

WINGECARRIBEE SHIRE COUNCIL PUBLIC INQUIRY

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

Before: Mr Ross Glover (Commissioner)

Mr David Parish (Counsel Assisting)

Mr Angus Broad (Officer Assisting)

Ms Bron Hewson (Officer Assisting)

On Thursday, 7 April 2022 at 10.02am

(Day 9)

1 THE COMMISSIONER: Yes, we'll resume. Mr Parish?

2

3 MR PARISH: Thank you, Commissioner. We'll have three
4 witnesses today. The first will be Mr Gordon Markwart,
5 then Ms Juliet Arkwright and then Mr Malcolm Ryan this
6 afternoon. The first witness is Mr Gordon Markwart.

7

8 THE COMMISSIONER: Yes, thank you.

9

10 <GORDON MARKWART, affirmed:

11

12 THE COMMISSIONER: Thank you, Mr Markwart, we'll just have
13 to try and keep our voices up a little bit today because
14 it's a little hard to hear from this position sometimes,
15 and the rain seems torrential out there. If you can just
16 bear that in mind when answering Counsel Assisting.
17 Sometimes when the witness is looking in that direction I
18 find it a little hard to hear. Thank you, Mr Parish.

19

20 <EXAMINATION BY MR PARISH: [10.03am]

21

22 MR PARISH: Q. Mr Markwart, you were elected to council
23 in 2016; is that correct?

24

25

26 Q. And you resigned in about August 2020; is that
27 correct?

28

29

30 Q. Can I start with asking your personal background and
31 connection with the shire?

32

33 A. Okay. Going back quite a while, I first moved to
34 Robertson when I was aged 10 - I attended, sorry, Robertson
35 Public School, and 15 years later - just a slight aside - I
36 returned there as a councillor to hand out the awards at
37 the end of the year, 15 years after I received an award
38 there leaving the school, which was very pleasant.

39

40 Okay, I then went to Moss Vale High School, I finished
41 there when I was aged 18, moved to Sydney for a job and
42 work and all that sort of stuff. I joined Telecom
43 Australia, now called Telstra, of course. Went to Sydney
44 Uni and TAFE, did something in electronics over a
45 few years. Got a job as a technician for a Swiss company
46 operating in Australia, a manufacturing company. I ended
47 up there running their manufacturing plant in Queensland
for a few years, and in that role I just also mention I

1 summarily dismissed a staff member for sexual harassment.
2 I do not like bullying.

3
4 I then joined ATUG, Australian Telecommunications
5 Users Group, as a lobbyist seeking competition with Telecom
6 Australia, which we achieved. Westpac approached me and I
7 took up my role as a project manager. I left after
8 some years and became a Telstra account manager, then an
9 Optus account manager trying to migrate services from
10 Telstra to Optus for large corporations. The largest
11 contract I signed was for \$75m and that was about 20 years
12 ago, so it was a fair few dollars.

13
14 I did become disillusioned with the dog eat dog
15 corporate world and, aged in my mid-50s, I basically sold
16 everything up and went overseas to Poland to teach English
17 for a few years. I moved back to Robertson in about 2012,
18 I worked locally selling solar power and then became a
19 postie walking around Moss Vale and Bowral with a backpack,
20 mail backpack. That was a good job.

21
22 I was elected to council in 2016 after being in the
23 Greens for some years. I took a drop in income, of course,
24 joining council. I resigned from council in August 2020.
25 I did have three months sick leave as a councillor. I was
26 diagnosed basically with Parkinsons a year or two in.
27 Unfortunately, I had some side-effects with the medication
28 which made it impossible for me to stay as a councillor.

29
30 Okay, I'm now a pensioner, so I got a pay increase
31 from my time at council. I am now active with two local
32 community groups, the Robertson Environmental Protection
33 Society and the Community Technology Centre of Robertson.
34 Thank you.

35
36 Q. Thank you. I take it from that history that the 2016
37 election to council was your first time as a councillor?

38 A. First time as a councillor, although I did attend a
39 few meetings in the build-up to that.

40
41 Q. Of this shire council?

42 A. Of this shire council.

43
44 Q. I might ask your observations of that in a second, but
45 firstly, can I turn to your training and induction when you
46 first became a councillor. I think that the first
47 induction training was on about 30 September; does that

1 sound about right? You don't have to give me precise
2 dates, but a short time after?

3 A. Yeah, a couple weeks after we became formally
4 councillors.

5
6 Q. Do you recall what that training was at that time and
7 if you can even paint us a bit of a picture of where it
8 was, who was there, those sorts of things?

9 A. I can't recall the content very well, but I believe it
10 was generally given in the briefing room just across here;
11 they tended to be group presentations, they didn't have
12 PowerPoint presentations by senior staff and council and
13 also some external people perhaps on the legal side and
14 such like. That did also continue into latter months, it
15 wasn't just one block, sorry, it was always refreshed every
16 six or 12 months perhaps in some cases.

17
18 Q. Did you also, to the best of your recollection, do a
19 Code of Conduct training perhaps a couple of weeks later
20 around mid-October? Does that sound about right?

21 A. I honestly can't recall. Due to my background, I was
22 aware of general Code of Conduct arrangements about meeting
23 practices and such like, so I didn't find the training, or
24 whatever it's called, very onerous, most of it was just
25 reinforcing what I had had in my prior experience.

26
27 Q. Just to go back a step, the form of training that was
28 presentations in the theatrette or somewhere like that --

29 A. Generally to my recollection.

30
31 Q. With all the other councillors at the same time or was
32 it a one-on-one type of session?

33 A. It tended to be group, but I understand some
34 councillors - it wasn't attended by all councillors in all
35 sessions.

36
37 Q. I see. Do you recall if there were any questions or
38 queries from councillors as they went through the
39 presentation?

40 A. I'm sure there were, you can't stop councillors asking
41 questions.

42
43 Q. No, quite, but there was a level of interaction, it
44 wasn't just a passive presentation to the best of your
45 recollection?

46 A. To the best of my recollection it was interactive
47 subject to the councillor or the person concerned wishing

1 to ask questions.

2

3 Q. In respect of that Code of Conduct training, do you
4 recall ever being provided physically with a copy of the
5 Code of Conduct at that time?

6 A. I can't recall, but I did early on get a copy of that
7 document, I downloaded such a copy.

8

9 Q. That was something that you did on your own initiative
10 rather than have it provided?

11 A. I can't swear to that, I'm just not certain.

12

13 Q. What about the Local Government Act itself; were you
14 given a copy of that by anyone or how did that come to your
15 notice, if at all?

16 A. To the best of my recollection, not, but again, any of
17 this sort of material I certainly found easy to obtain,
18 like local government - OLG information on councillor
19 responsibilities, all that sort of stuff, I got it and read
20 it.

21

22 Q. Councillor handbook, do you recall getting one of
23 those?

24 A. I do.

25

26 Q. In about 2016?

27 A. On two occasions I recall being supplied one by
28 council, but again, I'm sure I either downloaded it or
29 accessed it online myself.

30

31 Q. I think there was a second version that was produced
32 about 2018; would that accord with your recollection?

33 A. Yes.

34

35 Q. You were provided with one in about 2016 and then one
36 in about 2018?

37 A. We did run through the differences, I recall that.

38

39 Q. Do you recall having presentations around
40 the September/October time by people from outside the
41 organisation such as perhaps UTS lecturers or anything like
42 that?

43 A. I don't recall that, I just do recall we did have a
44 presentation on the legal side, I believe by a contract
45 organisation that was employed by council.

46

47 Q. By the time of the first meeting, which I think might

1 have been the end of September 2016 or the start of October
2 2016, did you feel like you were well-equipped with a
3 knowledge of the Code of Conduct, the Code of Meeting
4 Practice, and certain obligations and roles set out under
5 the Local Government Act?

6 A. Broadly I would say that I was - had been exposed to
7 that information, but I certainly hadn't absorbed it all
8 or - I hadn't absorbed it all.

9

10 Q. It's a lot of information.

11 A. There is quite a bit of information but, as I said, I
12 can't speak for the other councillors, but my background
13 was in the corporate world, meetings, Code of Conduct; they
14 were pretty standard. I don't know if you're aware of -
15 this is the Bible for meeting practice, it goes back to
16 1961.

17

18 Q. Yes.

19 A. I didn't see a huge difference. There was a
20 difference in approach in the corporate world to the public
21 world but that was more cultural than knowledge, per se, so
22 I don't think I struggled too much; I certainly didn't say
23 much at that first meeting.

24

25 Q. Do you recall any impressions you had about any
26 differences between the corporate world and the council
27 world in respect of Codes of Conduct meeting procedure or
28 anything like that?

29 A. In my experience the corporate world is much firmer in
30 applying Code of Conduct rules than my experience here.
31 It's much less - it's more driven downwards. Here in the
32 public world it's a little more, I don't know,
33 equality-based or public input-based. In the private world
34 the boss is the boss and that flowed through to the
35 meetings.

36

37 Q. Just on that training topic, I think you mentioned
38 before doing further trainings from time to time. Can you
39 recall what those trainings were and the time periods or
40 the space in between those, roughly?

41 A. I can't be specific. I do know we had refreshers
42 every six, 12 months on some items - not all, on some. We
43 also had the option of nominating courses we wished to
44 attend; I didn't avail myself of any of those.

45

46 Q. In respect of the quite complex and significant
47 volume of materials that you would have to get your head

1 across, did you refresh your memory from time to time on
2 Code of Conduct, Code of Meeting Practice or
3 (indistinct) --

4 A. A few councillors I noticed carried that
5 document around with them; I was one of them, and I did
6 refer to that on occasions, especially before a meeting I
7 held which I partially chaired in relation to Station
8 Street. I did a bit of research before that meeting.

9

10 Q. In respect of the roles and the matters that you may
11 have to deal with as chair of that meeting?

12 A. That's correct, because it's my understanding the
13 chair of the meeting is basically required - I use the word
14 "required" purposely - to ensure the meeting is effective
15 and runs well.

16

17 Q. Not only in respect of conduct and meeting practice,
18 but did you feel that you were well-equipped after your
19 induction to deal with the wider roles required of a
20 councillor; the day-to-day meat and bones, things like the
21 integrated planning and reporting matters?

22 A. I don't recall any difficulty. I like process, I like
23 structure, and so, the integrated planning process and such
24 like I felt comfortable with the structure and the
25 reasoning behind it, and I guess I supported or agreed with
26 it as is and tried to ensure I - what shall I say -
27 integrated or moved in that direction. I like structure.

28

29 Q. And, appreciating it was a while ago, do you have any
30 recollection or on reflection views --

31

32 THE COMMISSIONER: Just pause a moment, Mr Parish, I just
33 want to make sure that everything's okay.

34

35 MR PARISH: I lost my microphone.

36

37 THE COMMISSIONER: Yes, we'll just test the audio to make
38 sure those out there can still hear and see us. Yes, I'm
39 getting the thumbs up, sorry to interrupt.

40

41 MR PARISH: Just me.

42

43 Q. I'll rephrase the question as well, it might help.
44 I'm interested in your recollections, both any
45 recollections you had at the time and anything looking back
46 on reflection that you thought the induction could have
47 done better; any gaps, anything you now think, perhaps we

1 could have had a bit more information on X or Y?
2 A. It's an interesting question, I think it depends on
3 the council largely and their past experience, for example.
4 For example, some councillors have never worked in, I'll
5 say large organisations before, and hypothetically if they
6 were the manager or the boss, everything they said they
7 called the shots on. To actually change that mindset isn't
8 easy and I don't know the best training or appropriate
9 training method for that; that would probably take quite an
10 effort.

11
12 I think there are things that could have been done;
13 possibly you could have had a buddy councillor who had more
14 experience, but of course you could have a dud which may
15 not work out. You could have more training before
16 commencing your role, but then, if that's too long, of
17 course, you're not fulfilling the role. I don't have an
18 easy solution but I think it is very challenging and I
19 actually think this council put a lot of effort into it.
20 I'm not sure about the results, but I did note the Office
21 of Local Government have been putting more emphasis on this
22 issue in recent years.

23
24 Q. I guess this is borrowing an American term, but you
25 were a freshman effectively in 2016?

26 A. Absolutely.

27
28 Q. And I think about six of the councillors, was it, had
29 been re-elected from a previous term?

30 A. (Witness nods.)

31
32 Q. Do you have any impressions about how they approached
33 the induction? Were they diligent, did it look like
34 something they had all done before and they didn't need to
35 pay too much attention?

36
37 THE COMMISSIONER: Mr Parish, just pause a moment. We
38 might just - just let me make some enquiries just for a
39 moment.

40
41 THE WITNESS: Do you want me to test? Testing, one, two,
42 three.

43
44 MR PARISH: You sound fine.

45
46 THE COMMISSIONER: We're going to make some more
47 investigations at morning tea, but Mr Parish, if you

1 wouldn't mind moving one spot to your left - right, my
2 left.

3
4 MR PARISH: Stage right.

5
6 THE COMMISSIONER: That's on YouTube. Then we can
7 determine whether it's just that microphone, but that may
8 then assist and still enable you to be seen.
9

10 Thank you. I'm sorry, Mr Markwart

11
12 THE WITNESS: No problem, Commissioner.
13

14 MR PARISH: Q. I think I was interested, Mr Markwart, in
15 any impressions you might have had about how the previous
16 returned councillors approached the induction.

17 A. In hindsight, I think to a certain extent some of the
18 more experienced councillors who had been elected
19 previously in previous terms perhaps looked at the training
20 or the induction with less interest than myself based on
21 their prior experience. But, of course, as most people
22 will be aware, there is a regular review of the roles,
23 responsibilities in the legislation relating to
24 councillors, and so perhaps they could have spent more time
25 on those things.
26

27 THE COMMISSIONER: Q. Were you aware as an incoming
28 councillor that the Local Government Act had been the
29 subject of some rather significant amendments in 2016?
30 A. Yes, I was.
31

32 Q. And are they the matters that you had in mind in your
33 last answer to Counsel Assisting?
34 A. Yes, that's correct, Commissioner.
35

36 MR PARISH: Q. Thank you, Mr Markwart. I'm just going
37 to touch on a topic you raised in opening which was the
38 experience you had having attended previous meetings in the
39 prior term. Can you give us your impressions of any
40 meetings you attended in that 2012-2016 term?

41 A. Yes. When I made a decision to stand as a candidate I
42 felt it's clearly important - and actually before I made
43 that decision I did attend a few council meetings in these
44 very chambers. I can only confirm the impression of others
45 that the - I have to say some councillor behaviour was
46 somewhat surprising and not so positive. There was often
47 conflict between councillors, but not only between

1 councillors, I recall hearing a story where half the rugby
2 team came in here to make some point against one councillor
3 in particular, but that was hearsay; I believe it was true.
4

5 Q. Thank you. Were any of the councillors whose
6 behaviour you witnessed in a negative sense in the
7 2012-2016 term returned?

8 A. Yes, they were.
9

10 Q. In your view - and I appreciate this is a high-level
11 question - was there a continuation of the culture or
12 behaviour from 2012-2016 into 2016-2020?

13 A. Two answers to the question. I believe there was some
14 personal animosity that carried over from one term to the
15 other. And the second point is, I think the first couple
16 of years, the first year or so of the 2016 term things
17 settled down, but unfortunately by mid-year - mid-term,
18 sorry, by the end of 2018, it had reached similar levels to
19 the previous term, and I do have a few ideas on why that
20 occurred but I'll leave that to you to seek later on.
21

22 Q. Councillor Gair was elected mayor, I think, in
23 about September 2018; was that one of the causes for the
24 change of behaviour or degradation?

25 A. I don't think it was the main cause, but the council
26 elections of the mayor for new councillors was quite - what
27 shall I say - well, a surprise and somewhat painful
28 exercise. My first election of the mayor was not something
29 I wished to repeat in that manner and as a direct outcome
30 of that I made a decision to make no arrangements or no
31 deals with other councillors on how I voted.
32

33 Q. This was the election of Councillors Halstead and
34 Turland in about September 2016?

35 A. Halstead and Scandrett.
36

37 THE COMMISSIONER: Yes.
38

39 MR PARISH: Q. Halstead and Scandrett, thank you. What
40 was it about that experience in particular that left a sour
41 taste in your mouth?

42 A. Well, it was basically a form of block voting, which
43 is permitted for mayor, and while the determination of the
44 mayor wasn't - or sorry, where I would vote for for my
45 mayoral vote wasn't of great difficulty, the candidate for
46 the deputy mayor made clear that he would vote for
47 whichever block that would make him or support him in the

1 deputy mayoral role, and the bottom line of that was, my
2 vote for deputy mayor was incidental to the whole process
3 and I found that - that loss of values or basically selling
4 your vote for a position rather unacceptable.
5

6 Q. On that topic, can I ask you what you understand or
7 what impression you have the role of the mayor is under the
8 Local Government Act?

9 A. Okay. The mayor can speak on behalf of council and
10 that is a huge power. During council meetings the mayor
11 normally isn't the chair, subject to some other conditions,
12 and as such he has a casting vote, or he or she has a
13 casting vote which is an enormous amount of power. The
14 mayor also has a lot of say in practice on the agenda of
15 council generally. He has other - or he or she has other
16 responsibilities in public and what have you, but to me
17 they are the main things. The mayor can really set the
18 tone, the culture within the council and also outside the
19 council. I'm not quite sure what the legislation says
20 about that, but to me they were key.
21

22 Q. What about the roles of individual councillors? What,
23 in your view were their obligations under the Act?

24 A. Under the Act? Whoa. I mean, there's things like
25 civic leadership, which again the mayor leads. Behave
26 well, be responsible, listen to people, take into account
27 all information for your decisions. I can't really quote
28 or refer to the Act specifically, but this is the
29 impression I have.
30

31 Q. Yes.

32 A. In my view, a councillor has to behave above and
33 beyond an average ratepayer. Certainly, personal issues on
34 council, development applications on council, as a
35 councillor you must be super careful and not bend any rules
36 whatsoever or not ask for any favours. You've just got to
37 be so professional and so above board, it's not funny, and
38 I believe that's the way to be.
39

40 In my corporate role, again, to me it's all about
41 being professional. I recall at one council meeting, I
42 think this is later in the term, in the latter half of the
43 term, there was some reference to being friends with other
44 councillors. At the end of that short few words by
45 somebody I basically stopped and said, "I am not friends
46 with any councillor, I'm here in a professional capacity to
47 basically work". I had a good relationship with the other

1 councillors, or most of them, but we didn't go for dinner,
2 we didn't go drinking, we didn't go bowling. To me, it was
3 a job. And I think my words got a bit of a surprise by
4 some of the - certainly some of the councillors who had
5 been on council for sometime, because clearly friendships
6 can develop. But historically in my previous jobs and this
7 I made the point of not actually having friends of people
8 that I worked with. After I left council, that was
9 different, I did make friends with a few. I hope that
10 helps.

11
12 Q. I see. What about the role of the governing body as
13 you saw it; was that different statutorily from the role
14 that councillors had or did you see that as an extension
15 effectively of the obligations that councillors had?

16 A. The governing body, I believe, has a broader
17 responsibility to the community than individual
18 councillors. It's more setting - what shall I say - the
19 vision, if you like, the framework again, the tone;
20 individual councillors add to that or build that or support
21 that, but no one councillor can actually make that happen,
22 it's got to be the whole body, and that requires leadership
23 and support from senior staff in council. You can't have
24 one without the other.

25
26 Q. Did you appreciate the distinction either at the time
27 of induction or later between strategic and operational?

28 A. That was clear to me very, very early on. I think I
29 mentioned about structure in the planning process and such
30 like. I like diagrams and there's one diagram particularly
31 in one of the OLG documents which had some sort of triangle
32 and there's a line through that.

33
34 Q. I think the Commissioner calls that an hour glass
35 that's referred to?

36 A. That's right, I think there's an hour glass, you're
37 correct, yes.

38
39 Q. Yes.

40 A. And that stuck very much in my mind where the mayor
41 and the GM are basically the interface between council or
42 councillors and the council proper, and I had no problem
43 with that, that made perfect sense to me, and operational
44 things on council generally I know nothing about anyway,
45 but some councillors believed they did know or have some
46 expertise on things. Just to mention off the top of my
47 head, how to prop up a building wall that is structurally

1 not sound and things like that, and they were not hesitant
2 in coming forward and telling council how to do it, or even
3 filling potholes, I believe.

4

5 Q. I was going to mention the pothole one. Was that
6 something you experienced or heard about moderately
7 firsthand, or at the time I should say?

8 A. I did hear about this some years ago from council
9 staff.

10

11 Q. Actually, I might dig into that. You heard it
12 directly from council staff; is that correct?

13 A. Yes.

14

15 Q. And what was their view on that intervention: positive
16 or negative?

17 A. Very negative.

18

19 Q. Yes.

20 A. And my response was equally negative.

21

22 Q. In your view what ought to have been the proper
23 process there if that councillor had had concerns about
24 potholes?

25 A. Well, first, discuss it with - well, possibly the
26 mayor, but the general manager is the person to go to.
27 And, to me, having a good working relationship with key
28 senior staff is key and I spent some time on that.

29

30 Q. I might just double-back to the start there. Do you
31 feel that was something which was sufficiently impressed
32 upon you, that distinction in the induction and training
33 program?

34 A. The difference between strategy and operational type
35 thing or?

36

37 Q. The difference between strategy and operational and
38 the importance of the way that the councillors interacted
39 with staff through the GM and the operational processes?

40 A. It was made very clear, I believe, abundantly clear.

41

42 Q. You mentioned --

43

44 THE COMMISSIONER: I'm sorry.

45

46 Q. What role, if any, do councillors have in directing
47 council staff in your view?

1 A. Directing council staff?
2
3 Q. Yes.
4 A. In my personal view, are you talking senior staff or
5 staff below that or any?
6
7 Q. Anyone below the general manager?
8 A. In directing? Absolutely none.
9
10 Q. Thank you.
11 A. I might add, directing the general manager was not up
12 to individual councillors as far as I was aware. Up to a
13 group of councillors in terms of their employment and
14 contract maybe and the structure, but nothing beyond that.
15
16 MR PARISH: Q. There's been some evidence to this
17 inquiry about a particular event that you chaired which you
18 referred to before on 14 February 2018, and part of the
19 role of this inquiry is to ensure that you have procedural
20 fairness and put to you the allegations and get your
21 response to it. I'm going to show you, just for
22 completeness, the transcript references, if I can, to get
23 an idea of what those allegations were if you haven't been
24 following along at home.
25
26 THE COMMISSIONER: Which day do I need, Mr Parish?
27
28 MR PARISH: Which day?
29
30 THE COMMISSIONER: Yes. I've got pages, Commissioner, in
31 a consolidated document.
32
33 THE COMMISSIONER: On the bottom, in the footer - Mr Broad
34 is bringing me something.
35
36 MR PARISH: Yes, he is.
37
38 Q. Hopefully the first page you have there is page 127 of
39 the transcript, it should say down the bottom?
40 A. That's correct.
41
42 Q. I just need to find it for myself, Mr Markwart, if you
43 can hang on.
44 A. I have a good recollection of this meeting.
45
46 Q. It seems to be memorable to a few people, Mr Markwart.
47 A. That's what I put in my notes here prior to coming.

