



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

**COMMISSIONED UNDER S 438U OF THE LOCAL
GOVERNMENT ACT 1993 (NSW)**

**PUBLIC HEARING
SYDNEY**

**MONDAY, 14 JULY 2025
AT 10.00 AM**

DAY 1

APPEARANCES

Ms T McDonald SC, Senior Counsel Assisting

Ms B Anniwell, Counsel Assisting

Mr E McGinness, Counsel Assisting

**Mr J Emmett SC with Mr D Parish and Mr N Andrews, Counsel for Liverpool
City Council**

Ms K Richardson SC with Ms C Palmer, Counsel for Mayor Ned Mannoun

Ms C Hamilton-Jewell, Counsel for Mr P Ristevski

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to any direction against publication commits an offence against s 12B of the Royal
Commissions Act 1923 (NSW).*

<THE HEARING COMMENCED AT 10.17 AM

5 **COMMISSIONER:** As this is the first day of the public hearings in the public inquiry into Liverpool City Council, I would like to acknowledge the Gadigal people of the Eora Nation, the traditional custodians of the lands on which these hearings are being held, and pay my respects to both elders past and present. I also extend that respect to all Aboriginal and Torres Strait Islanders present and watching online today. I will take appearances.

10 **MS McDONALD:** May it please the inquiry. My name is McDonald of senior counsel. I appear with my learned friends, Ms Anniwell and Mr McGinness as counsel assisting the inquiry.

15 **COMMISSIONER:** Thank you, Ms McDonald.

MR EMMETT: James Emmett SC, with leave of the Inquiry I appear with Mr Parish and Mr Andrews as Counsel for Liverpool City Council

20 **COMMISSIONER:** Thank you, Mr Emmett.

MS RICHARDSON: Kate Richardson SC, with leave of the Inquiry I appear with Ms C Palmer as Counsel for Mayor Ned Mannoun

25 **COMMISSIONER:** Thank you, Ms Richardson.

MS HAMILTON-JEWELL: May it please the inquiry, Counsel for Mr Ristevski, Catherine Hamilton-Jewell.

30 **COMMISSIONER:** Thank you, Ms Hamilton-Jewell. Before I invite senior counsel assisting and anybody else who would wish to say anything by way of opening, I wish to say a few things. On 18 July 2024 the Minister for Local Government, the honourable Ron Hoenig, MP, appointed me to hold a public inquiry into Liverpool City Council pursuant to section 438U of the Local Government Act. When
35 establishing the inquiry, the Minister specified five terms of reference. Those terms of reference have been publicly available since they were announced and they can be accessed on the inquiry's web page, and I don't propose to read them out. At a general level, terms of reference 1, 3 and 4 direct attention to the governing body, that is the councillors. Term of reference 2 directs attention to the governing body insofar as it relates to the employment of the general manager and to the wider
40 counsel organisation more broadly. Term of reference 5 is, on one view exceptionally broad. However, it must be read in context. Although I will hear from the parties about this if necessary, my preliminary view is that the intent of term of reference 5 is to permit an examination of issues that might emerge through the consideration of the other terms of reference and which may impact on the effective
45 administration of the council's functions and responsibilities for the community's confidence in the council in being able to do so.

This is an administrative inquiry established under the Local Government Act. That means that the inquiry has several features that should be borne in mind. First, the inquiry is confined to the terms of reference. I do not have the power to inquire into matters which on a reasonable reading of the terms of reference are not within their terms. Secondly, the purpose of this inquiry is to make findings of fact and if appropriate recommendations to the Minister for his consideration. Thirdly, any findings of fact made by me are expressions of my opinion as to what the evidence that is adduced during these hearings reveals. Any findings of fact that I might make cannot and do not determine legal rights or bind anyone.

Fourthly, any findings or recommendations I may make are not binding on the Minister. It is a matter for the Minister whether any of the findings I might make are to be accepted and whether any of the recommendations are to be implemented. Fifthly, I have no power to implement any of my recommendations, impose any sanction or take any other action based on the facts as I may find them to be. As I have noted, my role is to make findings and recommendations to the Minister for his consideration. It is the Minister's function to determine what steps if any should be taken following a consideration of my report.

