

From: [REDACTED]
Subject: RE: Written Response - Viv May
Date: Thursday, 5 May 2022 4:22:16 PM
Attachments: [image001.png](#)
[IA letter to Public Inquiry 05052022 Re Gair Email.pdf](#)
[Reviews-and-Audits-requested-by-Interim-Administrator-8-September \(3\).pdf](#)
Sensitivity: Confidential

Bron,
Please find attached a letter from the Interim Administrator in response to your request below.
Please let me know if you require any further information.
Kind regards
Marissa

From: Bron Hewson [REDACTED]
Sent: Wednesday, 4 May 2022 9:43 AM
To: Marissa Racomelara [REDACTED]
Cc: Angus Broad [REDACTED]
Subject: Written Response - Viv May
Importance: High
Sensitivity: Confidential

External Email: This email was sent from outside the organisation, please be cautious with links and attachments in the email.

Hi Marissa,

I have attached the email that was provided to the Inquiry by Duncan Gair on 27 April 2022.

As mentioned during the Public Hearing on 28 April 2022, the Commissioner would like to provide Mr May with an opportunity to address the allegations in the email provided by Mr Gair.

Can you request that Mr May provides a response to the contents of the email by **COB Thursday 5 May 2022**.

Please do not hesitate to contact myself or Angus if you or Mr May have any questions.

Kind Regards,
Bron Hewson
Officer Assisting

Office of the Commissioner, Wingecarribee Shire Council Public Inquiry | Department of Planning and Environment

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The Department of Planning and Environment acknowledges that it stands on Aboriginal land.

We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Contact: Viv May



5 May 2022

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mail@wsc.nsw.gov.au
ABN 49 546 344 354

Wingecarribee Shire Council Public Inquiry
Attn: Bron Hewson
Locked Bag 3004
Nowra NSW 2541

Email: wingecarribee.publicinquiry@olg.nsw.gov.au

Commissioner Glover,

Thank you for the opportunity to respond to the allegations made by Mr Gair on 27 April 2022.

Under the provisions of S4380 of the Local Government Act 1993 (the Act), I was appointed as Interim Administrator (IA) by the then Minister for Local Government for three months from 12 March 2021. S438N of the Act requires the IA to give to the Minister a written report about the administration of the council within 14 days of the end of the suspension period. The report is to include any recommendations in relation to improving or restoring the proper and effective functioning of the council. In that context it was imperative that decisions could be made quickly to gain an understanding of the status of the organisation and to support any necessary improvements.

All decisions were made in compliance with the relevant sections of the Act, the Local Government (State) Award 2020 (the Award) and adopted policies and procedures.

I refute the allegations contained in the email of Mr Gair and have refrained from making public comment in relation to some evidence given during the conduct of the Inquiry despite repeated approaches by the press. It has been my view that to do so would not add value to this independent process.

Working with you

To the best of my ability I have endeavoured to abide by the undertaking given in my first Interim Administrator Minute (IAM) to Council on 17 March 2021:

“Residents may be assured that while I hold the position of Interim Administrator I will do my best to independently serve in an honest, open and transparent way, ensuring all voices are heard”

The matters raised in the email have all been addressed in Interim Administrator Minutes (IAM) and the associated allegations and timing of the release of same (that are attributed to “an ex-employee of WSC”) are in my view mischievous, designed to destabilise the administration of Council and to undermine the decision of the then Minister for Local Government to not only to place the Council in administration but to make same the subject of a Public Inquiry.

I was given the opportunity to address the earlier press release (30 March 2022 “Sacking was political, say councillors”) under examination by Counsel Assisting and yourself on 5 April 2022. It is my understanding that I have yet to be released from obligations under the summons and it is in that light that I respond to give the Inquiry a better understanding of my decisions.

The procurement of Finch Consulting (Robert Finch) for various financial reviews and Earnest Consulting (Malcolm Ryan) for a suite of planning reviews followed S55 of the Act which prescribes the circumstances in which a council must invite tenders. Clause (3)(n)(i) provides an exemption for any contract below the value of \$250,000 and I confirm that the amounts provided to the consultants fell well below this threshold. Again, all consultancies and audits requested by me and the costs of same are publicly available in IAMs.

Messrs Finch and Ryan are known to me in a professional capacity. I was aware that they had the skills, qualifications and capacity to undertake the reviews within limited timeframes. The awarding of these contracts was processed by staff who undertook all due diligence requirements and prepared briefs to accord with IAMs.