1
2 Q. So, the first evidence we had on this topic,
3 Mr Markwart, was from a Mr Barrett. At page 127 of the
4 transcript you'll see numbering on the left-hand side
5 there.

6 A. Yes.

7
8 Q. And at about line 45 in answer to a question from me
9 about the overall impression of meetings, whether they were
10 conducted efficiently or civilly, in particular the meeting
11 of 14 February was picked out; that's not given a year, but
12 do you accept that the meeting you chaired was in 2018?

13 A. I do indeed.

14
15 Q. And the witness said:

16
17 *... it was chaired by Councillor Markwart,*
18 *and he had a - well, he assumed the chair*
19 *position and he had the gavel, and he*
20 *said - I can't remember the exact words,*
21 *but he said, "I've got the gavel and I know*
22 *how to use it" and I thought that was an*
23 *inappropriate comment; words to that*
24 *effect, it'll be recorded in the papers*
25 *somewhere, but that to me was*
26 *inappropriate.*

27
28 The second evidence that we had on that topic was at
29 page 198 of the transcript. Pardon me while I just find
30 that, Mr Markwart. My version's lost 198 for the moment.

31 A. Would you like my piece of paper?

32
33 THE COMMISSIONER: I'll read the proposition onto the
34 record.

35
36 MR PARISH: Yes, thank you.

37
38 THE COMMISSIONER: It's at lines - well, it starts at
39 about line 9, but the ultimate passage of the evidence is
40 at page 198, line 22. The witness said:

41
42 *He picked up the gavel and held it up so we*
43 *can all see and he said, "I have the gavel*
44 *and I know how to use it".*

45
46 That's the passage, I think, Mr Parish?
47

1 MR PARISH: Yes.

2

3 Q. And then the next version - sorry, the next piece of
4 evidence, I should say, is at page 225, at the very bottom
5 there. We might be a bit cut off there, but at the bottom
6 do you recall:

7

8 Q. Do you recall Councillor Markwart
9 saying words to the effect of, "I have a
10 gavel and I know how to use it"?

11

12 A. Yes, and I'm just looking up my words.
13 "Threatened to use" --

14

15 Councillor Markwart as chair at the start
16 of the debate threatened to use the gavel.

17

18 And I said in my complaint to council:

19

20 Involving bullying, intimidation and ...

21

22 I've been cut off there, but I think you get the
23 point.

24 A. I understand.

25

26 Q. We have the audio of the interaction, we think, which
27 we can play now, Commissioner, if that's --

28

29 THE COMMISSIONER: Yes.

30

31 (Recording of Councillor Markwart played to inquiry):

32

33 So, we are the community's elected
34 representatives. I asked everyone here,
35 councillors and the audience, to respect
36 the councillors here and let them do their
37 work and make their decision.

38

39 To date I have never had to use the gavel,
40 I certainly hope I never will, but I do
41 know where it sits.

42

43 So, at this stage I'd like to basically
44 introduce this item and hand over the
45 councillors 12.1, Station Street Upgrade,
46 the project update. So, please ...

47

1 To the best of your recollection, was that the
2 incident that these people have recalled?

3 A. I'm pretty sure it is, yes.

4
5 Q. Did you mean anything threatening or intimidating by
6 those words?

7 A. No.

8
9 Q. Can you describe to me the tone of the meeting? As I
10 understand it, there were some 50 or so members of the
11 public inside; is that correct?

12 A. I believe that's correct, yes.

13
14 Q. Were they generally pro or anti-Station Street?

15 A. Generally anti the Station Street upgrade project,
16 yes.

17
18 Q. Can you describe to me, if you can recall, the tone of
19 that meeting at that stage?

20 A. The tone of the meeting, I thought, was reasonable,
21 certainly better than other meetings. I thought it went -
22 I was only in the chair for about 90 minutes, I believe,
23 that was the duration of the Station Street debate; after
24 that the chair went back to the mayor, I believe. The tone
25 of the meeting that I - sorry, the item I was addressing, I
26 think, was quite smooth. There were a couple of little -
27 little things, but they're normal in meetings. There were
28 a few mumbles from the crowd: normal. And maybe a little
29 bit of an interjection here or there when one of the
30 councillors I recall was seeking an extension of time to
31 speak on the issue, and there was a little bit of
32 argy-bargy between two councillors talking about wanting to
33 speak for a little longer.

34
35 The reason for my behaviour, if I can just go back a
36 little bit?

37
38 Q. Yes.

39 A. Was, I'd been to a few meetings by this time of course
40 and chaired a couple, and I had observed firsthand some
41 councillors basically not following Code of Conduct meeting
42 conduct, interrupting objections and such like. One or two
43 councillors would occasionally try to manage their gallery,
44 in terms of gaining support, noise and what have you, and I
45 wasn't prepared to have that happen in this meeting because
46 Station Street was too vital a project, or too important a
47 project to allow disruption to impact the work of the

1 councillors. The gallery, of course, is there to observe,
2 which is great, fantastic, more the merrier, but they are
3 not there to actively take part in the meeting per se, and
4 there had been occurrences in the past where councillors
5 had tried to encourage that, and I - as far as I was
6 concerned, that wasn't on.

7
8 You will notice I actually mentioned, whatever my
9 words were, I was addressing the gallery and the
10 councillors. The gallery performed - behaved quite well at
11 this meeting; a couple of councillors mucked up, but that's
12 normal.

13
14 Q. Appreciating that you can't look into the mind of at
15 least these witnesses in particular, do you have any
16 insight into why they had formed the view, at least, that
17 your reference to the gavel may have been threatening or
18 intimidating?

19 A. Some people in the anti-Station Street upgrade project
20 group were doing whatever they could and using anything
21 they could to make council or councillors look bad. I can
22 refer to a further incident which hasn't been tabled or
23 brought to people's attention in terms of evidence.

24
25 Q. Yes.

26 A. At the end of that item we had a 10 or five minute
27 break where people could leave the room if required. So, I
28 wandered down - down this end of the room, the gallery was
29 here, and one member of the audience said to me, "You can
30 wipe that smirk off your face, Councillor Markwart", in a
31 somewhat aggressive tone. Didn't concern me. That person
32 was Jan Wilson, of course, so I suggest she wasn't overly
33 frightened of me or intimidated by me with a mallet 20 feet
34 away; she certainly wasn't intimidated - she certainly
35 wasn't intimidated a metre away from it.

36
37 Q. Yes. We've had some evidence about what some
38 witnesses saw as unsatisfactory communications between the
39 governing body, the council and the community in respect of
40 the Station Street project. Do you have a view on that,
41 firstly?

42 A. I certainly do have a view. I believe council did
43 everything it could to provide adequate information to the
44 community. There were several public meetings arranged by
45 the community which many councillors attended, I certainly
46 attended one or two. There were public meetings arranged
47 by council, that was attended by various people interested

1 in the project. There was a shop front set up in Station
2 Street. There was an awful amount - so, a huge amount of
3 information put out there, but some people had it in their
4 mind they didn't want to go ahead with Station Street and
5 they would not - would not work or consider any other
6 option. I don't think any communication could have been
7 better done, possibly more effectively, but there was no
8 engagement by parts of the community in looking at that
9 data; they had just basically said, no.

10
11 Q. Do I take it from your evidence then that, no matter
12 how pristine your communication as councillors may have
13 been, it would never have satisfied certain parts of the
14 community in respect of the Station Street upgrade?

15 A. That's my belief, but I must point out, I don't think
16 all communication was - I can't remember the word used -
17 perfect.

18
19 Q. Thank you. Can I just distinguish here between the
20 governing body and individual councillors. Do you think,
21 not just in terms of communications, but at a high level
22 the governing body had some responsibility for the apparent
23 division in the community about the Station Street upgrade?

24 A. I think the answer is, yes, but I put a rider on that.
25 We had a couple of things happen during the Station Street
26 project timeframe that changed the tone. A couple of years
27 into the term the Station Street project was becoming more
28 controversial, but unfortunately some people - and I have
29 to say Alan Olsen was one of them - misrepresented council
30 quite substantially. There was photographic proof of
31 placards and things, which were simply false, and he fell
32 foul when that was identified.

33
34 But, in addition to that, we introduced video - what
35 do you call - video streaming of council meetings, so more
36 and more people became aware of, I'll say, factions or
37 friction on council or within councillors. That was one
38 factor. And the other factor was the growth of social
39 media and the use of sending out emails to hundreds of
40 people. I was on the mailing lists of some of these emails
41 and I can tell you some of the information contained in
42 there was totally false about Station Street.

43
44 There was an effective campaign using social media,
45 huge amounts of emails and public activism, which is all
46 fine, but it isn't the way to make an informed decision.
47 Social media, as we are all aware, is very much based on

1 opinion, not facts and information, it's not a place to
2 debate things. Unfortunately, over that latter two years
3 of the council term this expanded the - it attracted the
4 people who had a gripe against council.
5

6 So, from a core group of people who were really
7 concerned with Station Street, more and more was added and
8 the effect snowballed and it couldn't be stopped, and the
9 final straw for the whole project so far as I was concerned
10 for council was when two or three councillors - or one or
11 two - a couple of councillors began to actually stop
12 supporting the Station Street project and moved towards the
13 anti-Station Street approach for a couple of reasons: I
14 think they were looking to gain supporters as an election
15 was coming, and that basically as far as I was concerned
16 made the project untenable. So, it was a combination of
17 social media, live-streaming and an election coming up and
18 I just thought it, you know, just wasn't good.
19

20 Q. A few things come out of that. Firstly, can I ask
21 what the social media of choice was for these groups?

22 A. Facebook.
23

24 Q. Solely Facebook or?

25 A. I'm only aware of Facebook - sorry?
26

27 Q. They didn't enter Instagram or anything like that?

28 A. No, I only used Instagram and such like later on, but
29 Facebook I was very familiar with and people were suspended
30 off Facebook and there was attacks on council, their
31 Facebook site, comments were totally inappropriate, all
32 that sort of stuff, and there were comments, very
33 unpleasant comments. So, it was emails going from one
34 group to another, one community group to another basically
35 spreading - I believe, misinformation or bent information,
36 and of course the other community group pick it up, spread
37 that around, and I got several of those emails and when
38 that was occurring I tried to respond to a couple, I got
39 beaten up to a pulp and I basically removed myself from
40 those mailing lists.
41

42 Q. The second thing that came out of that previous
43 answer: you referred to the perhaps fractious nature of
44 some of the debates at council meeting about Station
45 Street. One of the things the Commissioner and I are going
46 to have to grapple with is where robust political debate
47 ends --

1 A. Yes.

2

3 Q. -- and wherein appropriate acts of disorder and
4 perhaps misconduct begin. In your view, how close to the
5 line did some of the behaviour of councillors come in
6 respect of Station Street specifically?

7 A. I believe it was crossed reasonably frequently. I
8 would personally draw the line, my personal way of doing it
9 would be to basically stand up if I was in the chair, at
10 which all debate should cease and should take control. But
11 each chairman has a different approach to that and I don't
12 think such a firm approach was taken in most other
13 instances.

14

15 Q. Ought different chairmen have different approaches to
16 that question of --

17 A. Yeah, everyone has a slightly different way of
18 managing meetings or handling issues, and that's
19 appropriate, it fits in with our own natural
20 characteristics or flavour. A bit like councillors, you
21 can debate things in different ways: you can actually be
22 very quiet and say very little, or you can rabbit on, which
23 I tend to do once I get going.

24

25 Q. That can be an effective way of shutting down debate
26 as well. Can I just take you to tender bundle A, volume 2.
27 Can I take you to the document at page 991, hopefully
28 that's the version you've got.

29 A. I have 991 in front of me, yes.

30

31 Q. Is that the Code of Meeting Practice adopted by
32 council, 12 June 2019 that you're looking at?

33 A. I believe so.

34

35 Q. Hopefully it says so on that first page, 991?

36 A. Yes, "Adopted by Council 12 June 2019".

37

38 Q. Page 1006. Do you see that?

39 A. Yes.

40

41 Q. You see at the top there, it refers to, "The
42 Chairperson"?

43 A. Yes.

44

45 Q. Do I take it from time to time you had a look at this
46 whenever you had to chair a meeting or perhaps just for
47 light reading?

1 A. Yes.
2
3 Q. Do you see down the bottom there it's got clause 7.9?
4 A. Yes.
5
6 Q. Have a read to yourself and I'll just read it out for
7 the transcript as well:
8
9 *Chairperson to have precedence.*
10
11 *When the chairperson rises or speaks during*
12 *the meeting of the council:*
13
14 *(a) any councillor then speaking or seeking*
15 *to speak must cease speaking and, if*
16 *standing, immediately resume their seat,*
17 *and*
18
19 *(b) every councillor present must be silent*
20 *to enable the chairperson to be heard*
21 *without interruption.*
22
23 A. Yes, I see that.
24
25 Q. Do you agree with the proposition that the technique
26 you described that you used of standing up --
27 A. I didn't actually use it, but I knew I could if
28 necessary.
29
30 Q. You knew you could, would be describing what would
31 properly be the procedure that should take place in respect
32 of clause 7.9?
33 A. I agree it's an appropriate procedure as 7.9, yes.
34
35 Q. Did you perceive that other persons who chaired
36 meetings from time to time properly used the powers
37 available to them under clause 7.9?
38 A. I would say not in all cases and I would say not all
39 councillors - councillors acted as they are required here.
40 I'd also make the comment, the same thing I observed in the
41 prior term of council, so it was in both terms of council.
42
43 Q. That being councillors not recognising the clause,
44 which I think was in a different place in the previous
45 version, that the chairperson had precedence when they
46 spoke or rose?
47 A. That's correct, I saw instances in both terms of

1 council where the chairman would rise, would stand, and a
2 councillor would continue to stand and argue with the
3 chairman.
4

5 Q. Do you have any insight as to whether that was due to
6 an ignorance of the Code of Meeting Practice or just a
7 wilful act to ignore it?

8 A. I believe it was not due to ignorance, I believe the
9 councillors who refused to sit down or did not sit down
10 knew they were breaking the terms of the meeting practice.
11

12 Q. Do you recall if you or anyone else ever brought a
13 point of order when that happened to draw to the chair's
14 attention an act of disorder?

15 A. I believe in several instances some councillors did
16 call a point of order, but I can't provide any specific
17 details. Calls for order would happen every few meetings.
18

19 Q. This is a question that the Commissioner might be
20 interested in in his report, but in your opinion was there
21 any obligation upon a behaving councillor to make a point
22 of order when there was an active disorder that they saw?
23 Perhaps the word I should use is positive obligation to
24 bring a point of order?

25 A. Can I ask, if someone calls point of order, does that
26 mean all other councillors should not call a point of
27 order, or should they all in sequence call a point of
28 order?
29

30 Q. Well, that is a fair question which may point to the
31 fact that there isn't an obligation because it would be
32 unwieldy.

33 A. Okay.
34

35 THE COMMISSIONER: Q. Well, is there an obligation of at
36 least someone, first in time, to take steps to draw to the
37 mayor or the chair's attention that there's an active
38 disorder and something should be done about it?

39 A. I believe a councillor should do that, a councillor;
40 I'm not sure if it's in the code of conduct as such.
41

42 Q. Yes. I don't think Counsel Assisting was suggesting
43 that seven councillors would seriatim raise the same point
44 of order, but as a participant in the meeting I take it you
45 agree at least with the general proposition that it's
46 incumbent on those participants to assist in maintaining
47 order at the meeting by using the procedures that are

1 available to do so?

2 A. Absolutely, councillor - sorry, Commissioner.

3

4 Q. That's all right.

5 A. I'd like to make one further nuance on that and give
6 an example, if I may?

7

8 Q. Yes.

9 A. In the first two years on council it was noticeable to
10 me that one councillor was being somewhat disrespectful to
11 council staff. This was a similar sort of occurrence as to
12 problems. I sent that councillor a message I think, an SMS
13 privately later on, basically advising that councillor,
14 unless he improved his behaviour, I would put in a Code of
15 Conduct complaint against him. He did improve for some
16 time until the mayoral elections reoccurred and then it
17 went back to normal.

18

19 I took that course of action because as a relatively
20 new councillor I felt, with experienced councillors around,
21 I was doing something a little different but I felt I had
22 to do something. And I guess this made me realise that I
23 believed the 2002 - sorry, 2012-2016 council term appeared
24 to have set the standard reasonably low, and when we came
25 to 2016 I think it lifted a little bit because we changed
26 some councillors, but it began to gradually fall again, and
27 I think the bar was set low in the previous council, this
28 council basically continued that direction. That was my
29 perception.

30

31 Q. That tells one something's going wrong, does it not?

32 A. Oh, absolutely. I think it was limited to a certain
33 number, but that is still something going wrong and it
34 affected the whole council.

35

36 Q. Well, if you have that bundle in front of you and turn
37 to page 994.

38 A. Yes.

39

40 Q. And there you should have, "Meeting Principles"; do
41 you have that?

42 A. Yes, I do.

43

44 Q. Just have a read of those and let me know when you've
45 done that.

46 A. I agree with those meeting principles.

47

1 Q. Good. But the fact that you're describing a low bar
2 that was continued across at least two terms, doesn't that
3 suggest that these meeting principles were not being met?
4 A. That's correct.
5
6 THE COMMISSIONER: Thank you.
7
8 MR PARISH: Q. I might just take you to the previous
9 version of Code of Meeting conduct which is in the same
10 bundle; that begins at page 932.
11 A. 932, I don't have page 932. I have 981.
12
13 THE COMMISSIONER: We may have the volume problem again.
14
15 MR PARISH: It seems like we do.
16
17 THE COMMISSIONER: While that's happening, Mr Parish, do
18 you have 932 in front of you?
19
20 MR PARISH: Yes.
21
22 THE COMMISSIONER: So I take it from the review history,
23 this was the version that would have been in existence when
24 Mr Markwart first became a councillor?
25
26 MR PARISH: Yes, it appears so.
27
28 THE COMMISSIONER: Yes.
29
30 MR PARISH: At least on the face of the document and that
31 was going to be one of my first questions.
32
33 THE COMMISSIONER: I see. Yes, thank you.
34
35 THE WITNESS: 932, "Code of Meeting Practice 1.7".
36
37 MR PARISH: Q. It appears, at least from the face of
38 document, that if you look at page 932 it says it's adopted
39 on 9 March 2005?
40 A. Correct.
41
42 Q. And there's various iterations and amendments right up
43 through to 8 July 2015?
44 A. Correct.
45
46 Q. Do you recall if this was the version that you were
47 probably working off at the commencement of your term?

1 A. I downloaded it from the web so it would have been the
2 current version.
3
4 Q. I think the version we'd previously taken you to was
5 then at page 991 adopted at a meeting on 12 June 2019?
6 A. Yes, and all councillors were given a hard copy of
7 that.
8
9 Q. In accordance, I think, with some changes to the Local
10 Government Act or a model code which had come out at that
11 point?
12 A. Yes, we were - there was some briefing session or a
13 meeting to explain the differences to us, yes.
14
15 Q. Thank you. Can I take you to page 938?
16 A. 938, yes.
17
18 Q. That seems to me, at least, and tell me if I'm
19 incorrect, to be an analogue of the principles which the
20 Commissioner just took you to in the more recent version?
21 A. That's correct, I agree.
22
23 Q. Bearing in mind that it's phrased slightly differently
24 under the, "Ethics" section, was that broadly speaking in
25 your view the same matters which ought to have guided the
26 general principles of the meeting?
27 A. Yes, I agree.
28
29 Q. And, same question as the Commissioner, do you think
30 those were adhered to in the 2012 and then the 2016 terms
31 generally?
32 A. The - all councillors?
33
34 Q. Yes.
35 A. All councillors did not.
36
37 Q. No.
38 A. Majority would have, I'd say, but ...
39
40 Q. I appreciate it's a broad question but we'll dig into
41 that soon.
42 A. No, that's fine.
43
44 Q. Thank you.
45
46 THE COMMISSIONER: Q. While you have - you may have just
47 closed it?

1 A. No, I've still got my thumb in there.

2
3 Q. If you go back to where your thumb is on page 938, I
4 appreciate this is in the Code of Meeting Practice, but do
5 you agree with the general proposition that these are
6 concepts which apply to councillors in general in their
7 role?

8 A. Yes.

9
10 THE COMMISSIONER: Thank you.

11
12 MR PARISH: Q. Thank you, Mr Markwart. I'm just going
13 to turn to some specific matters now. Can you give me your
14 impression about how Code of Conduct complaints were
15 processed?

16 A. Yes. I didn't put in a Code of Conduct complaint
17 during my term on council but I had some knowledge of how
18 other ones were being handled. So, a Code of Conduct
19 complaint basically went to the OLG and it had to meet and
20 provide certain information and what have you. The OLG
21 would then investigate that and come out of with a decision
22 or recommendation along those lines.

23
24 I understand councillors were not permitted or -
25 councillors were not permitted to discuss these things in
26 public or share them with other people, so my knowledge was
27 reasonably limited I think, but I was aware of certain Code
28 of Conduct complaints that were made.

29
30 Q. You've observed that there was a tendency for some
31 councillors to argue the case of members of the community
32 that he had formed some relationship with; is that in the
33 DA planning space specifically or was that on wider issues?
34 I think you might have given an example about Reekies
35 Tyres?

36 A. Yeah, I think they were DAs generally. I can't recall
37 anything that was not DA related or isn't closely related,
38 yeah.

39
40 Q. We've had now multiple pieces of evidence to this
41 inquiry about the perception that, at least in the DA and
42 planning space, some people received favourable treatment
43 because they could attach themselves to and receive the
44 lobbying power of certain councillors. Did you have a view
45 on, firstly, whether that happened and, secondly, whether
46 that was appropriate?

47 A. I believe there were attempts by certain relationships

1 between some community members and some councillors to
2 influence the DA process. I don't believe - to the best of
3 my knowledge I have no evidence or no perception that they
4 were successful, but I do know there were attempts, and
5 even in the meeting chambers occasionally, despite a known
6 relationship, a councillor would speak towards something
7 very strongly.