Various announcements and notices have been placed on the inquiry web page. They include an information paper, a practice direction, a notice of public hearings and a preliminary list of issues identified by counsel assisting for exploration during the public hearings. Those interested in the progress of the inquiry should regularly check the web page for any future announcements or notices. The practice direction makes clear that counsel assisting are responsible for choosing the witnesses that will be called and the order in which those witnesses are to be called. Counsel assisting are also responsible for determining which documents are to be tendered and when they are to be tendered. As was evident from the announcements that were made in the lead-up to these hearings, if it had been possible to do so, it would be my intention to hold the public hearings in the Liverpool area. For various reasons and despite the extensive efforts on the parts of those who are assisting me, that was not achievable. However, to ensure that the hearings are as widely accessible to the public as is possible, they are being live-streamed. Experience in other inquiries of this kind demonstrates that in doing so results in far greater access to the hearings than if in-person attendance were required to observe them. Those watching the live stream should note that there is a slight delay in the broadcast.

The proceedings are also being transcribed and a daily transcript will be made available on the inquiry's web page once finalised. If I am satisfied, however, that some part of the public hearings should be conducted in private, the live stream will be paused and a transcript of that part of the proceedings will not be made available on the inquiry web page. Standard sitting times will be from 10 am until 1 pm and from 2 pm to 4 pm, there will generally be a mid-morning break at about 11.30 am. During those breaks, the live stream will be paused. Those times are, however, subject to change at my discretion to ensure the efficient conduct of the hearings.

Finally, there are two matters that will stand out in the notice of public hearings that I wish to make mention. The first is that Councillor Mannoun was previously a member of the board of directors of the company that employs my wife. As I understand it on occasion my wife made presentations to meetings of that board at which Councillor Mannoun was present. I understand that Councillor Mannoun ceased to be a member of that board prior to my appointment. To the best of my knowledge I have not had any dealings with Councillor Mannoun or any other councillors. The second is that I understand is Ms Betty Boustani is an employee of the counsel. Over a decade ago I received a brief from a firm in which Ms Boustani worked as a solicitor. I had contact with her in relation to that work. To the best of my recollection I have not had any contact with Ms Boustani since that work was completed.

Ms McDonald?

MS McDONALD: [Indistinct] area of south-western Sydney, spanning 42 suburbs across 305 square kilometres on the lands of the Dharug and Dharawal nations whose history in the area dates back some 60,000 years. The council area stretches from the Georges River in the east to the foothills of the Blue Mountains in the west, covering both semirural and dense urban suburbs in between. In 1810 the city was founded by Governor Macquarie, making it the fourth oldest town in Australia. Today, it is home to over 250,000 people from over 150 different backgrounds, with significant communities from countries such as Iraq, Vietnam, Fiji and India. 43 per cent of residents from the council area were born overseas and 54 per cent speak a language other than English at home. The population is anticipated to grow significantly in the coming years. In its 2024 annual report the council indicated anticipated growth of over 40 per cent by 2046, taking the population to over 352,000. The council area is also a site of significant economic output.

In the previous financial year the council area had a gross domestic product of over \$16 billion, contributing to which were over 22,000 local businesses. The opening of the Western Sydney International Airport within the council area in 2026 is anticipated to have a particularly significant impact on the economy going forward. The operations of Liverpool City Council are carried out by over 800 staff that now, as a result of a recent structural change, work within four different directorates; community and customers, operations, planning and design, and corporate and executive support. Each of those departments report to the general manager of council or as sometimes known as the chief executive officer. As at April or as from April 2025 the permanent general manager of council is Mr Jason Breton.

The workload of council is significant. For example, in 2024 the council determined 731 development applications to a value of over \$2 billion. For the current financial year the council will operate under a budget of over 530 million across its capital works and operations. The council is governed by an elected body of 10 councillors and the mayor, who is directly elected by the community. Those councillors represent two wards; the north ward and the south ward. As presently constituted the north ward is represented by Deputy Mayor Peter Harle, Councillor Richard

Ammoun, Councillor Matthew Harte, Councillor Mira Ibrahim, and Councillor Sam Karnib. The south ward is represented by Councillor Emmanuel Adjei, Dr Betty Green, Councillor Fiona Macnaught, Councillor Ethan Monaghan and Councillor Peter Ristevski. The councillors were elected in local government elections held in September 2024 and hold their position for four years with the next election scheduled in 2028.

