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 Tuesday, 12 April 2022 at 9.02am

(Day 12)

<IAN SCANDRETT, recalled:</pre>

[9.03am]

MR PARISH: Q. Councillor Scandrett, we got some topics from you last night, both orally and by reference to what was in your submissions already. I've made some determinations about whether they fall within the terms of reference and we'll go through them in due course, but can I start by asking you to explain in a bit more detail what topics you wish to cover in respect of the Station Street

A. Good morning, Mr Parish, thank you. The main points will be the Heritage Committee minutes, the public response via petitions and gatherings, the costings continuing to explode but not being recognised by councillors, and the cost-benefit analysis that was not updated.

THE COMMISSIONER: Q. My terms of reference don't require me to form a view on the merits at any stage of the project, so when Mr Parish is exploring these issues with you they need to be tightly confined to my actual terms of reference and not broader considerations about merits decisions at various stages, so I just ask you both to keep that in mind.

A. Yes, I will. If you wish, there's the communications which probably goes back to some of the TTRs.

MR PARISH: Q. Well, I'm not sure that's right but I'll determine that. Can I start with your reference to Heritage Committee minutes. Am I correct in thinking that you perceived or witnessed the Heritage Committee minutes being altered?

A. Yes.

upgrade?

- Q. When was that?
- A. In a council meeting in 2020, I believe, where the chair, who was Councillor Gair, said to Councillor McLaughlin, "Oh, I believe you want to change those minutes", and Councillor McLaughlin shook himself up and said, "Oh, yes" words to the effect, "Yes, I want to take out", whatever the reference was, which was the Heritage Committee's deliberations on Station Street.

- Q. And was that in an open session?
- A. I'm sorry, Mr Parish?

Was that in an open session? 1 Q. 2 Yes, Mr Parish. Α. 3 4 Q. Do you recall the exact date? 5 No, I haven't got that. Α. 6 7 Q. Thank you. You were --Α. I think there was evidence given by a Heritage 8 9 Committee member, Laurel Cheetham, to that effect. 10 The next topic you wished to deal with relates to the 11 12 What specifically in relation to the petition do you want to address us on? 13 Just briefly to say that there were two substantial 14 petitions gathered by the community and, in my view, there 15 was misinformation put out by the mayor and other 16 councillors of the day. 17 18 19 Q. What misinformation was that? 20 That they weren't legitimate petitions, they involved people from outside the shire, and you've heard evidence to 21 say that they did involve people --22 23 THE COMMISSIONER: 24 Q. Perhaps just answer the question 25 from your own perspective. I believe --26 Α. 27 28 Q. Whether or not we've heard other evidence, Mr Parish 29 is asking for your knowledge. Thank you. The fact that the ruling body was trying 30 31 to discredit these petitioners - petitions, was of great 32 concern to me. What's "the ruling body"? 34 Q. 35 Α. The council, sorry, the governing body. 36 MR PARISH: Can I just say, at some point you'll 37 Q. 38 probably be allowed to make submissions to the inquiry in

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writing.

Yes. Α.

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So we do not need to necessarily go over every piece of evidence so far dealt with and we don't need you necessarily to emphasise pieces of evidence that you agree or disagree with, you will have an opportunity to do that in due course, but we'll move on.

Α.

Q.

Yes.

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I've determined that that's outside the terms of

main recognised user groups; is that correct?

reference and will not be asking you questions on that 1 2 topic. 3 We touched in some respect last night on the Mittagong 4 5 Playhouse issue. The first topic you wish to address us on is the failure to present one-year-old engineers report; is 6 7 that correct? Yes. 8 Α. 9 Was that dealt with last night to your satisfaction? 10 Is there anything further you want to say on that topic? 11 12 Α. Not quite. 13 Not quite dealt with to your satisfaction last night? Q. 14 I believe there's just a little bit of evidence on it. 15 Α. 16 17 I'll come back to that then. The failure to annually inspect here and other assets; is that correct? 18 19 Α. Yes. 20 I won't be asking you questions on that, I don't think 21 Q. that falls within the terms of reference. 22 23 24 Finally, closure on the eve of theatre group 25 performance after numerous rehearsals, is that something you touched on last night, I believe? 26 27 Yes, Mr Parish, it goes to governance. 28 29 Well, I'll determine that. Can you possibly tie that topic in with the first topic, I think they were related 30 31 last night; is there anything further you want to say on 32 that? 33 Α. Under section 4 of the terms of reference, which goes 34 to the effective administration of council and the 35 responsibility - or the community's confidence in the 36 council: it was extraordinary that the general manager and executive staff did not reveal this item until the eve of a 37 production that had been taking place, preparing for some 38 39 three weeks, and numerous other uses. 40 And, in terms of risk, which is a theme I've followed 41 the whole time on council, we, in my opinion, failed 42 43

And, in terms of risk, which is a theme I've followed the whole time on council, we, in my opinion, failed miserably to prevent any - how can I put it - let me go another way: that the failure to inform the community of the potential problems at the hall, which we knew about a year prior, that was disclosed in a briefing session by a consulting engineer --

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- Q. Yes, you've given that evidence last night; do you want to move on from that?
- A. It had been hidden from councillors and I have great problems with that.

Q. Who hid it from councillors?

 A. Well, I would have to say Mr Paull and Ms Prendergast as the executive of the day.

THE COMMISSIONER: Q. Who is "we" in all of those answers?

A. I'm sorry?

- Q. In each of those answers you said "we" failed, "we" didn't do this, "we" did that; who is "we"?
- A. I guess I'm talking in the royal "we", but the community were vitally interested in this.

Q. Who is "we", is it an organisation, is it the community?

A. It's the community and some councillors. I've named the two councillors that were interested in this yesterday and I'll do it again --

- Q. Sorry, in the answers you gave a moment ago you said "we failed", "we didn't disclose", "we didn't give notice"; who is the "we"? Is it an organisation in that --
- 29 A. In that conversation we --

Q. Just let me finish, please. Is it the organisation, is it the councillors, is it the executive or is it someone else, or all of the above?

 A. I think it is all of the above.

 Q. How could the councillors have failed to give notice of something which you just said was hidden from them?

A. It goes to the hearts of our responsibilities, surely, Mr Commissioner; you know, to be accountable to the local community for the performance; I mean, that's section 8A, I think, again.

- Q. I'm sorry? Let's take it out of the example and I'll use Mr Broad because he's sitting opposite me. If Mr Broad doesn't know something, how could he be criticised for not telling someone that thing he does not know?
- A. Well, I think it shows the dysfunction within the

Q. Thank you.

A. There's a poor communication basis all the way through, Commissioner, and ultimately a councillor is accountable to the local community, but equally we only have to deal with the information that we are given; in this case there was a failure, a cover up.

Q. What basis do you have to say it was a cover up?

A. The reactions of the general manager and Mr Paull in the briefing session that was at Craigieburn on that day when the engineer sought to go to this engineering report; there was a whiteboard there and there was details on the whiteboard but we weren't allowed to even take notes off that. This was a cover up.

Q. You've alleged that Mr Paull and Ms Prendergast engaged in a cover up of hiding of a report from the governing body; what evidence do you have for that allegation?

A. It's the only conclusion I can come to, Commissioner, because it was an absolute revelation, surprise, shock, to the councillors in the room that they'd had this knowledge for a year, and so, I thought it would have been incumbent upon the general manager as the ultimate manager and Mr Paull as the responsible deputy general manager, to have shared information about that risk with us and at some point with the community by actually closing the hall earlier than they did.

Q. Do you accept there's a difference between someone not passing on information and someone engaging in a cover up?

A. Yes, but it's incumbent in a major public facility like that playhouse to share that information with us.

 MR PARISH: Q. The next topic you've drawn our attention to is the Civic Centre. You wish to talk about neglect of asset, a common problem in the shire especially post Lehman; is that correct?

A. Yes.

Q. Dangerous working conditions ignored; is that correct?A. And risk, yes.

- Q. And dangerous leaks; is that correct?
- 47 A. Again, risk, yes.

necessary for the project to proceed and there was a

Q. Can I just go back to the misrepresentation; what was the misrepresentation and where did that misrepresentation come in? Was it from staff to senior executives, was it senior executives to the council, or was it the council to federal MPs, or was it the council to the state MPs?

A. The latter two, I think. It was staff to council and staff/council to the MP.

Q. You say that the misrepresentation was that the costs had, I think somewhere near doubled; is that correct?

A. Yes.

- Q. Why is that a misrepresentation and not just a revising of costs as they went up?
- A. Well, I think doubling is hardly a revisal, it just shows that we did back of the envelope type calculations --

Q. I think the WestConnex has just about doubled in price since it was first done, I'm not sure anyone is alleging that's a misrepresentation. Can I just dig into what makes it a misrepresentation as distinct from perhaps the usual costings of things that happen in both government and everyday life?

A. I think WestConnex is probably an example of where you've got large contingencies, for example, for rock and finding services underground which you didn't have records of and extra costs in terms of acquiring properties and the like. This was nothing like that, this was on essentially virgin farmland, it was all above ground, it was not hard to calculate, I would have thought, the various costs in relation to the electricity relocation and the acquirement of the easements from Bowral, and we failed on every count.

Q. Who did the costs in the first place?

 A. They were done by our engineering branch under Mr Paull's direction.

Q. And, were they revised at some point to get to that higher figure?

A. No, but it came out that they were wildly incorrect.

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In discussions. As I mentioned, the best example is the electricity, \$93,000 blew out to \$1.8m. when we --

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Q. In discussions with who?

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Α. To the councillors at the time in a briefing.

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- During a briefing session there was something like a \$900,000 price tag put on it and in discussions it became \$1.8m; is that about right?
- 12 Well, it was revealed that that was a problem. 13

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Q. How was it revealed?

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I think Mr Paull revealed that, as they'd gone into more detailed costings, the numbers had blown out from what I call the back of the envelope costing. I mean, one of the --

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- So, there were further costings done? When you say it Q. was done by way of discussion and revelation, there were further costings done; it was just the first time you heard about something?
- 24 25
- Yes, it was the first time --Α.

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Is every time you first hear about something a revelation?

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In the matter of planning costs for projects which should be "shovel ready", is the term in the industry, to get a grant I think it should be fully costed with provision for contingencies, you know, with inflation and There was no reason why this couldn't have been fully costed shovel ready but it wasn't, it was a back of the envelope exercise.

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What I'm trying to figure out is how that's a misrepresentation?

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Well, if you go back to the electricity example, it was said to us that that component was under \$100,000. That's, even to blind Freddy on the day you could see that was not there, and I think a couple of other councillors got quite strong in pursuing that question, including me.

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46 47 THE COMMISSIONER: Q. Do you accept the possibility that the staff were doing the best they could at the time and, as the project developed and became perhaps more mature,

- these things, they further reflected upon new information 1 2 comes to light, assumptions that were built into the first 3 model have to change, and therefore costings are revised 4 and there's nothing improper about that process; do you accept all that? 5
 - No, with respect --Α.

- You don't accept that? Q.
- No, I don't accept that with respect, Commissioner. Α.

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- Q. All right.
- Α. Because it was a grant-funded project, it wasn't a future project --

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- I didn't ask about a grant, I'm just asking about a costing process.
- Yes, and I'm trying to draw your attention to the fact that the project was funded by a grant which involved a submission, a detailed submission to government, with costings and the costings were clearly back of an envelope.

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When you describe things as "back of an envelope", do Q. you suggest that staff weren't doing the best they could at the time?

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I think the staff here were fabulous, the middle management staff. There was an exit of a staff member after this project failed because we couldn't complete had no chance whatsoever of completing it in time as per the terms of the grant and a staff member was marched out of the building - my words.

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In those briefing sessions were you critical of staff Q. for what you describe as "back of the envelope" calculations?

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Never to the general staff; I think councillors engaged in robust discussion with Mr Paull.

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Well, when you say "robust discussion"? Q.

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Asking questions, as is our responsibility here. mean, our role is to carry out the best - do things that give the best possible value for residents and ratepayers, and I --

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In doing that, did you question competence of staff about these matters?

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Well, I didn't say anything about the competence of staff in those discussions, I just continued to ask - it

1 2 3 4	was incredulous that we couldn't have worked out the electricity costs of moving that power to allow the project to proceed. It was all
5 6 7 8 9	Q. And as I understand it, you don't accept that people were doing the best they could with the information they had at hand at the time; is that right? A. I don't think we'd even gone and had a really good look at it.
10 11 12 13 14	Q. When you say you don't think; you weren't involved in that process, were you? A. Well, you would expect a full
15 16 17	Q. Were you involved in the process?A. No, it's an operational matter.
18 19	THE COMMISSIONER: Yes, indeed. Thank you.
19 20 21 22 23 24 25 26 27	MR PARISH: Q. The next topic is the rail side trail. I think you want to talk about the approval of study funds and then the reversal of them at the next meeting and the fact that the project was adopted by a local MP through the state funding in 2019 which was initially \$5.5m but now fully funded at \$14m; is that correct? A. Yes, in terms of governance particularly.
27 28 29 30 31	${\tt Q.}~{\tt I've}$ determined that's not within the terms of reference and I won't be asking you any questions on that topic.
32 33 34 35	The next topic is the Wombeyan Caves road safety upgrade; is that correct? A. Yes.
36 37 38 39 40	Q. You seem to refer to 600 residents and say - I think you want to talk about the project adopted by local and federal MPs ticks all the boxes, now fully funded by federal and state, \$8m. This matter didn't even have any support from councillors; is that correct? A. Yes, it goes to the heart of 232.

 ${\tt Q.}~{\tt I'm}$ not going to ask you any questions on that, I don't think that falls within the terms of reference.

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THE COMMISSIONER: Just hang on a second.

A. I'm sorry?

Q. What about that circumstance goes to the heart of 232? A. Representation of the community. The role of a councillor is to represent the collective interests of the community and to facilitate communication between the local community. I might add there that another part is that a councillor is accountable to the local community in that regard. There was no such thing. Famously, the mayor at the time, Gair, Councillor Gair, said "There's only 600 people down there, we've got more important projects".

- Q. Leaving aside the choice of words that might have been used, isn't it a function of council to weigh and prioritise projects with the resources available at any given time?
- A. Yes, Commissioner, but there was no interest in even looking at the overall project getting ready to seek grants.

Q. Yes.

A. As it so happened, when that became apparent, and the community did their own engineering study down there at a cost of many thousands of dollars, which was about the risk and safety of the road, and of course the businesses to the southwest and shires to the southwest were very interested in the road being upgraded so that tourism and commerce could take place, so it wasn't just the local residents. But we were just not interested.

I started making, in meetings with local MPs, representations on this and all the MPs responded with a positive response. In the end council was given a grant of \$8m, since supplemented by some bushfire funds to do a considerable upgrade and safety increase on the road. I think it goes to the heart of, I've said before, risk which is incumbent upon us. There were cars falling off the road there at times down into the gullies due to poor conditions. Anyway, I got it over the line and I did it elsewhere.

MR PARISH: Q. Did you want to raise this topic so you could pat yourself on the back? Is that the reason why you wanted to deal with this?

46 A. I'm sorry, Mr Parish?

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- The next topic is operational matters; that's quite paradigmatically not within the terms of reference, but can you just explain to us precisely what it is that you want to deal with on those topics?
- Well, you have heard my opinion on briefings and others on briefings previously --

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- Q. Yes.
- Α. -- which were technically not legal. I have major concerns with --

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THE COMMISSIONER: Q. What was not legal about a briefing?

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Because votes were taken in those meetings where that situation should have happened inside this chamber.

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- You'd better tell me when, on what issues? Q.
- Α. Oh, numerous issues.

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Q. Well, give me some examples: generalities. What binding votes were taken in some more specifics. briefings that you were at?

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There was an instance, Commissioner, where I arrived at the briefings - I would arrive normally at around 10 to 9 - and I found all the councillors there and their cups of tea were empty; they'd been there for a while. And, it was announced that we were going to have a local developer address us on a matter that was not advertised to us in the agenda for that day, and it was about building a project on council owned car parking, a residential and commercial multi-storey project, and it was an unsolicited response.

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Now, I was endorsed by Ted Mack and he was very rigid on process and that everything should be in the chamber, and when Ted mentored me many years ago I agreed with that philosophy and it was something that was actually quite apparent in Leichhardt. And that, any matters that were not legal, staff and the like, should be in open council, particularly an unsolicited response to build a multi-storey project on the Wattle Street carparks.

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A straw vote was taken as to whether we should proceed with this briefing from this developer and I held the line,

Commissioner, and said, "This is not proper", but this vote was a show of hands and I was abused, if you wish --

Q. By whom?

A. The Mayor Gair and Councillor Turland and a couple of others, but primarily those two, you know, for wasting the developer's time. Not in the least, it was not proper process, a constant theme in this council. The developer was then advised by Councillor Gair that, as he spoke disparagingly about me, that he might as well go home because that wasn't going to be heard that day.

The matter was not confidential, which was the other straw vote there taken by the eight; it wasn't, it was a public lands matter and it was unsolicited. There's an example.

Q. So, that's an example about a vote about whether a presentation should happen to a briefing and whether a briefing was confidential; have I understood that correctly?

- Q. What other binding decisions of council were made at briefings?
- A. Yes.

Yes.

Α.

- Q. What other binding --
- A. Oh, what other?

- Q. Yes.
- A. Numerous matters of governance.

Q. What does that mean?

A. Revisions of certain codes were flagged in there.

Q. "Were flagged in there"?

 A. Well, for example, social media; there was constant attack on me for using social media and decisions would be made to progress that matter against me in those briefings.

 On Station Street, for example, there were numerous decisions made in there that should have been made in this chamber to proceed with a line or an approach, and they were always stated to be confidential. The general manager changed the terms of reference for councillor briefings so that they were entirely confidential.

council.

.12/04/2022 (12)

I SCANDRETT x (Mr Parish)

confidentiality; what I'm really trying to get from you is what might be thought to be quite an important matter that the council was taking binding votes in briefings and not during council meetings and I want some examples, if that's your evidence?

A. Yes.

Well, I say that if you've got matters that are

relating to community land they should be discussed in open

I understand your view about councillor briefings and

Q. I well understand your views about councillor briefings and confidentiality and, you know, in some instances you may well be right about them, but that's not what I'm exploring with you at the moment.

A. Commissioner, to give the best answer to that can I offer to supply a short summary of that from my records at home?

- Q. Yes, you can put it in statement form and as long as it's relevant Mr Parish will tender it, and I'm going to have to ask you to do that promptly.
- A. Promptly.
- Q. So it will need to be received by noon on Thursday. So Councillor Scandrett can provide a statement that can be tendered and will become a public statement.
- A. Thank you.
- Q. Supplemented by whatever documents going to the issue and the only issue of binding council decisions made during briefings.
- A. Yes.
- Q. Do you understand?
- A. Yes, I do.
- THE COMMISSIONER: Yes. Thank you, Mr Parish.
- THE WITNESS: Thank you.
 - MR PARISH: The next topic --
 - THE COMMISSIONER: I should say that, if it's not received by 12pm Thursday you shouldn't assume it'll be received

1	into evidence. Thank you.
2 3	THE WITNESS: 4pm, thank you.
4 5	THE COMMISSIONER: 12pm.
6 7	THE WITNESS: 12pm, okay.
8 9 10 11 12 13	MR PARISH: Q. The next topic is role of executive and governance and code failures. What precisely do you want to address on there? A. Yes.
14 15 16 17	Q. What precisely do you want to address on there? A. Particularly the role of the general manager in governance and directing councillors and guiding councillors.
18 19 20 21 22 23	Q. In what way? A. Specifically, I believe the general manager regularly failed - this is Ann Prendergast who I hope appears at this Commission - regularly
24 25 26 27 28	THE COMMISSIONER: Councillor, I've asked you not to make observations about the conduct of this inquiry yesterday and I'll ask you not to again, it is not helpful, you are here to answer questions. Thank you.
29 30 31 32	THE WITNESS: Thank you. Who I believe regularly failed to give appropriate advice, advice that was based on the Local Government Act and our codes to councillors and the mayor of the day.
33 34 35 36 37 38 39 40 41	MR PARISH: Q. Can you give some examples, please? A. One issue that worried me was the sale of Franklin Street in Mittagong, which was our old sewerage works, and I believe the general manager should have given a very strong warning to - because of information she was aware of - to councillors to seriously consider declaring conflicts of interest in that space.
41 42 43 44 45	Q. Who ought to have declared conflicts of interest in your view?A. Councillor Andrews, Councillor Turland, and Councillor McLaughlin.
46 47	Q. Isn't it their job to manage and declare conflicts of

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THE COMMISSIONER: Which provision are you turning up, Mr Parish?

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MR PARISH: Section 335 of the Local Government Act.

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THE COMMISSIONER: Thank you.

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MR PARISH:

1 2 3 4 5 6		following functions - (a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council.
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8 9	Α.	Is that the one you're thinking of? Not really.
10	7	
11	Q.	
12		To implement, without undue delay, lawful
13		decisions of the council.
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15		Is that the one you're thinking of?
16	Α.	Lawful decisions would be a consideration.
17		
18	Q.	
19		To implement, without undue delay, lawful
20		decisions of the council.
21		
22		How does that relate to a reminder about conflicts of
23		rest?
24	Α.	I don't think that one does.
25	_	
26	Q.	0kay. (c):
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28		To advise the mayor and the governing body
29		on the development and implementation of
30		the strategic plans, programs, strategies
31		and policies of the council.
32	Α.	That's not relevant.
33 34	А.	That S not relevant.
3 4 35	Q.	
36	Q.	To advise the mayor and the governing body
37		on the appropriate form of community
38		consultation on the strategic plans,
39		programs, strategies and policies of the
40		council and other matters related to the
41		council.
42		
43		Is that the one you're thinking of?
44	Α.	Not - no.
45		
46	Q.	
47		To prepare, in consultation with the mayor
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1 2 3 4		and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and
5 6		annual report.
7 8 9	Α.	Is that the one you're thinking of? There's some elements in there.
10 11 12 13 14 15 16 17	in re A. to co opera openr selli	What elements there relate to an obligation on the ral manager to remind councillors of their obligations espect of conflicts of interest? Well, I think it's incumbent upon the general manager ontinually remind, and in that situation it's about the ation of the council, it's about transparency, open ess and proper governance particularly in a matter of ing public land.
19 20 21 22	the d	The section that I just took you to said "to prepare council's community strategic plan", et cetera. Yes.
23 24 25 26 27 28	got a confi A.	How is preparing the strategic plan as an obligation anything to do with reminding councillors of their lict of interest obligations? Well, I guess, Mr Parish, that the process of selling ic land is a strategic decision of council, it's
29 30 31 32 33	A. it's	"Prepare", "Prepare". I hear you, sir, I hear you. It's not close but - you asked what part of it might be relevant; that t be relevant.
34 35 36 37 38		No, no, I was asking if that's the one you were king of when you said that there was an obligation on general manager under the legislation No, no, that
39 40 41 42		to remind councillors of their obligations in ect of conflicts of interest. Not that one specifically, no.
43 44 45 46 47	Q.	Right, okay, we'll move on then: to ensure that the mayor and other councillors are given timely information and advice and the administrative and

1	professional support necessary to
2	effectively discharge their functions.
4 5	A. Yes, that one.
6	Q. Okay. Do you want me to go through the rest or is
7	that the one you were thinking of?
8	A. That would be the prime one, Mr Parish. But I might
9	add that it also was incumbent on councillors to do that
10	because we're accountable to the local community at all
11	times.
12	
13	Q. Can I put to you the proposition that it is solely
14	incumbent upon the councillors to do that?
15	A. No, it is the general manager's role to ensure that
16	proper governance wherever possible takes place.
17	
18	THE COMMISSIONER: Q. What then happens if a general
19	manager has a view that there may be a conflict and it
20	hasn't been declared? What's a general manager to do?
21	A. Well, the general manager needs to record that advice,
22	whether it's in the council meeting or - I mean, on a
23	number of occasions I'd always ask Ann Prendergast, "Would
24	you be recording that in your diary?", that sort of
25	
26	Q. Well, why would you do that?
27	A. Well, because if the matter was of concern, I would
28	like a record. If it was being handled in council that was
29	a sufficient record, but if it was a matter of
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31	Q. You'd be asking the general manager to make diary
32	notes; is that what you're saying?
33	A. I think it's absolutely appropriate that, for example,
34	in a briefing if the general manager is giving advice on a
35	matter that might be contentious, that that advice be
36	noted. Now, as we've heard, there were no attendance
37	records, no minutes, nothing in those briefings, so
38	occasionally I would ask that.
39	MD DADTOU
40	MR PARISH: Q. Could you see how that could be
41	considered bullying or intimidation to tell someone to put
42	something in their diary?
43	A. I never told anyone to do that: I asked.
44	O De ven een hem it endlike builden end intimit (
45	Q. Do you see how it could be bullying and intimidation
46	to ask someone to put something in their diary?