I first met Mr Finch in Armidale when I was Interim Administrator where he is a resident at a Rotary Club meeting that I addressed in relation to Armidale Regional Council. The presentation was in relation to my observations about how the Council got itself into the situation with a strong emphasis on failures during the earlier merger process and finance. During question and answer Mr Finch asked me a series of what I considered to be very informed questions and I was later to find that he was a former local government auditor. In consultation with the Acting General Manager, Mr John Rayner he was retained, and I was impressed at the quality of his work, knowledge of legislation and his ability to deliver what I would call a plain english report.

Mr Ryan was known to me as he held a senior position at the former Warringah Shire Council and it is advised that he undertook no work while I was Administrator at the former Auburn Council. The 2016 local government merger process resulted in about 75% of Auburn Council being incorporated into the new Cumberland Council. In consultation with the Department of

Premier and Cabinet (DPC), Office of Local Government (OLG) and following appropriate psychometric and capacity testing by Hudson Recruiters (and organised by the DPC), Mr Ryan was appointed by me as the General Manager of the new Cumberland Council. In short, the decision to appoint Mr Ryan was largely influenced by his planning credentials and what he had achieved in the delivery of an IT solution that valued openness, transparency and accountability at Warringah.

The appointment of Marissa Racomelara to various positions over time, were made under S35 of the Local Government (State) Award 2020 which provides that:

- (i) The employer may employ a person on a term contract of employment in the following situations:
 - (a) For the life of a specific task or project that has a definable work activity;
 - (c) To perform the duties association with a vacant position until the vacant position is filled on a permanent basis

I briefly worked with Ms Racomelara at Armidale Regional Council where she was employed by the Acting General Manager in a temporary capacity to fill a vacant director position. The appointment of Ms Racomelara at WSC to Acting General Manager for 1 week followed by 4 months in an Interim Deputy General Manager role provided the organisation with leadership and stability, and supported the incoming General Manager, Ms Lisa Miscamble, to determine an organisational structure and recruit permanent directors. My reasoning for the appointment was outlined in an IAM to the May 2021 meeting of Council. The restructure was completed in October 2021, by which time the Public Inquiry had been announced and Ms Racomelara moved into a new position at the request of the General Manager assisting Council through that process, again being publicly advised through IAM to the September meeting of Council.

On 17 March 2021, Mr Les McMahon was appointed Acting General Manager until a permanent replacement could be appointed. Although not well known to me, Mr McMahon was a former General Manager at the neighbouring Wollondilly Shire Council and therefore likely well known in the Wingecarribee Shire. The appointment met all legislative requirements and again was publicly advised through an IAM.

An Independent Advisory Planning Assessment Panel (otherwise known as a Local Planning Panel) was established by resolution as an interim measure on 17 March 2021 to assist in depoliticising the planning function by providing independent advice to staff and Council. On 24 March 2021, the Acting General Manager presented a report to Council which outlined a proposed framework to ensure probity and accountability in the planning system. On 11 June 2021, the Wingecarribee Local Panel was formally established under the Environmental Planning and Assessment Regulation 2000. An internal panel consisting of planning and legal representatives undertook the recruitment of panellists. The process of selection of the expert members was undertaken in accordance with the Department of Planning's panel members selection guide for Councils and were subsequently approved by the Minister for Planning.

Ms Julie Walsh was known to me in a professional capacity as she provided planning advice to a former employer, Mosman Municipal Council, however I had little contact with her since, and as General Manager, I did not become involved in planning matters and used other solicitors in the practice whose specialities more aligned with my professional and statutory obligations.

In regard to the recruitment of the General Manager, LGNSW Management Solutions were appointed by Council on 25 November 2020 to undertake the recruitment process. Despite considerable community concern in relation to the recruitment I chose not to overturn this contract upon my appointment. While my actions in relation to the appointment are clearly outlined in IAMs, in my view it is damaging personally and professionally to the successful applicant to even imply that the process was in some way politically influenced.

Due to my perception that the original process was being tainted to achieve a certain outcome, I determined and made public through an IAM that no council employee, including the Acting General Manager, would be involved, and you may be assured that the only persons who were aware of the final candidates were the selection panel and the LGNSW representative. To imply otherwise is simply untrue.

