43, 371:45, 381:42, 381:45, 382:10, 382:22, 388:7, 403:44, 410:21, 411:2, 412:5</p> <p>difficulty ^[1] - 375:17</p> <p>diffuse ^[1] - 400:12</p> <p>diminish ^[1] - 369:31</p> <p>direct ^[5] - 382:20, 382:26, 424:22, 429:16, 429:24</p> <p>directed ^[5] - 414:27, 420:47, 422:20,</p>	<p>424:7, 426:45</p> <p>direction ^[5] - 433:45, 439:44, 440:5, 440:9, 441:40</p> <p>directive ^[2] - 425:17, 436:15</p> <p>directly ^[1] ^[1] - 372:20, 378:18, 378:32, 404:11, 410:37, 415:32, 415:34, 421:35, 422:14, 423:45, 427:22</p> <p>director ^[1] - 355:25</p> <p>disagree ^[1] - 429:36</p> <p>disagreed ^[1] - 365:3</p> <p>disagreement ^[2] - 364:39, 364:43</p> <p>disappearing ^[1] - 367:6</p> <p>disappointed ^[1] - 386:36</p> <p>disappointing ^[1] - 380:16</p> <p>disappointment ^[1] - 386:47</p> <p>disclosure ^[1] - 430:32</p> <p>disconcerting ^[1] - 401:10</p> <p>discuss ^[7] - 377:46, 380:8, 392:39, 396:24, 415:10, 424:23, 424:31</p> <p>discussed ^[3] - 386:10, 386:42, 416:22</p> <p>discussion ^[4] - 360:39, 404:15, 416:39, 434:14</p> <p>discussions ^[2] - 373:18, 431:5</p> <p>disengaged ^[1] - 387:21</p> <p>disengagement ^[1] - 387:7</p> <p>dismissed ^[2] - 412:22, 438:36</p> <p>displayed ^[1] - 365:4</p> <p>dispute ^[1] - 405:12</p> <p>disregarded ^[1] - 403:31</p> <p>disrespect ^[2] - 386:1, 386:21</p> <p>disrespectful ^[1] - 384:37</p> <p>distinct ^[2] - 421:1, 422:9</p> <p>distinction ^[1] - 423:19</p> <p>distinguish ^[3] -</p>	<p>367:43, 394:29, 420:12</p> <p>diversion ^[5] - 413:27, 414:22, 414:32, 415:10, 416:4</p> <p>divert ^[1] - 415:44</p> <p>document ^[3] - 408:7, 419:5, 441:36</p> <p>dog ^[1] - 372:43</p> <p>dogs ^[1] - 357:17</p> <p>dollar ^[1] - 371:26</p> <p>dollars ^[2] - 404:34, 412:40</p> <p>done ^[12] - 366:6, 369:1, 373:13, 379:19, 380:17, 394:8, 399:7, 399:13, 399:39, 411:26, 428:40, 431:35</p> <p>doubt ^[4] - 381:2, 387:8, 409:33, 440:21</p> <p>down ^[1] ^[1] - 356:18, 369:33, 384:10, 384:12, 394:19, 394:20, 394:21, 403:28, 412:1, 418:21, 429:20</p> <p>downstairs ^[2] - 359:37, 360:1</p> <p>dozen ^[1] - 382:43</p> <p>draft ^[5] - 395:39, 395:44, 397:23, 397:25, 398:1</p> <p>drawing ^[1] - 404:40</p> <p>dressed ^[1] - 403:28</p> <p>driving ^[1] - 430:3</p> <p>dropped ^[4] - 397:26, 397:27, 397:28, 411:4</p> <p>droughts ^[1] - 431:9</p> <p>due ^[3] - 374:17, 374:23, 404:36</p> <p>Duncan ^[13] - 360:21, 399:37, 400:3, 401:44, 401:45, 403:20, 405:12, 406:10, 412:24, 415:24, 415:34, 415:43</p> <p>duncangair@wsc.nsw ^[1] - 402:45</p> <p>during ^[15] - 355:25, 356:46, 358:11, 361:31, 362:42, 376:13, 393:35, 410:47, 421:43, 425:1, 431:11, 431:27, 436:1,</p>	<p>439:42, 440:39</p> <p>dwelling ^[10] - 394:18, 394:22, 394:31, 395:19, 395:21, 395:22, 395:28, 395:30, 396:4, 396:7</p> <p>dwellings ^[1] - 394:23</p> <p>dynamics ^[1] - 425:27</p>	<p>E</p> <p>early ^[7] - 356:22, 374:3, 374:28, 383:19, 383:40, 396:13, 429:19</p> <p>earth ^[1] - 366:11</p> <p>easiest ^[1] - 388:9</p> <p>easily ^[1] - 370:26</p> <p>east ^[1] - 400:43</p> <p>East ^[3] - 405:9, 408:47, 414:8</p> <p>easy ^[2] - 380:3, 381:19</p> <p>ecological ^[5] - 392:18, 392:22, 392:27, 392:45, 395:7</p> <p>ecologist ^[2] - 406:45, 407:21</p> <p>ecologists ^[1] - 406:42</p> <p>ecology ^[1] - 393:38</p> <p>economic ^[2] - 372:34, 373:2</p> <p>Education ^[1] - 355:20</p> <p>effective ^[4] - 362:39, 401:15, 410:32, 431:44</p> <p>effectively ^[2] - 394:13, 395:29</p> <p>effects ^[3] - 366:46, 367:8, 425:35</p> <p>efficient ^[1] - 374:18</p> <p>effort ^[1] - 442:11</p> <p>efforts ^[1] - 361:7</p> <p>eight ^[1] - 418:45</p> <p>either ^[12] - 356:21, 366:8, 377:5, 381:34, 387:14, 387:34, 405:27, 412:44, 416:12, 421:28, 421:35, 422:12</p> <p>eject ^[1] - 356:41</p> <p>elected ^[2] - 363:27, 424:42</p> <p>election ^[1] - 363:7</p> <p>elections ^[1] - 383:47</p> <p>electric ^[1] - 369:46</p>	<p>element ^[1] - 429:39</p> <p>elements ^[1] - 429:38</p> <p>Elizabeth ^[1] - 354:21</p> <p>eludes ^[1] - 418:34</p> <p>email ^[33] - 357:33, 358:43, 358:44, 395:46, 399:37, 399:42, 400:10, 400:27, 400:28, 400:47, 401:39, 401:41, 401:42, 401:43, 401:45, 402:10, 402:27, 402:32, 402:40, 402:43, 403:34, 403:37, 404:5, 409:4, 409:6, 409:20, 409:22, 409:28, 409:43, 410:5, 410:9, 436:7</p> <p>emailed ^[1] - 357:41</p> <p>emailing ^[1] - 358:13</p> <p>emails ^[2] - 358:10, 386:44</p> <p>embarrassed ^[1] - 386:37</p> <p>emergency ^[3] - 366:40, 367:26, 367:33</p> <p>emissions ^[3] - 366:47, 367:11, 391:37</p> <p>emotionally ^[1] - 394:46</p> <p>employment ^[1] - 387:16</p> <p>empty ^[1] - 377:21</p> <p>end ^[6] - 362:31, 371:6, 375:11, 396:29, 412:28, 412:33</p> <p>endangered ^[2] - 392:26, 392:35</p> <p>ended ^[3] - 370:41, 372:42, 405:33</p> <p>engage ^[4] - 369:41, 376:47, 378:35, 427:37</p> <p>engaged ^[6] - 369:12, 370:6, 384:35, 384:36, 387:24, 424:16</p> <p>engagement ^[10] - 359:19, 369:18, 369:45, 370:43, 371:20, 377:4, 385:5, 385:8, 404:19, 432:5</p> <p>engaging ^[3] - 369:14, 387:25, 387:30</p>
---	---	---	--	---	--

<p>engineer ^[4] - 395:16, 412:26, 424:14</p> <p>engineering ^[2] - 366:4, 421:2</p> <p>enormous ^[1] - 389:38</p> <p>ensure ^[1] - 404:43</p> <p>ensuring ^[1] - 425:44</p> <p>enterprise ^[1] - 371:28</p> <p>entirely ^[2] - 370:1, 439:19</p> <p>environment ^[52] - 369:3, 369:19, 369:23, 370:13, 370:21, 370:31, 370:44, 372:33, 373:17, 373:23, 375:27, 376:30, 377:35, 378:3, 378:27, 382:6, 384:28, 386:14, 387:36, 388:7, 390:7, 392:23, 392:47, 393:6, 393:7, 393:8, 393:12, 393:14, 393:21, 393:28, 393:29, 393:46, 394:14, 405:7, 405:13, 405:20, 405:22, 406:3, 406:47, 407:12, 407:39, 407:47, 408:2, 410:34, 410:36, 413:27, 413:28, 414:11, 414:33, 415:11</p> <p>Environment ^[5] - 370:7, 370:10, 392:21, 392:38, 394:38</p> <p>environmental ^[15] - 366:42, 367:5, 367:21, 369:29, 369:30, 369:38, 373:4, 373:40, 393:20, 393:37, 394:19, 394:20, 394:21, 408:46, 416:8</p> <p>environmentalists ^[1] - 406:3</p> <p>environmentally ^[2] - 368:7, 395:30</p> <p>environments ^[2] - 377:13, 379:1</p> <p>equal ^[1] - 360:30</p> <p>equally ^[4] - 363:17, 369:25, 373:19, 438:15</p> <p>Equine ^[1] - 355:27</p>	<p>equip ^[2] - 429:44, 430:8</p> <p>equipped ^[1] - 371:23</p> <p>Eric ^[2] - 397:2, 401:44</p> <p>essence ^[1] - 429:29</p> <p>essential ^[1] - 368:37</p> <p>estimate ^[1] - 412:28</p> <p>ethical ^[1] - 440:26</p> <p>evening ^[1] - 358:43</p> <p>event ^[2] - 372:41, 433:22</p> <p>events ^[4] - 397:36, 398:36, 399:1, 404:18</p> <p>evidence ^[25] - 361:16, 367:35, 376:46, 386:26, 391:28, 400:38, 401:33, 408:30, 409:22, 416:47, 417:13, 422:42, 424:29, 426:26, 429:32, 430:5, 430:21, 431:15, 433:9, 433:35, 433:45, 435:11, 436:38, 437:28, 438:27</p> <p>evident ^[3] - 381:29, 389:1, 427:9</p> <p>ex ^[1] - 443:3</p> <p>ex-staff ^[1] - 443:3</p> <p>exactly ^[2] - 357:34, 414:47</p> <p>EXAMINATION ^[7] - 355:13, 365:43, 375:21, 390:47, 409:41, 418:12, 433:42</p> <p>examination ^[1] - 375:11</p> <p>examine ^[1] - 441:46</p> <p>examining ^[1] - 363:15</p> <p>example ^[9] - 360:15, 373:13, 373:22, 377:10, 377:19, 385:10, 388:21, 389:18, 438:44</p> <p>examples ^[8] - 371:13, 372:2, 381:38, 384:39, 407:44, 411:15, 422:46, 424:2</p> <p>except ^[1] - 420:32</p> <p>exception ^[1] - 431:25</p> <p>exclude ^[1] - 427:42</p> <p>excluded ^[8] - 406:5, 406:8, 406:9,</p>	<p>406:19, 415:24, 415:27, 415:30, 432:40</p> <p>exclusion ^[1] - 427:38</p> <p>excuse ^[1] - 365:22</p> <p>excused ^[8] - 365:26, 374:8, 374:12, 390:22, 417:16, 417:20, 442:14, 442:18</p> <p>executive ^[8] - 356:4, 363:17, 366:9, 382:32, 429:11, 429:15, 429:42, 435:6</p> <p>executives ^[2] - 429:34, 430:6</p> <p>exemptions ^[1] - 395:40</p> <p>exercise ^[1] - 424:18</p> <p>Exeter ^[3] - 376:7, 376:26, 376:28</p> <p>exhaustion ^[1] - 389:16</p> <p>Exhibit ^[1] - 428:8</p> <p>existed ^[3] - 369:28, 376:9, 429:38</p> <p>existence ^[1] - 367:15</p> <p>existing ^[1] - 394:32</p> <p>expand ^[2] - 385:16, 410:41</p> <p>expanded ^[1] - 410:32</p> <p>expect ^[1] - 423:4</p> <p>expectation ^[1] - 379:31</p> <p>expecting ^[5] - 360:8, 371:27, 399:17, 409:8, 412:39</p> <p>experience ^[29] - 357:6, 362:45, 362:46, 363:4, 363:22, 363:23, 366:10, 368:11, 369:28, 371:22, 372:13, 372:32, 374:6, 381:33, 381:34, 387:11, 387:20, 407:17, 411:40, 411:43, 421:17, 421:39, 421:43, 422:2, 423:30, 426:16, 428:44, 432:43, 433:10</p> <p>experienced ^[3] - 380:41, 387:12, 429:6</p> <p>experiences ^[1] - 363:17</p> <p>experts ^[2] - 398:12,</p>	<p>399:25</p> <p>explain ^[8] - 360:12, 380:1, 394:27, 399:1, 404:9, 413:23, 423:44, 438:4</p> <p>explained ^[2] - 391:42, 412:38</p> <p>explore ^[2] - 366:19, 393:33</p> <p>express ^[2] - 402:47, 407:36</p> <p>expressed ^[4] - 364:45, 385:36, 397:43, 399:42</p> <p>extended ^[1] - 421:25</p> <p>extension ^[1] - 358:14</p> <p>extent ^[2] - 422:27, 429:15</p> <p>external ^[1] - 431:29</p> <p>extra ^[2] - 374:33, 394:45</p> <p>extremely ^[1] - 370:40</p>	<p>388:11</p> <p>fantastic ^[1] - 413:9</p> <p>far ^[2] - 393:23, 434:26</p> <p>fashioned ^[1] - 384:44</p> <p>fast ^[1] - 367:6</p> <p>fault ^[1] - 370:2</p> <p>feasibility ^[1] - 412:42</p> <p>February ^[1] - 366:40</p> <p>Federal ^[1] - 391:12</p> <p>federal ^[1] - 392:35</p> <p>feedback ^[1] - 376:16</p> <p>feeding ^[1] - 407:40</p> <p>feet ^[1] - 368:17</p> <p>fell ^[1] - 392:6</p> <p>felt ^[11] - 363:36, 380:11, 395:1, 398:8, 402:6, 403:29, 403:45, 411:4, 411:17, 416:38, 428:46</p> <p>few ^[11] - 361:27, 367:4, 370:18, 381:32, 384:31, 392:5, 393:3, 393:32, 398:2, 412:13, 439:17</p> <p>fight ^[3] - 372:43, 404:22, 431:38</p> <p>filled ^[1] - 393:23</p> <p>filling ^[1] - 424:17</p> <p>Film ^[1] - 355:43</p> <p>finalised ^[1] - 442:34</p> <p>finally ^[2] - 408:45, 413:23</p> <p>finance ^[7] - 398:15, 402:22, 418:25, 419:41, 419:44, 420:17, 421:24</p> <p>finances ^[1] - 429:28</p> <p>finish ^[2] - 389:7, 410:21</p> <p>finished ^[2] - 408:23, 417:6</p> <p>fire ^[2] - 385:11, 431:40</p> <p>fire-related ^[1] - 385:11</p> <p>fires ^[9] - 385:10, 426:31, 431:9, 431:10, 431:28, 431:38, 432:1, 432:4, 432:7</p> <p>firm ^[1] - 407:28</p> <p>first ^[30] - 356:25, 359:33, 367:13, 379:29, 379:33, 383:1, 383:4, 383:14, 383:15, 393:10, 395:25, 395:37, 395:38,</p>
F				
<p>fabulous ^[1] - 418:23</p> <p>face ^[1] - 394:13</p> <p>facilities ^[1] - 377:17</p> <p>facility ^[2] - 361:2, 410:39</p> <p>facing ^[4] - 360:18, 360:23, 360:26, 364:8</p> <p>fact ^[20] - 357:23, 360:23, 361:25, 366:37, 370:40, 373:20, 396:2, 396:3, 403:30, 404:40, 407:28, 412:26, 412:34, 419:32, 424:14, 424:16, 424:23, 432:40, 438:36, 439:21</p> <p>fair ^[12] - 362:15, 380:4, 380:40, 381:6, 391:40, 396:19, 426:6, 426:10, 434:46, 435:1, 435:2, 439:16</p> <p>fair-minded ^[1] - 426:6</p> <p>fairly ^[3] - 368:29, 380:41, 391:35</p> <p>faith ^[1] - 387:36</p> <p>fall ^[1] - 407:3</p> <p>families ^[1] - 383:36</p> <p>family ^[2] - 383:35,</p>				