8
9 Q. Can I ask you about situations where there may not
10 have been a pre-existing relationship but a councillor has
11 taken up the cause of an issue; did you see that happen
12 from time to time in the DA space?

13 A. I can't speak with confidence because I didn't know
14 many people in the wider community in that sense, so the
15 relationships between some councillors and some of the
16 community I would hear maybe secondhand and I had to be a
17 little bit careful about that.

18
19 But, having said that, I've been helping out a lady
20 who's in her late 80s who lives in the same establishment
21 or same strata unit as some people in the community who had
22 certain relationships with councillors, and she explained
23 some of their discussions they occasionally had in relative
24 public, so I believe there's something there but I have no
25 direct information or no direct information of it.

26
27 Q. Do you agree with the perception of some in the
28 community that there was a sense of favourable treatment in
29 respect of the DA process?

30 A. Not in the execution of a DA process. I can
31 understand the perception. If a councillor says, "I'll see
32 what I can do", but achieves nothing, that perception
33 doesn't disappear. So, I saw no evidence - or I saw no
34 evidence that such things were occurring, but I could see
35 attempts of it.

36
37 Q. Can I ask you whether you accept as a general
38 proposition that the Code of Conduct made provision for
39 certain steps to be taken where there was a pecuniary
40 interest?

41 A. Yes.

42
43 Q. Do you accept the proposition that there were certain
44 steps to be taken in respect of non-pecuniary interests?

45 A. Yes.

46
47 Q. Do you recall if there was any question or grey area

1 about whether a councillor taking up the cause of someone's
2 DA was a non-pecuniary interest or not?

3 A. No, I can't recall such a discussion.

4
5 Q. Do you have a view as to whether, even if it did not
6 strictly fit within the notion of non-pecuniary interest in
7 the code of conduct, whether it was appropriate for a
8 councillor to sit and vote on a DA that they have taken up
9 the cause for from a ratepayer?

10 A. I personally believe it's inappropriate. I'm not
11 quite sure what the Code of Conduct states on that, but I
12 personally believe a councillor has to be squeaky clean and
13 should manage that perception very carefully.

14
15 Q. Do you agree that, if that perception does leak into
16 the community, that someone is able to find a councillor
17 and lobby them, that that can create a perception in the
18 community that that's favourable treatment?

19 A. I believe that is true and I believe that did happen.

20
21 Q. We've also had considerable evidence about the time it
22 took to get DAs through generally and also the way that
23 they were dealt with at council. There's been some
24 evidence that one of the advantages of the local planning
25 panel is to relieve council of those matters and allow them
26 to deal with higher level strategic stuff. Do you have a
27 view on whether at least that aspect of it has merit?

28 A. I do have a view on that.

29
30 Q. Yes.

31 A. Mr Nick Wilson provided evidence where he told of
32 where his department was required to improve the processing
33 speed of certain DAs, which he achieved, and that was all
34 done but that took a year to 18 months. I believe that was
35 a suitable repair of that issue. I personally believe a
36 local planning panel, it does remove a bit of the local
37 component or the local say, the local involvement in all of
38 this, but I can equally understand that when a compliant DA
39 comes to council and is knocked back on a regular basis,
40 the pain that must cause for developers.

41
42 So, to overcome this myself I adopted the broad
43 principle that, if a development came to council - to full
44 council, not just through the staff - if a development came
45 to full council and the developer had made some steps to
46 improve it along the lines of public amenity and such like
47 outside the LEP and DCP as discussed with council I would

1 generally approve that because simply, if I didn't, if it
2 went to court it would cost council money and we'd lose
3 anyway. Even if I didn't like the development, that's not
4 important, if it met the guidelines which are set by the
5 State Government and it's not my role to constantly object
6 to such developments.

7
8 But I think, again, occasionally councillors would
9 dislike a development for some reason and that would cause
10 it to be delayed or slowed causing developers some pain.

11
12 THE COMMISSIONER: Q. In part of your answer there you
13 referred to those occasions giving rise to the prospect of
14 challenge --

15 A. Yes.

16
17 Q. -- in the Land and Environment Court. What do you say
18 to the attitude where a position is taken to a DA which is
19 otherwise compliant, for whatever reason a view is formed
20 that it shouldn't be approved and we'll just let the Land
21 and Environment Court sort it out if the applicant wishes
22 to challenge it? Is that a proper performance of a
23 councillor's role in your view?

24 A. If it's frequently, I would say, no, but I can see an
25 occasion where it could be of some value. Council has to,
26 in my view - and this is only my view - has to escape the
27 fine line between approving DAs or opposing DAs to operate
28 in this gap here, and there is always a grey area. But if
29 it's too far one way, you get too many legal challenges; if
30 you get no legal challenges, council is again on the wrong
31 side. So, there should be some to test the waters and to
32 test that we're meeting the community expectations,
33 I believe, of where - or the type of development that's
34 being approved.

35
36 Q. Isn't there a way that the governing body can
37 influence development in the shire at a higher level?

38 A. Absolutely.

39
40 Q. And is it sound civic management, including financial
41 management, to run the gauntlet, as it were, that an
42 applicant --

43 A. No, no.

44
45 Q. -- would have to take on the council?

46 A. No, that's --
47

1 Q. At cost to the applicant and the council?
2 A. No, it's not a wise course of action, but I do
3 believe --
4
5 Q. Whether or not it's wise, what I'm really driving at,
6 is it in your view consistent with the obligations of a
7 governing body?
8 A. Yeah, I guess I'd say no, but there will be occasions,
9 I believe, where it is appropriate.
10
11 Q. I understand there may be --
12 A. Minor things, infringements.
13
14 Q. I understand the distinction you seek to draw, I
15 suppose I'm exploring it with you at a general level on the
16 understanding that things may not be so cut and dry all the
17 time. Is that the qualification you would seek to place on
18 that?
19 A. Yes, if I could refer to DCP, the control plans,
20 district control plans, I believe this shire has possibly
21 one of the most complex and numerous set of DCPs around.
22 So, some aspects of the DCP apply different rules for
23 Bowral to Moss Vale, yet they're both towns; so, parking
24 requirements for businesses may be different. This must be
25 extremely difficult for developers - I understand that, but
26 again, overall it's kept the Southern Highlands more or
27 less as it is. So, it's a matter of meeting the community
28 expectations and development obligations, and that's a
29 difficult balance.
30
31 Q. Yes, and it's at that level where the governing body
32 should, should it not, target its attention rather than
33 seeking to strike that balance in --
34 A. Individual?
35
36 Q. -- managing individual DAs that might otherwise
37 comply; do you agree with that?
38 A. I wholeheartedly agree with that.
39
40 THE COMMISSIONER: Yes, thank you.
41
42 MR PARISH: Q. You referred just then to the complexity
43 of the DCP --
44 A. Yes.
45
46 Q. -- and the community expectations and keeping the
47 Southern Highlands as it is. Was it your impression that

1 that's what the community wanted, to keep the Southern
2 Highlands as it is?

3 A. Oh, this is interesting, because there's a huge number
4 of almost distinct types of demographics in the Southern
5 Highlands. There are the people who lived here 50 years
6 ago and went to Robertson Public School in 1961. There are
7 people new to the shire, there are businesses who see
8 growth opportunities here, there are a huge number of
9 disparaged community or business groups all fighting for
10 their own requirements or expectations and I think that is
11 a major challenge of council in here. I think it differs
12 from many other councils which actually have a more
13 homogenous type of population.

14
15 We have four towns - three or four depending if you
16 include Bundanoon - a dozen villages, we have businesses
17 offering wedding venues in farmland places, we have farms,
18 we have the rural site, we have water conservation areas
19 and they all have conflicting requirements, and this is not
20 easy to manage. There's no way I believe any council could
21 get 90 per cent of the community behind almost anything,
22 it's just - and to make matters worse, the number of
23 councillors went down from 12 to nine some years ago, and
24 nine councillors to get a substantial majority vote - say
25 6:3 - is much harder than to get a majority vote in a 12
26 councillor arrangement.

27
28 And, this is totally not part of this per se, but I
29 personally would like to see something like, not a majority
30 vote, I'd like to see a 75 per cent vote to get something
31 through. It would then take away this 5:4 where half the
32 population or half the councillors are against and half are
33 for; something like 75 per cent to get something forward
34 would show overwhelming support, but that's not practical,
35 that's my personal feel on voting.

36
37 Q. Isn't one of the statutory obligations of councillors
38 to uphold and represent accurately the policies and the
39 decisions of the governing body?

40 A. Yes, it is.

41
42 Q. I.e., even if it's a 5:4 vote --

43 A. Yes.

44
45 Q. -- those four councillors who may have been on the
46 wrong side of it still have an obligation to at least
47 represent accurately and uphold that decision?

1 A. Yes, it is.

2

3 Q. Do you think that was done during the 2016-2020 term
4 in general?

5 A. Not in all cases.

6

7 Q. Thank you. Another thing that you said there was the
8 complex interests and the divergence of some groups. The
9 very first witness we had in this inquiry observed a time
10 of some productiveness between his Chamber of Commerce
11 group and a Berrima conservation group which had differing
12 goals and interests, but in that particular case because
13 the strategic plan that they'd been dealing with was
14 sufficient they could agree to disagree because the
15 parameters were clear and they understood why the outcome
16 had happened. From your previous answer do you think the
17 strategic plans and the planning instruments in this
18 council are fit for purpose?

19 A. My answer is, yes. I can refer to that specific issue
20 you've just raised or example. When relatively new people
21 came to the shire with different ideas they, for want of a
22 better word, lobbied council and put their ideas forward
23 and that, I guess, rocked the current situation a little
24 bit, and that was part of the reason why those comments
25 were made, I believe. There were other people who had
26 different ideas, both in business, both looking for
27 commercial benefit, I guess, you know for the shire, which
28 is all good, but they came at it from a different angle.
29 That's my view.

30

31 Q. I'm interested, though, in the observation of that
32 first witness that it was the well set out clear planning
33 instrument or strategic plan in that case which defused the
34 tensions between competing interests in that case?

35 A. Some of the competing interests haven't been in the
36 shire for more than some months at that stage.

37

38 THE COMMISSIONER: Q. Sorry, I'm not understanding. Is
39 there a problem? Someone comes to the shire and wants to
40 build a business and wants to do something in a different
41 way, are you suggesting there's a problem with that, I'm
42 just not picking up --

43 A. Well, possibly to the witness --

44

45 Q. Well, forget about what was in the witness's mind.
46 Your observation, I'm just not sure I follow this passage
47 of evidence.

1 A. Sorry.

2

3 Q. No, no, it may be my fault entirely. I take it,
4 there's no problem with people coming to the shire wanting
5 to build a business and seeking to do things in a different
6 way; do you agree with that?

7 A. I agree.

8

9 Q. And, if that means they have to engage with council,
10 then so be it?

11 A. I agree.

12

13 Q. Is the point that you make, that that can cause some
14 disquiet amongst people from time to time because it's not
15 the way it has been done?

16 A. Correct.

17

18 THE COMMISSIONER: Yes, all right. I'll let Mr Parish
19 explore it with you if he wishes.

20

21 MR PARISH: Q. The observation of that first witness I
22 was interested in was that he had thought it was a positive
23 experience, he wasn't expressing dissatisfaction; that had
24 been borne out partly, at least, because of the existence
25 of a clear strategic planning document from the council,
26 and I'm just interested in your view about whether the
27 divergent interests and differing demographics that you
28 were talking about, the difficulty in managing those
29 interests would be eased with perhaps better strategic
30 planning instruments?

31 A. It wasn't an area that I was really focused on in
32 terms of business development and what have you. Clearly
33 it has to be flexible and plans have to change. I don't
34 really have any - I can't really comment on it.

35

36 Q. Thank you.

37

38 MR PARISH: I see the time, Commissioner, I was actually
39 going to move to a slightly different topic and I think I'm
40 not going to finish with Mr Markwart in the next 10
41 minutes, so if that would be a convenient time?

42

43 THE COMMISSIONER: This is not an indication one way or
44 the other when you should finish, but how much longer do
45 you think you have with Mr Markwart?

46

47 MR PARISH: Possibly half an hour.

1
2 THE COMMISSIONER: All right. So, perhaps I just take
3 10 minutes?

4
5 MR PARISH: Yes.

6
7 THE COMMISSIONER: Yes.

8
9 Q. Mr Markwart, just having a mid-morning break to
10 stretch our legs and recharge ourselves, so if you'd be
11 kind enough to be ready to resume at about 11.30?

12 A. Thank you, Commissioner, I will.

13
14 THE COMMISSIONER: Thank you, we'll adjourn for
15 10 minutes.

16
17 **SHORT ADJOURNMENT**

18
19 THE COMMISSIONER: Yes, thank you. Mr Parish.

20
21 MR PARISH: Thank you, Commissioner.

22
23 Q. Mr Markwart, you've provided some recollections
24 specifically in reference to Term of Reference 2 about
25 improper interference by the elected body of council,
26 individual councillors in operational matters. Can you
27 tell the Commissioner of any specific events or
28 recollections you have of instances where, in your view,
29 there was improper interference?

30 A. In operational matters?

31
32 Q. Yes. Do you recall a specific instance in which a
33 councillor sought to have Mr Barry Paull removed from
34 office?

35 A. I recall being advised by another councillor that that
36 was one of the first things he wanted to achieve in his
37 term on council. There were various views expressed on
38 this and other - referring to other senior council
39 employees as well to me by various other councillors. Are
40 you talking within council and within council meetings or
41 just?

42
43 Q. No, I'm talking - I'll start with outside council
44 meetings.

45 A. I can't recall any specific instances where a
46 councillor stood or spoke and said, "This person should be
47 removed from office". I can't recall any specific

1 instances of that.

2

3 Q. What about in council meetings? Do you recall --

4 A. In briefing sessions, yes.

5

6 Q. Yes, in either briefing sessions or council meetings?

7 A. In briefing sessions such things were - I believe such
8 things were said.

9

10 THE COMMISSIONER: Q. When you say you "believe", does
11 that tell me that you don't recall one way or the other?

12 A. I have to say, yes. I can't recall the incidents.

13

14 Q. Thank you.

15 A. But I do recall instances of councillors saying
16 certain legal advisers of council should be removed or
17 replaced.

18

19 MR PARISH: Q. And, after about two years of the term,
20 you saw one particular councillor become increasingly
21 antagonistic towards senior staff; do you recall that?

22 A. Yes, I do.

23

24 Q. Can you give us the examples which led you to make
25 that observation?

26 A. Examples. Well, one example of, I guess, rather
27 extreme behaviour was, after a - I think it was a briefing
28 session - there was some thundering up these stairs here.
29 One councillor, the councillor concerned, ran up the
30 stairs, hammered on the general manager's door, demanded to
31 be let in and interrupted a meeting with the general
32 manager and the DGM to talk about an issue where he was
33 offended at some action or other. That was clearly
34 inappropriate action. Is that the sort of example you're
35 looking for or?

36

37 Q. Yes. Which councillor did that?

38 A. That was Councillor Turland.

39

40 Q. Did you think that was appropriate behaviour?

41 A. No, definitely not.

42

43 Q. Did that same councillor send emails to senior staff
44 from time to time?

45 A. More often than time to time, yes.

46

47 Q. Can you give some examples of the sort of things that

1 were being communicated?

2 A. They were accusatory emails - well, questions combined
3 with accusatory emails, "Why didn't you do this?", and such
4 like. He also included on some of those, he included
5 councillors in on some of those emails, and after some
6 weeks of reading these or receiving these as a copy receipt
7 I communicated with that councillor, and another councillor
8 who was doing something similar, requested that they stop
9 including me in those emails or I would send all those
10 emails to my junk mailbox. That was ignored and after a
11 month or two all their emails were basically going to my
12 junk mailbox and I never looked at them again.

13
14 Q. Did you think that that was an appropriate way to
15 communicate either with staff or indeed with other
16 councillors?

17 A. Totally inappropriate.

18
19 Q. Did you in the end take any steps to make any
20 complaint about that behaviour?

21 A. I discussed that with the mayor and the general
22 manager, and they indicated that there were Code of Conduct
23 complaints in progress to try and address this, so based on
24 that I said, "Do you want me to sign them or something like
25 that?" And the answer was basically in the negative. They
26 felt they had taken the right steps, and so, I saw there
27 was no need for me to duplicate the same thing.

28
29 Q. Did you see other similar behaviour from this
30 councillor or other councillors towards members of staff
31 that might be considered confrontationist or argumentative?

32 A. Yes.

33
34 Q. Can you give any other examples off the top of your
35 head of that sort of behaviour?

36 A. I think at Station Street we were talking about it in
37 the briefing session, not a council meeting but a briefing
38 session, and there was some talk of the traffic data, and
39 one councillor refused to accept from the deputy general
40 manager that the traffic data had this conclusion. He
41 insisted on the engineer who prepared the traffic data be
42 present and say in front of him, "Yes, this is the data",
43 or words to that effect, and I found that personally
44 extremely disrespectful to the deputy general manager,
45 downright insulting basically, that he would only accept
46 information from an engineer because he himself describes
47 himself as an engineer.

1
2 Q. In your view, would such behaviour have fallen foul of
3 the Code of Conduct?
4 A. Yes, absolutely.
5
6 Q. In your view, do you think the councillor acting in
7 that way did so in ignorance of the relevant Code of
8 Conduct provisions or wilfully ignoring it?
9 A. Absolutely not. I don't think they wilfully ignored
10 all these instances, I do believe there were steps in
11 progress to progress this, but I think the response from
12 the OLG was somewhat disappointing, in my view, because I
13 understood there were certain complaints made and the
14 response tended not to be very effective or they were
15 dismissed.
16
17 THE COMMISSIONER: Q. When you say you understand these
18 things about the response, are they things that you saw or
19 these are things you've been told about by others?
20 A. I've basically been told about it afterwards because
21 as a councillor I'm not allowed to sort of interfere with
22 someone else's Code of Conduct, I understand.
23
24 Q. No, I'm not suggesting you would.
25 A. No, no.
26
27 THE COMMISSIONER: I'm just trying to understand why you
28 prefaced your answers in that way. Thank you.
29
30 MR PARISH: Q. I was seeking your impression of whether
31 the wilful ignoring of the Code of Conduct was by the
32 councillor in the behaviour rather than the OLG. Do you
33 have a view or impression of whether they didn't know that
34 what they were doing was wrong?
35 A. They knew, they knew. But for the purpose of
36 achieving what they wanted to achieve and in the
37 latter years it was more about making the whole of council
38 look bad and they appeared to be willing to accept the
39 criticism from other councillors that they were breaking
40 the Code of Conduct.
41
42 Q. Thank you. There seems to be a view at least from
43 some councillors, and you can tell me whether you're
44 included in this, that the dissatisfaction with council was
45 from a noisy minority. Do you subscribe to that view?
46 A. I would subscribe to that view in the early term of
47 2016-2021 or 20, but later on, as I explained when meetings

1 were video streamed, and, I guess, the social media aspect
2 got rolling, that view grew within the community to be
3 sizeable. Now, I can't give you any numbers, but I knew
4 there were email lists going out to the order of several
5 hundred people stating this about council. And, of course,
6 the local media also reported on this in various angles and
7 views, so I believe it grew over the years.

8
9 Q. Can I just show you tender bundle B. Can I take you
10 to page 485.

11 A. It's not printed, is that --

12
13 Q. Yes, it's hard to read on some of these pages.

14 A. 483; is it after the Small Business Commissioner
15 report or?

16
17 Q. Yes, it is. You're in the right spot.

18 A. Okay.

19
20 Q. After that report, if you go to the page after the
21 last page of the small business report, it goes to
22 landscape and the numbers might be in a slightly different
23 spot.

24 A. 498. Okay, yes. 588. 500. Yes, sorry, 485, found
25 it, thank you.

26
27 Q. Thank you, and hopefully you have the Wingecarribee
28 Shire Council Community Research?

29 A. Yes.

30
31 Q. And I appreciate that this postdates your time on
32 council.

33 A. I have read it.

34
35 Q. Yes. Were these community research reports something
36 which was required by council or the governing body to --

37 A. I believe so. They're produced every two years, I
38 think from memory.

39
40 Q. Yes. Yes, quite. Can I take you to page 15 of the
41 report. It might be easier to use the report page numbers
42 here because we lose some.

43 A. Yes.

44
45 Q. Do you see the, "Overall Satisfaction" heading at the
46 top there?

47 A. Yep.

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Q. Do you see the comparison of the various years from 2010-2021?

A. Yes, I do.

Q. Do you see that, in 2015, it's at 82 per cent and then at 2021 it's at 65 per cent?

A. Yes.

Q. Do you have any insights or views into what that says about the community's satisfaction of the 2016-2020 term?

A. I believe it's consistent with my view that there was increasing dissatisfaction of council, mainly in my view due to Station Street which over the first couple of years drew more and more people with dissatisfaction to council to join that community who basically said council isn't performing well, and I think that simply reflects that.

THE COMMISSIONER: Q. Sorry, you equate the 17 per cent drop in satisfaction between 15 and 21 solely to Station Street; is that what you're saying?

A. Station Street was, I believe, the core that drew many other people, issues, whatever you like to call it together. It was the rallying point. That's my perception and understanding, combined with social media and video streaming meetings.

Q. You've mentioned social media and video streaming of meetings, I'm just not sure I understand quite what you're driving at there. So, video streaming of meetings gets them out to the public; I take it, that's not a bad thing?

A. Oh, no. Councillor Scandrett and I were the ardent supporters for video streaming, absolutely, it is a good thing.

Q. I won't venture this, but I have somewhere in the back of my mind that it's compulsory now, but I might be wrong about that?

A. I believe you're correct.

Q. And what is it about social media that drove this?

A. The video streaming showed more people poor interaction between councillors, so it's more visible, and the social media was a way to amplify and spread the opinion of a relatively small group of problems within council, the issues with Station Street, and any other council issues as a way of spreading the message.

1
2 Q. So, do I understand that you're of the view that the
3 drop from 82 to 65 in that six-year period is driven by a
4 small group within the community?

5 A. Not - it wasn't a small group by 2015, but it was a
6 small group that was the catalyst and they - their view was
7 adopted by a larger and larger section of the community.
8 Does that make sense, I'm sorry?
9

10 Q. It's just that I sense from the way you're answering
11 these questions that you perceive there to be some problem
12 with that, and I'm just not sure I understand that I'm
13 grasping what you're trying to convey correctly, I may have
14 the wrong end of it.

