

WINGECARRIBEE SHIRE COUNCIL PUBLIC INQUIRY

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

Before: Mr Ross Glover (Commissioner)

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

On Tuesday, 5 April 2022 at 10.05am

(Day 7)

1 THE COMMISSIONER: Yes, thank you, we'll resume.
2 Mr Parish, what's happening today, other than Mr May?
3
4 MR PARISH: There will be no further witnesses today other
5 than Mr May.
6
7 THE COMMISSIONER: Okay, thank you. Is there anything else
8 I need to deal with before we start?
9
10 MR PARISH: No. I should just foreshadow, one of the
11 first things I'll be doing is tendering Mr May's submission
12 to the inquiry.
13
14 THE COMMISSIONER: I see.
15
16 MR PARISH: I shall establish the provenance in the usual
17 way and tender it at that stage.
18
19 THE COMMISSIONER: Yes, I think it's already in the public
20 domain anyway, so that seems an appropriate course.
21
22 MR PARISH: Yes.
23
24 THE COMMISSIONER: Yes, you proceed.
25
26 MR PARISH: Thank you. I call Mr Viv May as the next
27 witness.
28
29 <VIV MAY, sworn: [10.06am]
30
31 THE COMMISSIONER: Thank you, Mr May. Mr Parish.
32
33 <EXAMINATION BY MR PARISH:
34
35 MR PARISH: Q. Thank you, Mr May, could we please start
36 with your vocational experience and how you came to be the
37 interim administrator of the Wingecarribee Shire Council?
38 A. Would you just like me to go through a little bit
39 about what I've done and where I've been?
40
41 MR PARISH: Yes.
42
43 THE COMMISSIONER: Yes, please, thank you.
44
45 THE WITNESS: Look, I started my local Government career
46 in Mosman in 1970 and left Mosman in 2013. I started, in
47 effect, actually in those days as a junior assistant

1 cashier rates clerk on the front counter and I worked my
2 way through. I was appointed town clerk in 1986 and then,
3 when they had the new Local Government Act in 1993 I had to
4 re-apply for the position and I was appointed general
5 manager and I held that role until 2013 when I retired.

6
7 I then did some consultancy work for a consultancy
8 firm, LKS Quaero, I did quite a bit of work on Fit for the
9 Future for the government in 2015, mainly around Canberra
10 and down in Deniliquin and on the Murray River, and I
11 retired again.

12
13 In early 2016 I was asked whether I'd be interested in
14 acting as the general manager at Strathfield Council for a
15 short time. The OLG had done a section 430 report on the
16 council and there were many issues, only there for about a
17 week or two, then the government asked me if I'd be
18 interested in going to Auburn Council as the interim
19 administrator, and I think everybody knows about Auburn,
20 headliner day. I was there from February 16 until May 16,
21 and then that was merged with Cumberland - I'm sorry, with
22 Parramatta and Holroyd. It was about 75 per cent of
23 Auburn, 25 per cent of Parramatta, and 95 per cent of
24 Holroyd, so it wasn't a simple bolt together, it was a
25 mixture of councils; most of them were bolt-togethers, that
26 was quite a challenge, and I was there until September 17.

27
28 While I was there I was also asked by the government
29 whether I would take on Georges River Council for about a
30 month, the administrator had a commitment to go overseas,
31 so I was doing them both for a short time.

32
33 Then I retired again and in June 2020 I was asked
34 whether I'd be interested in going up to Armidale Regional
35 Council as the interim administrator and I was there for
36 six months. Then, in March last year, I was asked whether
37 I would be interested in coming to Wingecarribee, and I'm
38 still here.

39
40 Just for full disclosure, I'd just like to advise you,
41 Commissioner, that I'm also the Local Government
42 Remuneration Tribunal; that's a statutory appointment.

43
44 Q. And, upon being appointed interim administrator here,
45 I take it one of your first roles was to gather information
46 and assess what the position of the council was and what
47 you could do going forward; is that about right?

1 A. Yes. Look, I had an indication that I'd potentially
2 be coming. Obviously, they sound people out when they get
3 to this situation, and I had the opportunity of doing a bit
4 of homework and viewing a couple of previous meetings, and
5 when I arrived I had an idea, having done it before, of the
6 kind of things I wanted to look at.

7
8 Q. I'll be taking you to some of the reports you
9 commissioned in due course, but to start from the time that
10 you physically turned up here for the first time, what was
11 the process of information gathering that you went through?
12 Was it staff interviews, I assume?

13 A. Well, look, when I arrived - I think I got appointed
14 on the Friday and I turned up on the Monday.

15
16 Q. Yes.

17 A. And I'd spoken to the acting general manager and said,
18 "I would like to speak to the executive staff", I think it
19 was at 10 o'clock, not in the mayor's room but in a
20 councillor room if there was one available, and that was
21 all arranged and I went through some processes such as, I
22 just wanted to make sure that, if there were laptops or
23 anything like that that the councillors had, they were
24 returned and they were secure. Having been through the
25 Auburn Public Inquiry I thought that it was pretty
26 important and, you know, cars - you know, just
27 run-of-the-mill things which the acting general manager had
28 under control but I just wanted to confirm because at the
29 end of the day I was responsible. So, there was that.

30
31 Then I indicated to the staff that I knew I was coming
32 for a while and that I'd done a bit of homework and this
33 was an opportunity for them, if they wanted to get anything
34 off their chest either in that group or confidentially, now
35 was the opportunity; I didn't like being misled or getting
36 surprises and this was an opportunity for them. Nothing
37 much came out of that.

38
39 Then I went through the processes that I would be
40 following and that was basically some due diligence on
41 finance, governance issues, and that I wanted to establish
42 pretty quickly, because I saw through watching meetings
43 that development was a huge issue, a panel, and in effect,
44 we started work - or they started work.

45
46 I then asked the acting general manager whether he
47 could call an extraordinary meeting - it was either 16 or

1 17 March - where I just wanted to indicate to the community
2 what my role was, that I wasn't the general manager because
3 in my view there was a lot of confusion in this place about
4 general manager, executive staff, mayor and councillor and
5 I wanted to make that very clear to the community.
6

7 Also, unbeknown to the executive staff, it was my
8 intention to replace the acting general manager immediately
9 and behind the scenes I had been talking to a couple of
10 people and I settled on Mr McMahon because he was from, in
11 effect, the Highlands and knew the area. So, that's what
12 happened.
13

14 We then had the meeting on the 16th or the 17th. The
15 staff had no idea that I was intending to remove the
16 general manager, but as is my modus of operation, I pay
17 respect to everybody; I advised the acting general manager
18 about an hour before the meeting that he would be replaced.
19

20 Q. Was that Mr Burgess at that time?

21 A. Yes.
22

23 Q. And he'd been in that role for a relatively short
24 amount of time, was it?

25 A. Yeah, about a week I think.
26

27 Q. And, after that, Mr Les McMahon came on board?

28 A. Yeah, Mr McMahon came on the Monday.
29

30 Q. Do I understand it that at or about this time you also
31 had interviews with the suspended councillors?

32 A. Yes, I spoke to the mayor first, then I spoke to all
33 of the suspended councillors and the two recently resigned
34 ones. I didn't speak to the councillor who had resigned
35 due to ill-health; I had intentions of it but - well, quite
36 frankly never got around to it, and I was told he wasn't
37 well, so I kind of moved on.
38

39 Look, when I arrived at this place I was overwhelmed;
40 it was like, you know, drinking from a fire hydrant,
41 everyone wanted to talk to me, there was just so many
42 issues, but I wanted to pay respect to the mayor and the
43 suspended councillors of getting, in effect, their side of
44 the story and I think some people were a little bit
45 frustrated that I wasn't speaking to some residents
46 straight away, because there were some outstanding issues
47 that needed to be addressed, but I wanted to send a clear

1 message to the council staff and the community that I had
2 been put here for a reason and I wasn't going to waste
3 time.
4

5 Q. Can I preface my next question by saying, if there was
6 any understanding of confidentiality or explicit assurances
7 of confidentiality, let me know, but can you tell me about
8 your impressions or any specific matters which came out of
9 your interviews with the councillors and the mayor?

10 A. Yes. I obviously watched the final two meetings, and
11 this was a council in crisis, and that wasn't only at the
12 governing body level, I believe it was at the
13 administrative level as well, particularly the executive
14 staff.
15

16 I then, after having spoken to the councillors - to me
17 there didn't seem to be any acceptance on the part of the
18 majority that they were part of the problem and I found
19 that difficult, and at the end of the day I came to the
20 conclusion, the place is a debacle. There was no formal
21 structure. From talking to councillors, it appeared to me
22 that some councillors were getting more information than
23 others from the executive staff.
24

25 I could not believe the amount of briefings and
26 workshops that were being held, and some councillors were
27 raising concerns about leaking of information and
28 confidentiality and that type of stuff and, you know, I was
29 concerned about those matters but at the same time, and I'm
30 not a lawyer, but I have some difficulty with understanding
31 how through a workshop or a briefing, if you release stuff,
32 how do you keep it confidential? I think the council's
33 Code of Meeting Practice was amended but it wasn't a
34 mandatory condition and, you know, I used to think to
35 myself in the early days, well, you know, don't we use - to
36 me, it serves you right, you're not doing this properly,
37 there's just too much secret stuff going on here. And I
38 think, to the community, the council was a mystery.
39

40 Q. Can I go back a step: you referred to the insight or
41 acceptance of the majority as to how their behaviour might
42 have been affecting, who do you mean by the majority or how
43 do you define or demarcate majority from the majority -
44 minority?

45 A. Well, the group that appeared to support the mayor
46 and, you know, the mayor actually said to me that - and
47 Councillor McLaughlin said to me, that I should be

1 recommending that the council return. Councillor Turland
2 had resigned, he was the problem. And I remember, I said
3 to the mayor, "Have you watched any of the YouTube of your
4 chairing of meetings?" I think he took offence at that,
5 but that was the reality of my conclusions.

6
7 Q. Can I just pause there. There's something which I had
8 some discourse with the Commissioner on in the opening
9 about whether the Minister has any power to dismiss or
10 suspend individual councillors. Are you aware of any
11 powers that exist for a Minister?

12 A. I don't believe there are any; I think it's one gone,
13 all gone/suspended: that's my understanding, but I'm not a
14 lawyer.

15
16 THE COMMISSIONER: Q. Was it suggested to you in those
17 discussions with the councillors that the Minister should
18 have taken that sort of action against particular
19 councillors rather than the whole of the body?

20 A. Oh, yes, yes, by a number of the councillors, and I
21 told them, you know, that's really a matter they should
22 take up with the Minister's office, that I'd been appointed
23 as the interim administrator, but I could not see how that
24 could happen, could occur.

25
26 Q. While we're on this topic and I may be jumping ahead,
27 but it's been suggested to me in a number of ways that this
28 was a problem caused by two, perhaps three, councillors;
29 what do you say to that view?

30 A. I don't agree with that. I think that - look, the
31 Minister, when she suspended - and I talk about Minister
32 Hancock --

33
34 Q. Yes, I understand.

35 A. -- the Minister when she suspended the councillors, in
36 my view she had no option other than to suspend them all,
37 and my observations of meetings, and having spoken to
38 councillors and having read the Performance Improvement
39 Order, they'd had a chance to improve and I could never
40 understand why some of the councillors were, in effect,
41 attacking OLG and the Minister when the Minister had given
42 them a chance to improve and considerable amounts of money
43 had been spent on trying to get the council to improve.

44
45 But having been here, say a month, I then began to
46 realise that the blame for what the debacle that I thought
47 the council was just didn't totally rest with the

1 councillors.

2

3 THE COMMISSIONER: I'll let Mr Parish explore those issues
4 with you, thank you.

5

6 MR PARISH: Q. You referred there to the concept of some
7 blame lying with the OLG or the Minister; was that a theme
8 which came out of the interviews you had with the
9 councillors at that stage?

10 A. Yes, particularly the mayor.

11

12 Q. Was there a view held by the mayor or any of the other
13 councillors that there was an element of a political stitch
14 up in the suspension of the council?

15 A. That wasn't raised with me. Some of the councillors
16 did raise what they considered to be interference by local
17 members, and I think I indicated to those councillors that
18 those members are listening to the community they
19 represent, and in any event, local government is a creation
20 of the state, the local members are doing their job, but
21 the Minister is the one who has suspended the council, not
22 the local members.

23

24 Q. In your view did they also portray a lack of insight
25 into how the behaviour in those meetings that you viewed
26 came across both to the community and perhaps to any
27 reasonable person watching the behaviour in those meetings?

28 A. Oh, definitely; this was a very, very bad example of
29 good local government.

30

31 Q. Can I pick up on the topic that you raised about the
32 use of confidential information or confidentiality in
33 briefings; can you just expand a bit on that and give me
34 some examples of what you saw as inappropriate or just bad
35 process in that regard?

36 A. Look, the release of confidential information, I don't
37 have any specifics in relation to that because that hasn't
38 been my arena. I was just interested in the whinging of
39 councillors that, you know, some councillors are allegedly
40 leaking this information, and particularly in relation to
41 Station Street.

42

43 Station Street, you know, no wonder the community -
44 and another thing I was being told, it was only a handful
45 of people who were causing all this disruption: well,
46 that's just clearly wrong. Hundreds of people when I went
47 on my little journeys out into the villages wanted to see

1 me, and everybody had a story about the council, and I
2 think the first meeting I had had over 1,000 YouTube views;
3 if that's a handful of people, you know, I think they're
4 wrong.

5
6 And, you know, still today - and this has never
7 happened where I've been ever before, including Mosman -
8 you know, I'll be out in a shopping centre or something
9 like that, people come up to me and say, "Thank you". The
10 place was a debacle and the community had had enough.

11
12 Q. Do I understand that you also met with state and
13 federal members at around this time?

14 A. Yes.

15
16 Q. Again, prefacing my question with any confidential
17 information or assurances of confidentiality, are you able
18 to tell us about your dialogue with those state and federal
19 members and what their impressions were?

20 A. Yes. The state members - I reside in Sydney and
21 Parliament was sitting, it was easier for me just to go
22 into Parliament House. I met with Tuckerman and Smith in
23 Parliament House for about half an hour, and they expressed
24 to me their disappointment in the council, and we didn't
25 really discuss any specifics. They indicated to me, you
26 know, "Look, can you just try and get public confidence
27 back into the council?"

28
29 I met with Mr Jones, member for Whitlam, down in
30 Shellharbour. Both federal members had really - I wouldn't
31 say "lost interest" is the right word, but had had enough
32 of the council and, you know, Mr Taylor actually said to
33 me, "Can you try and work out what's happened with the
34 Berrima bypass because I can't and no-one can tell me", and
35 I looked at that and that's just another problem. But in
36 our discussions we didn't discuss anything specific, it was
37 just generally, you know, can you please restore - well
38 really, the view was from the four of them, "Thank goodness
39 the Minister's taken a stand, can you just get on with it
40 and try and restore public confidence because the council's
41 failures are affecting the community" and, more
42 importantly, the community's ability to get grants through
43 state, because the State is losing confidence in them too,
44 their inability to deliver.

45
46 THE COMMISSIONER: Q. Do I take it that the observations
47 from those members, both state and federal, was an

1 opportunity for them to reflect to you the views of their
2 electorates?

3 A. Yes.

4
5 Q. Thank you.

6 A. Look, there was a press release issued the other day,
7 and I don't know whether you've seen it, by five of the
8 councillors and, you know, that press release criticises
9 the - in effect, the Minister, OLG, members and myself.
10 All we're guilty of is listening, which they weren't.

11
12 THE COMMISSIONER: Thank you.

13
14 MR PARISH: Q. I'm just working off for now your, I
15 think, first report to Minister Hancock on 10 May 2021.

16
17 THE COMMISSIONER: Should Mr May have that?

18
19 MR PARISH: Yes, that will be helpful.

20
21 THE COMMISSIONER: If Mr May could have Exhibit B,
22 page 239. Mr Parish, do you need mine?

23
24 MR PARISH: I've got a version.

25
26 THE COMMISSIONER: You've got a version, all right.

27
28 MR PARISH: Something's gone wrong in the witness copy.

29
30 Q. Hopefully you've got the 10 May 2021 report in front
31 of you?

32 A. Yes.

33
34 Q. In a slightly shrunken form. You refer in this report
35 to commissioning a number of reports, which I don't think
36 you had any of those in by this point in time. By this
37 point in time, however, you had already formed the view
38 that there was much to be done to restore the community's
39 confidence in the council, and that the elected body and
40 former executive of the council had shown a complete
41 disregard for the community they were elected and employed
42 to serve.

43
44 Bearing in mind you hadn't obtained the reports --

45
46 THE COMMISSIONER: I'm sorry, Mr Parish, I think you may
47 be at cross-purposes. If you go to the paragraph above

1 where you're reading, I think Mr May might have had one or
2 two.

3
4 MR PARISH: I think that's right, pardon me.

5
6 Q. I think you'd received one or two of the reports, but
7 a bunch came in in June, from memory. What had led you to
8 that conclusion at this stage, around 10 May 2021, of the
9 lack of community confidence, the complete disregard for
10 the community?