400:26, 400:46, 409:3, 414:27, 414:37, 421:17, 421:42, 423:23, 424:36, 427:44, 429:25, 433:29, 433:39, 434:40, 440:42, 442:40 firsthand [1] - 381:34 firstly [6] - 361:2, 393:33, 408:21, 414:26, 426:28, 426:43 five [4] - 396:47, 398:11, 405:7, 411:1 fix [4] - 385:47, 424:6, 424:9, 424:13 fixed [1] - 419:11 flag [1] - 392:45 flight [1] - 358:9 floods [1] - 431:10 floor [1] - 363:14 focus [4] - 363:9, 370:20, 420:10, 429:34 focused [2] - 363:14, 368:7 focuses [1] - 382:40 focusing [1] - 433:14 follow [2] - 380:7, 434:40 followed [2] - 359:42, 381:11 following [3] - 363:7, 413:2, 441:5 follows [1] - 429:4 food [1] - 361:6 footing [1] - 360:30 Forest [3] - 398:3, 398:5, 398:17 forest [1] - 392:27 Forests [1] - 398:19 forgive [2] - 394:5, 401:34 forgot [2] - 398:13, 420:7 forgotten [1] - 397:16 form [7] - 368:39, 399:32, 413:34, 421:2, 435:2, 437:41, 439:16 formal [3] - 357:7, 421:31, 421:36 formality [1] - 366:22 formation [1] - 370:9 formed [5] - 366:41, 370:17, 370:18, 370:37, 372:17 former [13] - 356:19, 361:12, 361:32,	362:6, 362:7, 362:8, 362:11, 362:40, 363:18, 363:23, 363:24, 364:31, 425:4 forth [4] - 391:10, 401:9, 406:41, 416:10 forthcoming [1] - 408:4 fortunate [2] - 391:7, 410:34 fortunately [1] - 400:6 forward [9] - 374:14, 379:41, 386:38, 396:32, 400:25, 412:9, 412:18, 412:21, 432:1 foundational [1] - 439:4 founding [1] - 367:13 four [6] - 395:11, 395:14, 395:19, 395:22, 396:47, 397:9 fourth [2] - 395:26, 411:37 FWAS [8] - 357:40, 358:3, 359:3, 359:18, 359:29, 360:34, 360:40 framework [2] - 378:34, 378:42 fraught [1] - 371:27 free [5] - 365:27, 367:42, 374:13, 390:23, 417:17 freehold [1] - 395:13 freely [1] - 429:35 Frensham [1] - 406:40 fresh [2] - 389:41, 412:37 friction [1] - 389:38 Friday [2] - 354:36, 418:22 friends [3] - 359:5, 385:7, 405:29 Friends [8] - 355:47, 357:14, 357:25, 359:40, 360:20, 361:3, 361:13, 361:24 front [6] - 366:44, 367:35, 389:24, 400:27, 403:38, 428:6 frustrated [1] - 386:11 frustration [4] - 382:5, 386:8, 387:13, 389:16	full [3] - 374:31, 391:9, 399:3 full-time [1] - 391:9 fully [2] - 429:44, 430:8 function [4] - 369:34, 371:32, 393:11, 425:22 functioning [1] - 371:11 fund [3] - 391:34, 393:8, 393:10 funded [1] - 393:12 funding [4] - 370:41, 393:13, 405:7, 413:29 fundraising [1] - 361:7 funds [6] - 361:4, 361:34, 361:45, 409:1, 414:32, 416:4 funds" [1] - 415:45 funnily [2] - 373:34, 388:44	360:21, 368:40, 371:14, 371:45, 372:13, 379:42, 381:43, 382:32, 391:43, 391:45, 392:1, 395:45, 396:26, 400:29, 403:8, 407:38, 407:44, 413:4, 419:44, 420:3, 420:17, 420:33, 420:36, 420:37, 421:19, 421:34, 421:35, 423:5, 423:23, 424:5, 424:23, 424:25, 424:30, 425:5, 425:17, 425:19, 425:45, 426:27, 426:35, 426:41, 427:9, 428:46, 428:47, 429:12, 429:22, 429:23, 430:40, 431:8, 431:35, 436:11, 436:24, 436:29, 436:33, 438:24, 438:27, 441:40, 443:3 General's [1] - 391:12 generally [13] - 363:38, 363:40, 364:20, 373:31, 382:17, 382:22, 406:30, 407:26, 407:30, 411:29, 418:19, 436:39, 436:42 generate [1] - 366:41 gentleman [1] - 376:7 gentleman's [1] - 370:2 gentlemen [1] - 380:23 genuinely [1] - 387:38 Geoff [2] - 391:44, 415:33 geography [1] - 360:12 given [29] - 358:8, 358:11, 359:46, 360:35, 369:23, 369:24, 394:45, 395:29, 403:22, 407:32, 408:7, 408:30, 409:23, 416:47, 421:40, 424:12, 424:39, 425:2, 426:16, 427:13, 428:42,	434:34, 435:11, 436:2, 437:27, 439:13, 439:44, 440:9, 442:12 gleaned [1] - 431:4 Glen [5] - 421:21, 425:26, 425:32, 426:5, 433:1 Glover [1] - 354:26 GM [1] - 382:19 go-between [1] - 406:46 goals [1] - 376:41 Gordon [3] - 400:45, 401:6, 402:3 gosh [2] - 383:10, 387:8 gotta [3] - 380:25, 389:28, 389:40 govern [1] - 378:36 governance [1] - 425:29 governing [6] - 365:3, 399:45, 423:16, 423:17, 423:31, 431:44 government [13] - 362:47, 371:33, 391:11, 401:28, 404:28, 404:29, 404:32, 421:7, 421:17, 425:22, 425:32, 433:10, 433:17 Government [1] - 391:15 grabs [1] - 423:40 Grahame [2] - 427:44, 428:12 grants [1] - 370:41 grateful [1] - 410:39 grazing [1] - 395:12 great [7] - 370:30, 377:14, 387:36, 389:9, 425:29, 429:29, 431:35 greatest [1] - 381:36 Green [2] - 368:26, 368:34 green [2] - 396:1, 416:9 greenhouse [1] - 366:47 Greens [4] - 400:22, 400:25, 400:45, 401:4 grew [1] - 396:14 ground [2] - 375:13, 410:38 grounds [1] - 393:40
---	---	---	--	---

<p>group ^[30] - 356:37, 366:36, 368:13, 372:29, 372:32, 372:34, 375:35, 376:1, 376:12, 376:13, 376:25, 376:43, 376:47, 377:6, 377:7, 377:27, 377:42, 377:44, 381:24, 381:26, 381:27, 382:35, 385:6, 385:12, 386:34, 419:1, 419:18, 419:32, 420:10, 420:15</p> <p>group's ^[1] - 367:41</p> <p>groups ^[23] - 366:42, 368:2, 373:1, 373:10, 373:21, 375:44, 376:42, 377:22, 377:39, 378:17, 385:7, 385:8, 385:10, 385:12, 385:22, 385:24, 385:27, 385:28, 385:34, 385:42, 385:44, 386:5, 391:20</p> <p>growing ^[1] - 425:28</p> <p>guess ^[7] - 383:9, 383:22, 384:44, 387:10, 389:39, 429:19, 433:14</p> <p>guidance ^[1] - 426:21</p> <p>guidelines ^[4] - 379:7, 379:8, 383:38, 435:4</p> <p>guys ^[3] - 380:36, 381:44</p>	<p>handed ^[1] - 411:25</p> <p>happy ^[3] - 389:8, 394:10, 401:46</p> <p>hard ^[3] - 381:44, 382:40, 388:39</p> <p>head ^[2] - 355:19, 396:22</p> <p>heads ^[1] - 357:31</p> <p>heads-up ^[1] - 357:31</p> <p>health ^[2] - 427:6, 430:44</p> <p>hear ^[7] - 356:38, 383:1, 396:45, 405:27, 407:33, 427:31, 430:36</p> <p>heard ^[12] - 355:31, 358:39, 382:25, 388:45, 391:28, 397:20, 405:26, 413:24, 423:34, 432:30, 435:7</p> <p>hearing ^[3] - 383:18, 422:21, 422:24</p> <p>heavily ^[2] - 362:6, 431:11</p> <p>heavy ^[1] - 411:25</p> <p>heavy-handed ^[1] - 411:25</p> <p>hectare ^[1] - 412:19</p> <p>hectares ^[1] - 394:18</p> <p>held ^[8] - 359:39, 383:26, 405:17, 418:16, 418:44, 419:33, 421:19, 421:23</p> <p>hello ^[3] - 380:26, 388:24, 388:31</p> <p>Helmore ^[1] - 427:2</p> <p>help ^[10] - 366:19, 370:8, 387:3, 388:4, 388:25, 388:28, 388:30, 388:32, 417:3, 428:1</p> <p>helpful ^[3] - 363:19, 389:28, 434:1</p> <p>helping ^[2] - 406:43, 406:44</p> <p>helps ^[1] - 428:1</p> <p>heritage ^[9] - 396:15, 398:6, 398:12, 398:18, 398:22, 398:29, 399:25, 399:26</p> <p>herself ^[1] - 374:33</p> <p>hesitate ^[1] - 372:44</p> <p>Hewson ^[1] - 354:30</p> <p>hidden ^[1] - 371:10</p> <p>high ^[1] - 372:33</p> <p>higher ^[1] - 407:43</p> <p>Highlands ^[3] - 366:7,</p>	<p>368:5, 395:7</p> <p>Highway ^[2] - 395:41, 400:44</p> <p>Hill ^[1] - 412:1</p> <p>himself ^[2] - 402:16, 410:13</p> <p>historic ^[1] - 377:14</p> <p>history ^[1] - 376:43</p> <p>hold ^[2] - 356:4, 419:16</p> <p>holiday ^[2] - 357:43, 358:8</p> <p>home ^[5] - 380:12, 388:34, 418:22, 418:41, 442:10</p> <p>honestly ^[1] - 372:2</p> <p>honesty ^[1] - 403:8</p> <p>hope ^[1] - 366:27</p> <p>hopefully ^[1] - 374:5</p> <p>hoping ^[1] - 366:37</p> <p>hot ^[1] - 422:6</p> <p>hour ^[1] - 377:25</p> <p>hours ^[4] - 413:31, 414:23, 416:5, 416:10</p> <p>house ^[2] - 395:9, 395:26</p> <p>huge ^[4] - 389:11, 392:34, 412:40, 416:11</p> <p>human ^[3] - 388:47, 418:43</p> <p>Hume ^[2] - 395:41, 400:44</p> <p>hundred ^[1] - 412:40</p> <p>hundreds ^[1] - 404:33</p>	<p>431:29</p> <p>impact ^[3] - 369:2, 370:19, 380:21</p> <p>impacted ^[3] - 370:13, 372:20, 431:40</p> <p>implement ^[2] - 422:19, 423:17</p> <p>implied ^[1] - 397:45</p> <p>implies ^[1] - 397:18</p> <p>importance ^[1] - 398:17</p> <p>important ^[10] - 369:26, 369:39, 373:19, 382:8, 384:4, 392:42, 395:43, 404:35, 407:38, 425:21</p> <p>imposed ^[1] - 426:24</p> <p>impressed ^[1] - 360:27</p> <p>impression ^[38] - 356:24, 358:17, 358:23, 360:25, 360:33, 361:17, 361:37, 362:31, 364:1, 364:3, 371:4, 371:14, 371:23, 371:40, 372:3, 379:42, 380:2, 380:47, 381:14, 381:17, 383:17, 384:32, 384:40, 385:22, 386:17, 386:27, 386:32, 396:39, 399:47, 403:24, 404:9, 411:2, 423:34, 429:10, 430:40, 431:23</p> <p>impressions ^[15] - 356:31, 356:44, 362:3, 369:12, 372:17, 379:26, 384:23, 384:34, 384:35, 387:29, 422:14, 427:13, 428:37, 430:26, 430:46</p> <p>imputation ^[1] - 401:37</p> <p>inappropriate ^[6] - 384:20, 393:40, 393:46, 397:24, 426:18, 435:14</p> <p>inappropriately ^[1] - 428:22</p> <p>incensed ^[1] - 435:9</p> <p>incidences ^[1] - 356:10</p> <p>incident ^[2] - 424:4,</p>	<p>424:38</p> <p>incisive ^[1] - 374:17</p> <p>include ^[6] - 398:32, 418:45, 427:42, 431:18, 431:22, 438:2</p> <p>including ^[5] - 375:41, 397:2, 398:3, 398:12, 429:12</p> <p>inclusion ^[1] - 427:38</p> <p>inclusive ^[1] - 360:28</p> <p>Incorporated ^[1] - 366:32</p> <p>incorporated ^[4] - 355:46, 375:34, 385:6, 391:33</p> <p>increased ^[1] - 369:35</p> <p>increasing ^[4] - 369:36, 369:37, 369:46, 384:13</p> <p>increasingly ^[5] - 379:46, 384:37, 386:16, 389:32, 390:7</p> <p>independent ^[2] - 421:11, 421:15</p> <p>indicate ^[1] - 363:14</p> <p>indicated ^[1] - 411:38</p> <p>indicates ^[1] - 369:38</p> <p>indicating ^[1] - 360:18</p> <p>indication ^[1] - 372:47</p> <p>indirectly ^[1] - 427:22</p> <p>indistinct ^[2] - 439:14, 441:18</p> <p>indistinct ^[2] - 417:22, 433:18</p> <p>individual ^[5] - 363:34, 371:32, 377:28, 377:33, 378:32</p> <p>individually ^[1] - 386:18</p> <p>individuals ^[2] - 386:27, 431:2</p> <p>ineffective ^[1] - 432:6</p> <p>inevitably ^[1] - 367:9</p> <p>inference ^[2] - 398:43, 399:20</p> <p>influence ^[4] - 370:12, 425:8, 425:31</p> <p>informal ^[1] - 392:11</p> <p>informality ^[1] - 378:46</p> <p>information ^[14] - 358:32, 370:36, 379:3, 382:33, 385:19, 388:42, 407:47, 408:8, 425:6, 425:7,</p>	
<p>H</p>	<p>habitats ^[1] - 368:37</p> <p>half ^[2] - 371:46, 382:43</p> <p>Hall ^[3] - 405:10, 405:11, 414:9</p> <p>hall ^[4] - 377:14, 377:17, 377:22, 377:25</p> <p>halls ^[3] - 377:13, 377:15, 377:22</p> <p>Halstead ^[10] - 395:17, 395:20, 401:18, 424:8, 424:14, 424:39, 425:3, 428:33, 435:10</p> <p>hand ^[4] - 380:27, 412:22, 419:11, 429:20</p>	<p>I</p>	<p>i.e ^[1] - 441:33</p> <p>lan ^[3] - 392:12, 411:31, 414:40</p> <p>lan's ^[1] - 414:31</p> <p>idea ^[10] - 359:46, 360:2, 377:8, 379:33, 383:4, 398:22, 398:23, 403:18, 403:19, 440:18</p> <p>ideas ^[3] - 376:33, 412:30, 413:4</p> <p>identical ^[1] - 400:47</p> <p>ignored ^[1] - 383:38</p> <p>ill ^[1] - 421:26</p> <p>image ^[1] - 405:34</p> <p>imagine ^[1] - 375:16</p> <p>immediately ^[5] - 396:32, 397:20, 400:10, 412:22,</p>	<p>incensed ^[1] - 435:9</p> <p>incidences ^[1] - 356:10</p> <p>incident ^[2] - 424:4,</p>	<p>incensed ^[1] - 435:9</p> <p>incidences ^[1] - 356:10</p> <p>incident ^[2] - 424:4,</p>