15 A. I'm basically saying, social media, Facebook
16 especially, is very efficient in spreading bad news; it is
17 very ineffective in giving a good story. It polarises
18 people, it's just not a medium that is effective to debate
19 things; it is a medium for getting strong opinions out
20 there that polarises markets, communities. So, this is not
21 a reflection on the community per se, it's just a
22 reflection on how social media works.
23

24 I've been using social media for a little while now in
25 various other - I work - I belong to another couple
26 community groups and I use the same technique to get the
27 message out to a larger proportion of people.
28

29 Q. Yes.

30 A. This is not a good result and one could argue that
31 council should have managed this better.
32

33 Q. Would you go further than that to say that that's part
34 of the core function of council and the governing body, is
35 to manage its relationship with the community?

36 A. The answer to that is, yes.
37

38 THE COMMISSIONER: Thank you.
39

40 MR PARISH: Q. Facebook launched in 2004. The first of
41 these is 2010 where we have a satisfaction rating of
42 85 per cent. Are you saying something changed in the way
43 residents of the shire used social media after a certain
44 period of time?

45 A. Yes. Look, I don't really know, I don't have hard
46 data on this, it's just, my perception is --
47

1 Q. I'm only asking your perception, yes.
2 A. That's fine. I mean, I belong to a couple of
3 community groups, we got funding for the Bowral Hospital
4 and such like, I belong to the Greens, so I'm aware of the
5 use of social media. The demographic of this shire is
6 not - is somewhat elderly compared - I mean, I'm not young
7 either, and I guess maybe it's a little slower than others
8 to pick up on the use of these. But my view is, the use of
9 social media on the Station Street campaign was very
10 effective for that group and is something that we hadn't
11 seen in the shire previously. It generally was hand out
12 bits of paper, market things, you know, meetings, but to
13 get thousands of emails and thousands of Facebook messages
14 out there on a regular basis is pretty powerful stuff.
15

16 And I recall speaking to individuals in the shire
17 about Station Street and we'd have a bit of a chat about it
18 over 10 or 15 minutes, and they'd say, "Oh, that sounds
19 reasonable", but that does not compete against Facebook
20 that has thousands of things going out every day, or can
21 have thousands of things going out every day.
22

23 Q. Does it follow from your view in that answer that the
24 next survey is going to see an up-tick in community
25 satisfaction following the cancelling of the Station Street
26 project?

27 A. I'm not quite sure of the timing of the next survey,
28 but if it was held in the next month or two I believe that
29 probably would be the case, but it would be tempered by the
30 fact that there is a proposed rate increase and such like
31 under the new administrator which may have some impact on
32 it, but I would expect no further fall in those figures and
33 a slight increase, but I'm not a - you know, I'm not a
34 marketing expert on this, it's just my perception.
35

36 Q. You do observe, though, that the community view of the
37 council has plummeted since the appointment of the interim
38 administrator; that doesn't seem to quite follow from your
39 observations about Station Street just now; do you agree
40 with that?

41 A. Shall I point out, I've been active on Facebook
42 speaking against the administrator's appointment?
43

44 Q. It's evidence you can give if you wish to.

45 A. I guess I just have. I'm just saying there is a
46 division within the community about the appointment of an
47 administrator and there is various people and various

1 groups active saying one or the other.

2

3 Q. I might move on there, conscious that the behaviour of
4 the administrator is not within the terms of reference, but
5 it does bring us to another topic and I might just show you
6 one of the exhibits, I think it's Exhibit O. Can I take
7 you to the last two pages.

8 A. Yes.

9

10 Q. That's a press release, is it? It's headed, "Sacking
11 was political, say councillors"?

12 A. Yeah, press release, media statement, yep.

13

14 Q. If you just flick over the page, you're one of the
15 contacts for that?

16 A. That's correct.

17

18 Q. And hopefully on your version your phone number is
19 redacted as well?

20 A. Beg your pardon, sorry?

21

22 Q. Hopefully on your version your phone number is
23 redacted as well?

24 A. Oh, I hadn't checked. No, it's not.

25

26 THE COMMISSIONER: I think Mr Broad may have provided the
27 witness with the original. I have a copy of the other
28 version and all has been --

29

30 MR PARISH: I think the version on mine has the phone
31 number redacted, thank you.

32

33 THE COMMISSIONER: -- redacted.

34

35 THE WITNESS: My home phone number is in the phone back,
36 so a contact number is public information, so it's not a
37 problem, thank you.

38

39 THE COMMISSIONER: Q. We've taken the precaution for
40 anybody's private details --

41 A. I appreciate that.

42

43 Q. -- to not pass them over the internet, so that's just
44 been done as a matter of course.

45

46 MR PARISH: Q. Whose idea was this press release?

47 A. Oh, I don't know. I got a call saying, "Do you want

1 to come to have a talk about things", I guess; I don't even
2 know if it's - yeah, and that discussion, it was decided -
3 and I don't know - anyway, it was decided to prepare a
4 press release.

5
6 Q. Who was the call from?

7 A. Mr Gair.

8
9 Q. When was the call?

10 A. A week or 10 days before the press release, or maybe
11 two weeks, no earlier than that.

12
13 Q. Somewhere around mid-March this year; is that right?

14 A. Yeah, something of that timeframe.

15
16 Q. Did Mr Gair explain why he wanted to issue a press
17 release?

18 A. I'm not sure he was that keen, actually.

19
20 Q. Well, he was the person who rang you; is that correct?

21 A. He rang to invite me to a meeting.

22
23 Q. And, who was at that meeting?

24 A. Well, the five ex-councillors shown here, plus one
25 other.

26
27 Q. And, was one of the things discussed at that meeting
28 the idea of issuing a press release?

29 A. Oh, yes, yes.

30
31 Q. Do you recall whose idea it was in that meeting to
32 issue this press release?

33 A. No, I don't.

34
35 Q. Do you recall the purpose of this press release?

36 A. The purpose? That was very interesting because - an
37 interesting question, because that was the question I
38 asked, "What is the purpose of the press release?" There
39 were two possible answers and I don't - I do not believe
40 there was a clear decision on this, but there were two
41 things I could see that could have been the reason for the
42 press release: one was to try and explain why councillors
43 were dismissed and recover their reputation a little bit -
44 that was one possibility. And the other was - well, that
45 was my - that was - I was actually saying, I'm not sure, I
46 said basically words to the effect that, "I'm not concerned
47 about my reputation in the shire, I'm not running again",

1 et cetera, et cetera, so I wasn't quite sure of that, but I
2 did say and I remember this, this was an email exchange
3 post the meeting, saying, "I'm happy to go with it even if
4 I don't think it's going to make any difference to one's
5 reputation".

6
7 Q. Were you involved in the preparation of the content of
8 this press release?

9 A. Oh, I saw the draft and made - I think I made some
10 suggestions.

11
12 Q. Was this press release the product of each of the five
13 suspended councillors or four suspended councillors and you
14 contributing to it?

15 A. Through a draft process, but I - I don't know where
16 the first draft came from per se.

17
18 Q. And the press release was then issued on the third day
19 of this inquiry, March 30, 2022; is that right?

20 A. That's correct, and I sent a copy to a Facebook site,
21 a local Facebook site.

22
23 Q. Do you recall whether there was any discussion amongst
24 the five of you as to when this would be released?

25 A. Yes. I think it states, "Embargoed till Wednesday".

26
27 Q. Yes.

28 A. But I think it was supplied - I think, I didn't
29 actually distribute it, I think it was supplied to some
30 media outlets before that date with the embargo in place.

31
32 Q. Do you know why then? Why not three weeks ago, why
33 not two weeks ago? Why on the third day of the inquiry?

34 A. Well, three weeks ago no-one suggested it. I don't
35 think - I don't perceive that it was a deliberate attack on
36 the Commission or the inquiry as such, if that's what is
37 being considered, but yes, the timing was about that time,
38 yes.

39
40 Q. If it wasn't a deliberate attack on the inquiry, was
41 it a deliberate attack on the Minister who will receive the
42 report into the inquiry?

43 A. The current Minister or the previous Minister, sorry?

44
45 Q. The current Minister?

46 A. Well, it's critical of the current Minister, I must
47 admit that. I'm not sure about the word "attack".

1
2 Q. The word "attack" was the word you used originally,
3 but I'll put it a different way. Was it calculated to
4 undermine the current Minister who would receive the report
5 from this inquiry?
6 A. I don't think the word "undermine" is what I would
7 use; I would say it's to point out some inconsistencies
8 perhaps, and perhaps the connection between the current
9 Minister and her previous role in which she had a major say
10 in the dismissal of council, I think to make that
11 connection there --
12
13 Q. And what was the purpose --
14
15 THE COMMISSIONER: Q. Council hasn't been dismissed.
16 A. Sorry?
17
18 Q. Council hasn't been dismissed?
19 A. Suspended, I'm sorry.
20
21 MR PARISH: Q. What was the purpose in pointing out that
22 connection, to your understanding?
23 A. I can read into what the purpose is, but I don't - I
24 certainly - anyway, I didn't - I commented on the draft but
25 I didn't word it, but it would appear to me the purpose is
26 to basically point out the fact that there may be some
27 conflict of interest in having a person who actually
28 recommended the suspension of council to actually reviewing
29 any further recommendations impacting this council.
30
31 Q. To take that to its logical conclusion, therefore, was
32 the purpose to ensure that the Minister who would receive
33 the report that comes out of this inquiry was in some way
34 compromised or undermined?
35 A. I don't know about compromised or undermined, but
36 certainly a question I believe needed to be asked.
37
38 Q. Was the purpose to compromise or undermine the interim
39 administrator?
40 A. The suspension really wasn't his decision, so I don't
41 believe so.
42
43 Q. Well, there are criticisms of the interim
44 administrator in this press release; do you agree with
45 that?
46 A. Oh, yes, yes - well, at least on his performance.
47

1 Q. Yes, and there's a quote about two-thirds of the way
2 down referring to the loss of the council for the first
3 time in 26 years; do you see that?

4 A. Yes, yes.

5
6 Q. Did you review this in its final form before it was
7 sent to various media outlets?

8 A. I believe so. I haven't checked word-for-word but I
9 believe so.

10

11 Q. Did you fact-check or ensure that you're happy with
12 the factual content of this before it went out?

13 A. The contents were consistent with my understanding on
14 all these issues, yes, that I built up over or constructed
15 over the last several months.

16

17 Q. Just on that second page, it refers to quotations:

18

19 *The inquiry needs to examine whether the*
20 *Administrator has breached the Code of*
21 *Conduct on numerous occasions, particularly*
22 *regarding his involvement in staff*
23 *operational matters, and the major*
24 *decisions made behind closed doors without*
25 *accountability or transparency.*

26

27 Which is a quote ascribed to Mr Gair, I think. Do you
28 understand that that is something within the terms of this
29 inquiry?

30 A. I believe it should be and could be under the - I
31 think it's point - the fourth point in the terms of this
32 inquiry, which I would have to look up.

33

34 Q. That's okay. It's the more general of the four terms.

35 A. Yes.

36

37 Q. And you think that, in your view at least, that would
38 cover the behaviour of the administrator post the
39 suspension of the council?

40 A. I believe so.

41

42 Q. Just going back to that first page down the bottom,
43 the very last paragraph - sorry, very last two sentences.
44 The paragraph is a bit difficult to understand in this
45 press release. Last two sentences:

46

47 *The plethora of external reports he*

1 *commissioned [being Mr May] found*
2 *relatively insubstantial issues and no*
3 *smoking gun to justify the suspension of*
4 *the council.*

5
6 Is that your view?

7 A. Based on the reports I've read, I believe so.

8
9 Q. Which of the reports have you read?

10 A. I think there's about - is there about a dozen on the
11 website? I must admit, I haven't read them all, but I have
12 read the financial report, the Finch report, ones from the
13 bushfire inquiry. I'd have to look through the list to see
14 which ones I've read.

15
16 Q. And that reference to a "smoking gun" referred to, do
17 you understand that that was the purpose of this inquiry,
18 to find smoking guns?

19 A. No, I don't believe that's the purpose of this
20 inquiry. My personal view is, the inquiry - I don't know
21 if this is appropriate, I think it's been very well run,
22 et cetera. The recommendation to come out, as far as I'm
23 concerned, the issue will be that the person reviewing
24 those recommendations basically is the person who - or a
25 person who had a major influence on suspending the council.

26
27 THE COMMISSIONER: Q. I'm not sure that was Counsel
28 Assisting's question.

29 A. I'm sorry.

30
31 THE COMMISSIONER: Perhaps just focus on the question
32 that's being asked.

33
34 MR PARISH: Q. The question I asked was, did you think
35 it was the purpose of this inquiry to find smoking guns to
36 justify the suspension of the council?

37 A. No.

38
39 Q. So, at least in that particular compound sentence, you
40 disagree with Mr Gair? Sorry, I'll put it a different way.
41 I'll withdraw that question.

42
43 Do you think what Mr Gair is saying there, is that the
44 purpose of this inquiry is to find a smoking gun to justify
45 the suspension of the council?

46 A. I can't speak for Mr Gair, I don't know what he's
47 thinking here.

1
2 THE COMMISSIONER: Q. Sorry, you put your name to this,
3 did you not?
4 A. Yes, yes.
5
6 Q. So, when you read that, did you understand what he was
7 saying?
8 A.
9 *The plethora of external reports he*
10 *commissioned ... no smoking gun to*
11 *justify ...*
12
13 The reports were the smoking gun, is my
14 interpretation - or sorry, the reports were looking - the
15 reports were acting as a gun, which isn't smoking in my
16 view. It's not the press release by --
17
18 MR PARISH: Oh, I see what you --
19
20 THE WITNESS: It is the reports that are looking to
21 identify. My understanding interpreting this is, Mr May
22 commissioned a series of reports which sought to find
23 supporting his view of council.
24
25 THE COMMISSIONER: Q. Sorry, you think that the reports
26 were commissioned --
27 A. Yes.
28
29 Q. -- as an ex post facto justification for action taken
30 by the Minister before his appointment? Is that what
31 you're saying?
32 A. I guess - I guess that's probably correct.
33
34 Q. On what basis do you put that proposition?
35 A. Okay. Council had at least two Code of Conduct
36 complaints into the OLG before it was suspended. They were
37 basically stopped and halted and they were found out or
38 identified problems within council. I personally find it
39 difficult to understand why the administrator, and
40 I believe - I may not be (indistinct) quite right - but he
41 halted those two OLG Code of Conduct complaints and instead
42 replaced them with his own series of reports. I guess I
43 have an issue with that. Is that - I'm not quite sure
44 that's --
45
46 THE COMMISSIONER: Yes, that's your answer. Yes,
47 Mr Parish.

1
2 THE WITNESS: Sorry, do you want to rephrase the question?
3

4 MR PARISH: Q. No, no, thank you, you've answered at
5 least to your understanding. There's a reference, in about
6 10 sentences up from the bottom, again a quote ascribed to
7 Mr Gair:
8

9 *Council is now struggling to deliver*
10 *services with the loss of hundreds of years*
11 *of expertise ...*
12

13 Do you know what services he is talking about there
14 that are struggling to be delivered?

15 A. I don't know what he is referring to specifically, but
16 I do know that in the financial area there's been some -
17 well, the financial performance is not what it used to be.
18 There's problems getting staff to --
19

20 THE COMMISSIONER: Q. What does that mean? What does
21 that mean, "Financial performance isn't what it used to
22 be"?

23 A. Okay. Council is assessed financially by a set of
24 benchmarks or dashboard-type reports every year by the
25 Auditor-General and what have you. In past council terms
26 they've always been receiving a tick, as everything is
27 okay. But it's been reported in the media quite widely
28 that council has suffered a small loss of - well, a loss
29 and deficit for the first time in many years. In addition,
30 there's talk of actually increasing the rates over and
31 above the defined level to address future planned
32 expenditure, and this appears to be due to a rather high
33 expenditure of council on things like paying out staff and
34 such like.
35

36 Q. What's the basis of your understanding of those
37 matters?

38 A. Of the actual figures or?
39

40 Q. Well, you've just given some evidence about what you
41 think is driving that.

42 A. Yep.
43

44 Q. How did you come to form those views?

45 A. Well, it's been reported and it's also been stated in
46 some of Mr May's community reports that he does every month
47 or so.

1
2 Q. And Counsel Assisting's question was directed to the
3 services that council is struggling to deliver; what
4 services is council now struggling to deliver?
5 A. Well, the clear one, the huge obvious one is the DA
6 lead times, they've blown out enormously.
7
8 Q. Anything else?
9 A. Well, one could say filling in potholes but it's a bit
10 hard to compare - to compare one weather event to another
11 weather event is quite difficult.
12
13 Q. When you read this, did you have filling in potholes
14 in mind?
15 A. Not particularly.
16
17 Q. So, when you put your name to this, what services did
18 you understand were being directed to --
19 A. Okay. The time to answer phones, getting no return
20 phone calls from staff.
21
22 Q. Do you think that is a new situation?
23 A. I believe it's getting worse, I have been told that by
24 members of the public. What else?
25
26 Q. Are these things you thought about when reading this
27 document?
28 A. Yes. I also have been contacted by several staff
29 members and they've given me certain information; I'm not
30 prepared to mention their names or details.
31
32 THE COMMISSIONER: Yes, thank you.
33
34 MR PARISH: I don't have any further specific questions,
35 Commissioner.
36
37 THE COMMISSIONER: Yes, thank you.
38
39 MR PARISH: Q. Is there any other matter you wish to
40 address the Commissioner on, Mr Markwart, in respect of the
41 terms of reference?
42 A. I have one item I'd just like to raise and --
43
44 THE COMMISSIONER: Q. Perhaps if we do it this way: are
45 there any topics and Mr Parish can explore them with you in
46 a traditional question and answer form. So, are there any
47 topics that haven't been discussed in your evidence so far,

1 and then Mr Parish can explore them with you?
2 A. Okay. A couple of items that came out in previous
3 witnesses that I could mention, if it's appropriate.
4 Please ask me a question on them.

5
6 MR PARISH: Q. Yes.

7 A. The term "stopped listening" was used quite
8 frequently.

9

10 Q. Yes.

11 A. Block voting by councillors. Ms Sandra Jones talked
12 about the briefing sessions for the Friends of
13 Wingecarribee. And the only other item there I have, and
14 it may not be in the terms of reference, there were,
15 I believe, alternatives on how council was being - or the
16 community could have been better served by council by
17 taking a different path; that may not be part of the terms
18 of reference.

19

20 THE COMMISSIONER: Q. That reminds me, before I let
21 Mr Parish explore those matters with you, do you still have
22 Exhibit O, that press release? Do you still have that?

23 A. I'm sure I do, I think I --

24

25 Q. Mr Broad, perhaps some of the material could be taken
26 away from Mr Markwart so he's not encumbered by folders.
27 That makes it a bit comfortable for you.

28 A. That's the press release.

29

30 Q. No, you hold on to the press release, so if you just
31 turn that up. That last topic that you raised prompted my
32 memory. About halfway down the page of the press release
33 there's a paragraph that says:

34

35 *The ... Minister could have removed the*
36 *problem councillors without sacking the*
37 *whole council ...*

38

39 Which I pause to note wasn't quite what happened, but
40 in any event:

41

42 *... but there were other, political forces*
43 *at play.*

44

45 What did you understand that to be a reference to?

46 A. Well, it has been said that council - sorry, the
47 Minister cannot remove single councillors. I believe that

1 has been said, I've heard that being said --

2

3 Q. My question was, what did you understand was being
4 referred to here in this joint press release?

5 A. Yes, political force at play or rejecting --

6

7 Q. No. Where the words:

8

9 *The ... Minister could have removed the*
10 *problem councillors without sacking the*
11 *whole council ...*

12

13 How did you understand that could be done, if you did
14 at all?

15 A. OLG has the power to suspend councillors, I believe.

16

17 Q. Yes.

18 A. I'm not sure if the Minister has that explicit direct
19 power, but I understand --

20

21 Q. So, is it, in fairness to you, the case that you just
22 didn't turn your mind to that particular issue when you
23 read this?

24 A. No, I don't --

25

26 Q. It doesn't say "The OLG", it says, "The Minister"?

27 A. Yeah, okay, I accept that, I fully accept that but --

28

29 Q. So, what power does the Minister have?

30 A. I have no knowledge of the power they have in that
31 space.

32

33 THE COMMISSIONER: Thank you. Mr Parish, would you take
34 up those topics with Mr Markwart that he wishes to expand
35 upon?

36

37 MR PARISH: Thank you, Commissioner.

38

39 Q. That first topic that you raised, the evidence that
40 has been given by several people about the perception that
41 council had stopped listening. What's your view or
42 impression on that evidence?

43 A. I dispute all councillors stopped listening or council
44 stopped listening. I believe people were listening but -
45 sorry, councillors were listening, but there's some
46 confusion between listening and actually agreeing, because
47 I certainly listened to the community on many things: some

1 things I agreed with, some things I didn't. So, I think
2 the broad term "stopped listening" is incorrect.

3
4 Q. Do you agree with the proposition that at least to
5 some members of the community the governing body is seen as
6 precisely that, a governing body, and the acts of a single
7 councillor can leave the perception that the entire
8 governing body has a certain attitude towards things?

9 A. I believe that's probably the case, yes.

10
11 Q. And, just at least from your experience, was it
12 possible that was at least in part an explanation as to
13 some people's perception that the council had stopped
14 listening?

15 A. Yes. Sometimes individual councillors went down their
16 own road for their own purposes, in supposedly assisting
17 members of the community. I can give you one simple - one
18 example, if that's appropriate?

19
20 Q. Yes.

21 A. The Bowral Memorial Hall, there were some concerns
22 about the design of the hall, acoustic properties and what
23 have you. Council arranged a meeting for community
24 representatives to come along and discuss this and someone
25 living in Robertson who I knew reasonably well, basically I
26 was surprised, he said virtually nothing for the whole
27 meeting. And after the meeting I said, "This was your
28 opportunity to speak, you told me all these problems but
29 you said virtually nothing". He said he had contacted
30 another councillor and that councillor said, "Don't say
31 anything, I'll sort it for you", or words to that effect,
32 and I said to the community member, you know, "I can't help
33 you when you do things like that".

34
35 Q. The second topic you raised was block voting by
36 council and I think there was some evidence to suggest that
37 - again, perception from some witnesses that that was
38 happening; what would you like to say about that?