No.

Α.

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THE WITNESS:

- Q. Do you see how it could be taken from a reasonable observer to be a threat that at some point later in time they would be held accountable for what you think ought to be recorded at the time?
- A. No, this council should record all major decisions and so on -
- Q. But we're referring to a specific staff member, in this case the general manager at the moment, you are specifically asking her to record something in her diary; do you see how that could be taken by a reasonable person to be a threat or an intimation that they might be held accountable for something in the future?
- A. No, I think a reasonable person would say, that's good governance there by councillors to ask that that matter be recorded.
- Q. You think a reasonable person would say, "Thank you very much, Councillor Scandrett, that is very useful advice, I shall deal with that forthwith"?
- A. I didn't go anywhere near that, Mr Parish, I just said that good governance means good record-keeping. As we've heard, there was no record-keeping or governance of these briefings which often were delivering decisions by show of hands.

THE COMMISSIONER: Can I just cut through this a little bit, perhaps?

Q. Sitting back and perhaps removed from the heat of the situation, can you see how or do you accept the possibility that in a contentious meeting suggesting to someone that they should make a diary note of something that was said or something that happened might be taken to carry with it the implication that this is going to come up again and, if that happens, and you don't have a record there might be a problem?

A. No.

THE COMMISSIONED. Thousand

THE COMMISSIONER: Thank you.

This --

MR PARISH: Q. You're the employer, aren't you, that's the governing body who has the responsibility of employing and directing and controlling the general manager?

- Ultimately, the general manager is the only employee 1 2 we direct. 3 Quite. So, the answer to that is "yes"; you accept 4 Q. 5 that?
 - You accept therefore that you're in a position of power, vis-à-vis the general manager?
 - We are the governing body, Mr Parish, and that comes with certain responsibilities, and in private briefings that are not open to the public, that don't have records, it was a reasonable request. I should say that, to my recollection, the times I asked the general manager to do that, which were not frequent, she said, "Yes, I will", words to that effect.
 - Do you think, as a person in a position of power vis-à-vis the general manager, that she felt compelled to do what you asked her to do?
 - I'm sorry, could you restate that?

Well, I guess so, yes, you --

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- Do you think that, as a person in a position of power vis-à-vis the general manager, she felt compelled to do what you asked her to do?
- No, she was a very very much her own woman and she consistently made, if you wish, decisions when asked by various councillors about things. I don't believe she was ever, in that environment, bullied, if that's what you're suggesting here, or directed --
- No, it wasn't what I was suggesting, I just asked you a question, I think you've answered it. Can I ask you about the concerns you say that the general manager was aware of regarding the conflicts of interest that you say she did not direct various councillors to address on; how do you know she held those concerns?
- Some of these were ventilated in the briefing sessions that we had prior to a council meeting.
- Q. By who?
- By a couple of councillors, including myself. Α.
- So, your concern really is that the general manager 44 didn't ventilate a conflict of interest issue that you had 45 previously raised? 46
 - May I qualify that by saying --

Q. Yes.

-- a potential conflict, sir; I'm not judge and jury. I just raised the matter, whether all councillors who were going to participate on the vote on Franklin Street were sufficiently aware of their obligations under the Act.

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THE COMMISSIONER: Q. And, did the councillors, all of the councillors - well, in response to that query, I take it that all of the councillors expressed their satisfaction that they were able to participate; is that what happened? I don't think there was a definitive response, I think I probably got a response from one or two, and you've heard me say before that three councillors had been involved prior to the election in 2016 in a - what I would term a private series of meetings to get a development up and running with other organisations in the shire; they were trying to encourage a private venture in regard to public land. It was highly improper.

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I'm just trying to understand what happened here, because I had understood your evidence to be that the general manager had some knowledge of facts which made it incumbent upon her to take some action. Is it the case that she was present during this briefing and you raised a concern about those matters --

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There are two separate --

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Q. Just let me finish.

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Α. Sorry. 31 32 The potential, I think you've now described it as a

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right so far? It would be better if I --Α.

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Q. I have got it right so far? Α. Not quite, sir.

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Q. Right.

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If I may offer, there were two components to this: the pre-election 16 --

councillors who had that potential conflict. Have I got it

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I just want to know what happened in the briefing that makes you so critical of the general manager's conduct.

46 47

Okay. In the briefings, in the briefing there was -

potential conflict arose in the presence of those

- Q. So, you raised the prospect that there might be a conflict and then, what, asked the general manager to advise on process; is that right?
- A. Well, I think I was more saying that I encouraged, you know, people to talk to the general manager about that; that would have been the way I phrased it, but --

- Q. Sorry, and --
- A. -- about a potential conflict, Commissioner.

- Q. Okay. So, having done that, you're inviting councillors to take up their issues with the general manager in the event that there was one?
- A. I don't think I've used those words, I just think I encouraged councillors to consider that.

- Q. Yes, so it's for the councillors to consider whether or not they were to approach the general manager?

 A. Whether they would consider their potential for
- conflict and whether they might want to take advice from the general manager.

- Q. So, armed with that information, why was it incumbent on the general manager to do anything?
- A. Oh, it's absolutely incumbent on the general manager to give advice if so asked.

Q. If sought? A. I'm sorry.

- Q. If the advice is sought, is that what you're saying?
- A. Generally speaking, yes, not unsolicited, but having said that, at times in the chamber there would be what I would think would be an opportunity for the general manager to say to the mayor or to a councillor, you know, "You probably want to do this or do that", and she did at times,
- 47 absolutely.

A. May I explain the --

Q. No, not at the moment, just let me finish the question and then, if it needs qualification, you can give it. You encouraged councillors to consider their position and approach the general manager for advice: have I got that bit right?

11 A. Yes.

Q. And, if sought, you say the general manager had to give that advice: have I got that right?
A. Yes.

Q. Well, we started this with what I understood your evidence to be, to be quite critical of the general manager's conduct in relation to this issue. I must say, I'm having some difficulty reconciling the last passage of evidence with where we started. Unless the general manager's advice was sought, what was her obligation to do anything further about it as a result of that exchange in that briefing?

A. I think that, firstly, I don't know if her advice was sought privately. I had raised it in terms of the fact that we were going into a public meeting and that councillors should consider whether they needed to declare and, if they weren't sure of that, they should do that. Without going back to the records, I do recall that I said something to that effect in the meeting because I was particularly concerned that one councillor - what one councillor did in terms of declaring their interest or not declaring as the case may be.

Q. And, if you were concerned that a councillor should have declared something and didn't, what's the process available to you to raise those issues?

A. There's not much formal opportunity, it's not - in the meeting, but there's certainly an informal opportunity.

 Q. Well, there's a formal process available to you if you believe a councillor has not appropriately declared a matter, is there not?

A. Well, it's - I guess so, in terms of, that would be after the meeting through raising a concern with the general manager through one or two mechanisms.

other one is for councillors to, for example, lodge a 4 5 rescission motion because they felt there was a flaw in the process.

Q.

Α.

Q.

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Q.

Q.

Α.

Q.

Α.

governance.

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- 47 understand the purpose of this evidence?
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of interest for two councillors to engage in --

This is something that happened before the

What are the one or two mechanisms available?

because they're a faulty process in my opinion, misused

one of those supporting a sale.

I'd like to qualify something.

the end but there was only one tenderer.

conflict of interest and that --

commencement of the 2016 term, is it?

Yes, as I've said --

conflict of interest.

Thank you.

Obviously, a Code of Conduct is one mechanism.

Did you do either of those things in this instance?

the property in the final meeting was sold which is - I was

Prior to the 2016 election three councillors engaged

in what I believed to be substantially improper behaviour

councillor at the time, that was Councillor Andrews and, as

I say, his election ticket is No.2, was a principal of the

company that bought this property. I'm not saying that was

I'm putting on the record that there was an absolute

I thought you said a moment ago it was a potential

In the prior to 2016 example there's a proper conflict

So, how does that fall within my terms of reference?

Conduct by a person who was not a councillor at the

time; how does that fall within my terms of reference, so I

Sir, it falls in responsibility of the council and --

The property had a majority vote to sell it in

a matter for debate, I'm just saying that was a matter for

What is the purpose of raising those matters?

in relation to public land. One of them was not a

I haven't ever lodged a Code of Conduct, Commissioner,

And, in terms of a rescission motion, no, because

look at illegal earthworks.

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46 47 And, Mr Pepping rang me on the

various DAs and so on, insisting - and this is from

we call our inspections bus where we go around and look at

Mr Pepping's advice to me - that we visit the Scandrett

farm to look at alleged - or he didn't say "alleged" - to

morning and said, "Are you coming on the bus this morning?"

And I said, "No, I won't be". He had already said that the bus was coming to our house, and I said, "No, I won't join the bus" and I strongly opposed that because my architect has not been given advice of this inspection, and the inspection is, in my view, not a proper thing.

Two weeks later proper advice had been given and the councillors visited the site and had a look at the earthworks that we had commenced for the approved shed, and then a series of attacks happened on me by - primarily by Councillor Turland in relation to a neighbour's dissatisfaction with that DA. That DA had been approved in 2010. It was irregular, it was improper, and it was incorrect.

- Q. Did you feel that that was a form of bullying and harassment by Councillor Turland?
- A. Absolutely.

- Q. Do you think --
- A. Consistent with what he would do regularly.

 Q. Was he, in your opinion, using his position as councillor to settle scores or personally attack you?

A. Both of those; he regularly was bullying me and other councillors suffered his wrath prior to me. I've mentioned Councillor Uliana in the previous term. Councillor Arkwright was particularly --

Q. I just want you to stick to the questioning -- A. Yes.

Q. -- or we're going to be here for a very, very long time. Do I take it that the Scandrett farm and/or house was a property owned jointly in some way, shape or form with your wife?
A. Yes.

Q. And, in your view, was the attempts by Councillor Turland to bring the council's attention to what he thought was certain irregularities in the building process on your property a collateral attack effectively on your family and your loved ones as well?

A. That is substantially correct, but his focus was actually on the media in trying to discredit me. My wife, who is a solicitor, Commissioner, who's done Land and Environment Court matters in her past career, was so

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Can you give us any other examples in which either Councillor Turland or other councillors sought, in your impression or view, to settle scores or attack you in relation to your building development or other matters outside the council chamber effectively?

7 8 9

Yes, I can. Α.

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Can you give us those examples? It reminded me of Australian Rules football where you mark your opposition: Councillor Turland marked me.

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Another example was a complaint by a member of the community, it had a particular background, but the complaint was about alleged illegal things on my farm such as illegal quarrying, improper front entrance, improper works, and Councillor Turland for many, many months brought this up in general business in council and was not advised by the mayor or the general manager that this was out of order.

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He alleged, for example, that I'd been doing illegal My property - our property - is on a mountain, has a lot of basalt rocks on the surface which we have harvest and built into stone fences which are practical And Councillor Turland alleged fences with our cattle. sorry: this fellow who had a particular beef with me over another matter about Doudles Folly Creek in Kangaloon, and Councillor Turland took up his cause and, for example, would wave around like this (demonstrating) the complaint and saying, "You haven't dealt with this" and he would read the complaint.

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He was allowed to do all this and harass me in public, embarrass me and bully me in public, and I said to the general manager, "That complaint, I haven't been given a copy of it". That was not ever provided to me, but yet it was allowed on numerous occasions to be raised in council Yes, that's bullying, bullying of the and in the media. worst kind.

42 43 44

The complaint, do you know if it was ever formally lodged with the council?

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My wife and I visited Mark Pepping, after about a year of this, and we sat down with Nick Wilton in the room and

- we said, "Staff has got the council has got records of all our building applications, I've got all of the red stamp plans and correspondence and so on, why have you not looked at these allegations in your files?" And there was a sort of a blinking of eyelids by both of them and an agreement that that should take place. Shortly thereafter I offered that the property be inspected, and the property was inspected by staff, and a letter was written to me clearing almost all of those matters and the last one was then cleared a little bit later.
- 11
 12 Q. Can I just go back to my question. Do you recall if
 13 the complaint that you say Councillor Turland was waving
 14 around at meetings was ever formally filed with council?
 - A. Oh, yes.

- Q. Thank you.
 - A. Ann Prendergast had it and that was referred to in the council meetings. I might seek to add something to that.
 - Q. If it's directly related to my previous question.
 - A. I hope it is. The complaint that Mr Turland was waving around came from a gentleman who had a property in Doudles Folly adjacent to Doudles Folly Creek in Kangaloon where I had pursued, when I was deputy mayor with Larry Whipper as mayor, I'd raised questions in council about substantial roadworks that affected the platypus habitat there, and in a heavy rain event, the June 13 rain event in a heavy rain event a lot of that roadworks washed into that habitat; it was quite a substantial concern. And it was remarked at the time by various people and --
 - Q. Is it possible that this wasn't directly related to the previous question I had asked you?
 - A. It was payback, it was payback.
- Q. Thank you.
 - A. That's absolutely right.
- Q. Thank you.
- 42 A. I mean, why would Councillor Turland --
- Q. Thank you. The next topic that you raised is constant attacks in public in council, I think we've dealt with a few of those already. We just simply don't have the time to deal with every single possible one.

I can briefly do that one, sir. 1 Α.

encouraged people to join Exeter RFS.

propose to touch on those topics.

you've already covered this morning?

No, I haven't as yet.

The next --

It was an indication of constant attack.

No, you've got the 200,000, et cetera.

I have a movable sign board which has changeable

public things I support. Councillor Turland - I put it out the front of our property on our driveway, not on public

do - Councillor Turland, who has various signs all over his property in Victoria Street, was trying to suggest that I

The next topic you raise is dummy

Thank you, I think we've already had evidence on that

and we've also got those complaints in evidence, so I don't

I'm not sure it's that many, but yes.

What precisely do you want to refer us to in respect

I was removed from various council committees upon the

council committee mismanagement, what precisely is the

topic you wish to deal with there? Is that something

had illegal signage out there. It was temporary signage.

complaints; is that partly related to the issues you've raised previously about the Code of Conduct complaints

system being used against you in an unmeritorious way?

letters on it, it sits on the back of an old farm trailer or on my box trailer on my ute as part of elections and

- 2 3
- Q. Yes, please do that.

Thank you.

Thank you.

Yes.

Yes.

- 4 5 6 7 8 9
- land so much but just within our driveway curtilage, and Councillor Turland raised in council in general business 10 that I had the sign out there, and I said, "Yes, I do, I 11 put it out there for a few days". On one side it said, 12 "Welcome kangaroo march" and on the other side it 13

Q.

Α.

Q.

Α.

Q.

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- 45 I think that's probably enough information we need for Q. now.

of mismanagement? If you give me some sub-topics.

appointment of Councillor Gair in 2018 as mayor.

- - 1000

the relevance; I need to open up on that.

It was nothing to

- THE COMMISSIONER: Q. Sorry, when you say "removed".
 Are not the membership of committees within the purview of the governing body to determine?
 - A. Absolutely, and it's reviewed on a regular basis and in particular at elections of mayor and deputy.

7 Q. Yes.

- A. But in this case there was a particular event that was seen by many people in the business community as curious.
- Q. Well, you'd better tell me how you came to be, as you put it, removed from the committees and why that falls within my terms of reference?
- A. I chaired the Economic Development and Tourism Committee during the latter part of the first term and the first two years of the second term. It had about a dozen community high profile experienced business people on it, we were working very hard on trying to move this shire forward in terms of economic planning, there were major holes.

Two councillors on that committee, Councillor Whipper and Councillor Markwart, and it's a matter of record that Councillor Turland and others alleged that the committee was not useful and my chairmanship was not appropriate. Of course, there were always - it was Mr Pepping and other senior staff in the meeting - and they sought to dismantle the committee, much to the disappointment of the business community. It was a concerted attack on me which was ultimately at the expense of a very good committee.

- Q. When you say it was a concerted attack on you, do you say the criticisms of the effectiveness of the committee in that period were made solely to discredit you as opposed to being informed by the committee's work; is that what you say?
- A. Substantially, yes. The --
- Q. What --
- A. I was --
- 42 Q. Just pause.
- 43 A. It just --
- Q. Pause. What is the basis of your evidence about that?
 A. It goes to the heart of bullying and attacking a
 councillor and reputation, it's a theme I'll deal with a

- Q. I'm just trying to identify the line, if there is one, and it may not be easy, between as you put it councillors being charged to ask questions and where that function about matters of this committee turns into attacking your position.
- 10 position. 11 A. It goes to --

- Q. Can you just help me as to why there's a difference here?
- A. It goes to No.2 in the terms of reference.

- Q. Perhaps just focus on my question. Did you understand my question?
- A. Well, I no, I guess I didn't.

Q. I see. You've given evidence of your view that councillors are charged and have an obligation to ask questions, haven't you?

A. Yes.

Q. And you've just given an example of where reports in this committee were questioned in council, and you see that as a form of attack or bullying on you related to your ultimate removal from committee. I'm just trying to identify, if it can be done, where the difference between appropriate questioning in accordance with the duties and obligations of a councillor that you see and questioning of these committee reports constituted bullying; can you just help me in identifying what the difference is in this instance?

A. In the context of the interaction in the chamber it was, in my view and of members of the committee - many - a constant attack on me, which was bullying.

 Q. And in what form did the constant attack on you take? A. Oh, just questioning the reports, and as I say they were overseen by Mr Pepping as the responsible officer that the committee was putting up, not moving forward with the suggestions in the reports, and not incumbent on council, but constant attacks which then led to a series of motions by Councillor Turland, supported by others, that the committee be disbanded and that - well, first of all that I

1 2 3	step down and that the committee be disbanded, which is what took place.
4 5 6 7 8 9 10 11	But, you know, the governance in that whole scene would be particularly obvious if one was to review the attacks in the council meeting. I believe I had the full support of the committee and we were trying to address the strategic planning that related to what tourism and economic development needed. For example, we still - we didn't have a plan for our inland - our commercial area here west of Moss Vale which has had numerous name changes but no particular strategic plan.
13 14 15	THE COMMISSIONER: Thank you.
16 17 18 19 20 21	MR PARISH: Q. The next topic you have is "Numerous Code of Conduct complaints against me at great cost to the council". I take it, that's a topic we've already covered and also is a subset of the dummy complaints topic that we've previously dealt with? A. Yes. One qualification, please?
22 23 24	Q. I wasn't asking you for a qualification. A. May I provide one?
25 26 27 28	Q. Well, if it's on topic, what would you like to say? A. I'd like to say that the records will show that
29 30 31	Q. That sounds like a submission rather than a qualification.
32 33 34	THE COMMISSIONER: I'm perhaps not assisted by arguing between you.
35 36 37 38	Q. What is the qualification put succinctly, please? A. The numerous Codes of Conduct in this council, which included a majority against me, were all dismissed by the external reviewers bar one.
39 40 41 42	THE COMMISSIONER: Thank you. Well, we can review the records, thank you.
42 43 44	THE WITNESS: It's a pattern.
45 46 47	MR PARISH: Q. The next topic is related to the matters you orally raised last night. The first one was attendance; does that relate to your perception or

experience of the level of attendance at meetings by 1 2 councillors during the 2016-2020 term? 3 And prior, Mr Parish. 4 5 I'm not too interested in the prior term. 6 just please confine it to 2016-2020. 7 Okay. Α. 8 Is that the topic that you want to address on, the 9 lack of attendance? 10 Α. Yes, I do. 11 12 Was there a lack of attendance, in your view, by some 13 Q. councillors from time to time? 14 15 Α. Yes. 16 Was there a situation where so few councillors 17 attended, you had to elect amongst you a chair for the 18 19 meeting; is that your evidence I recollect from last night? 20 Α. Yes. 21 Is there anything else you want to say about 22 23 attendance or the lack thereof? If you don't attend three council meetings as a 24 25 councillor without getting formal permission for leave of absence you will be removed from your position by the terms 26 27 under the Act. However, if you are constantly being given 28 leave of absence, then you don't have that problem. 29 had a particular problem with attendance here where a couple of councillors, one in particular, were just away. 30 31 One in particular missed 25 per cent of meetings. 32 And that was with a leave of absence; is that correct? 33 Q. 34 Α. Often gained on the day, yes. 35 36 Q. Who granted that leave of absence? 37 Α. A majority of councillors. 38 39 Thank you. Is there any other matter you want to address on that topic of attendance? 40 Α. No. 41 42 43 Q. The next topic is the art gallery --44 45 THE COMMISSIONER: Q. Did you refer to one councillor

1 2	A. Yes, that would be correct.
3	Q. On reflection, was that an appropriate comment to
4	make?
5	A. I think it was in the spirit of debate in the chamber,
6	um, you know, probably the cut and thrust of debate.
7	Having said that, I think there'd been some media on that
8	matter, that that councillor was constantly away sailing.
9	
10	Q. I'm giving you an opportunity to respond to a
11	suggestion
12	A. Yes.
13	
14	Q. On reflection, and answer it how you see fit, but on
15	reflection was that an appropriate comment to be made at a
16	council meeting?
17	A. No, it wasn't.
18	
19	Q. Thank you.
20	A. Having said that, a lot of comments were made by a lot
21	of councillors and particularly in that way, where attack
22	took place and was not restrained.
23	·
24	MR PARISH: Q. The next topic is the art gallery, can
25	you expand on precisely what topics you want to deal with
26	under that heading?
27	A. Yes, I want to go to the governance of us providing
28	half a million dollars a year in support for wages for five
29	years.
30	
31	THE COMMISSIONER: That's a merits decision, is it not?
32	
33	MR PARISH: I'm not dealing with that amongst the terms of
34	reference.
35	
36	THE COMMISSIONER: Well, just let me ask the question.
37	
38	Q. That's a merits decision. You disagree with the
39	approach taken by council; yes or no?
40	A. Yes, section 1, whether we adequately, reasonably and
41	appropriately carried out our roles and responsibilities
42	
43	Q. Yes, but that does not extend to reviewing every
44	decision made by council, that cannot possibly be read so
45	totally in that way.
46	A. I fully understand, Commissioner, but in this
47	particular case there was a lack of governance and a will

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- This is just an example of a council weighing projects and making a judgment call, is it not?
- 7 8 9
- No, sir, there was absolute lack of information in this proposal, there was no business case whatsoever, and I made appropriate comments like that. It was also done in --
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- Yes, and the majority of the council resolved to proceed in a certain way; correct?
- 14 15 16
- They were not interested in getting further information about the viability or overall cost to council. They discharged their duties poorly, in my view, by not having the complete information in front of them. wasn't proper governance and it's - it's --
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- Well, the other members of the governing body obviously felt in a position to vote; do you accept that? Or you don't accept that?
- 23 It had an effect, the half a million a year for five 24 years for operational expenses for the art gallery, and I 25 supported the concept of a regional art gallery but I didn't support the funding mechanism. And, as you know, 26 27 those matters have to be referred to our finance committee. 28 There was a massive hole in this one because there was no
- 29 financial business case --

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Yes, but councillor, these sound to me like an attempt to review the merits of particular decisions --Α. No, it's --

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-- I'm struggling to see how, when read properly, my terms of reference engaged with these sorts of issues? Sir, it's about the process, absolutely the process. There was miss - inappropriate process there and it was --

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- Q. What was the inappropriate process adopted by the governing body?
- No business case and, again, there was no evidence presented in the closed council meeting, and that was the problem, as to where the money would come from. decision was made - and this was just against everything we Our terms of reference say that any matter did here. involving expenditure of council money must be referred to

41 leave it at that. 42

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Good stuff. The next topic you referred to yesterday Q. is the general manager: that's a little bit broad and possibly doesn't fall within the terms of inquiry, but if perhaps you could give us any subtopics specifically?