<p>425:13, 428:28, 430:33, 430:37</p> <p>infrastructure [2] - 369:26, 424:6</p> <p>inherent [1] - 386:2</p> <p>initial [2] - 356:6, 429:19</p> <p>initiated [2] - 403:18, 403:19</p> <p>Innes [5] - 421:22, 425:26, 425:32, 426:5, 433:2</p> <p>input [3] - 370:11, 393:20, 393:29</p> <p>inquiry [6] - 367:18, 391:21, 406:27, 409:14, 432:17, 434:15</p> <p>INQUIRY [2] - 354:13, 443:22</p> <p>inquisition [1] - 366:25</p> <p>insights [1] - 366:18</p> <p>insinuating [1] - 399:23</p> <p>insofar [1] - 358:22</p> <p>inspect [1] - 392:32</p> <p>instance [5] - 380:34, 393:37, 401:18, 407:20, 408:1</p> <p>instances [5] - 363:31, 363:34, 363:40, 380:22, 424:2</p> <p>Institute [1] - 355:26</p> <p>instruction [2] - 440:8, 440:22</p> <p>instructions [1] - 423:15</p> <p>instrument [1] - 393:33</p> <p>instruments [2] - 393:35, 394:6</p> <p>insulted [1] - 380:30</p> <p>insurance [2] - 400:9, 400:12</p> <p>insurer [3] - 401:43, 401:46, 405:14</p> <p>insurers [1] - 400:10</p> <p>integrity [1] - 404:27</p> <p>interact [4] - 378:43, 421:16, 425:18, 429:43</p> <p>interacted [7] - 362:33, 372:14, 372:26, 380:43, 381:33, 385:44, 425:14</p> <p>interacting [2] - 358:22, 410:20</p>	<p>interaction [9] - 356:31, 358:25, 364:36, 378:37, 382:39, 384:9, 385:23, 440:34, 441:6</p> <p>interactions [20] - 359:3, 361:30, 370:23, 370:24, 370:28, 379:44, 381:35, 382:34, 382:45, 383:6, 383:7, 383:25, 391:39, 391:47, 396:20, 401:14, 411:15, 435:19, 437:29</p> <p>interested [6] - 369:12, 372:32, 392:7, 409:34, 411:41, 439:46</p> <p>interesting [2] - 384:11, 433:3</p> <p>interests [2] - 368:7, 377:27</p> <p>interference [2] - 423:45, 435:8</p> <p>interim [6] - 369:17, 373:16, 389:35, 413:3, 430:42, 431:4</p> <p>interpreting [1] - 422:37</p> <p>interrupting [1] - 384:41</p> <p>intervention [1] - 433:17</p> <p>interview [2] - 357:20, 357:25</p> <p>intimate [1] - 367:19</p> <p>intimately [3] - 367:22, 368:29, 372:45</p> <p>intimation [1] - 401:19</p> <p>intimidated [1] - 403:45</p> <p>intimidatory [3] - 403:27, 403:34, 403:38</p> <p>introduced [1] - 432:43</p> <p>intrude [1] - 423:31</p> <p>invariably [1] - 422:29</p> <p>investigation [1] - 358:47</p> <p>investigations [1] - 368:44</p> <p>invitation [2] - 384:1, 420:32</p> <p>invited [9] - 355:31, 357:19, 359:30,</p>	<p>373:13, 373:21, 376:30, 383:32, 383:45, 383:46</p> <p>involve [2] - 377:31, 404:26</p> <p>involved [35] - 357:22, 362:6, 367:22, 367:27, 368:29, 372:45, 372:46, 373:18, 375:34, 375:46, 376:1, 378:30, 381:20, 384:6, 387:44, 391:20, 392:26, 393:22, 394:46, 403:41, 403:42, 406:39, 406:40, 407:13, 407:14, 408:41, 411:39, 413:29, 421:13, 429:7, 436:1, 439:43, 440:9, 440:21</p> <p>involvement [2] - 356:19, 405:24</p> <p>involving [1] - 439:27</p> <p>iota [1] - 367:34</p> <p>iPad [1] - 409:29</p> <p>IPART [1] - 369:34</p> <p>irregularly [2] - 420:43, 420:45</p> <p>irritis [1] - 388:13</p> <p>issue [28] - 355:33, 364:44, 365:4, 371:21, 379:6, 391:34, 393:6, 395:35, 395:36, 395:37, 396:21, 397:3, 397:10, 397:25, 397:40, 401:17, 405:13, 405:45, 407:18, 407:30, 407:38, 407:45, 409:24, 411:29, 413:21, 428:34, 439:38</p> <p>issue" [1] - 400:14</p> <p>issue-based [1] - 428:34</p> <p>issued [2] - 366:21, 440:22</p> <p>issues [39] - 358:20, 368:30, 371:24, 371:41, 372:22, 372:26, 377:1, 377:47, 391:9, 392:13, 393:26, 393:32, 393:36, 396:24, 397:41, 398:4, 403:31,</p>	<p>405:44, 407:27, 420:44, 421:1, 421:33, 422:6, 422:7, 424:26, 424:31, 427:5, 429:20, 429:21, 432:5, 433:11, 433:18, 433:21, 434:42, 438:35, 439:42, 439:43, 441:39</p> <p>IT [6] - 379:19, 386:16, 388:1, 388:22, 389:18, 389:20</p> <p>it" [1] - 382:11</p> <p>it'll [1] - 375:15</p> <p>item [4] - 356:39, 361:11, 361:40, 363:36</p> <p>items [1] - 363:10</p> <p>itself [2] - 389:15, 425:28</p>	<p>395:19, 401:18</p> <p>kept [4] - 388:35, 433:47, 435:12, 435:19</p> <p>key [2] - 372:29, 377:26</p> <p>kill [1] - 388:16</p> <p>kind [1] - 425:21</p> <p>King [1] - 391:44</p> <p>Kirkham [3] - 412:8, 412:11</p> <p>knowing [3] - 360:6, 362:7, 378:47</p> <p>knowingly [1] - 425:30</p> <p>knowledge [4] - 362:1, 370:19, 401:32, 433:20</p> <p>known [2] - 369:42, 406:19</p> <p>Koala [1] - 368:27</p> <p>koala [1] - 368:44</p> <p>KPMG [1] - 373:15</p>
			J	L
			<p>January [3] - 426:31, 426:32, 431:28</p> <p>JDI [2] - 382:4, 382:9</p> <p>job [6] - 377:24, 378:39, 381:25, 416:9, 429:29, 431:35</p> <p>jobs [2] - 389:13, 429:13</p> <p>John [1] - 418:6</p> <p>JOHN [1] - 418:8</p> <p>joining [1] - 406:5</p> <p>jointly [1] - 370:40</p> <p>joke [1] - 380:29</p> <p>joking [1] - 380:25</p> <p>Jones [3] - 355:7, 355:11, 355:15</p> <p>JONES [1] - 355:9</p> <p>journalists [1] - 422:37</p> <p>July [3] - 359:10, 363:22, 363:43</p> <p>juvenile [1] - 384:45</p>	<p>lack [3] - 370:20, 381:20, 432:5</p> <p>lake [1] - 412:19</p> <p>Land [1] - 394:38</p> <p>land [13] - 369:36, 375:31, 392:17, 392:33, 392:44, 394:44, 394:45, 395:8, 395:41, 395:43, 395:46</p> <p>Landcare [1] - 368:4</p> <p>landholders [1] - 400:30</p> <p>landowner [4] - 394:37, 394:44, 395:12, 395:24</p> <p>landowner" [1] - 400:35</p> <p>landowners [9] - 394:9, 397:12, 397:19, 398:8, 398:24, 398:27, 399:11, 401:3, 404:45</p> <p>landowners" [1] - 396:36</p> <p>landscape [6] - 394:25, 395:5, 396:14, 398:6, 398:13, 398:18</p> <p>lane [1] - 412:27</p> <p>language [4] - 380:9, 381:30, 401:17</p>
			K	
			<p>keep [7] - 386:37, 387:14, 387:47, 388:2, 434:4, 434:6, 434:31</p> <p>keeping [4] - 396:1, 397:46, 431:37, 434:42</p> <p>Ken [3] - 395:17,</p>	

<p>large [8] - 392:27, 392:34, 398:4, 398:9, 399:26, 414:9, 422:4, 423:10</p> <p>larger [1] - 414:29</p> <p>Larry [6] - 370:6, 396:27, 396:28, 397:6, 414:40, 415:1</p> <p>Larry's [1] - 370:8</p> <p>last [9] - 364:15, 392:5, 393:18, 410:47, 411:1, 412:13, 413:26, 440:31</p> <p>late [3] - 356:21, 368:16, 377:25</p> <p>law [2] - 386:42, 391:13</p> <p>lawyer [7] - 391:11, 394:47, 401:28, 401:35, 402:3, 404:28, 404:29</p> <p>lawyers [1] - 427:1</p> <p>layer [1] - 368:35</p> <p>lead [1] - 387:6</p> <p>leader [2] - 359:41, 360:19</p> <p>leadership [6] - 365:5, 387:39, 431:44, 432:6</p> <p>leading [3] - 373:40, 385:11, 387:6</p> <p>lean [1] - 401:32</p> <p>learn [1] - 383:33</p> <p>least [16] - 358:19, 361:38, 363:21, 363:29, 368:19, 368:28, 379:17, 380:42, 381:5, 382:14, 383:5, 383:17, 387:30, 393:35, 398:43, 429:32</p> <p>leave [6] - 358:9, 371:4, 371:22, 401:27, 430:20, 441:46</p> <p>leaving [3] - 399:14, 399:15</p> <p>lecture [1] - 435:10</p> <p>led [5] - 360:3, 384:39, 405:10, 422:25, 432:6</p> <p>left [20] - 358:17, 361:37, 362:3, 362:31, 367:5, 371:13, 371:39, 373:47, 379:26, 380:1, 386:33, 389:12, 393:26,</p>	<p>396:39, 397:4, 397:5, 397:6, 412:1, 413:8, 421:22</p> <p>legal [17] - 361:46, 399:35, 399:40, 400:3, 400:6, 400:17, 400:18, 401:12, 401:31, 401:32, 402:15, 402:20, 402:36, 403:3, 403:9, 403:31, 408:32</p> <p>Leichhardt [7] - 355:29, 356:19, 362:7, 362:46, 363:8, 363:18, 363:24</p> <p>length [1] - 377:15</p> <p>LEP [1] - 393:39</p> <p>letter [13] - 357:41, 357:42, 358:13, 358:37, 358:46, 395:20, 400:16, 401:32, 401:37, 403:2, 403:12, 408:31, 408:32</p> <p>level [13] - 364:38, 381:20, 382:32, 389:32, 392:35, 407:43, 408:4, 408:8, 423:23, 429:12, 436:7, 436:25, 436:33</p> <p>levels [2] - 365:5, 429:42</p> <p>levy [17] - 369:30, 369:35, 393:8, 393:12, 393:14, 405:7, 405:13, 405:20, 405:22, 406:4, 408:46, 413:27, 413:28, 414:11, 415:12</p> <p>liaison [1] - 412:12</p> <p>libraries [1] - 438:44</p> <p>life [1] - 366:8</p> <p>light [1] - 373:40</p> <p>like-minded [1] - 368:7</p> <p>limitations [2] - 376:33, 377:19</p> <p>limiting [1] - 430:36</p> <p>limits [1] - 439:3</p> <p>line [6] - 360:20, 389:39, 403:43, 404:38, 423:24, 434:36</p> <p>linked [1] - 377:35</p> <p>Lions [1] - 376:43</p> <p>Lisa [3] - 391:43,</p>	<p>412:32, 412:38</p> <p>list [3] - 366:30, 443:9, 443:12</p> <p>listed [2] - 392:35, 420:46</p> <p>listen [3] - 373:39, 387:47, 422:20</p> <p>listened [2] - 370:26, 424:22</p> <p>listening [2] - 363:16, 428:27</p> <p>literally [2] - 377:20, 380:36</p> <p>litigation [6] - 406:40, 407:22, 407:25, 407:34, 407:35, 407:36</p> <p>live [4] - 387:37, 394:43, 418:20</p> <p>lived [7] - 355:17, 375:31, 391:17, 395:27, 418:18, 418:22, 422:31</p> <p>lives [1] - 386:31</p> <p>living [5] - 393:46, 394:15, 394:19, 394:20, 394:21</p> <p>Living [1] - 368:5</p> <p>local [14] - 355:40, 355:43, 357:20, 362:47, 368:17, 371:33, 395:38, 421:7, 421:16, 421:17, 425:22, 425:32, 431:45, 433:10</p> <p>located [1] - 359:43</p> <p>location [3] - 360:40, 360:45, 361:43</p> <p>lock [1] - 425:31</p> <p>lockdown [1] - 431:34</p> <p>locked [1] - 397:46</p> <p>log [1] - 358:10</p> <p>long-standing [1] - 429:21</p> <p>long-term [1] - 355:38</p> <p>look [14] - 373:1, 374:14, 377:22, 379:3, 388:27, 388:32, 389:6, 396:22, 400:11, 401:22, 401:23, 405:33, 414:43, 432:8</p> <p>looking [6] - 360:29, 363:15, 369:8, 369:11, 377:12, 412:41</p> <p>looks [1] - 409:31</p> <p>loose [1] - 404:44</p>	<p>lose [3] - 395:21, 395:29, 416:13</p> <p>loss [1] - 416:11</p> <p>lost [1] - 399:12</p> <p>lots" [1] - 395:22</p> <p>Low [1] - 368:4</p> <p>lower [2] - 408:4, 408:8</p> <p>lunch [1] - 372:35</p> <p>LUNCHEON [1] - 417:43</p> <p>luncheon [3] - 372:44, 373:1, 417:29</p>	<p>428:46, 428:47, 429:12, 429:23, 436:11, 436:24, 436:29, 436:33, 438:24, 441:40, 443:3</p> <p>manager's [1] - 438:27</p> <p>managers [7] - 371:30, 396:27, 421:19, 423:46, 424:11, 424:20, 429:22</p> <p>managing [4] - 371:18, 429:35, 430:7, 436:1</p> <p>mangers [1] - 425:19</p> <p>manner [3] - 359:7, 378:6, 378:47</p> <p>mansions [1] - 396:9</p> <p>map [2] - 408:2, 408:5</p> <p>mapped [1] - 368:41</p> <p>mapping [2] - 368:35, 406:36</p> <p>maps [1] - 368:35</p> <p>March [3] - 357:7, 367:14, 426:33</p> <p>March-April [2] - 367:14, 426:33</p> <p>mark [1] - 374:3</p> <p>Mark [18] - 395:45, 396:27, 396:33, 396:35, 397:6, 397:9, 398:30, 399:6, 399:9, 399:10, 400:33, 402:5, 402:8, 402:22, 402:24, 404:41, 411:35</p> <p>Mark's [1] - 397:15</p> <p>marketing [1] - 366:6</p> <p>Markwart [4] - 400:45, 401:6, 427:43, 428:16</p> <p>Markwart's [1] - 402:3</p> <p>Marsden [1] - 406:44</p> <p>marvellous [1] - 388:10</p> <p>Mary [4] - 396:31, 396:36, 397:2</p> <p>matter [19] - 358:47, 366:22, 372:24, 373:32, 378:12, 406:22, 409:21, 416:38, 416:39, 426:23, 432:45, 433:6, 434:20, 435:34, 436:37, 439:19, 439:26, 440:10, 441:6</p>
--	---	---	---	---