The mayor is Ned Mannoun. Mr Mannoun is serving his third term of mayor having previously served as mayor between 2012 to 2016, and then again between 2021 to 2024. For the purposes of the inquiry matters that arose during previous councils we anticipate may be relevant to your deliberations. In - starting with the 2012 to 2016 term, the council was constituted by the north ward, Councillors Hadid, Waller, Karnib, Peter Ristevski and Peter Harle. And in the south ward by Anne Stanley, Tony Hadchiti, Sabrina Mamone, Geoff Shelton and Gus Balloot. The mayor as I outlined, for that term of council was Mr Mannoun. The council for that period 2016 to 2021, which you can see from the length of that council was affected by the COVID period. The north ward, the councillors were Councillor Hadid, Councillor Hagarty, Councillor Karnib, Councillor Balloot and Councillor Harle. The south ward were represented by Councillors Kaliyanda, Councillor Hadchiti, Councillor Ayyad, Councillor Shelton and Councillor Rhodes. The mayor at that time was Wendy Waller. From 2021 to 2024, as outlined previously, the mayor was Mr Mannoun. The north ward was represented by Councillor Hadid, Councillor Hagarty, Councillor Ali Karnib, Councillor Goodman and Councillor Harle. The south ward were represented by Councillor Kaliyanda, Councillor Macnaught, Councillor Ammoun, Councillor Dr Betty Green and Councillor Rhodes. The composition of the various councillors represent councillors who are members of either the Liberal Party or the Australian Labor Party and in addition, some councillors who are known as independents. Some of those councillors belong to an independent party known as the Liverpool Community Independent team. For example, the current deputy mayor Peter Harle is a member of that organisation. Other independents, for example, in the current council, Councillor Peter Ristevski is an independent but not - is not a member of that independent organisation.

Commissioner, you have outlined the terms of reference for the inquiry. As you also outlined the terms of reference are complemented by a document that has been issued, known as the list of issues. The first matter that we wish to draw to everybody's attention is that in that document there are a number of caveats. For example, in paragraph 2 of the document it is stated that counsel assisting have identified a preliminary list of key issues to be examined during the public hearings, but the list is non-exhaustive of the issues that may be explored and is subject to amendment as the inquiry receives further material and as evidence is adduced during the course of the public hearings.

The Inquiry, Given the inquisitorial nature of these proceedings, other issues obviously may emerge as evidence is heard. The list of issues is not the equivalent to a pleading in a civil matter or a charge or an indictment with particulars provided in a criminal matter. We emphasise that this is particularly an important consideration

given the stage of the inquiry. As part of the lead-up to the public hearings a number of investigative tasks have been undertaken. These include the issuing by you, the Commissioner, of 23 summons to eight different people. As a result of those summons to date over 35,000 documents have been produced in response. Of those documents - those documents have been uploaded to an investigative search engine with addition with some open-source documents such as council minutes and agendas, and also documents that may have been provided to the inquiry by other sources.

10 An area of concern is that there are still outstanding summons. As at the date of today seven summons are awaiting production. Now, some of those summons have been issued relatively recently and approaches have been made to the solicitor assisting team setting out when documents will be likely to be produced. But a matter of concern are three summons issued to the council which are overdue. The first summons issued, which is identified by LCC1, in January 2025 to the council, still has not been completely complied with. The majority of documents have been produced but one category, category 9, there has been only partial production and no formal extension to produce has been granted or requested in respect of those documents.

