

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 Thursday, 31 March 2022 at 10.02am

(Day 4)

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

2

3 MR PARISH: Yes, Commissioner.

4

5 THE COMMISSIONER: Before you do, there's a couple of
6 matters arising from yesterday afternoon that I wish to
7 deal with.

8

9 At transcript page 250 yesterday Mr Bourne gave some
10 evidence about a meeting on 18 December 2020, this was a
11 community meeting at - I think it was the RSL, I can't
12 quite remember the location at the moment, but it came to
13 my attention yesterday that meeting is recorded and is
14 available on the council's YouTube channel.

15

16 I was just going to enquire with you in relation to
17 some of the meetings that have been referred to and others
18 that may be referred to that are available on that channel,
19 do you propose to notionally tender them in evidence before
20 me?

21

22 MR PARISH: Yes, Commissioner, I will be providing a
23 notional tender on those, it will probably involve the
24 date, the description, and if the technology allows it, a
25 hyperlink and it will notionally be tendered in due course.

26

27 THE COMMISSIONER: Excellent. If that list could have a
28 link that could then be put on the website and then people,
29 should they wish to do so, could link to the relevant
30 meeting.

31

32 The second matter arising from that passage of
33 evidence was, at transcript page 257 you examined Mr Bourne
34 about a KPMG report. Do you wish to tender that?

35

36 MR PARISH: Yes, Commissioner, I'll tender that now, it's
37 the KPMG report dated 13 July 2021 and addressed to
38 Mr V May, interim administrator, Wingecarribee Shire
39 Council. It comprises three pages.

40

41 THE COMMISSIONER: All right. Exhibit J will be report of
42 KPMG dated 13 July 2021 addressed to the interim
43 administrator - I assume this is probably already on the
44 council's website so there's no reason why it can't go on
45 ours? Yes. I'll ask that to be placed on the website as
46 soon as possible.

47

1 <EXHIBIT #J - REPORT OF KPMG DATED 13/07/2021 ADDRESSED TO
2 THE INTERIM ADMINISTRATOR.
3

4 THE COMMISSIONER: I assume this is probably already on
5 the council's website so there's no reason why it can't go
6 on ours. I'll ask that to be placed on the website as soon
7 as possible. Finally, you may wish to, if you don't have
8 it in front of you, have the transcript of yesterday.
9 There's just a minor on one view correction; for those who
10 are observing the transcription process service is
11 excellent but occasionally the odd word here or there is
12 missed or misheard.
13

14 Unless it matters to the evidence I don't propose to
15 pick them up, but the one that I think ought to be
16 corrected is on page 259 starting at line 5. I asked
17 Mr Bourne:

18
19 *Do you think in addressing that concern -*
20 *as I understand it there's no local*
21 *planning panel - ...*
22

23 And then I continue on. My recollection is that I
24 said:

25
26 *... as I understand it there is now a local*
27 *planning panel ...*
28

29 Do you agree with that, Mr Parish?
30

31 MR PARISH: Yes, Commissioner.
32

33 THE COMMISSIONER: So, if that correction to that passage
34 can be made and the corrected transcript can be placed on
35 the website in due course. Are there any other
36 transcript matters that came to your attention?
37

38 MR PARISH: No, Commissioner.
39

40 THE COMMISSIONER: All right. You proceed.
41

42 MR PARISH: Thank you, Commissioner. My next witness is
43 Mr Geoff Byrne.
44
45
46
47

1 <GEOFF BYRNE, affirmed: [10.06am]
2
3 MR BROAD: Excuse me, Commissioner, Councillor Scandrett
4 has an application.
5
6 THE COMMISSIONER: Sorry, sir, you'll have to come
7 forward, and I'm sorry, Mr Riley, if he could swap places
8 with you so you can be heard and transcribed, just over
9 this side.
10
11 CR SCANDRETT: Thank you, Commissioner. I understand the
12 process for cross-examining any witnesses is to request
13 that before that witness speaks or at the beginning of the
14 session today. So, that's what I'm going to do now, if
15 that's okay?
16
17 THE COMMISSIONER: Two things, this is an administrative
18 inquiry, there is no such thing as cross-examination.
19
20 CR SCANDRETT: Poor choice of words.
21
22 THE COMMISSIONER: There is a process for seeking leave to
23 appear, including asking questions of witnesses set out in
24 the practice direction. Which witnesses do you seek leave
25 to ask questions of?
26
27 CR SCANDRETT: I may be seeking leave to ask questions of
28 Mr Byrne, Ms Kennedy and Mr Mooney.
29
30 THE COMMISSIONER: All right, what I propose to do then is
31 to hear the evidence of each of those witnesses. If there
32 are matters that you wish to address with the witness at
33 the end of the examination but, for example, Mr Mooney is
34 legally represented, so before I ask his legal
35 representative whether he wishes to ask questions, then
36 I'll turn to you. You can expect that I'll require you to
37 identify topics and questions that you wish to ask of the
38 witnesses before I determine whether that leave will be
39 granted. There will be no general grant of leave to ask
40 questions, the examination is done by Counsel Assisting and
41 I won't permit the same ground to be covered over. Is that
42 all clear?
43
44 CR SCANDRETT: Yes, Commissioner. I believe it's the same
45 process you applied to Mr Markwart on Tuesday.
46
47 THE COMMISSIONER: I was informed that he may make an

1 application and ultimately he didn't, so the process wasn't
2 needed to be gone through, but be that as it may. So, I
3 won't determine the application at the moment, so what I'll
4 do at the end of Counsel Assisting's examination of the
5 first witness, if you wish to make an application to
6 examine that witness at that time, you can do so and I'll
7 deal with it then.

8
9 CR SCANDRETT: Thank you, Commissioner.

10
11 THE COMMISSIONER: Mr Parish, over to you.

12
13 MR PARISH: Thank you, Commissioner.

14
15 <EXAMINATION BY MR PARISH: [10.09am]

16
17 MR PARISH: Q. Mr Byrne, can I ask you for some
18 background about yourself, your vocation, how long you've
19 lived in the area?

20 A. Sure. I guess my background is, first of all in the
21 canning industry, the glass packaging industry, which
22 included PET bottles, and then the paper industry, all
23 which was mainly servicing the fast food market. I've
24 lived here for 26 years now, I think it is, 25, initially
25 at Berrima and then predominantly here in Bowral - well,
26 not here in Bowral, but in Bowral. I have been - yeah, is
27 that sufficient or?

28
29 Q. Yes, thank you. You've had significant dealings with
30 the council over the years; is there any particular reason
31 why you have perhaps had more to do with the council than
32 the average resident in the shire?

33 A. I'm sorry, I didn't quite understand.

34
35 Q. You have had close contact with the council over
36 the years; is that correct?

37 A. I have, yes.

38
39 Q. Perhaps more so than the average ratepayer; is that
40 correct?

41 A. I would think so.

42
43 Q. And, why is that?

44 A. Well, I'm interested in civic affairs. Initially I
45 was asked to join one of the council committees as a
46 community representative, that was the committee advising
47 on the management of the Resource Recovery Centre; that

1 morphed into the Business Units Committee which included
2 then the saleyards, and I guess it started from there.
3 Yeah, and in that process, of course, I got to know a
4 number of councillors quite well.

5
6 Q. Can I ask when you first became involved in the
7 Resource Recovery Centre Committee?

8 A. Oh, it was when it was founded, I can't quite
9 remember, but I would think it's probably 15 years ago, 14
10 or 15 years ago.

11
12 Q. And, how long were you a member of that group?

13 A. Well, until they were basically disbanded. As I say,
14 the RIC morphed into the business units and that was
15 called - I think about three years ago that finally was
16 disbanded.

17
18 Q. Can you please tell me how these committees or
19 business units worked practically? How often did you meet,
20 who met, what was discussed?

21 A. Yeah, well, we met probably, I can't quite remember,
22 but probably every two or three months and it was really
23 just to offer the experiences of a couple of local business
24 people in the main on things that could be done to improve
25 the service both at the RIC and saleyards. There would
26 generally be at least one councillor, sometimes up to
27 three, and three maybe four community representatives, plus
28 staff of course.

29
30 Q. Do I take it from your answer that you had experience
31 with councillors, in both the 2016-2020 term but also the
32 2012-2016 term; is that correct?

33 A. Yes, I was certainly, um - yeah, I was involved and
34 quite interested in council as far as back as - I think
35 Ms Juliet Arkwright was the first mayor I actually remember
36 seeing at a meeting, I used to come to meetings quite
37 regularly.

38
39 Q. I'll ask you some questions about your impression of
40 the culture and tone of both council meetings and your
41 experience of the committee meeting in a moment, but can I
42 ask, did you notice any change in the committee or council
43 meetings that you attended between terms?

44 A. I think it's fair to say that council meetings have
45 progressively gotten less professional and far more
46 personal, yeah, they were quite unacceptable as far as I
47 was concerned, it was - there was quite a bit of, in my

1 opinion, bad behaviour and diversions that became quite
2 personal.

3
4 Q. I might just ask you a bit more about that in a
5 second, but before I get to that, just going back to the
6 committee that you were involved in, what was your
7 impression about how that functioned? Was that a useful
8 and effective consultation in your opinion?

9 A. I think it could have been better. It took - they
10 were business units and it was in my opinion quite
11 difficult to morph a business into the council's operation,
12 where in the council's operation all the money you get is
13 considered a negative and all the money you spend is
14 considered a positive which, I think council probably
15 shouldn't have operated things as a business, personally,
16 but the meetings themselves were generally quite positive.
17 The information that we got eventually - we were a bit
18 disappointed in the complexity of it - that improved
19 dramatically, and I think the meetings were very positive
20 and I'd have to say they were very well chaired.

21
22 Q. Do you recall who the chair was or various persons?

23 A. I think the chairman for the whole time was
24 Councillor Gair; I'm pretty sure he was always the
25 chairman.

26
27 Q. We're talking about the committees and the business
28 units that you were involved in?

29 A. Yes, that's right.

30
31 Q. In respect of council meetings, did you have occasion
32 to attend them from time to time during the 2016-2020 term?

33 A. I attended very regularly, yeah, I would think most
34 meetings I attended.

35
36 Q. You've already given us some impressions of your view
37 of the conduct at those briefly; more specifically, what
38 struck you about the way that those meetings and this term
39 were conducted?

40 A. Well, I think it was - they were very difficult, and
41 this goes back to when Councillor Arkwright was mayor, they
42 were very difficult to manage because there was a lot of
43 interruptions, sometimes very pointless, almost just to
44 make a point, and it seemed to me almost deliberate, and
45 that continued all the way through until the council was
46 actually dismissed.

1 Q. Do I take it from your evidence before that your
2 impression was that, whilst that conduct had existed before
3 the 2016 term, it got progressively worse during the
4 2016-2020 term?

5 A. Yeah, I would say - yeah, I'll agree with that.
6

7 Q. In your impression, was there any reason for that
8 degradation of behaviour or conduct?

9 A. Well, I can't identify what the reason would be, it
10 struck me as being totally unnecessary, but yeah, it
11 certainly - there were two councillors in particular I felt
12 were sort of almost set out to be disruptive.
13

14 Q. Are you comfortable saying who you thought those
15 councillors were?

16 A. Yeah, I thought Councillor Scandrett and Councillor
17 Turland were the main problems for any chairman to handle.
18

19 Q. Can you give examples of events you witnessed that led
20 to your conclusion that those two councillors were a cause
21 of disruption?

22 A. Examples: the constant interruptions in Councillor
23 Turland's case, often very angry outbursts, total disregard
24 for the chair. It just was almost a continuous, every
25 meeting there would be something brought you up, and
26 interruptions, and I just thought they almost - they made
27 it very difficult for any chairperson.
28

29 Q. Were you left with the impression, when Councillor
30 Halstead was mayor, that he had sufficient control of the
31 meetings as chair?

32 A. I would think Councillor Halstead did manage that,
33 yeah, probably as well as anyone in the last three mayors.
34

35 Q. Can you give me your impression of whether you thought
36 Councillor Gair, when he was mayor, was able to exercise
37 sufficient control over the meetings?

38 A. He was initially. As I said, I think he was a very
39 competent chairperson, he knew the rules, he knew meeting
40 procedure, more than most people did, but I think he became
41 quite frustrated by just the continual interruptions and,
42 well, bad behaviour that continued to go on.
43

44 Q. You had, at least on two occasions, disputes with
45 senior staff and councillors in the allocation of funds; is
46 that correct?

47 A. I think "disputes" is probably not quite the right

1 word. There was - I'm trying to think of what the second
2 one was, I remember one quite vividly.
3

4 Q. Can you tell us about your recollection of that one?

5 A. Yeah, that was to do with the disbursement of funds
6 from the environment levy which is a levy that the
7 community agreed to - many years ago - that money was
8 earmarked for the natural environment in keeping it as it
9 was and restoring it where necessary, it was a very
10 effective fund and operation, but I can't quite remember
11 the interim, 18/19 might have been.
12

13 In 2018/19 the council decided that it was going to
14 help fund a local art gallery and it hadn't been budgeted,
15 so council decided that they would take - I think it was
16 \$350,000, that sort of figure, from the reserves of the
17 environment fund and claimed at the time that that would
18 not affect the operation of that group of people and what
19 would be done. It was relatively easy to show that that
20 was in fact incorrect and the forward estimates from
21 one year to the next dropped remarkably in the environment
22 levy budget. As I say, it wasn't really a dispute, it was,
23 as soon as that was pointed out it was - the money was
24 found somewhere else.
25

26 THE COMMISSIONER: Q. Mr Byrne, was that something that
27 arose in your role as a member of the committee to which
28 you've referred earlier, or was this something you rose
29 independently of that.

30 A. No, I wasn't a member of the environment committee,
31 but I did attend a public meeting when this first was
32 raised in the public, it was quite a vigorous meeting, I
33 suppose, and I was nominated to be one of the people that
34 approached council to try and get them to change their
35 mind, yeah, and then I did find these figures and after
36 that it was a lay down misere, council backed off
37 completely.
38

39 Q. So I take it from your answers to Mr Parish earlier,
40 that you were satisfied with how that issue was dealt with
41 and resolved after you raised it?

42 A. I was satisfied, yes.
43

44 Q. How did you find the interaction with staff about that
45 issue? Was it professional and appropriate in your view?

46 A. Yeah, I'd had a bit to do with staff before,
47 particularly when councillor - I had applied for an extra -

1 a rate increase and that was granted, and I was concerned
2 that the money might get frittered away, so I used to
3 monitor where it was spent and as far as I know it was
4 spent exactly the way it was - the purpose it was raised
5 for.

6
7 THE COMMISSIONER: Yes. Thank you.

8
9 MR PARISH: Q. Mr Byrne, do you recall when that public
10 meeting was that you just referred to, how many years ago?
11 A. I would think it's probably in the last three, maybe
12 four years - time passes. I know it was at the Bowral
13 community - yeah, Civic Centre in Bowral, yeah.

14
15 Q. Do you recall who chaired that meeting and who was
16 present, if anyone, from the council?
17 A. I'm fairly sure it was - I can't quite remember, but I
18 know Mr Clive West was instrumental in organising that
19 meeting, and I know obviously he was there.
20 Councillor Gair was there and so was councillor - Larry, I
21 can't think of his surname, sorry.

22
23 Q. Would it be Mr Whipper?
24 A. Yeah, Councillor Whipper.

25
26 Q. Can you tell me about your impressions about how that
27 meeting was conducted and how the councillors interacted
28 with the community?
29 A. Oh, the councillor - both councillors were very
30 defensive and offensive at the same time in saying that the
31 money had to be found somewhere and this is it, but the
32 mayor did agree to meet a delegation the following week.
33 But they, yeah, they were both very definite that the money
34 was going to come out of that fund at that stage.

35
36 Q. And you said in the words that send a shiver up
37 transcribers' hearts, that it was a "lay down misere" in
38 the end?
39 A. Well, I think that the figure was just so conclusive
40 and I guess, well, it put a light to the fact that nothing
41 was going to be affected in the operation of the
42 environment fund.

43
44 Q. Do I understand your evidence then that it was your
45 impression that they did listen to you, acknowledged their
46 mistakes, and change course appropriately?
47 A. That's right, yes.

1
2 MR PARISH: Commissioner, do you have any more questions
3 on that topic?

4
5 THE COMMISSIONER: No, thank you.
6

7 MR PARISH: Q. Is there anything more generally that you
8 would like to address the Commissioner on that we haven't
9 covered that pertains to the terms of reference?

10 A. Well, the thing that - I wrote the submission, my
11 submission, because in reading the terms of reference the
12 first one is:

13
14 *Whether members of the council governing*
15 *body fully understand their roles and*
16 *responsibilities.*
17

18 Well, I think a number of - number of, most of the
19 councillors in fact did understand that and acted
20 accordingly.
21

22 MR PARISH: Thank you. I have no further questions,
23 Commissioner.
24

25 THE COMMISSIONER: All right, is there to be an
26 application?
27

28 CR SCANDRETT: Yes.
29

30 THE COMMISSIONER: You'll have to come forward. Sorry,
31 Mr Riley. What are the topics you wish to seek leave?
32

33 CR SCANDRETT: I'm sorry, Commissioner, it's hard to hear.
34

35 THE COMMISSIONER: Sorry, that's my fault, I'm trying to
36 get better. What topics do you seek to examine Mr Byrne
37 about?
38

39 CR SCANDRETT: Just the background on the saleyards
40 committee and the way that issues were handled there. I'd
41 like to also go to the matter of the environment levy and
42 the public gathering regarding that, that's my primary
43 questions.
44

45 THE COMMISSIONER: Which terms of reference do those
46 questions go to?
47

1 CR SCANDRETT: I think it's Part 1 of your four terms of
2 reference, the capability of councillors.
3
4 THE COMMISSIONER: What I think I'll do, I'll let you ask
5 the question and then I'll rule on each question as we go,
6 because at the moment I'm not clear on how ultimately this
7 will help me. But I'll let you proceed for the moment and
8 we'll see how we go. But for future applications I think
9 I'm going to need you to be more specific on the particular
10 questions you wish to ask. This is no criticism of you,
11 this is an expected different process, but there is no
12 general right of examination but I'll let you proceed this
13 morning and we'll see how we go, okay?
14
15 CR SCANDRETT: Thank you, Commissioner. I note I don't
16 have the benefit of Mr Byrne's submission, so the whole
17 thing is a bit winged, isn't it?
18
19 THE COMMISSIONER: I assume you're not cavilling with my
20 ruling by making that comment?
21
22 CR SCANDRETT: I'm sorry?
23
24 THE COMMISSIONER: You're not cavilling with my directions
25 about submissions, are you?
26
27 CR SCANDRETT: No.
28
29 THE COMMISSIONER: I didn't think so. Thank you.
30
31 <EXAMINED BY CR SCANDRETT: [10.30am]
32
33 CR SCANDRETT: Q. Mr Byrne, could you indicate if you
34 are aware of the training that councillors undertook in
35 terms of governance and procedure and risk, that sort of --
36
37 THE COMMISSIONER: How does that help me? That evidence
38 can come from other sources, can't it?
39
40 CR SCANDRETT: Yes.
41
42 THE COMMISSIONER: And there will be records about it,
43 won't there?
44
45 CR SCANDRETT: Well, that appears to be an issue of some
46 concern, Commissioner, in terms of the amount of records
47 kept by council on training.