<p>matters [25] - 363:12, 367:22, 369:6, 369:19, 369:26, 371:44, 383:18, 401:15, 407:13, 407:14, 407:38, 408:41, 411:12, 411:38, 423:31, 423:40, 426:35, 432:35, 433:4, 433:16, 436:14, 439:27, 439:45, 440:1</p> <p>mayor [31] - 356:37, 360:22, 362:10, 363:41, 371:1, 372:43, 380:23, 382:18, 392:13, 396:28, 399:38, 400:1, 400:4, 400:5, 405:15, 406:1, 406:3, 410:9, 410:16, 423:2, 423:3, 424:4, 424:39, 424:42, 425:2, 425:3, 427:25, 427:42, 438:7</p> <p>Mayor [7] - 362:4, 363:38, 410:5, 424:8, 428:39, 432:40, 434:6</p> <p>mayor's [2] - 408:31, 408:37</p> <p>McLaughlin [1] - 428:17</p> <p>me [1] - 388:34</p> <p>me" [1] - 382:2</p> <p>mean [21] - 358:34, 361:1, 361:44, 364:28, 367:47, 373:10, 373:12, 378:2, 378:24, 383:31, 385:14, 386:36, 387:47, 389:18, 400:31, 401:3, 402:5, 409:22, 423:18, 430:2</p> <p>meaning [1] - 399:11</p> <p>means [3] - 367:42, 386:37, 420:11</p> <p>meant [6] - 355:30, 360:3, 360:6, 360:35, 384:17, 393:20</p> <p>measure [1] - 383:13</p> <p>media [7] - 438:11, 438:14, 438:34, 438:37, 438:43</p>	<p>meet [5] - 378:31, 383:47, 392:3, 392:9, 392:13</p> <p>meeting [75] - 355:34, 356:20, 356:24, 356:25, 356:34, 359:16, 359:23, 359:34, 359:38, 359:43, 359:47, 360:14, 361:18, 361:22, 362:4, 362:11, 362:20, 362:32, 363:45, 378:4, 379:29, 380:3, 380:5, 380:8, 380:9, 380:23, 381:5, 381:10, 381:29, 384:33, 384:45, 392:7, 392:38, 392:40, 392:41, 396:22, 396:25, 396:26, 396:47, 397:4, 397:33, 397:37, 398:36, 398:37, 399:4, 399:36, 402:37, 404:2, 405:9, 405:11, 405:17, 405:18, 405:38, 405:39, 405:47, 410:6, 412:32, 412:33, 414:30, 414:37, 415:9, 415:10, 415:15, 415:16, 415:42, 415:43, 416:43, 418:40, 421:36, 422:43, 423:41, 438:5</p> <p>Meeting [1] - 427:26</p> <p>meetings [94] - 356:11, 356:33, 356:44, 356:46, 362:5, 363:8, 364:37, 370:33, 371:3, 371:16, 371:22, 371:38, 371:39, 372:11, 372:12, 372:15, 372:27, 372:28, 377:32, 377:39, 377:46, 379:14, 379:22, 379:27, 379:33, 379:45, 380:5, 380:6, 381:18, 381:19, 383:26, 383:27, 383:32, 383:33, 383:41, 384:30, 384:36, 385:2, 386:9, 386:15,</p>	<p>386:18, 386:29, 388:1, 388:2, 389:18, 391:42, 391:44, 396:24, 406:4, 406:5, 406:7, 406:16, 408:47, 414:8, 414:10, 414:28, 414:36, 420:35, 420:41, 420:45, 421:29, 421:30, 421:47, 422:28, 422:38, 424:26, 424:43, 424:45, 426:28, 426:37, 426:44, 427:10, 427:13, 427:17, 427:26, 428:37, 429:5, 429:24, 432:37, 432:42, 436:37, 436:38, 436:41, 436:45, 436:46, 437:1, 437:3, 437:15, 437:18, 437:29</p> <p>meets [1] - 376:13</p> <p>member [27] - 355:41, 355:46, 356:2, 357:13, 358:3, 359:18, 369:13, 372:16, 372:17, 372:28, 375:39, 377:38, 380:28, 382:21, 382:22, 382:34, 389:3, 391:10, 392:21, 393:34, 394:47, 401:4, 402:19, 402:20, 410:41, 410:42, 426:22</p> <p>members [33] - 356:32, 359:4, 359:29, 363:10, 363:13, 363:30, 363:35, 363:44, 364:36, 364:44, 367:47, 368:3, 371:30, 372:14, 372:27, 376:35, 382:25, 383:6, 383:8, 385:1, 385:3, 386:26, 387:7, 387:24, 403:40, 424:3, 427:16, 429:15, 431:19, 431:22, 431:23, 443:3, 443:4</p> <p>memorable [1] - 420:9</p> <p>memorandum [5] - 357:39, 357:45,</p>	<p>357:47, 359:2, 359:5</p> <p>Memorial [2] - 405:11, 414:9</p> <p>memory [3] - 370:18, 425:15, 426:31</p> <p>mental [1] - 393:25</p> <p>mention [1] - 433:35</p> <p>mentioned [6] - 356:5, 363:34, 402:2, 412:34, 414:8, 434:6</p> <p>merits [2] - 398:32</p> <p>messenger [1] - 388:16</p> <p>messy [1] - 416:12</p> <p>met [3] - 355:31, 370:18, 392:11</p> <p>microphone [2] - 396:43, 396:44</p> <p>middle [1] - 419:12</p> <p>might [22] - 359:47, 373:31, 374:28, 377:19, 385:46, 388:15, 388:33, 390:5, 391:29, 392:25, 400:5, 400:18, 408:43, 419:5, 421:41, 428:1, 428:5, 430:1, 430:6, 434:14, 437:44, 439:22</p> <p>Miller [3] - 374:46, 375:23, 390:1</p> <p>MILLER [1] - 375:2</p> <p>million [4] - 371:26, 404:32, 412:29, 412:40</p> <p>millions [1] - 404:34</p> <p>mind [13] - 373:22, 387:38, 397:15, 397:21, 405:47, 406:8, 406:26, 410:24, 422:47, 426:22, 431:9, 433:22, 436:46</p> <p>minded [2] - 368:7, 426:6</p> <p>mine [1] - 405:29</p> <p>minimise [1] - 367:10</p> <p>minimising [1] - 366:46</p> <p>mining [3] - 366:4, 366:5, 371:26</p> <p>minor [3] - 420:26, 423:2, 430:47</p> <p>minutes [3] - 374:32, 374:33, 390:33</p> <p>Miscamble [1] - 391:43</p> <p>misconduct [1] - 404:25</p>	<p>misinformation [1] - 357:27</p> <p>Miss [1] - 426:46</p> <p>missing [1] - 409:24</p> <p>misunderstandings [1] - 382:5</p> <p>Mittagong [1] - 376:21</p> <p>moment [7] - 376:37, 388:33, 389:21, 392:14, 407:3, 433:31, 434:26</p> <p>moment" [1] - 388:26</p> <p>MONDAY [1] - 443:23</p> <p>Monday [6] - 418:21, 442:36, 442:38, 442:44, 443:13, 443:19</p> <p>money [2] - 406:42, 415:11</p> <p>month [1] - 420:31</p> <p>monthly [2] - 355:31, 382:42</p> <p>months [6] - 355:42, 356:7, 376:13, 393:3, 418:41, 418:45</p> <p>Moore [2] - 355:28, 397:2</p> <p>morning [7] - 357:16, 359:37, 365:27, 374:2, 374:28, 391:28, 418:21</p> <p>morphed [1] - 418:45</p> <p>Morris [1] - 398:13</p> <p>Moss [2] - 354:21, 376:21</p> <p>most [11] - 355:43, 366:8, 373:35, 382:16, 386:2, 387:1, 397:4, 405:24, 420:20, 420:30, 426:4</p> <p>mostly [3] - 372:21, 379:18, 386:1</p> <p>Mountains [1] - 402:18</p> <p>move [6] - 375:30, 418:15, 430:25, 431:33, 432:11, 443:2</p> <p>moved [4] - 355:18, 356:15, 363:7, 375:40</p> <p>moving [4] - 355:38, 356:18, 412:14, 424:44</p> <p>multi [1] - 371:26</p> <p>multi-million [1] - 371:26</p> <p>multiple [1] - 439:5</p>
--	--	---	--	---

<p>Murray ^[1] - 427:4</p> <p>Museum ^[1] - 404:36</p> <p>must ^[2] - 412:32, 433:23</p> <p>mutterings ^[2] - 356:40, 404:4</p>	<p>nervous ^[1] - 366:15</p> <p>net ^[3] - 367:1, 404:21, 416:12</p> <p>never ^[10] - 363:33, 366:11, 370:19, 377:28, 380:3, 381:23, 396:14, 429:1, 429:8, 431:12</p> <p>nevertheless ^[2] - 395:24, 401:7</p> <p>new ^[15] - 360:40, 360:45, 361:11, 361:35, 361:41, 366:10, 383:15, 383:21, 388:39, 394:31, 412:15, 413:3</p> <p>New ^[5] - 355:19, 395:44, 395:47, 412:14, 427:4</p> <p>newspapers ^[1] - 422:34</p> <p>next ^[28] - 355:5, 355:7, 358:6, 365:33, 365:35, 374:44, 374:46, 375:7, 380:8, 389:31, 390:27, 390:40, 392:40, 397:25, 399:37, 403:22, 403:25, 405:44, 406:28, 409:9, 409:15, 410:28, 411:10, 417:21, 418:5, 437:24, 441:2, 443:12</p> <p>No.4 ^[1] - 439:11</p> <p>nobody ^[2] - 378:3, 388:43</p> <p>nominated ^[1] - 411:39</p> <p>none ^[2] - 372:20, 373:20</p> <p>normal ^[3] - 357:15, 383:37, 386:41</p> <p>normally ^[1] - 420:47</p> <p>nose ^[1] - 411:3</p> <p>not-for-profit ^[1] - 375:27</p> <p>note ^[1] - 412:38</p> <p>notes ^[10] - 358:45, 360:43, 361:27, 373:34, 434:5, 434:7, 434:10, 434:14, 434:16, 434:42</p> <p>nothing ^[13] - 358:39, 365:11, 366:22, 369:44, 369:47,</p>	<p>373:9, 373:10, 373:30, 387:41, 394:36, 401:42, 408:14, 443:19</p> <p>nothing's ^[3] - 373:5, 386:45, 393:30</p> <p>notice ^[2] - 389:34, 406:34</p> <p>notion ^[3] - 397:20, 397:21, 397:44</p> <p>November ^[1] - 355:18</p> <p>NSW ^[1] - 354:21</p> <p>nuances ^[1] - 388:46</p> <p>nuisance ^[1] - 364:32</p> <p>number ^[18] - 355:26, 355:42, 357:44, 360:16, 360:22, 375:43, 376:42, 381:40, 397:26, 398:4, 398:9, 401:6, 404:11, 427:3, 436:13, 436:24, 436:26, 439:46</p> <p>numbers ^[1] - 369:37</p>	<p>420:9, 425:27, 430:19, 433:18</p> <p>occasion ^[3] - 411:20, 419:44, 421:28</p> <p>occasionally ^[4] - 383:45, 392:2, 392:13, 424:44</p> <p>occasions ^[2] - 365:2, 425:7</p> <p>occupational ^[1] - 430:44</p> <p>occurred ^[4] - 359:10, 370:1, 384:17, 429:17</p> <p>odd ^[2] - 360:11, 407:29</p> <p>off-line ^[1] - 404:38</p> <p>offence ^[1] - 401:47</p> <p>offended ^[1] - 395:1</p> <p>Office ^[1] - 391:15</p> <p>office ^[2] - 355:19, 391:13</p> <p>officer ^[8] - 357:42, 393:5, 393:19, 393:23, 393:24, 393:25, 408:9</p> <p>Officer ^[2] - 354:29, 354:30</p> <p>officers ^[5] - 355:32, 400:8, 410:35, 410:37, 410:38</p> <p>official ^[1] - 404:25</p> <p>often ^[11] - 379:1, 379:30, 382:38, 383:46, 384:1, 386:28, 386:39, 388:1, 388:34, 389:3, 389:19</p> <p>old ^[6] - 362:45, 384:44, 389:20, 391:7, 391:13, 398:25</p> <p>Old ^[2] - 395:41, 400:44</p> <p>old-fashioned ^[1] - 384:44</p> <p>omission ^[1] - 416:37</p> <p>once ^[8] - 366:15, 367:31, 373:47, 389:39, 392:4, 397:19, 407:28, 420:25</p> <p>one ^[62] - 356:34, 357:1, 357:31, 358:43, 364:9, 366:11, 366:12, 366:41, 366:45, 367:17, 367:34, 369:43, 369:44, 369:45, 372:8,</p>	<p>372:29, 372:42, 372:43, 374:5, 377:9, 377:19, 377:39, 377:41, 377:44, 380:23, 386:36, 386:38, 386:44, 389:3, 393:40, 394:18, 394:22, 394:28, 395:3, 395:8, 395:11, 395:18, 395:22, 396:13, 397:28, 399:9, 401:21, 407:17, 407:27, 408:4, 408:43, 414:36, 419:9, 419:41, 419:42, 420:7, 424:4, 424:11, 433:5, 436:12, 438:23, 438:26, 438:28, 442:32</p> <p>one" ^[1] - 389:25</p> <p>one-on-one ^[3] - 369:43, 377:39, 377:41</p> <p>ones ^[2] - 421:46, 437:2</p> <p>online ^[2] - 358:44, 371:3</p> <p>onwards ^[2] - 383:23, 383:31</p> <p>open ^[5] - 383:47, 389:24, 410:46, 417:2, 439:20</p> <p>operate ^[1] - 362:6</p> <p>operated ^[1] - 362:7</p> <p>operating ^[1] - 407:31</p> <p>operation ^[5] - 364:39, 381:43, 386:5, 416:6, 423:20</p> <p>operational ^[10] - 423:19, 423:25, 423:31, 424:31, 425:1, 426:19, 429:27, 434:30, 434:41, 441:39</p> <p>operations ^[6] - 359:41, 360:19, 366:5, 419:44, 420:17, 420:26</p> <p>opportunities ^[1] - 378:24</p> <p>opportunity ^[11] - 359:25, 360:4, 362:27, 365:19, 366:38, 380:7, 383:33, 406:33, 412:20, 413:39, 435:40</p>
N				
O				
<p>name ^[4] - 398:14, 419:17, 427:27, 427:39</p> <p>name's ^[1] - 366:1</p> <p>named ^[3] - 407:29, 437:30, 437:36</p> <p>names ^[1] - 427:31</p> <p>naming ^[1] - 408:42</p> <p>National ^[1] - 404:36</p> <p>nature ^[2] - 357:38, 377:10</p> <p>near ^[2] - 412:10, 412:21</p> <p>nearly ^[1] - 369:33</p> <p>necessarily ^[6] - 370:25, 371:35, 372:24, 372:33, 380:14, 386:9</p> <p>necessary ^[3] - 375:15, 427:30, 436:42</p> <p>necks ^[1] - 403:43</p> <p>need ^[12] - 369:7, 371:41, 378:28, 379:2, 386:10, 386:40, 392:42, 403:1, 411:14, 420:12, 432:31, 442:25</p> <p>needn't ^[1] - 404:25</p> <p>needs ^[1] - 363:16</p> <p>negative ^[8] - 371:5, 371:7, 371:40, 386:28, 422:29, 422:36, 423:8, 423:40</p> <p>negatively ^[1] - 369:2</p> <p>negotiated ^[1] - 397:19</p> <p>negotiating ^[1] - 415:34</p> <p>negotiations ^[4] - 406:2, 415:24, 415:30, 415:32</p> <p>Nelson ^[8] - 360:44, 361:13, 361:32, 362:12, 362:16, 362:40, 427:43, 428:17</p> <p>Nelson's ^[1] - 362:8</p>	<p>object ^[7] - 434:36, 437:7, 437:41, 438:46, 439:13, 439:30, 441:11</p> <p>objected ^[1] - 398:39</p> <p>objection ^[3] - 432:31, 434:38, 439:1</p> <p>objects ^[1] - 404:35</p> <p>obligations ^[3] - 359:2, 361:46, 363:25</p> <p>obligatory ^[1] - 394:36</p> <p>obliged ^[1] - 358:35</p> <p>observation ^[1] - 384:11</p> <p>observations ^[2] - 368:36, 414:28</p> <p>observe ^[5] - 372:11, 372:13, 372:25, 386:16, 387:6</p> <p>observed ^[2] - 372:9, 426:45</p> <p>observing ^[2] - 379:35, 433:10</p> <p>obtained ^[1] - 434:17</p> <p>obvious ^[2] - 386:36, 428:24</p> <p>obviously ^[12] - 356:38, 356:39, 367:36, 370:6, 370:13, 387:5, 388:31, 399:3,</p>	<p>object ^[7] - 434:36, 437:7, 437:41, 438:46, 439:13, 439:30, 441:11</p> <p>objected ^[1] - 398:39</p> <p>objection ^[3] - 432:31, 434:38, 439:1</p> <p>objects ^[1] - 404:35</p> <p>obligations ^[3] - 359:2, 361:46, 363:25</p> <p>obligatory ^[1] - 394:36</p> <p>obliged ^[1] - 358:35</p> <p>observation ^[1] - 384:11</p> <p>observations ^[2] - 368:36, 414:28</p> <p>observe ^[5] - 372:11, 372:13, 372:25, 386:16, 387:6</p> <p>observed ^[2] - 372:9, 426:45</p> <p>observing ^[2] - 379:35, 433:10</p> <p>obtained ^[1] - 434:17</p> <p>obvious ^[2] - 386:36, 428:24</p> <p>obviously ^[12] - 356:38, 356:39, 367:36, 370:6, 370:13, 387:5, 388:31, 399:3,</p>	<p>420:9, 425:27, 430:19, 433:18</p> <p>occasion ^[3] - 411:20, 419:44, 421:28</p> <p>occasionally ^[4] - 383:45, 392:2, 392:13, 424:44</p> <p>occasions ^[2] - 365:2, 425:7</p> <p>occupational ^[1] - 430:44</p> <p>occurred ^[4] - 359:10, 370:1, 384:17, 429:17</p> <p>odd ^[2] - 360:11, 407:29</p> <p>off-line ^[1] - 404:38</p> <p>offence ^[1] - 401:47</p> <p>offended ^[1] - 395:1</p> <p>Office ^[1] - 391:15</p> <p>office ^[2] - 355:19, 391:13</p> <p>officer ^[8] - 357:42, 393:5, 393:19, 393:23, 393:24, 393:25, 408:9</p> <p>Officer ^[2] - 354:29, 354:30</p> <p>officers ^[5] - 355:32, 400:8, 410:35, 410:37, 410:38</p> <p>official ^[1] - 404:25</p> <p>often ^[11] - 379:1, 379:30, 382:38, 383:46, 384:1, 386:28, 386:39, 388:1, 388:34, 389:3, 389:19</p> <p>old ^[6] - 362:45, 384:44, 389:20, 391:7, 391:13, 398:25</p> <p>Old ^[2] - 395:41, 400:44</p> <p>old-fashioned ^[1] - 384:44</p> <p>omission ^[1] - 416:37</p> <p>once ^[8] - 366:15, 367:31, 373:47, 389:39, 392:4, 397:19, 407:28, 420:25</p> <p>one ^[62] - 356:34, 357:1, 357:31, 358:43, 364:9, 366:11, 366:12, 366:41, 366:45, 367:17, 367:34, 369:43, 369:44, 369:45, 372:8,</p>	<p>372:29, 372:42, 372:43, 374:5, 377:9, 377:19, 377:39, 377:41, 377:44, 380:23, 386:36, 386:38, 386:44, 389:3, 393:40, 394:18, 394:22, 394:28, 395:3, 395:8, 395:11, 395:18, 395:22, 396:13, 397:28, 399:9, 401:21, 407:17, 407:27, 408:4, 408:43, 414:36, 419:9, 419:41, 419:42, 420:7, 424:4, 424:11, 433:5, 436:12, 438:23, 438:26, 438:28, 442:32</p> <p>one" ^[1] - 389:25</p> <p>one-on-one ^[3] - 369:43, 377:39, 377:41</p> <p>ones ^[2] - 421:46, 437:2</p> <p>online ^[2] - 358:44, 371:3</p> <p>onwards ^[2] - 383:23, 383:31</p> <p>open ^[5] - 383:47, 389:24, 410:46, 417:2, 439:20</p> <p>operate ^[1] - 362:6</p> <p>operated ^[1] - 362:7</p> <p>operating ^[1] - 407:31</p> <p>operation ^[5] - 364:39, 381:43, 386:5, 416:6, 423:20</p> <p>operational ^[10] - 423:19, 423:25, 423:31, 424:31, 425:1, 426:19, 429:27, 434:30, 434:41, 441:39</p> <p>operations ^[6] - 359:41, 360:19, 366:5, 419:44, 420:17, 420:26</p> <p>opportunities ^[1] - 378:24</p> <p>opportunity ^[11] - 359:25, 360:4, 362:27, 365:19, 366:38, 380:7, 383:33, 406:33, 412:20, 413:39, 435:40</p>