20 The second summons known as LCC3 - and I should indicate LCC1 was issued back on 6 January with a compliance date of 31 January. Now, it is conceded it was quite a wide-reaching summons and there were discussions about productions of documents according to tranches, but now in July the fact that it still hasn't been complied with fully is a matter of concern. LCC3, which was issued on 24 March with a compliance date of 11 April 2025, has not been complied with. No documents have been produced. And LCC11, which was issued relatively recently, 7 July 2025, with an initial return date of 11 July, again no documents have been produced and no formal extensions to produce have been granted or request. There have been some correspondence between the respective solicitors where there was a request about certain categories being narrowed in scope, which was responded to. On 13 July a telephone call was received to indicate that there was correspondence coming regarding production of the documents in tranches. But, again, there has been no further correspondence and those documents, some of which are specific and narrow, have not been produced.

40 The solicitors instructing the inquiry are pursuing compliance with those notices, but the reason for raising it at the moment, Commissioner, is that it does have an impact on the opening and the conduct of the inquiry. Now, an opening by its very nature being for an inquiry cannot be definitive. It is subject to the caveats that are being outlined in the list of the inquiries, but particularly here, where we are awaiting additional documents which may affect which witnesses the inquiry will hear from, particular case studies or matters that are raised, that may change as the documents are received and as the inquiry progresses. As counsel assisting outlined in the issues document, it is a matter that when we become alerted to the fact that there is either a change in a topic or a new topic, we will endeavour to inform the other parties as soon as possible. But it is a matter that we anticipate will arise during the inquiry.

The intention of the opening is to identify some of the case studies that counsel assisting intends to pursue presently during the inquiry. As foreshadowed it's not a definite list, it may be refined, added to, et cetera. One matter to foreshadow is that in choosing the case studies it is not a matter that a case study neatly fits into one of the paragraphs of the terms of reference. With many of the case studies they can be included under multiple paragraphs of the terms of reference. So a matter that is dealing with maybe, for example in paragraph 1, public land management, long-term financial planning, may also have repercussions for the way council conducts itself, information that is provided to council, compliance with other policies or management documents that have been agreed to or passed by council. For example, one of the matters that the inquiry will be looking at is the effectiveness of the operation of the governing body of council. It is anticipated that there will be a number of case studies falling under this umbrella. One of them will focus on the council meeting held on 26 February of this year.

Before outlining in brief detail the circumstances of that meeting, one matter should be referred to. In the reference to the current council, there was a reference obviously to the mayor, Mr Mannoun and also to a councillor, an independent Councillor Peter Ristevski. Those two gentlemen have had a long history. In the council from 2012 to 2016 Mr Ristevski was a councillor but representing the Liberal Party. Mr Mannoun was the mayor for that council. Mr Ristevski, though, it would appear to be, active in local affairs, became a councillor again in the most recent council. We anticipate that there will be evidence about antagonism between those two gentlemen. And indeed outside council, defamation proceedings were brought last year by the mayor against Councillor Ristevski, which were ultimately dismissed. But the relationship between the two if we can describe it at this stage as a troubled relationship, which seems to be spilling in or affecting the operation of council.

Now, it is that background which leads to this first case study focusing on the council meeting held on 26 February of this year. Again, to understand this, one has to look at some developments during January and February of this year. We anticipate there will be evidence of the use of social media postings by Councillor Ristevski which have raised concern within the council, both with council staff and with members of the governing body. And, indeed, another matter that we will return to in this opening is that a number of those social media postings have been subject to various code of conduct complaints.

During January and February issues about work health and safety, some of which arose - allegedly arose from these social media postings by Councillor Ristevski had been raised within the council. On 20 February 2025 a meeting occurred which concerned the appointment of the new general manager. At that time, the previous general manager, Mr John Ajaka, had been terminated - his employment had been terminated earlier in 2024. Mr Jason Breton had been the acting general manager and the council were then going through the procedure of advertising recruitment of a permanent CEO. There was a meeting held which was attended by the councillors and the mayor and also outside recruiters, regarding the appointment of the new CEO. It is alleged during that meeting that an incident took place between the mayor

and Councillor Ristevski where there were allegations of their interaction, including Councillor Ristevski goading the mayor, stating to him "Let's go into the councillor room and deal with this" and also an allegation that he moved into the mayor's personal space at one stage and was so close that he stood on the mayor's foot.