39 A. I can understand the perception. When people look at
40 one or two issues only you can get that perception, because
41 councillors tend to vote on the same thing in the same
42 manner. But I can say certainly in my case I made no
43 agreements outside that first mayoral election to vote for
44 this if you vote for that, and I do know at least one other
45 councillor did the same thing. And in my first year on
46 council I received a little abuse from various councillors
47 on both sides of the spectrum, so I think I must be fairly

1 balanced.

2

3 Q. The next topic you raised was briefing sessions and,
4 tell me if I'm wrong --

5 A. Is that Mrs Jones?

6

7 Q. Pardon me?

8 A. Mrs Jones?

9

10 Q. Mrs Jones, yes.

11 A. I watched that online and she expressed a lot of
12 unhappiness and felt councillors were treating her, I
13 think, with disrespect or something because they had their
14 back to her.

15

16 Q. Yes.

17 A. Those sessions were briefing sessions and much as they
18 are arranged here, the audience faces the back of the key
19 players such as the gallery here. The briefing sessions
20 are basically for councillors to be updated or ask
21 questions prior to a council meeting. Occasionally
22 external organisations were invited to present, which the
23 FOWAS chairwoman did, I believe. How and what she
24 describes that meeting to her members is a council - is not
25 a council issue, it's a FOWAS issue, and I'm sorry Sandra
26 was upset by seeing people's backs, but that's the
27 arrangement of the room.

28

29 Q. Do you think on reflection, given the evidence of
30 Ms Jones, that when you are having briefing sessions and
31 members of the community are included in it, that some
32 other layout is warranted or?

33 A. It wasn't a Q&A meeting as such.

34

35 Q. No.

36 A. Councillors are, in those customarily permitted to ask
37 one question, because it's recognised it's not a Q&A, it's
38 not interactive. It is basically a presentation from FOWAS
39 in its case, here's this information, we would ask one
40 question and move on. I think the expectations of Ms Jones
41 was a bit different. It would be ideal if we had the
42 flexibility to change it around but, as you're aware,
43 Council Chambers has had major refurbish and we struggle to
44 be fit for purpose in some instances. So, I apologise to
45 Ms Jones for that, I remember that meeting clearly.

46

47 I should also touch on the fact, I understand - and I

1 only understand from people telling me this - there had
2 been some FOWAS political issues at play.

3

4 THE COMMISSIONER: Q. Yes, I think I understand that
5 point and I'm not overly troubled by those issues --

6 A. Thank you.

7

8 THE COMMISSIONER: -- for my terms of reference but I
9 understand why you would make the observation.

10

11 MR PARISH: Thank you, Commissioner.

12

13 THE COMMISSIONER: Were they the only?

14

15 MR PARISH: There was one further topic, which I think may
16 have dipped outside the terms of reference, so I'll leave
17 that last one, thank you.

18

19 THE COMMISSIONER: Q. One thing you did say which I
20 just --

21 A. Please --

22

23 Q. -- finally would ask you is: you made the point that
24 there's a difference between listening and agreeing.

25 A. Yes.

26

27 Q. Is what you're referring to there the idea that a
28 consultation process doesn't carry with it the outcome that
29 you will take the feedback and then follow the feedback, it
30 is, you take the feedback, it goes into the mix and then a
31 decision is made. Is that the idea that you're --

32 A. No really. I believe in most of my experience that
33 council came back with the reasons for their decisions,
34 they would explain that, but sometimes, not always,
35 sometimes some people in some groups would come back and
36 say, "We still disagree", and they'd find something else to
37 oppose it.

38

39 I heard evidence that, "If only council provided
40 further business case information, we might have agreed".
41 I have to say, I don't believe that was the case. Despite
42 all the information we supplied, we couldn't move any
43 further forward.

44

45 Q. The fact, though, that there's this - I'll call it
46 tension, trying to find a neutral word --

47 A. Please, I agree.

1
2 Q. -- tension between a section of the community and the
3 council on a particular subject, and I accept the
4 proposition that governing bodies of all kinds will make
5 decisions which are unpopular, you know --

6 A. I personally believe councils --

7
8 Q. -- that is a function of the role, but where there is
9 a tension between a group of the community and the
10 governing body and the organisation, treating them
11 separately for this purpose, do you think that the fact
12 that it exists signifies that, well, something needs to be
13 done to try and bridge this divide even acknowledging that
14 we may never be able to agree?

15 A. I agree with you and I think council was at - I'm not
16 sure what the word is, but they didn't know what steps to
17 take. I believe they did everything - they tried to do
18 everything and beyond, and they worked very hard to do
19 that, but they still were not making progress. It
20 certainly wasn't a deliberate thing to annoy the community,
21 whatever, we all sought a favourable outcome but we just
22 couldn't get - join together: I don't know how that could
23 have been done, is my perception.

24
25 THE COMMISSIONER: Yes, thank you. Are they all the
26 topics, Mr Parish?

27
28 MR PARISH: Yes, Commissioner.

29
30 THE COMMISSIONER: Mr Markwart, thank you very much for
31 your attendance this morning, I appreciate you coming along
32 and giving some evidence.

33 A. Thank you very much.

34
35 Q. You're excused from further attendance under your
36 summons, but as a former councillor you are free to stay in
37 the room should you wish to do so.

38 A. Thank you, and I'd just like to thank everyone here at
39 the inquiry for all the work and effort you've put into it.
40 I've been very impressed with some of the questioning,
41 although a bit painful on occasion at times. And I'd also
42 like to just throw in a word of thanks, I know it's a bit
43 of an aside, for the council staff who have been delivering
44 the services through these difficult times with the
45 inquiry, suspension and the rain. I think the council
46 staff deserve a lot of thanks for their efforts.

1 THE COMMISSIONER: I'm sure that will be well appreciated
2 and drawn to the attention of those who can disseminate
3 that should they wish to do so.

4
5 THE WITNESS: Thank you.

6
7 <THE WITNESS WITHDREW

8
9 THE COMMISSIONER: Yes, Mr Parish, shall we roll on to our
10 next witness?

11
12 MR PARISH: Yes.

13
14 THE COMMISSIONER: Next witness?

15
16 MR PARISH: The next witness is Juliet Arkwright.

17
18 THE COMMISSIONER: We're still in session. Excuse me, if
19 there are to be discussions perhaps they could be had
20 outside, we're still in session. That's quite all right.

21
22 <JULIET ARKWRIGHT, sworn: [12.28pm]

23
24 THE COMMISSIONER: Thank you, please have a seat.
25 Mr Parish.

26
27 <EXAMINATION BY MR PARISH:

28
29 MR PARISH: Q. Thank you, Ms Arkwright. Can I start
30 with some personal background of you and your connection
31 with the shire?

32 A. Yes. I've lived - we moved to the Wingecarribee Shire
33 as a family in 1993 from England. My late husband was
34 English, I'm Australian and born and raised Australian.
35 I'd been at school here in the 60s and always liked the
36 area, so we came out here in 1993, our children were
37 youngish then, and we moved to Burrawang and over the years
38 I became involved in some community activities.

39
40 I'm a journalist by profession. I've been accredited
41 with the Media Entertainment and Arts Alliance since 1997,
42 and in the mid-90s I worked as a features writer for the
43 Southern Highlands News. I've always had an interest in
44 politics and when I was in England I was invited to run as
45 a conservative candidate for the local district council in
46 Devon, where we had a farming estate, and then came out
47 here. I rejoined the Liberal Party and then played an

1 fine, everything is going to be different. Initially, I
2 didn't pick up any particular undertones, everyone seemed
3 fairly pleasant and civil. There had been an enormous
4 drama during the term of the previous council to do mainly
5 with the Lehman Brothers CEOs, and I like to think, and I
6 still maintain that, if I hadn't contributed anything I
7 like to feel that, having been elected as chair of the
8 finance committee then, which was not necessarily a
9 committee of the whole, that I was able to introduce
10 professional litigators to the council.
11

12 By the beginning of 2008 they had clocked up nearly
13 \$1m in legal expenses trying to sort out the imbroglio with
14 their own investment with Lehman Brothers, and I could see
15 that really it was getting out of control and I was
16 introduced to a well-known firm of litigators and then it
17 moved forward that the council led a sort of semi-class
18 action in the Federal Court, which finally resulted in a
19 victory and I was told it was the first time in a first
20 world western country that there had been an adverse
21 finding against Lehman Brothers, and I think over the years
22 the bulk of the money has come back.
23

24 So, to continue, Mr Parish, things seemed to be okay.
25 There seemed to be a bit of a friction over the position of
26 mayor: Duncan Gair wanted the position, Ken Halstead wanted
27 the position, there was a mayoral vote and Mr Gair was
28 elected mayor, and then later Mr Halstead secured the
29 position.
30

31 But in general terms we lost a general manager during
32 that term, Mike Hyde: I guess that was post probably
33 considered by the community a necessary follow on from the
34 Lehman Brothers situation, and then Jason Gordon was
35 appointed. Ken Halstead had had - when I say "dealings
36 with him", he'd taught him at some stage at UTS and he was
37 very impressed that he was a young man who was going places
38 and had great ability, and so, in the latter stages of the
39 council he came on board.
40

41 So, basically the council of 08-12, there were - can I
42 just diverge a little bit to give a bit of background here
43 which I notice has not been brought up so far?
44

45 Q. Why don't you just tell me what that background is
46 that you want to raise and we'll see if it's worth
47 exploring?

1 A. Okay. It's to do with, the council didn't just exist
2 in a bubble. Like so often happens particularly in
3 regional areas or in small town areas there were elements
4 in the community who - normally local business interests or
5 commercial interests, local real estate agents, builders,
6 who - and they were long-term residents albeit many of them
7 born here - who felt that in a way the council or the
8 control of the council really should be in their purview.
9 So, they had aligned themselves to various people who were
10 running and were identified in the previous council, so
11 there were outside interests that did affect who was who in
12 the zoo in the --

13
14 Q. Are you specifically referring to Councillors Gair and
15 Halstead there?

16 A. Councillor Halstead, and this is only my personal
17 opinion, I don't know, but it struck me that he did not
18 have connections in that sphere. I mean, he's - the basis
19 of his career had been in the public service. He was not
20 the sort of man who really entered into a lot of --

21
22 Q. So, it wasn't Mr Halstead, it was Mr Gair that you
23 were referring to there?

24 A. Well, Mr Gair evolved as the person because the
25 community sort of rather punished one of the lead
26 councillors of the previous council, Mr Malcolm Murray, who
27 attempted to run again; he was in what I called the cabal
28 that had control of the council, he failed to be returned.
29 Mr Nick Campbell-Jones did not run, and then there was -
30 there was mayor Gordon Lewis, who was very fair in many of
31 his deliberations, but he was cooperative to the - what I
32 call the ruling body and remained as mayor for a four-year
33 term as the mayor was elected each year.

34
35 So, I think Mr Gair was identified as perhaps the
36 go-to person. I was approached by one of these community
37 members who seemed to think that, as I was an endorsed
38 Liberal, that perhaps I would have a blanket view on
39 looking favourably on certain developments and I made it
40 clear that I would judge issues on their merit at the time
41 and, just because I was a member of the Liberal Party,
42 didn't mean that I didn't have views and the party itself
43 had strong views that local councillors wearing the Liberal
44 brand were not to caucus over planning matters.

45
46 Q. Can I just ask on that topic. We've had some evidence
47 in this inquiry that there was at least the perception that

1 the 2016-2020 council got bogged down in dealing with the
2 minutiae of DAs. Do you have any impressions or views on
3 how that took place in the 2012-2016 term?

4 A. Yes, I think it would frequently happen. I mean,
5 you've got a situation that a DA would come up and then it
6 seemed to be the natural process that proponents would
7 either engage professional planning consultants or they
8 would, quite legitimately they felt, approach a councillor
9 to express their view or ask for a meeting with the mayor.
10 And, because it's the area of government closest to the
11 people it literally is, I have to say, physically very
12 close.

13
14 So, if you can envisage this chamber before it was
15 done up - and most probably will still be the same when the
16 council comes back - you have your meetings, you're going
17 to have councillors in a sort of U-shape or horse shoe
18 shape debating these DAs, and sitting in the gallery with
19 members of the community. Now, I've sat through meetings
20 when certain DAs have been debated, and the chair has had
21 to be pretty firm to stop either sort of, you know, booing
22 or what have you if a councillor expressed a view that was
23 contrary maybe to a group of people who had come along to
24 support or to protest, and councillors are officially
25 regarded as being volunteer amateur politicians, so we
26 don't have a chief of staff or an electoral assistant and
27 what have you, so we're open to being approached or
28 councillors are open to being approached directly on a
29 daily basis. So, it all unfortunately in one way, although
30 one could say it was democracy in its rawest and most
31 direct form, it also led to a lot of emotion and
32 subjectivity.

33
34 Q. And, in your view, did that detract from the other
35 proper business of council meetings?

36 A. Not wildly in the 08-12. In the 12-16 I think it did,
37 because there always seemed to be people with agendas, and
38 that became very apparent in the 2012-2016.

39
40 Q. Can I focus on 2012-2016 for a second?

41 A. Yes.

42
43 Q. Did you either experience or hear of any negative
44 interactions between councillors and staff during that
45 term?

46 A. Yes.

1 Q. Can you tell me about them?
2 A. If you want me to, yes. There was one particular
3 councillor who felt that he had the right to deal directly
4 with staff and express his views. He was a man who'd been
5 in business here all of his adult life, he was a builder,
6 he'd been in and out of this building understandably
7 dealing with council staff over many, many years, and he
8 was still doing business; and so, there was an attitude, I
9 think by him, that there was - that he would deal with
10 people and, if he liked someone, he liked someone; if he
11 didn't, he would show it.

12
13 There was also the perception that, in the case of
14 Mr Gair, he'd been here a long time, he'd always took the
15 view that the senior staff - you know, you supported right
16 or wrong, and he'd formed some friendships with some of
17 those staff. So, there was interaction --

18
19 Q. Pardon me. In your view as someone who experienced
20 two terms and who was mayor, in your view was that
21 interaction appropriate that you witnessed?
22 A. Well, no. No. When I was the mayor I was voted mayor
23 on a 5:4 majority, and a majority is a majority and really
24 then everyone just should settle down and accept and then
25 you move on. But it was made clear to me by some
26 councillors that I'd only got it by a pipsqueak or a
27 squeak. I also began to develop the feeling that, even
28 though I was the mayor, somehow I wasn't regarded as the
29 main councillor player by certain senior members of staff.

30
31 Q. I'm not quite sure that answers the question I asked.
32 I was asking whether the interactions that you witnessed or
33 heard about between the particular councillor you were
34 talking about and senior staff was appropriate in your
35 view?

36 A. Well, certainly when it was a case of, with the
37 particular councillor who was aggressive, I didn't think
38 that was appropriate. I mean, the bottom line in any
39 professional dealings, I think - I passionately believe
40 this - that civility is a must, and I didn't observe it,
41 but on other occasions with other councillors, and I noted
42 this a bit with councillor - with Mr McLaughlin, I always
43 get a little bit wary when I see people in that sort of
44 situation, professional public servants and elected
45 representatives, and they're invariably men calling each
46 other "mate", and there was a lot of "mate" that went on
47 and I didn't think that was appropriate. We all addressed

1 each other, you know, behind closed doors or when we're
2 doing our normal business by our Christian names, that's
3 fine. But, you know, the "mate" business started to be a
4 bit obvious, and so, I felt uneasy about that and I didn't
5 actually think it was professional or appropriate.

6
7 Q. Just focusing on the 2012-2016 period for now. Did
8 you feel like there were clear lines and boundaries as to
9 how councillors could interact with staff?

10 A. There were numerous directives, I think, sent out by
11 the general manager; I mean, it was quite clear. It was
12 certainly clear in my mind, council dealt with matters of
13 overall strategy and policy and the staff were there to
14 deal with the operational side of things.

15
16 There was a degree of slight leeway as long as that
17 was approved, I suppose, by the general manager. In my own
18 case, I was chair of the Arts and Culture Board and there
19 was a lot of toing and froing just over general minutiae to
20 do with various things with council's cultural officer that
21 I had, but that was always overseen by the deputy general
22 manager, Mark Pepping. But yes, to me - to me the
23 structures were clear if you intended to abide by them.

24
25 Q. Thank you. You may have heard some evidence in this
26 inquiry already that there were behaviours at briefing
27 sessions in the 2016-2020 term in which some interactions
28 with staff were inappropriate; did you ever witness that in
29 the 2012-2016 term?

30 A. Sometimes I did, and again, I witnessed aggression
31 being displayed in these briefing sessions and I was
32 sometimes the butt of it, and I wasn't surprised when I
33 heard that the briefing sessions would get heated. Sooner
34 or later, as I said, mainly this particular councillor
35 would somehow make the whole process subjective and he'd
36 have a go at another councillor who he had an obsessive
37 dislike for, so again, the business of the day ground to a
38 halt.

39
40 Q. Was that councillor, the antagonist, was he re-elected
41 in 2016?

42 A. He was indeed. I can elaborate further a bit on that.

43
44 Q. If you wish.

45 A. Simply that, when I decided not to run the Liberal
46 Party also decided not to have an endorsed ticket, and it
47 created a vacuum, and I think looking at the figures, there

1 were two councillors that benefitted from that, two
2 candidates and one was Duncan Gair and the other one was
3 Councillor Garry Turland whose electoral material was
4 completely in Liberal Party livery and mentioned about
5 liberally thinking". So much so that the state director of
6 the party in Sydney complained to the Electoral
7 Commissioner who decided, for whatever reason, not to take
8 action on it. On the day there were numerous reports from
9 numerous polling booths that you'd get quite a lot of
10 people who, when they arrived they'd said, "Oh, I'm just
11 looking for the Liberal Party how to vote card". So, yes,
12 that had a bit of a fallout.

13
14 Q. Thank you. There's been numerous references now to a
15 toxic work culture in the 2016-2020 term at least. Can you
16 give me your impression of whether there was any toxicity
17 in the 2012-2016 term?

18 A. Yes.

19
20 Q. And I should say, whether at the council level or at
21 the council staff level?

22 A. At a councillor to councillor level there was and it
23 all, again, focused - it focused on a councillor John
24 Uliana who was elected in 2012-16 and did not run again in
25 16. And there was completely, in my opinion, subjective -
26 I use the word "vendetta" advisedly, but I think I am
27 recorded in the minutes somewhere of accusing Councillor
28 Turland of conducting a vendetta against this man.

29
30 There were 36 notices of motion and questions with
31 notice from Councillor Turland directed at Councillor
32 Uliana from the period that I was elected mayor
33 in September 2014 until about July 2014 when I had lost
34 majority, I knew I'd lost - a councillor had sort of
35 switched, and so I knew I wasn't going to run as mayor
36 again and I knew I wasn't going to be elected, so I asked
37 my PA if she would research and download, which she duly
38 did, and I felt that was outrageous and it weaponised
39 council proceedings that the business of the day was not
40 being done.

41
42 I did speak to general manager Jason Gordon over this,
43 he's a very nice man, but I got the feeling that he was
44 hesitant to do anything. I said to him, "You are the
45 general manager, you set the agenda, surely you must see
46 the amount of staff time and money that is being wasted on
47 these perpetual motions and questions, and it is

1 inappropriate and unseemly and is not giving value to the
2 community", and he sort of more or less shrugged and said,
3 "Well, in legal terms it is still perfectly permissible".
4 So that is one example of toxicity.

5
6 The other one, I regret to say, happened to me twice
7 for whatever reason. I'm wary about sort of getting up and
8 banging a traditional feminist drum here, but I will see, I
9 think I was perceived as the inconvenient woman who
10 wouldn't toe the line, and I did have trouble. I had one
11 incident that I reported to the police, who wished to
12 prosecute, and in the early stages of my term of office I
13 perhaps unwisely said no, because I felt that it would
14 result in a complete breakdown of the council; that was at
15 the beginning.

16
17 Q. And that was from another councillor, the behaviour,
18 not the staff?

19 A. Yeah, to me. And then, what do you do - well, I
20 perhaps shouldn't say that, not for me to pose questions
21 even rhetorically, but there was another incident that was
22 reported in the local media as, "The dirty dinner", and
23 that was - and it ended up on the ABC radio in Sydney.
24 That was at a dinner of five or six men, a couple of
25 councillors, and some other community members, and it was
26 reliably reported to me by a man who was witness to this at
27 a Chinese restaurant in Bowral with his children in tow,
28 that they were dining and drinking and talking about
29 council matters, and one of these councillors referred to
30 me and then Councillor Holly Campbell at the time, by name,
31 as, "Those f'ing Cs", and I mean the word "C".

32
33 Q. Accepting that there are no females on the current
34 suspended governing body, in your perception, and I'll come
35 to the meetings you observed soon, did that council culture
36 extend into this 2016-2020 term?

37 A. Look, not noticeably so; I mean, they - there was
38 never any publicly sort of bad language on show, it's just
39 that it's interesting, and I've discussed this with some
40 people who are sort of into this sort of thing now, it's
41 interesting how the mindset slightly changes. Even when I
42 was there in my first term, I was the only woman, and then
43 in my second term there was Holly Campbell; there was a
44 slightly different attitude because there were females
45 there. It became very matey, except for when they decided
46 to gang up against one councillor in this last council.
47 So, it did have a sort of blokey perception to it, but

1 nothing that you could say was rampant, but it was there.

2

3 Q. The types of conduct you've just described, what sort
4 of impression did that leave with you? I mean, did that
5 leave you feeling disillusioned about the council process
6 and the culture?

7 A. I felt very upset and depressed about it because I
8 have a great interest in governance and I felt that the
9 governance was fundamentally flawed here and that democracy
10 was not being served. And, although in my own personal
11 view I think there are areas of local government in this
12 state, and most probably areas of local government
13 throughout the Commonwealth, that local government needs to
14 be looked at more carefully. I just, I felt very
15 depressed. I mean, obviously some of these attacks were
16 personal, some of the meetings that I chaired would go on
17 for four hours, and when you know that you're about to
18 chair this and you're going to be looked at for every
19 little minute, perhaps weakness or not following procedure,
20 points of order being made, it left me rather exhausted and
21 it was the reason I didn't run in 2016 because by this
22 stage my children were adults and, although they're always
23 very supportive of me, they finally said, "Look, we want
24 you to live", and I was starting to develop health issues,
25 so yeah, it was the attitudes and the failings and just the
26 general scenario, it was building to be - what was the word
27 that Mr May used the other day - a fiasco, I think he used.

28

29 Q. Debacle.

30 A. Debacle, I knew it was along those lines.

31

32 Q. Yes.

33 A. It was building in that term, I wasn't in the least
34 bit surprised: as long as you have the same old system
35 going along and being re-elected, yes. And the staff too,
36 there was an issue over staff.