1
2 THE COMMISSIONER: Sure.
3
4 CR SCANDRETT: I certainly can comment on that.
5
6 THE COMMISSIONER: And you may well have the opportunity
7 when it comes time to give your evidence.
8
9 CR SCANDRETT: Of course.
10
11 THE COMMISSIONER: But Mr Byrne's knowledge about that one
12 way or the other doesn't help me, does it?
13
14 CR SCANDRETT: I would say that the saleyards committee,
15 there were issues of risk in there and reference was made
16 to - regularly, to council's responsibility in that space.
17
18 THE COMMISSIONER: I think that's a slightly different
19 question. I'm going to reject the question that you've
20 just asked and you can perhaps put another one, but
21 Mr Byrne's knowledge or otherwise of councillor training
22 ultimately doesn't help me. I hear what you say about the
23 issue of councillor training generally and there are other
24 forms, I think, that are more useful for me for that
25 evidence to come out.
26
27 CR SCANDRETT: May I just say that councillors were, in
28 the first term, invited to take additional training and --
29
30 THE COMMISSIONER: Now's not the opportunity to make
31 submissions to me and you will be given an opportunity to
32 do so. If you formulate your next question we'll see how
33 we go.
34
35 CR SCANDRETT: Okay, I'll try and do that, yes, thank you.
36
37 Q. Mr Byrne, in relation to the environment levy matters
38 you raised and how that was being redirected to fund the
39 art gallery in East Bowral, you made the statement that
40 council determined - are you saying all councillors
41 determined that or council as a "majority vote"?
42 A. My recollection is that all but two of the
43 councillors, and I can't think of the second one, but I
44 know one, who voted against that allocation.
45
46 Q. Can you name that councillor?
47 A. That was Councillor Markwart.

1
2 Q. There were, you said there was a meeting at Bowral.
3 Are you aware there was another meeting? I think from
4 recollection you were at it actually?
5 A. I'm sorry, I didn't hear that question.
6
7 Q. Are you aware there was another meeting regarding the
8 environment levy prior to the Bowral memorial hall meeting?
9 A. No, I'm not aware of that.
10
11 Q. Right, that was the one at East Bowral.
12
13 THE COMMISSIONER: I think the answer is that he's not
14 aware of it.
15
16 CR SCANDRETT: That's the answer to my question, thank
17 you.
18
19 THE COMMISSIONER: Thank you. Anything arising,
20 Mr Parish?
21
22 MR PARISH: No, Commissioner.
23
24 THE COMMISSIONER: Mr Byrne, thank you for taking the time
25 to come along this morning.
26 A. No problem at all.
27
28 THE COMMISSIONER: Is there any reason why Mr Byrne ought
29 not be excused?
30
31 MR PARISH: No.
32
33 THE COMMISSIONER: Mr Byrne, you are free from your
34 summons, you are free to go, thank you.
35
36 <THE WITNESS WITHDREW
37
38 THE COMMISSIONER: Your next witness, Mr Parish?
39
40 MR PARISH: My next witness is Mr Richard Mooney.
41
42 THE COMMISSIONER: Yes. Mr Riley, you appear for
43 Mr Mooney while he's giving his evidence?
44
45 MR RILEY: Yes, I seek leave to appear.
46
47 THE COMMISSIONER: You have that leave, thank you.

1 <RICHARD MOONEY, sworn:

[10.33am]

2
3 <EXAMINATION BY MR PARISH:

4
5 MR PARISH: Q. Mr Mooney, could you please give us a bit
6 of background about your vocation and your role at the
7 council and how long you have been in the shire area for?

8 A. Absolutely. Firstly, good morning, Commissioner, and
9 good morning, Mr Parish. My role here at council commenced
10 in April 2015 when I took on the position of CFO, chief
11 financial officer. That was after working for a period of
12 approximately 17 years in senior finance roles within the
13 local government industry. Upon taking on my role in 2017
14 my portfolio included corporate finance, revenue,
15 procurement, fleet, payroll and also property services. I
16 held that role until most recently August 2021, where an
17 opportunity arose to be closer to my family and I
18 voluntarily resigned from the organisation on what I
19 believed to be very good terms.
20

21 Q. Can you tell me a little bit about your reporting
22 lines within council: who you reported to, the sorts of
23 staff you were responsible for?

24 A. Yeah, happy to do so, Mr Parish. Initially when I was
25 employed as a CFO the direct reporting line was to the
26 dependency general manager, operations, finance and risk,
27 Mr Barry Paull, who then reported to the general manager,
28 Ms Ann Prendergast.
29

30 It's probably prudent at this stage, Mr Parish, to
31 also make you aware that during the period of August 2020
32 to August 2021 I held the position of acting deputy general
33 manager, operations, finance and risk, for a substantial
34 period of that time due to vacancies within our executive
35 team.
36

37 Q. I just want to ask you a few questions about how you
38 in your role as a staff member interacted with councillors
39 and reported to them. Can you tell the Commissioner a
40 little bit --
41

42 THE COMMISSIONER: Sorry, Mr Parish, before you do. Could
43 the witness be shown Exhibit A? Sorry to cut you off, but
44 whilst I remember this.
45

46 MR PARISH: Volume 1 or volume 2?
47

1 THE COMMISSIONER: Volume 1, page 4.

2

3 THE WITNESS: Yes, I have that now, Commissioner.

4

5 THE COMMISSIONER: Thank you.

6

7 Q. That's the organisational structure version 8 as at
8 30 September 2016; do you see that?

9 A. Yes, correct.

10

11 Q. I appreciate the names might have changed, but did the
12 structure largely remain the same until, let's just say the
13 appointment of the interim administrator?

14 A. That would be a fair assessment, Commissioner.

15

16 Q. Yes, and do I take it - I just didn't quite catch your
17 acting role; was that acting deputy manager, operations,
18 finance and risk, is that where you stepped into that role?

19 A. That's correct, Commissioner. At the time Mr Barry
20 Paull was in the Acting general manager's role. So, as you
21 can appreciate, the two roles stepped up.

22

23 THE COMMISSIONER: Yes, thank you. Sorry to have taken
24 you off course, Mr Parish.

25

26 MR PARISH: Q. How many staff reported to you, how many
27 staff were you managing?

28 A. Approximately 26 to 28 staff.

29

30 Q. Just to go back to the topic before the Commissioner
31 asked a few questions, can you give the inquiry an overview
32 into how the quarterly budget review statements works, your
33 involvement with them and how that interacted with the
34 governing body?

35 A. Yep, I can, Mr Parish, and, in doing so, I'll aim to
36 address the first question that you asked as well about
37 interaction with councillors if memory serves me correct?

38

39 Q. Yes.

40 A. So, in line with council's adopted staff interaction
41 with councillors, my position was identified as one of the
42 positions that was permitted to have contact directly with
43 councillors. My role didn't necessarily require day-to-day
44 interaction with councillors, my interaction with
45 councillors was primarily on briefing days, so three out of
46 the four Wednesdays of the month were either allocated
47 towards briefings to be held by staff, council or committee

1 meetings, with the fourth Wednesday being a free day for
2 want of a better term for the councillors. So, I would
3 invariably attend those briefings and obviously I would
4 also attend council meetings.
5

6 Mr Parish, bringing it back to the second part of your
7 question, the quarterly budget review statement. The
8 quarterly budget review statement is a quarterly financial
9 report that council is required, all councils are required
10 to submit to council for formal endorsement within eight
11 weeks of the quarter end. The process that we would go
12 through - and I'll try and summarise this as best as
13 possible - the internal components, is that, our budget
14 team would meet with the various sections of the
15 organisation, we would compile a list of variations against
16 approved projects; we would identify any unfunded projects
17 which would require a formal resolution of council to be
18 included in the budget. The report would be peer reviewed
19 by myself and the deputy general manager, operations,
20 finance and risk, before being presented to the general
21 manager for final sign-off and circulation to the
22 councillors.
23

24 The councillors would receive those reports via the
25 finance committee. So, Wingecarribee - and there are a few
26 councils, albeit rural Regional Councils who do it, but
27 Wingecarribee Council is a council that still, up until the
28 appointment of the administrator, operated with a separate
29 finance commit that dealt with all finance matters
30 separately. Those minutes were then reported to full
31 council for adoption. So, the quarterly budget review
32 statement would be presented to the finance committee
33 meeting which would be held on the third Wednesday every
34 eight weeks for better or worse.
35

36 My role as the CFO was to effectively provide guidance
37 to the chair of that committee, the chair being the mayor
38 of the day, but obviously given the nature of the reports,
39 given the technical nature, the mayor of the day, both from
40 2016-2018 and 2018-2020 relied heavily on me to be able to
41 guide councillors through the reports.
42

43 Q. Can I go back to the start of that answer, if you can
44 assist me as someone financially borderline illiterate, you
45 talked about compiling a list of variations on projects and
46 then you referred to unfunded projects. Was that
47 basically, we have a project going at the moment, you have

1 allocated a certain amount of money to it based presumably
2 on a previous quarterly budget, we are under or over on
3 that --

4 A. Correct.

5

6 Q. -- we need approval and sign-off on that?

7 A. Yep.

8

9 Q. And the other category we have unfunded projects, we
10 have a new project we propose to get up and running, this
11 is our budget and we expect we will need this much money
12 for that and we seek your approval for that amount of
13 money?

14 A. Mr Parish, a really good example of that is that, as
15 part of our asset and inspection regime, our asset team may
16 come to us and say we have a really big issue with a
17 culvert pit in the back of Moss Vale, it's been found to be
18 defective, from a public safety perspective we need to
19 address it now.

20

21 I want to be very, very clear about this: the
22 delegations that the council can exercise to staff are
23 clearly outlined in section 377 of the Act. Okay, I want
24 to be very, very clear that this organisation takes its
25 responsibilities in terms of only council being the body
26 that is able to vote funds is something that we've always
27 taken very seriously contrary to the views of others.

28

29 Q. I might come to that soon, Mr Mooney, but what were
30 the other mechanisms, if any, by which you reported and
31 sought funds and generally monitored the budget with
32 council? What other processes or documents?

33 A. Yeah, there were other processes, Mr Parish, and they
34 were primarily due to timing. There were occasions where
35 separate reports were presented, prepared and presented to
36 full council simply because of the timing of quarterly
37 budget reviews not necessarily aligning with the need to
38 get a decision from council regarding specific projects.
39 So, there are many examples of reports which are
40 essentially of a financial nature where we've sought an
41 adjustment to budget by council through a separate report.

42

43 Q. What a lawyer might call an ad hoc report?

44 A. Of course, yes.

45

46 Q. Just turning briefly to the briefing days, can you
47 describe how they worked from the finance committee point

1 of view and how they worked from your point of view. I
2 take it, you had to prepare and report to the committee?
3 A. Yep.

4
5 Q. And was that every three out of four Wednesday?

6 A. No, it was four times, we held finance committee four
7 times a yeah. So, yeah, it would be held every two months,
8 every two or three months.

9
10 Q. And when you weren't in the finance committee, what
11 was your role in the briefings that took place on
12 Wednesdays?

13 A. Oh, invariably there were briefings that were provided
14 by other sections of council that required some financial
15 expertise. It's not uncommon for projects to have broader
16 financial implications. Being someone of a corporate
17 services background as well, there were opportunities that
18 I could provide value from a procurement perspective and in
19 some cases, depending on who the staff were in the room on
20 governance matters as well. So, yeah, a sound head in the
21 room to identify any potential issues that the council may
22 need to be aware of or cognisant of.

23
24 Q. Can you give me your general impressions of those
25 briefings during the 2016-2020 term?

26 A. Happy to do so, Mr Parish. By way of context what I
27 might also do so is just outline the way those briefings
28 were run when I first started at council.

29
30 Q. Please?

31 A. I arrived at a very unique time in Wingecarribee
32 Shire's history. One where I believe that from a
33 councillor prospective it probably had never been more
34 unified. The reason for that being the New South Wales
35 State Government at the time was driving its Fit for the
36 Future Reform agendas which was essentially about
37 amalgamation, and there was a real genuine fear within the
38 broader shire, and particularly the councillors, that there
39 was a potential de-amalgamation in the case of
40 Wingecarribee on the cards.

41
42 So, I arrived in an organisation that, despite what I
43 knew as a council that had quite a colourful history over
44 the past 20 years was quite different, there was very much
45 a unified approach to what the organisation believed that
46 they needed to achieve to remain a stand-alone council.

1 Q. Could I just pause. This is 2015, correct, when you
2 first joined?

3 A. Correct. We roll into 2016 in the new council and I
4 would describe the behaviour of the first couple of years,
5 albeit even the first three or four years, albeit there
6 were occasions where personalities did pop up. There were
7 times where there was disagreements between certain
8 councillors, but I would suggest that during that first
9 three-year period they were the exception rather than the
10 norm.

11
12 For me personally what really saw a significant change
13 in the mindset in how the briefings were held and how
14 councillor interaction with senior staff really started to
15 deteriorate, twofold: the bushfires and the onset of the
16 COVID-19 pandemic. There are scenes that senior staff in
17 this organisation have witnessed that I think will live
18 with them for the rest of their lives and they would be, I
19 think from a professional perspective, very, very
20 disappointed with what they saw and the manner and the
21 behaviours that a number of our councillors displayed.

22
23 Q. Can you tell the inquiry what those are?

24 A. I can provide examples?

25
26 Q. Yes.

27 A. The first meeting after the bushfire, which was a
28 terrible, terrible experience for those members in the
29 public who had so sadly lost their homes due to the
30 bushfires, and obviously those memories were still so raw
31 for them, I think that that is something that will be very
32 much in the remit of this inquiry.

33
34 Q. Can I pause there. Were you at that meeting?

35 A. Correct, I was, I was. At one stage I requested or
36 had to assist the minute taker - and please don't think
37 these comments are taking anything away from what I
38 believed to be of the utmost importance, that is, the hurt
39 and decimation that those people who were at the meeting
40 were, who had been impacted by the fire, they were
41 obviously the most significantly impacted people. I'm just
42 addressing the behaviours of the councillors and how that
43 impacted on staff.

44
45 So, we had a situation where our minute taker had to
46 be removed from the room just because the ferocity of the
47 debate was just too much.

1
2 At the end of the meeting a very close colleague of
3 mine, Ms Danielle Lidgard, was verbally abused at length by
4 a councillor and then questioned by another councillor,
5 which was totally inappropriate, absolutely inappropriate
6 behaviour. I interjected, used some fairly forceful
7 language in terms of needing the - the individual needing
8 to correct his behaviour, but that is just one example of
9 where we really did start to see a significant slide in the
10 relationship between counsel and senior staff.

11
12 Q. What about council and the public at least, focusing
13 on that specific meeting for now, what was your impression
14 about how the council, the councillors, either as a whole
15 or individuals, dealt with the public in that meeting in
16 particular, first of all?

17 A. It was very disappointing.

18
19 Q. In what way, what behaviour did you see towards the
20 public which led you to that view?

21 A. I think it was disappointing because there are simple
22 steps that could have been taken that could have completely
23 changed the atmosphere within the room. Better
24 communication as to, well, what are we here to talk about?
25 Because that is something that I think the shire and the
26 advocacy groups within the shire, because there are many,
27 more so than most places, you'll have an advocacy group
28 say, "This is what it's about" and another one say, "Well,
29 this is what it's about" but the council, ultimately it's
30 their meeting and it's about setting a very clear tone
31 that, okay, this is what we want to achieve out of this
32 meeting, and being on the front foot around communication.

33
34 And, this may upset a few people within the
35 organisation, but I felt that we let the people who were
36 attending that meeting, and the broader community, I felt
37 that we let them down at that meeting.

38
39 THE COMMISSIONER: Q. What causes you to say that?

40 A. Well, again, I'll come back to the point that it was a
41 meeting that we should have known we were dealing with
42 people that were highly emotional, were going to be highly
43 agitated, had very little understanding of bushfire
44 response and who the lead agency should be and what then
45 the role is that council plays. A lot of that
46 communication, I know there were attempts for us to try and
47 disseminate that information, and I certainly understand

1 that we have gone on in leaps and bounds in terms of better
2 preparing ourselves when the next event occurs, but that
3 doesn't help the residents who have been impacted in
4 Balmoral and down in Bundanoon.

5
6 Q. While we're on the topic of communication, I want to
7 take it away from the bushfire example and to communication
8 more generally. From your perspective was the council as
9 an organisation effectively communicating with the
10 community in the 2016 term?

11 A. I think generally we did a good job. There are a
12 number of high profile projects where we have been
13 criticised about that communication. My firm belief is
14 that that communication was disrupted because information
15 was leaked and that did not do council any favour in terms
16 of being able to send out a clear cohesive message around
17 those key projects.

18
19 Commissioner, if I may, just quickly walk you through
20 major projects?

21
22 Q. Yes, please do.

23 A. There is and there always will be a need for
24 governments at all tiers to constantly manage project
25 budgets, significant capital project budgets. We council
26 here have taken a lot of positive steps forward in terms of
27 introducing a project management framework, getting the
28 right bodies on board, but invariably they're still going
29 to occur, you're still going to have unknowns come out of
30 projects, latent conditions, that will result in
31 variations.

32
33 Now, my role as the CFO was not to run to the GM or to
34 the council and say, "I've got a million dollar problem"
35 and then shrug my shoulders, that's not what I'm employed
36 to do. My job is to say, right, we've got a million dollar
37 problem, let's have a look at what funding strategies and
38 funding mechanisms we can utilise. First of all obviously
39 you want to make sure that you're getting value for that
40 million dollars and that it's actually in line with the
41 project. But ultimately you would then look at, is there
42 grant opportunities, is there ways that we can pull back
43 the scope of some other projects or are there savings
44 available, are there internal cash reserves, potentially
45 where does our debt servicing ratio sit at the moment, so
46 is loan borrowings a lever that we can pull; these are all
47 things that we can investigate because ultimately this is a

1 project that the council has then endorsed.

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1 were having to bat off responses, where the councillors
2 were in a position saying, "Well, I can't be addressing
3 this now, I need to wait until the actual report's in".
4 The formal report with all of the solutions is presented to
5 council, if you know what I mean.

6
7 THE COMMISSIONER: Yes, thank you.

8
9 MR PARISH: Q. What about your morale, did that affect
10 your morale when matters were being leaked outside of the
11 usual process, either yours or if you can give any examples
12 from staff who reported to you?

13 A. Oh, "frustration" would probably be a better word.
14 Resilience is something that you quickly develop at
15 Wingecarribee.

16
17 THE COMMISSIONER: Q. Why do you say that?

18 A. The cut and thrust of dealing with a particular
19 handful of council, councillors, not all of them, but the
20 cut and thrusts were a particular handful of councillors,
21 yeah, you need to be able to bounce pretty quickly.

22
23 Q. Who were the particular handful who required that
24 level of resilience to deal with?

25 A. Look, it may be best, Commissioner, if I talk about
26 the incidents and then relay that back to the councillors,
27 if that suits?

28
29 THE COMMISSIONER: Yes, I'll let Mr Parish explore that
30 with you.

31
32 MR PARISH: Q. Yes. We've, it seems to me, skirted
33 around the Station Street bypass to an extent in dealing
34 with this topic. You may have had better things to do with
35 your time, but there was some evidence in this inquiry from
36 concerned residents about the budget and the way it
37 escalated in the Station Street bypass project. Can you
38 give us your experience and impression and indeed firsthand
39 knowledge of how that process was worked through at the
40 time?

41 A. Yep, happy to do so, Mr Parish, and I'll hopefully be
42 able to provide a little bit more detail because obviously
43 that was a project that was gaining a fair bit of pace when
44 I was acting DGM, operations, finance and risk. So, the
45 process was borne out of - and if I'm repeating anything
46 that I may not have heard, because obviously I haven't had
47 the amount of time to watch yesterday's hearings.