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Now, that meeting occurred on 20 February. In the lead-up to the meeting, the meeting of 26 February, part of the agenda at the meeting was a motion known as I think it was COM04, which was looking at a report concerning mayoral attendance at a conference dealing with aerotropolis to be held in Hong Kong in May. When this item was reached during the council meeting Councillor Ristevski foreshadowed an amendment to the motion which was along the lines that he would like to attend the conference and that the resolution should be amended so that he and the mayor could travel together, though he will be paying his own way. The motion about the mayor attending the conference was put to the vote and lost. The mayor then stated that he wanted to deal with a foreshadowed motion, but it was necessary to go into a closed session. Now, under the Local Government Act where there are certain matters which are going to be dealt with by council at a council meeting there is the facility for them - for the council to move into a confidential or closed session. This was raised by the mayor. We anticipate that there will be evidence from some councillors that there appeared to be no reason for closing the meeting in this way. And the motion

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<THE HEARING ADJOURNED AT 10.50 AM

<THE HEARING RESUMED AT 10.56 AM

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COMMISSIONER: For those watching in the live stream we just experienced a network issue in the hearing room. The proceedings were stopped as soon as that occurred so you haven't missed anything. Things like that this happen from time to time. We have people monitoring the situation and if the feed goes down we will pause it, pause the proceedings and wait for things to come back online. Yes, Ms McDonald.

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MS McDONALD: Thank you. Before the break I was outlining one of the case studies that the inquiry will look at, which is looking at the effectiveness of the operation of the governing body of council (indistinct) on 26 February this year. I was just broadly outlining the observations of what occurred when one watches the video of the meeting and that the mayor left the meeting, leaving the chair of the meeting then to the deputy mayor. Other councillors remained. There was a motion that the previous motion not to go into a closed session was put forward to rescind that motion. That was lost and then a number of councillors, those who represent the Liberal Party, then stood up and left the council meeting. The council meeting then occurred - continued with the other councillors, the two independents and also those who represent the Labor Party forming a quorum and dealing with other business.

From the proceedings an independent bystander is rather confused as to what is going on, why people are leaving. After the meeting the mayor sent an email to

councillors other than Councillor Ristevski to inform them of a matter of work health and safety that he wished to bring up in that closed session, which arose from the meeting dealing with the recruitment of the CEO held on 20 February. He then stated in this email that the fact that councillors voted against that request to go into a closed session, he viewed as a lack of consideration for a serious matter regarding health and safety of staff and councillors and very concerning that they did not want to hear about it. That was contested by a number of the other councillors and we anticipate that evidence will be heard from Councillor Betty Green that she responded to that email in which she rejected a number of his - the mayor's assertions, stating that notwithstanding the short life of this term of council the tendency to regularly prosecute personal grievances on the chamber floor and also during councillor briefings and social media. She also (indistinct) of workplace health and safety issues.

15 We do expect that there will be evidence that during January and February there were applications made to the Safe Work New South Wales, including to inspector Kathleen Maltby, who has dealings with the council concerning work health and safety and risk assessments. Just very briefly, under this umbrella of the effectiveness of the operation of the governing body of (indistinct) we would also anticipate that we will be - the inquiry will be looking at where matters which are of significance are proposed by the mayor or at times by councillors at council meetings without notice. One example is during the 26 June 2024 meeting which was to consider the budget. During the council meeting held on that day the mayor proposed a 2.4 million increase in expenditure to be included within the budget to the councillors. Again, I anticipate that the video of that meeting will be shown during evidence of the inquiry and it would appear that the mayor had a piece of paper [indistinct] topic or areas of expenditure concerned.

30 <THE HEARING ADJOURNED AT 11.03 AM

<THE HEARING RESUMED AT 11.56 AM

MS McDONALD: Commissioner, immediately before the break we were dealing with the issue of the effectiveness of the operation of the governing body of council. A particular council meeting held in February of this year has been discussed and a second topic of substantial motions being moved, dealing with matters of substance where there hasn't been appropriate notice or arguably appropriate compliance with other council matters. That segues into the next topic, which is the use of mayoral minutes. Now, mayoral minutes are a practice which are common to councils and, indeed, are dealt with in the Code of Meeting Practice. Clauses 9.6 to 9.10 of the Code of Meeting Practice foreshadow that if the mayor is the chairperson of a meeting of council the mayor may, by minutes signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.