37

38 Q. This was a topic I explored with Jim Clark yesterday;
39 he gave some evidence that councillor conduct was a reason
40 that he felt disillusioned and he decided not to seek a
41 further term as well, I think part of the reason why he
42 decided not to seek a further term as well. Was that
43 generally your impression, that this councillor conduct
44 could affect both at a mental health level and a perception
45 of how someone can contribute to their community?

46 A. Absolutely, absolutely, as I said, certainly was a
47 reason why I just thought that I would be on a hiding to

1 nothing, and I can respect what Jim Clark said, he was a
2 very - is a very decent man. We have two separate
3 political philosophies, but I think he and I were an
4 example of how you can work together beneficially for the
5 community if you, you know, conduct yourselves in a proper
6 manner with each other and you had the community at heart.
7 I understood - it resonated with me when he said that
8 yesterday, and I felt the same, but to be honest, I could
9 see when I saw who was elected in 2016, I just knew that
10 the problems would continue and maybe even grow, which they
11 appear to have done so, otherwise I guess we wouldn't be
12 sitting here.

13
14 Q. Can I ask the next question, which I think I asked
15 Mr Clark, which was, did the way councillors treat each
16 other and interact with the community mean that, if that
17 interaction is negative, it dissuades people who have the
18 energy and commitment to contribute to their community from
19 standing to be elected?

20 A. I think it certainly did in 2016, because when I
21 analysed or looked at the tickets there was not one ticket
22 in 2016 - not one ticket - that was led by a woman. There
23 were some women featured on some of the tickets, and I
24 think there were two women who ran below the line, but
25 really again because of this complicated voting system
26 their chances were very little and none of them got
27 elected. And anecdotally, I was often approached or people
28 would bump into me in the supermarket and what have you and
29 say, "Oh god, you know, who'd want to run after what
30 happened to you?"

31
32 Q. So, that's not just something you experienced
33 personally, it was information you heard in the community
34 about dissuading people --

35 A. It was a general --

36
37 Q. -- to contribute to the --

38 A. It was, yes, a general perception.

39
40 Q. -- community.

41
42 MR PARISH: I see the Commissioner looking at a certain
43 section. Is there any?

44
45 THE COMMISSIONER: Q. No, no, I was just looking at the
46 tickets for 2016.

47 A. I hope I was right, I'm pretty sure I'm right,

1 Commissioner --

2

3 Q. You are --

4 A. -- there was women below the line.

5

6 Q. You are correct, the lead candidates in each of them
7 were men.

8

9 MR PARISH: I see the time. I propose to push on at this
10 stage.

11

12 THE COMMISSIONER: Yes. Ms Arkwright, I appreciate you've
13 been waiting to start your evidence. Are you comfortable
14 if we sit on past 1 o'clock?

15 A. Oh, yeah, absolutely.

16

17 Q. I take it you'd prefer to get it over and done with
18 and have a break and then start again?

19 A. Well, yes, I would.

20

21 Q. That's quite all right, yes.

22 A. But I mean, but I don't want to - I mean, I'm happy to
23 sit here for as long as it takes, Commissioner, but I feel
24 we're all here and we might as well press on.

25

26 Q. Yes, I do appreciate, as I've said, you may have heard
27 me say if you've been here or watching, that I do
28 appreciate answering a summons is an inconvenience, so
29 we'll try and minimise it as best we can.

30 A. No, that's all right.

31

32 THE COMMISSIONER: Let's proceed.

33

34 MR PARISH: Q. Can I turn now a bit more specifically
35 perhaps to the 2016-2020 council?

36 A. Yes.

37

38 Q. You observed in your capacity as a journalist, and I
39 presume as well as an ex-councillor and mayor, most of the
40 meetings; is that correct?

41 A. Yes.

42

43 Q. Both on line and in person before the pandemic; is
44 that correct?

45 A. Yes.

46

47 Q. Can we start with just your general impressions about,

1 firstly, the conduct of councillors in those meetings?
2 A. It all started fairly reasonably. Ken Halstead was
3 duly elected mayor, and I think the OLG had introduced a
4 system that, if you had a mayor elected by colleagues,
5 instead of serving a one-year term it would be two years,
6 so that meant councillor or Mr Halstead was there for two
7 years, and at the beginning it seemed to be okay. But then
8 one could see the various sort of - it had still had a
9 slight 5:4. If I remember correctly, Mr Halstead was
10 elected five votes to four, and Mr Gair got the four.

11
12 And I would add something that I realised only the
13 other day going through papers, that from 2008-2016 - well,
14 no, 18, or pretty well up until suspension, Councillor Gair
15 nominated to be the mayor every single year; it was like,
16 he was the permanent fixture going forward even though some
17 others - you know, so that was the dynamic of the contest.

18
19 So, he dipped out at that stage and they -
20 Mr Halstead, I think, made every effort, certainly one
21 could observe at meetings, to try and be as inclusive as
22 possible, practically to the detriment of allowing certain
23 things to slip under the radar which perhaps he should have
24 brought people up on, but I could see that his intention
25 was to try and introduce a degree of collegiality and
26 camaraderie to his councillors, but then things
27 deteriorated after that, and one particular councillor, Ian
28 Scandrett was - they started to, I think, gang up on him.
29 I mean, he was a man who, you know, they say that every
30 board should have someone who asked the difficult
31 questions: well, I guess he was that sort of guy, and it
32 might have been irritating to some people, but after a
33 while the voting pattern began to look pretty awful; it
34 would be 8:1, 8:1, 8:1.

35
36 Q. Could I just go back to your reference to councillor,
37 at that time Mayor Halstead, letting things slip under the
38 radar. Are you referring to council meeting procedure and
39 conduct in the council meetings?

40 A. No, he was very up on and he prided himself on
41 knowledge of council procedure. I just - he had
42 campaigned, he had openly campaigned on the platform that
43 he would hold senior staff to account, and that - he ran
44 below the line and that resonated with the community so
45 much that he was elected. And yet, in the media we saw no
46 particular evidence of it, and then, when we started to ask
47 questions and things, he seemed to want to sort of not

1 really acknowledge that particularly.

2

3 Q. Can I, without descending into the politics of that
4 statement, the concept of holding senior staff to account
5 sounds nice on the hustings perhaps. How did you
6 understand that could be done given the structures of
7 council in the operational versus strategic demarcation?

8 A. Well, the only way it could be done, Mr Parish, as you
9 know, the only way is that councillors cannot - are not
10 permitted to interfere with staffing matters. But from my
11 perspective, if I felt that there were really big issues
12 with the staff and what have you, it's the general manager
13 that the mayor and councillors go to, particularly the
14 mayor, and I assumed that Ken Halstead was a bit of an old
15 hand, you know, politically and as a staffer, that he would
16 know that and we took it to mean that he would actually
17 have some pretty detailed conversations with Ann
18 Prendergast and it appeared that that did not transpire.

19

20 But, no, I know on the hustings people would think,
21 "Oh, that's great, you know, he'll do this and he'll do
22 that", but I still believe that the capacity was there, if
23 you had the majority of councillors behind you, you can
24 deal with the general manager over your staffing matters.
25 And, if push comes to shove, and it was in my thoughts
26 eventually, push came to shove, again, if you have the
27 support of councillors it could be a case of, well look,
28 this problem is so severe or what have you, you fix this,
29 or otherwise we will be considering your position. I
30 felt --

31

32 THE COMMISSIONER: Q. I'm sorry, had you finished? I'm
33 sorry, I didn't mean to cut you off.

34 A. Yes.

35

36 Q. By that answer, are you referring to the general
37 manager performance review process, that the interaction
38 is, councillors who have concerns about staffing matters
39 would go via the mayor or with the mayor to the general
40 manager and then how that would be monitored is through the
41 performance review process of the general manager?

42 A. Well, yes, partly, that's the formal mechanism that is
43 there, and it seems to me that it's a mechanism where
44 obviously the general manager presents his or her case, or
45 provides evidence as to their KPIs, et cetera, but equally
46 if there were issues with other senior staff - and there
47 were issues with one or two senior staff in this

1 organisation - one would bring it up with the general
2 manager, particularly in that forum.

3
4 THE COMMISSIONER: Yes, I see. Thank you.

5
6 MR PARISH: Q. You talked about a degeneration of the
7 council; do you recall when that was very roughly in the
8 last term?

9 A. In the last council?

10
11 Q. Yes, in the last council, sorry.

12 A. I think the Station Street project started to bring
13 problems to the fore, so things started to get fractious.
14 Again, it was mainly only for at least the first two years
15 of that council, the only councillor that in debate did
16 question the efficacy of the plans that were going forward
17 was Ian Scandrett, and there was an attitude towards him
18 that somehow he was a bit of a traitor to the rest of them.
19 But once Duncan Gair became the mayor the attitude to the
20 community by the council started to harden up and it was a
21 case of, well, we're going to do it anyhow; so, you know,
22 you've said your little bit, but we're telling you what's
23 going to happen.

24
25 So, things started to get fractious there, and then
26 one of Councillor Gair's main political allies, who was his
27 deputy mayor, Mr Garry Turland for whatever reason, he
28 decided that Station Street was no longer fit for purpose
29 or whatever, and I can't make a judgment call on whether
30 his decision was motivated out of a genuine concern for the
31 project or whether that had a political motivation. He
32 then started to break with Councillor Gair, because there
33 was another undercurrent to do with all of this, the pair
34 of them had launched a defamation case in the Supreme Court
35 against a member of the community who was, oh, I suppose a
36 freelance sort of a photographer, a satirist. Finally, I
37 think it was Justice Gibson who said it shouldn't even be
38 in the Supreme Court, it was moved to the District Court,
39 but it resulted in council --

40
41 THE COMMISSIONER: Q. I think there is a jurisdictional
42 issue where you had to go to the Supreme --

43 A. So basically they fell apart over that.

44
45 Q. Yes, you have to go to the Supreme Court to get
46 certain relief and if it's transferred to the District
47 Court, but I'm aware of those proceedings, yes.

1 A. Yes, something. So, that was, I think they fell out
2 and then when that happened things started to get really
3 fractious, and I said the Station Street issue, and I've
4 listened to witnesses speaking about that and I followed it
5 very, very carefully, and there were derogatory - in
6 real-time I was shown the Peter Nelson correspondence by
7 Mr and Mrs Wilson at the time.

8
9 MR PARISH: Q. Yes.

10 A. And I have to say, I was shocked at that because the
11 inference of putting up a letter into your letterbox is a
12 case of saying, you know, like from a movie, "I know where
13 you live". But the community were very concerned about it
14 and then the community members who were raising the issue
15 were not just a "not in my backyard" people; they put a lot
16 of effort and work and were highly experienced in planning
17 the matters and had done a lot of research with the
18 relevant State Government bodies, and it was becoming
19 increasingly obvious that the council were entirely
20 separate from a general thrust going on in the community.
21 It wasn't just a case of the odd person, it really was a
22 genuine political groundswell; they began to appear more
23 and more disconnected.

24
25 Q. One of the themes that's come through from some has
26 been that that was a noisy minority and didn't truly
27 reflect the community; do you have a view on that? I take
28 it from your previous answer that it was wider than --

29 A. Well, I can understand that that could be an argument
30 that could be treated with a degree of reasonableness,
31 because anyone in public life knows that there are always
32 people around who are squeaky wheels, but I went out and
33 about quite a lot. I mean again, as I said, because it's
34 an area of government so very close to the people and we're
35 in a regional area, you can get the feel just by going to
36 the supermarket, and people were talking, it wasn't just a
37 noisy minority, they were very well informed and they were
38 a respectful minority of educated people who were not
39 trying to be troublemakers, but there was a genuine
40 feeling. I mean, it was sad to think that you couldn't get
41 a good word about this council in the wider community, and
42 yet, there were people at a middle level and a lower
43 operational level who were doing such a good job.

44
45 And I have to say that in my capacity as a journalist
46 writing my Ark Up column and then my Arked Up Facebook
47 page, that I received numerous calls from all sorts of

1 people who were either having bad experiences with their
2 DA, former staff, even a few current staff, and this just
3 wasn't a case of this organisation, you know, being
4 wonderful, and yet there were some pesky people out there
5 causing trouble; it had filtered through at all levels in
6 the community.

7
8 THE COMMISSIONER: Q. And was it that sense you were
9 gaining in the community at that time limited to Station
10 Street? I know it's a focus because it's a significant
11 matter, but was it broader than that?

12 A. It was broader than that, Commissioner. The DA
13 process for a start: council had engaged - I use that word
14 "plethora" again, it was in that media release - had
15 engaged a whole heap of planning consultants from an
16 organisation called Cardno at vast expense, I mean, serious
17 expense, and they were all put up at a fairly expensive
18 hotel and they were paid by the hour.

19
20 And, I'd have people ringing me saying, "You know,
21 we've been waiting for so long for this DA that now the
22 bank has pulled the plug on our loan", I had numerous calls
23 like that. I had the odd call where the couple had ended
24 up divorcing because it created that sort of trouble, and
25 it was just felt that there was phone calls - letters and
26 emails and phone calls to the general manager, in general
27 terms regrettably were not responded to, and that came
28 through from a variety of people, which is always a bad
29 sign, you know, when there's no immediate response.

30
31 So, no, it wasn't just Station Street, it was a
32 perception that the council just really wasn't doing its
33 job, and certainly at the higher levels some people in the
34 area said, "Oh, it's just a boys club", you know.

35
36 THE COMMISSIONER: Yes, thank you.

37
38 MR PARISH: Q. Can I ask you about your experience in
39 witnessing those 2016-2020 meetings. Did that instill in
40 your view confidence in the community or was that part as
41 well of the feed of dissatisfaction going back into the
42 community?

43 A. I think it was part of the fear of - of the feel of
44 dissatisfaction, because again, I'd seen meetings of other
45 councils and I checked up on information of meetings for
46 other councils. Goulburn Mulwaree would meet and they'd
47 attend to their business pretty efficiently and briskly in

1 an hour and a half, and these meetings here with this
2 council made Gone With the Wind look like a one
3 paged essay; I mean, it went on and on and on.

4
5 And they objected to live-streaming for some time, but
6 I guess what finally made it clear and started to in a way
7 hold them to account was the Zoom process, and admittedly
8 the technology there wasn't easy for the chair to have to
9 handle this, but listen to the claim and counterclaim and
10 this and that and points of order, I mean, it was not good
11 and confidence just sapped, it just went, and people could
12 see what was going on, and the media, which was Latte Life
13 and the Southern Highlands Express in particular, were
14 reporting on this, because prior to that there had been
15 no - to be blunt, the media system was different and
16 councils - this council was not being held to account in
17 the public forum, so it was only council watchers who knew.

18
19 Q. I think, without misrepresenting Mr Markwart's
20 evidence this morning, he made a similar point that the
21 combination of online streaming and Facebook or the use of
22 social media enhanced the negative perception of the
23 council in the wider community; is that your evidence as
24 well?

25 A. Well, look, it could but I mean, my response to that
26 is - I mean, I can understand that; if I've got a
27 technology problem now, I try and find a 12-year-old
28 because my son at 37 is too old. But the thing is, it's
29 with us and it's everywhere, so I think just to say it
30 enhanced negativity, I think you have to be aware if you
31 are being live-streamed or your meetings are, that people
32 will see you as it really is, because if they'd seen some
33 of the meetings before the live-streaming took place, then
34 they really would have had a fit. So, you know, to me it's
35 just a fact of life and we have to get on with it.

36
37 Q. I think, again without putting words in Mr Markwart's
38 mouth, he thought that amplification was unfair. I take it
39 from your evidence that you thought that the way that that
40 was then dispersed through the community was a fair
41 representation of the behaviour you had seen prior to the
42 commencement of streaming?

43 A. I do, Mr Parish, because the proof of the pudding is
44 that the media would report on activities of this council.
45 My job was more to analyse because I'd had the experience
46 of being a councillor and a mayor, and naturally my
47 employers were very conscious, as everyone is in media now

1 and what have you in public forums, of possibilities of
2 defamation and what have you, so my articles were checked.
3 And there were one or two things that were printed which,
4 in my personal belief was true and was supported, but I
5 thought, will there be a kickback? And from my
6 recollection, certainly my own experience, I was never
7 threatened with any form of legal action for having
8 misrepresented, not once, and my understanding is that the
9 publishers were not threatened either. So, what was going
10 out, you know, would have to be a fair representation
11 unless the council thought they'd been seriously
12 misrepresented, then presumably they could have looked at
13 their remedies, but it never happened.

14
15 Q. Thank you. In your witnessing of the 2016-2020
16 meetings, did you ever see any behaviour by councillors
17 towards staff in those meetings that you thought was
18 inappropriate?

19 A. Sometimes there'd be some aggression, there'd be some
20 aggression by one or two. In general, the bulk of the
21 councillors, except most probably one, were civil to the
22 staff. Ironically enough, towards the end before the
23 administrator appeared, some of these Zoom meetings, if
24 figure, there was one senior member of staff who I thought
25 was being singularly disrespectful to certain councillors,
26 but there was only one councillor who on occasions would
27 demonstrate a degree of aggression.

28
29 Q. In your experience and knowledge of the process having
30 been a councillor, did you see that as a breach of the Code
31 of Conduct for councillors to be openly criticising staff
32 in meetings?

33 A. Look, I understand the tradition is that the staff
34 cannot answer for themselves in a proper public meeting.
35 So, really, it's a case of it's not the right thing to have
36 a jolly good bash at a member of staff when they can't
37 stand up and respond. In one or two occasions I think it
38 could be said that it got close to that, because in my way
39 of thinking one would take it up with the general manager
40 later, either prior or later if there's a staff member that
41 one really felt may be possibly given a flawed report or
42 had been disrespectful themselves.

43
44 The Code of Conduct though process, Mr Parish, is
45 another incident yet again; it had been weaponised in this
46 council and devalued, and so ...
47

1 Q. By that do you mean that councillors made Code of
2 Conduct complaints rather out of political reasons or for
3 personal reasons rather than as a genuinely held concern
4 that there was a breach of the code; is that what you're
5 referring to there?

6 A. Yes.

7
8 MR PARISH: I have no further specific topics,
9 Commissioner.

10
11 THE COMMISSIONER: Yes, you proceed.

12
13 MR PARISH: Q. Are there any other observations that you
14 wish to address the Commissioner on that arise out of the
15 terms of reference, Ms Arkwright?

16 A. Look, I have numerous items that appeared over
17 the years, particularly over the last four or five years,
18 but suffice it to say, they were published in the paper and
19 I think I have provided a lot of publications to be
20 reviewed at your leisure --

21
22 Q. Yes, thank you, yes.

23 A. -- over this. But what I will say, I disagree with
24 the general premise that has been put about by the
25 suspended ones that somehow it was all the fault of one or
26 two people and that really everything was fine, because
27 listening to all the evidence, and the evidence of my own
28 eyes and ears over a long period of time and the evidence
29 that is coming out now, over the years the organisation had
30 sadly become so flawed that it had reached the stage where,
31 I think Mr May said the other day when questioned by you,
32 Commissioner, I think I made a note of it, "Could these
33 councillors fulfil their duties if they were returned?"
34 And he said, "What is needed here is a circuit breaker".

35
36 And the same with the staff situation, you had
37 friendships, particularly one friendship between a senior
38 member of staff and the mayor that was detrimental to the
39 business of the day taking place subjectively here, and the
40 only way forward, to be blunt, is a cleansing and hopefully
41 there will be a more diverse group of people who will come
42 forward to run again.

43
44 And, I'm not the only person, the feeling that I get
45 within the community is that, yes, they would like to see
46 obviously a council come back again, but please, please,
47 not the one that's been suspended otherwise we end up in

1 the same situation. There's new staff, I know it means
2 that there is a certain loss of corporate knowledge, but
3 those - there are many good people who left this
4 organisation because they couldn't take it and they are
5 still out there, so they should be available to the current
6 staff if they want to sort of pick their brains.

7
8 So, it's my belief that this inquiry and interim
9 administrator is the only way forward for the Wingecarribee
10 Shire because we are suffering hugely as a community.
11 We're one of the loveliest places, if you just ignore the
12 weather today, that you could live.

13
14 THE COMMISSIONER: Q. And last week.

15 A. And last week and forever more.

16
17 MR PARISH: Q. An the week before.

18 A. But it is a wonderful place to live, and yet, they
19 cannot get staff because my understanding is that in the
20 local government community - I mean, who wants to come to a
21 place where, you know, it's not working properly? So
22 really, we need to be, yes, cleansed and we need to have
23 the chance of a reset of different people and staff that
24 can feel that they can operate without fear or favour
25 because the feeling I get - got, contrary to what both
26 Mr Mooney and Mr Wilton said, this was not a happy
27 organisation, this was an organisation in many ways
28 governed by fear at middle and lower levels, and I firmly
29 believe you can be efficient and happy. I thought it was
30 so very sad that I saw people, good people, leave and go to
31 neighbouring councils and some of the stories I was told
32 were terrible, it was a miserable place, and now hopefully
33 it's finding its way to go forward.

34
35 THE COMMISSIONER: Q. Just picking up on that and going
36 back to something you said earlier about, I think you used
37 the word "a disconnect", I might have misheard or got it
38 wrong, but a disconnect between the council and the
39 community. Have I understood your evidence correct?

40 A. Yes, and it's funny, yes, you're right Commissioner,
41 and it's funny that there should have been that because, as
42 I said, it is the one area of government that is the
43 closest to the people. But I don't quite know what
44 happened to all of them, they sort of got this sort of
45 blinker sort of thing up, and then they'd start blaming, as
46 the mayor once referred to them at an Australia Day
47 ceremony as "The blow-ins". Well, that went down like a

1 lead balloon.

2

3 Q. Tell me about that, what was that, what happened
4 there?

5 A. Well, it was an Australia - we have a traditional
6 Australia Day ceremony for citizenship held at Berrima
7 every Australia Day, and it must have been 2018, I think,
8 when Duncan Gair was elected mayor after Halstead, and his
9 deputy mayor was Garry Turland. And somehow, you know,
10 there's a format that you do, and somehow they had a bit of
11 banter up on the stage and it got round to, "Lovely to see
12 all of these people and so many locals". And then for some
13 reason it sort of segued into, "And you and I are both
14 locals, aren't we?" "Yes, yes, we're locals, born and bred
15 here, Mr Mayor, unlike some of the blow-ins", and I was
16 sitting there with a notebook thinking, I don't believe the
17 evidence of my own ears that they could be - they thought
18 they were being funny and having chitchat, but it really
19 was the most negative thing you could have ever heard from
20 elected officials.