<p>opposed [3] - 403:44, 413:22, 415:16</p> <p>opposing [1] - 399:27</p> <p>order [1] - 361:47</p> <p>orders [1] - 363:11</p> <p>ordinary [2] - 356:11, 425:22</p> <p>organisation [29] - 357:14, 357:27, 359:20, 361:46, 367:14, 368:3, 371:31, 373:4, 378:17, 378:35, 378:42, 378:43, 391:35, 391:36, 410:33, 418:47, 419:1, 419:18, 420:26, 425:28, 425:36, 429:28, 430:45, 430:47, 431:1, 431:8, 431:11, 440:26</p> <p>organisation's [1] - 372:25</p> <p>Organisational [1] - 419:7</p> <p>organisational [10] - 419:12, 419:32, 420:11, 420:16, 421:1, 422:13, 423:27, 423:32, 434:31, 434:42</p> <p>organisations [2] - 368:4, 371:34</p> <p>organised [3] - 368:13, 405:9, 414:37</p> <p>originally [1] - 375:25</p> <p>otherwise [2] - 387:24, 434:32</p> <p>ought [1] - 387:34</p> <p>ourselves [1] - 406:45</p> <p>outcome [4] - 382:10, 397:22, 415:14, 431:3</p> <p>outcomes [4] - 370:28, 370:31, 379:31, 381:30</p> <p>outcry [2] - 397:24, 399:27</p> <p>outlet [1] - 438:37</p> <p>output [1] - 368:45</p> <p>outrage [2] - 402:6, 404:5</p> <p>outraged [1] - 401:28</p> <p>outrageous [2] - 399:13, 399:39</p> <p>outside [3] - 407:25, 407:32, 429:41</p> <p>overall [3] - 362:31,</p>	<p>364:22, 371:15</p> <p>overstep [1] - 426:11</p> <p>own [8] - 388:29, 398:22, 399:26, 405:47, 406:8, 424:21, 431:26, 433:22</p> <p>Oxley [1] - 412:1</p>	<p>374:28, 374:36, 374:42, 374:46, 375:21, 375:23, 379:13, 385:30, 385:38, 387:20, 389:43, 390:1, 390:11, 390:30, 390:40, 390:47, 391:2, 404:47, 406:26, 407:6, 408:14, 417:10, 417:32, 417:36, 418:5, 418:12, 418:14, 418:32, 426:16, 428:5, 428:10, 428:21, 428:27, 428:36, 430:5, 430:25, 430:31, 432:11, 432:16, 434:36, 434:40, 437:7, 437:41, 438:46, 439:3, 439:13, 439:30, 442:6, 442:16, 442:32, 442:38, 442:44, 443:2, 443:8, 443:16</p> <p>Parish's [3] - 364:34, 372:8, 432:30</p> <p>park [2] - 412:19, 412:41</p> <p>Park [2] - 355:28</p> <p>parroting [1] - 412:24</p> <p>part [30] - 362:46, 368:12, 368:28, 368:37, 375:43, 376:12, 376:18, 376:29, 376:46, 381:26, 387:46, 391:13, 402:8, 405:6, 405:37, 413:28, 414:11, 414:23, 414:27, 414:31, 416:1, 416:4, 416:11, 418:23, 420:26, 420:29, 426:10, 427:25, 434:40, 437:38</p> <p>participate [4] - 357:20, 427:22, 437:31, 439:45</p> <p>participated [1] - 376:31</p> <p>participation [2] - 383:1, 383:5</p> <p>particular [33] - 355:32, 355:33, 356:2, 356:38, 357:1, 357:32,</p>	<p>361:40, 362:13, 362:37, 362:43, 363:35, 364:44, 365:4, 368:13, 371:4, 371:13, 371:21, 375:34, 380:22, 389:3, 391:43, 392:4, 392:13, 393:42, 395:3, 395:11, 401:17, 407:44, 408:31, 424:24, 433:11, 434:43</p> <p>particularised [1] - 400:19</p> <p>particularly [11] - 362:9, 362:40, 371:6, 394:42, 395:3, 395:31, 401:19, 402:2, 411:40, 424:27, 431:36</p> <p>partly [4] - 385:16, 393:8, 423:39, 432:3</p> <p>parts [5] - 408:3, 410:33, 427:18, 430:47</p> <p>party [1] - 357:47</p> <p>Party [1] - 401:4</p> <p>passage [1] - 364:16</p> <p>passed [2] - 355:34, 409:29</p> <p>past [4] - 359:42, 397:13, 417:30, 417:39</p> <p>Paull [4] - 396:27, 397:5, 420:20, 424:22</p> <p>Paull's [2] - 412:23, 420:38</p> <p>pause [3] - 396:42, 402:40, 407:2</p> <p>pay [1] - 412:39</p> <p>paying [2] - 373:46, 380:13</p> <p>peg [1] - 369:35</p> <p>people [35] - 359:36, 368:21, 371:28, 371:30, 377:23, 379:2, 380:42, 381:22, 384:4, 384:14, 384:41, 386:3, 386:11, 386:15, 387:1, 387:21, 388:44, 389:29, 389:41, 392:12, 392:29, 397:4, 398:2, 398:3, 398:15, 398:16, 404:23, 405:24,</p>	<p>405:30, 406:46, 414:30, 428:27, 430:2, 440:25, 440:26</p> <p>people's [2] - 360:29, 422:14</p> <p>Pepping [12] - 395:45, 396:27, 397:6, 397:9, 399:6, 399:9, 400:33, 402:8, 402:22, 402:24, 403:12, 411:35</p> <p>Pepping's [3] - 398:30, 402:6, 404:41</p> <p>per [7] - 369:32, 369:33, 393:13, 395:6, 436:14, 436:26, 436:47</p> <p>perceive [1] - 407:39</p> <p>perceived [4] - 381:10, 385:23, 401:20, 409:23</p> <p>perceiving [1] - 399:31</p> <p>perception [8] - 381:21, 399:29, 401:20, 409:35, 416:42, 416:45, 422:30, 429:32</p> <p>perception" [1] - 399:33</p> <p>perfect [2] - 417:27, 419:2</p> <p>perform [1] - 429:35</p> <p>perhaps [9] - 373:42, 385:42, 397:6, 401:32, 402:8, 402:21, 407:29, 424:37, 432:28</p> <p>period [13] - 356:46, 357:3, 369:7, 369:9, 371:6, 419:21, 419:45, 421:25, 422:4, 426:29, 438:30, 439:42, 440:39</p> <p>periods [2] - 419:38, 431:46</p> <p>permissible [3] - 393:42, 394:7, 394:33</p> <p>permission [1] - 424:12</p> <p>permitted [1] - 411:26</p> <p>persistence [1] - 362:8</p> <p>person [17] - 357:34, 360:2, 367:18, 377:44, 378:38,</p>
---	---	---	---	--

<p>380:25, 381:25, 381:39, 381:45, 382:8, 388:15, 388:31, 397:32, 402:25, 409:33, 415:33, 426:20</p> <p>personal [16] - 355:16, 357:3, 365:46, 371:34, 375:24, 387:29, 391:11, 392:20, 399:39, 399:43, 401:25, 403:30, 404:26, 418:15, 418:17</p> <p>personalities [1] - 430:8</p> <p>personally [5] - 367:42, 377:41, 384:22, 391:5, 405:9</p> <p>perspective [4] - 410:44, 415:38, 423:29</p> <p>pertains [1] - 432:21</p> <p>Peter [2] - 360:44, 398:29</p> <p>petition [6] - 368:12, 368:13, 368:20, 392:29, 392:30, 392:32</p> <p>phone [3] - 386:44, 418:42, 429:24</p> <p>photos [1] - 428:1</p> <p>phrase [3] - 380:14, 397:30, 397:31</p> <p>physical [1] - 360:12</p> <p>physically [1] - 370:35</p> <p>pick [4] - 383:20, 384:16, 405:37, 418:25</p> <p>picking [1] - 375:17</p> <p>Picton [1] - 376:28</p> <p>pillars [1] - 373:2</p> <p>pipes [1] - 431:37</p> <p>pitted [2] - 425:39</p> <p>pivot [1] - 430:6</p> <p>place [5] - 367:11, 377:4, 381:35, 386:6, 432:30</p> <p>placed [2] - 364:8, 439:3</p> <p>plan [19] - 367:30, 367:32, 372:39, 372:47, 373:2, 373:3, 373:6, 396:13, 396:33, 397:23, 398:1, 398:25, 400:24, 412:18, 412:22, 412:34, 429:27</p> <p>planners [2] - 400:34,</p>	<p>401:3</p> <p>planning [38] - 373:15, 392:17, 392:25, 392:43, 392:46, 393:5, 393:21, 393:29, 393:33, 393:34, 393:41, 394:5, 394:29, 394:30, 394:31, 394:35, 394:38, 394:40, 395:37, 395:38, 396:3, 397:27, 397:28, 398:39, 400:24, 400:29, 400:30, 400:33, 401:2, 401:15, 404:44, 406:35, 407:13, 407:14, 421:2, 425:9, 434:31</p> <p>plant [2] - 431:39, 431:40</p> <p>play [1] - 411:12</p> <p>played [1] - 425:41</p> <p>playground [1] - 370:38</p> <p>pleasant [1] - 425:18</p> <p>pleased [1] - 367:19</p> <p>pleasure [1] - 366:15</p> <p>plenty [1] - 416:47</p> <p>plus [1] - 378:27</p> <p>point [22] - 358:36, 359:46, 377:29, 379:9, 382:2, 383:36, 384:8, 387:25, 399:9, 401:21, 408:11, 416:8, 425:4, 425:5, 428:46, 431:8, 437:37, 438:23, 438:24, 438:41, 439:42, 441:17</p> <p>policies [4] - 425:13, 426:6, 441:32, 441:37</p> <p>policy [13] - 378:36, 425:16, 425:21, 425:36, 425:44, 426:9, 435:21, 438:10, 440:33, 440:41, 440:47, 441:16, 441:17</p> <p>pool [1] - 399:3</p> <p>position [15] - 360:33, 361:44, 391:30, 393:5, 393:9, 393:13, 393:19, 393:23, 393:26, 394:39, 400:4, 403:10, 410:34,</p>	<p>420:9, 432:8</p> <p>positions [5] - 367:41, 367:43, 369:42, 418:17, 421:23</p> <p>positive [9] - 370:27, 370:39, 370:43, 371:4, 371:40, 388:18, 388:19, 439:18</p> <p>possibility [1] - 371:40</p> <p>possible [4] - 367:1, 406:27, 408:43, 434:16</p> <p>possibly [4] - 362:10, 381:37, 429:30, 443:8</p> <p>post [4] - 401:35, 419:27, 422:43, 423:40</p> <p>potential [1] - 424:47</p> <p>potentially [2] - 425:8, 427:27</p> <p>pothole [3] - 424:17, 424:38, 435:10</p> <p>potholes [3] - 424:6, 424:9, 424:13</p> <p>Practice [1] - 427:26</p> <p>praise [1] - 431:26</p> <p>praised [1] - 431:23</p> <p>pre [3] - 371:1, 399:17, 426:32</p> <p>pre-COVID [2] - 371:1, 426:32</p> <p>pre-session [1] - 399:17</p> <p>precedent [4] - 398:24, 398:30, 398:31, 398:33</p> <p>precinct [1] - 355:29</p> <p>precious [1] - 367:4</p> <p>precisely [1] - 403:1</p> <p>predated [1] - 368:12</p> <p>predetermined [1] - 397:21</p> <p>prefer [1] - 433:37</p> <p>preferred [2] - 360:40, 360:44</p> <p>Prendergast [7] - 392:1, 392:40, 396:26, 397:5, 426:46, 436:12, 436:24</p> <p>preparation [1] - 432:5</p> <p>prepared [5] - 358:36, 398:14, 398:16, 402:11, 421:34</p> <p>present [1] - 363:13</p> <p>presentation [12] -</p>	<p>360:43, 361:23, 361:26, 362:43, 367:17, 398:38, 398:42, 398:44, 400:26, 400:39, 400:40, 400:45</p> <p>presenters [1] - 357:32</p> <p>preserve [1] - 367:4</p> <p>preserving [1] - 398:18</p> <p>president [13] - 355:40, 355:42, 356:7, 359:28, 359:40, 360:20, 360:34, 360:40, 361:13, 361:24, 375:41, 396:31, 401:44</p> <p>press [3] - 389:25, 433:4, 433:17</p> <p>pressure [1] - 382:6</p> <p>pretty [4] - 386:19, 389:6, 389:37, 391:9</p> <p>prevent [1] - 366:45</p> <p>previous [9] - 356:16, 364:23, 372:29, 381:4, 381:9, 391:47, 412:35, 412:43, 418:23</p> <p>previously [4] - 388:24, 400:33, 421:19, 427:5</p> <p>prided [1] - 425:28</p> <p>primarily [5] - 355:21, 366:46, 368:34, 369:15, 440:39</p> <p>primary [1] - 425:43</p> <p>primed [2] - 404:15, 411:18</p> <p>principally [1] - 423:12</p> <p>private [2] - 368:14, 406:4</p> <p>privy [1] - 431:6</p> <p>proactive [1] - 359:7</p> <p>probative [1] - 401:29</p> <p>probity [1] - 404:36</p> <p>problem [6] - 371:32, 407:9, 407:46, 411:47, 414:31, 418:29</p> <p>problems [5] - 358:27, 358:28, 392:5, 394:26, 395:33</p> <p>procedure [6] - 358:33, 375:10, 380:7, 381:5, 381:10, 381:29</p> <p>procedures [2] -</p>	<p>384:33, 401:35</p> <p>proceed [5] - 355:1, 364:17, 375:10, 389:46, 399:27</p> <p>proceeding [1] - 361:19</p> <p>process [15] - 367:27, 368:38, 372:46, 378:13, 378:36, 387:26, 387:30, 393:21, 393:29, 395:34, 397:47, 401:29, 404:37, 418:44, 422:44</p> <p>processes [2] - 366:23, 435:12</p> <p>produce [2] - 367:32, 409:14</p> <p>professional [4] - 363:18, 378:28, 388:11, 424:43</p> <p>proffer [2] - 406:20, 413:43</p> <p>profile [1] - 408:38</p> <p>profit [1] - 375:27</p> <p>program [1] - 357:32</p> <p>progress [1] - 388:3</p> <p>progressed [1] - 397:47</p> <p>progressive [1] - 426:2</p> <p>Project [1] - 368:27</p> <p>project [4] - 366:9, 368:33, 368:35, 419:43</p> <p>projects [2] - 404:31, 439:28</p> <p>promote [1] - 359:6</p> <p>promptly [1] - 438:15</p> <p>proper [1] - 426:11</p> <p>properly [1] - 423:47</p> <p>proportion [1] - 369:31</p> <p>proportionate [2] - 404:1, 404:3</p> <p>proposal [17] - 392:26, 392:44, 392:46, 393:4, 394:29, 394:30, 394:31, 394:36, 394:38, 395:37, 395:39, 400:24, 400:30, 400:34, 401:2, 414:24, 416:4</p> <p>proposals [4] - 394:40, 397:27, 397:28, 398:40</p> <p>proposed [5] - 411:21, 413:27, 414:10, 414:22, 415:10</p>
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<p>proposing [2] - 402:21, 412:28</p> <p>proposition [2] - 435:32, 435:39</p> <p>propositions [5] - 413:39, 413:40, 435:17, 439:6, 439:19</p> <p>prostate [1] - 421:9</p> <p>protect [1] - 367:8</p> <p>protected [2] - 395:47, 429:28</p> <p>protection [1] - 393:37</p> <p>protest [3] - 397:23, 405:8, 435:9</p> <p>protested [1] - 393:30</p> <p>protesting [1] - 392:30</p> <p>protocol [2] - 392:42, 392:43</p> <p>provide [3] - 361:4, 426:21, 427:8</p> <p>provided [3] - 391:29, 403:21, 427:7</p> <p>providing [1] - 431:44</p> <p>provisions [1] - 416:9</p> <p>psychological [1] - 431:30</p> <p>Public [1] - 355:25</p> <p>PUBLIC [1] - 354:13</p> <p>public [45] - 356:32, 357:43, 358:8, 363:10, 363:13, 363:15, 363:16, 363:26, 363:31, 363:35, 364:36, 364:44, 365:4, 368:40, 371:46, 372:14, 372:16, 372:27, 386:9, 386:15, 391:34, 397:23, 397:24, 399:26, 400:13, 401:46, 403:21, 403:25, 403:28, 405:10, 405:17, 405:18, 405:21, 405:23, 408:41, 408:46, 414:9, 415:42, 416:23, 416:38, 417:2, 427:16, 441:33, 441:38</p> <p>publicly [2] - 368:39, 415:44</p> <p>pulled [1] - 363:33</p> <p>purchased [1] - 375:31</p> <p>purchasing [1] -</p>	<p>404:35</p> <p>purpose [2] - 359:22, 415:9</p> <p>purposes [3] - 366:45, 372:21, 396:1</p> <p>pursuing [1] - 404:42</p> <p>put [29] - 366:38, 367:36, 372:47, 380:17, 388:41, 393:47, 395:10, 396:32, 396:34, 397:12, 398:3, 398:9, 398:14, 398:21, 403:43, 407:28, 412:18, 412:20, 412:21, 424:36, 427:6, 427:35, 429:19, 429:25, 434:45, 435:39, 439:5, 441:12, 443:8</p> <p>putting [2] - 413:40, 439:18</p> <p>puzzled [1] - 379:30</p>	<p>408:26, 408:45, 420:9, 421:34, 433:28, 435:31, 439:20, 440:10</p> <p>quick [1] - 394:10</p> <p>quickly [3] - 366:47, 405:5, 426:7</p> <p>quite [18] - 366:12, 370:26, 371:11, 372:2, 383:19, 392:27, 392:34, 393:44, 397:26, 398:2, 398:3, 399:39, 401:10, 404:13, 404:14, 411:45, 415:11, 421:47</p> <p>Quite [1] - 366:27</p>	<p>405:45, 424:42</p> <p>re-arrangement [1] - 363:12</p> <p>re-elected [1] - 424:42</p> <p>re-zone [2] - 394:14, 395:40</p> <p>re-zoned [1] - 395:47</p> <p>re-zoning [3] - 394:11, 396:34, 405:45</p> <p>reached [2] - 385:18, 398:8</p> <p>reaching [1] - 377:34</p> <p>read [5] - 402:30, 403:1, 405:4, 409:22, 410:22</p> <p>reading [2] - 374:15, 384:17</p> <p>ready [2] - 355:1, 374:40</p> <p>real [1] - 439:4</p> <p>realise [2] - 393:17, 400:37</p> <p>realised [1] - 361:25</p> <p>reality [1] - 424:41</p> <p>reallocation [1] - 414:10</p> <p>really [32] - 360:6, 369:18, 370:30, 371:46, 372:20, 376:33, 378:46, 381:41, 381:44, 382:1, 382:40, 387:36, 388:43, 389:8, 389:32, 392:42, 393:1, 393:10, 393:44, 393:46, 394:1, 394:7, 399:12, 402:25, 405:19, 413:20, 413:21, 416:9, 416:12, 432:8</p> <p>rear [1] - 364:8</p> <p>reason [8] - 359:28, 361:17, 362:41, 365:21, 374:8, 389:30, 400:21, 408:7</p> <p>reasonable [1] - 426:20</p> <p>recant [2] - 401:36, 403:16</p> <p>receipts [1] - 391:34</p> <p>received [12] - 357:31, 357:33, 358:43, 361:10, 384:26, 399:37, 400:9, 409:44, 410:5, 418:41, 431:26, 431:36</p> <p>receiving [1] - 438:14</p>	<p>recent [1] - 373:13</p> <p>recently [5] - 355:43, 368:30, 369:1, 377:11, 420:4</p> <p>reception [1] - 389:4</p> <p>receptive [1] - 413:4</p> <p>recognising [1] - 424:13</p> <p>recognition [1] - 431:36</p> <p>recollection [5] - 400:16, 433:2, 434:11, 438:34, 441:37</p> <p>recollections [1] - 356:43</p> <p>recommendation [6] - 377:9, 396:34, 397:47, 399:28, 399:32, 400:23</p> <p>recommendations [3] - 392:17, 397:27, 425:8</p> <p>recommended [2] - 396:4, 400:7</p> <p>recorded [1] - 401:18</p> <p>recording [1] - 399:9</p> <p>recordings [2] - 368:45, 404:7</p> <p>records [4] - 419:2, 434:31, 435:12, 435:19</p> <p>recovered [1] - 431:34</p> <p>recruitment [1] - 418:44</p> <p>recycling [1] - 416:9</p> <p>red [1] - 392:45</p> <p>redone [1] - 414:4</p> <p>reduce [1] - 391:37</p> <p>reduced [2] - 414:32, 416:10</p> <p>reducing [2] - 366:47, 416:5</p> <p>reduction [3] - 413:30, 413:31, 414:23</p> <p>refer [5] - 363:40, 364:25, 394:25, 401:1, 425:18</p> <p>reference [19] - 364:21, 373:33, 390:3, 399:11, 400:17, 400:32, 401:34, 403:12, 403:15, 406:29, 407:3, 407:25, 407:32, 408:46, 410:2, 426:17, 432:21, 439:9, 439:33</p> <p>referred [9] - 367:46,</p>
R				
<p>R-o-w-e-l-l [1] - 374:47</p> <p>radio [9] - 357:21, 422:21, 422:25, 422:26, 422:34, 422:36, 423:9, 423:40, 433:46</p> <p>railway [2] - 412:20, 412:27</p> <p>raise [4] - 361:3, 361:45, 411:30, 442:25</p> <p>raised [4] - 392:16, 392:46, 396:25, 397:20</p> <p>raising [2] - 361:34, 426:36</p> <p>rarely [4] - 420:32, 421:37, 421:45, 436:4</p> <p>rate [3] - 369:31, 369:32, 369:35</p> <p>ratepayer [2] - 380:11, 418:24</p> <p>ratepayers [2] - 364:27, 369:37</p> <p>rather [9] - 355:41, 362:16, 363:36, 369:15, 382:41, 429:35, 430:8, 433:28, 439:18</p> <p>rationalise [1] - 415:39</p> <p>rattle [1] - 380:12</p> <p>ravines [1] - 394:1</p> <p>re [8] - 363:12, 394:11, 394:14, 395:40, 395:47, 396:34,</p>				
Q				
<p>Q&A [1] - 360:5</p> <p>qualification [1] - 433:5</p> <p>qualified [2] - 412:26, 424:14</p> <p>qualify [2] - 436:40, 437:38</p> <p>quality [1] - 437:28</p> <p>quarry [1] - 412:19</p> <p>quarter [2] - 417:30, 417:39</p> <p>Queensland [2] - 366:2, 366:5</p> <p>question's [2] - 435:16, 439:5</p> <p>question-by-question [1] - 433:31</p> <p>questioner [2] - 411:26, 414:43</p> <p>questioning [5] - 362:13, 362:15, 373:43, 374:18, 434:36</p> <p>questions [24] - 359:26, 360:5, 360:31, 362:9, 362:27, 362:42, 364:5, 364:12, 364:35, 372:5, 372:9, 373:31, 381:32, 384:31, 389:44, 405:1,</p>				