The emailer makes reference to the fact that the information has come from an ex-employee. When giving evidence before the Inquiry I referred to the fact that some exited employees are to this day providing consulting advice to residents and it has been alleged to me by senior officers that some of the information being used has come directly from council files. It was common practice at Council for residents to retain former employees to navigate the complexity of the organisation and to lobby Councillors and staff. In my view this is not a practice that promotes probity and good governance and may lead to an unnecessary community perceptions promoting the need to do so to achieve positive outcomes. I am conscious that the General Manager is taking all actions within her control to assure residents that they do not need so called "bureaucracy busters" and that they should rely on the professionalism and integrity of current employees. In addition, the Planning Panel adds another layer of independence and confidence in process.

It is my strong view that the industry model employment contract for general managers and senior staff should be amended to provide that former employees cannot provide consultancy services to the council in which they were employed for three years in a similar vein to private sector non-compete clauses.

As indicated, all decisions were supported by comprehensive reports to the community through IAMs or business papers and adopted openly in council meetings. I have highlighted the relevant sections of IAMs and reports for your convenience and note that all documents are available on council's website.

Appointment of Acting General Manager

17 March 2021 Interim Administrator Minute

- *"Notice is given that effective from Monday 22 March 2021, I have appointed Mr Les McMahon as the Acting General Manager until a permanent replacement is recruited. Mr McMahon should be well known to many in the community as a former General Manager of Wollondilly Shire Council. He is very well regarded in the industry and I am confident he will assist in taking the Council forward. My decision should not be taken as a sign that I lack confidence in the current administration. There are a number of matters that I consider require addressing and no doubt further matters will be brought to my attention and having 'fresh eyes' oversee that process should be seen as an important step in restoring public confidence in Wingecarribee Shire Council".*

Finch Consulting Financial Review

17 March 2021 Interim Administrator Minute

- *"An independent desktop review of the Council's financial position, resourcing strategy, maintenance of basic infrastructure, depreciation schedules and capacity to deliver projects identified in the Community Strategic Plan (more particularly the Operational Plan and Delivery Program) will be undertaken in consultation with the Acting General Manager".*

20 May 2021 Extraordinary Meeting of Council

- Tabling, adoption and response to the Review of Council's Finances

Earnest Consulting (Malcolm Ryan) Planning Review

24 March 2021 Interim Administrator Minute

- *"In consultation with the Acting General Manager the decision has now been taken to have an independent consultant review the effectiveness of the Council's overall planning, development and compliance functions and processes. A brief is being prepared that will include the opportunity for residents to speak directly on a confidential basis to the selected consultant. Residents who are writing to me with concerns will be directed to the consultant who will have the necessary expertise, experience and qualifications to give constructive comment".*

23 June 2021 Interim Administrator Minute

- Tabling of the first report in response to the Planning Review

28 July 2021 Interim Administrator Minute

- Tabling of the second report "Righting the Wrongs" of the Planning Review

8 December 2021 Ordinary Meeting of Council

- Tabling of the final report into Planning and noting the receipt of a further, confidential operational report

General Manager Recruitment

17 March 2021 Interim Administrator Minute

- *"The appointment of a new General Manager will probably be the most important matter I will deal with over the next three (3) months. I have already initiated*

discussions with the recruitment managers, LGNSW, and asked that the position be advertised for a further 14 days to allow persons who may not have applied the chance to do so now that the circumstances of the Council have changed. In addition, I will be seeking two community representatives to assist in the selection process”.

21 April 2021 Interim Administrator Minute

- *“46 applications for the role of General Manager were received, however, based on their responses to criteria etc, I was not confident in making a suitable appointment. Accordingly, I have requested the recruiter to re-advertise the position. The reputation of Wingecarribee Shire Council in the industry is not good but I am hopeful that with a renewed focus we will be able to find a calibre candidate. There will be a stronger emphasis in responding to the essential criteria and some earlier applicants will be encouraged in that regard. Leadership, involvement of the community, urgent need for change, respect and readiness for the incoming Council in September will be highlighted”.*

21 April 2021 Interim Administrator Minute

- *“Re-advertising for the position of General Manager closed on Monday 10 May 2021 and attracted 20 additional responses. The General Manager Selection Panel (which includes two community representatives) will now consider all applications with interviews commencing as soon as possible”.*