21

22 Q. Whether said in that form or elsewhere, but looking
23 back, is that an attitude that is held by some here, that
24 is, you're one of us or you're not, type of attitude?

25 A. Yes, and fundamentally it goes back many years, and
26 there was a man who came here and conducted research, he
27 wrote a book and then it became a Four Corners programme,
28 and this is back in the 70s, but it still holds good.
29 Basically, the area sort of divided up a bit in earlier
30 days, and the so-called grand people sort of would still
31 bounce to and fro to Sydney, being lawyers or what have
32 you, and sitting in Burradoo, and local government they
33 tended to feel really it wasn't something they wanted to be
34 bothered with, so it became more the purview of local
35 traders, shopkeepers, business people, local developers,
36 real estate agents, and yes, a lot of them had been - and
37 dairy farmers all born here and semi-intermarried, and they
38 began to view this organisation as theirs.

39

40 So, there was a them and us, but the reality is, over
41 some years now, and I'd hazard a guess that well over
42 50 per cent of the voters of the Southern Highlands are not
43 born here because of its proximity to Sydney. But there
44 was a thing amongst this little group of people that
45 somehow this was their baby and that there is the them and
46 us and, you know, you would see it on occasions. It's
47 breaking down now because, quite frankly, time has taken

1 its toll and they've passed on and things are, dare I say
2 it, improving a bit over getting a little bit more - that
3 attitude was not reflective of the talent and ability and
4 even so-called sophistication of many of the residents
5 here. So that's a reason partly, and my personal view, why
6 things at the governing level here were getting out of
7 synch with its own community. It was a bit dad and Dave
8 but also, you know, I'll scratch my back - or your back and
9 you scratch mine, and it wasn't moving forward to reflect
10 what was here in the community.

11
12 Q. One of the descriptions of the relationship between
13 the council, and I'll use that as both encompassing the
14 governing body and the organisation, so the group as a
15 whole, not intending to pick up any particular staff
16 members in this observation, but it's been described to me
17 as there had been, in the last term, somewhat of an
18 adversarial relationship at times between the governing
19 body and the wider organisation and at least certain
20 sections of the community. Is that something that you
21 observed?

22 A. Yes, well, I think it's fair to say you could observe
23 that because it had become - it had developed a
24 dysfunctionality, and one of the things I've noticed with
25 dysfunctionality is that then things start to split;
26 patience runs out. I mean, and also this might sound very
27 trite and trivial to some people, but when the veneer of
28 civil and polite behaviour goes out the door when you're
29 expressing different views, which it had here - God knows
30 what was said in private, I mean, I know what was said to
31 me, I'm still recovering from the Chinese restaurant
32 episode - if you have all of that behaviour, yes, there's
33 going to be. And the staff from what is coming out here,
34 and I could see, they were on tenterhooks.

35
36 As I said, when I was the mayor I had a feeling that,
37 I might have been the mayor, but I wasn't the one that
38 really some senior staff were amongst the councillors
39 taking heed of. I got that feeling that somehow, I wore
40 the chains, but the real - the real thing that they had to
41 keep in with, it wasn't me.

42
43 THE COMMISSIONER: Yes.

44
45 Yes, Mr Parish, anything?

46
47 MR PARISH: I might end by just formally marking for

1 identification the articles that you've brought in, I
2 haven't read them yet, so I won't tender them yet but I'll
3 just --
4 A. Yes, thank you.
5
6 Q. Could you please identify them for the transcript?
7
8 THE COMMISSIONER: Do you want to hand them up and I'll --
9 A. I haven't got them, I sent them on the --
10
11 Q. I see, we don't have them in the room ready to go?
12
13 MR PARISH: No.
14
15 THE COMMISSIONER: That's okay, all right, well --
16
17 THE WITNESS: I've got one or two things that I can hand
18 into you.
19
20 THE COMMISSIONER: That's all right, we'll do it out of
21 session. So, Mr Parish, you're going to mark a bundle of
22 articles?
23
24 MR PARISH: Yes.
25
26 THE COMMISSIONER: Notionally, and we can perhaps deal
27 with this when we resume so it's done --
28
29 THE WITNESS: Yes, I'm sorry that they came in a bit close
30 to sort of curtain up time, but I had a bit of technical
31 issues.
32
33 THE COMMISSIONER: That's quite all right. Why don't I
34 just do it after we resume?
35
36 MR PARISH: Yes, thank you.
37
38 THE COMMISSIONER: You don't have anything further?
39
40 MR PARISH: No.
41
42 THE COMMISSIONER: Q. Ms Arkwright, thank you very much
43 for your attendance today.
44 A. Thank you, Commissioner.
45
46 Q. I do appreciate that answering a summons has taken you
47 away from whatever else you would be doing on this fine

1 rainy day, so that's much appreciated.
2 A. No, I've got my son getting married on Saturday, so as
3 long as I make it down there for the wedding is the main
4 thing.

5
6 THE COMMISSIONER: Leave early. Thank you for your
7 attendance, you're free to go.

8
9 <THE WITNESS WITHDREW.

10
11 THE COMMISSIONER: Mr Parish, at 2 o'clock we have
12 Mr Ryan?

13
14 MR PARISH: Yes, that's correct.

15
16 THE COMMISSIONER: And he is coming to us over Zoom, is he
17 not, because he's somewhere else?

18
19 MR PARISH: That's correct.

20
21 THE COMMISSIONER: Should we perhaps resume at 2.15, if a
22 message could be sent to Mr Ryan at 2.15.

23
24 Before I adjourn, you played to Mr Markwart a grab of
25 a meeting; do you tender that?

26
27 MR PARISH: I intend to tender as a bundle notionally the
28 electronic matters which are going to include some videos
29 next week.

30
31 THE COMMISSIONER: I see, so it's going to form part of a
32 later tender?

33
34 MR PARISH: Yes, that's my intention.

35
36 THE COMMISSIONER: Okay, well, I'll adjourn until 2.15.
37 Thank you.

38
39 **LUNCHEON ADJOURNMENT**

40
41
42
43
44
45
46
47

1 general manager of Cumberland Council where the
2 administrator of Wingecarribee was the administrator there,
3 I was appointed the interim general manager.
4

5 Subsequent to that I served a period of time as
6 directorate junior council chief operating officer for
7 Central Coast Council, and then finally a period of time as
8 deputy general manager at Wingecarribee.
9

10 As I was completing my term at Central Coast Council
11 Mr May contacted me and asked me if I was available to
12 carry out a study of the planning functions of
13 Wingecarribee Council which also included conducting a
14 series of public meetings or public interviews with anyone
15 who wanted to come along to talk to me as well as
16 interviewing the staff. I commenced that work using my
17 company, Earnest Consulting, as soon as I finished my work
18 at Central Coast Council.
19

20 Q. Is it fair to say that that first report dated 7 June
21 2021 deals with some broader issues and focuses quite
22 heavily on staff and HR perceptions, and then that second
23 report, "Righting the Wrongs" deals more specifically with
24 planning issues? Is that a fair description?

25 A. Yes, that's a fair description. Yes, the
26 administrator asked me to give him some initial
27 observations and I completed essentially half,
28 approximately half of the interviews with all the staff
29 interviews, and then the second one was when I completed
30 most of the interviews and included more recommendations
31 than just the staff and HR matters.
32

33 Q. When you commenced the interviews with staff what was
34 your remit, what were you trying to ascertain at that
35 stage?

36 A. It was relatively simple. I just wanted to find out
37 their perceptions of what their work experience was like at
38 the council. I came in with a fair understanding of the
39 situation Wingecarribee was in but not in detail. I wanted
40 to get as many staff as possible to give me their views
41 about their working life and the functions that they
42 performed at the council to give me a perspective of
43 exactly what they were facing.
44

45 Q. Can I just pause there. You were the deputy general
46 manager for a time at Wingecarribee Shire Council; is that
47 correct?

1 A. Yes, I was.
2
3 Q. What period was that for?
4 A. So, three months. Between that second report and the
5 final report.
6
7 Q. How did you conduct those interviews? Was it just a
8 matter of sitting down with staff members face-to-face at
9 that time and asking them questions?
10 A. Yes. Yes, it was. The interviews were arranged by an
11 officer from the council and she essentially just asked as
12 many people as possible if they wanted to talk to me. I
13 don't think they came - aside from the fact they knew what
14 I was doing, they came with no preconceived ideas of what I
15 was going to ask them. So, it's essentially 40 minutes
16 face-to-face with as many staff as I possibly could see.
17
18 Q. Thank you. You also met with members of the public;
19 is that correct?
20 A. Yes, I did, about 70, I think.
21
22 Q. Do their views form part of your first report, your
23 second report, or a bit of both?
24 A. A bit of both. I hadn't finished the public ones by
25 the first report, but there were some general observations
26 I made which were more confirmed the more interviews I
27 conducted; they were similar issues.
28
29 Q. Thank you. Did you gain an impression one way or the
30 other when you were interviewing staff as to whether you
31 were receiving their unmediated, honest feedback on the
32 questions you were asking?
33 A. Very much so, they were quite candid with me, yes. I
34 think they were relieved to have someone to talk to.
35
36 Q. Did you gain the impression or did you receive direct
37 evidence of them being afraid to - or cautious to give such
38 honest, unmediated appraisals in any different context or
39 different setting?
40 A. Absolutely, yes.
41
42 Q. Did you form a view why that might be?
43 A. Sorry, I missed the voice audio there.
44
45 Q. Yes, I think it cut out. Did you form a view,
46 Mr Ryan, as to why they might be cautious to provide their
47 views in other forums or in other ways?

1 A. My impression were, they were afraid of their
2 employment status or consequences of giving their opinion
3 if it was heard by senior staff.
4

5 Q. Was it senior staff and councillors that you formed
6 the impression they might be concerned about, or was it
7 specifically senior staff?

8 A. I guess the underlying threat was the pressure the
9 councillors had put on some members of senior staff, some
10 of the councillors would put on senior staff. It was very,
11 I thought, my observation was, quite a fearful workplace.
12

13 Q. Did you, as part of your interviews, interview senior
14 staff?

15 A. Yes, those that were left.
16

17 Q. And, did you form a similar impression from them that
18 they had concerns about providing honest and unmediated
19 views on staffing matters?

20 A. They didn't perceive there were any staffing matters.
21 They thought, the impression they gave me, that things were
22 fine.
23

24 Q. I'll deal with some of the themes which you identified
25 with interviews from staff members, it's on page 2 of your
26 interim report, but I'll take you through them. So, you
27 can have them in front of you if you want but it may not be
28 necessary. Your first bullet point was that:
29

30 *There was poor or no leadership which*
31 *manifests in a lack of trust in their*
32 *decision making and lack of authority to*
33 *make decisions.*
34

35 What led you to that conclusion?

36 A. It's the impression, especially from the planning
37 staff, that their ability to respond without fear of
38 favour, it's quite difficult for them to do that. And
39 there was also the impression from middle management that
40 they had very little access to even basic management tools,
41 like staff reports, budgets, those things, they had no idea
42 how they were going financially or the expenditure they
43 were incurring. There seemed to be very little in the way
44 of communication from senior management to middle
45 management and junior staff. They just felt as though they
46 were disempowered.
47

1 Q. And, in your impression or view, was that something
2 that was being caused by mismanagement at senior staff
3 level?

4 A. That's my impression of what I would call appropriate
5 management in local government, is not to do it that way.
6 My management style is an inclusive one where communication
7 and information must be given to all members of staff,
8 particularly middle management, for them to do their job
9 properly.

10

11 Q. That reference to "poor or no leadership", in your
12 impression, did that extend to the governing body
13 councillor level or were you referring specifically to
14 senior staff and executive levels in that?

15 A. Senior staff at executive level in that context, yes.

16

17 Q. Did you observe any concerns or problems about the way
18 councillors were conducting themselves in the meetings that
19 you had?

20 A. It was - two instances come to mind. The first one, I
21 think I've recorded that in my report, was clearly where a
22 report on a development application was modified by senior
23 staff at the behest of the council. And the second one was
24 to do with strategic planning reports, where that staff
25 member's made it quite clear that their recommendations
26 were directed to satisfy the council requirements -
27 councillor requirements.

28

29 Q. As someone who has considerable experience in local
30 government, in your view is that an appropriate thing to
31 do?

32 A. It's totally inappropriate, firstly in respect of
33 development applications. The Independent Commissioner
34 Against Corruption has made it quite clear that officers
35 should be allowed to give their opinion. Planning is not a
36 science, it's an art in my opinion, and therefore what is
37 nice to one people may not be nice to somebody else. And
38 it also should be co-signed, so there should be two
39 signatures on every recommendation to council on a
40 development application matter.

41

42 Strategic planning matters, again, the staff must be
43 allowed to give their unfettered opinion to the elected
44 bodies; elected body's option to adopt that or to adopt
45 another opinion, but they should not be fettered in any way
46 by the opinion of the elected body.

47

1 Q. And what, in your experience, is the appropriate way
2 to query or deal with issues that a councillor may have if
3 they (indistinct)?

4 A. Well, there's two forums you can do that in.
5 Obviously, you could have a councillor briefing session
6 where there's a free exchange of ideas; no decision can be
7 made at such a session, but the councillors' inability to
8 question the senior staff who managed or authored the
9 reports. And then, of course, the ultimate test is
10 questions in the council chambers in a formal meeting.

11
12 Q. On the topic of council briefings, did you receive any
13 feedback from staff when you were doing these interviews
14 about council briefings, whether good or bad?

15 A. There was certainly some negative comments about the
16 way the council briefings were run. Similarly, there was
17 negative comments from members of the public along the same
18 lines.

19
20 Q. There is a series of themes and bullet points which
21 revolve around, I think it's fair to call them, resourcing
22 and ways to staff a council, if that's fair, and a bit of
23 observation about IT systems and that sort of thing. You
24 then refer to the interference by councillors to
25 predetermined recommendations, especially on planning
26 proposals. Was that the sort of example you were giving
27 just then about what you heard from staff about that sort
28 of conduct?

29 A. Yes, that's correct. It was quite clear from the
30 strategic planning staff that they were directed what
31 recommendations they were to make.

32
33 Q. And this was not a one-off sort of situation, this was
34 something which happened with some regularity?

35 A. I think that's probably a fair description. I can't
36 say it's all recommendations, some of them may have been no
37 issues with them, but it was quite clear that it was a
38 common occurrence for that to take place.

39
40 Q. And I take it that your next bullet point down,
41 referring to:

42
43 *Adopting a strategic policy then*
44 *continually amending it so it never gets*
45 *finalised.*

46
47 Was that also one of the examples you were giving

1 before about interference with senior staff?

2 A. Yes, that's the famous land use or forward planning
3 land re-use program, yeah.

4
5 Q. And the next one down, "Poor outdated DCPs", what
6 feedback were you getting about them and why they were poor
7 and outdated?

8 A. I guess they're quite old in their format and were
9 written - I don't quite know how long, about 10, 15 years
10 ago. The evolution of DCPs have been quite dramatic in
11 recent times and the government has changed their
12 direction. They are very long.

13
14 So, I had issues raised by consultants who came to me
15 to say that DCPs are very difficult to work their way
16 through for their clients. And also issues from the staff
17 who have come from other councils saying they are
18 unnecessarily detailed, long, hard to understand documents
19 and were in dire need of a review, because circumstances
20 for Wingecarribee had changed considerably since they were
21 written.

22
23 Q. The next bullet point you have there is that:

24
25 *There was an inconsistency between various*
26 *strategic policies of council such as*
27 *council's position to promote tourism and*
28 *contents of the LEP, it effectively*
29 *prohibits those land uses.*

30
31 Is that squarely the role of the governing body and
32 the council to put in place those strategic policies?

33 A. It is, yes. There's no point having a one arm policy
34 to promote tourism, then have an LEP that effectively
35 prohibits them or makes them very difficult to develop; if
36 you're going to have a tourism strategy, then all your
37 strategic documents should lead to achieve that goal, not
38 have half of the documents go one way and half go the
39 other, and that's a matter for the elected body to resolve
40 based on advice from the staff.

41
42 Q. In your experience, and you may not be able to answer
43 this, but could you ascertain whether the LEPs that were
44 pulling in different directions in some ways, was that a
45 result of poorly conceived LEP drafting, was that the
46 council not properly addressing and updating it as needs be
47 to make it fit for purpose, or was it simple neglect?

1 A. I think it could be a combination of all those things.
2 It could be that different voting patterns had given rise
3 to amendments to the LEP but hadn't given rise to
4 amendments to the strategic documents, or there is little
5 emphasis on the amendments in the strategic documents to
6 make them consistent with each other. A lot of councils
7 don't, I guess, spend the time to make all their strategic
8 documents align correctly.

9
10 Q. I'm turning over the page now, if you're following
11 along, to deal with the observations you received from the
12 public, and the first one was that:

13
14 *There appeared to be no commitment to any*
15 *of the normal ideals of customer service.*
16

17 Can you explain what led you to that conclusion?

18 A. I asked to see a copy of their customer service
19 charter or the customer service strategy, and I was advised
20 there wasn't one and that the reason for that was that the
21 previous senior administration didn't believe or want one.
22 And I would expect to see in a document like that response
23 time for communication, emails, telephones, written
24 communication, and a response time for processing
25 applications, keeping applicants informed, all those sort
26 of normal customer service things were just missing.

27
28 Q. Your next bullet point is:

29
30 *Applications take too long. Some types of*
31 *applications such as simple DAs are dealt*
32 *with in good time.*
33

34 Is that just the usual complaints that one can expect
35 possibly with any council, or in your experience was this
36 something outside the norm, this feedback you were
37 receiving?

38 A. I have to say, and it's not a good statement for my
39 profession as a planner, that that is an observation that
40 many councils have levied at them. But it seems in
41 Wingecarribee's case the time taken was quite extraordinary
42 and the workload that individual staff members had was
43 unbelievably high and not surprising they couldn't do their
44 job properly.

45
46 Q. Your next observation was that:
47

1 *There were continual requests for more*
2 *information or changes to the details in an*
3 *application.*
4

5 Does that partly feed into the previous observation,
6 the length of the DA taken and the lack of commitment to
7 customer service in dealing with applications?

8 A. I think there's a third element to that. So, firstly,
9 the complexity of the DCP made it hard for the staff to
10 know if they had enough information, additional clauses
11 could arrive following referrals. It seemed that some
12 applications got dealt with quickly and some applications
13 got dealt with slowly.

14
15 But I think in terms, if there's a pressure on staff
16 to approve anything, one of the methods they have to use is
17 continually get more information. To me, I would prefer
18 the situation where the application is incomplete to send
19 it back, give the applicant their money back, and then work
20 with that applicant to submit a new application, otherwise
21 you're spending council resources trying to finalise
22 application and the fees you're receiving are going nowhere
23 to cover the costs of that expenditure, which is
24 disadvantaging the people whose applications are complete.

25
26 Q. Does that also feed into the next two observations you
27 make that:

28
29 *There were inconsistent processes and*
30 *outcomes and that different staff asked for*
31 *changes on the layout and typography of*
32 *plans.*
33

34 Does that feed into those previous observations that
35 there was any consistency of approach?

36 A. Yeah, that's the observations of community, especially
37 the consultants they dealt with, and I think it can come
38 about because (a) there are a lot of contractors employed
39 by council, and the applicants or the professional
40 applicants would be dealing with different people each
41 application they receive and they asked for different ways
42 of doing things. One of the simplest things council could
43 do is to make it quite clear exactly what information you
44 need to see and how you wish to have it presented, so the
45 applicants are well aware of what the obligations are on
46 them before they make their applications.
47

1 Q. Can I just skip down to your last observation that:

2

3 *The DCPs are sometimes rigidly adhered to*
4 *whilst other times they are not.*

5

6 Can you explain what that observation means, at least
7 from the point of view of the community or how that came
8 about?

9 A. Again, from members of the community is, some parts of
10 DCP they have a rigid measurement of how far you've got to
11 be away from something or how close you had to be to
12 something, and their observations and my later observations
13 was, depending on who you're dealing with and the
14 circumstances the perception could be that council was not
15 applying that number rigorously, but in some cases there
16 are objectives which allow you to vary it, but members of
17 the community would not understand that the variations are
18 allowable. So, it's that sort of communication and
19 transparency to the community is not there and that just
20 gives rise to the impression that favours are being given,
21 or there are inconsistencies; there can may well be
22 inconsistencies, but that's how that perception can arise.

23

24 Q. We've had some evidence that there was a perception in
25 the community that some people received favourable DA
26 treatment, and it wasn't put in the sense of corrupt
27 conduct or inappropriate conduct, but because they were
28 dealt with often at council meetings, if one councillor
29 backed it, then it was more likely to get through and that
30 therefore to get a DA through it required the favour of one
31 or other of the councillors. Was that any feedback you
32 received along those lines?

33 A. Yeah, I received similar observations from the
34 community about that as well. I have no evidence that
35 backs it up, I didn't seek it, but certainly that was their
36 impression. There was no-one who said to me that they had
37 found any form of corruption, it was just the way the
38 council functioned that, if you were perceived to be
39 accepted by a certain number of councillors, you seemed to
40 get better treatment than if you didn't.

41

42 Q. I might be jumping ahead, but one of the things that
43 the interim administrator did was put in place the local
44 planning panel. In your view, will that assist with some
45 of the negative observations made by the public?

46 A. Totally. I have to point out, I was the first council
47 in New South Wales to have a planning panel in place with

1 delegated powers, and I created them in the first idea at
2 that council. So, yeah, I'm a great believer in, they give
3 a forum for the councillors to be councillors, where they
4 can be advocates for or against a particular application
5 without breaching their Code of Conduct. It gives a forum
6 for the applicants to present their arguments, and it gives
7 a forum for the public to present their concerns in front
8 of a body who are independent of the political process.
9

10 Q. Well, you would say that, wouldn't you, Mr Ryan?

11 A. Absolutely. Because I created them, yes, absolutely.
12 But I guess I've had a lot of experience working with both
13 councils prior to having no panels, then having independent
14 hearing assessment panels where recommendations were made,
15 and then creating panels with delegated power; so, yes,
16 I am very biased in favour of them.
17

18 Q. I think one of the reasons - if you can hear me okay?

19 A. Yes.
20

21 Q. One of the reasons that there may have been a negative
22 perception in the public, from the evidence we've heard
23 about the DA process, was the amount of time that was spent
24 being dealt with DA issues in council meetings. And, quite
25 apart from the merits of the local planning panel itself,
26 did you get any feedback about whether the DA process in
27 council meetings was a cause of inefficiency or a
28 perception in the public that they were not conducting
29 business properly?