11 A. The initial reports that I commissioned were really
12 due diligence matters relating to finance, because finance
13 is an issue and up at Armidale it was a massive issue, I
14 don't think it's an issue here, even though I do think,
15 through the ARIC, the general manager and the staff are
16 sorting a number of issues out of how they, in effect, play
17 with - well, they used to - play with reserves. And the
18 governance one was a due diligence, so that just showed
19 what hadn't happened, but basically at the end of the day
20 they weren't too bad, those reports.

21
22 What drew me to my conclusion was talking to residents
23 and, you know, I well remember the first formal meeting the
24 council had, had to deal with the question of the Bowral
25 Memorial Hall, and a lady came and addressed council and I
26 thought to myself, "You seem very sensible, I'll meet with
27 you". By that stage I think there was a lot more
28 confidence building lower, at the level three of the
29 council, that I could be trusted and I had a rough idea of
30 what I was doing. And a couple of members of staff came to
31 see me and said, look - these are my words, not theirs,
32 "The council is just being bloody-minded in this, we have a
33 solution". And I met with some users of that facility, I
34 met with the staff, I made no promises to the residents
35 because I wanted to talk to the staff again, and it was
36 sorted out in one meeting.

37
38 It had gone on in the council for ages because it
39 seemed to me they had an attitude, "We can, so we will",
40 and that's no way to treat ratepayers. You then move on to
41 DA matters, which I just found overwhelming and, I'm no
42 planner and I'd already moved to put in a panel, but some
43 of what I was being told, they're operational matters, so,
44 you know, I got out as quick as I could. And I engaged
45 with Mr McMahon, Malcolm Ryan, and I think at the end of
46 the day he saw about 67 people who, you know, I made it
47 very clear in the minute I brought down that we weren't

1 going to re-open merit issues, that we were just looking at
2 issues. You know, I've formed some very firm opinions
3 about land use planning in this shire as a result of that,
4 but to answer the question, through talking to residents
5 and listening it wasn't too hard to pick up that the
6 council was just digging a hole for itself.

7
8 Q. Were you getting any feedback at this time
9 specifically about conduct in meetings either between
10 councillors or in the way that councillors interacted with
11 members of the public, either at council meetings or at
12 things like the bushfire community meetings which we've had
13 some evidence on that already or other committee meetings?

14 A. Look, when it comes to council meetings I wouldn't say
15 I shut down discussion with residents, but I've seen the
16 meetings too, so in effect I just acknowledged the fact
17 that it just wasn't acceptable behaviour from the governing
18 body and we moved on. When it comes to the bushfires,
19 well, that's just another chapter.

20
21 Q. We might come to that soon, but for now at least my
22 question, and perhaps you've answered it is, you were
23 getting feedback from the community about the behaviour of
24 the councillors at meetings?

25 A. Oh, yes, and not from a handful of people.

26
27 Q. Could I just ask about the decision of the
28 implementation of the local planning panel.

29
30 THE COMMISSIONER: Sorry, before you do, Mr Parish, before
31 you move on, sorry to interrupt.

32
33 Q. Mr May, do you still have page 239 in front of you?

34 A. Yes.

35
36 Q. Seeing as, I think Mr Parish is moving on, there was
37 one issue I wanted to explore with you. In the last
38 paragraph on that page you say, third line:

39
40 *A lack of respect, transparency and*
41 *communication has led to constant suspicion*
42 *of decision-making processes ...*

43
44 Do you see that?

45 A. Yes.

46
47 Q. What led you to express that view?

1 A. I took the view there was no respect: councillors with
2 each other, councillors with executive staff, councillors
3 where they shouldn't have been with operational staff. And
4 the operational staff had built walls, because there was no
5 leadership from the general manager and the acting general
6 manager, in my view, to protect the staff. The
7 councillors - and I don't think this lack of respect has
8 just happened in the last council, I think it's been going
9 on here for a long time from the feedback I get, but it
10 just was taken to a new height and, you know, the lack of
11 respect became adversarial in a way. I've heard people
12 talk about point-scoring, and gotcha moments: you know,
13 that doesn't help the council deliver its services.

14
15 Q. As part of that answer, I think I understood you to be
16 talking about councillors crossing into the operational
17 divide; is that what you have in mind?

18 A. Oh, yes.

19
20 Q. And have you received reports of that sort of thing
21 happening?

22 A. Early on, and I did this in - look, I understand the
23 difference between operational and the governing body, and
24 I think a lot of people used to think I was very black and
25 white in those areas, particularly at Mosman, but I didn't
26 allow councillors to cross the line. And here there was a
27 blurring and I think that was facilitated by the general
28 manager, because the general manager didn't stop it. And,
29 you know, you have the example of a mayor wanting to tell
30 staff - and the unions raised this with me, because I met
31 with them - in how to fill potholes, and it's allowed by
32 the general manager? You know, that's just not on.

33
34 In that minute I did indicate that, if staff wanted to
35 come and talk to me, they could. After about three or four
36 came I thought to myself, you don't want to get too wrapped
37 up in this, refer them to the general manager, and I did,
38 but I did speak to some - a couple of former staff who I
39 put into the general manager too, because also what was
40 happening is, when staff were leaving they were getting
41 forced to sign confidentiality agreements, and I don't know
42 how many there were, maybe two people came to see me about
43 that, but I got out of it and left it to Mr McMahon, but I
44 did say to Mr McMahon, "I would suggest you release them
45 from their confidentiality agreements and, if it needs a
46 council resolution, you'll have no problem from me, it
47 might be the only way you get to the truth".

1
2 Q. These were staff who left for all sorts of reasons?

3 A. All sorts of reasons.
4

5 Q. Is that something that you'd seen in other councils in
6 your experience, outside of perhaps contentious departures,
7 if I could put it that way?

8 A. I hadn't seen that at this level, no. And I must say
9 that the people who left since I've been here and Liz has
10 been here, no-one's been asked to sign a confidentiality
11 agreement.
12

13 Q. Thank you. Why is, in your view, the divide between
14 councillors and governance and strategic and the
15 operational side of the organisation an important one to
16 have maintained?

17 A. Well, look, I deal with this in the final report to
18 the Minister and in my submission to you, Commissioner. I
19 don't think that councillors as a governing body understand
20 just how powerful they are if they use their positions
21 properly and get into strategic areas.
22

23 This council, it appears to me - particularly in land
24 use planning, which is bread and butter for a councillor -
25 they lost their focus on the big picture, more interested
26 in the smaller individual DA. Well, in my view there's no
27 role for a councillor in that arena. What the councillors'
28 got to do, they've got to put in place their vision for the
29 future of the community they represent and then leave it to
30 the professionals to get on with it.
31

32 Now, if the professionals don't adhere to the
33 council's policies and procedures, well, you hold the
34 general manager accountable for that, but you can't be
35 sending mixed messages. When I suggested a panel, or I
36 said I was going to introduce a panel at my first meeting,
37 I had a bit of a lukewarm reception to that from some
38 staff; I just had the feeling, I have no proof, I just had
39 the feeling that they thought they were going to lose some
40 control in that arena, and the reality is that they lost
41 total control.
42

43 Q. Do I take it from that answer that councillors
44 spending time in council meetings on individual DAs with
45 specific features, you don't see as a good use of civic
46 time?

47 A. Not at all. And I think it would be more

1 appropriate - now, I don't have the final report of Ernest
2 Consulting because that was considered to be an operational
3 matter and it's confidential, but the residents who I
4 referred off to Mr Ryan, quite a few of them raised with me
5 political interference in the processes.

6
7 Q. And that's that suspicion of decision-making you were
8 referring to in your report to the Minister, is it?

9 A. Yes.

10
11 Q. What about consistency in decision-making on
12 individual DAs?

13 A. Well, that was part of the concern by residents here,
14 that some people got it, other people didn't. And, as I
15 say, I exited from that space --

16
17 Q. I understand.

18 A. -- because I had enough on my plate already.

19
20 Q. Before I hand back to Mr Parish, still on page 239 if
21 you have that in front of you, after that passage that I've
22 just drawn to your attention, you go on to say:

23
24 *... there is much evidence that the Council*
25 *had simply stopped listening.*

26
27 What did you mean by, "the council had simply stopped
28 listening"? Were there any particular examples that come
29 to mind?

30 A. Well, in relation to the land use planning space, I'm
31 not sure, but I have some views on that. But my examples
32 of stop listening: Station Street, Mittagong Playhouse,
33 Bowral Memorial Hall, the use by the community of
34 council-owned facilities generally, they're some examples,
35 and even the Welby tip issue which you probably haven't
36 even heard of, it's a massive issue down there but council
37 has said it's too hard. Since I've been here there's been
38 a report come to council because they asked for it, because
39 the community asked me, the residents down there. In my
40 view, the council wasn't undertaking one of its primary
41 roles as councillor to represent the community; they were
42 representing individuals rather than the community.

43
44 THE COMMISSIONER: Yes, thank you. Mr Parish.

45
46 MR PARISH: Q. Can I just turn you over the page and
47 that starts:

1
2 *The Wingecarribee Shire community has lost*
3 *trust in their elected representatives and*
4 *a lack of leadership in the governing body*
5 *and executive staff has severely impacted*
6 *on the health and safety of many staff.*
7

8 I think we've covered your impressions of how you came
9 to them in respect of the loss of trust and lack of
10 leadership, but can we just turn to the impact on staff.
11 Council has an obligation to be a responsible employer and
12 provide a consultative and supportive working environment
13 for the staff, can you tell me about how the governing body
14 interacts with that obligation? Is it the governing body's
15 job to direct and control how the general manager controls
16 his or her staff, or ought they be more proactive in
17 ensuring the health and safety of --

18 A. Well, the only person the governing body employs at
19 the end of the day is the general manager, and I believe at
20 the end of the day it's the general manager's
21 responsibility to look after the welfare of the staff. But
22 from recollection, and I've never looked further into this,
23 but from recollection the mayor in the second interview I
24 had with him - because he asked me, I've met with him three
25 times - indicated to me that the former general manager had
26 a claim in against the council.
27

28 Now, I've never looked further at that because I was
29 trying to go forward, I was a bit sick of going back all
30 the time. I think in my own mind I'd proved what I wanted
31 to prove to myself to try and take the place forward. So,
32 no, there's a clear responsibility, but in saying that, the
33 general manager has to be firm with councillors. You know,
34 if you're all things to all people, it'll turn to custard;
35 you've just got to be firm but you've just got to, what one
36 gets, all get. And, if you allow one person to, you know,
37 overstep the mark, how can you stop the rest of them?
38

39 THE COMMISSIONER: Q. What about the impact of
40 councillor behaviour, whether in meetings or in interacting
41 with staff? Can that have an effect on whether the
42 workplace is consultative and supportive?

43 A. Well, in my view the staff here were badly let down by
44 the executive staff for, in a way, facilitating some of the
45 behaviour.
46

47 Q. Yes, I appreciate that, but do you think the

1 councillors themselves have their own personal obligations
2 in how they behave?

3 A. Oh, most definitely, yes, yeah, that's very clear
4 and --

5

6 Q. So, councillors - appreciating the important role that
7 the general manager has to play, do the councillors
8 themselves nevertheless have their own obligation not to
9 transgress their role into the operational space? Do you
10 agree with that?

11 A. Yes.

12

13 THE COMMISSIONER: Yes, Mr Parish.

14

15 MR PARISH: Q. Did you have any specific examples at the
16 time of writing this report of impacts on staff in a health
17 and safety respect caused by lack of leadership of the
18 governing body and executive staff?

19 A. I am of the opinion that, by virtue of what was
20 happening at the top, the culture just filtered through. I
21 had staff come and speak to me - not many, but when I kind
22 of opened the door to start with it - about being
23 embarrassed to work for the council, and there was one lady
24 who spoke to me about a pop-up that the council had
25 somewhere in Bowral about an environmental issue one
26 Saturday morning and a councillor turned up and took over.
27 You know, I said to her, "Well, at Mosman the instruction
28 would have been, if a councillor turns up respectfully ask
29 them to go. If they don't, just pack up and go yourself,
30 the councillor is the one who will be embarrassed at the
31 end of the day". I must say, it didn't happen at Mosman
32 because we had clear rules and guidelines. That doesn't
33 mean it was easy because you will always get councillors
34 who want to push the limits.

35

36 Q. Do you recall who that councillor was and broadly when
37 it was, that event?

38 A. No, and the person concerned didn't tell me the
39 councillor because I said I wasn't interested. Look, since
40 I've been here I have been in overdrive to make sure I talk
41 about the elected body or the governing body, not
42 individuals, and the executive staff not individuals.

43

44 Q. You've touched a few times now on the appropriate and
45 effective communication between councillors and the
46 executive level of staff. Can I ask you a two-part
47 question: firstly, what in your experience the most

1 effective way of having a policy on that is and, secondly,
2 whether such a policy or guideline existed in this council
3 when you became the interim administrator?

4 A. Well, it existed but whether it was enforced: you've
5 got to have it under the Code of Conduct. But look, it's
6 about respect, it's about consistency, and at the end of
7 the day, if you treat everybody the same, whether it be an
8 elected member or a councillor, they'll all respect you;
9 and, they mightn't like you, that's not what you're here
10 for. It wasn't consistent.

11
12 Q. Can you explain to the inquiry what the proper chain
13 of command or siloing of the communications that
14 councillors should be having with staff is? Is it a matter
15 of, councillors ought to talk to certain members of the
16 senior executive and then the senior executive interacts
17 with individual staff members, or is it appropriate that
18 councillors talk directly to staff members?

19 A. No. No, no, no. No, the process is that the general
20 manager, in effect, issues instructions about who
21 councillors can talk to. It's my understanding here that
22 it was two Level 3 group managers, but I had a bit of
23 difficulty understanding the organisational structure here
24 and I generally only spoke to the acting general managers
25 and now the general manager, but from my position I'm now
26 talking to the directors here until the organisation
27 structure is sorted out and I do my best to try and stay
28 away - because I say to residents, "Look, they're
29 operational matters" and it's amazing. If you explain to a
30 resident why, they accept it, you know. I suppose I'm not
31 chasing a vote.

32
33 THE COMMISSIONER: Q. Yes, that highlights a question I
34 had which I may as well ask now, which is that, the
35 obligation of a councillor is not - well, tell me if you
36 agree with this: is it the obligation of a councillor to
37 take up any and every issue that a resident may raise, or
38 does the councillor have an obligation in accordance with
39 their duties under the Act to exercise discretion in
40 accordance with their role?

41 A. The latter, the councillor has to - but look, the
42 other hat I wear is the Remuneration Tribunal, you know,
43 the submissions to sittings of the tribunal, a lot relate
44 to the full-time role of the councillor. A councillor role
45 is not a full-time role, and then I try to explain to
46 people that, used properly, it is a very powerful role. If
47 you use the community planning processes you can leave your

1 stamp on a community, on a shire, but if you just want to
2 become involved in, you know, grass cutting, you'll come
3 and go.

4
5 THE COMMISSIONER: Yes, thank you.

6
7 MR PARISH: Q. Do you have any other specific examples
8 that at least at this stage you were left with in respect
9 of how staff were being impacted by the lack of leadership
10 and a loss of trust in the governing body?

11 A. Well, specifically in matters I became involved in,
12 Station Street which was a huge issue; the fires, another
13 huge issue; and smaller but just as relevant, really
14 Mittagong Pool, for instance. You know, I've taken the
15 time to read the flood reports - the flood studies on the
16 pool and I don't think the councils followed the
17 recommendations or the suggestions in those studies in
18 relation to improving that pool.

19
20 I have kind of - that's out for public consultation at
21 the moment, you know, but I've asked through the general
22 manager whether that can be addressed; it's just those
23 types of things that, to me, you know, the staff know but
24 the staff have been squashed, and I think to a high degree
25 as a result of the executive staff wanting to appease
26 councillors.

27
28 Q. Can I just end on the topic of health and safety of
29 staff, at least your impressions as at 10 May 2021. You
30 describe it as a toxic culture at about the second
31 paragraph from the end. Can you elaborate on what you
32 meant by "toxic culture" and how you came to that
33 impression, subject to the fact you've discussed it at some
34 length already?

35 A. I think, in relation to individuals, that's probably a
36 question better addressed to the general manager, but I am
37 aware that the council's workers' compensation premiums
38 have gone up considerably by virtue of claims that aren't
39 what you'd call normal run-of-the-mill claims.

40
41 Additionally, you know, the council staff thought that
42 their professionalism was not being respected, and that
43 builds a culture - I'm not saying in every part of the
44 council, because to be quite frank, I've only ever been
45 behind into the workplace once since I've been here because
46 that's just not my role. And the culture here had to
47 change and someone had to initiate that change through

1 leadership and that's what I've been trying to do.
2 Sometimes you get criticised for not taking an interest,
3 but I am very interested, but knowing the constraints on
4 the role.

5
6 MR PARISH: Commissioner, I'm going to turn to the next
7 report dated 10 August 2021, unless you have any further
8 questions about that first report?

9
10 THE COMMISSIONER: Yes, just one.