A. I'll go straight to the point here. In late 2019 the mayor announced that he was going to move that we renew the general manager's contract although it was not due until six months later. A number of councillors expressed concern with that and the renewal did not take place; prime reasons being that there was no updated community satisfaction survey, nor staff satisfaction survey, and there were various other issues that various councillors had with the GM's performance.

The mayor indicated that he was going to move for it and he had the support of the GM's review committee - I was not on that committee at that time - and a majority of councillors didn't support that. A few months later some of those matters had been remedied but a majority of councillors --

- Q. I think I was interested in the topics and you've just gone into a speech. Can I just did you have a problem which could you not hear me just then?
- A. No, I got that, that's all right.

- Q. Okay. I wanted the precise topics and you've launched into a speech. Can I just ask what precisely the term of reference is that you say this goes to?
- A. Poor governance in relation to the general manager's contract and a failure to observe proper process.

- Q. Yes, I'm not sure poor governance: which term of reference does poor governance fall within? Are you going to say term of reference 1?

A. I'm going to state term --

THE COMMISSIONER: Mr Parish, it might be just quicker to have the witness say what he wants to say within reason and relevance about the approach to the general manager's contract.

- MR PARISH: Q. What issues of governance did you see with the approach to the renewal of the general manager's contract?

- A. A total failure of governance in terms of the GM's contract clearly provides that those two matters the customer satisfaction survey, that's the community, and the staff satisfaction survey, which is obviously the workforce be provided to council prior to the

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> Did you take it upon yourself to release any information about the renewal of the GM's contract either to the media or other people outside the council? Well, in so much as that it was a matter of discussion in a council - an open council meeting, I answered some questions informally; but, as I say, I wasn't involved in that committee which is a confidential committee.

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- Do you agree that the usual course with GM performance, review information is not to be dealt with in open council?
- It's normally dealt with by the committee, which includes the GM's rep, and then a recommendation of that comes to council.

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And do I take it that your evidence is that, any information you provided to people outside the council in respect of the GM's performance review or other information was only information that was already presented in open council?

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Generally available, yes. I don't think I provided any information of note, I just - I just say here in this forum that the process was - I had great concerns with the lack of process in the GM's contract renewal.

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The next topic I have is, meeting Q. Thank you. procedure. Is there anything that you would like to explain to me that goes outside what we've already talked about in respect of meeting procedure?

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I'm conscious of the time here and I'll just introduce one matter as an example of meeting procedure by the mayor at the time - that's Councillor Gair - and that was that the meeting of 24 February 2021, we had a meeting adjourned, we were dealing with an adjourned meeting and it transpired that the matter at that meeting had not been adjourned properly. There were various examples like this, I just have brought this one in, but just to show that concerns about the mayor's performance on procedure matters: he closed that meeting in a hurry and, in doing so, failed to do it properly.

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I might just show you a snippet of that meeting if I Q. can find it on my computer. It's the 24 February 2021

1 2	meeting you're referring to there? Excuse me, Mr Scandrett, I'll just find it.
3	A. 24 February 21.
4	
5	Q. Thank you. Sorry, Councillor Scandrett, I'm just
6 7	finding the references to the videos that I have. A. Sure.
8	A. Sui e.
9	Q. I'm going to show you Clip 11. I'm not sure if it's
10	the precise incident you're talking about, but you can - I
11	I'll show it to you and you can tell me if that's right.
12	g :
13	(Recording Clip 11 played to the inquiry.)
14	
15	Is that the meeting you were referring to? I know I
16	didn't have the precise spot.
17	A. I can't say positively because we haven't got to the
18	heart of the discussion. But that is certainly the email
19	I'm referring to which came out from Danielle Lidgard on
20	2 March referring to that meeting and pointing out that the
21	planned resumption of that meeting would not take effect
22 23	because it was not adjourned in accordance with the Code of Meeting Practice.
24 24	neeting iractice.
25	Q. Just while we're on the topic of Councillor Gair or
26	Mayor Gair's chairing of meetings; do you think that his
27	use of mute was appropriate in the circumstances that we
28	just saw?
29	A. Not on every occasion. I recognise that the mayor had
30	- you know, Zoom meetings were
31	
32	Q. In the example we just saw did you think it was
33	appropriate? I asked you a question about the meeting that
34	we just saw. In that circumstance did you think it was
35	appropriate?
36 37	A. I can't say, Mr Parish, because I haven't got it in the context of what happened just prior to that clip, and
38	my recollection is not strong on that particular meeting.
00	my recorrection is not strong on that particular meeting.

Q. Were there some times where you thought his use of mute was appropriate and other times where it wasn't?

A. Precisely.

- Q. Thank you. Are there any other subtopics you want to deal with on the matter of procedure?
- A. I think there were numerous issues by a number of councillors on points of order because there were concerns

3 4	Q. Is this during the time when Mayor Gair was chair specifically?
5	A. Mostly.
6	
7	Q. And, when you say "how points of order were used", are
8	you referring to an overuse or an underuse of those points
9	of order, or an improper use of those points of order?
10	A. None of that; it was about the response from the mayor
11	in regards to points of order being raised.
12	
13	Q. And your impression was that he did not deal with
14	those well; is that your evidence?
15	A. Often.
16	
17	Q. Why was that? Was it a matter of, he did not properly
18	address them, or he didn't deal with them at all, or he got
19	points of order wrong when dealing with the decisions?
20	A. I don't think he dealt with them equitably.
21	, , , , , , , , , , , , , , , , , , , ,
22	Q. The next topic you have is, the performance
23	improvement order, and you said last night "on the
24	ministerial side". Can you explain what you mean by those
25	or maybe give me some sub-topics on that issue?
26	A. What did I say, on the ministerial side?
27	mae ara 1 day, on the minited rat orde.
28	Q. Yes, you referred to last night the Performance
29	Improvement Order and then there was a small discussion
30	about whether that might not be within the terms of
31	reference.
32	A. Yes.
33	Λ. 100.
34	Q. And then you referred to the ministerial side of
35	things, I think?
36	A. The connection was that we were directed as a council
37	to undertake training on - under the Performance
38	Improvement Order and it's relevant to this inquiry and to
39	how people understood their roles and responsibilities to
40	relate a specific experience in that training.
41	reface a specific experience in that training.
42	Q. You might need to explain to me what you mean by that.
43	A. When the training was being given there was a
44	discussion about communication. I've consistently said
45	this, the council had very poor communication, not only
46	internally but between the councillors, but externally with
47	the community. The training went to the heart of, does the
71	the community. The training went to the heart or, does the

about how the meeting was handled.

1 2

mayor communicate as properly as he should with all of the elected members? The trainer asked whether the mayor was in regular communication with all the councillors, and drew on her own experience as a former mayor where she said words to the effect, "I would always ring my councillors once a week, all of them, maybe twice if there was a particular matter of concern coming up or happening".

And Mayor Gair admitted, this is in October 21 --

- Q. Can I just pause there. Do you recall whether any of this was confidential or supposed to be in a confidential session?
- A. At the time it was; now it's in evidence here.
- Q. I might need to reflect on whether that has had its confidence waived. Are you saying that you've seen evidence of specific comments made by Mayor Gair that you're about to refer to?
- A. Well, Mr Parish, that's a fair point, because I've --

THE COMMISSIONER: Why don't I move into - should I move into private session briefly?

MR PARISH: Briefly.

THE COMMISSIONER: Yes. Bear with me just a moment.

For those who may be observing, the reason why this is happening is because I anticipate that the witness is about to discuss matters that were canvassed in what I understand was to be a confidential training session, or at least a confidential discussion as part of the training session where councillors could speak freely and, in order to maintain that confidence, I'm going to receive the evidence in private session.

So, pursuant to section 12B(2) of the Royal Commissions Act I direct that this inquiry move into private session - I withdraw that. I direct that the evidence that the witness is about to give on this topic take place in private and for the purpose of that process we will terminate the live stream. I also direct that the transcript of this passage of the evidence not be published to anyone beyond those assisting the inquiry. That means it will not go on the website.

1 2 3	Are there any other matters I need to direct, Mr Parish?
4 5	MR PARISH: No, Commissioner.
6 7 8	THE COMMISSIONER: Yes, we'll do that and we'll briefly terminate the live stream and, as soon as this passage of evidence is complete, we will recommence it. Thank you.
9 10	CONFIDENTIAL SESSION FOLLOWS
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1 2	RESUMING AFTER CONFIDENTIAL SESSION
2 3 4 5 6 7	THE COMMISSIONER: Yes, all right. We'll move back into open session. So, the direction I just made under section 12B(2) of the Royal Commissions Act no longer applies to this passage.
7 8 9	Yes, Mr Parish.
10 11 12	MR PARISH: Q. The last topic that we talked about as recorded last night was, I think you called it, "Turland vs Gair", is that your recollection as well. Can you give me
13 14 15	A. Yes, that's my recollection.
16 17 18 19 20	Q. Can you give me maybe the subtopics that you want to deal with in that respect? A. There was a point in time when the relationship between Councillor Gair and Councillor Turland significantly changed.
21 22 23 24	Q. For the worse, I assume? A. Yes.
25 26 27 28 29	Q. Do you recall whether there was any specific incident which led to that happening? A. Well, I think there might have been a number of elements, and some of which I might not have been officially aware of
30 31 32	Q. Yes, of course.A but there certainly was a couple that come to mind.
33 34 35 36 37 38	Q. And, are you raising this as an example of the dysfunction at the governing body level and the way that councillors treated and talked to each other? A. Yes.
39 40 41 42	Q. Do you want to give us any specific examples by reference to specific meetings, or do you want to make it as a general observation? A. No, I'd like to give a couple of examples.
43 44 45 46 47	Q. Sure. A. There was a continuing tirade of emails from Councillor Turland to councillors, often including staff, and often they were most inappropriate in my view and many

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.12/04/2022 (12)

Q.

- I might just show you Clip 8 which, Commissioner, is 11 minutes long, and it's from a meeting on 11 March 2020.
- THE COMMISSIONER: Are you going to play the whole?
- MR PARISH: Yes, I intend to.

Yes.

- THE COMMISSIONER: Yes, all right, thank you.
 - (Recording Clip 8 played to the inquiry)
- THE COMMISSIONER: Just pause. Yes, I think you wanted to pause there?
- Is that the sort of example that you're thinking of in respect of how Councillor Turland may have treated staff from time to time?
- Α. Yes, it is.

MR PARISH:

Did you witness or experience other examples of that?

Can I just show you Clip 7 which is a meeting of

- Α. Numerous, and they were very aggressive.

1	26 February 2020.
2	20 1 051 daily 20201
3	(Recording Clip 7 played to the inquiry)
4 5 6	MR PARISH: Can we just pause there?
7 8 9 10	Q. Is that an example of the dynamic that you witnessed between Councillor Turland and Mayor Gair? A. Sorry, the word was?
11 12 13 14	Q. An example of the dynamic that you're referring to there between Councillor Turland and Mayor Gair? A. Yes.
15 16 17 18 19	Q. And did you see that on more than one occasion, or it was a on-off? I mean in 2018? A. Particularly after 2018 on numerous occasions and it also showed up treatment by the mayor of procedural matters in a different way to others.
21 22 23 24	Q. Thank you. We might just continue rolling that clip, if possible.(Recording Clip 7 played to the inquiry)
25	(Recording City / prayed to the inquity)
26	Was that behaviour you witnessed from Councillor
27 28 29	Turland in other meetings? A. Numerously.
30 31 32	Q. What about your behaviour at the end there? Upon what basis did you stand up and give your view of things at the end? Can you point me to a Code of Meeting Practice clause?
33 34	A. Being shown that video, it - I regret my word at the
35	end. However, it is interesting to note that standing
36	orders had been dealt with in this meeting where we heard
37	evidence before about that not being a proper process, and
38	yet, here it was. And we heard here the seconder was
39	demanded immediately to a motion and we've heard that in
40	other tapes.
41	
42	Q. Did I hear correctly at the end there that Mayor Gair
43	expelled you from the meeting and you said that you
44	wouldn't go?
45	A. I'm sorry, I didn't hear that. I heard me saying
46	"coward".
47	

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I thought you said "I won't do it" or something like
2
         that, was that --
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              Can we replay it, please?
4
              Could we do that, could we play?
5
         Q.
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         MR VONG:
                    (Inaudible.)
8
         MR PARISH:
                      Yeah, is that possible?
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10
               (Recording Clip 8 played to the inquiry)
11
12
                              I'm sorry, Mr Parish, was this bit
         THE COMMISSIONER:
13
         played earlier?
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         MR PARISH:
                      No. this was --
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              (Recording continues to play)
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         MR PARISH:
                      It wasn't.
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21
         THE COMMISSIONER:
22
                              Yes.
23
                      Was that the same clip, perhaps I can ask?
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         MR PARISH:
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         That was clip 7.
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         THE COMMISSIONER:
                              Is that the one you wanted to show the
         witness?
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         MR PARISH:
                      I was going to come to that one next.
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         THE COMMISSIONER:
                              So we'll have to go back to clip, it
         was 8, I think.
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         THE WITNESS:
                         I just thought it was about my hearing then
36
         but it wasn't.
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         THE COMMISSIONER:
                              No, you're quite right.
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                      I thought we were looking at Clip 7.
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         MR PARISH:
41
         MR VONG:
                    That was 7. (Inaudible) 8.
42
43
         MR PARISH:
                      That might have been 8, okay.
44
45
46
         MR VONG:
                    (Inaudible).
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1	THE COMMISSIONER: It was going so well, Mr Parish.
2	MR PARISH: I know.
4 5	THE COMMISSIONER: Your numbers were working.
6 7 8 9	MR PARISH: Apparently we were looking at Clip 8 previously, so
10 11 12	THE COMMISSIONER: So, the last two minutes of Clip 8 and then you'll come to 7?
13	MR PARISH: Yes, correct.
14 15	THE COMMISSIONER: All right. Can that be done.
16 17	THE WITNESS: Very substantial.
18 19 20	(Recording Clip 7 played to the inquiry)
21 22 23	MR PARISH: Maybe I'll do it this way - if we could just pause.
24 25 26 27 28	Q. Was that an example we've just been looking at of a time where Mayor Gair expelled you from a meeting and you refused to go? A. Yes, he said those words.
29 30 31 32	Q. On reflection, do you have any reflections on your behaviour in that meeting in retrospect? A. Yes.
33 34 35 36	Q. What are those reflections? A. I'm somewhat embarrassed by the heat of the moment inadvertent comment that I made.
37 38 39 40 41 42	Q. Are you somewhat embarrassed by not complying with the order to leave the meeting? A. Well, that was the academy winning clip for this inquiry, in my view, Mr Parish; it showed a number of interactions that weren't, in retrospect, proper
42 43 44 45 46 47	Q. I'm just asking you to reflect on your own behaviour for now. A. My own - in my own case? Yes, I certainly regret saying that.

1 2 3	THE COMMISSIONER: Q. You regret saying what? A. I said "coward" to
4 5 6 7	Q. Yes, and I think having viewed that meeting you sought to withdraw it on the resumption. A. Yes.
8 9	THE COMMISSIONER: Perhaps Mr Parish can re-ask his question because I think it was directed to another issue.
10 11 12 13	MR PARISH: Q. Yes, it was the attempt by the mayor to expel you from the meeting by directing you to leave and you refusing that direction; that's what I was referring
14 15 16 17	to. A. I think the meeting was very heated and certainly I regret some of those actions, but it was universally very heated, as we've seen.
18 19 20 21 22 23	Q. Perhaps I'll shortcut the technology glitch we had, it was entirely my fault before, just to ask: do you recall in that previous meeting that we were watching, being asked to leave that meeting? A. I've seen that, yes.
24 25 26 27 28 29 30	Q. Not the meeting we were just dealing with but the 26 February 2020 meeting which involved comments from Councillors Turland and Halstead, that one we watched for quite a while just then in which you had a little cameo at the end there; do you recall if you were asked to leave that meeting? A. No, but I'm sure you've got the tape of that.
32 33 34 35 36 37	Q. I think we'll leave it there, I don't think that was the effect of what happened. Are there any other topics you wish to address us on in respect of the Turland-Gair interactions? A. I feel there was a major falling out on or about 2018 between councillor
39 40 41	Q. To start with, is the answer "yes"? A. Sorry, the answer is, yes.
42 43 44 45 46 47	Q. And, what are those topics? A. I feel there was a major falling out between Councillor Turland and Gair over a number of matters, particularly after Councillor Gair was elected. The 8:1 block, the camaraderie of many years of knowing each other

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qualification on something? You said that I could submit additional material in relation to these matters by noon on Am I correct in understanding that I can then submit a summary of responses after all evidence has been collected, as a witness in the inquiry?

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I think I made a direction about this THE COMMISSIONER: evidentiary statement you are to deliver, if you wish to,

by 12pm Thursday and you'll be able to review that in the 1 2 transcript. As I said at the beginning in my opening remarks on the conclusion of the evidence I'm going to make 3 directions for written submissions. 4 5 First will be Counsel Assisting, then those affected 6 7 by the terms of reference, which include you, will be given an opportunity to respond to Counsel Assisting's written 8 If that's the question, then yes, you'll be 9 submissions. There will be relatively confined given an opportunity. 10 timeframes around that as well. 11 12 Right, you'll advertise that timeframe? THE WITNESS: 13 14 15 THE COMMISSIONER: I'll make a direction, as I said, on 16 Thursday. 17 THE WITNESS: And does that - if I may ask: other than 18 19 witnesses, does that extend to people who have made submissions? 20 21 THE COMMISSIONER: 22 No. 23 THE WITNESS: 24 Thank you. 25 THE COMMISSIONER: 26 It extends to those, not even every 27 witness as I've said three times, it extends to those who 28 are affected by the terms of reference. I don't envisage a 29 process where another call for public submissions is being The findings I will make will be based on the 30 31 evidence adduced in these hearings in oral and documentary 32 form and those who are affected by those findings are given an opportunity, but the time for public submissions has 33 34 passed. Thank you. 35 36 THE WITNESS: Thank you. 37 <THE WITNESS WITHDREW 38 39 SHORT ADJOURNMENT 40 41 THE COMMISSIONER: Yes, we'll resume. Mr Parish. 42 43 MR PARISH: Thank you, Commissioner. The next witness is 44 45 Councillor Grahame Andrews.

<GRAHAME ANDREWS, sworn:</pre>

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[11.27am]

THE COMMISSIONER: Thank you, Councillor Andrews, and I apologise for having kept you waiting this morning. Sometimes in hearings like this delays like that happen, so I do appreciate you being patient with us.

Mr Parish.

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<EXAMINATION BY MR PARISH:</pre>

[11.28am]

MR PARISH: Q. Councillor Andrews, can I start with your personal background and connection to the shire? I was born in Mittagong, I still Yes, certainly. reside in Mittagong. I own and operate an engineering structural steel business, a family business, in Bowral for Since I was probably 14 or 15 I've had a strong involvement in sport, participation, coaching and for the last 20 years in administration. I have served on the board of the New South Wales Country Rugby League, I was council's representative on the board of the Illawarra Academy of Sport, and I currently am the chairman and have been for 16 years of the group 6 of McArthur Senior Rugby League. I also am involved with a local mens health association.

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- Q. Was the 2016-2020 term your first term as a councillor?
- A. Yes, it was.

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Q. I assume that you had developed some interest in the idea of running for council before 2016; is that fair?

A. Correct.

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- ${\tt Q.}$ What was your interactions, if any, with the councils before 2016?
- A. I apologise. I observed the previous term of council, not regularly, but on many occasions over the four years, and I just believe that, you know, it was something in my station in life that I would like to pursue and I thought I had being a local, I thought I had a fair bit to offer.

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- Q. What sort of impression did you draw, witness in council meetings in the 2012-2016 term?
- A. On almost all, but certainly the latter part, but probably for all the occasions that I attended it was fairly robust, robust to the extent that it was probably my thinking, not being involved before quite

Q. Was there any trepidation on your part in running for council given the dynamics that you saw at council meeting level in the 2012-2016 term?

A. No. No.

 Q. Given the behaviour you observed, why was there no trepidation? Was it because you thought that was part of the cut and thrust of politics and something you were well equipped to handle?

A. No, I don't - I didn't think that it was the norm, to be honest, but I - you know, it didn't concern me, I - you know, as it turned out I ran with a catch cry of wanting change, I thought it needed change, not that I was able to go anywhere near achieving that, but that was my thoughts, and I thought - I did think there were - and I've got a view on, you know, on four year - you know, on shorter terms for councillors, and I thought some were - they'd been there for quite a long time and there was room for new individuals on council.

Q. What, in observing meetings at least gave rise to your logic in campaigning on a platform of change?

A. Interesting; I really struggle to answer that. But look, probably the longevity of some of the councillors and the behaviour was inappropriate; it might have been the norm, I wasn't - I wasn't aware whether it was or not, it was just what I observed. I just believe, you know, that there was time for change, there was possibly change - time to change. I know there were three mayors, I think, I think I'm correct in that term, three different mayors, and they'd all had a fair involvement in council over many years.

Q. Were you getting any feedback from the community at or about the time you were deciding whether or not to run for council whether or not there was a mood or need for change as well?

A. Oh, yeah, I think definitely, the people that I mix with, yeah, definitely.

A. It may surprise, but I really didn't receive any feedback in regard to policy setting or what council was able to achieve, if anything, and I'm sure they did. It was certainly predominantly the discussions I had with friends and people that spoke to me was the behaviour in the chamber.

- Q. That was a notable and recurring theme, was it --
- A. Correct --

- Q. -- in the discussions you were having?
- A. Correct.

THE COMMISSIONER: Sorry, Mr Parish. Councillor, would you mind moving yourself slightly closer to the microphone? A. I'm trying to hear, sorry.

- Q. No, no, that's all right, Mr Parish will keep his voice up. The acoustics, as you may well appreciate, if one is facing in a slightly different direction are not always easy to pick up, so we'll all try our best to keep our voices up, thank you.
- 26 our voices up, 27 A. Thank you.