376:20, 386:21, 386:23, 392:46, 400:10, 410:8, 433:26, 436:14 referring [11] - 376:20, 385:27, 386:22, 387:1, 388:18, 388:19, 400:32, 402:28, 402:33, 407:36, 409:28 refining [1] - 432:37 reflect [1] - 368:8 reflected [2] - 404:5, 437:2 reflects [1] - 370:20 reformat [1] - 437:44 refuse [2] - 394:40, 407:14 refused [7] - 394:37, 394:38, 397:13, 405:12, 405:13, 406:1, 411:19 refusing [1] - 393:40 regard [1] - 369:1 regarding [6] - 359:2, 377:11, 408:32, 408:47, 432:41, 433:45 regime [1] - 412:35 region [1] - 427:4 regional [4] - 405:7, 413:29, 414:11, 415:12 regular [5] - 391:39, 391:42, 392:2, 392:14, 423:1 regularly [4] - 423:3, 437:2, 437:3, 437:14 reject [6] - 411:14, 416:18, 416:25, 441:20, 441:24, 441:26 relate [1] - 370:14 related [4] - 372:12, 385:11, 386:30, 439:27 relates [4] - 408:30, 411:10, 411:37, 413:27 relating [2] - 372:25, 414:10 relation [8] - 370:38, 399:20, 408:29, 408:38, 411:21, 435:10, 441:32, 441:37 Relations [1] - 355:26 relationship [3] - 372:10, 378:1, 410:47	relax [1] - 383:12 releases [1] - 438:34 relevance [1] - 433:11 relevant [3] - 398:31, 433:24, 434:14 relief [1] - 413:23 reluctantly [1] - 366:40 remaining [1] - 367:4 remember [8] - 356:18, 356:40, 357:34, 358:13, 366:39, 393:41, 400:43, 415:33 remind [1] - 362:11 reminded [2] - 359:1, 359:4 reminder [1] - 376:8 remote [1] - 393:45 repeated [2] - 399:29, 400:46 rephrase [1] - 410:4 replaced [1] - 389:13 report [6] - 370:10, 398:17, 420:15, 422:18, 423:16, 427:47 reported [4] - 364:1, 429:41, 433:4, 435:20 reports [4] - 420:46, 422:12, 425:8, 429:16 represent [2] - 424:16, 427:3 representative [1] - 377:5 representatives [1] - 397:1 represented [2] - 400:34, 427:3 representing [2] - 399:45, 401:2 reputational [1] - 430:43 request [7] - 375:6, 397:12, 403:24, 407:20, 420:36, 435:27, 435:44 requested [2] - 408:1 requests [3] - 436:25, 436:26, 436:33 required [5] - 361:26, 420:29, 420:35, 421:30, 433:17 requires [1] - 386:5 resent [1] - 401:19 reservoirs [1] - 431:37 residential [3] - 394:11, 394:15,	394:19 residents [8] - 355:32, 356:37, 364:27, 367:8, 376:39, 376:40, 411:46, 411:47 Residents [15] - 391:24, 392:3, 394:47, 397:1, 397:9, 397:32, 398:16, 398:39, 400:7, 402:12, 403:17, 410:42, 410:46, 411:3, 412:17 residents' [2] - 355:30, 355:31 resign [1] - 399:7 resilience [1] - 391:37 resolution [4] - 355:34, 415:16, 415:17, 429:21 resources [2] - 418:43, 427:6 resourcing [1] - 395:35 respect [18] - 356:15, 358:6, 358:19, 364:20, 364:29, 371:3, 379:43, 390:2, 397:40, 397:41, 404:20, 421:6, 421:45, 422:3, 424:47, 426:36, 427:15, 441:22 respected [2] - 364:30, 364:31 respectful [1] - 364:46 respond [4] - 358:11, 358:35, 393:1, 435:40 responding [3] - 358:36, 363:9, 410:23 response [16] - 358:15, 358:36, 358:38, 380:10, 381:26, 382:3, 397:16, 398:30, 402:6, 403:19, 404:1, 404:3, 412:23, 412:36, 413:43, 415:22 responses [1] - 436:2 responsibilities [1] - 363:26 responsibility [3] - 425:43, 425:47, 426:11	responsible [3] - 379:2, 387:40, 438:31 rest [1] - 389:20 restart [1] - 431:38 restate [1] - 414:6 result [5] - 404:21, 416:12, 422:21, 431:27, 431:33 resume [4] - 374:29, 374:40, 390:37, 417:30 RESUMPTION [1] - 418:1 retain [1] - 395:19 retained [2] - 395:25, 406:41 retire [1] - 391:8 retired [2] - 391:11, 401:28 returned [2] - 418:41, 431:29 revealing [1] - 373:42 review [4] - 395:38, 396:3, 396:33, 397:25 reviewed [1] - 429:5 reviewing [3] - 377:12, 402:37, 403:4 right-hand [1] - 419:11 rightly [1] - 381:24 rights [5] - 394:31, 394:45, 395:12, 396:5, 396:7 Riley [7] - 430:18, 432:28, 432:29, 441:9, 441:22, 441:46, 442:25 RILEY [5] - 430:23, 441:11, 441:16, 442:2, 442:28 ring [4] - 388:21, 388:28, 388:29, 388:36 rings [1] - 388:37 risk [10] - 399:28, 399:31, 418:45, 419:45, 420:18, 420:25, 420:44, 424:31, 426:40 risk-based [1] - 420:44 risks [2] - 430:43, 430:44 road [2] - 390:6, 395:10 Road [4] - 412:1, 412:8, 412:11	roadways [1] - 394:1 role [46] - 355:41, 356:6, 358:20, 359:47, 367:40, 368:14, 375:27, 376:10, 376:31, 376:46, 377:38, 382:34, 387:45, 391:39, 404:28, 404:43, 418:16, 418:37, 418:43, 418:44, 418:47, 419:16, 419:24, 419:27, 419:31, 419:41, 420:23, 420:29, 420:38, 421:12, 422:12, 423:16, 423:27, 423:29, 424:21, 424:30, 425:6, 426:3, 426:11, 426:40, 429:36, 429:45, 437:1, 438:18, 438:27 roles [19] - 356:4, 358:18, 375:26, 375:42, 375:46, 387:1, 419:33, 419:35, 419:40, 419:47, 420:13, 421:7, 421:15, 421:19, 430:8, 436:1, 436:42, 440:35, 441:6 Rome [2] - 358:9, 358:36 room [10] - 359:43, 360:12, 360:14, 360:17, 360:36, 364:8, 405:14, 405:15, 406:1, 426:46 room [1] - 406:11 Ross [1] - 354:26 rough [1] - 386:19 roughly [5] - 368:3, 376:36, 421:12, 424:38, 426:29 round [1] - 429:3 roundabout [1] - 412:28 row [1] - 380:28 ROWELL [1] - 375:2 Rowell [7] - 374:23, 374:29, 374:32, 374:46, 374:47, 375:23, 390:1 ROWELL-MILLER [1] - 375:2 Rowell-Miller [3] -
--	--	--	--	--

374:46, 375:23, 390:1 RRC [7] - 413:31, 414:22, 414:23, 416:5, 416:8, 439:27, 440:3 rubbing [1] - 403:29 rubbish [1] - 377:21 rule [1] - 433:30 run [7] - 361:2, 363:8, 363:9, 378:9, 388:10, 399:28, 402:22 running [2] - 390:28, 394:45 rural [14] - 393:45, 394:11, 394:15, 394:17, 395:43, 396:8, 396:10, 396:14, 396:16, 396:17	410:26, 410:30, 411:6, 411:10, 411:17, 411:37, 413:2, 413:36, 414:6, 414:19, 414:45, 416:3, 416:20, 416:36, 416:45, 417:5, 432:26, 432:35, 432:47, 433:14, 433:34, 433:42, 433:44, 434:13, 434:23, 434:28, 435:4, 435:26, 435:36, 435:42, 436:21, 436:31, 437:12, 437:14, 437:21, 437:27, 437:36, 437:44, 438:1, 438:23, 438:30, 438:41, 439:11, 439:24, 439:35, 439:41, 440:3, 440:8, 440:31, 440:39, 440:44, 441:5, 441:22, 441:26, 441:30, 441:44 Scandrett's [1] - 434:41 schedule [1] - 374:19 Schedule [2] - 395:40, 396:34 scheduled [1] - 390:30 screen [1] - 389:24 scribbling [1] - 361:27 seat [3] - 369:24, 375:4 seated [4] - 360:17, 360:26, 360:34, 360:37 second [9] - 356:10, 398:14, 400:39, 400:42, 401:13, 414:29, 415:42, 416:1, 440:24 secondments [1] - 355:23 secret [1] - 381:23 secretary [3] - 357:35, 366:31, 367:16 section [9] - 355:22, 392:47, 393:6, 393:22, 404:44, 406:47, 407:13, 408:2, 410:36 see [23] - 356:20, 368:40, 369:28, 372:1, 376:14, 379:3, 385:9, 393:23, 404:37, 406:24, 407:11, 409:38, 411:24, 412:10, 414:39, 415:14, 415:47, 433:27, 433:31, 433:39, 434:47, 437:25, 443:12 seeing [6] - 359:39, 368:28, 388:20, 393:43, 418:25, 425:40 seek [4] - 377:46, 378:11, 427:2, 441:46 seeking [7] - 358:14, 369:6, 383:13, 402:36, 403:9, 425:6 seeks [1] - 371:21 seem [4] - 373:34, 380:21, 381:24, 389:19 self [1] - 388:29 sell [1] - 395:18 semi [1] - 396:8 semi-rural [1] - 396:8 send [4] - 358:38, 409:17, 412:36, 424:22 sending [2] - 399:47, 403:1 Senior [1] - 406:41 senior [18] - 355:36, 369:18, 369:39, 370:21, 371:30, 380:18, 380:38, 382:32, 384:2, 384:13, 387:45, 391:42, 429:11, 429:33, 429:42, 430:6, 435:6, 440:25 sense [10] - 370:25, 389:14, 396:15, 403:7, 404:44, 410:8, 410:35, 413:34, 414:35, 439:20 sensitive [1] - 395:30 sent [8] - 386:44, 400:27, 400:47, 401:43, 401:45, 402:43, 402:44, 402:45 separate [3] - 368:2, 391:44, 405:44 separated [1] - 396:1 September [5] - 358:40, 358:42, 358:45, 370:17, 419:10 serious [5] - 367:36, 391:35, 396:25, 398:1 serve [1] - 357:15 served [1] - 356:6 service [1] - 410:22 services [6] - 413:30, 416:5, 421:24, 429:26, 431:11, 431:12 servicing [1] - 369:27 session [15] - 361:26, 364:26, 373:15, 399:4, 399:5, 399:10, 399:15, 399:17, 400:23, 401:18, 403:25, 404:15, 405:21, 411:32, 422:28 session" [1] - 403:22 sessions [3] - 370:36, 371:45, 420:30 set [8] - 360:12, 360:13, 360:28, 362:35, 364:9, 373:1, 373:11, 380:7 set-up [1] - 360:28 settled [2] - 442:36, 442:38 seven [3] - 418:35, 420:25, 438:33 several [5] - 393:27, 393:28, 397:13, 399:29, 418:17 sewerage [1] - 431:39 shake [1] - 380:26 shall [5] - 359:6, 402:30, 417:30, 427:8, 427:9 shame [1] - 381:44 shape [1] - 368:39 shaped [1] - 360:17 share [2] - 383:34, 385:19 shared [2] - 431:6, 431:7 sharks [1] - 399:3 sheep [1] - 366:2 shelter [23] - 357:16, 357:21, 358:19, 358:24, 358:25, 359:16, 359:24, 359:26, 359:36, 359:41, 360:19, 360:41, 360:45, 361:2, 361:5, 361:11, 361:12, 361:35, 361:41, 362:28, 364:6, 364:25, 364:30 Shelter [14] - 355:39, 355:40, 355:47, 357:14, 357:26, 357:35, 359:3, 359:6, 359:41, 360:21, 361:3, 361:6, 361:14, 361:24 shield [1] - 429:16 shielded [1] - 429:30 SHIRE [1] - 354:13 Shire [8] - 354:20, 358:39, 366:39, 388:30, 395:8, 418:23, 418:26, 421:29 shire [32] - 355:17, 355:18, 355:38, 366:42, 366:47, 367:5, 367:6, 367:8, 368:36, 369:37, 369:47, 373:41, 375:30, 375:35, 375:36, 375:44, 376:18, 381:28, 386:15, 391:11, 391:17, 393:44, 398:2, 408:3, 418:18, 418:20, 421:24, 421:25, 421:40, 427:4, 439:28 shock [1] - 399:2 shocked [3] - 400:41, 401:4, 401:7 shocking [1] - 384:46 SHORT [2] - 374:38, 390:35 short [6] - 357:20, 390:38, 393:24, 419:38, 419:41, 419:45 shortage [1] - 381:21 shortly [2] - 393:3, 442:34 shoulders [1] - 413:8 shout [1] - 432:31 show [5] - 388:3, 402:27, 403:27, 419:5, 427:47 showed [1] - 357:32 showing [1] - 408:2 shows [1] - 389:15 side [10] - 359:44, 360:18, 375:16, 395:41, 395:42, 400:44, 406:43, 407:39, 407:40, 419:11
S	
sacked [2] - 427:5 safe [3] - 424:16, 427:7, 427:8 safety [2] - 427:7, 430:44 salt [1] - 403:29 sand [1] - 389:39 Sandra [1] - 355:7 SANDRA [1] - 355:9 sat [1] - 392:40 satisfactory [1] - 378:28 satisfied [1] - 400:37 Saturday [1] - 377:26 Savage [2] - 397:3, 401:44 save [1] - 368:23 saw [14] - 356:26, 358:10, 363:32, 363:34, 367:9, 371:47, 384:8, 385:1, 395:39, 425:5, 425:37, 427:10, 429:5, 433:27 Scandrett [7] - 392:12, 408:26, 409:19, 413:20, 413:33, 423:1, 428:32 SCANDRETT [66] - 365:15, 375:6, 390:15, 408:19, 408:29, 409:26, 409:33, 409:41, 409:43, 410:4,	