11
12 Q. If you have page 240?

13 A. Yes.

14
15 Q. About halfway, a little above halfway up the page
16 there's a paragraph starting, "Suspended councillors", do
17 you have that?

18 A. Yes.

19
20 Q. The second sentence:

21
22 *Clearly their behaviour has been*
23 *dysfunctional, and coalitions of*
24 *convenience have been formed and together*
25 *with the former executive were an*
26 *embarrassment to and a poor example of good*
27 *local government.*

28
29 What did you mean by "coalitions of convenience"?

30 A. Councillors will play games to get numbers for
31 specific issues, and that's what happens. I am probably
32 the worst example I can say of this in relation to the
33 housing strategy. I thought it was very, very
34 professionally done. I took the time to go out with
35 officers and look at what they were proposing, but
36 apparently when it got into the political arena there were
37 deals or coalitions of convenience to take areas out, put
38 areas in. That's a high level.

39
40 But coalitions of convenience do happen in councils,
41 but let's be open and honest about it and transparent. You
42 know, I think to a degree the numbers apparently on Station
43 Street changed, you know, hot in the kitchen, there's -
44 there's always coalitions, but you - you know, people trade
45 votes for mayoralty, for deputy mayor, that's just a
46 reality of democracy, but the coalitions of convenience
47 here I think took it to another level.

1
2 Q. By that do you mean that the coalitions of convenience
3 were more political and less about the role of a councillor
4 and the governing body as described in the Act? Is that
5 what you mean?

6 A. Totally political.

7
8 THE COMMISSIONER: Thank you.

9
10 MR PARISH: Q. I might just take you to that first
11 sentence before we switch to the next report. So, as at
12 10 May 2021 you'd formed the view that the suspended
13 councillors, in your view, did not warrant return to
14 council office and should they so desire they can present
15 for re-election.

16
17 Turning to the next report, 10 August 2021, had your
18 view changed by that stage at a high level? We'll go into
19 the details of the report --

20 A. Can you just repeat that, sorry? I just want to find
21 the place.

22
23 Q. Yes, 10 August 2021. I might be able to provide you
24 with a bigger copy now, we've found the problem. If you go
25 over to page 262.

26 A. Oh, I see, yeah, it flows.

27
28 Q. Is that the 10 August 2021 report?

29 A. Yes.

30
31 Q. I might steal that little version off you because I've
32 marked it up, Mr May. I guess I'll start with an
33 introductory question. These reports being three months
34 apart, had your view changed by 10 August 2021 as to
35 whether the councillors warranted a return to council
36 office?

37 A. Definitely, and that was influenced to a high degree
38 by the arrival of the general manager, the new general
39 manager. When she began to alert me of some of the issues
40 under the surface which I hadn't - weren't known to me and,
41 in fairness, they wouldn't have been known to Mr McMahon,
42 he had his hands full dealing with the day-to-day
43 operations. But at that stage we had a stronger group in
44 the council, extra people had been brought in, and able to
45 look further under the surface, so yes. And I admitted in
46 a minute that I'd changed my views on a return of the
47 council.

1
2 THE COMMISSIONER: Q. So what was your view as at
3 10 August 2021 about that issue? I'm just not sure I
4 follow the sequence.

5 A. I was of the view that, in effect, there should be a
6 public inquiry into the council, and I formed that view
7 based on the advice that the general manager was giving me
8 and her concerns, and the fact that the mayor had gone on
9 radio to say that he'd probably be unwinding some of what,
10 you know, we'd tried to achieve. And I thought to myself,
11 "There's no lessons have been learnt here".
12

13 Q. Yes, so the change in view, just so I understand, was
14 in the 10 May report you'd said:
15

16 *Suspended councillors in my view do not*
17 *warrant a return and should they so desire*
18 *can present for re-election in September*
19 *2021.*
20

21 And by August you'd formed the view that it was an
22 appropriate matter for an inquiry which would - well, I
23 thought the elections were delayed anyway, but is that the
24 idea?

25 A. Yes, I thought an inquiry was the only way to the
26 truth.
27

28 THE COMMISSIONER: Yes, thank you.
29

30 MR PARISH: Q. And perhaps more for the benefit of the
31 public than me or the Commissioner at this stage, your view
32 had become more negative about both the conduct of the
33 councillors, the acquittal of their roles and the general
34 state of the council when the suspension had taken place;
35 is that fair?

36 A. Yes, correct.
37

38 Q. Turning to the 10 August 2021 report, it's something
39 you briefly touched on before, but second from the bottom
40 paragraph on the first page you mention that:
41

42 *The meeting of Council that was called to*
43 *consider your Notice ...*
44

45 Which was the notice of proposed suspension, I
46 think --

47 A. Yes.

1
2 Q.

3 *... can at best be described as a debacle*
4 *resulting in the Council being placed in*
5 *independent Administration on 10 March 2021*
6 *for 3 months.*
7

8 You briefly touched on it, but can you tell us what
9 led you to the view that that meeting was a debacle?

10 A. The behaviour of the councillors and, in my view, the
11 lack of respect to the community they were elected to
12 serve. I'm even stronger in that view now that I've seen
13 some of the exhibits that you've put out. The letter that
14 councillor - the letters that Councillor Whipper and
15 Councillor Nelson have written --
16

17 THE COMMISSIONER: Q. Are you referring to the exchanges
18 about Station Street?

19 A. No no, no, no, no.
20

21 MR PARISH: Commissioner, those are at page 231 of tender
22 bundle B, and page 233 of tender bundle B.
23

24 THE COMMISSIONER: Yes, sorry, I'm at cross-purposes. I
25 understand, thank you.
26

27 THE WITNESS: You kind of addressed it in your - you
28 didn't say it in the opening comments and I thought, I want
29 to go back and read the opening comments, and the Counsel
30 Assisting's comments, and then I came upon these two
31 letters which, you know, I just thought, the lesson hasn't
32 been learnt and you've been through a performance
33 improvement order, you've had the benefit of experts, and
34 there's just still no recognition.
35

36 THE COMMISSIONER: Mr Parish, just for my benefit when I'm
37 reading the transcript, if you show Mr May the two letters
38 that we think he's referring to?
39

40 MR PARISH: Yes.
41

42 THE COMMISSIONER: Sorry to take you off course.
43

44 MR PARISH: No, it's probably an appropriate time to deal
45 with these letters at a broad level anyway.
46

47 Q. You, I think, have the correct tender bundle in front

1 of you already, can you turn to page 231, I think, of your
2 bundle. Is that the letter that you're referring to?
3 A. Yes.
4
5 Q. From Councillor Peter Nelson dated 8 March 2021 to
6 Minister Hancock?
7 A. Yes.
8
9 Q. Next document along is at page 233. It seems to be a
10 perhaps pro forma customer service web form generated by
11 Councillor Whipper; is that the document you're referring
12 to?
13 A. If you go to page 234, you will find the Whipper
14 letter.
15
16 Q. Those are the documents you're referring to?
17 A. They're the documents I'm referring to, and they -
18 reading them on the weekend gave me - "confidence" is the
19 wrong word - but I thought to myself, you know, I am on the
20 right track.
21
22 THE COMMISSIONER: Yes, thank you. Sorry to take you off
23 course, Mr Parish.
24
25 MR PARISH: Q. This is a question that might equally be
26 put to the Minister, so if you're not sure just feel free
27 to say you don't know, but in your view was this the sort
28 of submission that the Minister or a Minister would be
29 looking for when they were proposing to suspend a council
30 and invite written submissions?
31
32 THE COMMISSIONER: Mr Parish, I'm not sure if in that form
33 that's necessarily a fair question to Mr May. Perhaps it
34 could be done in a different way, but I don't know that
35 Mr May can speak for the Minister's mind.
36
37 MR PARISH: No, I wasn't suggesting that he should.
38 Perhaps I'll rephrase it this way, or at least start with
39 this question.
40
41 Q. Have you been involved in suspended councils before?
42 A. Have I been involved?
43
44 Q. Involved with suspended councils before?
45 A. Five.
46
47 Q. And --

1 A. I'm sorry, no, no: three suspended.

2
3 Q. And you're aware of a process by which submission is
4 sought in written form to provide the Minister who was
5 proposing to do something with information and a view from
6 council or councillors?

7 A. Look, can I answer the question this way: I have no
8 idea what councillors do when they are subject to a
9 suspension notice, but the suspension notice was addressed
10 to the governing body.

11
12 Q. Thank you. I'll take you back to your 10 August - I
13 got a bit sidetracked there. And I think I was asking you
14 about your impression as to what led you to believe that
15 the meeting was a debacle leading up to the suspension, and
16 I think you've answered that.

17
18 If I can just take you over the page, page 2 of the
19 report. By this time you had commissioned multiple reviews
20 and audits; is that correct?

21 A. Yes.

22
23 Q. And you've mentioned that some had been received at
24 the time of the 10 May - and some had come in in the
25 meantime; is that correct? What were the issues primarily
26 which came out of those reports that you'd received which
27 you were drawing to the attention of the Minister?

28 A. On page 245, the review of finances and the governance
29 one, they're reports that I initiated day one, you could
30 say, because they were my due diligence to make sure that I
31 had a handle on what was happening here. The rest of the
32 reports really come from my discussions with residents and
33 staff to get answers for them. And, you know, I'm happy to
34 go through each one if --

35
36 Q. I'll come back to some of the reports specifically,
37 but can you tell the Commissioner the major matters that
38 you had to address at that point and which you set out in
39 the bullet points?

40 A. It was trying to - when you get appointed as an
41 administrator or as an interim administrator, I think some
42 people think you get riding instructions: you don't. You
43 are just asked, "Can you try and restore public confidence
44 in the operation of the council?" And, these reports, and
45 I know there was a few of them, but there's a lot more
46 things that I could have asked for reports on from the
47 residents, but this was as a result of me listening to

1 residents' concerns and I took the view that, unless I
2 tried to address some of these concerns, it'll just go on
3 and on, and there had to be some closure.

4
5 I think the fire reports you said you were going to
6 come back to, so I can leave that one. But, you know, some
7 of the petty cash stuff; you know, it seems minor, but it
8 just sends a message about the whole organisation, and I
9 think I've got the experience to know where to look and
10 when to look, and I discounted a lot of what I was told
11 because in reality some of it was an opportunity to have a
12 go, but some was genuine, and I tried to pick out what I
13 thought would add value to the administration period to try
14 and restore public confidence in the council, and hence
15 that's why a lot of those reports were done and, you know,
16 some of them at the end of the day provide a good headline
17 but they are part of a jigsaw puzzle, in my view.

18
19 Q. Can I deal with a few of the specific bullet points on
20 page 245. You touched on it briefly, but can you explain
21 what the problem was with the housing strategy and how you
22 went about fixing it?

23 A. Well, the housing strategy is not addressed here.

24
25 Q. Pardon me, I think I'm looking at the wrong page, it's
26 page 246, and you've set out some major matters that have
27 been addressed during your administration. I won't touch
28 on all of them, but do you see bullet point 2, the
29 "Adoption of the Housing Strategy"?

30 A. Well, the council staff - the council has an
31 obligation to have a housing strategy and a planning
32 statement at the end of the day, and council staff, through
33 the general manager, came to me to speak about the problems
34 that they've had with the council in getting a housing
35 strategy formally adopted and in place. And I listened and
36 asked them, you know, could they prepare a report to
37 council on what their professional views were. At the time
38 they also told me about the coalitions of convenience in
39 relation to it, but I've assured those people I won't
40 breach that confidentiality and, you know, they told me
41 some stories which I don't think were embellished, and at
42 the end of the day I said, "Can you do a professional
43 report for me but I want it to go through the planning
44 panel first for them to have a look at it", as I have done
45 with all planning matters, they're the professionals, and
46 there are local representatives on that.

1 And we've now adopted the housing strategy and there
2 hasn't been a whimper, because what we've done in addition
3 to that has said that - and this forms part of the bigger
4 picture of taking the council forward - I asked the staff,
5 could they do another report for the community to lay out
6 what the processes are now. Just because the council has
7 adopted a housing strategy doesn't mean they're going to
8 plonk a thousand houses in East Bowral, there's processes
9 to follow, and can you make sure that report recognises
10 that lessons have been learnt, because, you can't make
11 mistakes and not own up to it.

12
13 Now, I'm not saying that was the staff who made those
14 mistakes, I think it was a lack of leadership with the
15 council in getting to an end position, but the person - the
16 people involved in that section, I think, are very
17 competent and I've been out with them to look at it and
18 some residents have made representations to me and I've
19 sided with the staff when they've explained to me why.

20
21 But we then went to the process of, as I said, you
22 just don't plonk those houses out there, there's a whole
23 process you've got to go through about - well, the simplest
24 way I put it is, when you up-zone the land owner shouldn't
25 just get a pot of gold, and they walk away and leave it to
26 the developer to fight it out with the council and the
27 residents. You need to have processes in place, and that's
28 what we are now working on, and as a matter of fact the
29 general manager and myself met with the Minister of
30 Planning the other day, because the land use planning in
31 this place has no strategic focus, we need time to get it
32 right, and we've gone on knees to the Minister to try and
33 get some money to help us, to be quite frank, it's beyond
34 the financial capability of this council to catch up with
35 the legacy issues that have been inherited through - and I
36 don't want to go on about this, but I think it suited the
37 council not to have all of these things in place because
38 there was a control.

39
40 Whereas, if you deal with it at the upper level, and
41 that's the councillor role, everything else falls into
42 place. It's not easy, but it works, and I think the
43 community strategic planning processes of the Local
44 Government Act aren't too bad; it's just those who don't
45 want to follow them and who want to have control, but the
46 council at the end of the day, the governing body, has
47 total control over these things.

1
2 THE COMMISSIONER: Q. The fact that it hadn't been done
3 or achieved over some time, were you able to form a view as
4 to why it had got to that stage?
5 A. Yes, a definite view.
6
7 Q. And what is it?
8 A. It didn't suit the councillors or some of the
9 executive staff.
10
11 Q. When you say "it didn't suit them", what do you mean
12 by that?
13 A. Well, they had more control over the process.
14
15 Q. I see.
16 A. And that's why I said earlier, there seemed to me to
17 be a slight resistance to the idea of a panel when I asked
18 the staff to prepare the documentation for it; I kind of
19 got, you know, "Why?" Well, why was clear to me, but those
20 who want to micromanage and have control loose that control
21 because the bigger picture takes over. You know, I've met
22 with the --
23
24 Q. Sorry to interrupt you, but the councillors would have
25 an opportunity to exert their influence at the policy
26 stage, would they not?
27 A. Total, yes.
28
29 Q. And they could set the direction?
30 A. Yep.
31
32 Q. Rather than getting - perhaps a poor choice of words -
33 but getting down into the weeds when things came to be
34 considered later; is that --
35 A. But the community would have a consistent approach and
36 at the next election if they wanted to get rid of them,
37 they could, but it wouldn't be higgledy-piggledy; not what
38 you know, who you know planning type thing --
39
40 Q. Yes.
41 A. -- you would have a consistent approach and, you know,
42 residents want consistency; they don't want an ad hoc
43 approach to planning and --
44
45 Q. And does that tie back --
46 A. Sorry.
47

1 Q. No, I interrupted you. Go on.

2 A. But there are some overarching rules though from the
3 State in relation to LEP development. Look, Commissioner,
4 I was at a meeting - I'm still going out to meetings as
5 much as I can because I'm trying to reconnect this council
6 particularly with the villagers who feel robbed, and it's a
7 slow process but I think we're getting there.

8

9 I was up at a meeting up at Bundanoon and a resident
10 up there indicated to me that we were going about this the
11 wrong way, we had to deal with the LEP first and then get
12 all this information. And, you know, when I said to that
13 person that, "You cannot down-zone", the person wouldn't
14 accept it. And so at the end of the day I was quite firm
15 and I said, "The reality is, you can't just down-zone.
16 What we're trying to do at the moment, and it's not a quick
17 fix, we're trying to get the community back in control of
18 this shire and this is the way you do it: you do these
19 studies, you do this consultation, you do this research".
20 You know, the days of having things imposed on you, even by
21 the state, the council should be in a position where
22 they're responding to what the community's expectations for
23 the shire should be.

24

25 The reality is, whether people down here like it or
26 not, and I hear a lot of reference to all these people who
27 come down from Sydney and take over: it's a nonsense. You
28 know, people will come here, but people have been coming
29 here for generations, potentially mostly from Sydney, but
30 the council needs to have an overarching vision for what it
31 wants, just not being picked off.

32

33 Look, I'm a bit of a soap box now, but I look at
34 Station Street and then I look at Old South Road. Now, I
35 live in Manly, when I go home and you put it into your GPS,
36 it will take you along Old South Road. I wouldn't go along
37 Old South Road, there's potholes everywhere, it's a
38 shocker. But the council lost a huge opportunity when all
39 that development - and you probably don't know about the
40 development in East Bowral, there's a lot of it. If they
41 had to have their strategic planning in place and if they'd
42 have done things properly Old South Road could have been
43 done but basically funded from all that development: lost
44 opportunity.