Now, that very broad power is then subject to conditions and restraints. In particular, under clause 9.9 a mayoral minute must not be used to put without notice matters

that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

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And then clause 9.10 provides a further restriction where a mayoral minute makes a recommendation which if adopted would require the expenditure of funds on works and/or services, other than those already provided for in the council's current adopted operational plan it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source the council must defer consideration of the matter pending a report from the CEO on the availability of funds for implementing the recommendation if adopted.

Now, the motion that was discussed before the break where the mayor, without notice put forward amendments, expenditure amendments to that budget, strictly did not appear to be classified as a mayoral minute but it had that effect. Counsel assisting have undertaken a numerical analysis of the use of mayoral minutes at Liverpool City Council. And it has looked at the use of the mayoral minutes in the 2016 term, 2021 term and then the current 2024 term. The 2016 term where the mayor was Ms Wendy Waller, the number of mayoral minutes in total were 29. Mayoral minutes urgent in nature were four. Mayoral minutes ceremonial in nature - and you see those on occasion where a local school student has won an award or somebody has been given an honour in the Australia Day Honour. The mayor will through a mayoral minute identify the person and congratulate the person on behalf of the council. And then mayoral minutes not ceremonial in nature were 17. In respect of the 2021 term where Mayor Mannoun had the ability to bring mayoral minutes, the total number of mayoral minutes was 62. Six were urgent in nature, 21 were ceremonial in nature, but 41 were not ceremonial in nature. In the 2024 term, up until 18 June of this year, the number of mayoral minutes was 25. No - no minutes were urgent in nature, 13 were ceremonial in nature and 12 were not ceremonial in nature.

We anticipate that during the inquiry evidence about the content of those minutes in particular, minutes not ceremonial in nature, the topics that they deal with and whether there has been compliance with the Code of Meeting Practice will be explored.

Another matter or issue that will be considered by the inquiry is known as code of conduct complaints. Now, code of conduct complaints are dealt with by code of conduct procedure which Liverpool City Council has adopted. Recently there have been in the broader community issues have arisen about the use of code of conduct complaints. For example, in a press release by the Minister dated 5 September 2024, it was identified that the NSW Government is proposing reforms to overhaul the broken code of conduct system for elected councillors which is generating thousands of trivial complaints, making it almost impossible to act swiftly and fairly on matters of general concern. The number of code of conduct complaints which have arisen in Liverpool has become a matter of public comment. In the Sydney Morning Herald in

April of this year an article was published which stated that the council was spending over \$300,000 on councillors complaining about each other. Recently there had been two reports provided to council concerning the number of code of conduct complaints.

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The first report was provided to the council meeting of March 2025. It identified that for the financial year 2024-2025 to the date of writing the report there had been 67 code of conduct complaints. In comparison in the financial year 2023 to 2024 there had been five. Material obtained from the Office of Local Government time series setting out details for the financial year 2023 to 2024, indicates that for a metropolitan council it would appear Sutherland Council recorded the most code of conduct complaints with 23. Now, at that point in the March 2025 report it was indicated that 14 complaints were being investigated, 24 had been referred to external conduct reviewers for preliminary assessment, 23 were under assessment by the governance team, one being dealt with by other action, and one pecuniary interest complaint being referred to the Office of Local Government, and four complaints declined at the outset. At that point the cost of the 46 complaints including estimated council staff time, code of conduct reviewers, was in the amount of about just over \$346,000. An updated report was provided to the most recent council meeting of June 2025. Now, there the complaints, code of conduct complaints had increased from the 67 in the first report to 115, with 48 new reports being made since the last report.

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COMMISSIONER: Since March of 2025?

MS McDONALD: Yes.

COMMISSIONER: March to June 2025, 48 new complaints?

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MS McDONALD: Yes.

COMMISSIONER: Thank you.