20 May 2021 Interim Administrator Minute

- Minute dedicated to the appointment of the General Manager and Deputy General Manager
- *“To ensure that the Wingecarribee Shire community was represented in the process, residents were invited to put their names forward and I selected Ms Christina Hawkins AM, Ms Kellie Hayes, and to join Mr John Rayner PSM and myself in the interview process. A short biography on each panel member is attached to this Minute.*
The interviews were facilitated by the LGNSW Management Solutions representative and five candidates were shortlisted by the Panel. Interviews were held at the Council Chamber on 17 and 18 May 2021.
The calibre of the final applicants was extremely high and the panel was unanimous in its decision to recommend Ms Lisa Miscamble. Ms Miscamble is presently the General Manager of Hunter’s Hill and has held senior positions at Campbelltown City Council; City of Canada Bay Council; and Camden Council.
- *An expert in transformation change, organisation structure and governance generally, Ms Marissa Racamelara, will commence duties on 15 June 2021, firstly as Acting General Manager and then as Acting Deputy General Manager, Corporate Strategy and Development Services. Ms Racamelara has committed to Council until after the September elections, induction of new Councillors and adoption of the Council structure as is required under Section 332 of the Local Government Act. Residents and staff may be assured that the new structure will focus on the community, not individuals”.*

Local Planning Panel Establishment and Appointment of Roles

17 March 2021 Interim Administrator Minute

- *“An Independent Hearing and Assessment Panel (IHAP), also now referred to as Local Planning Panels, is to be established to deal with:*
 - *all Development Applications ordinarily referred to Council for decision.*
 - *all Planning Proposals and make recommendations to the Council with regard to their merit.*

This action will assist in depoliticising the planning function with the added benefit through peer decision and review of validating or exposing the professionalism and competence of planning staff”.

24 March 2021 Report to the Council meeting

- Resolution to establish a Local Planning Panel, outline referral and response process, appoint interim membership and allocate delegations

20 May 2021 Interim Administrator Minute

- *“It is very pleasing to note that the Minister for Planning and Public Spaces, the Hon. Rob Stokes MP, has approved the formation of the Wingecarribee Local Planning Panel and the appointment of Ms Julie Walsh as Chair until 29 February 2024”. The Panel is an important step in improving transparency and consultation in the operation of Wingecarribee Shire Council and the staff are thanked for preparing the late item to this meeting to ensure expert members and community representatives are in place and all documentation completed for its next meeting.*

28 July 2021 Extraordinary Meeting of Council

- Resolution to appoint Chair and Alternate Chair as selected by the NSW Minister for Planning, to appoint the expert panel members as approved by the Minister and to resolve appointment of community representatives.

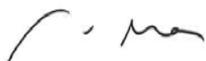
Financial Impacts of Commissioned Reviews

8 September 2021 Interim Administrator Minute

- *“For the record it is advised that \$115,022.96 has been expended by Council on audits/reviews initiated by me and made publicly available. In my view this has been ratepayer’s money very well spent and is broken down as an attachment to this Minute. I note that the report of Mr Norm Smith, has only been commissioned”.*
- A full breakdown of costs as presented within the IAM is attached.

I appreciate the opportunity to provide this additional information and while it could be considered to be more detailed than necessary, hard-earned reputations have been brought into question and it warranted a detailed response.

Yours faithfully,



Viv May PSM
Interim Administrator

Reviews and Audits requested by Interim Administrator 2021

Finch Consulting	\$23,940
<ul style="list-style-type: none"> ▪ Review of Council Finances ▪ Tourism and Economic Development Branch Expenditure Review ▪ Wombeyan Caves Road Expenditure Review ▪ Purchase Card Review 	
Samantha Charlton	\$11,359
<ul style="list-style-type: none"> ▪ Governance, Human Resources and Statutory Reporting at Wingecarribee Shire Council 	
Earnest Consulting	\$26,743.92
<ul style="list-style-type: none"> ▪ Face-to-face interviews with residents and some onsite visits – over 95 meetings ▪ Interim Report on the Planning, Development and Regulatory area ▪ Righting the Wrongs: Second Report on Planning, Development and Regulatory Services ▪ Final report delayed to Covid-19 	
Risk-e Business Consultants	\$24,000
<ul style="list-style-type: none"> ▪ Wingecarribee Shire Council Bushfire Response and Recovery Review 2021 	
David Ackroyd	\$11,979.95
<ul style="list-style-type: none"> ▪ Wingecarribee Shire Council Animal Shelter Review 	
KPMG	\$5,000
<ul style="list-style-type: none"> ▪ Report on the Economic Development Roundtable 	
Norm Smith	\$12,000
<ul style="list-style-type: none"> ▪ Review of Civic Centre Refurbishment Project (review commenced cost estimate \$12,000) 	
Total	\$115,022.96