45

46 In my view, and some people don't like this, but a lot
47 of developers have taken their pot of gold and run and left

1 the problems to the council and the community, and at the
2 end of the day that's something that's happened over a long
3 time and the general manager and myself are now trying to
4 take control back for the community of the area they live
5 in.

6

7 Q. Does that require strong overarching strategic plans
8 to be able to achieve that?

9 A. Oh, definitely, yes.

10

11 Q. Was that something that was lacking or has been
12 lacking over time?

13 A. In my view, yes. Sorry, an example, and I think the
14 general manager sent to you the roadmap?

15

16 Q. We have - I was aware that it had been - I've been
17 made aware that it was done and we've obtained a copy off
18 the last council business papers, I think, from 16.

19 A. What happened with that was, Ms Miscamble almost on
20 Christmas Eve said to me, "Look can you have a look at
21 this, this is my snapshot of where we've been, where we
22 are, where we've got to get to". I took it home over
23 Christmas and I read it and I said, "I think this is
24 fantastic, how have you got time to do this?" Anyhow, and
25 then I said to her, "I think some of your dates are very,
26 very, very ambitious, because, you know, this is going to
27 take time".

28

29 I then said to her that, "This is something that the
30 community deserves to have because they can then get a
31 snapshot", and she was a bit hesitant, but we agreed in the
32 end that it would go to council, and I think it's a
33 document that residents should read to see the complexity
34 of what the council has got itself into and how, with this
35 roadmap - and I'm not saying the council has got to follow
36 it to the nth degree, but it clearly shows operationally
37 how the general manager is thinking; they're the kind of
38 things that should happen.

39

40 THE COMMISSIONER: Yes, Mr Parish might take that up with
41 you after morning tea. Is that a convenient time?

42

43 MR PARISH: I have one clarifying question.

44

45 THE COMMISSIONER: Yes.

46

47 MR PARISH: And more so perhaps a dummifying down for my own

1 benefit.

2

3 Q. When you say that the housing strategy, there was an
4 impetus or a convenience in not passing it because it may
5 have taken power away from councillors or executive staff,
6 are you saying by that, that a housing strategy would
7 remove some of the discretion which lay with councillors
8 and executive staff and that discretion was, in your
9 impression at least, in their interests to hold on to?

10 A. Not that simple.

11

12 Q. Okay. I shouldn't have dumbled it down.

13 A. Sorry, sorry. Look, I know a little bit about a lot
14 up here, and basically what I've been told by staff and
15 residents. It's my understanding that there were, in
16 effect, trade-offs around Robinson and Coledale which the
17 staff thought were disgraceful, and whether any of those
18 people have made submissions, I don't know; I'm keeping
19 their confidence of what they told me.

20

21 But when I went to Robinson, and I've had several
22 meetings in Robinson, the residents down there are happy
23 for some more development because they understand the
24 problems of housing and it's complicated but there's
25 another issue in the shire and that's these dormant lots.
26 There's about 3,000 dormant lots in the shire. Now, the
27 value of land is now such that they're gonna get developed,
28 and you go to Bundanoon and people aren't happy about it
29 because the council doesn't have an overarching plan to
30 deal with it and I think at the last meeting we allocated
31 some money to deal with that.

32

33 So, the council professional officers know what
34 they're doing, and I'm not saying that the council has to
35 rubber stamp it, all I'm saying is, they should listen and
36 be part of the action rather than just wanting to meddle in
37 little things.

38

39 MR PARISH: Thank you.

40

41 THE COMMISSIONER: Is that a convenient time, Mr Parish?

42

43 MR PARISH: Yes.

44

45 THE COMMISSIONER: Mr May, we're just going to break for
46 about 20 minutes, to restore cognitive functions, so if
47 you'd be kind enough to resume at about 10 to 12. Thank

1 you, we'll adjourn.

2

3

SHORT ADJOURNMENT

4

5

THE COMMISSIONER: Yes, Mr Parish.

6

7

MR PARISH: Q. Mr May, this might be the time to tender some documents through you. I'm going to show you two documents that I propose to tender to the inquiry and I'll just get you to identify those documents. Hopefully the first document you've got is your submission to the inquiry dated 28 October 2021?

11

A. Correct.

13

14

MR PARISH: Commissioner, I'll tender that, it's the submission by the office of the interim administrator, Wingecarribee Shire Council, being Mr May, dated 28 October 2021.

18

19

THE COMMISSIONER: Yes, Exhibit L will be the submission of Mr May to the inquiry dated 28 October 2021. That's already in the public domain, so that can go on the website as soon as that can happen.

24

<EXHIBIT #L - SUBMISSION OF MR MAY TO THE INQUIRY DATED 28/10/21.

26

27

MR PARISH: And the second document there, I think it's about 100 pages, almost, starts No.9, general manager. 9.1 our roadmap, moving forward to reset our organisation". Do you see that?

31

A. Yes.

32

33

Q. Is that the document you were referring to produced by Ms Miscamble before the break?

35

A. Yes.

36

37

Q. I think you gave some by and large positive evidence about it just before the break, but could you just tell the Commissioner, is this a useful document going forward to chart a structure for this organisation?

41

A. Most definitely. This lays out - it was originally - as I understand, it was originally just going to be an operational thing for the staff, and as I understand it the general manager has circulated this to staff so there's clear guidelines for the staff about where the organisation is going, and I suggested to her that it's just as

47

1 important for the community to know where the organisation
2 is going, because in effect in my view it's got to be open
3 and transparent and the days of secrecy should go and she
4 agreed.

5
6 This document, in effect, indicates where we've been,
7 where we are, but where the general manager as the, in
8 effect the chief executive of the organisation, wants to
9 take it. So, it'll be very handy if anybody who wants to
10 stand for an election too, because it's got a long horizon.

11
12 THE COMMISSIONER: Q. From that last observation, do I
13 take it it's an important document for the next governing
14 body to understand and have buy in in the process?

15 A. I believe so, yes.

16
17 THE COMMISSIONER: Thank you.

18
19 MR PARISH: . I'll tender that document, Commissioner,
20 it's, "Our Roadmap: Moving forward to reset our
21 organisation", it's just over 100 pages long.

22
23 THE COMMISSIONER: Bundle of documents with the first
24 page being an extract from the agenda at the ordinary
25 meeting of council on 16 March 2022, item 9.1, "Our
26 Roadmap: Moving Forward to Reset Our Organisation" will be
27 Exhibit M. That is also a document that I understand is in
28 the public domain, so that exhibit can be placed on the
29 inquiry website as soon as possible. Thank you.

30
31 **<EXHIBIT #M - BUNDLE OF DOCUMENTS WITH THE FIRST PAGE BEING**
32 **AN EXTRACT FROM THE AGENDA AT THE ORDINARY MEETING OF**
33 **COUNCIL ON 16 MARCH 2022, ITEM 9.1, DOCUMENT ENTITLED "OUR**
34 **ROADMAP: MOVING FORWARD TO RESET OUR ORGANISATION".**

35
36 MR PARISH: Thank you, Commissioner.

37
38 Q. One topic we were touching on shortly before the break
39 was the housing strategy, and I'd just like to ask you: the
40 general strategic planning framework that was in place, did
41 you see that as sufficient at the time that you came on
42 board and started reviewing the council?

43 A. I adopted the status quo, what the governing body was
44 putting forward, and I think it has some holes in it, but I
45 haven't been through everybody word of it, but that was the
46 direction that the governing body wished to take the
47 council, and you understand how they - you know, 10:4 and

1 one-year plans. And that's what I'm trying to emphasise,
2 that if councils stick to the 10 and the 4 and adopt the
3 one, they'll get a far better outcome for their community
4 than trying to input stuff into it along the way.
5 Obviously, it's got to be amended, but the only huge
6 concern I have in relation to the community strategic
7 planning of the organisation is in relation to land use
8 planning, because that's what I've turned my attention to
9 since so many issues have been brought to my attention.

10
11 Q. I think you mentioned before the break, quite early,
12 that you have some views on the land use planning in this
13 council, and you may have touched on some of them in other
14 answers, but is there anything else you want to share with
15 us about the land use planning policies of this council and
16 where they need to go?

17 A. No, excepting it's my view that the council has to
18 take its community with it in these processes.

19
20 Q. Can we go to page 246 of tender bundle B which we were
21 on, and we were talking about dot point 2, "Adoption of the
22 Housing Strategy", can you see that?

23 A. Yes.

24
25 Q. Can we just go to the next one, "Adoption of a new
26 Structure", can you tell us how that came about and what
27 new structure you're referring to there?

28 A. Well, the Local Government Act provides that the
29 structure is approved by the governing body of the council,
30 and it also provides that every four years when a new
31 council comes in you've got to review the structure. This
32 council had a structure of, in effect, two directorates and
33 you will see in my minutes also that I've been critical of
34 it, in that, it doesn't pay enough attention to strategic
35 direction, it's more just day-to-day operational stuff.

36
37 I have my own views because I've been around a long
38 time on what a structure should look like. I asked the
39 acting general manager, Mr McMahon, what his views on a
40 structure were. Because we had time in relation to this
41 because of the issue with --

42
43 THE COMMISSIONER: (Indistinct words), sorry about that.

44
45 THE WITNESS: Of trying to get a general manager for the
46 place, that's another story altogether, but we had time to
47 begin to look at the structure and I asked Mr McMahon to

1 have a look and I asked Ms Racomelara for her view also,
2 because she's an expert in that area, and the general
3 manager came forward with a structure which has three
4 directorates and she - I shouldn't say "she" - the general
5 manager is going to have two other reporting special
6 projects, strategic, and in effect staffing matters, so
7 that's what that talks to.

8
9 MR PARISH: Thank you.

10
11 A. But in relation to that it has been slower because
12 there have been some industrial issues, as I understand it,
13 that have slowed down what the general manager can now do
14 when she now goes to group managers and functions, but I
15 think those hurdles are out of the way and they're moving
16 forward. But the document we just tabled outlines that
17 process.

18
19 Q. Thank you.

20 A. And, I don't want to harp on, but the general manager
21 also has to deal with the staff consultative committees and
22 the unions, there's processes that must be followed and are
23 being followed.

24
25 Q. Thank you. I'm going to take you shortly to some of
26 the reports which were commissioned, so I'll skip a few of
27 those bullet points, but can I go down to second from the
28 bottom:

29
30 *Provision of certainty for the community on*
31 *major politically destabilising issues ...*

32
33 You referred to a few of those already, one was
34 Station Street. Can you tell the Commissioner the view you
35 formed about the Station Street project and what you did
36 about it?

37 A. Station Street raises its head in this community all
38 the time, and there was a lot of uncertainty about what the
39 council's position was, there was a lot of rumour, some of
40 which I think became fact, and we just need to be open and
41 transparent.

42
43 The council had reports that it hadn't released in
44 relation to it and I think some of the concerns about
45 leaking information comes from Station Street too, but in
46 effect what was a project under \$10m ends up a project over
47 \$30m, of which the council only had in round figures about,

1 you know, \$17m. I think that some people thought the
2 council was just going to head off and do it, but the
3 community wouldn't know what the council was going to do
4 because the council wasn't being open and transparent and
5 honest about it.

6
7 I arrived, I had watched what was being said about it
8 at council meetings. I met with the Friends of Bowral
9 group, I also met with individuals who were less vocal in
10 the community but who wanted to have a say and were
11 entitled to a say - you don't just have to be an
12 organisation to be heard - and I formed the view that it
13 really didn't matter - and I'm not a traffic engineer, this
14 is just common sense, it really didn't matter what council
15 did in Station Street, you're not going to fix the problems
16 in Bong Bong Street.

17
18 Then there was the question of the pin oaks - do you
19 know the area at all?

20
21 THE COMMISSIONER: Yes, I viewed it and I'm aware of the
22 pin oaks, yes.

23
24 THE WITNESS: Well, I wasn't going to be responsible for
25 taking those pin oaks down, it's quite as simple as that.
26 And the road pavement's a disgrace. I was lucky that
27 Mr McMahon is an engineer and I said, "Help, we've got to
28 sort this out because it just can't keep festering along
29 and that led to a report which was professionally driven in
30 this organisation that came to a conclusion which I think
31 has been accepted by the community.

32
33 What I was trying to get on to earlier was, if the
34 council had done its strategic plan properly, I think a lot
35 of the traffic impacts on Station Street and Bong Bong
36 Street would disappear because people travelling north from
37 Moss Vale would use Old South Road, but the council lost
38 that opportunity. So, there were just compounding issues,
39 but Station Street was an issue, it was obviously
40 under-scoped. There has been concern that a grant - part
41 of a grant was given back, but you can't mislead
42 government, the criterias that the government set for the
43 grant weren't achieved.

44
45 THE COMMISSIONER: Q. A view was expressed, and tell me
46 if you're not in a position to express a view about it, but
47 there was at least a perception at various times that the

1 project was being driven forward because of that grant,
2 that is, we've got it so we've got to use it, type of
3 mentality. Did you observe anything like that to enable
4 you to express a view?

5 A. Can't express a view. My view is that it had - the
6 council dug itself a hole and it just couldn't get out of
7 it. And, I don't know whether you're aware, but they were
8 talking in a - even the Department of Transport contacted
9 me about this project - the council was looking at moving
10 the car parking at Bowral to Mittagong Station.

11
12 Q. Yes.

13 A. You know, and they weren't being up-front with the
14 community about the reasons why, and so that bred mystery
15 and - well, I think we've addressed it. Look, there's no
16 question something is - there's going to have to be a
17 bypass one day, but the council does not have the funding
18 at the moment and there may be other ways to achieve it.

19
20 Q. Just before I hand back to Mr Parish, could Mr May be
21 shown Exhibit K, I just want to ensure that I'm
22 understanding that passage of his evidence?

23
24 In your answer a moment ago you referred to a report
25 that had been driven in the organisation and one that I
26 think you said you come to the view achieved some
27 acceptance within the community. Is this the report that
28 you're referring to?

29 A. Yes.

30
31 THE COMMISSIONER: Thank you. Mr Broad, that can be taken
32 from Mr May, I don't have any other questions about it at
33 the moment. Mr Parish.

34
35 MR PARISH: Thank you, Commissioner.

36
37 Q. I want to take you to a few of the reports which were
38 commissioned and their conclusions. It seemed probably the
39 best way to do it is to go through in the same order of the
40 matters raised by you in your report.

41
42 Starting with the Bushfire Response and Recovery
43 Review, you've got a bullet point there on page 4 of your
44 report. Can you start by telling us why that review was
45 commissioned?

46 A. When I went on my trips to the North and Southern
47 Villages in particular, I was stunned by the effects of the

1 fire and then, when I began to hear personal stories about
2 the alleged council inaction, I couldn't believe it. This
3 is remote of the actions of the emergency services, this is
4 the council's response.

5
6 I then spoke to one of the new acting deputy general
7 managers and she indicated to me there had been failures,
8 both on the part of the council and the administration.
9 And I said, "Well look, we need to give everybody an
10 opportunity to have their say, can you do me a briefing
11 note on what happened?" I think that was on the Thursday
12 or the Friday.

13
14 On the Monday the person came to me and said, "Mr May,
15 this is bigger than a briefing note, you're going to have
16 to have a review, I think, because the community is not
17 going to accept that, the community doesn't - they're
18 suspicious of us and they'll think it's a cover up, you'll
19 need to get somebody external to get the review".

20
21 I spoke to some potential people and then the person
22 who had come to me originally said to me that she had found
23 Dave Owens, who was recommended to her by, I think the RFS,
24 and he'd undertaken the state review, was part of the state
25 review. I said, "Well look, we now need to do a brief but
26 you must be very clear that this is the council's response,
27 we can't get into other territory", and that happened and
28 really the rest is history.

29
30 I think, of everything I've done here, that's had the
31 most human effect, that report, and I think residents
32 appreciate it and it certainly showed up the shortcomings
33 of both the governing body and the administration, but more
34 particularly the behaviours of the governing body as
35 residents told their stories to Mr Owen and staff
36 confidentially told their stories to Mr Owen.

37
38 After the report went to council and the general
39 manager and I discussed it prior, I said, "We need to get
40 somebody independent of the council now to look at all
41 these recommendations because there's a lot of them and
42 there's a lot of failures, and it's gonna cost us a lot of
43 money to move forward, but it can't happen again because
44 there will be more fires, there will be more emergencies".

45
46 Ms Miscamble then indicated to me that Leanne Barnes,
47 who was the former general manager of Bega Valley who lived

1 through the fires was available. I actually then spoke to
2 Mr Owen to get his view on her taking forward the
3 recommendations, and he thought that was an excellent
4 choice. In that conversation he said to me that, "Look,
5 there is a matter that I didn't put in the report which I
6 should alert you to". He said, "There were 17 submissions
7 by staff, 15 of them requested confidentiality in fear of
8 retribution". You know, that stunned me, particularly with
9 a council administration, and they've been worked through.
10 There's further reports gone to council about this now,
11 it's been a whole-of-council response and, you know, I
12 haven't discussed it with the former councillors at all,
13 I've moved on, but there are some things in there, you
14 know, that are quite unbelievable.