- MR PARISH: Q. And after your election do you recall being left with any impression about whether or not those who had been returned at least were going to allow you to make the change that you perceived was necessary and the community members you were talking to were going to allow that to happen?
- A. To be honest, I didn't give it any thought, and that's the truthful answer, but I probably didn't; you know, I probably had the feeling that there probably wasn't too much change, although there were new councillors. But I didn't give it any thoughts.

- Q. No problem. Can I just ask you a few questions about your induction training. Do you have a recollection of the first training sessions or inductions that you undertook after becoming (indistinct) councillor --
- 45 A. It's definitely I've done it again, I apologise.
- Q. No, no, that's okay.

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- Q. Did you find those courses useful in assisting your understanding of roles?
- A. 100 per cent, very useful, yeah, it was a good experience over five days.

government by the then general manager.

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21 22 Q. Is that something which, whilst it may not fall strictly within our terms of reference, you think should be mandatory for councillors?

23 A. I do.

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- Q. Can I just take you back a little bit before that 2017 training that you received. Do you recall receiving any training immediately after your election around the end of September 2016?
- A. No, as I mentioned earlier, no, I don't; I would assume that there would have been something, but I can't recall.

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- Q. Do you remember any training sessions or inductions for familiarisation with Code of Conduct or Code of Meeting Practice around the end of 2016 or into 2017?
- A. Into 2017, I suspect, correct.

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- Q. Do you recall if you were ever given hard copies of the various sort of bibles that you were going to require on a day-to-day basis as a councillor, such as the Code of Meeting Practice or the Code of Conduct?
- A. Yeah, I do recall, definitely, and I'll expand if I may?

- Q. Sure
- A. Through the general manager I asked for a folder it came in a folder of all matters of council business

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Were they updated from time to time as well? Was that a service that was provided to you? Α. Yes.

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- Back to the training you received. Do you recall what roles and responsibilities you had under the statutory regime, namely, the Local Government Act?
- I can't recall specifically, but one that is quite obvious, and I do recall, is the clear define between operational and the role of the elected body; that was made very clear and it's always been very clear to me.

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Can you explain what - I'll withdraw that. I'll start with, do you remember when that divide was explained to you? Was it in documentation form or do you recall whether there was a meeting or something like that in which it was raised?

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No, I don't recall, but I - no, I don't recall. Α.

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strategic operational divide to be? The role of council is to present policy, strategic It's the role of senior staff and staff to implement those plans or policies, and there is quite a clear definition of that line between the elected body, in

Can you explain to us what you understood the

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Thank you. Can I just go back a step to what you Q. understood any other statutory roles you had were? Α. Sorry?

my opinion, the elected body and operational matters.

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Q. As a councillor, I should say.

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Those that we could - those members of staff that we could correspond with, senior management of course, the general manager, the two deputy general managers, and also the managers directly under the senior staff level, and that's where it should have sit - that's where it ceased. It was made quite clear that we weren't to have, without a member of senior staff present, any discussions on operational matters with staff at a lower level.

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Do you recall ever being given a session or Q. information about what the statutory role of the governing

Q. Can you give us your understanding of what the statutory roles of the governing body were?

A. It's probably - it's just exactly what I just spoke on then is all I can - you know, all I can think of at the moment, there's probably many, but that was the most important one as far as I was concerned and I'll possibly speak later on why I thought it was the most important one; the delineation between operational and the role of the acting - the role of a councillor and the governing body.

THE COMMISSIONER: Q. Having raised that issue, Councillor Andrews, I think I would be assisted to hear now, seeing as we're on the topic, why you saw that as the most important function of the governing body?

A. Once again I'll repeat myself because it's important and then I'll lead into your question.

Q. Yes.

A. It was, you know, for a new councillor - but, you know, as I've said I've sat on boards and it doesn't get - it's entirely the same situation no matter what it is in regard to a board, but it was made very, very clear how important that was, and the general manager really spent some time on what I just espoused as being the major role of the elected body.

Very early in, I'm thinking 2017, through I had correspondence from a - not a developer - an applicant that was having problems with a councillor. As time went on in 2016 it became evident that a councillor was interfering with a applicant or an application and, without proof, also corresponding or speaking with staff with the matter. He was quite - quite outspoken on his feeling on why the particular application should be refused.

 And, as I will possibly say later again, I in the four years - or three years sorry, not four years, the three-plus years, I've always believed that an application following reading very, very substantial and significant reports that come from the planning staff, if it complies in all ways and is recommended for approval, I've always supported those applications. So, I couldn't quite understand at an early stage why it was the role of any of the elected body to oppose on, I suppose, personal reasons.

example of councillors getting involved in the process; does that include corresponding with either an applicant or 5

an objector? Is that what you have in mind? Α. Correct.

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And, does it extend to a councillor providing guidance or assistance to an applicant or an objector? I can't answer that. I don't know.

Yes. As part of that answer you referred to an

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Do I take it then, it's your view that there is no place or proper role for a councillor to provide guidance or assistance to an applicant or an objector in relation to a particular application?

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I'm not sure whether, you know, I have a - should have a view that, you know, that there shouldn't be any form of assistance; I mean, it's almost impossible not to talk or be spoken to by applicants and developers and so on, but that's where it should end in my opinion.

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Yes, and you highlighted the flaw in my question. Q. take it, you wouldn't see any problem if an objector rang and said, "I've got this issue", and you may say, "Okay, well, speak to Bloggs in" - you know - "you should direct that query to the relevant manager, group manager or senior manager", that wouldn't be a problem, would it, in your view?

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No, correct, and I on occasion - and, not many, but on occasion I've been able to speak to one of the senior staff, one of the general managers to get a response to that and to relay it back and that's where it finished, but that was the end of my involvement.

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Q. Just take as a general example, what if a councillor provided advice to an applicant or an objector about how to frame their application or objection to have it viewed favourably by council; would you say that is an appropriate role for a councillor?

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I wouldn't have a problem with that.

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And, having done that, should that councillor then vote on the application if it came to full council? Α. No.

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

THE COMMISSIONER: Volume 1, Mr Parish? MR PARISH: Yes. THE WITNESS: Have you got a page? MR PARISH: Q. Yes, can we start with page 697. A. Yes. Q. Do you have there the adopted 12 June 2019 Code of Conduct? A. Yeah. Q. And, I appreciate there were revisions to this document, it seems to be the most convenient document to start with when asking general questions. Can you go to page 703, please? A. Yep. Q. Down the bottom there is clause 3.13, which says: You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use Et cetera, do you see that? A. Yep. Q. And there's a very similar phraseology in the next clause down there at 3.14, which states that: you must ensure that no action, statement or communication between yourself or others conveys any suggestion of a willingness to improperly provide concessions or preferential or unduly unfavourable treatment. Do you see that? A. Yes.	2	Councillor Andrews.	
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Do you see that?		untavourable treatment.	
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47 A. Yes.	46	Do you see that?	
	47	A. Yes.	

MR PARISH: Q. I might just show you tender bundle A,

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G ANDREWS x (Mr Parish)

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MR PARISH: Q. Whether you can put your specific finger on the section, you knew at least that you didn't want to create any impression one way or another, and therefore you took steps to ensure that you weren't directly involved; is that fair?

what I emphasised before; I wouldn't have had any problem

Was that the sort of conduct, if not Code of Conduct,

This is land use planning, I would differentiate with

injunctions that you were thinking of before when you were

what I was referring to earlier; I was talking about a, I

I think the next words used there are "development

The first line of clause 3.13; is that

Do you see that, Councillor

I would agree with that and that's contrary to

talking about the approach you took to such matters?

suppose, a simple development application.

Q.

having discussions, but I concur with those.

assessment" in those clauses.

Yes.

what you're referring to, Mr Parish?

Oh, okay.

THE COMMISSIONER:

THE COMMISSIONER:

Yes.

MR PARISH:

Andrews?

Α. Correct.

- To some questioning from the Commissioner you suggested that one way to deal with any involvement, for instance, in the assistance in the drafting of an objection, was to excuse a councillor from voting; do you recall that?
- Α. Yes.

Yes.

- Do you think, in your view at least, there were instances where, even if a councillor excuses himself from voting, it may still leave the impression amongst people that there is undue preferential treatment or unfavourable treatment?
- We've had some evidence in this inquiry from various witnesses who were left with the impression, at least in this term of council, that there was favourable treatment

A. I haven't been aware of any, so I can't comment on that because I'm not aware of - certainly been spoken about, but I'm not aware.

- Q. Were you left with the impression at all, during council meetings at least, that councillors were becoming involved in development applications or other planning matters in a way which suggested preferential or unfavourable treatment?
- A. I certainly agree that there was more than an impression, that there was involvement by, on occasion, councillors, yes --

Q. Can I just --A. Without proof.

 THE COMMISSIONER: Q. I'm sorry, Councillor Andrews, I know it's probably an unconscious thing, but would you mind not flicking your pen, it's probably causing -- A. Oh.

 Q. It's quite all right, it doesn't trouble me too much, but I am just conscious that there are some stenographers listening at the other end who might be getting whacked in the eardrums.

 A. I'm sorry.

THE COMMISSIONER: No need to apologise, we all have our little quirks. I'm sorry to interrupt, Mr Parish. I think the councillor had answered your question by saying he had the - had an impression of that kind, thought it was happening but lacked proof, I think is what he said.

MR PARISH: Q. Thank you. A. May I just add to that?

Q. Yes.

A. I think it's important that I do because I sort of mention it in my submission, that on occasion and possibly on many occasions over the three years it was quite obvious that some councillors were arguing the case and gave the feeling - once again, the feeling or the impression to me, that they had or would have had some involvement with the

1 2 3	applicant over and above the normal debate on an application before us on any given council meeting.
4 5 6 7 8	So, my opinion, there was definitely an impression that some councillors may have been favouring an applicant, but almost definitely would have had conversations with that applicant.
9 10 11 12 13	THE COMMISSIONER: Q. What about the flipside? What about favouring objectors or having had involvement with objectors; did you get that impression from time to time? A. Exactly the same, absolutely.
14 15 16 17 18 19 20 21 22 23	Q. And was this from a variety of councillors or was it from a particular person in particular or? A. Contrary to my view, I think most councillors would have spoken against any given DA on any given occasion even though that the staff had deemed it for approval, but there's a difference and you can tell the difference in the discussion where it's just not general debate, it appears to be that a councillor or councillors at any given time have had, I believe, conversations with the applicant.
24 25 26 27 28 29	Q. Was this an observation you make about a variety of members of the governing body or do you limit it to one, for example, or was it more than one individual at different times depending on the application that was being considered? A. Yes, more than one, more than one.
30 31 32 33	Q. Thank you. That's obviously a matter that troubles you; correct? A. Pardon, again, I'm sorry?
34 35 36 37 38	Q. It's a matter that troubles you, you don't agree with that, that sort of A. No, I don't agree with it, it bothers me, yes.
39 40 41 42	Q. And, just in your own words, tell me what you see as being wrong about that type of engagement? A. I've been approached, and this is my words, if you don't mind?
43 44 45 46 47	Q. Of course. A. I've been approached obviously by many applicants, developers and so on. I certainly haven't had lengthy discussions with them but I've been approached, and I

never - not on any occasion did I indicate my feeling in regard to the development. I left without any - I left the discussion without any drama, I just simply made it clear that I - you know, "My belief in my role is that I shouldn't be discussing it with you" and left it at that.

I've had discussions with, you know, on two occasions I think with people that believed that they were being harassed, if you like, in regard to their development and, once again, I left it at that.

Q. Do you think that that sort of perception, having been able to be picked up by you in council meetings, has an effect on the public confidence in the council process?

A. Yes, definitely.

Q. And, in your own words, how do you think that manifests itself?

A. Oh, you know, I believe it's obvious, but apart from that, through discussions that I've had with people after meetings or in passing.

Q. Yes.

A. It certainly wasn't something that I heard after every meeting or every discussion or every controversial DA refusal or accept; but no, there is occasions that people --

Q. Do you think it lowers the community's confidence in the processes of the council in relation to development applications?

A. To me, this is my view, honestly I believe as far as and I could be way wrong, because there were many groups anot many groups, there was three or four strong groups of community groups within our shire who had very stern and polaroid, if you like - not polaroid - polarised beliefs. I lost my train of thought, but it would have been very obvious, you know, that in my opinion that some of the community couldn't understand where on occasion a perfectly compliant development DA, whether it be a major one - when I say major one, something under the scale that we can deal with - is refused, and I've always used the term that's frustrated me over the three years, that "possibly on the colour of a brick" and that did alienate a part of the community most definitely.

And then conversely or on the other side, even when a

development complied and there was objections about amenity or the location or whatever, those people felt maligned as well, because that sort of development went through. So, it was difficult, it was both ways.

THE COMMISSIONER: Yes, thank you. Mr Parish.

- MR PARISH: Q. Can I get your view on the implementation by the administrator of the local planning panel? Do you think on balance that's a positive move for the council, or negative move, or neither?
- A. No, I think it's a positive move, and I'll add to that, I would suggest that as high as 90 to 95 per cent of our problems were caused or not yeah, were caused or related to planning matters.

- Q. There's a few things to explore there. Firstly, one of the observations which has been made in this inquiry was that planning matters took up quite a large amount of time in council meetings and perhaps distracted the governing body from officially dealing with other matters. Was that your impression or view?
- A. Yes. Yes, correct, I agree with you. I also had a problem with calling up applications that were you know, staff have, once again, recommended for approval, I had a massive problem with that and, you know, I disagreed with it but there was not anything I could do as an individual councillor. There were far too many that were called up, in my view.

Q. The other matter which may come out of your observations just then is that, planning matters not only took up a lot of time, but also stoked controversy or animosity between councillors; is that -- A. Correct.

Q. -- a view you held? So, am I correct in thinking from your evidence that a local planning panel has multiple advantages to it in respect of the perhaps harmony or efficiency that might be returned at council meetings?

A. Correct, you know, I would assume they're professionals - well, when I say professionals - well, people or individuals that are used to dealing in planning matters which, you know, it's difficult for a councillor that hasn't been involved in that area.

Q. I think one of our witnesses described planning as an

art rather than a science, but was that at least something you felt well equipped to deal with from the information you were provided in meetings; the DA process?

A. Yes, I did, and I'll - you know, I know I'm repeating myself and forgive me, but you know, I could not understand - you know, if we were given a significant, if you like, application came to us in a five-paged report, then possibly there is an argument that the debate should waiver either way. But our staff were sensational, in my view. The amount of time they must have spent on putting these massive reports together, and they were substantial, and you had to put a day aside to read one of them, let alone two or three; and then to have it refused, I always disagreed with that.

- Q. And, in your view, does that create a sense of, perhaps in the community, a level of discretion or capriciousness which undermines confidence in the planning mechanisms of the council?
- A. I'm setting myself up here, but I tend to agree.

MR PARISH: I might just switch topics now, Commissioner.

THE COMMISSIONER: Yes.

MR PARISH: Q. While we're dealing with the topic of staff briefings and information provided, can you give us your general impressions firstly of the mood and conduct of councillors in the briefing sessions?

A. Obviously (indistinct) the chamber, the briefing sessions in the first 18 months to probably almost the first two years were a terrific tool in my opinion: they worked well, they were productive. There were certainly different points of view, I suppose, at those briefing sessions; sometimes they were robust, which is okay, but they were well controlled and they served their - they served the point of holding them, because it certainly helped me as a councillor; you were able to question planners on a development, on a DA, there was many good things about it and for the first - I'd almost say two years they worked well.

Increasingly, I guess the next 18 months or so of our term prior to the suspension, increasingly lost their way in regard to behaviour. Certainly some of it was bordering on, and probably could be defined as bullying across the table, the briefing sessions. Genuine criticisms are more

- Q. This was the last briefing session before the suspension, so somewhere at the end of February 2021; is that correct?
- A. Yeah, I think it was the one that I'm trying to think and I'm pretty confident, it was the one that was called by the mayor to discuss, for want of a better term, a show cause that we had to present to the Minister by entering or giving our reasons why we shouldn't be suspended: it was that one.

- Q. And that was preceded by a briefing session; is that correct?
- A. And that was the right move by the mayor, it was an attempt you know, we were desperate then, or those that didn't want to see the demise of this council were pretty desperate to try and present something, although we believed it was a forlorn hope, but present something that was productive well, not productive, something that was sensible and we could all gauge agreement on: that wasn't the case.

Q. And what was the conduct that you found disgraceful in particular? Was it raised voices -- A. Oh, yeah.

- Q. -- was it comments, was it a combination of multiple behaviours?
- A. Two councillors treading on sodden ground, I suppose two councillors in particular sorry, I'll backtrack. There was a document which was a draft prepared by senior staff, and I think the mayor was privy to those discussions, handed to all councillors and it was reasonable, it was the one that went forward anyway, it was reasonable to most of us except for two councillors, and they refused to endorse it and that created a furore. Initially they just didn't refuse it with a, "No, we don't agree with that", it was, "no" pretty colourful language "we're not going to support that at all", which culminated in those two councillors, and staff followed by

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46 47 And I am aware that, you know, that he in his language many months before that it was quite obvious that, whether he understood that he was attempting to derail the council or whether - what his motive was, I don't know, but he was using in the public, on social media, in the print media, words to the effect, "I plead the Minister to sack this

Q. Did you form the view that Councillor Scandrett, or indeed any other councillors at that time, were looking to concoct a situation where the council was suspended?

A. It's a - well, I'm not sure of others, I could - there's possibly one other definitely, but - one, sorry, not definitely, but a view I have of one other councillor other than Councillor Scandrett, but you know, I have no genuine proof, it was only a perception, but Councillor Scandrett made it very clear that he wanted this council

 suspended.

This is a slight digression but it seems like the right time to pick it up. One of the matters that the Commissioner and I are going to have to grapple with is what the obligations were of all councillors to maintain order at meetings, if any, to prevent any acts of disorder, let alone an intentional attempt to derail meetings. you have any views or thoughts about whether you had any obligations to try and stop that sort of behaviour specifically or any acts of disorder generally? On many occasions it was very tempting and probably had a right to but didn't choose to do so, as other councillors also didn't choose to do so, was to intervene; although the mayor was doing his job always when council and councillor and councillors were making his life more than difficult but almost impossible to chair and run a productive meeting.

 It's always very tempting, I suppose you could call a point of order, but again I thought at the time that would create another problem given the context of how crazy and how disrespectful - and I emphasise "how disrespectful" - the behaviour of two council, this is later and I can talk about it later if you wish about it earlier, but late in our term with a clear determination at that last meeting, in my opinion that they - they were going to pour more fuel on the fire; they were content with the suspension of council and, in doing so, they were relentless in their behaviour of - or disorderly behaviour in the way that they treated and ignored the chairman, which was the mayor.

So, absolutely do; Councillor Scandrett has wanted

Q. I asked you quite a specific question about obligations, but at a more general -- A. Sorry.

Q. No, no, but which you answered. Now I was going to ask at a more general level, was there anything you felt, just in your own mind at the moment, you could do about the behaviour in meetings and the dysfunction perhaps that was evident at meetings?

A. Look, can I backtrack? Do you mind if I backtrack?

Q. Sure.

A. And it is pertinent and it will make sense. Going back to the briefing, and I said that all the majority of councillors and all staff left the room. Prior to Councillor Scandrett leaving, and Councillor Turland stayed, I spoke to them both. I was across the other side with Councillor Halstead; he wasn't saying anything. And I knew at that time, due to what they said at the briefing, that there was going to be, you know, disorderly - whatever - by those two councillors in the chamber; they weren't going to not, you know, have a crack at the mayor and the GM.

I asked them on a personal basis - I've grown up with Councillor Turland, not necessarily Council Scandrett - for the sake of any hope of this council being able to convince the Minister not to suspend with this next meeting and the show cause notice that we were going to vote on, and they both, using colourful language, told me to - I'm using "get necked", it was a lot more colourful than that. In other words, it was very clear, very clear to me then, that they had no intention of allowing that meeting, council meeting in the chamber following the briefing to go ahead in a formal and respectful manner.

Now I've lost my track with the question.

- ${\tt Q.}~{\tt No}\,,~{\tt I}$ was interested at quite a general level about whether --
- A. Right.

Q. Just your impressions at that time, whether you felt you could - there was any mechanisms or steps available to you to prevent the sort of disorder and dysfunction that was evident in council meetings?

- A. I recall that obvious, and I suppose other councillors and I can't speak for them were feeling the same, I was hoping, and he was struggling to maintain order, and I was hoping the mayor would use other powers that are available to him to either close the meeting, which he had used previously, or suspend both councillors from the meeting. I'm not sure why that didn't happen and I haven't spoken to him since about it, but I would have believed there was a vehicle or a tool that he could have used, because it was out of order. So, other than that, I'm not sure what myself or other councillors could have done except call a point of order and I don't think that would have got anywhere.
- Q. There's been multiple references in the evidence over the last 24 hours from Councillor Scandrett about the concept of an 8:1 or a 7:1 split with Councillor Scandrett in the minority. Do you recall any discussions that some of the majority or any of the majority might have had about how they could manage or ensure a minimum level of disruption from councillors such as Councillor Scandrett in the meetings?
- No, look, I'm not sure, I truly am not sure. The 8:1 was, once again it's my feeling and it's an obvious one but it's still my feeling, was a deliberate ploy, if you like, by Councillor Scandrett; he was happy to sit in that He made it clear that he would not situation with 8:1. and he made it clear in a briefing, I believe, or certainly in public because I overheard it - that he would not support any resolution or any determination that the mayor was involved in. He sat where he sat with that 8:1 through his own - his own feelings I think for the last latter part of our term. So, as strange as it seems, in my opinion that's why it occurred.

Now, I will say I think it's important because, you know, he hasn't spoken too kindly about the mayor, I believe - I don't know, I haven't heard it but I've got a suspicion he's gone after the mayor - that on occasion in this period prior to this where it was starting to decline, probably just beyond the mayoral election in 2018, where it was becoming difficult for the mayor to control the

behaviour of Councillor Scandrett on several occasions, although some of his suggestions or motions were out of left field, that he had support of the mayor and the mayor made it clear that he supported him on those occasions. So, it wasn't if we were sitting in that 8:1 because the mayor wouldn't listen to Councillor Scandrett, because he did on many occasions.

We've had some evidence earlier from you, and indeed from multiple witnesses, about a degradation in the relationship and the conduct of both briefings and the council meetings at about the 2018 mark: I think you referred to about two years in or 18 months in. have any insight or impressions about what led to the degradation of relationships which then led to the degradation of conduct in meetings and briefing sessions? And I'm not sure of the dates, but there are two that Councillor Halstead didn't stand for a come to mind. second - for the second two - or the second two years, he didn't stand in that election. It wasn't controversial, but beyond that time problems or the behavioural problems Forgive me with the dates, I can guess seemed to start. we're getting into 2019 here now, I'm not sure, but they were fairly close together both - please, correct me if I'm steering away from your question.

 Q. No, no, no, no.

A. There were two applications by two councillors that were refused, one from Councillor Turland of a property in Bowral and one from Councillor Scandrett who had his application refused, and I can't recall why, and he went ahead with excavation works in the wrong locality that was defined in the DA and there was ensuing drama about that, but from that point in time he started to - and he blamed staff, senior staff, planning staff as well as, in particular the GM and in particular the mayor, he started to be pretty tough on him.

 No question Councillor Turland, with the demise of his development application and a loss of an appeal to the Land and Environment Court, he made a decision that one of the senior planning staff was at fault here and, through the GM, determined then that the general manager shouldn't be or shouldn't remain in her role. And it was about that time also that Councillor Scandrett - I'm using pub language, I suppose - started to go after the GM. On one occasion around that time, mid-2019 - and please, I'm not

certain of the dates - but it was certainly then he indicated at one meeting, sitting down, not where he's invited to speak, made it very clear to the GM that she is "Passed the used by date, that it's time to go, your turn is up", language to that effect.