1
2 THE COMMISSIONER: Don't trouble yourself about that,
3 Mr Mooney, you answer in the way you see fit.
4

5 THE WITNESS: Okay, so the project was originally borne
6 out of a \$7.5m grant, I believe, through the Illawarra
7 Restart Project, so the sale of Port Kembla. Council had
8 \$2 million in what was referred to as developer
9 contributions, now 711 contributions to allocate towards
10 the project.
11

12 The project when I first started in 2015 had seemed to
13 drag on a bit. As a result of that and as a result of
14 further refinement to the scoping of the project, because I
15 want to be really clear here, the funding announcement had
16 very little in the way of scoping around it. Okay it was,
17 as I understood, limits it to one or two pages, which is
18 not how we scope projects, it's not how Wingecarribee
19 scopes projects nowadays, it's now how any council scopes
20 projects nowadays.
21

22 So, if memory serves me correct, it was around 2018 we
23 identified some costs escalation and also some additional
24 scoping that was included around landscaping, and there may
25 even have been some bringing Telstra lines under the
26 ground, we increased the budget to about 12.272m,
27 thereabouts, I haven't got the figures in front of me.
28

29 Q. Can I just stop you there. When you say "we
30 identified", is that you in the CFO role who identified it,
31 or are you liaising with other departments at the same
32 time?

33 A. Yeah, collectively the project management group would
34 have approached us and said, "We've got this problem". So,
35 when I use the "we" vernacular, I'm talking about we,
36 myself and other senior financial staff.
37

38 There was then another cost variation which brought
39 the budget up to about \$15m. The reasons at this stage do
40 escape me, but I am aware there was a report that went to
41 council, and I have a copy of the report here with me,
42 there was a report that was prepared for the meeting 12 May
43 which was prepared by myself and the current group manager
44 of capital projects which provides all of the history in
45 terms of the variations.
46

47 THE COMMISSIONER: Q. 12 May 2018?

1 A. Sorry, Commissioner. 12 May.

2

3 Q. 2018?

4 A. 2021.

5

6 Q. Oh, 2021, I'm sorry.

7 A. Yes, it was a close out report.

8

9 Q. Sorry, I thought you were referring back to 2018,
10 thank you.

11 A. No, that's fine. So, where was I? So that led us to
12 a point where we had a budget of give or take \$18.262m.
13 There were significant negotiations which were required
14 with TAHE. I think until about three or four months ago
15 TAHE was unknown to most people in New South Wales, but
16 obviously then with the state budget being announced and
17 then realising that they were just shifting all of the
18 state assets into that holding it's become a lot more
19 popular.

20

21 But getting back to the case with Station Street, that
22 was the body that we were required to negotiate with
23 respect to the land at Mittagong where we were potentially
24 looking at doing a proposed land swap.

25

26 The point that I want to make really clear, and I
27 don't know if this was raised yesterday, but in 2018
28 Infrastructure New South Wales who were the funding body
29 providing the \$7.5m requested that an independent deep dive
30 review be undertaken on the Station Street project. That
31 passed and the comments were that it was a well presented
32 and well documented project, okay. So, I know you have
33 heard from numerous local experts, but yet again that is an
34 independent body telling both the funding body and council
35 that the project had merits.

36

37 So, we're at a situation where we had an \$18.2m
38 budget. During September, October, the group manager of
39 capital projects and myself requested that a further cost
40 estimate be prepared based on P90 confidence. P90
41 confidence essentially means that the estimate is going to
42 give us confidence that the cost is going to be 10 per cent
43 on selling. It's at that stage that we were advised that
44 it was \$38m.

45

46 Now, I want to make it really clear at this stage
47 also, at no stage - at no stage - did any member of staff

1 consider moving towards tender for a \$38m project with the
2 full knowledge that we only had \$18m in the budget, okay.
3 So, any comment that we were about to put the pen on the
4 tender document: not correct.

5
6 THE COMMISSIONER: Q. What was the likely fate of the
7 project once that report came back to you?

8 A. So, we briefed council, and again this was around
9 timing, because we really needed to move quickly, we needed
10 to engage with the funding body to assess what the
11 likelihood would be if they accepted a significantly
12 revised scope of the work. So, what we were effectively
13 looking at doing - and this is a layman's term, this is
14 where I revert back to the finances, not necessarily the
15 engineering - but essentially looking at the job in its
16 entirety from A through to B to C; it was A to C. We were
17 effectively looking at saying, well, within existing budget
18 constraints we could do A to B; we could then potentially
19 look for alternative grant funding to do B to C.

20
21 Q. At some later stage?

22 A. Sorry?

23
24 Q. Some grants to do B to C at some later stage or?

25 A. Correct, Commissioner. We briefed councillors on the
26 matter if memory serves me correct in early December. We
27 had to brief them because the reality is that the then
28 acting general manager needed to formally write to the
29 funding body to see if they were prepared to accept that.
30 It was questionable whether they would. That letter never
31 got sent.

32
33 Q. Why?

34 A. The events of January and February played out.

35
36 Q. I see, yes.

37 A. But the figure of \$38m was leaked.

38
39 Q. Yes. So, after that review, I take it the project was
40 looking - or what could be undertaken was looking different
41 to what had been moving forward until that time; is that a
42 fair assessment?

43 A. So, the report on the 12th will be a good report.

44
45 Q. Yes, I have read it.

46 A. Actually - and I'm sure the Civic Centre refurbishment
47 will come up as well. At the request of the administrator,

1 both collectively between the group manager of major
2 projects and myself, we prepared report 10.2 on Wednesday,
3 12 May for the Civic Centre refurbishment project. That
4 goes cap in hand also with the review that was undertaken
5 initially by Bob Finch, and there's a section there within
6 his financial report and there was a secondary deep dive
7 review, I believe, that was done on the Civic Centre which
8 is being handed over as documentation, and there is report
9 8.1 from the meeting 12 May which is an update on the
10 Station Street upgrade project.

11
12 Q. Just taking you back to an answer you gave earlier.
13 Once the new costings became known there was a need to go
14 back to the funding agency to see whether they would accept
15 a variation of how the project was to proceed; did I
16 understand you correctly?

17 A. (Witness nods.)

18
19 Q. Why was that necessary?

20 A. I believe it's because ultimately the project as part
21 of its fundamental merits must achieve a positive
22 cost-benefit ratio. So, it was a need of having to say,
23 well, we're not doing A to C, we're doing A to B, what's
24 that do to the cost-benefit ratio? Which again, if memory
25 serves me correct, it still reported a positive
26 cost-benefit ratio because most of the improvements were up
27 in the area - the most contentious area - were up in the
28 area that we initially were going to undertake works.

29
30 THE COMMISSIONER: Yes, all right. Thank you.

31
32 MR PARISH: Q. Could I just ask on that: there were
33 cost-benefit analyses, is that correct?

34 A. Correct.

35
36 Q. Were there updates to those?

37 A. Yes.

38
39 Q. Was it a continual process, as it were?

40 A. They were updated upon request.

41
42 Q. The other question I wanted to ask out of what you've
43 just told the Commissioner, and I think is implicit
44 possibly in your answers: you were dealing with state
45 agencies throughout this process; is that correct?

46 A. Not me directly but the organisation was. I on
47 occasion was required to speak to some of these senior

1 staff members, but there were numerous meetings that the
2 acting general manager and the general manager both
3 attended in Sydney, but those meetings were largely in the
4 remit of Mr Paull.

5
6 MR PARISH: I might just say at this stage, Commissioner,
7 just to give you a page reference for the transcript.
8 There is reference to the 12 May 2021 administrator minute
9 of meeting at page 778 of tender bundle 2.

10
11 THE COMMISSIONER: Exhibit A?

12
13 MR PARISH: Tender bundle B.

14
15 THE COMMISSIONER: Exhibit B, thank you.

16
17 MR PARISH: Q. I'll apologise for the Commissioner if we
18 cut you off halfway through your answer about the Station
19 Street bypass. Is there anything else you want to say
20 about that for now on your experience of the
21 (indistinct) --

22 A. Yeah, I think I'll leave it at that, thank you.

23
24 Q. In your opinion, do you think there was regular or
25 appropriate - and/or appropriate consultation with the
26 community in respect of the Station Street bypass? I'm
27 asking in your role as CFO --?

28 A. Yes, I do.

29
30 Q. -- whether there was anything unusual or out of the
31 ordinary I guess --

32 A. I believe we do. I believe we do. This isn't going
33 to be to the liking of the ears of the people who have
34 presented previously, but I believe that these individuals
35 who are highly intelligent, highly educated, and I think
36 sometimes they don't realise that we've got highly
37 intelligent and highly educated people behind the doors
38 working for council who are developing these types of
39 plans, but my sense is that they believe consultation was
40 an opportunity to come in and basically throw the baby out
41 with the bath water. That isn't in any major capital works
42 program, particularly one that's tied to grant funding,
43 that isn't the approach that we take.

44
45 We will consult on timing, we will consult on impacts
46 to local businesses, we will consult on any, you know,
47 peripheral type work that we may be able to undertake to

1 improve an outcome. There seems to be a perception down
2 here that staff can't be trusted in their jobs and that
3 staff don't necessarily look at all alternatives.
4

5 If you refer to that report that we presented back
6 in May regarding Station Street, there is a section on
7 there around alternatives, and staff did look at
8 alternatives. Alternatives such as having the bypass go
9 up, and local Bowral people will cane me for this, I think
10 it's Kirkham Street, so it's the one that runs on the other
11 side of the bridge and then it coming over the train line.
12 You know, you're talking three, four times the size of what
13 it would cost to upgrade Station Street.
14

15 We have employed for well over 20 years a
16 well-respected traffic engineer, he is highly regarded both
17 within the industry and within state agencies. He's since
18 retired. His parting words were to us, "Station Street
19 will be built at some point". It is the only viable method
20 to breaking the traffic chaos that is Bong Bong Street.
21

22 Now, these are the views of not an engineer, of
23 someone who's not a technician, these are simply my views
24 that I'm sharing with you.
25

26 Q. Can I ask you, when you say a perception that staff
27 can't be trusted, who are you talking about there? What
28 perception of who?

29 A. "Trust" is probably not the right word. It's a
30 perception within a small faction of the Bowral community,
31 more often than not people who have moved down here from
32 Sydney who have held, you know, quite senior positions,
33 whether that be engineering, planning, legal background,
34 and they come in and they believe that there's better
35 alternative solutions and that council wouldn't have
36 necessarily considered those solutions, and that's not the
37 case.
38

39 THE COMMISSIONER: Q. The fact that, despite a
40 consultation process there were a series of community
41 groups still saying, "We haven't been consulted", I suppose
42 there's an element of subjectivity about the level of
43 consultation, but do you think it's incumbent on the
44 organisation to take steps to try to correct that
45 perception or put as much information out there as they can
46 to be able to point to say, "Here it all is"?
47

A. Absolutely, I completely agree.

1
2 Q. Do you think that happened, or happened effectively?

3 A. Commissioner, I do, but the views of others state
4 otherwise. So, again, as you said quite rightly, it is
5 subjective. We use an engagement platform, and again, we
6 have a highly engaged community, quite computer or
7 tech-savvy, you know, so we do have engagement platforms
8 like, you'll Wingecarribee which has been a platform that
9 we've used for several years to pretty much provide a
10 catalogue, historical catalogue, of the consultation.

11
12 Now, from my perspective in other council areas, would
13 that be deemed sufficient? Yes. Is it deemed sufficient
14 in the Southern Highlands? Well, the feedback you're
15 getting is that, no, that that's no.

16
17 Q. And, in light of that feedback, do you think it's
18 incumbent on the organisation to adjust or is it
19 unrealistic expectations from the community?

20 A. Commissioner, in my view it's about having a very,
21 very clear framework around the decision-making process,
22 because - and again, sharing my view, is that some of the
23 individuals that you've been speaking to and have been
24 quite vocal around knowing experts, they want to get into
25 the decision-making process; that is consultation in their
26 eyes. Someone with 20-plus years experience in local
27 government, no, I don't believe that that's a space that
28 residents should be entering.

29
30 Q. One of the issues that's been raised in the evidence
31 so far about Station Street is, when changes to the project
32 occurred, it didn't go back out for further consultation
33 and it was presented as, well, this is the way the
34 project - the only way the project can proceed, so this is
35 it. Do you have a view about that?

36 A. Yeah, look, and I think I may recall - it's funny I'm
37 getting all these questions, I'm not an engineer --

38
39 Q. No, I'm not asking you about the merits of the
40 project, that's quite different.

41 A. No, it's all good, Commissioner. My understanding is,
42 that that was a change - what brought about that angst was
43 a change required by either the RMS or Transport For New
44 South Wales, whichever manner they're operating under now,
45 that the design of the roundabout didn't comply. So, there
46 was a change required to the designs to modify - modify the
47 roundabout, which then resulted in a reduction in the

1 number of Pin Oak trees, and I think that was a point in
2 time - I may be completely wrong, but you know, there's a
3 lot of love for those Pin Oak trees - that was a point in
4 time where the community may have felt that there was a
5 need to re-engage.

6
7 Standing from an officer's perspective and someone not
8 close to the project, I would struggle with that concept,
9 that would be more of a notification type process from me
10 because, if a state agency is telling you, look, this
11 process doesn't proceed unless you make that change, then
12 the only option you have to do is to make that change; it's
13 not something you can go to the community and consult with,
14 it's something that potentially is a notification process.
15 I hope that does make sense?

16
17 Q. Yes, I understand what you say. Against that, just
18 putting the counter-proposition to you for your comment
19 would be, if that is a matter of some significance to the
20 community, should the community then have an opportunity to
21 provide feedback about whether the project should proceed
22 at all? Is that a reasonable view of consultation in your
23 experience?

24 A. (Witness nods.)

25
26 Q. You'd agree with that?

27 A. Correct.

28
29 THE COMMISSIONER: Thank you, Mr Parish.

30
31 MR PARISH: I was going to move on from the Station Street
32 bypass topic unless either of you wish to be heard any
33 further?

34
35 THE COMMISSIONER: Not from me at the moment but something
36 else may pop into my head as we go.

37
38 MR PARISH: Excellent.

39
40 Q. Can I just ask, in your experience in briefings or in
41 council meetings, did you ever witness any improper
42 interference by the governing body in the operational role
43 of the staff?

44 A. Mr Parish, I would suggest that the area that was
45 probably always the grey line was that the final thing that
46 we did before council meeting on the second and fourth
47 Wednesdays of each month is, we would go for a business

1 paper review. Now, you know, that has its merits, in that,
2 senior staff can be available to answer any question, and
3 when I first started I felt that it could result in a bit
4 more of an expedient council meeting, which often wasn't
5 the case, but as I was saying, it would allow opportunities
6 to ask questions strictly about the report itself.

7
8 The issue where it became very grey between that
9 councillor interaction was around planning matters where,
10 when they were contentious planning matters, the then
11 general manager had to quite often remind councillors that
12 they were not in the chamber because they were effectively
13 debating items.

14
15 Q. Was that something that happened in the 2016-2020 term
16 or did you see that happen during the previous term when
17 you were there in 15?

18 A. Certainly during the 2016-2020. Mr Parish, if I can
19 add as well, one of the things that was detrimental to
20 those briefings - and I'm not talking just to the business
21 paper review briefings - that something that I would refer
22 to as "nuisance behaviour" by certain councillors, nuisance
23 behaviour where certain councillors would look to, you
24 know, change the topic unnecessarily, would look to ask
25 questions of the general manager and senior staff and, to
26 use the vernacular, push their buttons. Does that make
27 sense when I say that, Commissioner?

28
29 THE COMMISSIONER: Q. It may help me to have some
30 examples, if you are able to give some. I think I
31 understand what you're saying.

32 A. Yeah, there are examples where certain councillors
33 would use every opportunity to put the limelight on
34 themselves and to make it very uncomfortable and difficult
35 for the senior members of staff.

36
37 MR PARISH: Q. Was this a recurring theme amongst some
38 of these councillors?

39 A. Yes.

40
41 Q. Can you tell the Commissioner who those councillors
42 were?

43 A. Councillor Scandrett.

44
45 Q. Anyone else?

46 A. On occasions Councillor Turland.

1 THE COMMISSIONER: Q. It's been suggested to me at some
2 of the briefings that the interactions between the
3 councillors and perhaps the senior staff led to the general
4 manager moving or at least threatening to remove staff from
5 meeting; did you ever see that?
6 A. Yes.
7
8 Q. Did it happen once, more than once, you don't have to
9 be exact?
10 A. I can recall one particular instance where staff were
11 waiting outside and I basically went outside and said,
12 "Turn around, back you go".
13
14 Q. And what caused you to do that?
15 A. The behaviour. As I said, that last 12-month period
16 was, um, was very difficult.
17
18 Q. Was it behaviour between themselves or was it
19 projected to staff?
20 A. Ah, look, I think it was, unfortunately, a situation
21 where it was pretty much the room.
22
23 Q. Sorry, I just don't --
24 A. Pretty much the room, councillors and senior staff.
25
26 THE COMMISSIONER: I see. Yes, Mr Parish.
27
28 THE WITNESS: And more for the sake of senior staff
29 attempting to bring some composure, composure. But, yeah,
30 and when I say "all councillors" it's not like there were
31 eight councillors standing up all ripping into each other,
32 but you can appreciate the type of environment, I'm sure,
33 that I'm trying to portray, Mr Commissioner.
34
35 THE COMMISSIONER: Q. Yes. How did that or did it have
36 an effect on the staff that you worked with?
37 A. Yes, I believe it did.
38
39 Q. And in what way?
40 A. I think, for staff who were close to the meeting
41 process, it was one that certainly - and we should talk
42 about this, we should be much more honest and open about
43 this - but impacted on their mental well-being. I think
44 that the colleagues who - well, I'm certainly proud to call
45 them colleagues - but colleagues who during that time lent
46 on each other because they needed to for the good of the
47 organisation, because one of the things that we were very -

1 we were very adamant to do, is that we wanted to shield the
2 rest of the organisation from what we knew was going on up
3 the top end because --

4
5 Q. And --

6 A. Because - sorry, Commissioner, for cutting you off
7 there.

8
9 Q. No, my fault.

10 A. -- for the pure reason that as an organisation, and
11 this often gets missed, we have a fantastic workforce, we
12 have a very good reputation in terms of, you know, our
13 financial management, our environment sustainability
14 branch, you know, wins awards. We are not like a lot of
15 councils where, you know, there's issues back-of-house; the
16 back-of-house of this organisation was run tight. So,
17 whilst what was going on in front, we wanted to make sure
18 that we just, from the back end of the operations,
19 continued to keep the wheels spinning to use the
20 vernacular.

21
22 Q. And did that environment have an effect on the
23 operations of the organisation, do you think?

24 A. I think we were - Commissioner, I believe we were able
25 to minimise that to a great extent, we were able to
26 minimise the impact of that. Obviously, having a situation
27 post council where we had a number of transitional periods
28 between general managers and staff leaving, that would have
29 been very difficult for the organisation and that would
30 have been straight in their face, and depending on the
31 individuals, some may not have blinked an eyelid about
32 that, but some would have seen that as the loss of close
33 colleagues, but that's not within the remit of your terms
34 of reference.

35
36 THE COMMISSIONER: Q. I understand. Yes, thank you.

37
38 MR PARISH: Q. What impact did that councillor behaviour
39 at briefings and in council meetings have on you,
40 Mr Mooney?

41 A. Yeah, look, again, I'm a fairly resilient individual;
42 you know, to an extent, you know, I thrive in an
43 environment where, you know, if I'm going to be challenged,
44 then I like to know that I'm prepared and can deal with
45 responses from all avenues, but not to say that, it was
46 frustrating and, you know, finance committee is a great
47 example where often we would have questions peppered at us,

1 you know, Code of Meeting Practice went out the window when
2 it came to finance committee, but we would be peppered with
3 questions as to, "You know, this report here, page 8
4 doesn't balance. Doesn't balance, there's no figure on
5 here", and it would be as simple as turning the page and
6 say, "Well, councillor, if you look at page 9, it's just a
7 print roll, the total's on the next page". So it's hard to
8 differentiate whether that was intentional, but it happened
9 frequently.