15
16 Q. What does that tell you about the culture at least at
17 the time that the report was done when 15 out of the 17
18 staff were fearful of retribution?

19 A. Definitely and --

20
21 Q. But what does that tell you about the culture? What
22 does that tell you?

23 A. What does it tell me about?

24
25 Q. The culture?

26 A. I'm going to be quite frank, it worried me, because
27 I'd been here a few months and if staff were still worried
28 this was very deep-seated. You know, the reality is,
29 people have been moved on from the organisation, where
30 there's still some there that, you know, were a concern to
31 the rank and file, if I could put it that way. But I don't
32 think it was, I think the major concern and some of the
33 staff have since spoken to me about it, their major concern
34 was when the elections were held and some of those
35 councillors coming back, they'll be targets and, you know,
36 that's just not acceptable. And I think to a degree in
37 this organisation there is still an undercurrent of fear
38 that, you know, if certain councillors get back, it's gonna
39 be on again.

40
41 Q. Can I ask you about the deficiencies that you recall
42 in the preparation stage as opposed to the response stage.

43 A. The council really had no emergency plan to deal with
44 it, that's the bottom line, and it was catch-up all the
45 time. And I - well, you're dealing beforehand so I can
46 deal with that later.

1 Q. The plan that you're talking about is that, in your
2 view, the sort of strategic core job of a governing body to
3 set those plans and policies?

4 A. The council has a statutory obligation.
5

6 Q. There was a plan in place, I think, from about 2015;
7 do you recall whether that was either outdated or
8 inadequate for purpose?

9 A. I don't, but based on information that staff have
10 given me, it would have been outdated.
11

12 Q. Thank you. We've already had witnesses describe their
13 impressions of the governing body's conduct and response
14 after the fires. Both from your experience in the
15 community and from the report, what was your impression of
16 how the governing body and the councillors individually?

17 A. Disgracefully. If somebody said it was black,
18 somebody else said it was white. There was no civic
19 leadership, and from talking to staff and reading the
20 report, it's my view that the governing body, as the
21 governing body, and the executive took the view, "Not our
22 problem, move on".
23

24 Q. Can I take you to page 310 of the tender bundle.
25

26 THE COMMISSIONER: Exhibit B?
27

28 MR PARISH: Yes.
29

30 THE WITNESS: Yep, yes.
31

32 MR PARISH: Q. At the top there, hopefully you have the
33 page which commences:
34

35 *The Review found that the mayor was*
36 *divisive within the community polarising*
37 *opinion during the feedback sessions.*
38

39 Do you think that's a fair criticism in your view and
40 from what you've learned?

41 A. I find it difficult to have a view on that, simply
42 because some of what I was told by residents that the mayor
43 is alleged to have said, I find totally unbelievable, and
44 hence that's one of the reasons, you know, I think - but I
45 don't have the ability, and I wouldn't, to address those
46 kind of issues with individual people, but I - I'm not
47 surprised.

1
2 Q. Having not heard from the mayor yet, or having not
3 given him the opportunity yet to respond to those
4 allegations, assuming that certain things were said which I
5 assume you're referring to, assuming they were said, do you
6 think they were appropriate things to say?

7 A. Most definitely not.
8

9 Q. Moving to the next sentence:
10

11 *A small number within the community*
12 *believed that he [being the mayor] did a*
13 *good job, however, the majority believed*
14 *that he lacked empathy towards bushfire*
15 *victims and presented no plan on behalf of*
16 *council for moving forward.*
17

18 Is that a fair criticism? Is that, in your
19 experience, an accurate reflection of what happened?

20 A. I wasn't there at the time. This has been a very
21 difficult exercise for me, the fires, and the human cost of
22 the fires, and I wasn't there at the time but by virtue of
23 the council's lack of formal procedures in dealing with it
24 and some additional of what I know about mayor relief funds
25 and that kind of stuff, I'm not surprised, but I can't
26 confirm or deny, if I can put it that way.
27

28 Q. Thank you. The next sentence effectively is a
29 restatement insofar as it covers the topic of conduct which
30 was inappropriate and lacking empathy. It then says:
31

32 *It was apparent that the mayor lacked*
33 *support from some senior counsel staff.*
34

35 Is that a fair criticism in your experience from what
36 you've learned?

37 A. Yes, my understanding is that some of the senior staff
38 were missing in action.
39

40 Q. Was the mayor entitled to expect that sort of support
41 from senior counsel staff?

42 A. Most definitely.
43

44 Q. Just going down to the next paragraph there, it says:
45

46 *Effective communication was hampered by a*
47 *number of councillors offering assistance*

1 *and making decisions on behalf of council*
2 *that they didn't have authority to do.*

3
4 Did you see any evidence of that?

5 A. No, I didn't, but having an understanding of how this
6 council ran I wouldn't at all be surprised.

7
8 Q. Assuming that councillors did offer assistance and
9 make decisions on behalf of council that they didn't have
10 the authority to do, is that an appropriate or even
11 available thing for them to do?

12 A. No. In times like this you need one voice:
13 leadership.

14
15 Q. In your opinion does that show a lack of effective
16 civic leadership in the local community?

17 A. Yes.

18
19 Q. Excuse me for a second, Mr May. It's just occurred to
20 me that it might be the time to explore a topic with you
21 that I was going to raise later. You might not have it in
22 front of you, but 232 of the Local Government Act sets out
23 the role of councillors, and I don't expect you to know it
24 off by heart, but the Commissioner might --

25
26 THE COMMISSIONER: I think, in fairness, Mr May can have
27 my copy of the Act.

28
29 MR PARISH: Q. 232 is something I was going to explore
30 with you later but it occurs to me now might be the time in
31 the context of what we've just been talking about. In
32 particular, 232(1)(f) which says:

33
34 *... to uphold and represent accurately the*
35 *policies and the decisions of the governing*
36 *body.*

37
38 Can I just explore with you, what is required of a
39 councillor when decisions are made by the governing body
40 that they may not necessarily agree with or vote for but it
41 is nevertheless passed as a decision of council? Where is
42 the line, is there a line, in which they can continue to
43 oppose something that was passed? Is there a line where
44 they can continue to agitate something in the community, or
45 are they effectively bound by a decision once made?

46 A. The governing body is bound by the decision and the
47 individual, by virtue of that, is bound by the decision.

1 However, you can make it very clear that I'm bound by that
2 decision but I don't agree with it, and if you're drawing
3 that back to the fires, it was just totally inappropriate
4 in those circumstances to be, you know, putting forward
5 your own views.

6
7 Q. Do I take it that certainly the phrase "to uphold"
8 means, whilst you don't have to wholeheartedly embrace it,
9 but you shouldn't take active steps to undermine it? Is
10 that a fair reading of that section in your opinion?

11 A. Yes.

12
13 Q. Going up a sub-paragraph to sub-paragraph (e):

14
15 *The role of the councillor is to facilitate*
16 *communication between the local community*
17 *and the governing body.*

18
19 Assuming the instance given in the bushfire report
20 that there were councillors effectively making promises
21 that they had no ability to make, what does that do to the
22 facilitation of communication between the local community
23 and the governing body?

24 A. Undermines it.

25
26 MR PARISH: Thank you.

27
28 Commissioner, I was going to move on from the bushfire
29 reviews specifically unless you have any --

30
31 THE COMMISSIONER: Q. Just about the bushfire review
32 report in isolation for the moment. I'm aware that a view
33 has been expressed that together the reports you
34 commissioned revealed relatively insubstantial issues. If
35 I just look at the bushfire report in isolation for the
36 moment, what do you say to the proposition that the
37 bushfire report revealed relatively insubstantial issues?

38 A. It shows me that those who are saying it have no
39 understanding of their role - if it's coming from
40 councillors - of their role. The bushfire report speaks
41 for itself.

42
43 Q. And when you say that view leads you to the conclusion
44 that, if it was a councillor, that they didn't understand
45 their role, why do you say that?

46 A. Because the role of the - look, in my submission to
47 you I say that the role of the governing body is clear, the

1 role of the councillor is clear, et cetera, et cetera.

2

3 Q. Yes.

4 A. It's just, it shows there is - there could be an
5 understanding but the people concerned may not want to
6 understand, they might just want to be mischief makers for
7 all I know, but the fires were a tragedy and this area got
8 hit hard. The council as a corporate, as a governing body
9 and the executive just wanting to move on and not take any
10 ownership of the failures just shows a clear - if people
11 are saying that this report was not warranted, they misread
12 the community they were elected to represent.

13

14 Q. And, if one looks at those comments across the whole
15 totality of the reports that were commissioned - I
16 appreciate Mr Parish hasn't been through them all just
17 yet - but if that comment was applied to each of the
18 reports, that is, overall they displayed relatively
19 insubstantial issues, is your comment the same?

20 A. The fire report stands by itself, and some of the
21 other reports, I was selective in where I was going, but I
22 was trying to show trends and what was actually going on in
23 the place, and some of the reports - look, I was conscious,
24 I ended up spending \$115,000 on reports, in my view money
25 well spent for the community because it exposes the reality
26 of the operations of this organisation. Some of them
27 perhaps could be seen as minor, but they all fit in my view
28 into a bigger picture and they helped me to come to a
29 conclusion.

30

31 Q. I had in my mind before morning tea, I think you used
32 the word, it's a jigsaw puzzle, you put it all together to
33 enable an overarching view; is that how I understand you
34 see it?

35 A. Yes.

36

37 Q. And when looked at as the whole, including the
38 bushfire report, because it's part of it, what do you say
39 to the proposition, when viewed as a whole, those reports
40 taken together disclose relatively insubstantial issues?

41 A. Well, I could have a one word answer, but I just think
42 it shows a lack of understanding of what the roles and
43 responsibilities of the council are, at both levels.

44

45 Q. Both levels, you mean councillor and operational
46 staff?

47 A. Executive staff.

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Q. Executive staff, thank you. Yes, Mr Parish.
A. Sorry, Commissioner?

Q. Yes.
A. Staff came to me, not even at the third level, but lower levels of the organisation when this was going on and saying, you know, "Thank you, it had to come out". They weren't allowed to talk about it and, you know, for obvious reasons when you're 15 of the 17, but so many staff had skin in the game as well; they live here, you know, their relatives could have been affected. It had a huge impact on the organisation and, you know, I know that some people say that the behaviour of the council deteriorated after the fires: well, the fires provided evidence that all was not good.

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

MR PARISH: Q. I might just pop off on a tangent arising out of what has arisen from the Commissioner. Another proposition that is allied with the relatively insubstantial issues proposition, is the proposition that it's a small but vocal part of the community that is expressing their dissatisfaction and by and large the community is happy with the direction of the now suspended council. Do you have a view on that?
A. I've heard this a lot and, talking to councillors, they couldn't understand why, you know, a handful of people and couple of disruptive councillors in their view had caused all this.

There is more than a handful of people, that's why I spent so much time and, you know, I went to the communities and spoke to the people and the issues were many and varied. I think I said earlier, everybody I spoke to had a story about the council, it just wasn't a handful of people. And, you know, the first council meeting I had, I think it had over 1,000 views. That's not a handful of people, that's people concerned about the future of their local democracy.

Q. In that context, could I take you to page 485 in tender bundle B, which I think is in front of you.
A. Yes.

Q. That's a community research report dated February

1 2021; is that right?
2 A. I'm sorry, page 405?
3
4 Q. 485.
5 A. I'm sorry. Yes.
6
7 Q. Thank you. I appreciate this report was dated and
8 therefore commissioned before your appointment as interim
9 administrator, but did you have occasion at some point to
10 read and review this report?
11 A. This report was brought to my attention by Mr McMahon,
12 and I wouldn't say I read every word, I've read the
13 headlines.
14
15 Q. Do these community research reports have a role to
16 play in the metrics against which councils measure
17 themselves?
18 A. Definitely, yes.
19
20 Q. Can I take you to some of the findings. I might start
21 with page 489.
22 A. Yes.
23
24 Q. I appreciate you're not a statistician, but there was
25 an overall satisfaction rating in this finding that at
26 least 65 per cent were somewhat satisfied with the
27 performance of council in the last 12 months. How does
28 that statistic strike you? Is that above average, about
29 what you think is about right?
30 A. No, no, much higher, it should be much higher than
31 that.
32
33 Q. I might take you to the benchmarks in a second. Does
34 it at least roughly align with your experiences and what
35 you were hearing from community, where --
36 A. That's a hard question.
37
38 Q. Yes. If it's too hard or it's not something you feel
39 like you can give an answer --
40 A. Well, I don't think I can give a really - to me, in
41 isolation 65 seems low; very low, actually.
42
43 Q. I might take you to the comparative rates first, I
44 think that might be a better way to deal with it. Can I
45 take you to page 518 of that report.
46 A. Yep.
47

1 Q. Do you see there that this is benchmarked against
2 other councils. Take your time and have a read of it if
3 you want.
4

5 THE COMMISSIONER: Mr Parish, whilst Mr May is just
6 familiarising himself with those pages, will you be coming
7 back to page 498 through to page 503?
8

9 MR PARISH: Yes.
10

11 THE COMMISSIONER: Thank you.
12

13 MR PARISH: Q. Can you give me your impressions of the
14 performance of council based on the statistics we have
15 there?

16 A. Well, the areas that impact on the day-to-day lives of
17 residents are really the ones that are low scored. In my
18 view the reality is that 95 per cent of residents aren't
19 really interested in the council unless they have a DA next
20 door or they've got a puddle out the front or flooding;
21 they trust you to get on with it. I spent a career at
22 Mosman telling council staff, "It's the people who aren't
23 in the room that we've got to represent as well, just not
24 the squeaky wheels. Everyone pays rates, you need fair
25 representation".
26

27 This shows me, you know, the real issues, the
28 day-to-day, are scored badly. You know, the availability
29 of town water, I can see why that scored very high because
30 I believe that they are true pluses in this organisation,
31 water and sewerage, and we could do better in the villages
32 and we're working on that, but they're just taken for
33 granted, they're day-to-day: you turn the tap on, it works.
34 People don't understand the complexity behind the scenes to
35 make it work. And I've heard of what happened during the
36 fires to make things work, the dedication of the staff to
37 do that.
38

39 But I think the core issues in this place, and you
40 would have heard this many times about roads and potholes
41 and stuff and building regulations and information to
42 residents, you know, they're all the things that the
43 council should be working on to improve.
44

45 Q. Can I take you back to page 498, it might be a little
46 bit hard to read it, it is on mine, but it's page 15 of the
47 actual report.

1 A. Yes.
2
3 Q. Perhaps if we can start with the "Satisfaction scores"
4 where we have a bar graph with the years 2021 to 2010 going
5 backwards. Do you see that?
6 A. Yes, yes.
7
8 Q. Again, have a read of it to refresh your memory if you
9 need to, but I just want to ask you --
10 A. No, I've looked at this one many times.
11
12 Q. What's your impression of, firstly, the trajectory and
13 what that tells you based on your knowledge of the
14 organisation?
15 A. Well, it shows me that there's been a problem over
16 time.
17
18 Q. Yes.
19 A. There's a deterioration in the community's - but I
20 don't know whether you're aware, but this was not made
21 publicly available, this report.
22
23 Q. Are you aware why that was?
24 A. Oh, I think I know why --
25
26 Q. There's no structural, legal or operational reason why
27 not?
28 A. No, no. Look, in this game you take the good with the
29 bad, you learn, and this was an opportunity for the
30 council. I don't know whether this was shared with the
31 councillors; all I know is that Mr McMahon was amazed one
32 day, he said to me, "I don't believe what I'm finding",
33 and he showed me this and since then I've been shown a
34 staff - actually, it's in the general manager's report, a
35 staff culture survey which was never made available either.
36
37 THE COMMISSIONER: Q. I take it from those answers, your
38 view is these things should be made public as a matter of
39 course in council operations?
40 A. Using public money to fund it.
41
42 Q. Asking the public what they think?
43 A. Yes.
44
45 Q. Yes, quite.
46 A. And, you know, potentially not listening, and that's a
47 strong theme I have, that I think this council's just

1 stopped listening.

2

3 Q. And numbers like this, do they also inform your answer
4 to Counsel Assisting earlier about the view that this is
5 just a small but vocal section of the community that's
6 voicing their displeasure?

7 A. I've rejected that from day one, that it's just a
8 small --

9

10 Q. But is this a metric when I come to consider that
11 view, that, you know, points to the counter-position that
12 you favour?

13 A. M'mm.

14

15 THE COMMISSIONER: Yes. Thank you.

16

17 MR PARISH: Q. Could I just ask you about the mean
18 ratings which are the bar graphs on the left-hand side
19 which go from left to right. It's the council mean ratings
20 measured against the LGA benchmark for Regional Councils of
21 a similar size. Do you see there's a reference underneath
22 to the change being significantly higher or lower as a
23 level of satisfaction compared to the benchmark; it's a key
24 or a metric in the bottom left-hand corner there?

25 A. Yes.

26

27 Q. Do you see that, for the matters "very satisfied" and
28 "satisfied" there has been a significantly lower level of
29 satisfaction compared to the benchmark? There's an arrow
30 pointing down towards next to each of those.