So, from that moment on, I think, until finally we were suspended it became obvious - I'm going off track here but I think it's important that it ties in - it became obvious to all of us, certainly to me, that Councillor Turland was seeking and pursuing the removal, if you like, or just making life so difficult for the GM and only slightly to a lesser extent the deputy general manager, Mr Barry Paull. As well as, even though they didn't get on, he found an ally in Councillor Scandrett who also made it very awkward in what he was suggesting in regard to the general manager.

Without a doubt, and I was witness to it, it 100 per cent led to her resignation. It was affecting her health, and I know we all say that in the modern era, you know, political correctness, but it was definitely affecting her mental health. She was a tough lady and she wanted another term, she wanted to continue, but that time of haranguing every time we met, be it in a briefing or in a meeting, it just took its toll - took a toll on her. Sorry, I was close.

THE COMMISSIONER: Councillor, for my part I thought that was directly relevant so don't worry yourself about that.

- MR PARISH: Q. We'll stop you if it's not. In your view, from the evidence you've just given, do you think Councillors Turland and Scandrett were bullying the GM? A. Without a doubt, yes.
- Q. You've also given some evidence just then about other negative interactions with staff specifically in respect of Scandrett and Turland. In your view, were they attempting or succeeding in bullying other members of staff or senior staff?
- A. I can't I'm not sure of or I am sure that I don't know whether Councillor Scandrett had any involvement, either verbal or otherwise with staff. Councillor Turland definitely with senior planning staff up until and a short while after he lost the court case in the Land and Environment Court. I'm not I can't answer truthfully

whether it was bullying.

Q. Okay.

 A. It affected them, there's no question. I don't mind mentioning - can I mention the name of staff member or not? Shouldn't I do that?

Q. I don't mind.

THE COMMISSIONER: Q. Yes, if you're comfortable to. A. It certainly affected Mr Nick Wilton.

THE COMMISSIONER: Yes, thank you.

MR PARISH: Q. Can I just turn to some observations you have in your submissions. You say that you came to realise, in about 17, that there was at least some interference with planning matters involving both staff and members of the community including DA approvals. Can you give us the example that you're referring to there?

A. There was one earlier on and it became - it became, you know, all councillors were aware of it and a culmination of a closed council meeting where the councillor was named, if you like, but we all realised because of his discussions in the chamber that Councillor McLaughlin had become involved with an application very early in 2017.

 The applicant consequently, as we were told in this closed council meeting, took out a Code of Conduct against Councillor McLaughlin, he was successful and he was fined, and that - I knew nothing, it was all hearsay until that closed council meeting when it became - all of us became aware that Councillor McLaughlin had been fined. There was a reason for the meeting and I don't think I need or should talk about it, but that's when it became obvious - not obvious, but to all of us that Councillor McLaughlin had intervened or somehow prejudiced an application and had a Code of Conduct placed on him.

 The others I've spoken about, and I'm not - once again, I say without proof, and it is without proof - I honestly believe, without proof, that Councillor Turland vigorously had discussions with Nick Wilton in regard to his failed development, both before that Land and Environment Court and afterwards.

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Another of the observations that you make is the problems with rogue councillors, and I think you've given some evidence about that this morning already. you understand either the Minister or the Office of Local Government could do about roque councillors? something we've been exploring with other councillors as well what precisely, if anything, you thought could be done about it?

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Can I give the examples, if you don't mind?

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Q. No.

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I'm not sure of the time but it was during a briefing session we had Councillor Scandrett, I think, he'd walked or he'd left that hearing, that briefing; for whatever reason he objected to something and made comments that, "Finally got the mayor", to suggest that the eight members - sorry, seven members - eight members of council should take out a joint Code of Conduct against Councillor That occurred, that went in, all of us, all our Scandrett. signatories were with it.

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Councillor Turland also on occasion later than that had a - and it's been explained earlier, I believe - had a Code of Conduct taken out by senior staff on his behaviour prior to one council meeting in this chamber, and my - as well as other councillors' frustration, is that both those codes were with whoever, the Office of Local Government or whoever looks after them, were with them with enough time, more than enough time to respond or make a determination, and that didn't occur. That's the frustration.

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I wonder, I just wonder, whether they were able - and I don't know whether they were able - to suspend both those councillors; because, believe me, if they were suspended at that particular time, this council would have got through the remainder of their term. I'm not overstating that, I feel very strongly about it.

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That's one of the issues we've been exploring, is what Q. the governing body felt they could have done. Was a motion of misconduct against any or some of the agitating councillors ever considered, do you recall; is that

1 2 3 4	something you recall there being discussion on? A. I probably asked two or three times and the response I got from staff was, "No, we haven't heard anything", so I don't know; I don't know. THE COMMISSIONER: I think you and the witness might be at cross-purposes, Mr Parish. You might have to introduce that again.			
5 6 7 8 9				
10 11	MR PARISH: Perhaps.			
12 13	THE COMMISSIONER: That's no criticism of the witness.			
14 15	MR PARISH: That's criticism of me.			
16 17 18 19 20 21	Q. Are you aware that there is a provision under the Local Government Act which allows for the council to pass by resolution formal censures of a councillor for misconduct? A. No.			
22 23 24 25 26	Q. I take it from that then that you were never advised about that or had discussions with other councillors about that possible step? A. No, and that's a great pity.			
27 28 29	MR PARISH: I was going to move on from that topic, Commissioner, unless you wanted to touch on it.			
30 31 32	THE COMMISSIONER: Can you just give me that section number, please?			
33 34	MR PARISH: 440(f).			
35 36	THE COMMISSIONER: 440, yes, thanks.			
37 38 39 40 41 42	Q. Was there ever discussion about the council considering a resolution to refer allegations of misconduct by any councillor to the departmental chief executive? Was that something that was brought to your attention? A. No, not my attention.			
42 43 44 45 46 47	MR PARISH: Q. We had some evidence this morning from Councillor Scandrett about a carpark on Wattle Street, I think. Are you familiar with that decision or issue, perhaps is the best way to put it? A. I'm familiar with the carpark and			

- 2 Q. Yes.
 - A. -- that's it. I'm not sure if there was any issues, I'm not sure, I don't know.

- Q. There was a suggestion I think this morning, if I understood the evidence of Councillor Scandrett properly, that you might have had a conflict of interest in respect of the Wattle Street carpark.
- A. Myself?

- Q. Yes.
- 13 A. Absolutely not.

- Q. Do you recall any issue about that coming up at the time?
 - A. No.

- Q. The evidence also seemed to be this morning, without the benefit of a transcript, that the councillors effectively held a binding vote in a briefing session about the Wattle Street carpark. Do you have any recollection of that?
- A. Look, I recall discussions, I think we had we were briefed or started to be briefed by an individual, who I can't recall. I'm not sure whether we took a binding vote, I'm sorry, I'm answering honestly.

- Q. Do you ever recall there being binding votes in council briefing sessions?
- A. Binding votes? No, not at all. Could I help you with the conflict?

- Q. Please.
- A. I probably don't need to but I want to make sure that it's clear.

THE COMMISSIONER: It's most appropriate for you to respond, yes.

THE WITNESS: Some time ago Councillor Scandrett claimed that I should have called a pecuniary interest in a matter involving Franklin Street in Mittagong.

MR PARISH: Perhaps that was - I think I might have conflated two separate issues from the evidence this morning.

THE COMMISSIONER: Yes.

Yes.

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Q. Let's assume that I've got two issues mixed up in my

Street, Mittagong.

THE COMMISSIONER:

brain. Α. Okay.

I think that he was referring to Franklin

So perhaps just backtrack and start

MR PARISH:

MR PARISH:

again.

- Let's deal with Wattle Street carpark first and ignore any suggestion of conflict on your behalf. I think, does that change your answer to your recollections of any --No, it doesn't change my answer.
- So that, we'll then turn to the Franklin Street issue. We had some evidence this morning in which Councillor Scandrett suggested - did not say there was one, but suggested there might be the appearance of a conflict of interest in respect of that. Can you give us your recollection and views on that issue. Franklin Street? It was an ongoing matter, somewhat controversial - deemed controversial by Councillor Scandrett, I might add, other councillors on side, you know, that the sale of it was important, many discussions on what we would do with the proceeds of that sale.

Councillor Scandrett somehow, and I'm not sure whether there was any sanctions, but he somehow got involved with the real estate agent that was interested in it who was talking on behalf of, you know, a businessman from Sydney that was interested in pursuing it. That led to the agents that were being looking after it in Sydney - and I can't recall their name but it will be documented - being dismissed and we went back to the start and ultimately Franklin Street was sold to a local real estate agent.

You don't have to answer this question if you don't want to, but as a first term councillor has the conduct of councillors and the way that the meetings evolved over time affected your decision about whether to seek another elected term whenever those elections may be? And, as I

say, if you'd rather not say, if you haven't thought about
it then --

A. No, I can answer it clearly. I mean, at my station in life I probably should be thinking of other things. It certainly hasn't deterred my thoughts and I might - if I can now that you've allowed me: council was terrific, you know, a real cross-section of ideology. But we worked well, you know, and we - certainly robust debates, and I mean robust in a good way the first two years and leading into the third; it was just so disappointing that it went downhill from there but we achieved a lot of good outcomes, a lot of good outcomes.

I was able to, as I mentioned in my submission, to help possibly - well, well over 50 anyway of predominantly elderly people who were just having minor problems with the service desk, et cetera, and I got great satisfaction out of that.

I got great satisfaction out of being able to serve on the Illawarra Academy of Sport. In our planning session we were all invited to present a vision, this was right at the beginning, and my vision was a regional sporting hub at Lackey Park in Moss Vale, and with the full support of council and all senior staff at the time of our suspension that project was ready to go - you know, to start seeking grants. It was always going to - it was not going to cost the community anything, we were going to seek it through government grants. Unfortunately, I think the administrators put a line through that.

No, it hasn't - the behaviour hasn't deterred me, but it just - and I can't help saying that, for possibly a one term, something that I looked forward to, you know, sidetracked by the behaviour, and I emphasise, by the behaviour predominantly by two councillors.

MR PARISH: I was just going to move off the specific topics now, Commissioner, unless you want to --

THE COMMISSIONER: No.

MR PARISH: Q. I'm going to show you Exhibit O. A. Can I keep this or do I --

- Q. Yes, Mr Broad will take that from you.
- 47 A. Yep.

- If you go to the last two pages of Exhibit 0, hopefully you have a press release there which says, 3 "Sacking was political, say councillors". 4
 - Where are we, sorry?

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Q. The last two pages.

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- It should say, "Sacking was political, say
- councillors". 11 12 Α. Yep.

Α.

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Is this a press release that you agreed with and put your name to, at least endorsed?

Yeah, yep, sure, the media release; is that right?

Α. Yep.

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How did this press release come about? Q.

I think - well, I believe, that Councillor McLaughlin had a discussion with the mayor and suggested that it'd be nice if these five councillors, including myself, would meet with the thought of a letter to the media retracting some of the criticisms we've been receiving from the administrator. We did meet, we met out at Fitzroy Falls and agreed to some form of media release, yeah.

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- Q. Who was at the meeting that was convened to discuss this idea?
- The five councillors mentioned. Α.

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Does that include ex-Councillor Markwart as well or? Q. Α. Sorry, yes. Correct.

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So, four councillors and ex-Councillor Markwart? 34 Q. 35 Α. Correct.

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- Q. Anyone else there, do you recall?
 - No. Um, the reasons were yeah, do you want me to --Α.

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- I'll take you through them shortly. 40 Q.
- Α. Okay, sure. 41

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- 43 Was there any discussion at this meeting as to the timing of the issuance of the press release? 44
- 45 No. Α.

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Do you recall if there was later a discussion of the 47 Q.

- A. No, there was a suggestion that it would go in as soon as possible.
- Q. Do you have any recollection of whether there was any discussion at any time about the appropriateness of issuing a press release in the middle of an inquiry?
- A. No, there wasn't, no.
- Q. Do you recall if there was any discussion about whether the effect of this press release might be to undermine the inquiry?
 - A. No, definitely not, and it wasn't it had no it was no reason for I suppose it's, okay, a perception, but no, it was no this had nothing to do with undermining or criticising the inquiry at all.
- Q. There is some criticism of the current Minister; do you accept that?
- A. In regard to hearing the results of this inquiry now that she is the Minister? Is that Wendy Tuckerman?
- Q. Yes.
- A. Yeah, I think there's merit in that, yeah.
- Q. Do you accept that the effect of that might be that people might have the perception that the current Minister has a conflict of interest when receiving this and perhaps acting on this report?
- A. That's fair, yes.
- Q. Do you think that might have the effect of undermining the legitimacy of any actions taken of the Minister?

 A. No, I don't, no.
- Q. Do you think that's at least a perception that could be taken out of putting out what this press release seems to suggest is a conflict that she might have?
- A. It's always possible for perceptions. I mean, it's certainly my view it wasn't designed for that reason. And even reading it, and I support it, it was primarily to be able to at least offer some way feedback on our feelings in regard to the administrator constantly criticising, vehemently criticising, the current council and we had no recourse, and some of these figures came out and they're all accurate, they're from his reports; that was the main reason for this letter. Now, I can't argue that there's

Q. Do you agree with all the, what is purported to be factual statements in this press release?

A. Yes.

7 8 9

Q. Do you agree that therefore at the very bottom there:

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"The plethora of external reports [Viv May] commissioned found relatively insubstantial issues and no smoking gun to justify the suspension of the council."

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Having - and I'll be honest here, when this draft was Α. put together, and we had discussions on some of the content, and the mayor who did the typing, et cetera, was going to send me the draft and he was unable to. could have been a problem with my technology, I don't know, but we tried for three or four occasions on one afternoon. He went through this over the phone and I agreed with it, and I didn't even question the smoking gun; I'm still not sure now where there's a reference or why there's a reference to a smoking gun. I can only assume that, you know, the work of this inquiry will in some way - in some way - justify - not justify, but remove the criticism, a very deep and personal criticism, of some councillors. can only assume that. I'm not sure what the smoking gun was inferring.

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Q. Do I take it from that evidence then that you didn't necessarily agree with every quote that is attributed to Mayor Gair in this press release?

A. Because I don't quite understand "no smoking gun", well, conversely I disagree.

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Q. What about the concept that there is no - that there are relatively insubstantial issues in the reports commissioned by the administrator; do you agree with that part of the quote?

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A. If you just lead me to that, if you wouldn't mind?

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Q. It's at the very bottom of --

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THE COMMISSIONER: Yes, the second-to-last page in the bundle or the first page of the press release.

This is your opportunity to maybe walk back or explain with or hadn't turned your mind to at the time.

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THE COMMISSIONER: So, in fairness to you --

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MR PARISH: So, don't feel bound to defend something in this document if you hadn't turned your mind to it or

agreed with it.

 THE COMMISSIONER: Q. And, in fairness to you, as I understand your evidence it was read to you over the phone; is that right?

A. Pardon?

Q. As I understood your earlier evidence, this was read to you over the phone?

A. Correct.

 THE COMMISSIONER: So, I think as, Mr Parish is saying, he's giving you an opportunity to agree or disagree with the passages that he's drawing to your attention, and the fact that you agreed in that phone call to join in this is just one fact along the way. So, Mr Parish.

Mr Parish, I'm content with, and rightly so, THE WITNESS: to disagree with "the smoking gun" because I'm not sure of The rest of the document I support, that the inference. paragraph you just mentioned, I'm duty bound to support it because I agreed with this document and it's been explained to me that the mayor or Mr Gair has confidence in that If I just may - I'm not sure whether it's being factual. in closing, but if I make one comment personally: and there's no pats on the back here, I'm just telling you how You know, I did my utmost to enjoy the role of an elected member, as a councillor, and on most of the three and a bit years I did, without doubt, and I believe I achieved a lot without song and dance.

To be suspended was cruel and distressful, although in time I was able to acknowledge that we were dysfunctional for the reasons others and myself have just explained, and therefore something had to occur, and it did, and the suspension - once the suspension settled in I was happy with the inquiry with the hope, and still have the hope, that, you know, some good things will come out of this in regard to my reputation and others that really, in my opinion, carried out their duties as they should.

 It pained me no end to have the administrator constantly - and it's, I can finding all the evidence, it's obvious by the print media in Sydney, social media continually criticising and suggesting this council must never be allowed to reform, these current individual councillors should have no right to be re-elected in any

46 47 back to once a month, the planning panel, there's probably others that I can't recall, but I'm not going to comment on

other matters that he's changed in this. There are many,

Q. Is it fair to say that you would keep an open mind -- A. 100 per cent.

Q. -- if you were returned and deal with it on a case-by-case basis?
A. Yep.

MR PARISH: I was going to move off specific topics.

 Q. The approach we've been taking with councillors is to let them give us any further topics they might want to address on and, if I determine it falls within the terms of reference, I'll ask you some questions about it. Do you have any topics or matters you wish to address on?

A. No, thank you, Mr Parish. I think, you know, everything that's disturbed me or - you know, it is a great shame. I think I've - I don't think I have anything else to say, no.

MR PARISH: Thank you, councillor.

 THE COMMISSIONER: Q. One question that comes to my mind, I think you answered it a moment ago, but the evidence you gave earlier about the council finding itself in the position it did predominantly due to the actions of two. Does that lead to - although you put it as the conduct of two, do you accept that the conduct of two influences and affects the functionality of the whole; that is, the whole of the governing body?

A. Yeah, I think I - I absolutely do, I think I mentioned it earlier.

Q. Yes.

A. You know, I came to - once this was unfolded or has unfolded with the suspension, that there was no way that we could continue to operate while that was occurring. We were, you know, the council - sorry, the eight elected members of the council was dysfunctional.

THE COMMISSIONER: Yes, thank you. Anything arising from that, Mr Parish?

MR PARISH: Yes, one further question does arise or occur to me.

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- Q. If the councillors returned, and bearing in mind the dysfunction that was witnessed prior to the suspension, do you think anything's changed? Has there been any for instance, Councillors Turland and Halstead have resigned: is there some dynamic which is going to diffuse the situation possibly, in your view?
- A. We're talking hypothetically.

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- Q. Yes.
- A. So that would mean with Councillor Markwart through health reasons, so that it would bring the number back to six, if I'm correct.

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- Q. Yes.
- A. I believe those six councillors could operate in a professional and, most importantly, respectful manner and I say that without any doubt.

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What about Councillor Scandrett? Q. I don't mean to pick on him, but he will still be there, he's given evidence that he felt he was subject to bullying in the minority in respect of an 8:1 split or a 7:1 split. Is anything likely to change if it's a 6:1 split against Councillor Scandrett? My Christian view would say that you would hope so. That's probably the only answer I can give because there is - it doesn't take much for behaviour to change, it doesn't take too much to swallow your pride and just - and just maybe, given what Councillor Scandrett is going through, and we've all gone through, who knows, he might still have a very poor feeling for the mayor, the current mayor, that he still might determine to operate in a professional and respectful manner. I can't comment on that.

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- Q. Thank you.
- A. I'd like to say that, yeah, I can't add any more to that.

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MR PARISH: Thank you.

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46 47 THE COMMISSIONER: Yes, thank you, Councillor Andrews, that completes your evidence. Thank you very much for your time this morning and I do apologise again that you were kept waiting out there. Hopefully the chair was

1	comfortable while you had to sit there.		
2	T ()		
3	Is there any reason why Councillor Andrews ought not		
4	be excused?		
5	WB B187011 11 0 1 1		
6	MR PARISH: No, Commissioner.		
7			
8	THE COMMISSIONER: Yes, all right. You're excused from		
9	further attendance on the summons. You are free to stay if		
10	you wish, you are free to go if you wish.		
11			
12	THE WITNESS: Thank you, Commissioner. Look, I mentioned		
13	earlier that I do appreciate your efforts and the		
14	Commission as a whole, and to Mr Parish, I truly do. There		
15	was a time when I thought, well, what the hell is going on,		
16	but I'm certain that something will come out of this that		
17	should keep us - well, I hope - well, whether we're		
18	satisfied or not, you know, it's something that needed to		
19	occur and it is occurring and I thank you for your efforts		
20	so far.		
21			
22	THE COMMISSIONER: Well, thank you for your kind words.		
23	Experience tells us we can't please everybody, but we're		
24	going to do our very best to get to the bottom of it.		
25			
26	THE WITNESS: Thank you.		
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28	THE COMMISSIONER: Yes, Mr Parish, what's next?		
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30	MR PARISH: We have Councillor McLaughlin as the next		
31	witness. I'm not sure if he's sitting outside waiting? He		
32	is. I'm wondering whether a short lunch adjournment might		
33	be appropriate now, but not the full hour, so that		
34	Councillor McLaughlin doesn't have to keep on waiting		
35	around.		
36			
37	THE COMMISSIONER: Yes. How long do you want?		
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39	MR PARISH: Perhaps, half an hour.		
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41	THE COMMISSIONER: Yes, all right. Well, I'll extend it		
42	slightly, let's take 40 minutes. I'll adjourn until 1.40.		
43	Thank you.		
44			
45	MR PARISH: Thank you, Commissioner.		
46			
47	LUNCHEON ADJOURNMENT		

1	UPON RESUMPTION				
2 3 4	THE COMMISSIONER: Yes, Mr Parish.				
5 6 7	MR PARISH: Thank you, Commissioner. The next witness is Councillor Graham McLaughlin.				
8 9	THE COMMISSIONER: Yes.				
10 11	<pre><graham [1.41pm]<="" affirmed:="" mclaughlin,="" pre=""></graham></pre>				
12 13 14 15	THE COMMISSIONER: Councillor, I apologise for keeping you waiting today. A. That's fine.				
16 17 18	Q. Sometimes in hearings A. Sure.				
19 20 21	Q things run long, so I do apologise for A. That's fine.				
22 23 24	Q having kept you beyond your scheduled start time. Yes, Mr Parish.				
24 25	res, m Parish.				
26 27	<examination [1.43pm]<="" by="" mr="" parish:="" td=""></examination>				
28 29 30 31 32 33 34 35 36	MR PARISH: Q. Thank you from me too. Councillor, could you start by giving us your personal and vocational background and your connection with the shire? A. Certainly, thank you. Basically, Mr Commissioner, I grew up in the area, went to school here, I did my apprenticeship here, I raised my family here. I worked here for 30 years in the cement industry. I'm a tradie; like Councillor Turland, I suppose, yes.				
37 38 39 40 41 42 43 44 45 46 47	Q. When was your first elected term on the council? A. My first elected term was in 2008. I was the endorsed Labor councillor, I was proud to follow on from the first Labor councillor or the first councillor to run under the banner as a Labor and bring politics into Wingecarribee, I suggest, and he was very well respected; he'd hate me saying so, but Phil Yeo was a very - an excellent councillor and an excellent mayor and he asked me if I would consider running for council and that's - eventually I accepted that offer.				

- Q. Had you had any experience in seeing council meetings or the like before 2008?
- A. I did attend council meetings in the run-up to that election and when Phil Yeo was still sitting on that council, the 2000 to 2004-2008 council, yes, I did attend council meetings, but up until then I hadn't had a lot of experience apart from years ago when I moved a house; I moved a house in Welby many years ago and at that stage I did present to council because there was some concerns about it. I had delegated approval from staff to move the house and they wanted me to brick veneer it, and I said it was a perfectly good weatherboard house and I put it to council and they came and did an inspection. That was my only other contact, but that was when I was a young man struggling with a young family and trying to get a house together, so yeah, Mr Parish, that's my only other contact.