10
11 And I recall the very last finance committee meeting
12 we had before council was placed under administration, and
13 I'm pretty sure it wasn't picked up on the audio, and it's
14 probably unprofessional for me to share this, but I did
15 turn around to the mayor of the day, Duncan Gair, and I
16 said to him, I basically pleaded with him and saying,
17 "Mate, this isn't the Gestapo", because that's effectively
18 what it felt like, if you have the opportunity to witness
19 that, it was just question after question after question,
20 which is fine, that's my job and I was able to answer
21 those, but it presents a level of distrust if someone
22 else - if a lay person is watching that and going, "Well,
23 why is the councillors going so hard? Is there issues we
24 need to be aware of?"

25
26 THE COMMISSIONER: Q. I'll deal with your personal
27 experience and then I'll explore with you whether you had
28 discussions with others about it, but when you would put a
29 report to council, whether in a finance committee meeting
30 or in a council meeting, was there a general need to be
31 prepared to, not just answer questions, but to almost
32 defend your expertise and competence from time to time?
33 A. My general experience here over the period is no, is
34 that that was never the case. I had a good relationship
35 and was respected by the majority of councillors. Those
36 incidents at finance committee were really only in that
37 period, as I said, post bushfire, post pandemic, and were
38 again only really from two councillors.

39
40 It certainly wasn't an environment where, in the
41 nature of giving a report, the annual budget report, you
42 know, this council has a - or the former council had an
43 approach where they liked managers to present reports,
44 which was fine and I didn't have any issue with that, and
45 they found that was quite a good process.

46
47 Q. That's your personal experience; what about

1 observations of others who had reports go before council?
2 Did anyone discuss that issue with you?

3 A. I'm not aware of anyone who - again, apologise,
4 probably not the right language to be using in this
5 environment - but I'm not aware of anyone who had their
6 pants pulled down on them. Senior staff, if they weren't
7 used to presenting in that environment, typically people
8 like myself, Ms Danielle Lidgard, Mr Nick O'Connor before
9 he resigned, we would typically speak to those individuals
10 and just walk them through how we would prepare for a
11 council meeting to ensure that, you know, they didn't look
12 silly. But, no, I wouldn't say that the councillors
13 actively looked to embarrass staff in public at meetings.

14
15 THE COMMISSIONER: Thank you.

16
17 MR PARISH: Q. You mentioned that at the finance
18 committee at least the Code of Meeting Practice was thrown
19 out the window; by that I take it to mean that it wasn't
20 being adhered to at least as the meeting got into - got
21 into the meeting. Is that right?

22 A. Yeah, that's right, Mr Parish, and there's a bit of
23 history behind that. Up until 2016 finance committee was
24 seen as a committee of the whole: it's full council. So,
25 in 2016 we amended the terms of reference for council's
26 committees and essentially brought the finance committee
27 into full council, we streamed it when streaming became
28 live, and we also very much tried to align it to the ways
29 of how a normal council meeting would be run.

30
31 The reason why it had previously been seen as a
32 committee of the whole is because it was felt that there
33 was a better opportunity and a more informal environment
34 for councillors to ask questions about the budget. When I
35 first arrived here in 2015, that's exactly what it was, a
36 very informal environment, we were in the meeting room just
37 over there, and we would still seek all the necessary
38 formal resolutions that were required under 377. And then
39 we, after the terms of reference for committees were
40 amended, we then started meeting in the chamber, and for
41 the first three years it was fine and in actual fact it
42 elevated, in my view, the importance of the work that was
43 being done within the organisation around developing sound
44 financial management practices and, you know, strategies
45 and policies. So, if anything, I think it was a real
46 improvement in those first three years.

1 It was then again only during post pandemic, going
2 online, and post bushfires that it just degenerated the
3 same way that meetings in general degenerated.
4
5 MR PARISH: Thank you.
6
7 THE COMMISSIONER: I see the time, Mr Parish, is that a
8 convenient moment?
9
10 MR PARISH: Yes, although unless you want to explore other
11 topics, I might be able to wrap things up in relatively
12 short compass and not having had Mr Mooney --
13
14 THE COMMISSIONER: Yes, I think I would benefit from at
15 least a short break at the moment.
16
17 MR PARISH: I'm also conscious of that, yes.
18
19 THE COMMISSIONER: We might just take 15 minutes,
20 Mr Mooney. If you would be so kind as to resume at 10 to
21 12?
22 A. Not a problem, Commissioner.
23
24 THE COMMISSIONER: Thank you.
25
26 **SHORT ADJOURNMENT**
27
28 THE COMMISSIONER: Mr Parish, are you ready to proceed?
29
30 MR PARISH: Yes, Commissioner.
31
32 THE COMMISSIONER: Thank you.
33
34 MR PARISH: Q. Mr Mooney, I'm just going to show you a
35 document. You were referring before the break to a report
36 to council on 12 May 2021; do you recall that?
37 A. Correct. That's correct.
38
39 Q. Is that a copy of that document that you were
40 referring to?
41 A. Mr Parish, this is the report I was referring to.
42
43 MR PARISH: Thank you, Mr Mooney. It might be an
44 appropriate moment to tender that document now, if that
45 would be convenient.
46
47 THE COMMISSIONER: Yes. Let me just find my list.

1 Exhibit K is a copy of a report headed, "Station Street
2 Upgrade Project" presented to the ordinary meeting of
3 council on 12 May 2021. Mr Parish, that obviously enough
4 is already a public document so that should go on the
5 website promptly, please.

6
7 <EXHIBIT #K - COPY OF A REPORT HEADED, "STATION STREET
8 UPGRADE PROJECT" PRESENTED TO THE ORDINARY MEETING OF
9 COUNCIL ON 12/05/21.

10
11 MR PARISH: Thank you, Commissioner.

12
13 Q. Can I just go back to some references you made to
14 specific incidents which left you with certain impressions
15 about the behaviour of councillors. Before I deal with
16 some more specific incidents, just in respect of that
17 bushfires council meeting that you were referring to, did
18 you ever attend any of the community meetings post
19 bushfire?

20 A. Mr Parish, no, I didn't.

21
22 Q. Can you tell the Commissioner about any other specific
23 incidences which left you with an unfavourable impression
24 about the council behaviour, Mr Mooney?

25 A. If you can just bear with me, Mr Parish?

26
27 Q. Of course.

28 A. Mr Parish, I have brought with me today a copy of an
29 email which I would suspect at some point may have been
30 subpoenaed as part of the public inquiry. The email is
31 dated 25 February 2021 at 9.52 am. The subject description
32 is, "File note and formal Code of Conduct complaint
33 altercation with Councillor Turland 24 February 2021".
34 Now, it is a two-paged document with 15 points, Mr Parish,
35 would you like me to just quickly read through those to
36 outline the event?

37
38 THE COMMISSIONER: Q. Yes, and at the end of that I'll
39 ask you to produce it to the inquiry and we'll take a copy,
40 but yes, please proceed.

41 A. Commissioner, point 1:

42
43 *At approximately 1.10pm on 24 February 2021*
44 *Ms Danielle Lidgard, group manager of*
45 *corporate and community, came to my office*
46 *to advise me that Councillor Turland was in*
47 *the newly refurbished councillor chambers,*

1 a section of the building which has not
2 been formally handed over by the building
3 contractor, Matrix.

4
5 Essentially the room we're in now, Commissioner:

6
7 I walked to the chamber because I was aware
8 that the acting general manager had
9 approached Councillor Turland and requested
10 that he leave the chamber as it was still
11 deemed a construction site. At this stage
12 I followed the AGM into his office and we
13 discussed that the chamber was an active
14 worksite and that he should not be in that
15 part of the building.

16
17 At point (4):

18
19 The AGM then moved towards the chamber with
20 intent to explain to the councillor that
21 the area was still an active building site.
22 I followed to ensure there was a witness to
23 the conversation.

24
25 The AGM explained in a very rational manner
26 the reasons why the councillor could not
27 remain seated in the chamber and calmly
28 requested that he remove himself from the
29 chamber.

30
31 The councillor then explained that he had
32 his own sneeze guard, which in my opinion
33 was grossly inadequate, and that was not
34 the only reason he had been told the
35 chamber could not be used.

36
37 The AGM then explained that contractors
38 would continue to enter the chamber and
39 that as recent as late as this morning
40 electricians were in the room performing
41 works. The councillor then became
42 aggressive and demanded to know why the
43 meeting had been rescheduled to an
44 online Zoom meeting.

45
46 This was a meeting that was to take place later that
47 day:

1
2 The AGM remained calm and continued to
3 explain that due to the sneeze guards not
4 being installed works in the chamber were
5 continuing and that, for the councillor to
6 be on site, he would have to be formally
7 inducted to the site being in attendance
8 with a site representative and wearing
9 appropriate PPE.

10
11 The standoff continued for a few minutes.
12 At that stage Mr Mark Pepping also came
13 into the chamber due to the aggressive
14 behaviour being displayed by Councillor
15 Turland.

16
17 Councillor Turland then complained that he
18 would not be able to attend the next
19 briefing at 1.30pm, backyard burning
20 policy. The AGM made several offers to
21 find a room within the building not part of
22 the construction site to view the briefing.

23
24 Councillor Turland did not accept this
25 offer and told staff present that he would
26 return to his office. He then made a
27 statement that he would "deal with all of
28 this later with Bugalugs". The AGM
29 challenged the councillor as to who he was
30 referring to. At this stage the councillor
31 said he was referring to the mayor.

32
33 Again, the AGM remained calm and explained
34 that this was between the councillor and
35 the mayor. The councillor then started to
36 leave the meeting making a number of
37 incoherent statements regarding the
38 backyard burning policy, none of which
39 could be understood by the staff present.

40
41 I then go on in this file note to make a comment that:

42
43 I am not someone who is afraid in these
44 types of circumstances. Certain periods of
45 my life, both professionally and through
46 sporting experiences I've witnessed
47 situations where personal safety of

1 *individuals have been clearly threatened.*
2 *I would consider the aggressive, irrational*
3 *behaviour displayed by Councillor Turland*
4 *at this event as such an occasion.*
5

6 I then go on to request that it be formally lodged as
7 a Code of Conduct matter. So, obviously in written terms
8 it probably doesn't go to explaining that it was a very
9 intense environment in this room at the time, one that is
10 not conducive to effective relationships between
11 councillors and council staff members, and one that should
12 not be subjected in any safe work environment, whether it
13 be local government or any other industry, Commissioner.
14

15 Who would you like me to table that to?
16

17 THE COMMISSIONER: Mr Broad. If you would be so kind as
18 to produce it to Mr Broad, Mr Broad will take a copy. I
19 don't know whether you want to tender it or mark it. When
20 that comes back Counsel Assisting can decide what he wishes
21 to do with it.
22

23 Mr Parish.
24

25 MR PARISH: Q. What was your impression of how the
26 behaviour of Councillor Turland affected other people?

27 A. Again, individuals deal with these things depending on
28 their own thresholds.
29

30 Q. What was your impression?

31 A. I was frustrated. I was frustrated because I think
32 it's an incident that I think didn't necessarily have to
33 occur. I truly believed that Councillor Turland has anger
34 management issues that, unfortunately on occasions like
35 this, don't reflect him in the best light. I don't know if
36 I'm overstepping my mark by making that statement, but I
37 truly believe that there have been many, many occasions
38 where Councillor Turland has worked within the best
39 interests of the council, however the deterioration in the
40 relationship between the then mayor and the then deputy
41 mayor, you know, really, really impacted their working
42 relationship.
43

44 Q. Can you tell the inquiry of any other incidents
45 similar in nature, either in respect of Councillor Turland
46 or other councillors during the 2016-2020 term, or was this
47 an exceptional event?

1 A. The two occasions that I've raised around directly
2 after the bushfire meeting of February 2020 - please excuse
3 me if I've got that date wrong - and then the file note
4 I've just read out to you then, I dare say by viewing the
5 recordings, and there would be numerous - and unfortunately
6 it got to the stage for a lot of staff where that behaviour
7 just became, not the norm, but we became not dismissive of
8 it. It was very difficult to isolate certain circumstances
9 or events because it was happening, particularly in that
10 few years, happening so often. Particular councillors
11 being a nuisance by, when we were online, making it very
12 difficult for our CIO to ensure that they were able to
13 present and vote, you know, things like that; little things
14 that have all built up into this environment which led to
15 the council not being able to effectively perform its
16 duties due to a small minority.

17
18 THE COMMISSIONER: Q. When you're referring to "the
19 council" there, are you referring to the governing body or
20 the organisation or both?

21 A. Oh, the body politic being able to function because of
22 the actions of a few number of councillors disrupting
23 proceedings so much, through a variety of different means;
24 whether it be through the raising of notice of motions,
25 whether it be through, you know, blaming technology during
26 Zoom meetings that - it's very dubious whether it actually
27 was technology or not or whether it was just an opportunity
28 to unsettle the mayor.

29
30 It's very obvious if you view the last meetings of
31 council, and on occasions I was seated adjacent to the
32 mayor, it would be a fair assessment, and I'm sure he would
33 agree with this, that he became flustered, and by becoming
34 flustered didn't allow him to chair the meetings as
35 effectively as what he would have liked.

36
37 The Zoom environment was something that was very
38 difficult for him to transition to, whether that be an age
39 thing or what, I'm certainly not being disrespectful, but
40 it was a difficult environment which was then compounded by
41 some of the nuisance tactics that were being played out by
42 a handful of councillors.

43
44 Q. I take it you're familiar with the Code of Meeting
45 Practice from your experiences?

46 A. Yeah, to a degree. To a degree, Commissioner.

1 Q. You gave an answer to Mr Parish earlier that in
2 finance committee meetings, I think words to the effect
3 that it had been thrown out the door. Was it applied in
4 council meetings to your observation?

5 A. Yes.

6
7 Q. Was it applied effectively in council meetings?

8 A. From an officer's perspective, the staff who were
9 responsible for that did their very best to ensure that the
10 Code of Meeting Practice was adhered to.

11
12 Q. Do you think that the mayor had a good grasp of the
13 detail of the Code of Meeting Practice in his role as
14 chair?

15 A. Yes, I do. I believe he found it challenging to bring
16 that to effect in those later council meetings.

17
18 Q. Was he supported by any of the other councillors in
19 trying to bring the Code of Meeting Practice into effect in
20 those challenging meetings?

21 A. Yeah, I believe he was, but I don't think that that
22 ultimately resulted in any significant improvement in how
23 the meetings were run.

24
25 Q. The code has, for example, measures that can be taken
26 in instances of acts of disorder; I take it you're familiar
27 with those?

28 A. Yeah, and we used those on occasions. So, meetings
29 have been suspended. There was an occasion, and I can't
30 recall the date but it was certainly when we were on Zoom,
31 where the chair did use his power to suspend a meeting -
32 I'm not sure if it was for five or 15 minutes - and the
33 councillor who was - the reason why the meeting was
34 suspended was given a warning that, if that behaviour
35 continued beyond the meeting resuming, then he would be
36 suspended from the meeting.

37
38 THE COMMISSIONER: Thank you.

39
40 MR PARISH: Q. Can I just expand on an answer you gave
41 about the effect of the degradation of councillor behaviour
42 on senior staff that you were talking about before. To
43 your impression did you see a change in the behaviour of
44 the executive such as the general manager or the deputy
45 general manager as a result of the behaviour of the
46 councillors?

47 A. Yeah, I think that would be a fair comment to make,

1 Mr Parish, yes, there was a change.

2
3 Q. Can you give any examples of the changes or the way
4 that senior staff or executives conducted themselves?

5 A. Firstly on a personal note, Mr Parish, I certainly saw
6 a change in the way that they were managing the stress that
7 related to each of their respective roles. Running a very
8 complex business, you know, to I think it's over 50,000
9 residents now across the shire but, you know, a complex
10 business that provides not only your roads, rates and
11 rubbish which your typical metropolitan councils would,
12 but, you know, the regional facilities, water and sewer as
13 we're required to do, there's a lot of inherent stress that
14 comes along with being senior executives in that role. You
15 then add onto that a very challenging political environment
16 or a challenging political environment that is continuing
17 to exacerbate itself: of course it added a lot of stress to
18 each three of the senior executives.

19
20 To an extent I experienced that myself when I acted in
21 the role for 12 months, so to some degree I can say that I
22 share similar experiences that they would have. Did it
23 affect them in their way - in their ability to continue to
24 perform their roles? Well, I would say that there was
25 obviously a greater focus on managing the politics than
26 necessarily managing the business. It would be unfair for
27 me to really answer those questions on their behalf.

28
29 THE COMMISSIONER: Q. No, I think Counsel Assisting is
30 just asking of your observations of what you felt rather
31 than what was in their mind.

32 A. Okay, well, thank you, Commissioner. My observations
33 were that they were indeed under a lot of stress.

34
35 MR PARISH: Q. When you say "a greater focus on managing
36 the politics instead of the business", can you give
37 examples of your observation of that?

38 A. Yeah. So, the way I would respond to that question
39 is, is the volume of councillor matters that were needing
40 to be dealt with, councillor complaints that were coming
41 through, Code of Conducts that were coming through, which
42 obviously were managed by our public officer, but you know,
43 the GM has some visibility over that. That's where a
44 larger focus would have been on dealing with the
45 dysfunctionality of the council. I hope that answers your
46 question.

1 Q. Yes, thank you. There's been observations and
2 evidence that the council was a toxic workplace at least at
3 the time of suspension. Do you have a view on that?

4 A. Yeah, I'd refute that.

5
6 Q. Can you tell us why?

7 A. I think, as is the case with any organisation that has
8 over 450 people, is that you will find that there are
9 essential different cultures, different levels of energy
10 within each various part of the buildings.

11
12 I'm very proud - personally speaking, I'm very proud
13 of the team of people that I led who supported me, an
14 exceptionally talented group of people who I believe were
15 very focused, knew their roles, knew that they were
16 supported, knew that the support that they provided was
17 appreciated, and there are a good handful of the parts of
18 the business that I could say had similar cultures within
19 that branch. That's not to say that there weren't other
20 parts of the business where there were very poor cultures,
21 but it certainly wasn't a situation, in my view, that the
22 culture across the organisation was toxic.

23
24 There may be some examples provided through community
25 surveys - not community, I'm obviously talking about
26 consultation. There are some examples of staff surveys
27 which have been provided, and yeah, there are some matters
28 which the broader workforce had issues with: the need to
29 design and modernise our remuneration framework was a major
30 bugbear with a lot of staff. Those types of surveys in my
31 experience allow staff the opportunity to really drive home
32 on those points that they've been dissatisfied about that
33 hadn't been addressed for a long time.

34
35 I see that as being very different to someone coming
36 to work and sitting down all day and having nothing on
37 their mind except for the fact that how annoyed they are:
38 that doesn't happen, you know. People come to work, they
39 want to enjoy their day's work, they want to be able to
40 know that they can do it safely most importantly and then
41 also, you know, go home to their friends and families.

42
43 THE COMMISSIONER: Q. One suggestion I'm aware of is
44 that what was happening between the members of the
45 governing body sort of had some effect on at least some of
46 the staff in the organisation. Did you observe that?

47 A. Yeah, there were instances, particularly after the

1 bushfire. Particularly after the bushfire there were staff
2 who invested a huge amount of time in a number of the
3 recovery groups that we set up, and I just don't feel that
4 they felt that their level of effort was being matched, if
5 that makes sense, Commissioner.

6
7 Q. It does. And I appreciate that, as you've said in
8 your evidence, you're quite a resilient person in the face
9 of potential conflict, but did you observe how that
10 affected other people who may not be as resilient as you?

11 A. Yes.

12
13 Q. And what did you observe of how the councillor
14 behaviour impacted members of the staff in that category?

15 A. Yeah, there were individuals who I would suggest were
16 at the point of breaking. I don't think councillors were
17 aware of that, I don't - you know, the line of
18 communication wouldn't have filtered down to that, but
19 there were certainly staff who, as a result of the response
20 to the bushfires, were very upset, were very upset, upset
21 for the communities that they were working for.

22
23 Q. And it's been also suggested that some staff became
24 embarrassed to work for the organisation. Did you ever
25 hear anything of that kind?