31 A. Yes, yes, sorry.

32

33 Q. It's not as clear to read, is it, Mr May. So, it's
34 got 3 per cent and then it's got an arrow downwards next to
35 it next to "very satisfied"?

36 A. Yes.

37

38 Q. To take the other extreme, if you go down to "not at
39 all satisfied", the benchmark is 5 per cent, this council
40 is 15 per cent, and there's a little arrow next to it
41 pointing upwards; do you see that?

42 A. Yes.

43

44 Q. That means that, do you agree, there has been
45 significantly higher levels as against the mean of "not
46 very satisfied" and "not at all satisfied", and
47 significantly lower levels of "very satisfied" and

1 "satisfied"? Do you see that?

2 A. Yes.

3

4 Q. What does that tell you about, firstly, whether or not
5 it is a small minority who are agitating dissatisfaction
6 against the governing body?

7 A. Well, I have no doubt the statistical base of this
8 survey would be such that it would have, you know - it'll
9 have in the front somewhere whether it's 3 or 5 per cent
10 reliability; that shows me that the council's got problems.

11

12 Q. Commissioner, I'm going to turn over the page to 501,
13 is there anything else you want to ask?

14

15 THE COMMISSIONER: No, thank you.

16

17 MR PARISH: Q. Can I take you to page 501 which is
18 performance of elected councillors. You will see there
19 that the question asked is:

20

21 *Thinking specifically about the Councillors*
22 *elected in September 2016, how satisfied*
23 *are you with their performance on the*
24 *following ...*

25

26 And it's then broken up into a range of questions or
27 topics. The first one is, "Representing a broad range of
28 community matters fairly". Then over the page, the next
29 one is, "Effective leadership and guidance of the
30 community", and the next one is, "Performance overall".
31 Looking at performance overall at page 503, and just taking
32 your time to read it if you need to refresh your memory,
33 I'm interested in what your impression is of those
34 community findings?

35 A. It just shows the community overall is far from
36 satisfied.

37

38 Q. And that accords with your experience in talking to
39 people in the community?

40 A. Yes, yes, yes.

41

42 Q. What do you say to the proposition that it's only a
43 small proportion of the community (indistinct) --

44 A. I just can't agree with it. I've been from that
45 position about a week after I got here.

46

47 THE COMMISSIONER: Just on page 503, Mr Parish, do I read

1 this survey, there's the five categories from "very
2 satisfied" down to "not at all satisfied", and in the "not
3 at all satisfied" we have 23 per cent with the arrow which
4 signifies a significantly higher or lower rating by year
5 for that category.

6
7 MR PARISH: Yes.

8
9 THE COMMISSIONER: And then "not very satisfied",
10 28 per cent, so we have just over half of responses being
11 not very or not at all satisfied with the overall
12 performance of councillors; is that how one reads that?

13
14 MR PARISH: Yes, quite.

15
16 THE COMMISSIONER: And the trends are at the top.

17
18 MR PARISH: The trends are at the top, and Commissioner,
19 you also see the little arrow up or down next to some of
20 the bars gives you a comparison to 2019.

21
22 THE COMMISSIONER: Yes, the lighter box in the bar is the
23 previous survey?

24
25 MR PARISH: Yes.

26
27 THE COMMISSIONER: Q. Mr May, you may have already
28 answered this in an earlier question, just for my
29 clarification, it's not only the individual scores per
30 survey that matter, it's the trends that are also relevant,
31 are they?

32 A. It's the trend is what's important.

33
34 Q. And these numbers depict a declining trend overall;
35 why is that a matter of concern in these types of surveys?

36 A. Because that's the community's or the stakeholders'
37 view on the elected body.

38
39 THE COMMISSIONER: Thank you, Mr Parish.

40
41 MR PARISH: Commissioner, I've done that a bit out of
42 order from the way I wanted to deal with it, but having
43 done that now, is there any other questions you want to ask
44 on that?

45
46 THE COMMISSIONER: No. That's probably my fault.
47

1 MR PARISH: No, no.

2

3 THE COMMISSIONER: No, thank you.

4

5 MR PARISH: Q. Mr May, I want to turn back to dealing
6 with some of the reports specifically now. The next report
7 I wanted to ask you about was the Earnest Consulting report
8 on planning development and regulatory services, and
9 specifically the second report that was titled, "Righting
10 the Wrongs", and that report is at page 434 of the tender
11 bundle.

12 A. Yes.

13

14 Q. Can you tell me about why you commissioned this report
15 and the context of it?

16 A. I commissioned this report because I was overwhelmed
17 with the number of people who were approaching me about
18 development issues. I am not a planner, and I couldn't
19 cope with the number and I couldn't give constructive
20 answers to the residents who were approaching me, because
21 really it's not my area of expertise; I was quite clear
22 when I did a minute - and look, everything I've done I've
23 done by - I've kept the community informed of where I was
24 heading by administrator minute, and in that report I said
25 I'd be heading off in this direction but we weren't going
26 to re-open issues, and I think over 60 people ended up
27 seeing Mr Ryan; I had no hope of dealing with that. He's
28 very experienced in this arena and I think he was shocked.

29

30 Q. I think it was 83 interviews with members of the
31 community --

32 A. I'm sorry.

33

34 Q. No, but in your experience is that a significant
35 number of people to come forward to --

36 A. I think it's unbelievable.

37

38 Q. Yes, thank you. On page 435 of the tender
39 bundle we've got the themes that arose from interviews with
40 staff members, and over the page we've got observations
41 from the public. By all means take your time to refresh
42 your memory if you need to --

43 A. Yeah, I don't --

44

45 Q. Can you tell me whether their observations and themes
46 accorded with your experience from what you'd been dealing
47 with?

1 A. From the small sample that I had this confirms, with a
2 bigger sample, what I was being told.

3
4 Q. One of the issues you raised was the observation of
5 interference and political games in matters of strategic
6 importance such as the housing strategy. We've covered
7 that area in some depth, I think, but is there any other
8 matters you wish to add on that observation that we haven't
9 discussed this morning already?

10 A. No, not - I think it's just the importance of now
11 getting it right when it comes to the future growth in this
12 community.

13
14 In relation to the specifics of the Earnest Consulting
15 report, last Monday after the hearings opened and I went
16 out to get some lunch a resident stopped me at the entrance
17 to the council, introduced themselves, and said they were
18 still battling an issue where there was councillor
19 interference and a councillor went on his site with a
20 council employee, and I said, "Look, they're operational
21 matters, I can't really help you, speak to the general
22 manager". It just - it's a never ending - never ending.

23
24 Q. Can I clarify, was that something that was happening
25 post local planning panel even?

26 A. No, it would have been prior.

27
28 Q. And I assume that's prior to the suspension as well,
29 based on --

30 A. Oh, yes, yes. And look, an observation I would make
31 is that, if everything was going so well in a planning
32 department, why did residents feel the need to engage
33 former council employees to navigate the complexity of the
34 council systems? And that happens still today with
35 recently departed employees.

36
37 Q. Can I ask you a few specific questions about the
38 report. I might start high level at least. On page 437
39 there are the observations by Earnest Consulting. I won't
40 go through every of them, but did you by and large agree
41 with the observations that have been paid by Earnest
42 Consulting from your own experience and from your own
43 feedback?

44 A. I was surprised by the observations; they seemed even
45 stronger than what I thought.

46
47 Q. Turning to a couple of specific issues, can you pop

1 over the page to page 438. The third paragraph down there,
2 Mr Ryan concludes:

3
4 *There appears to be a very limited*
5 *adherence by the elected council and senior*
6 *staff to the normal pillars of the Local*
7 *Government Act regarding the relationship*
8 *between Councillors and staff. The use of*
9 *the Code of Conduct, declaration of*
10 *interests in planning matters and detailed*
11 *and comprehensive communications with the*
12 *community are not seen to be adhered to by*
13 *staff or the community.*

14
15 Could I ask two questions there. It refers to the
16 impressions of the community; does that accord with what
17 you understand the impression of the community to be from
18 your consultations and experience?

19 A. Yes, and this is - to me, this is another source
20 coming from another angle confirming that view.

21
22 Q. In respect to the observation:

23
24 *There appears to be limited adherence by*
25 *the elected council and senior staff to the*
26 *normal pillars of the Local Government Act*
27 *regarding the relationship between*
28 *Councillors and staff.*

29
30 Was that your experience as well?

31 A. Most definitely.

32
33 Q. Were you aware or did you subsequently become aware of
34 "the normal pillars of the Local Government Act" that
35 Mr Ryan is referring to there?

36 A. I would think there he is talking about openness and
37 transparency.

38
39 Q. Just going over to page 445 now, there are five
40 high-level recommendations from Mr Ryan with
41 sub-recommendations. Do you by and large agree with those
42 recommendations and have you taken steps to implement
43 strategies along the lines of those recommendations?

44 A. Yes, but I think the general manager has taken them
45 even further now.

46
47 Q. Thank you.

1 A. And I think, from a staffing perspective, it's
2 extremely important that, through that pathways document,
3 the staff can recognise they're being respected and they're
4 being heard.

5
6 MR PARISH: Thank you. Commissioner, I was going to move
7 on from that document for now.

8
9 Q. The next topic I want to ask you about over the
10 page in your report is the Civic Centre refurbishment
11 project.

12
13 THE COMMISSIONER: Which page of the bundle are we going
14 to?

15
16 MR PARISH: That is page 6 of the report and it is page --

17
18 THE COMMISSIONER: 249?

19
20 MR PARISH: 249, yes, correct.

21
22 THE WITNESS: Sorry, 249, is it?

23
24 MR PARISH: Q. At page 249 there's a dot point which
25 commences, "Civic Centre Refurbishment Project". Can you
26 give the inquiry some explanation about how capital
27 expenditure of this type works when the council wants to
28 spend a significant amount of money on a council asset or a
29 strategic asset?

30 A. Well, the council should do a business plan, then you
31 have to make application to OLG for the expenditure of the
32 monies; that's, in short, what happens.

33
34 Q. And there are OLG procedures in place --

35 A. Yes, yes.

36
37 Q. -- for the sorts of expenditure that we're talking
38 about there?

39 A. There's a rule, I think it's \$1m or 10 per cent of
40 rate income, or something like that, but there are clear
41 rules which - and I think they might be a CEO's directive
42 from LG NSW. There's a provision in the Act where --

43
44 THE COMMISSIONER: Q. 23(a), was that the one?

45 A. I'm not sure.

46
47 Q. The thing that says that, when a directive comes down

1 you have to take it into account in your operations; is
2 that the one you have in mind? Or is there a different
3 one?

4 A. There's another directive that the CEO can give, and I
5 can have a look later - that might be it, but in other
6 words, you've got to do it.

7
8 Q. I see, yes, well, that seems stronger than 23(a).
9 Yes, thank you.

10
11 MR PARISH: Can I just pause to say, Commissioner, it's
12 1 o'clock now. Given that Mr May's the only witness for
13 the day, subject to your convenience and officers, I think
14 I can push through and maybe finish in the next half hour.

15
16 THE COMMISSIONER: Yes. Mr May, ordinarily I'd take a
17 luncheon adjournment about now, but seeing as though
18 Counsel Assisting only has about half an hour to go with
19 you, are you happy to sit on? If you need a break at any
20 time, just tell me?

21 A. Oh, no, no, I'm happy.

22
23 Q. Happy to sit on? Well, if you need a break, just let
24 me know and that can be accommodated. Mr Parish?

25
26 MR PARISH: Q. We're obviously sitting in the Civic
27 Centre now so I don't need context necessarily about the
28 fit-out and the refurbishment that was taking place, but
29 can you tell the inquiry why it was necessary or the
30 context around why you commissioned a report from Finch
31 Consulting about it?

32 A. From Finch?

33
34 Q. Yes.

35 A. I commissioned that report because of what was said by
36 certain councillors at the meetings, either the 9th or the
37 10th, and I had a look myself and I was confused. Now, I'm
38 not saying I'm a finance professional, but I understand the
39 basics, and I just couldn't add it up. And then when I
40 looked further, and I was tipped off to the fact that the
41 capex hadn't been done to OLG properly, and then it was
42 Mr McMahon really who raised concerns with me about the
43 council's application, saying it was all about occupational
44 health and safety at the end of the day, and apparently not
45 much has happened outside of public areas and the executive
46 areas.

47

1 I then took an interest in how come - and I'm
2 precisising this down - how come all of a sudden, when it's
3 not in any plans and it's not disclosed to OLG, that you
4 can get officers for the mayor and general manager, which I
5 can only describe as palatial, you're quite welcome to go
6 and have a look. I feel quite embarrassed sitting in there
7 when I consider what the staff are sitting in, but I'm
8 afraid, I just can't get to the truth, I don't know what's
9 happened.

10
11 Last I knew the general manager was having a look at
12 emails, but she indicated to me that - my words, not hers -
13 that the emails say in effect, "Come and see me", rather
14 than having a line, and I'm still at a loss to understand -
15 I understand there was leaks and something had to happen,
16 you know, but the grandeur of it all when this was not the
17 reason why they were doing it as I understood it, is a bit
18 over-the-top.

19
20 Q. When you say there were emails to the extent of "come
21 and see me", what level are we talking about: councillor to
22 councillor, executive staff to executive staff?

23 A. No, executive level, and look, I - I don't know who's
24 been talking to you, but certain employees of this place
25 have tipped me off to stuff, but they're frightened to put
26 their head up because, you know, council will come back and
27 the ballot box will determine who's elected.

28
29 Q. You may have seen council meetings in which matters
30 about the Civic Centre refurbishment are raised. In your
31 view was the dialogue and what was tabled at council
32 meetings done appropriately and transparently?

33 A. Totally inappropriate, and I think this is another
34 case where things have been done in what they call
35 briefings or workshops. Look, I've been in local
36 government a long time and I've seen now a lot of councils:
37 I've never seen workshops and briefings like this. It's
38 just - I just - it's not a transparent way to do business
39 and, you know, no wonder the community is suspicious, and
40 councillors who weren't in the know.

41
42 Q. Can I ask you in your experience what the purpose of
43 those briefings or workshops should be in a normal council
44 process?

45 A. Well, I might be old school, but I come from a
46 position where, if you can't put enough information in a
47 report for a councillor to make an informed decision, get

1 another job. This idea of counting numbers and seeing
2 where the land lies at workshops and briefings, I just
3 can't agree with them. And you might notice that I've
4 changed the code of meeting procedures here, and we
5 actually had one yesterday, a workshop which will be
6 reported to council. I don't want to be critical of the
7 staff, I thought it was fabulous, but they could have put
8 it in a report and I could have read it. But in fairness
9 it was very beneficial for the residents who came because
10 they were able to see a bit behind the scenes, but we could
11 do that by having a committee of the whole. There's an
12 opportunity for that which is a less formal way of doing a
13 meeting.

14
15 But my personal view is that I think the Code of
16 Meeting Practice, the model Code of Meeting Practice,
17 should be amended to make it mandatory that workshops and
18 briefings are reported back to council. Look, there are
19 reports that I've heard where, you know, there were
20 donnybrooks at these briefings and workshops at this
21 council as well, you know.

22
23 THE COMMISSIONER: Q. As part of that, do I understand
24 you to be of the view that workshops and briefings should
25 be public?

26 A. Well, I did it at Armidale because they - they went to
27 tender to sell an airport at a briefing, following a
28 briefing, and when I came here I took particular interest
29 in it, but they've taken it to a new level, the briefings
30 here, you know.

31
32 Q. I'm just having in mind your views about the model
33 Code of Meeting Practice; do you think that it should
34 specify as the default position that briefings and
35 workshops should be public --

36 A. Yes.

37
38 Q. -- whether streamed or members of the public can come
39 and view; is that your view?

40 A. Yes, yes.

41
42 Q. And, aside from the obvious transparency benefits, are
43 there any other benefits that you see in having those
44 briefings and workshops public rather than held
45 confidentially?

46 A. Well, I would hope it would lead councils to do stuff
47 in either committee or full council where there are strict

1 guidelines under the regulations. As I said earlier this
2 morning, I'm a little bit - I haven't taken any legal
3 advice, and you gentlemen would know a lot better than me,
4 but I just don't know whether under the rules for briefings
5 and workshops you can make it mandatory that you've got to
6 keep stuff confidential; whereas under the Act for meetings
7 and council meetings, you can.

8
9 Now, I know that this council changed their Code of
10 Meeting Practice to do that, however, it's not a mandatory
11 provision.

12
13 Q. Yes. So, accompanied with a recommendation perhaps
14 that the model code should specify briefings and workshops
15 to be public would, I assume, carry with it the option to
16 declare part of it confidential if appropriate in
17 accordance with the confidentiality provisions in 10(b)
18 - I'm stretching my memory about the confidentiality
19 provisions of meetings in the Act. Some matters might be
20 confidential and properly so; do you agree with that?

21 A. I still prefer to deal with confidential matters in a
22 more formal arena.

23
24 Q. Yes, being a council meeting?

25 A. Yes, or a committee meeting where there's ample
26 opportunity and you can do it.

27
28 Q. I see.