signed [3] - 358:13, 392:30, 400:5 significance [3] - 370:31, 381:27, 398:19 significant [1] - 426:10 significantly [1] - 371:11 signs [1] - 388:19 silly [2] - 398:34 silo [2] - 407:12, 407:31 silos [4] - 407:9, 407:17, 407:27, 407:29 similar [7] - 368:6, 373:14, 376:30, 376:32, 382:3, 388:9, 398:4 simple [3] - 360:5, 388:21, 412:27 simply [2] - 378:12, 394:32 single [1] - 399:44 sins [1] - 367:17 sit [1] - 360:35 sitting [3] - 380:28, 396:28, 424:44 situation [4] - 364:7, 392:24, 392:39, 399:25 six [4] - 366:7, 398:11, 418:45, 420:24 size [2] - 396:9, 412:41 skip [1] - 391:29 skipping [1] - 379:41 slammed [1] - 399:12 slightly [4] - 360:11, 390:28, 401:32, 407:29 sliver [1] - 395:8 slow [1] - 384:10 slowed [1] - 384:12 slowly [1] - 367:37 slurs [1] - 357:3 small [7] - 355:22, 376:29, 376:31, 396:16, 404:32, 425:26 smaller [2] - 376:17, 377:15 smashing [1] - 412:30 social [2] - 378:24, 382:17 Society [1] - 355:44 sold [2] - 395:25 Solicitor's [1] - 391:15 solicitors [2] - 406:44,	406:46 Solicitors [1] - 391:14 solution [1] - 393:20 someone [4] - 367:33, 371:20, 380:4, 426:40 sometime [1] - 443:14 sometimes [4] - 378:5, 385:19, 388:44, 412:10 somewhat [1] - 366:39 somewhere [2] - 409:20, 442:11 son's [1] - 421:13 soon [2] - 366:41, 392:43 Sorry [1] - 388:35 sorry [30] - 361:41, 368:22, 373:3, 385:26, 397:17, 397:18, 400:29, 400:38, 402:11, 403:35, 405:43, 406:7, 406:36, 407:2, 410:4, 413:13, 413:33, 414:35, 415:28, 416:1, 416:31, 417:18, 419:35, 427:44, 431:20, 432:29, 433:34, 436:16, 437:5, 441:9 sort [27] - 369:9, 379:4, 379:6, 380:6, 380:13, 380:35, 384:44, 384:45, 385:47, 387:12, 388:16, 389:23, 389:24, 393:47, 396:39, 397:13, 397:19, 397:45, 397:46, 398:33, 402:3, 404:13, 412:30, 416:36, 422:47, 426:5, 440:21 sorted [1] - 374:33 sorts [8] - 371:24, 371:41, 378:45, 379:1, 383:18, 383:27, 424:26, 439:44 sought [2] - 368:21, 423:46 sound [1] - 419:13 sounding [1] - 389:5 sounds [1] - 360:11 South [2] - 355:20, 427:4	southern [1] - 376:18 Southern [27] - 366:6, 368:5, 376:1, 376:6, 376:9, 376:10, 376:12, 376:24, 376:47, 377:6, 377:7, 377:10, 377:27, 377:35, 378:3, 382:35, 383:28, 383:32, 384:15, 385:6, 385:12, 385:17, 385:35, 386:34, 395:7, 398:19 space [8] - 360:15, 360:16, 393:37, 411:44, 432:29, 432:38, 435:7, 440:35 Sparke [1] - 427:1 speaking [6] - 361:31, 363:38, 407:27, 422:38, 434:5, 434:7 special [1] - 390:6 specialises [1] - 412:26 specialist [1] - 361:6 specially [1] - 373:15 specific [18] - 356:9, 356:43, 364:12, 372:2, 372:5, 373:42, 378:11, 380:34, 385:41, 389:43, 392:16, 400:17, 401:33, 405:1, 422:24, 422:46, 425:12, 432:12 specifically [3] - 373:30, 377:10, 422:27 speech [2] - 360:43, 361:31 spelt [1] - 374:47 spent [4] - 366:8, 414:32, 421:32, 426:43 splintered [1] - 431:12 spoken [1] - 380:33 sponsored [1] - 398:15 spot [1] - 412:6 spread [1] - 357:27 square [1] - 360:17 squashed [1] - 412:35 staff [114] - 355:36, 358:27, 359:4, 360:37, 362:24, 369:15, 369:19, 369:39, 370:21,	371:29, 372:45, 377:33, 377:34, 378:2, 378:5, 378:35, 378:47, 380:38, 381:33, 381:39, 381:42, 382:3, 382:6, 382:16, 382:18, 382:21, 382:22, 382:25, 382:29, 382:34, 382:39, 383:6, 383:7, 384:2, 384:13, 384:21, 384:26, 384:27, 384:46, 385:3, 385:18, 386:19, 386:22, 388:4, 388:11, 388:33, 389:3, 389:12, 402:19, 402:20, 408:5, 410:31, 411:24, 420:23, 422:13, 422:16, 422:17, 422:19, 422:20, 422:30, 422:32, 422:43, 423:6, 423:15, 423:39, 424:3, 424:6, 424:9, 424:11, 424:13, 424:15, 424:25, 425:8, 425:13, 425:17, 425:30, 425:39, 426:22, 426:36, 426:46, 429:11, 429:16, 429:30, 429:33, 429:34, 429:41, 430:26, 430:36, 430:41, 431:5, 431:8, 431:18, 431:22, 431:23, 431:25, 431:38, 433:45, 434:33, 434:43, 435:6, 435:8, 435:9, 435:20, 439:41, 439:45, 440:9, 441:6, 441:32, 441:37, 443:3 staff [1] - 400:31 stage [15] - 359:43, 367:29, 367:39, 368:17, 368:24, 373:6, 389:44, 396:23, 397:3, 422:7, 424:8, 427:30, 427:43, 432:20, 442:39 stakeholders [1] - 372:29	stand [1] - 400:42 standing [2] - 363:11, 429:21 start [19] - 355:15, 365:45, 368:19, 375:24, 379:42, 383:18, 383:27, 387:41, 391:4, 402:28, 405:21, 413:22, 418:15, 418:17, 423:29, 424:37, 433:36, 437:10, 439:4 started [6] - 369:31, 383:11, 424:24, 424:41, 427:36 starting [1] - 388:3 state [1] - 388:8 state's [1] - 398:11 statement [2] - 436:11, 436:23 statements [4] - 409:45, 423:8, 436:28, 436:32 stating [1] - 436:12 station [3] - 357:21, 357:33, 366:2 Station [5] - 408:42, 411:39, 413:20, 422:6, 429:21 stations [2] - 422:22, 422:25 status [1] - 391:33 step [3] - 386:39, 413:41 step-by-step [1] - 413:41 stepping [1] - 423:24 steps [3] - 386:38, 401:36, 403:15 stick [1] - 422:46 still [10] - 368:17, 376:12, 387:46, 394:7, 396:23, 396:44, 409:6, 410:42, 429:24, 439:13 stood [1] - 415:44 stop [7] - 384:10, 405:10, 414:14, 415:38, 416:33, 425:29, 433:8 stopped [2] - 380:32, 384:12 story [1] - 381:38 story-telling [1] - 381:38 straight [2] - 389:13, 404:16 strategic [11] - 373:15,
---	---	--	---	---

<p>379:9, 395:44, 396:2, 396:33, 397:23, 398:1, 400:24, 421:32, 423:19, 425:1</p> <p>strategically [1] - 404:34</p> <p>strategy [5] - 367:29, 367:30, 367:31, 395:38, 408:6</p> <p>Street [7] - 354:21, 408:42, 411:39, 412:3, 413:21, 422:6, 429:22</p> <p>stress [2] - 389:38, 413:8</p> <p>strong [8] - 373:3, 376:42, 387:46, 389:14, 394:39, 398:21, 415:17, 429:39</p> <p>strongly [1] - 422:17</p> <p>structure [17] - 371:27, 371:33, 377:12, 378:26, 378:31, 379:8, 380:5, 386:4, 386:41, 387:13, 387:37, 388:7, 388:9, 388:15, 389:32, 431:2, 434:42</p> <p>structure [1] - 419:7</p> <p>structure's [1] - 388:14</p> <p>structures [1] - 378:45</p> <p>struggling [1] - 433:23</p> <p>study [2] - 398:13, 412:42</p> <p>stuff [1] - 388:22</p> <p>style [1] - 431:3</p> <p>subgroups [1] - 368:1</p> <p>subject [4] - 394:28, 422:5, 422:6, 441:39</p> <p>subjects [1] - 372:20</p> <p>submission [5] - 367:18, 367:19, 368:23, 402:12, 406:34</p> <p>submissions [5] - 391:21, 398:4, 398:9, 398:21, 439:14</p> <p>subpoenaed [1] - 366:12</p> <p>subsequently [4] - 393:18, 397:7, 401:42, 408:8</p> <p>suburb [1] - 418:22</p>	<p>successful [3] - 370:8, 378:28, 386:5</p> <p>sudden [1] - 397:10</p> <p>suddenly [1] - 394:23</p> <p>sue [1] - 357:2</p> <p>sufficient [2] - 393:36, 417:34</p> <p>sufficiently [1] - 426:18</p> <p>suggest [4] - 368:23, 374:28, 394:5, 404:12</p> <p>suggested [2] - 361:33, 412:17</p> <p>suggesting [2] - 378:8, 398:44</p> <p>suitable [1] - 394:7</p> <p>sum [1] - 368:43</p> <p>summing [1] - 416:15</p> <p>summons [6] - 365:22, 374:13, 390:22, 417:13, 417:17, 442:9</p> <p>summonses [1] - 366:20</p> <p>supervision [1] - 393:22</p> <p>supervisor [1] - 382:4</p> <p>support [2] - 388:5, 393:25</p> <p>supported [2] - 400:2, 402:19</p> <p>supportive [2] - 370:40, 384:6</p> <p>suppose [3] - 360:15, 360:36, 394:46</p> <p>supposed [1] - 386:43</p> <p>surface [1] - 371:47</p> <p>surprised [1] - 362:8</p> <p>surrounded [1] - 396:16</p> <p>surroundings [1] - 396:17</p> <p>suspended [1] - 363:11</p> <p>suspension [1] - 370:1</p> <p>sustainability [1] - 367:21</p> <p>Sustainability [4] - 370:7, 370:10, 392:21, 392:39</p> <p>Sutton [3] - 398:3, 398:5, 398:17</p> <p>swath [1] - 392:34</p> <p>swimming [1] - 399:3</p> <p>sworn [2] - 355:9, 418:8</p> <p>Sydney [2] - 366:7, 366:8</p>	<p>system [8] - 404:27, 434:32, 435:27, 435:45, 436:3, 436:6, 436:14, 436:25</p> <p>systematic [3] - 395:35, 407:8, 407:46</p> <p>systems [1] - 425:29</p> <p style="text-align: center;">T</p> <p>table [2] - 360:34, 396:29</p> <p>takings [2] - 369:31, 369:33</p> <p>Tallong [2] - 376:28, 376:30</p> <p>task [1] - 427:25</p> <p>tax [1] - 391:34</p> <p>tea [1] - 374:28</p> <p>teacher [1] - 375:25</p> <p>team [6] - 355:22, 359:41, 360:19, 363:17, 406:43, 438:37</p> <p>tease [1] - 439:39</p> <p>technically [1] - 394:7</p> <p>temper [1] - 399:12</p> <p>temporal [1] - 439:3</p> <p>temporary [2] - 393:15, 419:33</p> <p>tender [3] - 419:5, 419:6, 434:13</p> <p>tension [1] - 380:37</p> <p>tensions [1] - 384:13</p> <p>tentatively [1] - 412:9</p> <p>term [19] - 355:38, 356:16, 356:17, 356:45, 379:22, 379:28, 379:42, 384:34, 387:31, 393:36, 404:24, 407:3, 419:11, 421:42, 421:44, 422:15, 436:31, 439:8</p> <p>terms [22] - 357:44, 358:20, 359:4, 364:21, 373:32, 379:38, 383:17, 390:3, 400:47, 406:29, 407:14, 407:25, 407:32, 407:47, 421:33, 421:36, 422:30, 423:8, 432:21, 434:34, 436:13, 439:33</p>	<p>terribly [2] - 360:27</p> <p>text [1] - 399:8</p> <p>texts [1] - 429:24</p> <p>THE [176] - 355:1, 355:5, 355:11, 364:15, 364:34, 365:9, 365:13, 365:17, 365:19, 365:21, 365:26, 365:29, 365:31, 365:33, 365:37, 365:41, 366:14, 366:27, 372:8, 373:26, 373:45, 374:12, 374:21, 374:26, 374:31, 374:40, 374:44, 375:4, 375:9, 378:34, 379:11, 385:26, 385:32, 385:34, 387:5, 387:18, 389:46, 390:13, 390:17, 390:19, 390:21, 390:25, 390:27, 390:32, 390:37, 390:45, 396:42, 396:47, 405:3, 405:36, 406:24, 407:2, 407:8, 407:11, 408:11, 408:16, 408:21, 408:23, 408:25, 409:3, 409:17, 409:28, 409:31, 409:38, 409:47, 410:2, 410:19, 410:28, 411:8, 411:14, 411:29, 412:47, 413:33, 413:38, 413:43, 413:46, 414:2, 414:4, 414:14, 414:26, 414:47, 415:3, 415:47, 416:18, 416:25, 416:27, 416:29, 416:31, 416:33, 416:42, 416:47, 417:8, 417:12, 417:29, 417:34, 417:38, 417:41, 418:3, 418:10, 418:28, 425:21, 426:14, 427:33, 428:8, 428:12, 428:15, 428:19, 428:24, 428:30, 428:32, 430:1, 430:10, 430:16, 430:29, 432:14,</p>	<p>432:24, 432:28, 432:45, 433:8, 433:20, 433:39, 434:19, 434:25, 434:38, 434:45, 435:16, 435:24, 435:30, 435:38, 436:18, 436:28, 437:5, 437:9, 437:18, 437:24, 437:34, 437:46, 438:17, 438:21, 438:26, 438:33, 438:39, 439:1, 439:8, 439:16, 439:32, 439:38, 440:1, 440:5, 440:12, 440:29, 440:37, 440:41, 440:46, 441:2, 441:9, 441:14, 441:20, 441:24, 441:28, 441:42, 441:46, 442:4, 442:8, 442:18, 442:21, 442:23, 442:25, 442:30, 442:36, 442:42, 442:47, 443:6, 443:12, 443:18, 443:22</p> <p>theme [1] - 423:10</p> <p>themes [1] - 385:43</p> <p>themselves [8] - 363:32, 379:43, 380:18, 380:19, 380:37, 424:15, 427:15, 429:45</p> <p>there [1] - 389:23</p> <p>there'd [3] - 379:7, 396:39, 405:8</p> <p>thereabouts [1] - 419:22</p> <p>thereafter [1] - 366:41</p> <p>therefore [3] - 380:40, 397:45, 400:1</p> <p>they've [2] - 398:7, 412:15</p> <p>thinking [4] - 364:5, 376:24, 379:6, 397:31</p> <p>thinks [4] - 366:19, 411:12, 411:20, 417:3</p> <p>third [2] - 395:25, 415:33</p> <p>this [1] - 380:31</p> <p>threat [4] - 399:35, 401:12, 401:31, 402:14</p>
--	--	---	---	---