26 A. Yeah, I have heard those statements.

27
28 Q. I take it, that's not something that - well, you tell
29 me: was that something that you felt from time to time?

30 A. For a whole variety of reasons --

31
32 Q. About that --

33 A. -- it was difficult to reconcile the work that I
34 believed - the good work that I believed we were doing as
35 an organisation, it was difficult to reconcile that with
36 the outward facing view of the general public.

37
38 Q. And does that tell you something about how effective
39 the organisation was in getting its message out?

40 A. Commissioner, I would absolutely agree this council
41 needs to move forward and moving forward a complete rethink
42 of how it engages and communicates with its community, its
43 residents, it really has to be number one priority in terms
44 of rebuilding that trust.

45
46 Q. Yes, that was going to be my next question. On one
47 view there's an environment where it might be said that the

1 community and the council were almost opponents in some
2 ways; is that a fair observation to your mind?

3 A. Yeah, Commissioner, that's an interesting question
4 because it's to a small minority group of the committee.

5
6 Q. When you say it's a small minority group: I've had a
7 number of different community organisations and tourism and
8 economic development organisations come forward, and I've
9 heard it said before things like, "This comes from a small
10 minority". How am I to understand that when I have - this
11 is not critical of you, I'm seeking your input to help me
12 reconcile this - because I have a number of community
13 groups putting forward their view and what they feel, then
14 the counter view is, "Oh, it's a small perception of the
15 community".

16 A. Commissioner, may I share my view with you on that?

17
18 Q. Yes.

19 A. My view on that is that we are a government
20 organisation that provides services, programs and
21 facilities to over 50,000 residents within the shire. Our
22 focus should be on the 50,000 residents within the shire.
23 Are mums and dads able to play on safe sports fields on the
24 weekend with their kids? Are our residents able to be
25 comforted, you know, assured that their waste collection
26 will be collected when they expect it to be collected?

27
28 There's a lot of talk about roads at the moment, it's
29 an area that we need to invest in, but that is an area
30 where, yeah, you certainly are hearing more and more than
31 just the lobby groups but from the broader populous that
32 that's a level - a service that we provide where we need to
33 invest more.

34
35 So, from my perspective I look at the relationship
36 between the council and the community as being the
37 relationship with that much larger group, not necessarily
38 the lobby groups.

39
40 And to a lot extent, you know, I've heard this comment
41 quite often, that people go, "The Highlands is an ageing
42 shire and there's a lot of people that have retired from
43 Sydney, and there's not a lot of young people down here".
44 To an extent I refute that. I expect the fact that housing
45 prices certainly don't - makes it challenging for young
46 people to say in the area, but a lot of young people do
47 want to stay in the area and a lot of these people are

1 people who are leaving for work at 5, 6, getting home at 7;
2 they don't want to deal with council. They want to know
3 that those basic services that I've just outlined are dealt
4 with and that's the only touch point that they want to have
5 with council. So, to hear comments such as, "Oh well,
6 we're older community", I don't necessarily think that
7 that's entirely correct.

8
9 THE COMMISSIONER: Yes, thank you.

10
11 MR PARISH: Q. Can I just pick up on that topic and
12 bring it back to the Station Street upgrade. Do you know
13 of any policies or procedures that were followed by council
14 in respect of communication and consultation on that
15 Station Street upgrade?

16 A. My answer to that is, no. I would assume that there
17 would have been some form of community engagement strategy
18 developed for the project, but I wouldn't be able to say
19 with 100 per cent confidence that I've seen that document.

20
21 Q. Do you accept, perhaps from what you've just said,
22 that in significant projects like the Station Street
23 bypass, council needs to go beyond a tick box exercise, and
24 I don't mean that critically or pejoratively, but it needs
25 to tailor at least in big strategic projects its approach
26 to the fact that there are active community groups, the
27 fact that there are at least statistically an older
28 professional class of people? Would that assist in your
29 view in your impression?

30 A. Yes, I agree, it does, and I - again, it comes back to
31 a subjective view that we were talking about earlier on - I
32 would see things like council opening a dedicated, you
33 know, street shop front to allow residents to come in and
34 talk about a particular process - project. And granted,
35 I'm aware that that has been criticised because it wasn't
36 seen as genuine consultation, but that is a step that is
37 very unusual for a council to take with respect to a
38 capital works project. And so, yeah, I do believe there
39 were steps taken above and beyond what would normally be
40 the tick of the box.

41
42 Q. Going forward, do you think that that is perhaps an
43 approach that needs to be embraced by council to deal with
44 at least the observations you've made about the active
45 community in the shire on certain subjects at least?

46 A. Look, Mr Parish, I certainly don't pretend to be a
47 community engagement expert, but yes, certainly

1 face-to-face, the use of technologies as well is something
2 that all councils, not just at Wingecarribee, but all
3 councils should be looking to leverage off to ensure that
4 they are engaging with their communities which, let's face
5 it, are becoming busier and busier; you know, people are
6 becoming time-poor, so really making sure we hit the
7 argument audience.

8
9 MR PARISH: I don't have any further questions on specific
10 topics at this stage, Commissioner.

11
12 THE COMMISSIONER: Q. Have you got Exhibit K, the 12 May
13 2021 - sorry, I need to lean forward, I keep being
14 reminded. Have you got what is now Exhibit K, the Station
15 Street upgrade report to the 12 May 2021 meeting?

16 A. Yes, Commissioner.

17
18 Q. You were still at the council at this time, I think?

19 A. That's correct, Commissioner.

20
21 Q. Were you involved in the preparation of this report?

22 A. That's correct, Commissioner, between three, four
23 staff, basically provided a draft and then I, for want of a
24 better term, kicked it into shape.

25
26 Q. And do I take it that from your perspective it sets
27 out at least in general terms a history of how the project
28 came about, how it proceeded, and ultimately the reasons
29 why there was a recommendation not to proceed?

30 A. Essentially, Commissioner, without writing a novel
31 which you potentially could about this project, this was -
32 the intent of this report was exactly that.

33
34 Q. I understand, and I appreciate there's a document in
35 front of me, but just in general terms could you just
36 describe the reasons why ultimately the recommendation was
37 made not to proceed?

38 A. The fundamental risk was around our capacity to
39 actually deliver the works. There were too many unknown
40 risks, whether that be through TAHE and the use of the
41 proposed land swap. The \$38m was a figure that obviously
42 concerned greatly the group manager of project delivery and
43 myself. It's essentially for those reasons, yeah.

44
45 THE COMMISSIONER: Thank you. Yes, Mr Parish.

46
47 MR PARISH: Q. Mr Mooney, is there any other topic you

1 want to address the Commissioner on?
2 A. No, I would just a couple of things, firstly, like to
3 thank you, the Commissioner, and you, Mr Parish, for
4 today's events, and also to probably make a parting
5 statement that I genuinely enjoyed my time at Wingecarribee
6 Shire Council for the seven years that I was here, and for
7 the good people who are still here, hope that there is an
8 outcome from the public inquiry that allows the
9 organisation to move forward and start to rebuild that
10 trust and confidence with the community. I wish the
11 organisation and the community all the best moving forward.
12
13 THE COMMISSIONER: Q. Just in that last observation you
14 said "to rebuild the trust and confidence of the
15 community", do I take it from that you think it has been
16 lost as a result of the events over, say --
17 A. Now, obviously with the suspension of the councillors,
18 the administrator being appointed and the public inquiry
19 now being undertaken, I think that that's a fair
20 assessment.
21
22 Q. But do you think that was something that was happening
23 before the ministerial intervention?
24 A. Yes, Commissioner, yes.
25
26 THE COMMISSIONER: Thank you.
27
28 MR PARISH: Q. I might just as a formal matter,
29 Mr Mooney, ask you to identify the email you were referring
30 to before. So, you have before you an email chain between
31 two different email addresses from yourself but also
32 including emails to various members of staff at the
33 council; do you have that in front of you?
34 A. I do.
35
36 Q. And it runs to three pages; is that correct?
37 A. That's correct, it does.
38
39 Q. And the top date at least for the purposes of
40 identification is Monday, 28 March 2022 at 12.15pm?
41 A. Yes, that's correct.
42
43 MR PARISH: I tender that.
44
45 THE COMMISSIONER: Do you mark it or tender it?
46
47 MR PARISH: I might mark it for now and then come back to

1 it.

2

3 THE COMMISSIONER: That document will be MFI-2.

4

5 **#MFI-2 - THREE PAGES OF EMAILS FROM MR MOONEY, THE FIRST**
6 **DATED 28/03/2022 AT 2.15PM.**

7

8 THE WITNESS: Mr Parish, it goes without saying that
9 redactions are --

10

11 MR PARISH: Yes.

12

13 THE COMMISSIONER: Anything that has personal contact
14 details I've asked to be redacted.

15

16 Does that complete your examination?

17

18 MR PARISH: Yes, Commissioner.

19

20 THE COMMISSIONER: Is there an application?

21

22 CR SCANDRETT: Thank you, Mr Glover. I have two matters
23 of clarification.

24

25 THE COMMISSIONER: Yes, what are the topics?

26

27 CR SCANDRETT: One relates to the statements by Mr Mooney
28 in regards to leaking of confidential documents.

29

30 THE COMMISSIONER: I don't think he used the word
31 "confidential" but anyway, yes, what's the second topic?

32

33 CR SCANDRETT: The second one is clarification about the
34 amount of \$38m.

35

36 THE COMMISSIONER: Mr Riley, you're now being pumped to
37 the back, if you have an objection you'll have to just
38 shout a bit louder so I can --

39

40 MR RILEY: My instructions are that Mr Mooney doesn't
41 object to being questioned on this.

42

43 THE COMMISSIONER: Yes, but if you have an objection to a
44 particular question, feel free to voice it, you will just
45 have to be a bit louder than usual.

46

47 MR RILEY: Thank you.

1
2 THE COMMISSIONER: All right, I adopt the procedure that I
3 outlined earlier, so ask your question and I'll rule on it
4 as we go.

5
6 CR SCANDRETT: Thank you, Commissioner.

7
8 <EXAMINED BY CR SCANDRETT: [12.33pm]

9
10 CR SCANDRETT: Q. My first question to Mr Mooney is that,
11 you've made a statement that there was leaking of, my notes
12 say "confidential documents". Could you clarify how you
13 think that happened and who was involved?

14 A. Commissioner --

15
16 THE COMMISSIONER: I'll allow that question.

17
18 THE WITNESS: Commissioner, we were aware of the fact that
19 that information was being leaked because the information
20 was being discussed in council briefing sessions which
21 involved councillors, senior staff, and the executive and
22 other senior staff. We were then becoming aware of this
23 information being released to other groups before it had
24 been formally released via a council report or council
25 formal correspondence, so that can only leave you to reason
26 that the information had been leaked.

27
28 Q. Would you like to comment on who you think was
29 responsible for the alleged leaking?

30 A. Can I have a moment just with my counsel, please?

31
32 THE COMMISSIONER: Yes. Mr Broad, there's a provision in
33 the Act, is there not, about whether the provision of
34 information of this kind constitutes an offence?

35
36 MR BROAD: There is. The Act --

37
38 THE COMMISSIONER: Can you remind me of the provision?

39
40 MR BROAD: That includes all of the powers under the Royal
41 Commissions Act can lead to that situation.

42
43 THE COMMISSIONER: Which section of the Local Government
44 Act?

45
46 MR BROAD: I'll endeavour to find it, Commissioner.

1 THE COMMISSIONER: Q. I'm sorry, Mr Mooney, if you need
2 to confer with Mr Riley, I'll allow that, but let's just
3 see where I go for the moment.

4 A. Yeah, I believe this should address the question I
5 would have of Mr Riley.

6
7 THE COMMISSIONER: If anyone else knows other than
8 Mr Broad, feel free to sing it out.

9
10 MR BROAD: I was looking at Part IV, Commissioner, but ...

11
12 THE COMMISSIONER: Yes. I had in my mind there was a
13 provision that dealt with the use of council information,
14 and that it was potentially an offence provision.

15
16 MR BROAD: You have a situation where 664 may apply.

17
18 THE COMMISSIONER: That may be the one, let me just turn
19 that up. Yes, that is the provision. Just come back into
20 the witness box, Mr Mooney.

21
22 Councillor Scandrett, Section 664 of the Local
23 Government Act, at least on one view, has application to
24 the circumstance you're providing and provides that it's an
25 offence provision with a maximum penalty of 50 penalty
26 units. In that case, why should I compel Mr Mooney to
27 answer that question?

28
29 CR SCANDRETT: Commissioner, these allegations are very
30 broad, they're not specific, and I think they need to be
31 qualified in a precise manner.

32
33 THE COMMISSIONER: Q. Well, let me ask you this question:
34 do you know as a fact who it was?

35 A. Commissioner, have I my suspicions but I do not have
36 any proof.

37
38 THE COMMISSIONER: Then that's as far as I think it should
39 be taken. Suspicions in that context, given it's an
40 offence provision, I don't think are appropriate to be
41 explored in that way.

42
43 Yes, your next question?

44
45 CR SCANDRETT: Thank you, Commissioner.

46
47 Q. My second question was the amount of \$38m, Mr Mooney,

1 that you've detailed variously, as recently as December
2 2020. Is that the same amount that was in the business
3 papers on the meeting - that meeting of council on or
4 around that day?
5 A. Commissioner, I can't recall that. Without having the
6 business paper in front of me that's not a question that
7 I am able to answer.
8
9 THE COMMISSIONER: All right, for my benefit, Councillor
10 Scandrett, I'm not sure I understood what you're asking?
11
12 CR SCANDRETT: Commissioner, my recollection is that the
13 amount that was presented to council briefing at that time
14 was in the order of \$32m to \$34m and I was therefore
15 seeking clarification where the amount of 38 came from,
16 which is another step further on. Well, I've seen the
17 amount of \$36m in media reports.
18
19 THE COMMISSIONER: Just pause, just pause. What I asked
20 was what your question was. You'll have an opportunity
21 when you give evidence.
22
23 CR SCANDRETT: Indeed, thank you.
24
25 THE COMMISSIONER: And you'll have an opportunity after
26 the evidence to make submissions. So, I think Mr Moody's
27 answer to the question at least as he understood it was, he
28 can't remember.
29
30 CR SCANDRETT: He has and I thank him for that.
31
32 THE COMMISSIONER: Is that all?
33
34 CR SCANDRETT: Yes. Thank you, Mr Mooney.
35
36 THE COMMISSIONER: Mr Riley, do you seek leave to examine
37 Mr Mooney?
38
39 MR RILEY: I don't have any questions.
40
41 THE COMMISSIONER: You don't need to stand. Mr Parish,
42 any re-examination?
43
44 MR PARISH: No, Commissioner.
45
46 THE COMMISSIONER: Is there any reason why Mr Mooney ought
47 not be excused?

1
2 MR PARISH: No, Commissioner.
3

4 THE COMMISSIONER: Thank you.
5

6 Q. Mr Mooney, that completes your evidence, thank you for
7 coming along today and I appreciate that answering a
8 summons takes you away from other things that you would no
9 doubt rather be doing. You are excused from further
10 attendance under your summons and you're free to go. Thank
11 you?
12

13 <THE WITNESS WITHDREW
14

15 THE COMMISSIONER: Mr Parish, I understand the next
16 witness is here, should we proceed on and sit until that
17 witness is finished or how would you like to proceed?
18

19 MR PARISH: I think we should sit on, Commissioner, and
20 see how we go.
21

22 THE COMMISSIONER: Yes, all right. I won't adjourn at 1.
23 Why don't you tell me if you get to a point where you think
24 some adjournment for the luncheon period is appropriate and
25 we'll take it then.
26

27 MR PARISH: Yes, thank you.
28

29 THE COMMISSIONER: Yes, the next witness, please?
30

31 MR PARISH: The next witness is Brigid Kennedy.
32

33 <BRIGID KENNEDY, sworn: [12.44pm]
34

35 THE COMMISSIONER: Yes, thank you, Mr Parish.
36

37 <EXAMINATION BY MR PARISH:
38

39 MR PARISH: Q. Thank you, Ms Kennedy. Could I start by
40 asking you to describe your background, your vocation, your
41 experience and how long you've lived in the shire.
42

43 A. How long have you got?
44

45 Q. As long as you need.
46

47 A. Thank you. I am a chef. I had a very big business in
Sydney called Simmer on the Bay and I also - so, functions
and that kind of thing. I was the Chamber of Commerce head

1 for 10 years there and worked extensively with City of
2 Sydney and also created the Sydney Alliance and the Sydney
3 Arts and the Walsh Bay Arts alliance for 10 years while up
4 there.

5
6 On moving to the Highlands I have had a farm in the
7 Highlands since 2001 and I lived part-time in the Highlands
8 from 2011, where I bought The Lock and we turned that into
9 a paddock to plate restaurant, so chef and an event is
10 probably - and farmer are probably my attributes.

11
12 I joined the Moss Vale and rural - it was the Moss
13 Vale Chamber of Commerce when I first joined and we added
14 rural to the chamber so that we could be looking - nobody
15 was really looking after the farmers and the producers, and
16 we particularly wanted to do that because Moss Vale was
17 quite - was more the trade town for that sector. We had 28
18 empty shops at the time and we stayed out more alone as
19 our - the chamber to look after Moss Vale that really did
20 need some attention at the time; as I said, there were 28
21 empty shops.

22
23 So, I joined when there was a fellow called Bob Seldon
24 who was a very, very good president of Moss Vale at the
25 time and I followed him. We had another lovely president,
26 Greg Mills, and then he resigned and I took over as
27 president. I'm also --

28
29 Q. When did that take place, when did you become
30 president?

31 A. In 2018, so I've been president for four years. Also
32 I'm a chair of the - well, co-chair with a wonderful man
33 called Hugh Clarke of the agri and equine sectors, because
34 I also do breed thoroughbreds as well for sale, so I'm part
35 of the Southern Highlands key stakeholders group.

36
37 Q. Thank you. How many members does the Moss Vale and
38 Rural Chamber of Commerce have?

39 A. We have two tiers of membership. We have over - so
40 there's a gold and silver membership. So, we have, north
41 of - around about 150-odd of the gold members and about 600
42 of the silver members which is a free membership.

43
44 Q. Did you consult with that membership group before
45 making your submission to this inquiry?

46 A. In the Small Business Commissioner's report it is very
47 extensively populated by my members. We are well-known as,

1 and I suppose as rural would suggest, as the chamber that
2 rolls up its sleeves to really advocate for our members.
3 We talk about it a lot at committee level and a lot - we
4 get personally asked for assistance often in advocacy. I
5 heard somebody talk about it being a lobby style but I do
6 have to say what is one man's lobbying is another man's
7 advocacy, so tomato/tomato.

8
9 Q. Yes. In your role in the industry and the community,
10 were you involved in any groups that were formed by or
11 consulted with the council?

12 A. Very much so. The stakeholders' group was very - was
13 and is a very inclusive group and so certainly felt that
14 working with councillors to understand where they were
15 going, direction, and how that could help our members was
16 very beneficial.

17
18 Q. Can you give me your experience about the
19 Wingecarribee Shire Council economic plan?

20 A. We as a stakeholders group were critical. We
21 certainly as Moss Vale and rural were critical. COVID had
22 just started when it was happening and there was no mention
23 of it at all in the plan, and yet it was going to be so -
24 and it has subsequently - affected us so bad - you know, so
25 hugely economically, and yet it wasn't even a factor. The
26 numbers weren't correct at the time of the draft. It was a
27 top-down process in that what we were told in what was a
28 very small amount of time that it was supposed to be of
29 consultancy, we were told what we already knew and asked to
30 comment on that, which seemed irrelevant.

31
32 When we were looking for full consultancy in terms of,
33 as industry to actually give our format of what we were
34 wanting, needing and feeling in terms of direction, but it
35 was already ordained even before we were spoken to what was
36 going in the report, and indeed when the report did come
37 out we'd pretty much already seen it on the plaques, you
38 know, when we were being "consulted with", in inverted
39 commas.