29 A. But I think for the betterment of local government
30 generally these briefings are taking off and I think that
31 then breeds a bit of suspicion with residents, or here it
32 has for sure.

33
34 Q. And, if they were public, would it in your view deter
35 informal decision-making in briefings which shouldn't be
36 happening?

37 A. Definitely, yes, and it would be for people to see
38 what is actually - what is actually happening.

39
40 Q. Would it also ensure or guard against the risk that,
41 real or perceived, some councillors may feel they have less
42 information than others?

43 A. Yes, because you will find that some councillors as a
44 matter of principle won't go to briefings; is there a
45 wake-up to what goes on?

46
47 Q. Yes.

1 A. And look, I was a general manager for a long time.
2 Some general managers count heads before they put a
3 recommendation out. I'm not saying that happened here, but
4 my suspicions are ...

5
6 THE COMMISSIONER: Yes, I understand. Yes, Mr Parish.

7
8 MR PARISH: Q. I don't quite understand what you mean by
9 "count heads", could you explain?

10 A. Well, if you haven't got the numbers, don't waste your
11 time. Look, and actually, from recollection at the meeting
12 on the 10th, I think it was, when this council was giving
13 consideration to the future of the council, there was a
14 reference by one of the councillors to the briefing, "Oh,
15 well, we made that decision in the briefing", I'm pretty
16 confident I heard that, and that was about this building
17 and the expenditure of the money, the \$700,000 or \$800,000
18 next door. You know, that's not good enough.

19
20 Q. I was going to ask you about it later but I might
21 raise it now. Immediately above your preference to the
22 Civic Centre refurbishment project in your 10 August
23 report, you refer to the de facto council meetings. Is
24 that what we've just been talking about, this propensity
25 for the council to have closed briefings and effectively
26 make decisions which ought to have been made in open
27 council meetings?

28 A. Yes.

29
30 Q. Where did your knowledge and information of that come
31 from? Was it staff who were reporting back to you that
32 this was the sort of thing that was going on?

33 A. Staff and some councillors. Some councillors in my
34 discussions expressed concern about the number, and they
35 were surprised by my view that it is the obligation of a
36 council officer through the general manager to provide
37 enough information to council, as the governing body, to be
38 able to make a decision.

39
40 THE COMMISSIONER: Q. With that view then, should there
41 be a need for briefings at all, do you think?

42 A. I would think in my over 20 years as town clerk and
43 general manager of Mosman, unless there was a specific
44 resolution of the council, I don't think there would have
45 even been a briefing. I just didn't agree with them
46 because of the problems that they can lead to. But if the
47 council resolves - say the housing strategy, they want to

1 have a briefing: well, that's their entitlement. If they
2 want to dig deeper and go on a bus and have an inspection
3 and the like, they should be able to, but it's got to be
4 very, very carefully managed by the general manager or
5 their representative to make sure there aren't decisions
6 taken.

7
8 Q. I want to speak generally about your experience, not
9 necessarily at this organisation, but if you can tie it to
10 here then so be it. A view might be expressed that the use
11 of briefings can be seen as a convenient way to kick an
12 issue down the road when it should properly be resolved.
13 Do you have a view about that?

14 A. I think it's pretty right. And, you know, if there
15 hadn't have been so many briefings on some of the issues
16 here, they wouldn't have got kicked down the road.

17
18 THE COMMISSIONER: Yes. Thank you, Mr Parish.

19
20 MR PARISH: Q. I might come back to the Civic Centre
21 issue now, and I think I've ascertained an answer from you,
22 but just to ask you outright: did you think there was
23 sufficient information and documentation of the decisions
24 made and the operational aspects that were being dealt with
25 in respect of the Civic Centre?

26 A. No. That's why I took an interest in it.

27
28 Q. In your experience, in respect of an expenditure which
29 was in the multiple millions of dollars and involved
30 borrowing monies potentially for the project, would you
31 have expect more documentation?

32 A. A lot more.

33
34 Q. That was going to be my next question. Was there a
35 significant lack of documentation on the subject?

36 A. Oh, in my view, yes, and I think that's confirmed,
37 firstly by Mr Finch who looked at the funding of it, and
38 it's my summation, they got there but it was a bit sneaky
39 how they got there with allocating the money, and the
40 report of Mr Smith, I think it was, that was commissioned
41 by the general manager; you know, he hit a brick wall too.

42
43 Q. When you say that at least some of the money was
44 "acquired in a slightly sneaky way", are you referring
45 there to the use of estimates which fell under certain caps
46 to avoid certain procedures?

47 A. No, and maybe I should withdraw "the sneaky way". The

1 way they were using revotes and allocations as you roll
2 over, no. I think the under-valuing of the whole
3 development to get around planning issues and then
4 misleading the Office of Local Government I can only
5 describe as unprofessional and disgraceful.
6

7 Q. And is that a responsibility which lay at the
8 governing body's feet or the senior staff's feet or both?

9 A. The senior staff, the executive staff, but the
10 governing body has an oversight; there should have been
11 many more questions asked. It wasn't hard to look at the
12 amount of money the council was talking about spending and
13 then look at their application for a DA to see that it
14 didn't add up.
15

16 Q. And that DA process, given that they're the body who
17 deals with DAs, was that DA process appropriately enacted?

18 A. I can't answer that. All I can say is that since I've
19 been here the panel dealt with the executive area, it had
20 been finished before they'd dealt with it, or substantially
21 finished before they'd dealt with it because they weren't
22 given the opportunity, which - you know, look, I'm afraid
23 it's just another issue in this place.
24

25 MR PARISH: Commissioner, I was going to move on from both
26 the Finch report specifically and from the 10 August report
27 specifically and move on to Mr May's submissions to this
28 inquiry.
29

30 THE COMMISSIONER: Yes. Just bear with me a moment.
31

32 Q. Just on page 250 of the bundle, do you have that?

33 A. Yes.
34

35 Q. There you refer to the New South Wales Ombudsman's
36 report. Just in general terms, I appreciate it's dealt
37 with in some way in this document, but can you just give me
38 an overview of what that was and why you saw it as being a
39 matter of such significance?

40 A. It related to developer contributions that had been -
41 it's a while since I've looked at this.
42

43 Q. Yes.

44 A. It related to developer contributions which had been
45 fixed some years ago for a development that happened more
46 recently, and the council tried to - well, they did - they
47 increased the developer application to make it more

1 current, because they hadn't indexed it when they
2 originally did it.

3
4 Q. I see.

5 A. It was their fault.

6
7 Q. Yes.

8 A. The resident then paid, because there was really no
9 option, appealed to the council; the council had a bit of a
10 tinnie to the issue. They went to the Ombudsman. My
11 recollection is, the Ombudsman came in and had an initial
12 view and looked at it and had undertakings from the
13 council, but nothing happened. And then they went back to
14 the Ombudsman and the Ombudsman found that the council had
15 failed, in effect, and it was four or five recommendations.

16
17 The matter went to council and the staff put up three
18 options for the council, and I don't know whether this was
19 true, but it's my summation, at the briefing the staff
20 would have said which one to vote for and that happened,
21 and then the resident went to the Attorney-General about
22 it. The Attorney-General then went to the Minister for
23 Local Government. I arrive and I get a letter from OLG
24 drawing my attention to it.

25
26 I read the report in the morning. I write my own
27 reports. I moved a motion of urgency and rescinded the
28 council decision in one minute, and in the next minute I
29 adopted all the Ombudsman's recommendations. That happened
30 within 48 hours of me reading that letter from OLG, and it
31 wasn't because OLG and the Attorney-General had written, it
32 was to show the council staff and the community that there
33 was due management, it was open and transparent and there
34 were new rules.

35
36 Q. If you turn to page 252, this is I think related to,
37 or at least informed in part perhaps, by the intervention
38 of various Ministers, the Attorney, the Minister for
39 Finance, et cetera. You say this about halfway down the
40 page:

41
42 *In my view Wingecarribee Shire Council took*
43 *the position that it was above the law and*
44 *the resulting interventions of the Minister*
45 *for Finance and Small Business to review*
46 *the experiences of small businesses in the*
47 *Shire and the Attorney-General to get*

1 *action on behalf of a resident as clear*
2 *evidence.*

3
4 Can you just expand on that and tell me what you were
5 intending to convey?

6 A. I was trying to show that, in relation to the Council
7 Chambers I think it's clear they thought they were above
8 the law. Then the Small Business Commissioner's report,
9 that was instigated by the Minister for Finance and Small
10 Business, because they were just getting nowhere with the
11 council, and you probably read my views on all that, and
12 then the Attorney-General was the Ombudsman's letter.

13
14 Q. Yes.

15 A. They were just trying to - I don't know, they saw
16 themselves as above the law, in my view, and the governing
17 body by their behaviour had no acknowledgement of the Local
18 Government Act when it came to relationships and so,
19 that's - I was just trying to emphasise that.

20
21 THE COMMISSIONER: Thank you. Yes, Mr Parish.

22
23 MR PARISH: Q. You've observed meetings of the 2016-2020
24 council, you've met with councillors, and you've reviewed
25 various documents and talked to members of the community.
26 You might be in as good a position as anyone to give us
27 your impression as to: (a) whether some or all of the
28 councillors did not appreciate their roles and
29 responsibilities and obligations in the sense that they
30 didn't understand them, or whether they understood them and
31 just chose from time to time to ignore them. Do you have
32 an impression of that or too hard to say?

33 A. No, I think it's a mixture of both. I had some
34 difficulty, because of record-keeping, and I know the staff
35 tried hard to get it, I had one go early and another go
36 after the public inquiry was announced to try and look at
37 training for councillors, but look, this goes to the issue
38 at the end of the day, training of councillors, and it's
39 just the process at the present time is just not
40 appropriate, in my view.

41
42 Q. Do you mean that in respect of a structural Office of
43 Local Government level or do you mean within this
44 particular council in your experience?

45 A. In particular councils. I think actually it's an
46 obligation now to report to council on training. But look,
47 at Mosman we used to report 10 years ago when I was there

1 who went and who didn't, because it was important for the
2 community to know. You know, and nine times out of 10 it's
3 those who should go who don't, but you know, I've obviously
4 read the report of the Central Coast and the Commissioner
5 there deals with this matter, but I agree with her that so
6 many people say that councillors are directors; well,
7 directors aren't selected through the ballot box, and they
8 need a lot of help, I think. You know, I've done the
9 directors course and I think the government's got to look
10 at better training if they don't want to have, you know,
11 more repeats of some of the councils I've been at.

12
13 THE COMMISSIONER: Q. Do you think that should include
14 some consistent base modules of basic competencies?

15 A. Oh, definitely, yes.

16
17 Q. Which, whether at the induction stage or over the
18 course of the term should be reinforced through continuing
19 professional development type training?

20 A. Yes, and a good general manager does that, they bring
21 in trainers to help. I've seen what the program here was
22 and there was a huge emphasis on behaviour; not the core
23 issues, behaviour should be taken as accepted, as just the
24 respect and just get on with it, but there was a huge
25 emphasis on that, which tells another story to me but --

26
27 Q. Being the fact that it was so heavily focused towards
28 that, there was obviously a perceived need for repeated
29 training on behaviour; is that what you're driving at?

30 A. Well, I - respect is not hard and, you know, I come
31 from a school where you don't need a lot of training on
32 that, but training on the complexities of the Local
33 Government Act and what you can and you can't do, I totally
34 support the idea of OLG not LG NSW, who are the advocates
35 for councillors, but the local government department having
36 fixed modules which are compulsory, but you can't have a
37 pass and fail because this is a democracy, but at least
38 people would - candidates and elected persons would have no
39 excuse.

40
41 Q. And part of that, tell me if you agree with this,
42 should go beyond merely recitation of sections of the Local
43 Government Act at people but be driven towards giving them
44 an understanding of the nuances of local government?

45 A. Sorry?

46
47 Q. Sorry, that wasn't a very clear question. Effective

1 training on roles and responsibilities, to my mind at
2 least, must include something more than just reading
3 sections of the Act at people; it has to give them the
4 ability to understand the nuances that arise in local
5 government. Do you agree with that?

6 A. Yes.

7
8 Q. As well as the complexities of reading financial
9 reports, and engineering reports and planning matters and
10 all those sorts of things; do you agree with that?

11 A. Yes, definitely. And the Institute of Directors, you
12 know, it's something like that but I don't think it's that,
13 but they do examples and little case studies where
14 councillors or participants can just go together, and
15 you're not a fool if you get it wrong, you just learn, and
16 I think that kind of training rather than death by
17 PowerPoint ...

18
19 THE COMMISSIONER: Yes, I understand. Thank you,
20 Mr Parish.

21
22 MR PARISH: Q. Mr May, one of the things I was going to
23 do is only address issues in your submission that haven't
24 been already covered in your two reports and the training
25 and induction is one of the matters which you've just
26 helped me with and taken out of my hands, but your reports
27 were provided over a period of time, three months, and then
28 your submission was on 28 October 2021 last year. Have
29 there been any other events or experiences that you've had
30 in the meantime which has changed your view on any matter
31 that you've expressed an opinion on, either for good or for
32 bad?

33 A. It's only firmed up my view. Since the general
34 manager has been here and she's had the support of very
35 competent local government professionals, and I'm not
36 saying that the people who filled in aren't but they
37 weren't at that level, so much has been uncovered.

38
39 You know, the council at the moment is getting belted
40 up about development issues: well, it's the legacy issues
41 which were caused by, you know, others which are causing a
42 lot of our trouble, and a lot of people have left the
43 organisation because they're not happy with putting the
44 customer or the resident first, but acknowledging there's
45 rules you've got to follow, and the micromanaging is
46 disappearing as I'm told and, you know, I think I firmed up
47 more that this place needs time. I can just imagine it

1 now.

2

3 THE COMMISSIONER: Q. When you say "this place needs
4 time", what do you mean by that?

5 A. What I mean is, I can just imagine if there had have
6 been an election in December, I wouldn't have wanted to be
7 the general manager, trying to address the issues in the
8 organisation operationally and dealing with an incoming
9 council.

10

11 Q. And what about looking forward to what's stated to be
12 the elections in September of this year; is the
13 organisation better placed or is it still in need of time?

14 A. Well, I've given this a lot of thought and I think the
15 council needs more time, and I say that there's really -
16 and I wrote myself down a little note about this, because
17 the longer the general manager is here and the longer, you
18 know, I think about it, this council needed a circuit
19 breaker, it's been going on for too long, it just went to
20 new levels and it needed a circuit breaker.

21

22 The general manager has got to be afforded the time
23 and the opportunity to do a good job. The government is
24 spending a lot of money on this and it's an opportunity to
25 get it right, because it's been wrong for too long.

26

27 The other thing I come to is fairness to candidates
28 who are presenting for election. A two-year term, the
29 councillors won't have worked out what they want as a
30 community strategic plan, there will still be a lot of
31 issues outstanding, and for those reasons I think more time
32 is required to get the place - well, to get it into a
33 situation where the general manager has no excuses, and
34 that's not being detrimental to the general manager, it
35 could be any general manager.

36

37 THE COMMISSIONER: Q. Yes, and from that do I understand
38 there's two limbs to your view about that: one is, the
39 organisation is still rebuilding itself or reforming itself
40 to correct some of the legacy issues, and (2), in order to
41 give the incoming governing body the greatest prospect of
42 success in their role they need a strong organisation with
43 them, I suppose, is the appropriate words. Have I
44 understood the driving forces behind your views correctly?

45 A. Correct, and you know, I am confident from all the
46 people I have spoken to, and there's been hundreds of them,
47 not just a handful, that this place replaced community with

1 personality and we're working hard to put community back at
2 the forefront, but that's going to take time. As I said
3 earlier, I wouldn't have liked to have been a general
4 manager had there had been an election in December, trying
5 to cope with - I think there's going to be a huge turnover
6 of councillors, that's just my reaction, and dealing with
7 that and the complexities of rebuilding and resetting what
8 was a broken organisation.

9
10 THE COMMISSIONER: Yes, thank you. Mr Parish.

11
12 MR PARISH: That actually mops up one of the other last
13 questions I had arising out of the submission that hadn't
14 been dealt with on your other reports.

15
16 I don't have any other specific topics to cover,
17 Commissioner, unless I move on.

18
19 Q. I do want to put one matter to you, it's in the legal
20 space, we call it a *Browne v Dunn* question --

21 A. A?

22
23 Q. It's called a *Browne v Dunn* question, which is where I
24 put a proposition to you, I'm not agreeing with it, I'm not
25 asking you to agree with it, but it's a proposition that
26 I'm going to put that I want your opinion on. It's the
27 view, at least of some councillors, it appears, that you've
28 adopted a course of conduct designed to undermine them, the
29 suspended councillors. Do you want to react to that? This
30 is your opportunity to disagree or agree with it?

31 A. By their behaviour they've undermined themselves in
32 the eyes of the public. And if I can just go on from
33 that - am I allowed to?

34
35 THE COMMISSIONER: Yes.

36
37 MR PARISH: Q. Yes. You might be pre-empting me, I was
38 about to ask, are there any other topics that you wanted to
39 comment on?