<p>threatened [8] - 356:41, 357:2, 392:17, 392:22, 392:44, 395:7, 399:7, 429:23</p> <p>three [15] - 366:45, 375:7, 376:6, 376:9, 376:20, 386:44, 396:4, 396:7, 418:46, 419:11, 427:27, 428:22, 429:15, 437:36, 443:9</p> <p>three-year [1] - 419:11</p> <p>throughout [1] - 420:12</p> <p>thrust [1] - 362:47</p> <p>tick [1] - 366:30</p> <p>tie [1] - 362:45</p> <p>ties [1] - 359:20</p> <p>tightly [1] - 363:9</p> <p>timeframes [1] - 424:36</p> <p>timelines [1] - 434:15</p> <p>tirelessly [1] - 431:32</p> <p>TO [1] - 443:22</p> <p>today [10] - 367:21, 388:42, 390:17, 390:28, 417:6, 417:12, 434:10, 435:30, 437:28, 442:9</p> <p>together [8] - 372:47, 376:6, 376:32, 376:44, 377:16, 382:19, 387:40, 388:47</p> <p>toilet [1] - 377:21</p> <p>took [9] - 369:36, 380:26, 381:35, 392:40, 397:3, 397:10, 399:21, 410:14, 421:11</p> <p>top [2] - 398:11, 416:9</p> <p>topic [6] - 362:9, 401:13, 409:3, 410:28, 430:25, 433:30</p> <p>topics [4] - 406:28, 408:21, 432:12, 432:33</p> <p>tos [1] - 384:16</p> <p>touch [1] - 377:11</p> <p>touched [2] - 408:33, 410:30</p> <p>towards [14] - 361:7, 363:28, 364:24, 371:6, 384:21, 385:1, 386:2, 408:37, 411:11,</p>	<p>414:27, 420:47, 422:29, 426:46, 430:7</p> <p>town [7] - 393:41, 398:25, 421:20, 421:21, 421:22, 425:27</p> <p>towns [1] - 396:13</p> <p>toxic [2] - 430:43, 431:1</p> <p>track [1] - 390:5</p> <p>trained [1] - 375:25</p> <p>training [1] - 381:22</p> <p>Training [1] - 355:20</p> <p>transcribed [1] - 432:30</p> <p>transcribers [1] - 375:16</p> <p>transcript [2] - 374:15, 374:47</p> <p>transcription [2] - 396:43, 410:22</p> <p>transcripts [1] - 374:1</p> <p>transgress [2] - 426:4, 426:19</p> <p>transgressed [1] - 425:7</p> <p>transgression [2] - 423:24, 424:47</p> <p>transparent [1] - 378:29</p> <p>travel [1] - 442:12</p> <p>treasurer [1] - 356:6</p> <p>treated [3] - 363:36, 373:23, 422:33</p> <p>treatment [4] - 362:32, 426:45, 431:39, 438:43</p> <p>tree [2] - 393:4, 393:19</p> <p>tried [2] - 380:20, 429:16</p> <p>troops [1] - 387:41</p> <p>troubled [1] - 366:15</p> <p>Trust [1] - 355:29</p> <p>try [9] - 366:16, 366:41, 368:7, 386:39, 387:3, 407:25, 410:19, 425:30, 429:25</p> <p>trying [10] - 378:9, 382:46, 383:4, 385:47, 386:35, 387:14, 403:27, 425:7, 437:38, 438:41</p> <p>Turland [5] - 356:35, 356:41, 370:5, 370:23, 428:33</p> <p>turn [8] - 358:44, 359:9, 396:44,</p>	<p>412:1, 422:26, 423:9, 431:9, 433:46</p> <p>turnabout [1] - 397:14</p> <p>turned [5] - 380:24, 384:3, 399:9, 415:43, 422:20</p> <p>turns [2] - 378:4, 408:5</p> <p>twice [3] - 392:4, 396:23, 402:4</p> <p>two [29] - 357:23, 357:30, 363:2, 367:15, 367:26, 367:34, 367:43, 368:2, 379:38, 386:38, 391:20, 395:18, 395:25, 396:1, 396:26, 398:16, 398:24, 398:26, 400:40, 405:44, 406:16, 408:46, 412:27, 414:8, 414:36, 418:41, 427:18, 442:33, 443:2</p> <p>type [2] - 364:35, 439:22</p> <p>typical [1] - 412:29</p>	<p>435:32, 441:11</p> <p>unfortunate [1] - 372:42</p> <p>unfortunately [1] - 370:28</p> <p>unhappy [1] - 418:24</p> <p>uninformed [1] - 363:25</p> <p>unique [1] - 396:12</p> <p>unit [1] - 431:28</p> <p>University [1] - 366:4</p> <p>unless [6] - 372:6, 399:7, 420:37, 427:30, 433:21, 436:4</p> <p>unnecessarily [1] - 401:16</p> <p>unnecessary [1] - 364:32</p> <p>unoccupied [1] - 393:27</p> <p>unproductive [1] - 371:17</p> <p>unprofessional [4] - 363:28, 364:26, 378:6, 380:11</p> <p>unrelated [1] - 370:43</p> <p>unsaid [1] - 431:41</p> <p>unsure [1] - 424:21</p> <p>unusual [6] - 360:36, 361:1, 361:14, 361:38, 361:44, 387:12</p> <p>unwittingly [1] - 425:30</p> <p>unwritten [1] - 426:3</p> <p>up [47] - 357:31, 359:36, 360:13, 360:28, 362:35, 363:33, 364:10, 369:16, 370:41, 372:42, 373:1, 373:11, 375:17, 376:14, 376:25, 378:4, 380:7, 383:20, 384:3, 384:16, 385:11, 389:37, 392:44, 393:37, 395:21, 395:37, 397:46, 405:33, 405:37, 413:34, 413:41, 415:43, 415:44, 416:15, 418:25, 419:33, 420:37, 421:41, 422:19, 430:37, 431:45, 434:19, 434:20, 436:4, 442:34, 443:8, 443:13</p>	<p>updated [1] - 435:5</p> <p>upgrade [1] - 370:38</p> <p>upheld [1] - 425:44</p> <p>UPON [1] - 418:1</p> <p>upset [6] - 360:29, 364:3, 364:4, 364:7, 395:3, 403:26</p> <p>upsetting [3] - 395:31, 401:10, 416:7</p> <p>urge [1] - 373:38</p> <p>urged [1] - 373:16</p> <p>usage [2] - 436:6, 436:7</p> <p>useful [2] - 370:24, 378:41</p> <p>USU [1] - 424:16</p> <p>usual [1] - 362:47</p>
V				
<p>vacated [1] - 412:16</p> <p>Vale [2] - 354:21, 376:21</p> <p>valuations [1] - 369:36</p> <p>value [1] - 377:15</p> <p>varied [1] - 366:10</p> <p>variety [1] - 421:23</p> <p>various [9] - 373:2, 376:17, 391:10, 408:3, 410:33, 439:27, 439:28, 440:35, 441:6</p> <p>variously [1] - 436:31</p> <p>vegetation [2] - 393:4, 393:19</p> <p>vehicle [1] - 369:46</p> <p>vent [1] - 386:8</p> <p>version [1] - 419:10</p> <p>versus [1] - 434:30</p> <p>veterinary [1] - 361:8</p> <p>via [2] - 355:34, 436:7</p> <p>vice [2] - 355:42, 356:7</p> <p>vice-president [2] - 355:42, 356:7</p> <p>view [35] - 360:47, 368:37, 369:19, 369:23, 369:25, 371:34, 371:35, 371:41, 372:41, 378:21, 378:27, 393:34, 395:33, 410:32, 416:8, 416:31, 423:23, 423:30, 424:43, 425:4, 425:6, 425:22, 425:35, 427:14, 428:22,</p>				

<p>428:38, 429:12, 429:25, 429:36, 429:42, 429:46, 430:45, 431:8, 431:43, 432:3 viewed [4] - 370:34, 371:3, 379:17, 380:11 viewing [1] - 371:22 views [3] - 368:8, 369:42, 392:47 village [9] - 376:29, 376:43, 377:6, 384:4, 392:4, 396:13, 396:14, 396:16, 396:24 Village [1] - 385:12 Villages [22] - 376:1, 376:6, 376:9, 376:11, 376:12, 376:24, 376:47, 377:6, 377:7, 377:8, 377:10, 377:27, 377:35, 378:3, 382:35, 383:28, 383:32, 384:15, 385:6, 385:17, 385:35, 386:34 villages [7] - 376:17, 376:32, 377:14, 377:15, 383:33, 383:42, 396:1 villages' [1] - 377:17 visits [2] - 434:33, 435:13 vocation [3] - 355:16, 365:47, 418:19 vocational [1] - 375:24 vocationally [1] - 391:5 voice [8] - 366:42, 373:4, 376:8, 380:33, 388:23, 388:29, 388:30, 422:33 Volume [1] - 428:8 voluntary [4] - 375:43, 375:46, 386:47, 387:2 volunteer [5] - 355:39, 357:15, 357:19, 359:15, 361:44 volunteering [2] - 357:21, 388:12 volunteers [19] - 358:29, 359:16, 359:24, 359:25, 359:36, 360:2, 360:4, 360:28,</p>	<p>361:27, 361:33, 362:19, 362:23, 362:33, 363:44, 364:25, 364:28, 364:29, 388:11, 403:39 vulnerable [1] - 398:9</p> <p style="text-align: center;">W</p> <p>wafting [1] - 400:21 wait [1] - 389:21 Wales [2] - 355:20, 427:4 walk [5] - 357:17, 387:14, 387:32, 387:34, 388:13 walked [3] - 359:42, 360:15, 387:21 walking [3] - 358:28, 387:41, 399:2 walks [1] - 388:4 wants [2] - 366:19, 427:31 ward [1] - 355:36 WAS [1] - 443:22 waste [1] - 416:10 wasted [1] - 386:12 watch [1] - 426:44 watched [2] - 371:15, 427:12 watching [4] - 361:23, 389:18, 390:38, 426:43 water [3] - 372:1, 431:37, 431:39 ways [3] - 377:26, 383:35, 388:40 wayside [1] - 392:6 weather [2] - 357:17, 375:45 Web [2] - 368:27, 368:34 web [3] - 370:34, 441:33, 442:34 Wednesdays [1] - 420:30 week [17] - 357:23, 386:26, 405:44, 406:28, 409:9, 409:15, 417:21, 420:7, 438:26, 438:28, 442:32, 442:33, 443:2, 443:9, 443:13 weekend [2] - 386:46, 421:32 weeks [1] - 412:33 welcome [1] - 378:2</p>	<p>WEST [1] - 390:43 west [20] - 368:24, 373:39, 390:45, 391:4, 400:44, 407:2, 408:30, 408:36, 408:40, 409:6, 409:43, 410:30, 411:11, 411:17, 411:20, 411:38, 413:26, 413:30, 414:8, 416:3 West [2] - 367:20, 390:41 west's [1] - 409:34 whatsname [1] - 412:1 whatsoever [1] - 434:5 whereas [4] - 388:28, 388:43, 389:23, 394:32 whilst [2] - 358:35, 393:42 Whipper [7] - 370:6, 370:24, 396:28, 397:7, 414:40, 415:1, 428:17 whistleblowers [1] - 440:34 whistleblowing [2] - 440:42, 441:7 White [2] - 365:35, 366:1 WHITE [1] - 365:39 white [5] - 365:41, 365:45, 366:31, 374:8, 391:28 whole [14] - 369:18, 371:26, 371:29, 371:33, 373:6, 376:42, 382:6, 389:27, 400:13, 405:33, 416:11, 416:16, 431:28, 443:13 wide [1] - 433:9 wife [2] - 368:29, 421:26 wildlife [3] - 368:36, 368:37 Wilton [6] - 358:13, 358:44, 358:46, 359:39, 360:1, 360:19 Wilton's [1] - 358:37 WINGECARRIBEE [1] - 354:13 Wingecarribee [20] - 354:20, 355:39, 355:47, 357:14,</p>	<p>357:26, 358:39, 359:6, 359:40, 360:20, 361:3, 361:14, 361:24, 366:39, 376:29, 388:30, 390:6, 390:8, 390:9, 412:3, 412:4 Wingello [1] - 376:28 wining [1] - 390:8 winner [1] - 436:13 WinZero [21] - 366:31, 366:41, 367:40, 368:12, 369:28, 369:41, 370:37, 371:35, 372:12, 372:17, 373:39, 391:21, 391:29, 391:31, 391:32, 392:16, 393:34, 406:34, 406:39, 406:43 wish [8] - 366:21, 373:31, 375:11, 375:13, 411:30, 416:5, 432:20, 433:12 wished [2] - 371:24, 417:25 withdraw [6] - 364:37, 401:36, 403:16, 428:24, 437:9, 437:12 WITHDREW [4] - 365:31, 390:25, 417:41, 442:23 Witness [2] - 379:39, 430:14 witness [37] - 355:5, 355:7, 365:22, 365:33, 365:35, 366:21, 374:6, 374:33, 374:44, 374:46, 381:34, 384:20, 390:27, 390:40, 410:20, 410:23, 413:38, 416:34, 417:2, 417:5, 418:5, 430:31, 430:36, 431:15, 432:36, 433:12, 435:1, 435:31, 435:33, 436:28, 439:17, 439:21, 440:6, 441:12, 443:9, 443:12 WITNESS [22] - 365:19, 365:29, 365:31, 385:34,</p>	<p>390:19, 390:25, 396:47, 405:3, 407:8, 408:23, 409:28, 410:2, 413:43, 414:2, 414:47, 416:27, 416:31, 417:41, 428:12, 428:32, 442:21, 442:23 witnessed [4] - 356:47, 384:22, 423:35, 428:45 witnesses [5] - 372:30, 375:7, 442:32, 442:33, 442:40 witnessing [2] - 426:28, 426:37 Wombatised [1] - 368:5 wonderful [3] - 380:27, 390:8, 416:8 wondering [5] - 362:10, 388:25, 388:32, 407:35, 439:8 Woodland [1] - 395:8 word [4] - 370:27, 397:16, 404:22, 405:26 words [5] - 362:35, 379:30, 380:10, 388:23, 436:13 workplace [3] - 427:7, 427:8, 430:42 workshops [1] - 421:32 world [3] - 366:5, 367:7, 388:9 worry [3] - 366:22, 389:21, 400:11 worse [1] - 405:19 worst [2] - 366:45, 367:8 worth [1] - 404:33 wound [1] - 403:29 writing [2] - 379:9, 400:4 written [3] - 405:4, 426:3, 426:24 wrongly [1] - 381:24 wrote [2] - 395:16, 395:20 Wyong [10] - 418:23, 418:26, 421:23, 421:24, 421:29, 421:30, 421:31, 425:27, 425:32, 426:5</p>
---	--	--	---	---

Y
<p>year ^[12] - 367:32, 370:46, 376:14, 380:32, 382:43, 389:31, 392:4, 393:10, 393:18, 396:24, 418:34, 419:11</p> <p>years ^[32] - 366:7, 366:11, 367:15, 367:23, 367:26, 367:34, 368:41, 369:34, 373:24, 373:41, 375:28, 375:43, 376:11, 378:5, 379:19, 381:40, 382:45, 391:7, 391:8, 391:18, 392:5, 393:27, 393:28, 400:7, 403:41, 405:7, 410:45, 411:1, 412:13, 418:35, 418:46</p> <p>yesterday ^[4] - 375:10, 400:28, 401:1, 430:5</p> <p>you ^[2] - 388:28, 399:40</p> <p>yourself ^[2] - 391:6, 428:47</p>
Z
<p>zero ^[1] - 367:1</p> <p>zone ^[3] - 394:14, 395:40, 396:8</p> <p>zoned ^[2] - 393:45, 395:47</p> <p>zoning ^[6] - 393:42, 394:11, 394:32, 395:40, 396:34, 405:45</p>