30 A. Yes, I got that feedback. There was some examples
31 cited where, I'd go to a council meeting and council would
32 ask for more information or seek an amendment, or seek to
33 say, "Look, we agreed to this if they changed this and
34 that". All those things are quite inappropriate at a
35 council meeting. The council should just say yes or no or
36 reject or approve the application, not keep sending it back
37 to the applicants or asking the objectors to change their
38 mind or something like that. That just is delaying the
39 process.
40

41 Q. Thank you. The next page are your observations that,
42 I take it, came out of the feedback you had received from
43 both the staff and the community; is that right?

44 A. Yes, I suspect so.
45

46 Q. But just at a high level for now, did the matters you
47 identify in a negative sense, were they substantial

1 problems in your view or were they --

2 A. Yes.

3

4 Q. -- trifling, you would expect this in any council sort
5 of issues?

6 A. No. No, definitely they were at a level beyond what I
7 was normally used to seeing at councils.

8

9 Q. Just going through some of the observations. Firstly,
10 you note:

11

12 *Poor leadership from all levels of senior*
13 *management that left the planning staff*
14 *without a framework to operate in and*
15 *resulting in an inconsistent process.*

16

17 Was that something that you were receiving feedback on
18 from both the public and the staff?

19 A. Correct, yes.

20

21 Q. And:

22

23 *The staff being stressed and overworked*
24 *largely due to the high number of vacant*
25 *positions.*

26

27 That was something that you both observed and received
28 feedback from staff on?

29 A. Yeah. The workload that staff have. I think there
30 was a report by David Broyd on sort of acceptable
31 workloads, and for a planning officer, 20, 25 live
32 applications would be normal. Some of the staff at
33 Wingecarribee have 75 or more applications live. No staff
34 member can deal with that many applications and deliver an
35 appropriate level of service.

36

37 Q. Thank you. I'm going to skip a few of those because
38 they're a bit more process-driven rather than in the
39 inquiry. You made the observation that:

40

41 *There seemed to be a disconnect between the*
42 *council's strategic goals and priorities*
43 *and the statutory planning instruments, and*
44 *there appears to be a council commitment to*
45 *promoting tourism, however, the LEP has*
46 *meant provisions that limit or prohibit*
47 *that outcome.*

1
2 We were talking about that before, but how did you see
3 that affected staff in the community when these
4 inconsistencies were manifest?

5 A. Well, I had two examples about the particular type of
6 rural tourist facility that were supposed to be promoted by
7 council's tourism staff, and when the people tried to apply
8 to get consent for it there was all sorts of complexities
9 put in their way. And I guess what I recall one of the
10 most ludicrous ones they were asking for was an
11 interpretation of the clause meant that they were asking
12 applicants to supply them their full income details to
13 prove that they were actually carrying out the agriculture
14 before they give consent to carry out the tourist facility,
15 which is not what planning is designed to do. That led to,
16 I think, unnecessary stress and trauma for both the staff
17 and the applicants to try and work their way through this
18 interpretation. And to me, if you've got a strategic
19 direction to promote tourism, you modify your planning
20 instruments and development control plans to facilitate
21 that strategic decision, not to hinder it.

22
23 Q. And that's the role of the governing body; am I
24 correct?

25 A. Absolutely, yes.

26
27 Q. Just leaping over the page there, about halfway down I
28 think expanding on that point you just made you say:

29
30 *Council has a wide range of tools it must*
31 *use to deliver its desired future and these*
32 *need to be up-to-date, coordinated and*
33 *integrated into all aspects of council*
34 *activities, reviewed constantly and subject*
35 *to annual performance measurement. These*
36 *tools include ...*

37
38 And then you list:

39
40 *The community strategic plan, local*
41 *environment plan, asset management plan,*
42 *operational plan and long-term financial*
43 *plan.*

44
45 Were those plans, in your view, both fit for purpose
46 or indeed even in existence?

47 A. They appeared to be in existence. Whether they were

1 fit for purpose, I can't answer that truthfully. I know
2 that the LEP is old but constantly reviewed, the DCPs were
3 definitely old. I had some very concerning fears about the
4 asset management plans but I didn't get to see them in
5 detail. But just the way the council operated indicated to
6 me that those documents were not meshed, integrated or kept
7 up-to-date, otherwise some of the issues that have been
8 arising wouldn't arise.

9
10 Q. And, given your previous answer that that was the role
11 of the governing body to set those strategic goals and
12 priorities, did you think therefore that the governing body
13 had failed in their role there?

14 A. I think so. I find it hard to believe that the senior
15 staff didn't know what they should have done. Whether
16 they - the governing body actively voted against doing it
17 or whether they just didn't care, I don't know the answer
18 to that question. But I can see that the lack of community
19 satisfaction surveys, the lack of customer satisfaction
20 surveys, the normal feedback tools that - again, what I
21 call a modern council would have, they were absent at
22 Wingecarribee.

23
24 MR PARISH: Thank you.

25
26 Commissioner, I was going to move off the specific
27 issues in this document unless you have anything to ask
28 Mr Ryan on that?

29
30 THE COMMISSIONER: No, thank you.

31
32 MR PARISH: Q. Can I just ask generally, following your
33 interviews and the preparation of this first report, how
34 you were struck by the feedback you were getting from
35 staff?

36 A. The staff feedback concerned me most of all. I
37 thought they were fearful of their jobs, they were
38 overworked, they were underpaid, and they were working at
39 what I perceived as a sort of management vacuum without any
40 clear direction as to why they are doing what they were
41 doing.

42
43 Q. Can I just ask you about your time as deputy general
44 manager for three months? Can you remind me when that was?

45 A. Without going to my diary, somewhere between the
46 second report and the third report.

1 Q. When the interim administrator was in place?
2 A. Yes, yeah. I finished the final report after I'd
3 finished my full-time employment, and the second report was
4 just before I started the full-time employment.
5
6 Q. Did your experiences as the deputy general manager
7 confirm what you had heard in the interviews that you had
8 done?
9 A. Yes, very much so.
10
11 Q. Do you have any other general observations about how
12 the staff morale and how they were able to interact during
13 your time as deputy general manager?
14 A. It's obviously complicated by the COVID restrictions,
15 and so we were all working from home, so there's no
16 personal contact, which is unfortunate. But I can give a
17 particular example which I think goes to the heart of the
18 situation I was dealing with.
19
20 A manager of engineering, so a person, senior officer
21 responsible for road maintenance and road construction and
22 asset management for roads over an issue at Bowral. The
23 issue was, there was an asbestos water main down the middle
24 of the road. Now, he asked me saying, "What should I do?"
25 And I said, "You're the engineer, what's your professional
26 advice?" And his words to paraphrase that was, "I've never
27 been asked that before, I've always been told what to do".
28
29 So, to have a senior engineer say he's never been
30 asked his professional opinion about an engineering matter
31 is a fairly sad indictment of the way the organisation was
32 managed.
33
34 Q. Did you get a general sense from your time as deputy
35 general manager whether the suspension of the council and
36 the appointment of the interim administrator had improved
37 the morale of the staff, or about the same, or worse?
38 A. It may improve slightly, I think they were still
39 fearful though, they were still fearful of councillors
40 returning and what would happen if that took place. It was
41 obviously a very short period of time and it was mostly to
42 hold things in position until the new senior staff arrived,
43 was my role, but yeah, they were still fearful but they
44 were working well. Hopefully whilst I was there they got
45 some direction, they did perform better, they looked at
46 their jobs a bit harder, but the resourcing strategy and
47 the inability to employ, particularly planning staff and

1 certification staff was bearing hard on them all, that's
2 for sure.

3

4 I think at one stage I had 11 vacancies for engineers.
5 A council can't operate with that proportion of its
6 technical staff absent.

7

8 Q. Were you able to ascertain whether any improvement in
9 morale was due to councillors no longer being active, or
10 whether it had been the removal or resignation of certain
11 key senior staff, or a combination of both?

12 A. Certainly, I think the combination of both. The
13 resignation of certain senior staff was a great relief to
14 many of the other staff. Not having to deal with council -
15 councillors was a great relief, and I think the creation of
16 the planning panel gave the planning staff a forum where
17 they could actually make their professional recommendations
18 and not be fearful of the ramifications of making them.

19

20 Q. I might go next to your Righting the Wrongs report,
21 that's at page 434 of the tender bundle, Commissioner.
22 This time I might skip straight over to your observations
23 and tie that back into the observations of the public and
24 the staff. Did these arise from the same interviews that
25 you had done in respect of your first report, or did you
26 need to supplement further information?

27 A. There were more interviews.

28

29 Q. And these focused specifically on the issue of
30 planning, did it?

31 A. Mostly. There was some general information questions,
32 there are some people who just wanted to talk to a person
33 who was, I guess, I gave them the benefit of being an
34 expert town planner and someone to talk to just generally
35 about their issues which came back to their relationship
36 with council. Some of them just wanted to talk about what
37 had happened to them, so it was a whole range of things,
38 and there were individual cases that I made some
39 recommendations about, yeah.

40

41 Q. Thank you. And, I take it, there is a fair bit of
42 overlap between your observations in this report and the
43 observations in the interim report; is that fair?

44 A. Yeah, you view them as a sequential document, the
45 second one builds on the first one, yeah.

46

47 Q. What evolved or specifically came to your attention

1 that you addressed in this second report that wasn't
2 addressed in the first report?
3 A. I think there were some details about particular
4 development applications. There are some also issues to do
5 with the way heritage matters were dealt with. And I guess
6 I'd finalised my interviews with all the staff by the time
7 I did that second report as well that canvassed some of the
8 issues as I saw with them.
9
10 Q. Can I take you to page 445. You won't have that
11 possibly in your tender bundle?
12 A. No, the - how is that --
13
14 Q. It's the recommendations part of your second report.
15 A. Yep.
16
17 Q. And, the first recommendation was in respect of
18 strategic planning, and one of the matters you raised is
19 that strategic planning should be led by a manager. Do you
20 have a view or have you formed a conclusion about the
21 structure of the organisation at the time you were doing
22 these reports and acting as general manager, deputy general
23 manager? Was it generally the right structure in your view
24 or is it something that --
25 A. No, I don't agree with the structure that existed when
26 I started as deputy GM, and I still have some disagreements
27 with the general manager, what she's done with the
28 structure, but I think the strategic planning team was led
29 by, I think, a team leader and it should have been led by a
30 manager and I think the strategic planning team should be
31 under the same senior officer as the statutory planning
32 team.
33
34 Q. Thank you.
35 A. That's my opinion, that doesn't necessarily agree with
36 the current general manager's opinion.
37
38 Q. Sure. I'm just going to take you to the discussion
39 part of the second report. Commissioner, that's page 438
40 of tender bundle B. I don't know if you've got it in front
41 of you, it may be worthwhile you doing it, Mr Ryan, but if
42 not I can paraphrase.
43 A. That's all right, paraphrase it.
44
45 Q. Under the discussion part following your reference to
46 the steps you've taken and what we've talked about just now
47 you say:

1
2 *There appears to be very limited adherence*
3 *by the elected council and senior staff to*
4 *the normal pillars of the Local Government*
5 *Act regarding the relationship between*
6 *Councillors and staff.*
7

8 Can you explain what you mean by that and what led you
9 to that conclusion?

10 A. Well, I guess there's a couple of examples. There's
11 one example that a certifier told me that they'd gone out
12 to do an inspection and soon after they arrived a
13 councillor arrived on site, someone by the landowner, so
14 they were in the position of having an elected member of
15 council arrive and then carry out that inspection, which is
16 quite inappropriate for that circumstance to take place.
17

18 And the other one is, there's supposed to be a
19 separation between the elected body and the senior staff
20 and the junior staff, and that didn't seem to take place;
21 there seemed to be a lot of communication between planning
22 staff and councillors, which I thought was quite
23 inappropriate.
24

25 So, normal in a council, the councillors would only
26 contact to a certain level of seniority within staff of the
27 council and then, if they wished to talk to more junior
28 staff, I would expect that senior staff member to be
29 present in such an interview and the interview be recorded
30 appropriately.
31

32 Q. What role does the general manager have to play in the
33 supervision of the conduct of those sorts of interactions?

34 A. Yeah. The general manager's role in my belief is to
35 facilitate that because that's a role for the council to
36 have, is to be able to talk to senior staff, but to
37 facilitate it in such a way that it's transparent and that
38 the members of the public understand what the interaction
39 is. I would normally, if I was running that situation, I
40 would publish the notes of those meetings on the web
41 page if it's part of a development application or planning
42 proposal so the community understands exactly what took
43 place. There should be nothing that makes place in local
44 government that the community shouldn't know about, unless
45 maybe it's very rare commercial in confidence or some human
46 resources issue. But in terms of planning matters, they
47 should be completely transparent.

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Q. Yes.

A. And this council did not seem to operate that way at all.

Q. You then say that:

The use of the Code of Conduct, declaration of interests in planning matters and detailed and comprehensive communication with the community are not seen to be adhered to by staff or the community.

Can you explain what you mean by that and what you --
A. Well, the community members made allegations that they thought the councillors had conflicts of interest that weren't announced, and there were also Code of Conduct of councillor on councillor, normally an indication that the council's not functioning properly, that's the game that's being played in the elected forum. Not this - you know, it does happen in well run councils as well, but it can get carried away to the point that the council becomes dysfunctional if that sort of contact goes on too much.

Q. I was asking you some questions earlier about a perception in the community that was caused by the idea of favouritism that arose when certain councillors picked up and ran with certain DA applications. Is the perception that there are hidden conflicts of interests one of the results of that, even when there aren't any pecuniary and non-pecuniary interests?

A. I believe so, yes. If that - it's easy to create an impression for a member of the public if a councillor is suddenly strident for or against a particular application, they just jump to the conclusion, I wonder what's going on about that. It reinforces my opinion about independent panels, that's for sure. But if a council operates properly and their Code of Conduct are dealt with appropriately and they adhere to the Code of Conduct, then they can deal with DAs just as well as anyone else can. But it's a very difficult for a councillor to enter a meeting without having made their opinion up, which is what the Code of Conduct would have them do, and then sit down in the meeting and vote one way or the other on a particularly contentious development location. It's almost impossible for them to do that.

1 Q. Can I dig into that a bit further? In your view, even
2 if it's not a specific pecuniary or non-pecuniary interest
3 which may put the council in conflict, is there the
4 possibility that a councillor picking up and promoting a
5 certain DA, can that still be a breach of the Code of
6 Conduct in your view?

7 A. Yes, absolutely. The Code of Conduct implies they
8 should come to the meeting without their mind made up or
9 not having expressed publicly what their decision is going
10 to be. As soon as the councillor expresses publicly what
11 their opinion is before the meeting, then they have a
12 conflict of interest straight away.

13
14 Q. And, do I take it from that that at least one of the
15 solutions to deal with that is that the councillor should
16 not vote on any DA which they have publicly propounded?

17 A. Yes.

18
19 Q. And the other option is to just not publically
20 propound DAs at all; is that fair?

21 A. Yes, or put a panel that allows them to express their
22 opinion freely without breaching their Code of Conduct
23 obligations.

24
25 Q. Can I then go down a few paragraphs. We were talking
26 before about the various strategic planning instruments
27 available to council and I asked you your opinion or view
28 on some of them.

29 A. Yeah.

30
31 Q. You conclude in the report by saying:

32
33 *The coordination of all of these functions*
34 *is not evident at WSC. To the contrary*
35 *there appears to be a complete lack of any*
36 *serious commitment to even the most basic*
37 *strategic planning functions.*

38
39 Can you explain what led you to that conclusion?

40 A. Well, the conclusion is, the community's strategic
41 plan technically is supposed to be a manifestation of the
42 public's goals for the council to achieve, they must be
43 based on public consultation, and therefore must be based
44 on public feedback and continuous feedback.

45
46 Once the community strategic plan sets the community
47 direction, then it's the council's job to implement that

1 plan over that four-year and then 10-year cycle. Unless
2 they can show the clear integration between the mission and
3 the goals that the community strategic plan set and their
4 operational plans, then you're not delivering the community
5 strategic plan.

6
7 And I think systematically of that, is that, the
8 community strategic plan is unnecessarily complicated, has
9 far too many reportable objectives, and very few
10 independent indicators of success or failure of those
11 objectives. And, that's common across many councils,
12 that's not unique to Wingecarribee.

13
14 Q. But on that topic you then note that:

15
16 *The annual performance measures need to be*
17 *meaningful to the community and in many*
18 *aspects the biennial community satisfaction*
19 *survey can supply these indicators.*
20

21 Did you have the opportunity to review the community
22 satisfaction surveys?

23 A. No. No, I didn't. I just knew that they existed and
24 I knew that they - when I got there I thought they were not
25 public, the results weren't public, so I asked the
26 administrator, I think he then resolved to release them to
27 the (indistinct).
28

29 Q. Do you know why they weren't made public?

30 A. I can only assume the councillors were afraid of the
31 content.
32

33 Q. And, when you say that "the measures need to be
34 meaningful to the community", what do you mean by that?
35 Are you suggesting that they hadn't sufficiently
36 communicated them to the community?

37 A. I think, and it's just not particular to
38 Wingecarribee, but a lot of councils create documents that
39 are so complex the community can't understand them. The
40 art of the community strategic plan is to present the
41 community a small number of clear objectives which have a
42 measure, and maybe the measure, for instance, could be
43 reduction in crime. In one of my previous councils person
44 on person crime was a big issue and council had a role in
45 doing some things that helped mitigate that.
46

47 Another previous council had concerns that the

1 community - that the councillors were not transparent in
2 decision making: that's easy to measure, how are council's
3 financials published on the internet, are council's
4 decision-making processes open to the public to see.

5
6 And then simple customer service details: how fast
7 have you answered the correspondence, how fast have you
8 dealt with emails and customer service, what's your
9 processing time for applications? These things are
10 relatively simple, and the community can see them, then
11 they understand the way council functions.

12
13 The final one I think is the most difficult one, is to
14 make council's finances clear and unambiguous and easy to
15 understand, and that's probably the most difficult one to
16 achieve.

17
18 MR PARISH: Thank you. Commissioner, I don't have any
19 further specific questions at this time.

20
21 THE COMMISSIONER: Q. Mr Ryan, can you hear me even
22 though you can't see me?

23 A. I can indeed, Commissioner, yes.

24
25 Q. While we're on the topic of surveys, I just thought
26 I'd use your local government experience, and this is a
27 general question seeing as though you indicated you didn't
28 see them. But if an overall satisfaction score in a
29 community survey went from 82 per cent to 65 per cent in a
30 six-year period, would that cause you some concern?

31 A. Yeah, I would have resigned if that happened to me,
32 that's appalling.

33
34 Q. What do you take from that sort of drop? Are there
35 any things that jump out at you? I appreciate that's a
36 general question, if you can't answer it in that way, say
37 so?

38 A. Well, such a drop indicates that the council is not
39 delivering what the community expects, on many fronts. For
40 instance, if you have - normally there's a quadrant survey
41 which shows individual services, you know, highly
42 satisfied, highly appreciated, and if you find a movement
43 and a degradation of the service, even a simple one like
44 public toilets, if you don't respond to that the community
45 satisfaction is going to decline. If you do respond and
46 halt the decline in satisfaction, that's good; if you can
47 turn it around, that's what you should be doing. A

1 satisfaction survey is something that council and senior
2 staff should live on because that's proof that they're
3 doing their job or they're not doing their job.
4

5 Q. From that do I take it that trends in surveys are also
6 important?

7 A. Absolutely, yeah, particularly for individual services
8 or large collections of services.
9

10 Q. And, just putting this again at the overall
11 satisfaction level, although I appreciate your comments at
12 finer integers are also important, but an overall
13 satisfaction score that drops by 20 per cent on a continual
14 downward trend, some jumps being bigger than others, is
15 that also something that would cause you concern?

16 A. Absolutely. Yeah, that means whatever you've done for
17 the last four years hasn't worked.
18

19 Q. Yes.

20 A. Or five years, whatever that period was --
21

22 Q. Sorry, I didn't tell you. It went from 85 to 65
23 between 2010 to 2021.

24 A. That's terrible.
25

26 Q. What about an overall satisfaction score of 65 as a
27 stand-alone point of data; what does that indicate to you?

28 A. Well, it's got to be one of the least satisfied
29 communities in the state, I would have thought. I would
30 have thought usually the aim of satisfaction ought be up
31 near 80 per cent, and you should at least attempt to
32 maintain it, if not slowly improve it.
33

34 THE COMMISSIONER: Yes, Mr Parish, does anything arise
35 from that?
36

37 MR PARISH: No, Commissioner.
38

39 THE COMMISSIONER: All right. Mr Ryan, that completes
40 your evidence. Thank you very much for making yourself
41 available to us from wherever it is you may be, it's much
42 appreciated.
43

44 THE WITNESS: No problem.
45

46 THE COMMISSIONER: I do understand that giving evidence at
47 these things takes people away from their ordinary

1 activities, so that's much appreciated. I'll just have
2 Mr Vong terminate the call. So, he will hang up on you,
3 but thank you very much.

4
5 THE WITNESS: Thank you, bye-bye.

6
7 <THE WITNESS WITHDREW

8
9 THE COMMISSIONER: I think that's happened. Mr Parish,
10 that's our last witness for today?

11
12 MR PARISH: Yes.

13
14 THE COMMISSIONER: One thing that occurred to me during
15 Mr Ryan's evidence and whether you can make some enquiries
16 about this is, I've had some suggestion that staffing
17 issues have been prevalent for some time; it also appears
18 to be suggested to me that it is a new phenomenon largely
19 developing following the suspension of the governing body.
20 I don't know whether such statistics exist or data, but
21 would you make some enquiries to see whether there is some
22 data that might inform my assessment should it need to be
23 made of those matters?

24
25 MR PARISH: Yes, Commissioner.

26
27 THE COMMISSIONER: Is there anything else I need to do
28 today?

29
30 MR PARISH: No, Commissioner.

31
32 THE COMMISSIONER: All right. To those watching, I have
33 been made aware that I think Counsel Assisting's audio may
34 have dropped out once or twice. Rest assured that the very
35 capable assistance that is being given to the inquiry is
36 looking into it, and I don't think it interrupted too much
37 today, but I'm confident that, if any issue is there, it's
38 not a serious one and will be resolved. But for those who
39 may have observed it, we're aware of it and it is being
40 attended to.

41
42 I'll adjourn until 10am tomorrow.

43
44 **AT 3.15PM THE INQUIRY WAS ADJOURNED TO**
45 **FRIDAY, 8 APRIL 2022 AT 10.00AM**
46
47

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