40
41 Q. Can I just tease that out. What sort of consultation
42 process were you involved in? Were they meetings or?

43 A. Well, there was one fellow who was presenting his
44 findings for economics of the shire on some PowerPoint
45 presentations and then we were just asked to comment at the
46 end.

1 Q. And those are PowerPoint presentations that you hadn't
2 seen or had the opportunity to consider before the meeting;
3 is that correct?

4 A. No.

5

6 Q. Can you give me any other of your impressions in
7 respect of that strategy?

8 A. Well, look, I have to say that as it was a consultant
9 used, we had looked at 2010, one that was actually prepared
10 by council officers themselves, who I actually have great
11 respect, the likes of Susan Stannard who is fantastic and
12 has a real understanding of the shire, she was part of the
13 strategy; Michael, who's currently been working in this
14 regard as well and has just given us a presentation on the
15 producer's door and how that's going to effect the LEP;
16 amazing people and far better qualified than a consultant
17 who was helicoptered in to have prepared those reports.

18

19 Q. Did you interact with council at all following the
20 bushfires in 2019-2020?

21 A. We had a red hot go at it.

22

23 Q. Can you explain what you mean by that?

24 A. Well, our stakeholders group had met even before the -
25 you know, when the green - fires to the north of us, green
26 wattle fire was on, and could see devastation coming and we
27 met in early December. And we were wanting to put together
28 something that was going to be proactive to what we could
29 see was going to be really problematic, and these involved
30 things like - so, putting all our lovely industry and rural
31 heads on about how it could be that, you know, the Airbnbs
32 that were empty could potentially be there for people to,
33 you know, as emergency housing and, you know, some farms
34 emergency potential for animals to go to and all of these
35 kind of things and we were very much shut out of the
36 process and told, "Not your remit".

37

38 Q. Who were you trying to contact or engage with in that
39 process, at what level of council?

40 A. Well, the person who was in charge of the bushfire
41 resilience at the time, you'll have that documented who
42 that person was.

43

44 Q. Did you attempt to engage with councillors at that
45 stage?

46 A. No, we were going through the proper process of the
47 person that they had put in charge of that area.

1
2 Q. Did you attend any of the meetings which followed the
3 bushfire, either council or community meetings?
4 A. I didn't because there was three representatives from
5 our greater group that were part of that; I was part of the
6 process that underpinned that initially.
7
8 Q. Do you recall any feedback from those three
9 representatives?
10 A. Yes, but only two were met - that they only met with
11 them twice, and these guys are very experienced in crisis
12 and in - of our industry group - in crisis in rural, you
13 know, they're great thinkers and to be shut out of the
14 process it was a great shame I think for the whole
15 community actually, particularly the inaction that happened
16 where we could have, you know, really all worked together,
17 yeah. That top-down process doesn't work very well.
18
19 Q. By "top-down process" you mean the impression that at
20 some level of council decisions were being made and there
21 was no opportunity for consultation or communication; is
22 that what --
23 A. Correct.
24
25 Q. And by that, is there any particular level of the
26 council that you're referring to? Are you referring to the
27 councillors or senior staff or?
28 A. Senior staff, yeah.
29
30 Q. Did you ever attend council meetings?
31 A. Yes.
32
33 Q. What time period did you attend council meetings?
34 A. Well, particularly for various members who would come
35 to me for advocacy, and when we felt that there was
36 potential conflict, because there was various councillors
37 who had particular areas of conflict with parts of the LEP,
38 and that were quite politicised. The area of 2.8 came up
39 very, very regularly, and there was areas which are still a
40 great concern actually, because the process to get them
41 back into the LEP are so arduous and affecting us
42 incredibly badly now, like the way staff accommodation is
43 prohibited use in our LEP and at a time when we cannot get
44 staff and we're unable to house them on farms, et cetera,
45 et cetera, it's very, very difficult, and those sorts of
46 things were politicised - they are in the state template -
47 but they were politicised out by our councillors; that was

1 a great shame and still affects us now.

2

3 The 2.8, the restaurants were taken out of rural zones
4 although they were in surrounding LEPs, and our great
5 visitor economy potentials, draw cards, you know,
6 destination, invitation, you know, it's all over.
7 Victoria, they do it incredibly well - they were put out of
8 our shire which was a great shame because there's a great
9 trend worldwide and globally - you know, Maggie Beer put
10 the whole of South Australia on the map because she had a
11 restaurant that, based on the fact that she couldn't sell
12 her pheasants, you know, those were the kinds of things
13 that support our producers and we've worked very hard in
14 the last five years to get that back and reinstate it, but
15 the fact it was taken out, you know, as political reasons
16 for not wanting them as neighbours, or whatever it is.

17

18 And the 2.8s came under serious concern because that -
19 when restaurants were taken out 2.8, which was the
20 temporary use, was the only thing that was available to our
21 producers to be able to use, and so, they were given the
22 equivalent of 60 days that they were able to operate to do
23 events or, you know, restaurateuring in the rural zones.

24

25 Q. Could I just tease that out?

26

27 A. Yeah.

28 Q. Clause 2.8 of the LEP refers to the temporary use of
29 land.

30

31 A. Yeah.

32 Q. And you were referring to the restaurants being taken
33 out of the LEP. By that do you mean that zoning took place
34 in such a way that restaurants were no longer able to
35 operate in certain parts of the shire?

36

37 A. Yeah, that's right. They were only really allowed to
38 operate in the urban areas, and of course there's far
39 greater visitor - you know, the visitor economy and the
40 trends are that people want to be out where it's grown and
41 that the chefs are wanting to actually be really in touch
42 with their own food and grow their own food.

42

43 Q. Do I take it from your evidence then that chefs or
44 people who wanted to provide hospitality and food had to
45 use clause 2.8 as a way of seeking approval which had
46 various temporal and conditional limits on it; is that
47 correct?

1 A. That's right, but then there was some very great
2 anxiety was given to a lot of people that were trying to
3 do - because there was events as well. You know, weddings
4 down here is a great economy for us, it fills our
5 accommodation, you know, people staying overnight, there's
6 some very good data that says how much they contribute to
7 our economy and our shops and retail and everything else,
8 and so, shutting them out - because one particular
9 councillor actually had, you know, had a friendship next
10 door to someone who had one of these spaces; it was really
11 unfortunate and it went as a ripple through so that then
12 everyone else who was applying for a 2.8 also came under
13 that same sort of blowtorch.

14
15 MR PARISH: Commissioner, I see the time, I don't think
16 I'll be finishing at least in the next 15 minutes or so.

17
18 THE COMMISSIONER: All right. Should we take a shorter?

19
20 MR PARISH: That would be my preference, yes.

21
22 THE COMMISSIONER: 40 minutes?

23
24 MR PARISH: Yes.

25
26 THE COMMISSIONER: We'll adjourn for 40 minutes and resume
27 at 1.45pm, thanks.

28
29 MR PARISH: Thank you.

30
31 **LUNCHEON ADJOURNMENT**

32
33 THE COMMISSIONER: Ready to proceed?

34
35 MR PARISH: Could I have one second?

36
37 THE COMMISSIONER: Yes.

38
39 MR PARISH: Thank you, Commissioner, ready to proceed.

40
41 Q. Ms Kennedy, we were talking before the break about
42 clause 2.8 of the LEP. In your experience or in the
43 experience of members of your group was it your impression
44 that the temporary use of land application process was
45 appropriate?

46 A. It's all we had. Appropriate or not appropriate, when
47 you're given nothing else you've got to work the best you

1 can with it, and I personally used it, so I was able to -
2 certainly for our members anybody working with it, I was
3 then able to give them direct advice on how it could be
4 worked with. Certainly there were other things in the
5 state template that would have been better for our farmers
6 and producers and visitor economy for folk to be able to
7 use, but our councillors had taken it out in their own
8 wisdom, and so, we could only work with what we had.

9
10 Q. You attended a roundtable economic forum on 25 June
11 2021; is that correct?

12 A. Yes.

13
14 Q. Can you tell me your impression and recollection of
15 that event?

16 A. Firstly, I was thrilled that it was convened. I think
17 if you look at the Small Business Commissioner's list of
18 recommendations, it's in the top four as a good start. I
19 think you'll recall that I referred to the top-down kind of
20 method of working with industry that really wasn't - you
21 were talking about appropriate - that really wasn't
22 appropriate. I'd come from the City of Sydney where, it
23 was amazing the way they would do their industry
24 consultation and it would be broken down into workshops and
25 then all correlated between groups at the end so everybody
26 could see very visibly. This was sort of lip service to
27 all of that.

28
29 When I first came down it was one of the first
30 enquiries of made of this - of the executive when I asked
31 for a meeting and said, "What public consultations do you
32 do?" And I was told at the time, "Oh, that's something
33 we're always going to get around to, but we feel that our
34 ratepayers are more interested in their potholes and their
35 roads". And I said, "Well, I would say that statement is
36 an example of your not having done the public consultation
37 to actually figure out what it is that they really are
38 interested in", and certainly their own economic forecast
39 and how they're going to run through the terrain of
40 planning and DAs and what have you is very much uppermost
41 in their minds, so as a chamber head it was one of the
42 things that I felt was really important.

43
44 I certainly do think that it was great that they had
45 started, but they just didn't even know how to do it
46 properly, and they didn't look hard enough on our exemplary
47 examples of how it was done well, you know, didn't look

1 into it. So, the top-down sort of, well, this is what
2 we're figuring on, we'll just let you know. It's that kind
3 of philosophy of, there are those that you collaborate with
4 and those that you just inform what you're doing, and
5 that's the style of consultation that we got.
6

7 Q. And are you referring there to, in the 2016-2020 term,
8 both the staff and the councillors, or one or the other?

9 A. Look, I suppose I probably have a narrower view; you
10 know, there's other greater areas, like industry - well
11 with, construction, roads, you know, all that kind of
12 thing. My narrower frame was more around the rural and
13 visitor economy. You know, so much was brought to my
14 attention from my members. You asked earlier, you know,
15 are they fully conversant on me being here, and it's for
16 them that I am here, and there have been so many - I mean,
17 in fact the first two pages of the examples that the Small
18 Business Commissioner created, it was, "They are all my
19 members. They all personally came to me and asked, 'Can
20 you find out what is going on with this?'"
21

22 It was one person that I was able to go to, being Mark
23 Pepping, and he would take my call, and it was with the
24 permission of that particular - you know, of whatever
25 person I was asking about, that then was not disclosing.
26 And he would help, because I'm a lay person obviously, and
27 so is the person who is making that application, so he
28 would help discern where there were obstacles or what
29 issues there were potentially and I was always grateful for
30 that and much more knowledgeable on account of it.
31

32 Where sometimes it was to do with, you know, the Fire
33 Department had given a ruling and so where they were
34 blaming council and, you know, the member was blaming
35 council, it was an external party, so then I was able to go
36 back and talk to the members about, you know, what was the
37 reality about it. But then there was other issues that
38 were just not acceptable; you know, things like, when
39 they've just lost paperwork over a particular winery's area
40 where he had his - and he couldn't get his Liquor Licence
41 because they lost the paperwork, so he had to move, where
42 in actual fact when they did eventually find it he would
43 never have had to have moved. Then it sat on somebody's
44 desk for six week - six months, and he almost went out of
45 business, so those are the folk that I would go in to bat
46 for and ask the questions, "Why is this happening?", and
47 generally we would find an answer.

1
2 Q. Is it your opinion that there had been no support for
3 the visitor economy in the shire area for at least the last
4 five years or so?

5 A. Only five?

6
7 Q. Well, tell me what your experience --

8 A. Sorry to be sarcastic, I didn't mean it to be that
9 way.

10
11 Q. Tell me of your experience?

12 A. You know, it's just very jaded on that topic and it's
13 been of deep upset. When I came down from Sydney and I'd
14 created a - for vivid, a trail all through Walsh Bay and
15 figured that down here it's the kind of thing that
16 everybody needed to be more inclusive in order to bring
17 that visitor economy about, and so, I created a thing
18 called - with a gorgeous woman called Jill Dyson who had
19 FoodPath - and to bring some, how would I put it, to bring
20 everybody together so that as a hub people would know these
21 wonderful producers and restaurants and wineries that we
22 had, but so that you could go to one place and find out
23 everything about it and there was nothing there of that.
24 And I was like, "Well, who's asleep at the wheel here?",
25 you know.

26
27 And then as I met each individual - and can I just
28 tell you, that there was over 120 of those individuals, so
29 it's no small sector, and all of them doing incredible
30 things; I mean, we've got award winning amazing producers.
31 Who's talking about it? No-one. And then, you know,
32 people would say as I was going round, people would say,
33 "Well, I'll only sign up and bring all this together if you
34 have nothing to do with Destination Southern Highlands".
35 And I went - I was flabbergasted, but I gave that
36 commitment and I did at all times, you know, pool my full
37 lock and try and work with them in order to bring - you
38 know, give them content because there was certainly no food
39 or producer content.

40
41 And then when we had pulled the majority of the trail
42 together and we did it all, because there was so much -
43 when I first got down here I only thought, you know, 20 to
44 30 lovely producers: 120, 130 and it kept growing, so we
45 nestled them into the village component and then opened
46 each area in that way, and there was always an excuse of
47 why the office, you know, the Destination Southern

1 Highlands wasn't going to be there even though the
2 councillors were there and also the state politicians, the
3 state MPs.
4

5 Then when there was eventually a conversation about,
6 you know, sharing content once we'd got to critical mass, I
7 was given the opportunity of joining in with the website,
8 and I'm so used to dealing with government, and grants, and
9 the process, and what are the laws, and I had to walk away
10 when I was told that it was non-negotiable, there was only
11 one website designer that was allowed, it had to be the one
12 that they used, and of course the reports that Viv May has
13 had has uncovered all of that, which we all knew five years
14 ago what was going on, and it was a deep distress, so we
15 were not able to share that content with Destination
16 Southern Highlands and we'd then ended up going directly
17 always to share our content with the greater of destination
18 New South Wales and Destination Sydney Surround South
19 because we weren't able to share it in a transparent
20 manner.
21

22 Q. Can I ask your impression of the strategic direction
23 of council? Do you have any impression or view on whether
24 you clearly understand what the - or I should say, is it
25 clearly communicated to you as you understand it the
26 strategic direction of the council, and can you give me any
27 impressions that you have about any deficiencies that you
28 see in the strategic direction of the council?

29 A. Look, I think that there was no room between
30 fortnights to create strategy because there was so much
31 anxiety and acrimony between the councillors that it went
32 from fortnight to fortnight and no strategy could be made
33 because all they were doing was playing catch-up on and
34 knee-jerk reaction to what was going on.
35

36 So, you know, I heard one person say, who had actually
37 been part of the creation of the economic strategy you were
38 referring to before, when criticised about why there was no
39 KPIs, and it's like, "Well, we don't want to have to answer
40 the councillors". Well, heavens above. And that was the
41 strategy that we were getting for the next 10 years? So I
42 think that really sort of summed it up.
43

44 Q. By fortnight to fortnight you're referring to council
45 meetings; is that correct?

46 A. Correct. Can I add one thing to that?
47

1 Q. Of course.

2 A. The politicising of the DAs, and I won't be critical
3 of the staff and the culture that was borne from it is,
4 depending on who's mates were who and where the councillors
5 were seen, they could pull up a DA out of their briefing
6 notes at any point, and where there is a strategy of
7 template, you know, state template and LEP, that the
8 planners were, you know, ruling by the rules for the most
9 part and as things were politicised and their decisions
10 were criticised or thrown out by a five or latterly a four
11 plus a casting vote, there's no strategy could be made when
12 it was such a harebrained, you know, pick a, you know, one
13 out that they could isolate or were vindictive about or
14 whatever.

15

16 You know, I'll give an example of - and you can see it
17 in the video that was made at the December meeting about
18 the public consultation of the economic development
19 strategy. And one fellow - and I'm going to say that I
20 have no for or against their DA - but he stood up and said,
21 "My DA was given the green light by your planning staff but
22 you and council have put it aside. Why is that?" And the
23 mayor said, "I just didn't like your DA". How can anybody
24 have a strategy when you've got that attitude? And how can
25 our planning department, you know, who come under severe
26 criticism, but how can they know how to pull their rules
27 in? You know, it's really been a very trying last
28 four years.

29

30 THE COMMISSIONER: Q. Just on that topic, Ms Kennedy.
31 Now there's the local planning panel in place, I take it
32 you're aware of that?

33 A. Thrilled.

34

35 Q. My question was going to be, do you think that goes
36 towards addressing the type of concerns you've just
37 outlined?

38 A. It does.

39

40 THE COMMISSIONER: Yes, thank you.

41

42 MR PARISH: Q. Can I just get you to confirm the meeting
43 that you're referring to there? You referred to
44 the December meeting.

45

46 THE COMMISSIONER: I think it's the 18 December meeting at
47 the RSL Club; is it that the one?

1 A. That's right Commissioner, yes, it is.
2
3 THE COMMISSIONER: Thank you.
4
5 MR PARISH: I don't have any further questions of
6 Ms Kennedy at this stage.
7
8 THE COMMISSIONER: Is there any application to be made?
9
10 CR SCANDRETT: No, thank you.
11
12 THE COMMISSIONER: Thank you, all right. Yes, that
13 completes your evidence. Thank you for your attendance, I
14 appreciate you answering your summons taking you away from
15 your other activities. You are free to go.
16
17 Is there any reason why Ms Kennedy ought not be
18 excused?
19
20 MR PARISH: No reason.
21
22 THE COMMISSIONER: All right, and you are excused from
23 your summons, thank you.
24
25 <THE WITNESS WITHDREW
26
27 MR PARISH: The next witness is Holly Campbell.
28
29 THE COMMISSIONER: Yes, come forward.
30
31 <HOLLY CAMPBELL, affirmed: [2.14pm]
32
33 THE COMMISSIONER: Yes, thank you. Mr Parish.
34
35 THE WITNESS: Can I just say something before we start and
36 that is that I wear Cochlear, so you're on my completely
37 left side.
38
39 THE COMMISSIONER: I see, all right.
40
41 THE WITNESS: And I find you quite hard to hear, so if you
42 do want to ask me a question, can you speak up a little
43 bit.
44
45 THE COMMISSIONER: Q. If I do this, can you hear me okay?
46 A. Sorry?
47

1 Q. That went well.
2 A. That would be a "no".
3
4 Q. All right, what I'll do, I think I'll reserve my
5 questions to the very end --
6 A. That's okay.
7
8 Q. No, it's easier that way.
9 A. Because once I swivel round, and I can also follow a
10 bit with the lips and things so I should be all right. But
11 if I need you to repeat something I'll ask you, if that's
12 all right. But I thought I'd just let you know.
13
14 Q. If at any stage you don't hear or understand any of
15 the questions from Counsel Assisting or myself, please tell
16 us and we'll do better.
17
18 Mr Parish.
19
20 **<EXAMINATION BY MR PARISH:** **[2.16pm]**
21
22 MR PARISH: Q. Thank you, Commissioner. Can I start
23 with a bit of personal background, how long you've lived in
24 the area, your vocation?
25 A. I've been in and out of the shire all my life because,
26 since before I was born we've had property here. I went to
27 school here for a period of time. I moved to the area
28 full-time to live in 2012 and my background or my work is,
29 I do strategic business planning and marketing. I ran a
30 company in Sydney for 20 years, we predominantly served
31 high end corporates such as your Lend Leases, those sort of
32 companies, so that was my background. And when I moved
33 here to try to run for council I decided not to work at all
34 during that time because I felt it was a full-time
35 commitment to be a councillor, so for my term I didn't take
36 on any work.
37
38 Q. You've covered it slightly already, but you were a
39 councillor for the term 2012-2016; is that correct?
40 A. That's right, yeah.
41
42 Q. Did you from time to time attend council meetings in
43 the 2016-2020 term or otherwise observe the behaviour of
44 councillors during that latter term?
45 A. I did indeed because I was still very interested in
46 the future of the shire, so I did on occasion when there
47 were specific DAs or contentious issues coming up I would

1 attend or I would talk to groups. I was also approached in
2 my capacity as having been a councillor, and knowing how
3 things worked and who was who, if you like, I did get
4 approached by either individuals or groups to help to give
5 some guidance, and one in particular obviously was Station
6 Street.