Q. Thank you. Can you give me your general impressions about your experience on that first 2008 council in regard, firstly, to the conduct of council meetings and how councillors treated each other?

councillors treated each other?

A. Certainly. Well, I came onto that council as an endorsed Labor councillor, there were two Liberal councillors and there was a Green councillor and some independents on that council. And my impressions, was it,

sorry? Can you --

Q. Your general impressions at a higher level, if you can recall any, by the way -- A. Certainly, certainly.

Q. Firstly, councillor to councillor behaviour at council meetings?

A. Look, I think the council started off pretty well. Look, we'd come into a council that - as the GFC was going on. Council was in a situation with Lehman Brothers, they'd originally put money into Growing Security. Growing Security was taken over by Lehman Brothers and we know about the GFC, so there was problems with regard to that.

 Look, can I say, and a lot of people still don't realise that all that money that was out there actually got returned. I know Councillor Juliet Arkwright was chair of

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finance at the time and likes to take credit for her efforts in getting that money back, but can I say, if we hadn't have had Doug Neville and Mr Barry Paull who were diligent in their work and excellent staff to actually convince council that we needed to chase this money town and there was a good chance we would get it back.

So, there were councillors there that thought that we should just forget it, it's gone, we've lost it, move on, but I voted with Councillor Arkwright at the time and we were convinced that there was a good opportunity, instead of doing a drip feed to our legal people to chase it, that there was a better incentive to have a provider come in and at the end - no win, no pay, but they would get a substantial sum at the end of that if they were successful.

Now, this went on for many years and there were drip feeds of different monies coming back, but we were kept well informed about that and, as I said, Mr Barry Paull and Doug Neville - and Doug Neville spent a lot of time in the witness chair, and because of his diligence he had a - the famous whiteboard where he wrote up, "No CDOs" and he got them to sign off on it, and that whiteboard was kept, and that was one of the significant evidence that was used in the court cases that showed that we led a lot of other councils and we were successful in getting that money back because they'd signed off that there'd be no CDOs and they actually put money, after being told they wouldn't, they put it into CDOs.

So, it was - it was - it was difficult because a lot of people in the community were very upset; it came in that we'd lost all this money. I think the opportunity for councils to actually go out on their own, I think up until then council was required under government legislation to put money into, you know, government bonds --

Q. We might be going slightly off topic.

THE COMMISSIONER: It's all very useful background -- A. Okay.

- Q. Just let me finish. It's all very useful background. A. Okay.
- Q. I'm aware of that issue and I can understand why it was a matter of concern not only to all councillors but to

1 2 3	the wider community. A. Yes.
5 5 6 7 8	Q. But I think Mr Parish's question was directed primarily to your experiences and observations of councillor to councillor interaction during that 2008 term. A. Sure.
9	THE COMMISSIONER: Is that right, Mr Parish?
11 12	MR PARISH: That's correct.
13 14 15 16 17 18 19 20 21	THE COMMISSIONER: So, if you could just direct yourself to that question, I'd be grateful. A. Sure. Look, my memory of that particular council was - actually, it's interesting that I can say it now, but Councillor Scandrett did run in that election, he ran No.2 to councillor Jim Major. So, Councillor Scandrett has been around and, as he said in his evidence, a council watcher, but can I say more than that, Mr Commissioner, that Councillor Scandrett, with
23 24 25 26	Q. I'm sorry to interrupt you this early, but we're going to get off the rails pretty quickly A. Okay.
27 28 29	Q unless we direct ourselves to the question. A. Sure.
30 31 32 33 34 35	Q. And Councillor Scandrett was not a member of the governing body in 2008. No doubt, you'll have some opportunity later to describe your interactions with all councillors. A. Okay, yes.
36 37 38 39 40	Q. But what Mr Parish and ultimately I am interested in are your observations over time about the interaction between councillors, and I just want to start with the 2008 term, where they A. And staff, sorry, did I hear?
41 42	Q. No, just councillors at this stage. So, were they
43 44	good, were they bad, were they mixed? What is your observations of the councillor interactions during the 2008

term?

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Well, generally I thought they were pretty good.

Look, we're not in opposition, I was an endorsed Labor

councillor. I think, you know, we're all there to work for the community. I was on the Arts Committee with Councillor Arkwright and her No.2, David Stranger. I made a point of being friendly with the fellow councillors, to try and work as a team. I thought the idea that we're representing the community, we're not there in opposition, even though sometimes, you know, someone would throw that sort of line in, "Oh, you're a Labor, you're a Liberal", that's not how it worked in local government. And I think generally the council worked reasonably well in that particular term of council between councillors.

MR PARISH: Q. Can I explore something with you that I was going to deal with later, but you raise the idea that the way local council works is a bit different, and you also used the phrase "we're not in opposition". In your view, is there a distinction to be made between the way perhaps state and federal politics works, where there is an opposition bench and -- A. Certainly.

O and the

-- and the way that local council works where, firstly, there isn't the same party political lines, notwithstanding you're a member of a political party, but also, there are different obligations on councillors as to how they are to deal with decisions that are made? in your view, a different beast, local government, as distinct from our other two layers of government? Certainly. I think there's a collaborative approach generally by the governing body in that regard and, without trying to undermine other councillors or have a point of I mean, we all come to council with our own life experiences, with our own interests, with our own passions, with our own intellect, to provide what we think is a reasonable sort of homogenous sort of cross-section of the community. As I said, I'm a tradie, the councillor before me was an academic; he was, you know, a man that worked at You know, I think that's where local a very high level. government is all about, it's about representing local people.

 Q. Thank you. Sorry, I took you a bit off topic. Can you give me your impressions of the councillor to councillor interactions in the 2012 term?

A. Yeah, that was a different councillor council, yes. Again, we had two Liberal councillors come on, Holly Campbell and Juliet Arkwright. We had some Independents in

myself and Duncan Gair, there were a couple of new faces but some councillors were re-elected, Jim Clark who I sat next to, so that council dynamic did change.

And, I think you've heard evidence, Mr Commissioner, towards the end of that - from Mr Paull and others - that we were probably very dysfunctional. There was a lot of Codes of Conduct, I think we were the second-highest in the state with Code of Conduct. There was animosity between councillors generally. I think staff tried their best with regard to trying to - with training, tried to plicate the situation.

But before the Act changed we had a change of mayor every 12 months; that was problematic, there was always argy-bargy around who would be mayor, and I know that when Councillor Arkwright lost the support of her other Liberal candidate or other councillor who then subsequently left the Liberal Party, there was a change and Councillor Gair was elected. Sometimes there could be a 5:4 block on council, there was nine councillors, so that council was problematic and so much so that for a long time the OLG sent representatives to sit in the gallery to observe council. And I think, as ex-Councillor Campbell said, Holly Campbell said, she was surprised that we weren't put into administration at that stage or the Minister step in, but --

THE COMMISSIONER: Q. Is that your view as well?

A. Well, I think we were very much on notice,

Mr Commissioner, we were on their radar: they were there
watching council that we didn't become dysfunctional, and
so they were there --

- Q. I understood your evidence earlier to be that you thought that that council was dysfunctional; did I understand you correctly?
- A. Tending to be dysfunctional, yes, I think sometimes it was dysfunctional, yes.
- Q. You'll have an opportunity later in this process, not in these hearings, to make written submissions to me should you wish to do so -- A. Thank you.
- Q. -- which will give you an opportunity to refer to other evidence, but I think I'd be most assisted when

Q. So, if you just bear that in mind, that's probably going to give me the most assistance and you'll have an opportunity to emphasise the other parts of the evidence should you wish to do so in due course.

A. Sure.

THE COMMISSIONER: Yes, Mr Parish.

MR PARISH: Q. I'm going to directly contradict the Commissioner and now ask you for your impression on one piece of evidence only. There was evidence from Mr Jim Clark that the behaviour and dysfunction of that council precipitated or at least was part of his decision not to run again and Ms Arkwright gave similar evidence.

 In your impression was the dysfunction or problems in the 2012 council so great that you could understand why councillors would not want to run again after that council? A. Yes, I could.

Q. Do you agree that that's a pretty dysfunctional council to get to the point where people are saying, "I don't want to be involved with it any more"?

A. Yes, I would.

Q. Just dealing slightly differently with the question of the behaviour in briefings in that 2012 council, did you perceive or have any impressions about behaviour, positive or negative or neutral, in the briefing sessions of that 2012 council?

A. Yes. A lot of the briefing sessions were acrimonious. There were stand up yelling fights that I do remember between councillors where, yeah, staff had to sort of intervene, I would say.

Q. This is in the 2012 term; is that correct?

A. That's correct.

 Q. Turning now to the 2016 term - I keep on getting the numbers wrong, but I think five or six of the councillors from the previous term got re-elected in 2016; is that about right?

- Q. Did you have any impression or do you recall any thoughts you might have had at the time of re-election in 2016 as to whether the dysfunction might continue in the current term?
- A. Well, I was hopeful it wouldn't, but initially it wasn't apparent in that first couple of years of that council. What I thought, Mr Commissioner, was something that we always did in this council was, we always went to tea after council meetings, like having a game of football, the rough and tumble in the chamber but at the end of the day we could all sit down together, and I think that kept the soul of council and councillors at a level where they could still communicate with each other on a on a good basis whether you disagreed or you'd had a bit of a go at somebody, and that was something that I think was good for councillors, the councillors would sit down with senior staff and we'd talk about something different.

But, getting back to your question, the briefing sessions, yes, were problematic; there was personalities there, as you probably observed, and egos, that it was just - they just wanted it all their way.

- Q. Do you have a suspicion or an idea or an insight into what led to a decline in the behaviour of councillors about two years into the present term?
- A. Well, can I say without any reservation that Councillor Scandrett was a significant problem and continued in many facets. Can I relate something to you, Mr Commissioner?

THE COMMISSIONER: As long as it's relevant to the question, yes.

 THE WITNESS: Well, I think it goes to - on my first term of council I had the privilege of going to a conference. On the way to that conference, or right at that conference, I met the Mayor of Leichhardt and I asked the Mayor of Leichhardt, "Did you know a Mr Ian Scandrett?", and he explained to me the MO of this particular person. He said, "He would get all these little groups under his umbrella and he would cause disruption". He'd had experience in Leichhardt. I explained to him he was - he'd run for council down here, and basically he was a bit horrified because he thought that this man would bring council down,

MR PARISH: I don't think that's necessary, I think we can probably guess who it is, actually.

10 A. Yes. So, if I can say, Councillor Scandrett was a thorn in the side of this council.

Q. Just back to my question about whether you perceived any change at about the two-year mark, which I think you referred to before; did you perceive any reason for that change? And I'm talking at the general level of councillor to council conduct.

A. Councillor to council conduct, yes. The first two years of that council was presided over by Councillor Halstead; that seemed to be a reasonable council in my opinion. He didn't play a 5:4 block within council. He council went along in those first two years reasonably well. I think he controlled the meetings well, he controlled Councillor Scandrett and --

 Q. Can I just pause there and ask, how?

A. Well, that's a very good question. He was his deputy for two years and I think, in my opinion, we thought that that might be the best way to control Councillor Scandrett, that if he was the deputy to the mayor that might be in some way that he would be not so - so much of a distraction or a problem within council.

Q. I'm reminded of a quote from, I think, Lyndon Johnson that relates to being inside or outside tents; is that -- A. Beg your pardon?

Q. I recall a quote from Lyndon Johnson about being inside or outside tents and what someone might do when they're outside the tent; is that a general -- A. I think that's a good analogy, sir.

 Q. And so, was in your evidence there a change in the tone when Mayor Gair became the mayor in about 2018?

A. I believe that was the case. What probably didn't help was our voting method, we changed our voting method. It used to be a show of hands and everyone knew how

everyone voted, that was it, and everyone saw it. And that was changed, so it was a secret ballot vote. And there was some irregularities going on because some councillors - one in particular - didn't vote, so there was some problems about that. And the way some of the voting went, I think the mayor felt that he couldn't have a lot of confidence in his deputy, which was Councillor Turland, and that started a bit of acrimony within that.

Now, can I say, I got on pretty - can I add to that?

Q. Yes.

A. I got on pretty well with - I made the effort to be able to communicate with all councillors. You know, in my opinion, Councillor Turland in the first - reasonably in his first terms was a good councillor and I stuck up for him. We'd both grown up here, we'd both raised our family here, we had common interests, we'd both been tradies, although he's very successful and very wealthy, but he was someone that I sort of supported, even though I don't agree that developers or real estate agents should be on local government and I've told him that. But our relationship broke down unfortunately; I mean, he'd invited me to his 60th birthday party, I'd gone along to that, my wife and I, so I had a good relationship, I thought, with him.

But at the last election, and I have a witness to this, Councillor Grahame Andrews, when he stood as mayor he actually waited downstairs to berate me and tell me exactly what he thought of me, and it was pretty hurtful because I'd done my best to - even though we didn't agree in the chamber on a lot of things, I always said he was there for the right reasons and I thought a lot of the time he was.

But I've got to say that when his DA for his - which wasn't dealt with by this council because of the size of it, it was over \$30 million, it went to the JRPP to be, you know, decided on. I'm not a vindictive person at all. With regard to the breakdown in relationship, when we had our training and Mr Norm Turkington was here to do psychological and - I asked him, I said to him, I said, "I'd like to sit down with Councillor Turland and I'd like to - can you facilitate that?" And he did, and the idea that I had there was, I'd like to maybe get him back in the tent, see if I could work with him a bit better because he'd been someone that I - thought reasonably highly of, but after that, after his, after his DA, he'd felt incensed

that he'd been wronged - maybe he had been - by staff recommendations, by the lawyers, the money that he had to put up, the money it had cost him to try and get this development up and how it was basically downsized to such that it wasn't probably viable, so he was angry.

And, in that behaviour, he did take it out on staff, it was obvious. I think any reasonable person looking at council meetings can see for themselves the attacks, unfortunately, that went on. And look, I had a lot of respect for our general manager, I had a lot of respect for our senior staff, but they were attacked.

I think one of the reasons the breakdown happened with me was that three councillors called a special meeting to decide on the future of the general manager and in that meeting I moved a motion of support for the general manager: that got up. He was incensed because they'd called the meeting to have another - they had another agenda and they were putting forward another proposal, but because I'd put mine up and it was supported, mine saved the day. After that meeting - sorry, if I'm raving, just bring me back.

Q. I don't want to cut you off, though I just have, but I'm interested. So, we've got matters external as it were related to a DA that -- A. Correct.

Q. -- has turned Councillor Turland's mind, in your opinion --

32 A. In my opinion.

Q. In your opinion, of course. There's a brewing fight about the future of the general manager; is that about right?

A. Yes.

Q. And then there's a change in the chair to Mayor Gair and the way he handles meetings; is that about right?

A. Correct.

- Q. And this was all at about the same point in time; is that fair?
- A. Yes, it's the later end of the 2016-20 council, yes, that's correct, sir.

- Q. Can I ask your impressions at that time as to how either the governing body or specific councillors were treating senior staff, both in briefings and in council meetings?
 - A. I always conducted myself, as I've said in my submission, with the utmost respect for my fellow councillors the most time and for our staff, but there were attacks on senior staff, not only at council meetings, but in briefing sessions to the point where it was I think I was concerned that there could be said to be a claim of harassment and bullying that was taken to a, you know, quite a substantial level.
 - Q. Can you give some examples of that sort of behaviour in the 2016 --
 - A. Yes, well, I think I saw one this morning with regard to Councillor Turland telling the general manager that she "Would respond", "Yes, you will". I mean, that's not the way to talk to a general manager. The other attacks were generally about the bushfire and why we hadn't, or she hadn't, organised a review or a response of council's how council dealt with the review of the fires and a submission on that to the State Government state authorities. But you've got to remember, this wasn't our fire, this was the RFS's fire and we're controlled by the RFS and the police.

Can I just mention --

THE COMMISSIONER: Q. Just on the topic of that submission, while you mention it, what do you understand happened in relation to the council putting in the submission to those two inquiries?

- A. The submission went in late and it was only three or four pages, I understand.
- Q. Yes. Do you have any other understanding of how those state of affairs came to be?
- A. I don't, I don't really, no, but it was a vehicle for certain councillors to attack the general manager on.
- Q. Yes. Did you have a concern about whether or not what the council did was adequate in relation to those two inquiries?
- A. I think council's response at the time was the important bit I'm sorry if I'm not answering --
- Q. I appreciate that, my question's slightly different.

1	Α.	Yes.
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Q. I'm just stepping away from how the issue was used, as you put it, by other councillors. I'm just seeking to explore with you whether you had any concerns about the appropriateness of, or adequacy of council's engagement with those two enquiries; was that a matter that you turned your mind to?

Å. Yes.

- Q. And, what's your view about that?
- A. I think I was disappointed at the time and I think I said so in the chamber, that I was disappointed, that it was an operational matter basically, I understood; that it wasn't something that the governing body was to do, it was for the operation of the staff.

THE COMMISSIONER: Yes, thank you.

- MR PARISH: Q. Are there any other specific examples that stick out in your mind of improper behaviour by councillors towards staff that you want to address us on now?
- A. Look, I did see some of those over my term, but you're asking me about the last term of council, aren't you?

Q. Yes, just the last term of council. A. Sure.

- Q. And, if you don't have any specific recollections, that's fine as well or --
- A. No, I can't say the others are sort of hearsay that I didn't actually witness, but there was banging on doors and shouting and yelling that was after that meeting where the council had a special meeting to deal with the general manager, so yes, after that meeting I think there was a display of bad behaviour.

- Q. What about what, in your impression at least, was improper interference between councillors and staff or senior staff? Did you witness or hear of any of that in the last term?
- A. Well, apart from the ones we've already seen, I think, with Councillor Scandrett turning up at the RIC, no, I can't think of any others.

Q. Thank you. Can I just ask you some questions about

the induction process in the 2016 term. 1 Do you recall 2 going into induction sessions immediately after you were 3 re-elected in September 2016? I know they happened, I can't give you 4 Yes, I can. 5 the dates, sorry? 6 7 Perhaps one was at the end of No, that's fine. September 2016, around 30 September; does that sound about 8 9 right? I imagine that'd be correct, yes. 10 11 12 Do you recall whether the sessions that you attended at least were one-on-ones or were they the entire governing 13 body? 14 15 Α. Generally they were the entire body. 16 17 Do you think they were well attended and well run to the best of your recollection? 18 19 Α. I do. 20 And appreciating that you were a councillor in 21 previous terms as well, do you think they equipped 22 23 councillors with the knowledge they needed to conduct themselves in the 2016 term? 24 25 Α. I do. 26 27 Do you recall or have any impression as to whether you 28 were appraised of the changes to the Local Government Act 29 which had occurred at or about the same time as your election in September 2016? 30 31 Α. I do, yes. 32 33 And do you think that information provided was 34 adequate to equip you? 35 Α. I think it was, yes. 36 Were you physically given copies of the Code of 37 Conduct or Code of Meeting Practice? 38 39 Α. Yes. 40

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- Q. Did you retain those and were they updated from time to time, do you recall?
- 43 A. Yes, they were.

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Q. Do you have any other comments to make, positive or negative, about the induction training that you received in the 2016 term?

- Q. Do you recall if you were left with the impression that the induction training allowed you to come away, and other councillors, with an understanding of their roles and responsibilities as councillors?
- A. Absolutely, I believe that's correct.

- Q. Can you tell me what your understanding of the statutory roles of a councillor are?
- A. Sure. Well, the statutory roles of the council, the elected body, is basically the strategic consultation with the community and moving that forward. It's a little bit like making the destination: the ship's going to go here, and the staff get it there. So, basically it's a lot about the strategic side of and the operational side and the strategic side are quite separate. So, we're there to pass the budget, to look at all the works programs going forward, to see the priorities of council where council is financially exposed or the budget, and we always had a balanced budget; we did never run a deficit. Council staff were very strong with that.

I mean, I know a lot of times when interest rates were very, very low a couple of us went to senior staff and said, "Look, why don't we really borrow some big money and get some big projects going?", and the staff's response to that was basically, "That's fine, we can borrow the money, but it's paying it back, it's paying it back", and that's something that they were - they were good managers. We had good staff, we had good financial people here to make sure that this council stayed financially very sound, and that's how we found it and that's how we would have hoped to have left it.

- Q. Do you understand there to be a statutory distinction in the roles of the councillors and the roles of the governing body?
- A. I do.

- Q. Can you give me your understanding of what the statutory roles of the councillor is?
- A. The statutory responsibility of councillors is to how do I paraphrase this? We are representing the - we've

got a democracy, we're representing the people of this shire from all levels; to be honest, to be open, to be fair to - you're always a councillor; the responsibility to set the direction of council; to undertake the review of the That's the only person that we general manager's review. had any influence over with regard to the governing body. The general manager would advise us of, if she - and I've served under four, I think four general managers - three or - three general managers; they all had different opinions on how they would operate, whether they would have deputy general managers or directors, but that was their role, they ran that part of the organisation and that was something that councillors didn't get involved in. day-to-day running of council was left to the general manager and the senior staff. Our role was listening to the community and to see that the role of the strategic part of the local government, our LEP, our DCPs, were updated. I hope that - is that?

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- Q. Thank you, yes. Can I just ask you about the LEP and the DCP?
- A. Sure.

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We've had some evidence that witnesses have been left with the impression that they may not have been fit for purpose, and we've also had some evidence that the housing strategy perhaps hadn't been passed when it could have been Do you have any views on that, whether done earlier. that's a fair impression or a misguided impression? Yeah, look, I was always very supportive of the LEP. The LEP came in in 2010, it had been a template put out by the State Government that had to apply right around the state, so it's hard to fit in all those things, but the community has an input in the LEP, so our strategic staff would engage over a long period with different groups within the community. Because our LEP, our Local Environment Plan, is what people rely on to know where, you know, they can enjoy the amenity of their property; whether it's in different zones, whether it's R5, whether it's so, the LEP is the basis that stands up in the law courts.

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So that, basically it was a long time getting to the situation of 2010, and a lot of people had input into that, and then it's got to go to the Department of Planning, it's got to be signed off, it's got to come back and it's accepted. So, we all have an understanding of the rules of the game where things are permissible and where things are

The DCP is only a guide and I understand what you're asking me there, that some people felt that it was a bit difficult to - from one town to the other, that the DCPs varied, and that was something that was maybe a hangover of this council when it was first amalgamated back in 1981. So, we've, yes, consolidated the three councils way back then.

- Q. Do I take it from that answer, and particularly your observation that people should be able to enjoy the amenity of their property, that if someone puts in a development application that complies with the SEP, the LEP and the DCP and the planning people that council otherwise say it complies, then it should be approved?
- A. Generally I would say that would be the case, and most of those cases would be delegated to staff; I think the only ones that would come to council would be the contentious ones, the ones that Councillor Markwart said are in that grey area, certainly.

Q. Who determined whether they were contentious or not?
A. I think the staff --

- Q. Can you explain to us the process of how the matters were called up?
- A. The staff would basically know, I think they had a good idea which ones would be contentious and they would bring them to council, usually with a recommendation, and could be debated.

Q. If that was - pardon me. If that recommendation was, it otherwise complies and we recommend approving it, was your general approach that it ought to be approved as a matter of course?