40 A. Okay, there's just one other issue which I wanted to
41 raise. Will I do that now?

42
43 Q. Yes, that was the question that I was about to ask.

44 A. It just relates to a press release that was issued the
45 other day by five of the councillors, which I absolutely
46 find offensive, some of the - I've been very careful to not
47 deal with the person but to deal with the corporate and

1 et cetera, but in that it's reported that I've overseen the
2 first deficit operating budget in 26 years, and I just
3 wonder when the truth is gonna start coming out in writing
4 from some of these people.

5
6 This council has had five operating deficits in the
7 last 10 years, and the one we had last year of \$707,000 was
8 the smallest; there hadn't been any for three - or
9 four years prior to this. But it then goes on to say that,
10 you know, it all relates to payments for employees when
11 they're exiting the organisation. Well, a substantial
12 amount went to the exiting of the former general manager
13 which the council organised to happen after 1 July
14 last year. You know, when is this going to stop, the
15 misinformation and the mischief? And I just question
16 whether there's any lessons being learnt.

17
18 THE COMMISSIONER: Yes. Mr Parish, I take it this is
19 relevant to Term of Reference 4?

20
21 MR PARISH: Yes, it is, and I may just pick up that
22 question in respect of Term of Reference 3 as well. I'll
23 just remind you of Term of Reference 3.

24
25 THE COMMISSIONER: Let me just open it up.

26
27 MR PARISH: That states:

28
29 *Whether members of Council's governing body*
30 *have been and will continue to be in a*
31 *position to direct and control the affairs*
32 *of Council in accordance with the Local*
33 *Government Act ... and to otherwise fulfil*
34 *its statutory obligations.*

35
36 The communications in the press such as the one you've
37 just referred to there, do you have an opinion about
38 whether, firstly, there is a recognition that based on your
39 conclusions they have not fulfilled their roles and
40 responsibilities? And, secondly, do you have an opinion as
41 to whether this sort of conduct suggests that they will be
42 able to fulfil their roles and responsibilities if they are
43 returned?

44 A. This kind of conduct proves to me that this community
45 needs a circuit breaker. Is it possible for me to table --

46
47 Q. I'll do that shortly.

1 A. -- a paper from the staff about this?
2
3 THE COMMISSIONER: Mr Parish, perhaps if I take
4 five minutes, then Mr May can provide you what he wants and
5 then you can wrap up this topic in an orderly way. Is that
6 suitable?
7
8 MR PARISH: Thank you, yes, that is.
9
10 THE COMMISSIONER: Yes, I'll adjourn until quarter to 2.
11
12 **SHORT ADJOURNMENT**
13
14 THE COMMISSIONER: Yes, Mr Parish, are you ready?
15
16 MR PARISH: Yes, Commissioner.
17
18 Q. Can I start with the document that I provided to you,
19 Mr May, that says "Coomungie got us". Is that the report
20 in the paper that you were talking about just before we had
21 a short break?
22 A. Yes, but I don't know because I haven't read the
23 "Coomungie got us" article, I've only read the press
24 release, so I don't know if it's word-for-word.
25
26 Q. I'll bring that to you now. There's a press release
27 in the bundle of documents that you've taken us to, and the
28 very last document is a press release; is that right?
29 A. Yes.
30
31 Q. And that's the document you were talking about before
32 the break?
33 A. Correct.
34
35 MR PARISH: What I'll do, Commissioner, is I'll tender the
36 actual article from the Southern Highlands Express first
37 and then I'll take Mr May through each of the documents in
38 his bundle.
39
40 THE COMMISSIONER: Yes, all right. The article from the
41 Southern Highlands Express of --
42
43 MR PARISH: 30 May, I think it is.
44
45 THE COMMISSIONER: 30 March.
46
47 MR PARISH: 30 March, pardon me.

1
2 THE COMMISSIONER: 30 March 2022, headline, "Coomungie got
3 us. Gair's gang allege political stitch-up". Will be
4 Exhibit N.

5
6 <EXHIBIT #N - 30/03/22 HEADLINE, "COOMUNGIE GOT US. GAIR'S
7 GANG ALLEGE POLITICAL STITCH-UP".

8
9 THE COMMISSIONER: Thank you.

10
11 MR PARISH: Q. Now, just turning to the bundle of
12 documents you've provided us, is the first document an
13 email from Damian Jenkins to the interim administrator, I
14 assume you, with various people copied in dated 4 April
15 2022 at 7:14:52pm?

16 A. Yes.

17
18 MR PARISH: Just at this stage to foreshadow,
19 Commissioner, that's a document which shows the operating
20 surplus or deficits over the last 10 years which I'll make
21 submissions on in due course and may obtain a summons for
22 the raw data which sits behind it. But it shows operating
23 deficits in 2011/12 of \$8m roughly, 2012/13 of \$4m roughly,
24 2013/14 \$6m roughly, 2014/15 \$4m roughly, and then some
25 small surpluses, and then the \$707,000 deficit in 2022.

26
27 THE COMMISSIONER: Q. Mr May, you may or may not be able
28 to answer this, but these numbers, they would be in the
29 annual reports of each year?

30 A. Yes.

31
32 THE COMMISSIONER: Thank you.

33
34 MR PARISH: Q. And the next document is part of that
35 email, do you see that? The next document over is part of
36 that email?

37 A. Yes.

38
39 Q. The next document there is a - well, you might have to
40 explain to me what the next document is there. Is that
41 just the third page of the email, the little --

42
43 THE COMMISSIONER: Yes, it looks like something has gone
44 wrong with the printing.

45
46 Q. I'm sorry?

47 A. Yeah, it just shows up the - as I said earlier, we had

1 a workshop yesterday afternoon, and I don't get to talk to
2 the staff very often and I got to talk to this officer, and
3 I said to him, "I just can't understand where some of this
4 stuff comes from, particularly next year's statement that
5 there will be - or this year we'll finish up \$800,000 in
6 the red". And I said to him, "Have I missed something?"
7 And, "No, you haven't". And I brought a context to it and
8 then I get an email last night and I just - I don't want to
9 get Damian Jenkins into any trouble about all of this and I
10 don't want him to become a target, because he's a young
11 fellow who's very, very good in my view, but he's offered
12 this to me and I would think in response to this article,
13 and that shows to me through the organisation that they've
14 had enough too.

15
16 The next attachment relates, they're trying to show me
17 how these councillors have got confused suggesting there's
18 an \$800,000 - that they were in effect - this is all very
19 complex, the finances, but the council over-extends itself
20 and there's massive rebates, and the general manager, a
21 part of what she's been doing has been addressing all of
22 these issues. It's a massive job she's undertaking, and a
23 number of matters have been deferred and I think they think
24 this is where this could be coming from.

25
26 MR PARISH: Okay, thank you.

27
28 THE COMMISSIONER: Thank you.

29
30 MR PARISH: Q. The next document along there is the
31 article we've just been talking about; that's correct?

32 A. Yes. This embargo until 6am Wednesday.

33
34 Q. I'll still tender that as part of this bundle,
35 Commissioner. Then lastly in this bundle is a press
36 release headed, "Sacking Was Political Say Councillors",
37 embargoed until 6am Wednesday, March 30, 2022. Is that
38 right?

39 A. Yes.

40
41 MR PARISH: Thank you, Commissioner, I'll tender that
42 bundle of documents.

43
44 THE COMMISSIONER: Yes. Bundle of documents tendered
45 through Mr May will be Exhibit 0.

46
47 **<EXHIBIT #0 - BUNDLE OF DOCUMENTS TENDERED THROUGH MR MAY.**

1
2 THE COMMISSIONER: Q. Mr May, is there any concern about
3 the confidentiality of any of this financial information?
4 A. Not with me, it's just that I would hate to think that
5 there is - this is about the first time a council officer's
6 name's come out, so perhaps that should have been redacted.
7
8 MR PARISH: We can redact the personal information.
9
10 THE COMMISSIONER: Yes, all right. Well, it's been
11 mentioned, not much I can do about that now --
12 A. Yes.
13
14 Q. -- but I understand the concern and Mr Parish, there's
15 no reason, is there, for the officer's names to be
16 identified in the public version of the exhibit, is there?
17
18 MR PARISH: No.
19
20 THE COMMISSIONER: Yes, thank you.
21
22 MR PARISH: May I just say for the transcript, the email
23 appears largely to be factually based with information
24 surrounding it rather than any opinion given.
25
26 THE COMMISSIONER: Yes, quite. Yes, Mr Parish.
27
28 MR PARISH: I have no further questions of Mr May.
29
30 THE COMMISSIONER: Yes, all right. Are there any
31 applications?
32
33 CR SCANDRETT: Yes, Commissioner.
34
35 THE COMMISSIONER: Bear with me a moment. Yes, what are
36 the topics or is there more than one topic?
37
38 CR SCANDRETT: Yes, Commissioner.
39
40 THE COMMISSIONER: What's the first one?
41
42 CR SCANDRETT: The first one is the reference by Mr May to
43 developers ending up with a pot of gold and leaving the
44 problems with the - my words - with the council in relation
45 to up-zoning.
46
47 THE COMMISSIONER: Which of my terms of reference does

1 that go to?

2

3 CR SCANDRETT: Well, it would be No.4 again, sir, because
4 it relates to general comments about planning.

5

6 THE COMMISSIONER: That's not what Term of Reference 4 is
7 directed to. What particular issue arising out of Mr May's
8 observation does it fall within Term of Reference 4?

9

10 CR SCANDRETT: I would like to just seek clarification of
11 what the size of those problems were that were left behind.
12 Mr May also spoke about the southern bypass along Old South
13 Road as being capable of being funded historically, but it
14 wasn't, so I just want to ask about that. That's the first
15 one.

16

17 THE COMMISSIONER: Yes. What are the other topics?

18

19 CR SCANDRETT: The second one is to just confirm who were
20 the five councillors that issued that media release that's
21 been tabled.

22

23 THE COMMISSIONER: I think it's obvious, it's in the
24 article that's in the exhibit.

25

26 CR SCANDRETT: Does it include a councillor who's retired,
27 is what I wanted to read into the record.

28

29 THE COMMISSIONER: You can see the public exhibit.

30

31 CR SCANDRETT: Yes, thank you. And I'd like to ask
32 Mr May, when he was looking at records of training with
33 staff, did he find much record of the training?

34

35 THE COMMISSIONER: Yes. Well, perhaps ask that question
36 first.

37

38 <EXAMINATION BY CR SCANDRETT: [2.00pm]

39

40 CR SCANDRETT: Q. Mr May, when you were examining
41 council's records in relation to training for councillors,
42 could you outline exactly what you found there or the staff
43 found with you? Was it very complete?

44 A. In relation to the information available, I thought it
45 was very scant and there was, from recollection, no record
46 of who attended. But, as I understand it, that information
47 has been made available to the Commission inquiry.

1
2 THE COMMISSIONER: Thank you. Yes, next question?
3
4 CR SCANDRETT: Q. Mr May, you mentioned staff concerns
5 of certain councillors returning and how there might be
6 fear in how they might be treated. Could you please name
7 those councillors?
8
9 THE COMMISSIONER: Well, you didn't foreshadow that topic.
10
11 CR SCANDRETT: No, I didn't, I'm sorry.
12
13 THE COMMISSIONER: Well, when I ask you about topics, it's
14 for a reason. So, you want to know whether the staff have
15 identified whether particular councillors are the cause of
16 that concern; is that right?
17
18 CR SCANDRETT: Yes.
19
20 MR PARISH: That's a question in far too general a scope
21 to be properly answered, in my submission.
22
23 THE COMMISSIONER: Yes. I think, Mr May - I may be able
24 to shortcut this - I think, Mr May, you indicated in your
25 evidence that you in fact didn't engage with staff about
26 who was who when comments like that were being made; did I
27 understand that correctly?
28 A. That is correct.
29
30 THE COMMISSIONER: Yes, next question?
31
32 CR SCANDRETT: Q. Mr May, you mentioned "open and
33 transparent" on a number of occasions, and would you like
34 to comment on Station Street in reference to that?
35
36 THE COMMISSIONER: Well, you didn't flag this topic
37 either.
38
39 CR SCANDRETT: No, sir, I didn't, because my notes are
40 very higgledy-piggledy.
41
42 THE COMMISSIONER: Well, take a moment to review your
43 notes. Leave is not granted generally to ask questions, as
44 you will be aware.
45
46 CR SCANDRETT: Okay.
47

1 THE COMMISSIONER: I need you to explain topics to me and
2 then we'll deal with them in issue. So, if you need a
3 moment, I'm more than happy to give it to you.
4
5 CR SCANDRETT: No, I've highlighted them here,
6 Commissioner. It's just a question about open and
7 transparency and also I'd like to drill into the executive
8 and council officer's comments.
9
10 THE COMMISSIONER: Right, so what about Station Street do
11 you want to ask Mr May?
12
13 CR SCANDRETT: Q. Mr May, you released the, I believe,
14 the complete records on Station Street as one of your first
15 acts of interim administrator here; is that because you
16 believed we should be more open and transparent?
17
18 MR PARISH: Commissioner, he answered that question.
19 Mr May answered his - gave his views on the transparency in
20 the information provided with respect to Station Street.
21
22 THE COMMISSIONER: Yes, I think he has.
23
24 Q. But, if you can answer the question, you can answer it
25 again?
26 A. I released everything I have, or that the council had
27 because I thought it was in the public interest so to do.
28
29 THE COMMISSIONER: Yes, thank you.
30
31 CR SCANDRETT: Thank you.
32
33 Q. Is there any matters in a council such as this that
34 you think should not be released generally? I know you're
35 going to say staff matters, they're legal matters, they're
36 confidential --
37
38 THE COMMISSIONER: Well, no.
39
40 CR SCANDRETT: Okay, I'll just ask the question.
41
42 THE COMMISSIONER: Ask the question and let the witness
43 answer.
44
45 MR SCANDRETT: Q. Are there any matters in council you
46 don't believe should be open and transparent?
47

1 THE COMMISSIONER: No, I reject that question, that's not
2 a fair question.
3
4 Q. Mr May, are there any matters that a council would
5 deal with in its ordinary business that are appropriately
6 kept confidential?
7 A. Of course.
8
9 Q. Headline categories, what sort of matters do you have
10 in mind?
11 A. Staffing matters, commercial in confidence tenders,
12 could be property acquisitions, it could be the lead-up to
13 developer agreements on opening of new estates provided
14 they follow the guidelines; there's a whole host, it would
15 just depend.
16
17 Q. And, indeed, the Act makes provision for those
18 categories?
19 A. The Act is very clear.
20
21 THE COMMISSIONER: Thank you. Yes, next question?
22
23 CR SCANDRETT: That's all, thank you, Commissioner. Thank
24 you, Mr May.
25
26 THE COMMISSIONER: Now, there was a topic you foreshadowed
27 as your first topic; have you abandoned that topic or do
28 you wish to put a question in relation to it?
29
30 CR SCANDRETT: No, I think sufficient now, Commissioner.
31 Thank you, Mr May.
32
33 THE COMMISSIONER: Thank you. Mr Parish, anything
34 arising?
35
36 MR PARISH: No, Commissioner.
37
38 THE COMMISSIONER: Mr May, that completes your evidence,
39 thank you very much for your attendance this morning. I
40 know we've been sitting quite a long session, so I
41 appreciate you bearing with us.
42
43 Mr Parish, is there any prospect that Mr May may need
44 to be recalled at some later stage?
45
46 MR PARISH: Not at this stage, Commissioner.
47

1 THE COMMISSIONER: Do you want to reserve your position on
2 that?

3
4 MR PARISH: Yes, of course.

5
6 THE COMMISSIONER: Mr May, I won't formally excuse you
7 from your summons just yet in case there's some small
8 prospect that Mr Parish might need to ask you some more
9 questions, I don't think that'll arise at the moment but,
10 if it does, he will be in contact with you.

11
12 THE WITNESS: Thank you.

13
14 THE COMMISSIONER: Thank you for your time.

15
16 <THE WITNESS WITHDREW

17
18 THE COMMISSIONER: Mr Parish, is there anything else I
19 need to do today?

20
21 MR PARISH: Not today, Commissioner, we have no further
22 witnesses.

23
24 THE COMMISSIONER: In terms of witnesses for tomorrow,
25 that is still a work-in-progress?

26
27 MR PARISH: It is. It appears we may have Ian Reynolds
28 first thing in the morning, but it is a slight
29 work-in-progress, we have to do some shuffling at the
30 moment.

31
32 THE COMMISSIONER: All right. Well, if an updated list
33 can be put up on the website sometime today, but for the
34 moment for those who are interested we anticipate
35 Mr Reynolds being the first witness and, we'll keep
36 everybody updated as we can, but it's not simply a matter
37 of moving pieces around a table, there's a lot that goes
38 into it, so that work will be being done in the background.

39
40 All right, I'll adjourn until 10am tomorrow.

41
42 **AT 2.06PM THE INQUIRY ADJOURNED TO**
43 **WEDNESDAY, 6 APRIL 2022 AT 10.00AM**

44
45
46
47

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