7
8 Q. Thank you. I'll ask you about your impressions of the
9 two terms shortly, but we'll start with the 2012-2016 term
10 when you were a councillor. Can you give me your general
11 impressions about how council meetings were run and the
12 interaction of councillors between each other in those
13 council meetings in that term?

14 A. I was actually pretty shocked. Having come from the
15 business sector, the private sector, where I would often
16 have to go into board meetings which I regarded council as
17 the board of the shire, that was the way I looked at it.
18 So, I was fairly shocked at the way things were conducted
19 and it was disappointing because I felt that we were
20 neither prepared correctly as councillors, I felt the
21 preparation that we received was very poor, and by that I
22 mean two things. The courses that are supplied to
23 councillors that you go along to when, you know, induction
24 period, all of that sort of thing, they might - I mean,
25 honestly, you could have slept through them and not missed
26 a thing that was valid or useful.

27
28 The second side of it was in terms of how we were
29 prepped as councillors before we would come into a meeting,
30 our briefings and the information we were given. It was
31 poor, it was really poor.

32
33 When we got into council, and I'll have to say that
34 when I - the first two years that I was a councillor I was
35 in what was known as "the block of five", and we therefore,
36 if you like, had the power of the vote as long as we all
37 stuck together. This is not healthy for a council, this is
38 not the good way for a community to get the best outcome
39 because what it does is it sets up an antagonistic arena
40 straight away, and councillors spend far more time trying
41 to out do each other and out manoeuvre, or set up, or
42 create mischief and havoc in such an arena than they
43 actually do concentrating on the legislation, the issues at
44 hand and so forth.

45
46 I saw a disparity between how the councillors
47 themselves prepared for these council meetings. Some

1 people were prepared, others obviously hadn't even read
2 their papers. So we often had situations where councillors
3 were really not up to speed with what they were discussing,
4 this further inflamed the situation.

5
6 When I resigned halfway through my term from the
7 Liberal Party and decided to run and stay on as an
8 independent because I couldn't countenance what I was being
9 required to do, I found that, as I predicted, the vacancy
10 that I created in the block of five would be filled by a
11 particular council, which did happen, and it was back to
12 swear one. So --

13
14 THE COMMISSIONER: Just pause there a moment, Mr Parish,
15 are you going to bring this to the 2016 - are you going to
16 tie this to the current term of council?

17
18 MR PARISH: Yes.

19
20 THE COMMISSIONER: Yes, all right.

21
22 MR PARISH: Q. Continue.

23 A. So, it remained throughout that term, very antagonist,
24 very personal. Now, I maybe shouldn't have been - I was
25 allowed to stay because I arrived before the other witness
26 had finished giving a comment, but I think it was
27 interesting, the personal attacks that were attempted, the
28 mischief that was attempted, all of this does undermine the
29 purpose that we're here for which is to represent the
30 community and to progress the shire in the best possible
31 way.

32
33 As a councillor or as I found things got pretty
34 heated. We had councillors quite blatantly bait other
35 councillors during the council meetings, knowing full-well
36 that the councillor would rise to the bait, and this is
37 sort of schoolyard behaviour, it's not what you expect to
38 find in a professional arena and certainly not one where
39 you're supposedly making decisions on a 110-plus million
40 dollar per annum business, so I found it very poor. I
41 think I've answered, yeah.

42
43 Q. Can I ask you about the induction training given, your
44 own personal experience. What was that form of training,
45 was it one-on-one --

46 A. No.

1 Q. -- was it a group lecture?

2 A. First of all when you come to council the staff here,
3 you know, ran what they call an induction, and that was my
4 introduction to death by PowerPoint, which is the way this
5 council tended to operate. In other words, you had a
6 PowerPoint up there and a staffer would read out
7 point-by-point by point, which I found intensely boring and
8 a complete waste of time because, if you're going to get
9 anything out of a briefing, you should be given those notes
10 prior to coming into the room so that you can then ask the
11 staffer or the person conducting the presentation, "Well,
12 what does clause X, Y, Z mean? Can you elaborate a bit
13 more? I can read what it says in plain English, but if
14 this was the situation, how would I apply it", or whatever.
15 So, there wasn't really anything much that the council that
16 we had here could give us that you couldn't have read in a
17 little handbook, you know, and digested it, fine, I get all
18 the - it was very simplistic and really was just very, very
19 basic.
20

21 We were then offered by council, as all councillors
22 I believe are throughout New South Wales, to attend courses
23 that are run down in Sydney. I presume they're run by the
24 OLG, Office of Local Government. And I think we attended
25 them at one of the TAFE buildings in Sydney from memory.
26 Again, absolutely useless. I mean, they don't fit you for
27 purpose. The responsibilities that you face when you come
28 on to a council - and I don't think most people who are
29 first-timers are prepared for it - there's an enormous
30 amount that you are given and that you are expected to
31 read in reports and so forth. Now, if you're a lawyer you
32 can probably get through it a bit faster and understand it
33 a bit better, but if you're not then you really need to
34 kind of read things once or twice to get the gist of it,
35 and if there's planning issues that come into play, for
36 example, you've got to go back and read the legislation if
37 you're gonna make an informed decision, and that's a
38 critical word I think that was missing 90 per cent of the
39 time in this council: informed decision-making was not
40 enabled.
41

42 So these courses that we went down to down in Sydney,
43 as I said, they were a complete waste of time. I felt that
44 they didn't give me anything more than an adult could have
45 gleaned for themselves just as a matter of obvious course,
46 how you would conduct yourself.
47

1 Our mayor at the time made a suggestion which was,
2 "Could councillors attend the Australian Institute of
3 Directors course".
4

5 Q. This is 2012 roughly?

6 A. Yeah. And I attended, I thought that was a fantastic
7 idea. The mayor attended, and I don't know who else did,
8 because obviously we didn't all go at the same time; you
9 went when you could because it was a week-long course, it's
10 quite intensive. I got more out of that week than I was
11 ever going to get from a government sponsored or conducted
12 information because it took you through all aspects; it
13 took you through financial, it took you through operations,
14 it took you through governance, it took you through risk
15 assessment, it took you through a whole range of things
16 that were important because it's teaching people how to be
17 a board director. And, as one of your witnesses this
18 morning, who was a staffer, Mr Mooney said, he used the
19 word "it's a business" and that's exactly what council is.
20

21 And there's a perception by both staff and by
22 councillors during my time, "Oh no, this is not a business"
23 and I said, "What is it if it's got profit and loss if it
24 has to run on a budget?", you know, and we are talking
25 about our community. Our community are our shareholders,
26 it's their money, that's where it comes from, and it is a
27 business, and councillors should be fit for purpose, they
28 are the board, and I found that that was something that was
29 simply not apparent - a couple of councillors thought that
30 way but the vast majority didn't. Some of the councillors
31 when we were offered this course absolutely pooh-poohed it
32 and said, "Why would we? I'm not on a board, I'm not a
33 board, I'm not a board director, why would we?" Et cetera,
34 et cetera, and it was a great pity because I think that
35 they would have learned a lot from it, and in fact, if I
36 was ever asked, "What could councils in Australia do to
37 improve their councillors' outcomes from councillors, it
38 would be that that's a mandate, that they all have to have
39 completed that course before they were allowed to run for
40 council".
41

42 Q. Did you feel at least after you'd done the directors
43 course, that you understood your statutory roles and
44 responsibilities as a councillor?

45 A. Yes, I did. I had a much clearer idea and one of the
46 things particularly that it brought home to me was that you
47 cannot assume that the report that you're being given is

1 correct, you cannot assume anything, you must do your own
2 work, you must do your own due diligence, and by that I
3 mean read the report, thoroughly understand it and, if
4 necessary, go and talk to the proponents, the person whose
5 DA it might be or the people who are disagreeing with a
6 particular thing that's up before council, and a classic on
7 that was the Berrima diesel issue which was a very
8 contentious issue but it really paid off dividends because,
9 having done that work, I called up all the old boxes, all
10 the old files on that case that stemmed back into the late
11 50s and I found - I tracked all the decisions that had been
12 made by staffers over, you know, a 40-odd-year period,
13 50-year period right down to little Post-it notes and
14 things stuck on it, and it showed how this situation had
15 come about.

16
17 Now, none of this was in the report, and in fact
18 council from memory I think the council staff were saying
19 no to this, and from having done my homework and really
20 taken the whole thing apart, investigated it thoroughly, I
21 was able to persuade several councillors who were going to
22 vote against it to change their votes and I believe that
23 justice was then done.

24
25 But the course is very valuable and I did feel that I
26 had a much better grasp of it of how to conduct the job I -
27 you know, the job I was voted in for.

28
29 Q. Can I ask you about the councillors in your term in
30 2012-2016 who then went on to be re-elected in 2016-2020.
31 No need to name names, but of those councillors in your
32 impression in the 2012-2016 term, do you think they
33 understood their roles and responsibilities? And you don't
34 have to answer this as a group but if the answer is, some
35 of them did, some of them didn't --

36 A. I think that - it's a difficult question to answer,
37 I'm not trying to avoid it, but I think at a basic level
38 they understood what they were meant to do, but I think
39 that because the two terms were so volatile and aggressive,
40 I think most councillors lost sight of the reason they're
41 there, the purpose they're there, which was for the
42 community. Most councillors at some time or another,
43 right, lost touch with the real core essence of why they
44 were there and the personal overrode these things, and the
45 councillors' personalities were quite interesting to
46 observe, how they each responded to the situations that
47 they found themselves in in a council debate where, you

1 know, the levels rose, if you like. And, as I said, you
2 know, the baiting that went on. It was a "gotcha"
3 situation more often than it was anything else, so while
4 they understood while they were there, it all got lost.
5

6 Q. Can I just ask you to put some timeframes around that
7 observation? Was it during your time in 2012-2016, or is
8 this something you also observed or only observed in
9 2016-2020?

10 A. It was systematic, it was right throughout. It was
11 almost - well, when I was on in my term it was daily, and
12 from what I observed in the second term, the 2016 onwards
13 term, it continued on. Sad to say, but it was almost no
14 let up. And there was - it wasn't just between
15 councillors. There was very much a sense of them and us:
16 the staff versus the councillors, it was war. It was
17 verbal but it was war, but it was a war.
18

19 Because the councillors often did not have, except for
20 a minority who did whatever staff recommended, almost
21 blindly, there were the other councillors who were either
22 responding to community voices or had an axe to grind
23 against a councillor who was on the opposing view, and the
24 staff often the recommendations threw up huge problems, and
25 there was no confidence, I think, in a lot of cases by
26 councillors that staff was doing their job properly and
27 well and of a high enough standard, and there were
28 occasions where the reports were clearly flawed.
29

30 And I could remember - I just wish I could remember
31 the case, but I can remember once where I got - I actually
32 said that, "Staff is trying to lead council", and, you
33 know, it just rained down on top of me. I was threatened
34 by, you know, senior staff that if I didn't withdraw and
35 apologise that, you know, codes of conduct would be laid on
36 me and that the DLGs, you know, saw if staff laid a Code of
37 Conduct on a councillor that was always looked at with a
38 fine tooth comb very critically, and they took far more
39 interest in that than if the public put codes of conduct or
40 the councillors put codes of conduct on other councillors.
41

42 But, you know, it was difficult because I think a lot
43 of - to be honest, I think that 80 per cent of the
44 inflammation that occurred during those two terms probably
45 wouldn't have existed if both the public, the community,
46 and the councillors felt that council staff - and by that I
47 mean leadership - were doing a better job. I think that a

1 lot of the problems wouldn't have existed, councillors
2 wouldn't have had to have played "gotcha" and "bait" and
3 all the rest of it, there wouldn't have been the
4 inflammation, there wouldn't have been the antagonism
5 against motions that were put up and, you know, staff
6 answers and things.

7
8 I mean, I know that this inquiry is meant to be about
9 the poor conduct of councillors, but I honestly believe
10 that, if you had taken away the problems which were largely
11 caused by, in my view, staff that we would have had a
12 better time of it, I think that, you know, it created an
13 arena where the councillor's worst personality traits came
14 out as a result, and that's unfortunate but I think that's
15 what engendered it.

16
17 Q. Do I take you to mean by that evidence that the
18 councillors weren't given proper or adequate support from
19 the senior or executive level of staff to equip themselves
20 to do their jobs?

21 A. What do you mean by "support"?

22
23 Q. Well, as you understand it is there a role to play
24 with, for instance, the general manager and other group
25 managers to provide information --

26 A. Information?

27
28 Q. -- information, guidance and support to councillors to
29 allow them to do their jobs?

30 A. In that context I agree, there was not the support.
31 In fact, staff were very, very reluctant to provide what I
32 would call information. We often had the GIPA things,
33 which just seemed extraordinary.

34
35 Q. Is this during your term or during the --

36 A. This is during my term.

37
38 Q. Yes.

39 A. I don't know, I can't answer for the second term, but
40 I know that - in relation to GIPAing information I know
41 that during the second term that councillors still did have
42 problems getting just information that they wanted and
43 asked for.

44
45 Staff, it was really circling the wagon stuff. I
46 think staff felt besieged but there was a valid reason for
47 that. The management of staff, I have to say, during both

1 terms was very poor. I think that the general manager that
2 was on duty when we first got elected was a nice person but
3 not up to the task, but certainly a nice person.
4

5 We then went into the situation where we were looking
6 for a new general manager and I think, if we'd gotten the
7 general manager that was actually awarded the job and voted
8 in for the job, I think if we'd had that person things
9 would have improved considerably. As it was, we didn't get
10 that individual and I feel that the general manager that we
11 ended up with for the rest of that - my term and then the
12 2016 onwards term was in themselves not a bad individual
13 but they were entirely unsuited to this role; by nature
14 very defensive, and this was a problem because if
15 councillors came to this person, and one of the DGMs in
16 particular, they were met with a wall all the time. There
17 was no willingness to sit down and engage, there wasn't any
18 form of - and I say "collaboration" in the honest sense of
19 the word, you know; if you'd like to say "support", then
20 support.
21

22 Briefings didn't change from my term to the next term;
23 they were appalling, councillor briefings, they were really
24 just - might not have happened. So many times we would -
25 we'd have this dreadful death by PowerPoint. On the
26 Wednesday prior to the meeting we'd come in in the morning
27 and we'd have staffer after staffer after staffer to do
28 this death by PowerPoint. I kept saying to the general
29 manager, "Why can't we have these Powerpoints when we get
30 our papers on the Friday so that we can read through these
31 things so that we can make that time more productive? We
32 can query and question and ask and get insights into why
33 staff have come to these things, not just get the words
34 read out to us. It is completely and utterly pointless".
35 "No, no, no, you can't". I said, "Well, can we have
36 executive summaries?" "No, no, you can't". And I said,
37 "Not all councillors read their papers in full and some
38 people - most of them are working full-time, they don't
39 have the time like I do." And I said, "An executive
40 summary is a really good way of imparting the who, the
41 what, the why". "No, can't have executive summaries".
42

43 And, I think staff always felt that they were being
44 challenged. If councillors asked a question or wanted more
45 information: "Why?" "No you can't have that, it's not
46 relevant". Well, let us have a look at it and decide
47 whether it's relevant or not. Don't keep mushrooming us

1 all the time, you know. And it sets up the wrong
2 environment. How can the councillors feel happy in their
3 work or as if they're properly informed if they don't get
4 the information they want? Maybe it is extraneous or
5 irrelevant, but let the councillor have the information, if
6 it's not state secrets, you know, let them have the
7 information and come to the conclusion themselves.

8
9 We used to get - in our briefings we would get to the
10 end of the PowerPoint session and there'd be, you know, if
11 you were lucky, five or 10 minutes left and we'd want to
12 ask a question. "No", said the general manager or the DGM,
13 "You can't get into that, that's debate. You have to do
14 that in the chambers tonight". "No, it's not debate, it's
15 a question. I want more information, I want to understand
16 X or Y or Z". "No, that's debate, can't have it".

17
18 Q. Can I ask you about your source of knowledge about the
19 conduct of briefings in the 2016-2020 term. Was that
20 information that you got from people that was reported to
21 you or did you have occasion to see that first hand from
22 time to time?

23 A. Look, I didn't get a lot of information on the
24 briefings, no. I knew that there was still a problem going
25 on because, you know, occasionally when I would talk to
26 councillors or I would talk to the public, the public were
27 saying they can't get the information because the
28 councillor can't get the information on issues. So, as far
29 as I'm aware - because not being a councillor any more,
30 obviously, there are boundaries you're not meant to cross,
31 and I didn't.

32
33 But I will say this, and maybe this is not the right
34 area to do it in, as in the right question, but I
35 approached council staff on a couple of issues where things
36 were clearly floundering, and that was in the economic
37 development side of things, and I brought people with
38 solutions and I offered the general manager, you know,
39 meetings and amazing solutions, and there was just a wall.
40 There was no interest, absolutely no appetite. It's not
41 our idea so we're not going to entertain it, you know,
42 staff know best, and that was the same during my term,
43 "Staff know best, don't challenge us, don't question us".
44 It is infuriating because, how can you do your job if you
45 just feel that you're being treated like a 12-year-old that
46 has to sit down in class and be quiet? No wonder
47 councillors got uppity.

1
2 Q. Can I ask about the distinction between operational
3 and strategic. Was it your understanding that councillors
4 were in charge of strategic planning and staff were in
5 charge, or the executive, were in charge of the day-to-day
6 management and operation?

7 A. That's the way it's meant to be.
8

9 Q. Two questions, I think I'll break it up. Did you find
10 generally that that was observed, that distinction, during
11 your term?

12 A. No, it wasn't. There was some councillors who wanted
13 to delve into the operations side, about but I believe the
14 reasons that they wanted to delve into the operations side,
15 even if that's not strictly what they should have been
16 doing, they were doing it because they could see that there
17 were problems. In particular, if you've got a councillor
18 who knows more than the staffer and it's patently clear, or
19 they know that staff are making operational decisions on
20 issues where they're not even properly equipped such as the
21 flood study, I mean, the flood study wasn't up-to-date.
22 Now, in a shire like this the flood study is critical,
23 because we're talking about infrastructure, we're talking
24 about roads, bridges, storm water, we're talking about DAs
25 being allowed or disallowed within flood zones --
26

27 THE COMMISSIONER: Q. Can I perhaps bring you back to
28 Mr Parish's question. Even if a councillor felt they had
29 good reason to delve into operational, that's not the
30 purview of a councillor; do you agree with that?

31 A. I agree. In the terms of what we're set up to do, we
32 are supposed to stay out of operational.
33

34 Q. Yes.

35 A. I completely understand and agree with that. What do
36 you do then as a councillor, I then frame the question,
37 what do you do if you see expenditure of budgets going
38 haywire in the operational side and it's quite clear it's
39 because of staff failure?
40

41 Q. Well, that's perhaps a slightly different question,
42 but because of course councillors as the elected body are
43 responsible for resource allocation and budget matters, so
44 they would be able to address those matters in accordance
45 with their functions. But what I'm really --

46 A. Under normal circumstances.
47

1 Q. -- what I'm really exploring with you is, if the
2 councillors had concern about operational matters the
3 ordinary course to resolve that would be through an
4 approach to the general manager; do you agree with that?

5 A. Yeah, and that was tried.

6
7 Q. And if that was unsuccessful - I withdraw that. That
8 then highlights, does it not, the importance of a strong
9 working relationship between the general manager and the
10 elected body; do you agree with that?