 A. Not necessarily. We would listen to the proponent and we would also listen to the community or the objectors. We would ask questions and we would judge the matter and we would make a decision, not just on what staff had recommended, but we were the governing body, so the governing body would take into consideration if it was compliant or if there was some variations that could be made to improve the development. And we would listen to the community, we would listen to the objectors that might have reasonable grounds that their amenity was going to be

compromised, so in that case I think that's a reasonable summation.

- Q. We heard some evidence this morning from Councillor Andrews who said he had a personal policy where, if it otherwise complied and the staff recommended it, he would not stand in the way of it passing. Do I take it that you had a slightly different view and --
- A. I would disagree with that, yes, I would. That's why we've got a local government, that's why we represent the community, that's why we're here, and that's why we dealt with the DAs: we did listen to the objectors, we were reasonable. I'm not saying that every time we got it right, no-one does, but there was the opportunity for people, if they weren't happy, they could take it somewhere else.

- THE COMMISSIONER: Q. Yes, just on that. It's been suggested to me that on occasion the governing body adopted an attitude in considering development applications that had been identified by staff as being compliant and recommended for approval, that they would be refused by the governing body on the basis that it can be sorted out in the Land and Environment Court; what would you say to that suggestion?
- A. I would say that that's not not a realistic thing that I would have thought that this council did. No, I wouldn't agree with that, I wouldn't agree with that at all, Mr Commissioner.

Q. Were there occasions in meetings where applications were rejected and in part of the consideration was, well, the applicant may not challenge this in the Land and Environment Court so we'll reject it even though it complies and has been recommended for approval?

A. No.

- Q. Did that happen?
- A. I don't think so. No, I don't think so.

 Q. Do you say, if a development application was rejected, that it was otherwise compliant and recommended for approval and part of the reasoning process was, well, if the applicant wants to, they can sort it out in the Land and Environment Court, is that an appropriate way for the governing body to exercise its role and responsibilities in considering development applications in your view?

- Q. Earlier in your evidence you said that staff would bring matters to full council; is that how the call up process worked?
- A. No.

- Q. So, how did development applications come before full council?
- A. DAs were on a Friday, I think on the planning, the second week, we would see all the DA list. A lot of the times, if you wanted more information on a DA, you could ask that it come in the weekly circular. So, you know, if someone had raised a matter with you and were you were a bit concerned about it, you could ask for that to be more information from staff. That put staff at more work and you didn't do that unless you really needed to. But if you were concerned about something that you thought was you weren't happy with, say something that was going to be built in a conservation area, for instance, you might say, "I'm a bit concerned about that, I might want to call it up".

- Q. Yes, so it was up to the individual councillors to identify them?
- A. That's correct.

THE COMMISSIONER: Thanks.

- MR PARISH: Q. Forgive me, but in that example is it likely that something being built in a conservation area would have received the tick from the planning staff in the first place?
- A. Well, the planning laws changed and up until recently our conservation areas were were reasonably protected, I'd say, apart from seniors living is now allowed. The changes by the planning, the state planning, actually

overrode a lot of our LEPs. So, for instance, now you can have a hospice or a hospital in nearly any street in Bowral or anywhere in the shire. So, it's a concern to me and it's a concern to people on my Heritage Committee that a good council like this over many years has managed to preserve the uniqueness of our beautiful shire, and yet the planning instrument now allows for these type of developments.

I opposed developments quite strongly, one in particular that in particular was the hospice that was going to go in a heritage conservation area that could have been dealt with, I think, much better than demolishing houses in a heritage conservation area, but that was passed by council, so I had to wear it, but I spoke strongly against it. I asked people to come and speak for it. I think I asked Mr McManus who is very experienced in heritage and had been a state heritage planner to speak to council. And initially I got that decision through: it was opposed. I had people in the gallery walk out and tell me I was a disgrace, but I stood my ground on that because I think the preservation of our heritage in our conservation areas is very important.

After that there was a rescission motion. Two councillors came back, I think Councillor Turland had been away, he came back to council. Councillor Andrews, who said he had a conflict of interest because the owner of the property, his daughter, worked for it; he came back to council and voted for it. So, there it was, it's still on the books. Two houses in a heritage conservation area to be obliterated for a hospice, and I was - I thought that was a disgrace and I was ashamed that the council would do something like that. I know it's allowed, but it's a democracy, I had to wear it, but I was very disappointed, Mr Commissioner.

- Q. Can I ask you about your views on the local planning panel that the administrator has instituted. Are you for or against or neutral on the local planning panel?

 A. Well, I'm very much against; that's my view.
- Q. Why?
- A. That's local government; it takes the "local" out of local government, if I can steal (indistinct) Clark's words.

- Q. It's quite literally allowed under the legislation; why?
 A. Yes, and a lot of councils do it. I certainly thin
 - A. Yes, and a lot of councils do it. I certainly think that the community voice is heard best by the democratically elected councillors that sit in that community, and appreciate that community for its uniqueness, whether it be at Robertson, whether it be at Burrawang. How are these people going to have that sort of understanding?

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- THE COMMISSIONER: Q. There are other ways other than through the consideration of individual development applications for the governing body to influence planning in the shire, are there not?
- A. Can you have can I have that again, sorry?
- Q. Yes. There are ways other than the consideration of individual development applications for the governing body to influence and impart some level of control over planning within the shire, are there not?
- A. Are you talking about LEPs and DCPs?

Q. Yes?

A. Yes, there are.

Q. So, does that not still provide the democratically elected governing body with an important role in the process? Do you agree with that?

A. It does to an extent, Mr Commissioner, but the SEP overrides our DCP, so people --

Q. Yes, but that would remain the case whether the governing body considered development applications or not, wouldn't it?

A. True.

37 Q. Yes?

A. Yes.

Q. And, given your evidence earlier about the role of the governing body to be strategic, what do you say to the proposition that the best way and the most appropriate way for a governing body to influence planning and development in its area is at the strategic policy level rather than determining individual development applications?

A. Yes, I would agree with that. We had a very good strategic planning staff that I had a lot of confidence in

1 2	here at this council and I believe they're still intact, one of the few bits that are still intact in this council.
3	O Anyway that all being said and I appreciate you're
4 5	Q. Anyway, that all being said, and I appreciate you're against the idea of a local planning panel
6	A. I am.
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8	Q but in that scenario how is the local taken out of
9	local government?
10	A. Well, the local elected officials are taken out;
11	that's how I see it. So, you might have - you've got
12	planners, you've got, I don't know, planning lawyers and
13	you have one community rep: how does that represent
14	properly the feeling of the community when you've got nine
15	councillors that can form a view?
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17	Q. The nine councillors can control the strategic
18	overarching policy under which all those decisions are
19	made, can't they?
20	A. Yes, I imagine, but as you'd appreciate developers
21	generally tend to push the envelope, and we've seen it here
22	many, many times with pushing the envelope.
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24	THE COMMISSIONER: Yes, thank you.
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26	MR PARISH: Q. Can I just ask what the envelope you're
27	talking about there is? Are you talking about the DCP and
28	the LEP
<u>29</u>	A. Yes.
30	O that you as a sounciller and the governing hady but
31	Q that you as a councillor and the governing body put
32 33	in place? A. Yes, yes.
34	A. 165, yes.
35	Q. You're controlling the envelope; is that a fair
36	proposition?
37	A. That's a fair proposition. The DCP is only a guide
38	71. That is a rate proposition. The bot is only a garde
39	Q. I understand that, but I'm trying to understand, you
10	seem to put some weight on the fact that developers push
11	the envelope, but you've also just agreed with the
12	proposition that you control the DCP and the LEP and that's
13	the way you can influence matters. I'm just wondering how
14	you square that
15	A. Can I recant that and just say, some developers push
16	the envelope; some developers.

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I'm still interested if you could explain how it is that the vice or the problem lies with the developers pushing the envelope when you control the LEP and DCP Why don't you just change something if you've provisions. got a concern about --

I'm not sure if I understand your question, can you just rephrase it for me, sorry?

THE COMMISSIONER: Q. Can I have a go? Yes, please have a go.

- Let's remove it from specifics and talk about a Let's say that across the road here in general example. the carpark someone wants to build a hotel and you as a councillor may not agree that it should go there, whether or not it's permitted or not. But the way the governing body can influence whether that type of development is allowed in this part of the shire is through the strategic overarching plans, is it not?
- Α. Correct.
- So, if the governing body can pull those levers, I think Mr Parish's question is, what significance do you see in the fact that some developer might try to do as much as they can within the parameters of the overarching plan and perhaps even dip their toe over the line from time to time?
- Can I give an example of that? Α.
- Q. Yes.
- For instance, a few years ago we got a big developer move into Mittagong and do a big Woolies development, big box development. Okay, that was contentious here, it was contentious, but it got through. Council dealt with it, council pushed - actually did it. What I would say about that is, even though they imposed that and it met the requirements, what they didn't do was look at all the infrastructure that was loaded onto the community. All the roads, the street lights, the footpaths, the crossings, the upgrade to the sewerage, all those sorts of things council So, even though you can take something in has to consider. its little area and say, that fits the box, generally what does it mean to the shire, what is it going to mean to traffic, what's it going to mean to a whole host of other things that needed to be considered? And this is something that I think the elected body, with good staff and with briefing sessions about how these things go forward can

deal with, and I think that's what local government have sensibly - sensibly - essentially is about.

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THE COMMISSIONER: Yes.

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MR PARISH: Given those views on local planning Q. panel, we've had some evidence and we also had Councillor Andrews' views this morning that planning matters took up an undue amount of time in council meetings. Do you have a view on that, whether that was a problem firstly? I do have a view on it. This area has seen a lot of growth, the majority of DAs would be dealt with under delegation; that they met the criteria, they met the DCP, the LEP, and they would not come to council unless councillors called them up. And I think towards the end of council what happened there was, we changed the situation where there had to be at least two councillors to call something up. I think I've got that right. I've sort of moved on but I think I'm remembering that that was the decision, so that, there was wasn't a massive amount of DAs called up.

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But it's the business of council to deal with DAs and You heard it's always been a problem in this council. initially, from the first witness, I believe, of how bad we were with DAs. And as a council we went to our general manager and we said, "How do we fix this? How do we fix And we threw more money at it. I think we through an extra \$700,000 to the planning department to get more planners on the ground to fix the problem because as councillors we were hearing - we were getting phone calls, You know, people wanted to move here, this is a problem. they wanted to build, they wanted to do things, their businesses: it was difficult, it's been difficult. don't know if we didn't have enough planners.

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Q. Can I ask you to focus for a moment, as interesting as that is, on my question which was the amount of time it took up in council meetings?

A. Yeah, sorry, getting to it: yes, yes. I don't believe

41 42 43 it took an inordinate amount of time. They didn't come up every meeting. I think DAs were only once a month, so it wasn't as if every meeting was bogged down in development applications, there was a lot of other things.

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Q. Thank you.

- THE COMMISSIONER: Q. While we're on the subject of 1 2 length of meetings --3
 - Sorry?

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- (Indistinct) seemed to cut out. While we're on the subject of length of meetings, this council met fortnightly; correct?
- Correct.

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- Meetings would go often in excess of four hours; Q. correct?
 - Correct. Α.

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- I appreciate that one councillor is no analogue for the other, and everyone has their own individual issues, but it might be said that a council meeting fortnightly and having four hour-plus meetings, that's a long time, a lot of time spent in council meetings when other councils have monthly meetings that go for about half or a third of that Now, I fully accept that one can't transplant to the other, but do you have a sense as to why fortnightly meetings occupied in excess of four hours and, as I understand it, sometimes didn't get through the business Do you have a view about that?
- Have you seen the size of some of the business papers, Mr Commissioner, some of them were very - they were very big business papers.

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- Do you have a view about why that is? Why was this council's experience of fortnightly meetings taking in excess of four hours on a regular basis?
- Can I say, bad behaviour from councillors. interjections, people playing to the media, grandstanding, all those things added to the time-wasting, I think.

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This might be slightly off topic. One may observe Q. council meetings on each motion and if there was an amendment almost all councillors would speak twice on the same motion. Do you think that's an efficient use of council time?

41 42 No, I agree that probably isn't, no.

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- Do you think that councillors have an obligation to use their discretion in meetings to ensure civic time is used efficiently?
- I do, I do. 46 Α.

- Q. And do you think that extends to, not just speaking because one can, but only speaking when there is a need to?
 A. Correct, yes.

 Q. And -A. And when we had 12 I'm sorry.

 Q. I'm sorry. I cut you off. but let me just finish. Do
 - Q. I'm sorry, I cut you off, but let me just finish. Do you think the meeting procedures adopted in the 2016 term provided for the most efficient conduct of council business?
 - A. Can I just comment on that and say, yes, because we actually reduced the time that councillors could speak and how many times they did speak.
 - Q. Yes, it still took sometimes in excess of four and a half, and extensions were regular, were they not?
 A. Yes. That's after --
 - Q. Sitting back now with some distance between when you last sat in a council meeting and as you sit here today, do you think that council meetings were efficient in the 2016 term?
 - A. I think they were initially when we were in the chamber. I think it was a different case when we were Zooming, it was difficult under COVID; that was problematic.
 - Q. That might on one view highlight the need for councillors to work together in a collaborative way, mightn't it?
 - A. Exactly, I agree.
 - THE COMMISSIONER: Thank you, Mr Parish.
 - MR PARISH: Q. One of the causes of the long meetings that you identified there was bad behaviour, grandstanding and the like. One of Councillor Andrews' observations this morning was that dealing with DAs was a cause of that bad --
 - A. I missed that, dealing with?
- Q. Dealing with development applications was a cause of some of the antagonism, bad behaviour and grandstanding at meetings. Do you agree with that observation from Councillor Andrews?
- 47 A. Yes, I would agree with that.

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Q.

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THE COMMISSIONER:

MR PARISH: Volume 1.

- Do you therefore agree that the existence of the planning panel will reduce some of the bad behaviour, grandstanding and antagonism at meetings?
- I would agree with that, but I still think that planning matters should be dealt with by the body of council.
- We've had multiple witnesses who have talked about the perception that some people get preferential treatment in the DA process through the council. Firstly, do you have any agreement or disagreement with that impression that other people had and, secondly, whether you think that that is also something that the local planning panel might reduce as a perception?
- I don't agree with that at all. I don't believe there was any special favours done to particular people, no. I - and sorry, the second part of your question is whether that would be effectively dealt with by a planning panel?
- The perception at least that some people got better treatment dealing with their DAs than others would be at least resolved, perception-wise, by the local planning panel?
- That could be the case; I couldn't really answer, but Α. it could be, yes.
- Your evidence that you weren't aware of anyone receiving preferential treatment, in your view would preferential treatment include assisting a councillor assisting a private citizen to draft a DA objection, for instance?
- Would you mind just repeating that for me, please? Α.
- In your view, given your evidence is that you don't know of any examples of preferential treatment, do you think at least in the perception of the public whether a councillor assisting a private citizen drafting an objection to a DA would constitute preferential treatment? That's a hard question to answer. Preferential treatment? I don't think so.

.12/04/2022 (12) 1086 G McLAUGHLIN x (Mr Parish)

I might just take you to tender bundle A.

Which volume?

Yes.

Α.

- In respect of that second clause, do you accept that a councillor assisting an objector to draft an objection to a DA might leave the impression in other members of the public that that objector is receiving preferential 5 6 treatment?
 - Yes, I would agree.

And is that sort of thing something that could be erased entirely with a local planning panel? Quite possibly, yes.

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I'll put the proposition a different way. Q. councillors aren't involved in either the decision-making process or indeed the process at all, then there's no danger that there would be any problem with that? Yes, sure, I agree with that proposal.

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And what about the circumstance in which a councillor might provide information to an objector from the council; in your view, could you understand how that might leave an impression in some members of the public that that objector is receiving preferential treatment? Yes, it could. Α.

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And, same question as before: do you accept that, at least at a propositional level, that would not be a problem if the local planning panel dealt with those matters? Yes, I would agree. Α.

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Q. Thank you.

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If a councillor had done either of THE COMMISSIONER: Q. those two things, that is, provide assistance in drafting an objection, or provided information to an objector from council, do you think that it's appropriate that that councillor would then vote on that application if it came before council?

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That's probably not appropriate, and I see what you're getting at, yes. Can I just say that in the case of prohibited development where you see something happening that's prohibited and yet it continues for six years, and the amenity of the neighbours is destroyed and council, you can't get council to take any action, what are you to do? What are you to do?

45 46 47

Q. Just so I understand you clearly, are you suggesting

- that councillors can act outside the Code of Conduct if the circumstances are thought to be sufficiently serious? Is that what you're suggesting?

 A. No, but prohibited development just means that, prohibited, and if it continues and an objector comes to you saying, "This is black and white, it's prohibited, it's still going on. I've written to council staff, I've come
 - Q. I'm just not sure I'm following you. Are you suggesting that, where the case is to the councillor's mind worthy enough or meritorious enough -A. Sure.
 - Q. -- that a councillor can take steps outside the Code of Conduct to provide that residence with assistance? Is that what you're saying?

to you, I've been through three or four other councillors,

they've all turned me down, go away". Do you just let that

A. I did get a Code of Conduct is your --

individual - you don't give him any support?

Q. I'm not asking you that, sorry.
A. Sorry.

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- Q. I'm asking you in a general sense.
 A. Sorry, can I have the question again?
 - Q. I just want to make sure I understand what you're saying. Are you suggesting that, if a councillor perceives the issue to be worthy enough or meritorious enough, that is a justification for acting outside the Code of Conduct? A. Probably not, no, I'd say it shouldn't be.
 - Q. Probably not or --A. No, it's not. But, um, yes.
- THE COMMISSIONER: Yes, Mr Parish.
- Q. One way a councillor might engage in that is to ask for a report, councillor, is it not?

 A. Yes, you're correct.
- 42 43 THE COMMISSIONER: Thank you, Mr Parish.
- 44 45 MR PARISH: Thank you.
- Q. Excuse me, Councillor McLaughlin, I'm just checking

your submissions to see if there's anything we've covered that I don't need to re-cover. Something that I explored with Councillor Andrews --

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THE COMMISSIONER: Sorry, Mr Parish, before you start. Mr Broad, can that folder be taken from Councillor McLaughlin so he's not besieged by paper and he's comfortable in the witness box. Yes, Mr Parish.

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MR PARISH: Q. Something that I explored with Councillor Andrews this morning was what the council, excluding a few of the more antagonistic, in some people's words, councillors could do about those councillors who they perceived were being disruptive. Do you recall then or have any recollection now about what steps you as one of the councillors who was - hasn't been described as on the antagonistic side of things - could do about the antagonistic councillors?

Thanks for the question, yes. At the very last council meeting when we were responding to the Minister, we were out in that far room, and it was suggested by staff that there was an action we could take, and that action, if I can remember correctly or word it correctly, was that we would ask the Minister or the OLG for the suspension of Councillor Scandrett. Eventually we didn't do that, but that was something that was on our mind at the time and we spoke about it. How did we deal with it? I've never been in that situation before in any council where we wanted to make - get rid of someone that was antagonistic, and someone that had gone out for a long time calling on council to be sacked, even when we were doing our training that we were required to do by the Minister. And I remember at one particular time we had a trainer there, an ex-general manager - or ex-mayor I think she was from Sydney, and I said to her, I said, "How do we deal with a councillor that continues with, you know, going out to the public saying that we should be sacked?" And, she said, "Surely not, surely not?" And I said, "It's a fact". said, "Surely not". I said, "This man here continues to do that" and he just sat there and smiled. So, that's the sort of person we would - even while we were going through the training to preserve this council, he was still out there undermining this council. So, when we were out there in that meeting, when the staff came to us and said, "What are our options?", one of the options was, this councillor He's brought about what he wanted to do, he's needs to go. claimed this is a ground; he's brought council down.

Act for --

1 Q. And --2 3 THE COMMISSIONER: Just - I'm sorry. 4 5 MR PARISH: And, to the best of your recollection, Q. 6 the advice was that the Minister had a power to suspend an 7 individual councillor, is that what you recall at least the advice was? 8 I don't know quite the process, but I think under the 9 Local Government Act for - that there was a provision that 10 allowed for the suspension of a councillor for conduct such 11 12 as, you know, we've seen. And I think it was pointed out earlier by Councillor Andrews that I think we all signed 13 up, signed a Code of Conduct we thought might do the trick, 14 but unfortunately that wasn't successful with regard to 15 Councillor Scandrett. 16 17 THE COMMISSIONER: Exhibit E, page 20. 18 Can the witness 19 have Exhibit E, page 20, please? 20 21 This may be the exact same document you're looking at, councillor, but I think I'll just show it to you in this 22 23 form given it's in our exhibit bundles. This is the letter 24 from the - have you got page 20? Yes. 25 So I think that pretty much goes to sound financial 26 situation: yes. 27 28 Q. Just let me ask the question. 29 Α. Sorry, yep. 30 31 This is a letter from the mayor and then acting 32 general manager to the Minister on 9 March in response to 33 the notice of intention to issue the suspension order; do 34 vou see that? 35 Α. I do. And the notice to issue the suspension order was 37 38 issued on 2 March; do you recall that? 39 Α. Yes. 40

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- Q. If you don't, that's perfectly acceptable.
- 42 Α. No, moved on.

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- Q. You can take it from me that's the date it bears.
- 45 Α. Okay.

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Q. Do you recall it required a response within seven days

- 1 of that date?
- A. Yes, I remember us asking for extra time to do that and also to --

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- Q. We'll come to that. My first question is, given that the notice required a response on 9 March, do you know why this meeting was only held on 9 March and not some time between the 2nd and the 9th?
- A. No, I don't.

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- Q. Do you have a view about that now, about whether having the meeting on the very last day was a wise thing to do?
- A. In hindsight it doesn't sound very smart.

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- Q. Yes, all right. In the body of this letter it sets out the resolution as passed at that meeting, so just familiarise yourself with it.
- A. Sorry, on page 21?

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- Q. Yes, it goes over to page 21, so just refresh your memory about the resolution. It might all come flooding back to you.
- A. Yes. I certainly remember the meeting.

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- Q. Yes, and then if you turn over to page 22, just have a read of that page.
 - A. Okay.

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- Q. And let me know when you're finished.
 - A. Yes.

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- Q. Was this a draft of the resolution?
 - A. Yeah, it changed, No.7 came out and was changed.

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- Q. Yes, it changed in a few respects, but do you recall this draft resolution being discussed prior to the meeting on the 9th?
 - A. I do.

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- Q. Yes, and do you recall anything about paragraph 7 and 8 of that draft resolution and how they came to be in there?
- A. No, I can't remember how they no, I can't remember.

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Q. Do you know who prepared this draft? Was it the mayor and staff or?

1	A. Yes, I think so.
2	
3	Q. I see, so was this presented to you at a pre-meeting
4	briefing or
5	A. Yes, out in that far room, yes.
6	
7	Q. I understand. Was there any discussion about how the
8	matters in paragraph 7 and 8 could come to pass if this
9	resolution with adopted at the meeting? That is, how the
10	Minister could suspend those councillors immediately in the
11	event that they refused to resign?
12	A. I don't know - I don't know under which Act, but I
13	took it from staff that there was appropriate sections in
14	the Act that provided for this.
15	
16	Q. I see. How did it come to be that the motion
17	ultimately presented during that meeting changed, do you
18	recall?
19	A. I remember Councillor Scandrett wanted to record the
20	meeting, got out his phone and was going to record what was
21	said by councillors in that meeting when he read this. The

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In relation to paragraph 8 then back on page 21, did you have an understanding of the process that was being

I'm just wondering at the moment how in particular paragraphs 7 and 8 of the draft resolution became paragraph 8 of the one that was adopted.

mayor told him that, I think if I can remember correctly,

that he couldn't record it. He insisted he would record

Α. Sure.

it.