11 A. Sorry, can you just repeat that again?

12
13 Q. The fact that the councillors' ability - I withdraw
14 that. The fact that the way that a councillor may raise an
15 operational concern is appropriately done via the general
16 manager highlights the importance of a strong working
17 relationship between each of the members of the governing
18 body and the general manager of the day. Do you agree with
19 that?

20 A. Yes.

21
22 THE COMMISSIONER: Thank you. Mr Parish.

23
24 MR PARISH: Q. Can I ask you now about specifically the
25 meetings during the 2016-2020 term. Did you have occasion
26 to attend those meetings from time to time?

27 A. From time to time.

28
29 Q. What was the impression left with you when you
30 attended those meetings in respect to the issues we've been
31 talking about?

32 A. Ongoing disappointment because nothing had improved.
33 I felt that staff relations with councillors clearly
34 degenerated. I know that there was staff that were very
35 unhappy with senior staff because they would privately talk
36 to me. The council meetings themselves were sometimes -
37 they were just a mess, they were seriously a mess, and I
38 think for the public coming along and seeing - seeing it
39 conducted this way, it would give them no confidence that
40 the ship was in, you know, a safe pair of hands. They were
41 worried and they had every right to be worried, as in, the
42 community I'm talking about. So, yeah, they hadn't
43 improved.

44
45 Q. Can you give me some examples of what led you to
46 conclude that the meetings were a mess, some specific
47 examples?

1 A. Some of them were, you had members of the public
2 calling out over debate. You had whoever was in the chair
3 trying to control councillor outbursts and, you know,
4 because normally you've got your light on if you're the
5 councillor that's speaking, and other councillors would be
6 interjecting and carrying over the top of it. You'd have
7 councillors muttering over the top of their breath but just
8 enough to be heard to either get a reaction from the public
9 or to get a - to bait the, you know, the other councillor
10 that was speaking.

11
12 You had, the general manager would often absent
13 herself. More and more it seemed that one of the two DGMs
14 was running the place. The general manager was just - she
15 was publicly absent in the community's view as well, and I
16 think that further upset things because, if you've got a
17 general manager who leaves the meeting for extensive
18 periods of time - and I can't say why the general manager
19 left the meeting, but it seems to me that the heat in the
20 room was such that they just wanted out. So, yeah, they
21 weren't good.

22
23 Q. You referred to the clear degeneration of the
24 relationship between some staff and councillors. Can you
25 give us some examples that led you to that conclusion?

26 A. In my time or in the second term?

27
28 Q. In the second term.

29 A. I can't give you - oh, memory. I think it was - I
30 mean, I can't remember specific issues, but I just have
31 pictures in my head of, in particular the DGM, who was
32 really running the show just, you know, it was almost a
33 bullying attitude.

34
35 Q. From who to whom?

36 A. To the councillor. You know, when people get
37 frustrated on both sides, good behaviour - when it's been
38 going on for a long, long time good behaviour gets
39 forgotten, and there was clear animosity between this
40 particular DGM and certain councillors; I mean, real
41 animosity, and it was - it came across that it was sort of
42 almost like, "I'm going to bring you down." "No, you're
43 not, I'm going to bring you down". You got that feeling
44 that it was as tough as it could be without people throwing
45 fisticuffs or whatever, and that's a bad atmosphere to be
46 operating in.

1 There was a councillor, one of the councillors, and I
2 heard about this so I didn't witness it, so am I allowed to
3 say that?

4
5 Q. Yes, that's fine.

6 A. When the chambers were almost finished the mayor had
7 sent out I think the papers to say that the council meeting
8 was happening in the new rooms, and this councillor turned
9 up at the appointed time in here to be told by the DGM,
10 "No, it's not in here, you've got to leave this room", and
11 the councillor sort of said, "well, it's in the papers,
12 where am I supposed to be?" And this descended into a real
13 argy-bargy with the - with - sorry?

14
15 Q. That was me. Carry on.

16 A. Sorry. With the DGM kind of - well, making false
17 statements, that's the only way I can put it. It was
18 something to do with panels or whatever that hadn't been
19 installed in here, and they were in a storeroom and the DGM
20 said, "No they're not". You know, they were in a
21 storeroom, there was a receipt for them and they were
22 stored away in there. You know, there was - what can you
23 say? I mean, it was huge frustration on the part of some
24 councillors because they really felt that some staff - not
25 all - and there's - I have to say, I know I'm painting
26 staff in a bit of a light here, but in the lower echelons
27 there were some terrific people, but not in the other
28 echelons by and large, and that was where, because the
29 councillors had more - obviously they had very little, if
30 anything, to do with the lower echelons, it was this - the
31 leadership from staff was constantly at war with the
32 councillors, with the majority of the councillors, I would
33 say.

34
35 Q. Could I put a proposition to you and you can agree or
36 disagree with it; that the example you just gave where a
37 councillor was on premises asking about where panels were,
38 would that be an operational or a strategic issue?

39 A. Oh, no, no, no, no. Sorry, I didn't explain that very
40 well. No, there was a council meeting called, right, for
41 all - the usual Wednesday council meeting, or could have
42 been an extraordinary general meeting, I can't remember, so
43 everybody was meant to be here; according to the papers
44 everybody was meant to turn up here at 3 o'clock or
45 2 o'clock or whatever time. This councillor got here as
46 per the papers and was told by the DGM, "No, you're not
47 meant to be here". The councillor said, "Yes, I am

1 according to the papers". "No you're not, it's somewhere
2 else", and there was a thing about this room not being
3 finished and it's still a building site.
4

5 The councillor in question happens to be a builder, so
6 he knows more about building sites than certainly the DGM
7 knew. And, he said - well, the DGM said, "There's
8 something about the panels not being up". And he said,
9 "Well, the panels are in the storeroom, why aren't the
10 panels up?" So it was, you know, and the DGM was saying,
11 "No they're not, we don't have them", and they were on the
12 premises. It was that, it wasn't really an operational
13 issue, it was the staff versus councillor.
14

15 Q. Can I ask you about --
16

17 THE COMMISSIONER: Q. Sorry, can I just ask you about
18 that? On one view there's a bit of triviality about some
19 of that, is there not; I mean --
20

21 A. Sorry?
22

23 Q. On one view there might be a bit of triviality about
24 how that descended into such an issue. I mean, the
25 councillor thought he had to be here, something had
26 happened to mean that he wasn't meant to be here. How did
27 it descend to being such a significant issue?
28

29 A. Personalities.
30

31 THE COMMISSIONER: Yes, thank you.
32

33 MR PARISH: Q. And, I take it, you were giving that as
34 an example of how there was a lack of - there would have
35 been a denigration in relationship between some staff and
36 some --
37

38 A. There was no respect between councillors to staff,
39 staff to councillors.
40

41 Q. Yes, and that was an example of it, yes, thank you.
42 Can I ask you about the DA process and, just due to time
43 and our terms of reference, I'll try to concentrate it on
44 the 2016-2020 term in which you observed meetings from time
45 to time.
46

47 Can I ask you about your impression of the DA process
whereby DAs were called up to council and dealt with in
council. There is now a local planning panel in place. Do
you think the councillors are best placed to deal with

1 these planning decisions, or in your view is it appropriate
2 or a good idea now for them to be with the local planning
3 panel? Do you have a view on that?

4 A. Okay, tough one. I think the process that I witnessed
5 was that the majority of DAs were never called up to
6 council because they complied or, you know, they weren't
7 contentious, it was somebody building a garage or somebody
8 building a new house, basic, you know, on the block of land
9 to the right - you know, and the majority of those, you
10 know, weren't called up.

11
12 What I did see was, if a councillor either personally
13 knew the proponent, and either had an axe to grind against
14 that proponent or had a friend who had an axe to grind
15 against that proponent, it would get called up. So, it
16 became an opportunity to cause problems for a DA on
17 spurious terms.

18
19 In terms of having a panel, I think DAs should be
20 absolutely at arm's-length from councillors. I don't
21 think - I think the nature of, just human nature gets in
22 the way, particularly in a shire like this because it's a
23 very small shire in terms of population. So, if you're a
24 councillor, chances are everybody knows that you're a
25 councillor, you know a lot of people, and it's a situation
26 which is going to unfortunately attract negative
27 associations, relationships, et cetera, around decision
28 making, so you get decisions being made that are completely
29 against what they should be, and they're made as payback
30 or, you know, as a favour to a friend or whatever, so we've
31 seen that happen.

32
33 To have it done at arm's-length by a panel, I think,
34 is a good idea providing, however - and this is a big
35 caveat on it - providing that LEP and the DCPs are fit for
36 purpose for the shire in question. As it stands, this
37 shire's LEP and DCPs are fighting against the future of the
38 shire. They are a critical reason why there are so many
39 problems here.

40
41 If you've got an LEP and DCPs that the community in
42 general are happy with, then an arm's-length panel should
43 be able to simply follow the - you know, join the dots and
44 make a decision based on consistency. If you don't, you
45 get massive inconsistency which is what we have here, huge
46 inconsistency in decision-making around planning.

1 Q. Can I ask, you referred to witnessing certain DAs
2 being called up to council because one or other councillor
3 had a personal interest in it, and I don't mean that in a
4 pecuniary or non-pecuniary conflict.
5 A. No, no, I know what you mean.
6
7 Q. Was that something you witnessed in both your term and
8 in the 2016-2020 term?
9 A. Yes.
10
11 THE COMMISSIONER: Sorry, Mr Parish, I might have missed
12 part of your question. When you were describing the
13 interest, what did you mean by interest?
14
15 MR PARISH: Personal interest.
16
17 THE COMMISSIONER: As in? Help me?
18
19 MR PARISH: I meant it in a non-conflict of interest
20 sense, which is what I was trying to clarify.
21
22 THE COMMISSIONER: Did the witness understand that?
23
24 MR PARISH: Pardon me?
25
26 THE COMMISSIONER: Could you just put the question again
27 so we're all on the same page? You and Ms Campbell might
28 be and I might be the one who's not quite there.
29
30 MR PARISH: It seems to be the case.
31
32 Q. So --
33 A. Sorry, is that being re-asked?
34
35 Q. I will re-ask it in a clear way. You mentioned
36 witnessing DAs being called up in respect of councillors
37 who had a personal interest in it; is that correct?
38 A. Did you say "impersonal" or "a personal".
39
40 Q. A personal interest in that DA?
41 A. Yes.
42
43 Q. And when you mean personal interest, you're not
44 suggesting that there's a conflict of interest in a
45 pecuniary or non-pecuniary sense, you mean it in an
46 inquisitorial or curiosity sense; is that correct?
47 A. Both.

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Q. Or both?
A. Both.

Q. In the curious or inquisitorial sense, is that something you witnessed in both terms?
A. Yes.

MR PARISH: Thank you.

I'm going to go on to a slightly different topic, if that's okay, Commissioner.

Q. You've just given some evidence about the role of council in a community the size of this community. From your experience and in your view when you were councillor, is it your view that, when you're a councillor, you're always a councillor out in society, in the sense that you can never take off your councillor hat and make comment to do things and say, "I'm only doing that in a personal citizen capacity"? Do you have a view on that?

A. Yeah, I think that's the case because it is - because it's so small a community in that sense, yes. Certainly during my time, wherever I went, people recognised that, and the conversation or the issue or the whatever, so yeah, yep.

MR PARISH: Thank you.

I don't have any other specific topics to canvass, Commissioner, unless you want to.

THE COMMISSIONER: No.

MR PARISH: Q. Is there anything else you want to address us on in respect of the terms of reference?

A. Yeah. I think the way councils evolved originally in the 1800s is a very different situation to where we find ourselves now in the 21st Century, and back in the day the community heavyweights were generally the councillors: the lead lawyer, the lead doctor, the lead, you know, landowner et cetera.

So we filtered down into a current situation where the legacy of that means that councillors by and large are probably not fit for purpose. And, we're talking about now councils that are run - they are a business, they're

1 \$100 million plus businesses, and when you have people who
2 are elected into a situation that they really have no
3 experience in the running of a business and the
4 understanding of how business operates, and the
5 entanglements of personal connections throughout the
6 community, overlaying that personal history within a shire,
7 you're setting up problems that become very complex. And I
8 think you only have to look at New South Wales's history of
9 the councils that are now currently in administration or
10 have recently been in administration: we've had one only a
11 week or two ago, Central Coast.

12
13 When I was in council in the first term, my only term,
14 two of us wanted administration called in then. We felt
15 that the situation was so bad and we wanted administration
16 brought in. It was never going to happen because of
17 political interference.

18
19 And I think that there needs to be massive reform
20 about how councillors are selected for shires if we are to
21 get away from these constant issues where you've either got
22 a situation like ours with great antagonism, lack of trust,
23 lack of transparency, et cetera, et cetera, going on or you
24 go into areas where you've got massive budgetary problems,
25 councils going into administration because they're broke.

26
27 And you've got a situation where you've got
28 bureaucrats on one side and they're doing things,
29 presumably to the best of their ability, but if you don't
30 have at the head the right leadership - and there's an old
31 saying, "Fish rots from the head" - and it was very true
32 with our council because, if you don't have that strong
33 leadership, you're going to have councillors at war, you're
34 going to have staff that are unhappy.

35
36 I had one staffer come to me on a situation to do with
37 the asbestos on our roads and he was - I think he was a
38 manager at that time in his department, and he's a fully
39 grown man and he's in tears to me because he is terrified
40 of the DGM and the bullying that was going on. And he
41 said, "Please don't - I'm trying to get this problem solved
42 as fast as I can, please don't say anything to the DGM
43 because I just can't take any more".

44
45 You had staff here that, when I first got elected I
46 realised that there wasn't a proper - there'd never been -
47 an audit done of all of our assets; you know, our

1 buildings, our parks, our public toilets our everything.
2 So, I finally got the approval to have a committee formed
3 to look into it, and the staff - I was given the
4 opportunity to meet the staff, so this is the real
5 underlings, if you like, in the hierarchy of things - and
6 my first question to them was, "What would you like to see
7 done with this department?" And they looked at each other
8 like it was a trick question, and eventually I said, "You
9 know, just tell me what you want". And they said,
10 "Nobody's ever asked us that before". So, if the culture
11 and the - you know, if the leadership is lacking you're not
12 going to get good outcomes, you're going to have systematic
13 breakdowns between staff, between councillors.

14
15 I really do think there needs to be a complete
16 overhaul as to who can run for council and how they're
17 selected. I think by and large you just do not get the
18 right calibre of people. You're also, if you're paying
19 peanuts you get monkeys: that's another expression. To be
20 a councillor is a full-time job if you're going to do it
21 properly. It's not a part-time job that you fit in between
22 other things, and you rock up and you just make a ruling on
23 a DA or a ruling on this and you rubber stamp whatever
24 staff is telling you: that's the wrong approach. It's a
25 full-time commitment, it should be properly remunerated as
26 such, but equally, how you elect and find those people I
27 think needs reform, big reform.

28
29 And I'll say also just for the sake of this council
30 is, even though there are councillors here who represent
31 the different political parties, our problems never stemmed
32 from that. The party politics didn't come too it - well,
33 maybe fractionally here and there, but by no means were the
34 cause of problems.

35
36 What else did I want to say? I really think a lot of
37 problems that were caused by councillors and the behaviour
38 that you saw in our council - two terms - were very often
39 driven by passion, strong belief that justice in some way
40 or other wasn't being served.

41
42 THE COMMISSIONER: Just on that though --

43
44 THE WITNESS: And I know we're not a court of law, but
45 when I say "justice not being served", that the mechanisms
46 that they were being asked to make decisions via were
47 failing what really needed to happen.

1
2 THE COMMISSIONER: Q. Assuming that to be the case for
3 the purposes of my next question --

4 A. Sorry?

5
6 Q. Just assume, as you say, that some of the behaviours
7 were driven by passion and strong beliefs, et cetera, you
8 don't offer that as an excuse for a breach of the
9 obligations under the Local Government Act, do you?

10 A. No, I don't offer that. You know, that's like saying,
11 you know, "She was driven to murder because she was wound
12 up about it or he was wound up about it."

13
14 There's another way of looking at that, and this is
15 going to sound a bit feminist, and I'm not really, but you
16 know, if Emily Pankhurst and her friends hadn't kind of
17 gotten a bit rough chaining themselves to gates, when would
18 woman have gotten the vote? Unfortunately it takes,
19 sometimes it takes the envelope being pushed for attention
20 to be drawn to problems.

21
22 I don't make excuses for it but I'm saying at the same
23 time, you've tried every other course: you've gone to the
24 DLG and you've said there's a problem, the DLG doesn't want
25 to know about it. You've gone to the press; the press
26 aren't interested because it's a little shire outside
27 Sydney, who gives a - you know. But the DLG is supposed to
28 be the body that either as a bureaucrat or a councillor you
29 can go to and say, "We've got a problem", or you go to the
30 Minister as a last resort and, if you get no support, you
31 don't get listened to, you don't get any kind of support
32 back or even acknowledgment, what do you do?

33
34 So here we are, here is this shire in administration
35 because councillors got to the point where tempers boiled
36 over, and that is a really sad indictment of how councils
37 are in the modern era, and this is not the only one. So
38 that tells us something, that tells us that the current
39 model is a flawed model.

40
41 And sure, behaviour, words, thumpings of tables,
42 whatever; but for me to be threatened by a deputy general
43 manager and a general manager, because I feel that I'm
44 being led by staff's report, and seriously being led, and I
45 knew that report was flawed, and I'm being told to
46 backtrack and apologise, I'm sorry, I'm not going to.

1 You know, we're here for the community. And one of
2 the things I've noticed from these hearings to date is, the
3 community is telling you the same thing: there is something
4 - it's not all the councillors' fault, not by any stretch.

5
6 I'm not saying all councillors were good guys all the
7 way, all the time: no, they weren't. Were they guilty of
8 being mischievous? Yes. Were they guilty of being, you
9 know, rude or abusive at times? Most likely. But you've
10 got no - you just - you're at the end of your tether, and
11 the DLG won't back you up, it has - you've got nowhere to
12 go. You're also not allowed - we're not politicians, we've
13 got to remember that; we're not covered by the same things
14 that state and federal policies are covered by.

15
16 So, for us to get change, for us to - as community
17 representatives, what else can you do? You're driven to
18 the point where you have to bang the table. I mean,
19 Station Street was the biggest --

20
21 Q. I think I understand the point --

22 A. -- and so on.

23
24 Q. -- that you make. Mr Parish.

25 A. I think you've had enough?

26
27 Q. No, you've made the point forcefully, I understand
28 what you say, that will be a matter that I have to consider
29 in my ultimate --

30 A. Sorry?

31
32 Q. I understand the point you make, is what I'm saying.

33 A. Okay.

34
35 MR PARISH: Q. Thank you Mrs Campbell.

36 A. Miss.

37
38 MR PARISH: Miss Campbell.

39
40 THE COMMISSIONER: Is there an application?

41
42 CR SCANDRETT: No.

43
44 THE COMMISSIONER: Thank you.

45
46 Thank you for coming along today, that completes your
47 evidence.

1
2 Mr Parish, is there any reason Ms Campbell ought not
3 be excused?

4
5 MR PARISH: No reason.

6
7 THE COMMISSIONER: Q. You're excused from further
8 attendance on your summons and you're free to go.
9 A. Thank you for the opportunity. Let's hope some good
10 comes out of it. Thank you.

11
12 <THE WITNESS WITHDREW

13
14 THE COMMISSIONER: What's next?

15
16 MR PARISH: No further witnesses today.

17
18 THE COMMISSIONER: All right. Is there anything else I
19 need to deal with today?

20
21 MR PARISH: No.

22
23 THE COMMISSIONER: We'll adjourn until 10am tomorrow.

24
25 **AT 3.27PM THE INQUIRY WAS ADJOURNED TO**
26 **FRIDAY, 1 APRIL 2022 AT 10.00AM**
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