Q. Do you recall anything about how that happened?

I think the mayor decided that it was too acrimonious to - and it was probably too late at that stage. you really need to ask the mayor. I can't, I haven't got --

envisaged there, that is, the Minister was to take decisive

- Q. That's all right if you don't recall. I can't really recall, I'm sorry.
- That's fine. It's a perfectly acceptable answer to Q. say you don't recall. I'd rather you not speculate if you don't have a recollection.

1		on against councillors identified by the majority of
2	the e	elected council? What was the decisive action and did
3	you h	have an understanding of the basis on which the
4	-	ster could take it based on what the majority had
5	decid	
6	Α.	
7		no, not rearry.
8	THE (COMMISSIONER: That's all right. Mr Parish.
9	1111	Commissioner. That's all right. In railish.
	MD D/	ARISH: Q. Councillor McLaughlin, I'm going to show
10		
11	-	a section of the Local Government Act, 440G. Do you
12		440G in front of you?
13	Α.	I do.
14	_	
15		Were you aware of this section and the actions
16	envis	saged by this section before today?
17	Α.	No, I wasn't.
18		
19	Q.	I take it from that, that the use of the censure
20	power	rs for misconduct of the governing body was never
21		ed with you by either other councillors or staff?
22	Α.	That's correct.
23		
24	THF (COMMISSIONER: I don't know; Mr Broad, could you
25		st, if necessary, Councillor McLaughlin to have 440H?
26	40010	se, in hoododary, countries holdady. The comave mayor hom.
27	Q.	You should have there 440H which deals with the powers
28		ne departmental chief executive, and in subsection (2)
29	it sa	
	11 30	ays.
30		The Departmental Chief Everytive may
31		The Departmental Chief Executive may
32		conduct such an investigation
33		
34		Pausing there, being an investigation into whether a
35	cound	cillor has engaged in misconduct.
36		
37		Then do you see (2)(c):
38		
39		if a council, by resolution, refers an
40		allegation of misconduct by a councillor to
41		the Departmental Chief Executive
42		
43		Do you see that?
44	Α.	Sorry, the number again?
45		-
46	Q.	(2)(c).
47	Ä.	
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.12/04/2022 (12)

Do I take it the answer is the same to Mr Parish's question, that that was not a matter that was ever discussed either amongst councillors or raised with you? I wish it had have been. No, it wasn't.

Did you or any other member of the governing body to your notice or to your awareness seek advice about what could be done into what you perceived to be the misconduct of other councillors?

No, I don't think we did.

THE COMMISSIONER: Thank you.

MR PARISH: Q. I might take you next to 440I and deal with some similar questions.

What was it? 440I, was it?

- Q. 440I?
- Α. Yes.
- With the heading, "Departmental Chief Executive may take disciplinary action for misconduct". I take it from your previous answers you weren't aware that under subsection (2) the departmental chief executive, having made a finding, had various powers to his or her ability to discipline the said councillor?
- Yeah, I see that. Α.
- I take it that your answer would also be, you weren't aware of this before now and wish you had been? I do, I do. I think we were under the impression that the OLG would deal with issues of misconduct, and that was done through Codes of Conduct which just cost a lot of money and didn't result in, you know, any improvement in behaviour, I would suggest.
- Q. Did that impression about how that would be dealt with come from training or induction sessions partly at least? Well, in that regard we didn't get any training with regard to this, so that was - that would have been something that would have been very useful if it had been pointed out to councillors, but I believe staff did investigate and - did investigate the option of, maybe with the mayor, I'm not quite sure, but I did hear that they tried to look at that option. Now, whether the mayor didn't want to take that option, I'm not sure, but I think

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- I'm next going to ask Mr Broad to show you Thank you. Exhibit O. Before we deal with Exhibit O, I might just ask you: we had some evidence last Friday from Mr Barry Paull while he was acting general manager about a direction he received in writing from Mayor Gair about the removal of the eight Pin Oak trees prior to the issuance of a review of environmental factors. Did you know about that direction?
- I've got to think about this, whether I knew or not; I can't quite remember. I don't think I did - did know about Um, I can't - sorry, I can't remember on that one.

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Did you at some point hear about that evidence that was given last week by Mr Barry Paull? Yes, I did.

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Q. Were you surprised by that evidence?

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Well, no. It was a decision of council. Even though I was conflicted a little bit with the Station Street at different times, the majority view was that initially that this project go ahead, and I think we were all but one in favour of it, and then later on there was three that left that consensus, if you like, and it did change over the period, but no, I can understand that Mr Paull would have done the correct thing and waited for all the boxes to line up before he took action on the trees. Yes.

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Thank you. Can I take you to the last two pages of Exhibit 0. That's a press release that was issued and embargoed until 6am, Wednesday March 30, 2022. Do you see that?

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Α. Yes.

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And you're one of the five councillors, and in the case of Markwart ex-councillors, who put their name to this document; is that correct? Yes. Α.

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- 42
- 43 Do you have a recollection about how this document came about? 44
- I rang Councillor Gair and suggested that like-minded 45 councillors should get together and have a cup of coffee; 46 47 that's how that, I think initially it was my suggestion

that we get together. As councillors we've been - we've sat back and copped a lot of criticism, Mr Commissioner, and if you look in my submission you'll see what I said in that with regard to my disappointment with regard to the local members and also the administrator who's acted more like a populist politician. He took every opportunity to denounce council, councillors, senior staff, saying the place was toxic.

I thought he - it was just untenable that this man could be allowed to do this. I mean, I thought he acted under the same Code of Conduct that we did, which was not to bring council into disrepute, and yet, here he was in the paper, at council meetings, saying that we were acting above the law. I'd like to know where the evidence is that I acted above the law. Where does he get this from? How is he allowed to - that's a serious allegation to make. There was good people in staff and councillors that put in a lot of time for this community; to be denigrated like this, I was incensed just like the other councillors were, just like Councillor Andrews was before me.

- Q. So I take it from your evidence that the purpose of this was to answer allegations you feel were unfairly put by --
- A. Yes, I would.

Q. -- by Mr Viv May?

A. Yes.

Q. Why does this include certain allegations in respect of the Liberal MPs from this area?

A. As stated earlier, this council's always had a good relationship with our MPs, our federal and state. Always had a very good relationship. I can remember when Councillor Halstead was the mayor and we had the member for Kiama come to council; the local member was Gareth Ward. I remember the mayor saying what a wonderful local member he was and how pleased he would be to see him as the Premier one day be the Premier. Somehow I don't think that's going to happen now.

 But he, in the earlier part of this council, took in the area of Burrawang, and when there was a selling off of a state asset he made sure that this council got some of that money with the sale of a port or the leasing of the port. That money was about \$7.2m - \$7.4m, I believe, and

- Q. Sorry, that's not quite my question. My question is, why have you included, or do you understand what was included in this press release included criticisms of the local members?
- A. Well, the local members, may I say are first term members, first termers, and the criticism I think is quite justified because these two first term elected MPs decided that they would write an open letter to the Minister, they had their photo taken out the front of this Council Chambers, and they decided that they would listen to a minority, I believe, in this community, to say that no-one wanted us back and that the Minister should suspend us and --

- Q. Is what you are trying to imply from this therefore that the suspension was a political act?
- I believe that'd be the case. This was related to me by the mayor. The mayor kept very good detailed notes in his diary and also senior staff that I won't mention, but with regard to the development at Chelsea Gardens the pressure was put on senior staff and council, and probably the mayor, with regard to getting that moving forward even though the infrastructure couldn't be provided. So, we had ex-Premiers coming down here on a couple of occasions. know Morris Iemma came down here a couple of times to who, this is how the Chinese work, I believe, so it came down to a pressure, and they weren't happy with what staff were saying, and then the local member got involved and, why can't it happen? So that's why, that's why they're in there, that's why, because the mayor had meetings where this local member wanted to know why this development couldn't get going: that's my understanding. I don't know personally, but that's what the mayor tells me and that's what senior staff tell me.

THE COMMISSIONER: Q. This release says:

 "Councillors and senior staff were guilty of resisting political pressure to approve a major land development without the necessary infrastructure like sewerage in place. So we were suspended."

A. Well, that's part of it, yes.

3	
4	Q. You think the suspension was only brought about
5	because of resisting what is described as political
6	pressure in relation to that development; is that what you
7	say?
8	A. Not only, but a part of. But I believe there are
9	senior staff that believe that, that are no longer here,
10	yes.
11	
12	MR PARISH: Q. The initial procedure which ended with
13	the suspension was the issuance of the notice of intention
14	to issue a PIO; do you remember that?
15	A. I don't think I - sorry, could I have the question
16	again?
17	
18	Q. The initial procedure which ended in the suspension
19	was the issuance of a notice of intention to issue a
20	Performance Improvement Order?
21	A. Yes, correct, yes.
22	
23	Q. And on the last day for a response on that the council
24	passed a motion agreeing with the reasons for the
25	Performance Improvement Order; do you recall that?
26	A. Yes.
27	
28	Q. And the notice of intention to suspend was issued upor
29	the basis that:
30	Unan the menitoring of persent mostings that
31	Upon the monitoring of recent meetings that
32	were observed by an OLG staff member the OLG is concerned that some councillors have
33	
34	conducted themselves in a manner that is
35	not consistent with the council's
36 37	obligations to be a responsible employer.
38	Do you saroo with that?
39	Do you agree with that? A. Yes.
40	A. 165.
41	Q. And those were the meetings that had gone on until the
42	penultimate, I think, meeting on 24 February 2021, I think
43	it was; do you agree with that?
44	A. Yes.
44 45	A. 100.
46	Q. Do you agree therefore that the issues which had been
47	raised by Minister Hancock in respect of the Performance
71	raison by minister maneous in respect of the Ferror manee

You agree with that, do you?

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Q.

Α.

I do.

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- Do you agree therefore by that logic, that the governing body had effectively agreed with the reasons for the issuance of a notice of intention to suspend? The majority of councillors had conformed and done the
- training and were, I believe --

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THE COMMISSIONER: That wasn't the question. Mr Parish, can you re-put your question.

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THE WITNESS: Okav.

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MR PARISH: Q. Do you agree as a matter of logic that, if the council agreed with the reasons for the PIO and those issues are still in place at the time of the issuance of the notice of intention to suspend, then there must be at least some level of agreement with the reason for the issuance of the notice of intention to suspend? Α. Yes.

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Do you concede therefore that at least part of the reason for the notice of intention to suspend and the subsequent suspension was justified?

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Yes, I would agree because of the behaviour of a couple of councillors, yes, that's correct.

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How does that square with your comment that you agree that it was a result of political pressure? Well, I think that was very much a part of it.

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local member comes in to see the mayor and senior staff and is - I don't know if she was lobbying, I don't know whether she was lobbying for this development or not, but that's the impression that the mayor had and senior staff at the time after lobbying by various ex-Premiers to get this project pushed through.

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Is it just a coincidence then that the behaviour of Q. the council both at the time of the issuance of the PIO and the notice of intention to suspend coincided with this other political pressure?

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Yeah, I think it - it was around the same time, it was something that had been - it had been on the drawing board for a long time. I think it was first mooted back in about

1	2008,	that the State Government - and we are an arm of the
2	State	e Government and we've got to provide housing - and
3		ally we rejected this development, but it went away to
4		planning panel and the planning panel insisted -
5		tment of Planning, the planning panel - came back and
6	•	do you want to be the consent authority to - we might
7	have	some control and we agreed with that, but basically it
8	was t	aken out of our hands and no money was coming forward
9	to pr	rovide the infrastructure for such a large development.
10		
11	Q.	Do you agree with all of the quotes attributed to
12	Mayor	Gair in this press release?
13	Α.	I think I do, yes.
14		
15	Q.	Just on the very, very bottom there of the first page,
16	"The	plethora"
17	Α.	The first page?
18		
19	Q.	Of the first page:
20		
21		"The plethora of external reports he
22		commissioned [Mr May commissioned] found
23		relatively insubstantial issues and no

relatively insubstantial issues and no smoking gun to justify the suspension of the council".

Do you agree with that?

I do. Α.

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- Q. Have you read all the reports?
- No, and you know why? Because I've spoken to senior staff that are no longer here that I respect --

THE COMMISSIONER: Q. Sorry, just so I understand. You express unqualified agreement with the proposition that external reports commissioned by the administrator found relatively insubstantial issues, not having read them. I understand you correctly?

Α. That's correct.

MR PARISH: Q. And over the page there, there's two references to smoking in this for some reason. That very last quote:

"Hardly the smoking ruin alleged by the Administrator".

1 2 3	Α.	Do you see that? Yes.
3 4 5 6 7 8	Α.	Can you tell me what Mr Gair means by that, when the nistrator alleged there was a smoking ruin? No, I don't think it says smoking ruin, it says king gun", doesn't it?
9	Q.	That's what I mean, he's used "smoking" twice, Mayor
10 11 12	Gair A.	
13 14	Q.	He refers in the very, very last sentence to:
15 16 17		"Hardly the smoking ruin alleged by the Administrator".
18 19	Α.	Oh yes, okay, I see that.
20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35	A. coun coun and this were inte	Do you know when the administrator alleged that the cil was a smoking ruin? Oh, I think at every opportunity he took a shot at cil: that we were dysfunctional, a toxic culture within cil, yeah, it was an opportunity for councillors to see put something in a bit of perspective with regard to . As far as not reading those reports, those reports instigated by Mr May, in my view, with a conflict of rest because he wanted to show to the Minister that was a ruin, and I don't believe any of those COMMISSIONER: Q. That's quite a serious allegation. is the basis for it? Well, this is what - well - the evidence
36 37 38 39 40	Q. A.	Is that just your view? The evidence given by Nick Wilton said that report, hting the Wrongs", was ridiculous, was rubbish.
41 42 43	Q . A .	That's one person's view. Yes.
44 45 46	Q . A .	What about the bushfire report? The bushfire report?
47	Q.	What is the conflict of interest in the bushfire

A. The main people that, in council, that were responding to that were not interviewed, is my understanding: not the mayor who was out there every day, not the two general managers, and I believe probably even Inspector Klepczarek were interviewed. What does that tell you? I don't believe that they have --

- Q. You haven't read the report though, have you? You haven't read it?
- A. I haven't read it but I know they weren't interviewed.

- Q. Did you put a submission in?
- A. I did put a submission submission to you, sorry?

- Q. To the bushfire review?
- A. No, I didn't.

- Q. You had an opportunity, did you?
- A. I imagine I did, but I ...

THE COMMISSIONER: Yes, Mr Parish.

MR PARISH: Q. What about the quote about two-thirds of the way down attributed to Mayor Gair:

 Council has suffered its first loss in at least 26 years of over \$700,000, entirely due to the costs of sacking or forcing the resignation of virtually all the senior staff ...

Is that true as far as you're concerned?

A. I understand that a vast majority of good staff, in my view, that were in this organisation were summarily sacked or made redundant. I believe there were payouts offered to staff to go, with \$50,000 offered; \$50,000 go. This is community money.

 Q. That would be approximately 14 staff if they all got \$50,000 each; is that what your understanding of this is?

A. Look, basically I think that our figures are right.

We as a council had all our budgets audited. We had the biggest works program this council has seen after we had gone to the community for an infrastructure improvement program and we'd put the rates up substantially, but that money was used for designated projects, so we didn't run a

Q. When you provided this to the Shadow Minister did you warrant that all the information in this was correct?

A. I believe it's correct.

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Q. Do you agree that it would be pretty embarrassing if the Shadow Minister asked questions about this in Parliament if some of this information was incorrect?

A. It might be but I don't think he will be embarrassed, I think he can quite reasonably ask those questions.

19 20 21

22 23 Q. Can I take you to page 1 of this document. It's an email which has the word "interim administrator" at the very top of it.

242526

- Q. Just the very, very first document in that bundle.
- A. So, what are you drawing my attention to, sorry?

272829

30 31 Q. Do you see a table in the middle of the page there? It starts with the year 2011/12 and it goes down to 2021/ - 2020, I should say.

32 A. Yes.

Α.

Oh, sorry.

33 34

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- Q. If I ask you to assume that these figures are broadly correct, do you agree that there was a deficit of \$8m in 2011/2012?
- A. You're showing me these figures, I don't know where they've come from but --

38 39 40

- Q. If I just ask you to assume they're correct for the moment?
- A. Okay, yep.

42 43

47

- Q. Do you accept that, if these are correct, then the statement that it was the first deficit for 26 years would be incorrect?
 - A. Well, I know that this councillor had \$100m in

1 2 3	reserves, so whether this is an operating budget or this is a - or what, I'm not quite aware.
4 5 6	Q. Well, it's an operating budget insofar as it refers to a surplus and deficit rather than the net debt or net assets.
7 8 9	A. Okay. Well, I stand to be corrected, but I find it quite surprising.
10	Q. But do you accept that, if those figures are correct,
11	there was in fact deficits of \$8m, \$4m, \$6m and \$4m over
12	the years 2011/12 to 2014/15?
13	A. If I take that these figures are correct, I would have
14	to assume that, yes.
15	to accamo that, your
16	Q. And, if you take those figures are correct, do you
17	agree that it's inaccurate and wrong to say that council
18	has suffered its first loss in at least 26 years?
19	A. It would appear so, but that was the information that
20	I was given and
	1 was given and
21	O Mas this information by and large sives to you by
22	Q. Was this information by and large given to you by
23	Councillor Gair; is that correct?
24	A. I'm not sure where this information came from, but I -
25	I remember being here as a councillor in my term and I
26	don't remember seeing that we ran massive deficits of this
27	amount. I just - yeah, we always had a balanced budget, so
28	I don't know where these figures have come from but
29	
30	Q. It doesn't accord with your recollection?
31	A. It doesn't accord with my recollection at all, no.
32	
33	Q. Thank you.
34	
35	MR PARISH: I was going to move on from that topic,
36	Commissioner.
37	
38	Q. The approach we've been taken, Commissioner
39	McLaughlin, for councillors is, if there's any other topics
40	you wish to address the Commissioner on, you can tell me
41	and then I'll try and figure out whether they might fall
42	within the terms of reference and then ask you questions
43	about them. Are there any topics which you would like to
44	address on?
45	A. I don't think they fall within the - unfortunately.

You can try me.

Q.

46

THE COMMISSIONER: Perhaps just identify the topic and then we'll know where we're going?

A. Okav.

- Q. And feel free, now is your opportunity and if it doesn't fall within, Mr Parish won't pursue it, but if it does --
- A. Can I say a few words about heritage? Doesn't fall within it? No.

MR PARISH: Q. I'm okay with a few words about heritage if it doesn't go too long.

A. No, it won't go too long. Look, I was very fortunate to - I'd been on council with Jim Clark when he was the chair of heritage I've followed that on. I'm a local boy here, grown up here, and at one stage I encouraged Councillor Turland to come onto that committee. I thought, as a local boy, he should know just know how unique this area is. He only came to a couple of meetings, which was unfortunate. But I didn't want Councillor Scandrett on, so that was my reasoning there. I think you can well understand why.

I got - later on in that term Councillor Peter Nelson came on that committee, it's a very good working committee, and I'm hoping, as you heard evidence given by Mr McManus, that problems associated with this council going forward can be eliminated by - if I can hang my hat, just be a little bit bold to say that I did put up a motion in the last bit of council so that we could move forward with all those heritage items that had been deferred in 2012. This is a very beautiful, unique shire and our landscapes, our land form and our built environment really needs to be preserved, and I'm hoping that this is an ideal time for this to move forward.

 And could I say, Mr Parish, without having a council and going to a planning panel, it's probably the best thing that can happen and, you know why? Because councillors won't be inundated by people in the community saying, "Don't heritage list me", and as we know, it's either heritage, it meets the criteria, or it doesn't.

And, as Mr McManus said, if it meets one of those

seven goals it gets heritage listed, and I'm very hopeful that that's something that will go forward after I've gone from here because, as you know, I've said in my submission that I wasn't standing for re-election, and my term was finished in 2020. I was going. I'd arranged for someone else to put their hand up, and because of COVID I got dragged into this situation. And, it's not the way I wanted to leave this council after giving 12 years to the community, I was well supported, and I valued - I felt very humbled to be supported by the council and by the community, my fellow councillors and all those good people that have gone before us on council, and it's just - look, I'm summing up, I'll just sum up and then I'll go, okay?

But look, we stand on the shoulders of giants that have come before us here, this was a good council and it saddens me so much that we are in this situation. And whether it be because it was interference by councillors or local members or anybody poking their nose in here; I mean, this had good staff, we had a good general manager, and it just saddens me that she had to leave this organisation after the treatment she got. I'm very sad to see the integrity questioned of Mr Paull, of other senior staff in this organisation that I held in high esteem.

I think that I tried to conduct myself in this place with decorum and respect, and I respect this Commission. At first I was very - I was very - how would you say it - I thought this was some sort of witch-hunt and I see it's been conducted well and I value that and I thank you, Commissioner, for the way - and it's a hard job you have to sift through all this and find some sort of response, but I do think it was very unfortunate that the local members got involved to attack this council. I don't know why they did it, whether they thought there was some sort of political imperative that made them think that they needed to - maybe they'll only be one term instead of just local members first term, they mightn't get a second term, because I think the amount of money that this has cost and the devastation that this has brought to this community, I think, is very, very unjust and it could have been so better dealt with rather than this huge expense in, you know, this public inquiry.

 But I thank you for your time and all those fantastic staff that I worked with here, and there are still good staff here, I wish them all the best. And to my Heritage

1	Committee, I say well done because you have added so much
2	value to this community and you've done over \$100,000 worth
3	of work, and I hope it's appreciated and I hope it goes
4	forward.
5	TI
6	This will be probably the last time I am in this
7	place, so I thank you for your time and I look forward to
8	democracy being restored, that we do get an election, and
9	the people of this good community get a chance to elect
10	their representatives. Thank you.
11	
12	MR PARISH: Thank you, Councillor McLaughlin. No further
13	questions.
14	
15	THE COMMISSIONER: Yes, okay. Councillor McLaughlin,
16	thank you very much for your time this afternoon. I do
17	appreciate that answering a summons takes you away from
18	things you would no doubt rather be doing, and once again,
19	I do apologise for having kept you before your start this
20	morning.
21	
22	THE WITNESS: That's fine.
23	
24	THE COMMISSIONER: Is there any reason why Councillor
25	McLaughlin ought not be excused, Mr Parish?
26	
27	MR PARISH: No, Commissioner.
28	
29	THE COMMISSIONER: Yes, all right, you're excused from
30	further attendance under your summons and free to go about
31	your day, free to stay should you wish.
32	THE NITTNESS - 1111 - 1 1 1 1 1 1 1
33	THE WITNESS: I'll sleep better tonight, thank you.
34	THE MITNESS MITHOREM
35	<the td="" withdrew<="" witness=""></the>
36	THE COMMISSIONED. Voc. Mr. Dorich is there existing also
37	THE COMMISSIONER: Yes. Mr Parish, is there anything else
38	I need to do today?
39	MD DADICIL. No Commissioner
40	MR PARISH: No, Commissioner.
41	THE COMMISSIONED. All might I'll adjourn until 10cm
42	THE COMMISSIONER: All right, I'll adjourn until 10am
43	tomorrow.
44 45	AT 2 57DM THE INCHIEN WAS ADJUIDNED TO
45 46	AT 3.57PM THE INQUIRY WAS ADJOURNED TO
46 47	WEDNESDAY, 13 APRIL 2022 AT 10.00AM
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