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MS McDONALD: Now, of those reports, 64 were being investigated by an external investigator, 27 were being preliminarily assessed by external conduct reviewers, nine there were subject to initial assessment by the council governance team, three being dealt with by other action, five no action following preliminary assessment or referral to the Office of Local Government, and seven complaints declined or withdrawn. And the estimated costs just concentrating on the external parties, that is code of conduct reviewers or investigators, amounted to just over \$216,000. Now, the number of complaints made, it is evidence that the vast majority of them are still subject to the code of conduct procedure. An analysis has been undertaken concerning the code of conduct complaints. They can be grouped in to complaints about two particular members of council and also then a third group of complaints about other councillors and other employees.

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Now, under the complaints procedure when a complaint is being investigated it is subject to confidentiality. It is not the intention of counsel assisting to review the substance of the complaints and whether those complaints have been substantiated. But what counsel assisting is interested in is looking at the number of complaints, particularly the substantial increase that has occurred in this financial year. Looking at broadly the subject matter, where they arose from, what prompted those complaints and investigation or looking at the costs involved, and in particular looking at whether there are any alternative mechanisms or procedures in dealing with some of these complaints that have been made. For example, Liverpool City Council many years ago had an internal Ombudsman where complaints could be made to that person. That position was abolished a number of years ago. One matter that counsel assisting is interested in is whether the re-establishment or re-appointment of such a role may facilitate some of these complaints being referred to that particular person and hopefully with a saving of the time that it would appear members of staff of the council are being involved in and also obviously the costs involved in engaging external investigators to investigate the various complaints.

COMMISSIONER: Are you leaving code of conduct?

MS McDONALD: Yes.

COMMISSIONER: Can I just raise one thing? I'm aware that the Minister has published for want of a better term a discussion paper about potential reforms to the processes you mentioned. Is that still subject to consultation or has there been movements from government to make reform or publish indicative reform?

MS McDONALD: Commissioner, in the press release I referred to it is referred to the discussion paper and that it is now open for feedback. Anticipating the submissions would close in November 2024.

COMMISSIONER: Yes.

MS McDONALD: We will make inquiries of the Office of Local Government to see where any proposals for reform are at.

COMMISSIONER: Thank you.

MS McDONALD: And obviously if there is anything of substance that's a matter we will put before the inquiry.

COMMISSIONER: Thank you.

MS McDONALD: In counsel assisting's list of issues one matter that was raised was whether the council has in place and has followed appropriate policies and procedures for the acquisition and sale of land, and also associated with that the acquisition and sale of properties being consistent with strategic planning documents that had previously been adopted by council. It is anticipated that this will be pursued

in the inquiry by case studies. One of the anticipated case studies is the purchase by council of a property known as 600 Cowpasture Road located in the Len Waters Estate. Now, this property was purchased in 2022. So not during the current council, but the previous council. We anticipate that there will be evidence that from the first
5 indication or raising of a possible purchase of this property to a decision by council to purchase it occurred very quickly. The property apparently was - used to be used as a bus depot, had not been used as a bus depot for a number of years but had a number of different tenants on the property. We anticipate that in August 2022 there was a WhatsApp message sent by the mayor, Mr Mannoun, to other councillors
10 which asked the question along the lines of, "Does anybody want to buy a depot?" At this time within Liverpool City Council there was a depot at Rose Street. That depot provided parking, et cetera, for council vehicles, a - mechanical facilities if there were relatively straightforward or minor mechanical repairs that had to be made to equipment. It was anticipated that as Liverpool's council area grew that there would
15 eventually be the need for another depot. There was property known as the Devonshire Street property, which was at least flagged as a possibility for another depot.

From the WhatsApp message at the beginning of August 2022, in about three months
20 a resolution was before council for the purchase of the property. That resolution was passed by a majority. The inquiry will look at whether the preliminary work, such as due diligence, probity requirements, and also looking at what actually was proposed ultimately for the use of this property, and whether that property was suitable for that use will be investigated. At the council meeting on 16 November, as I said, by
25 majority of the council resolved to purchase the site. The final price was \$24,750,000. At this time it appears that the proposal for the purchase of the property was not limited to purchasing the property for another depot, but had also now included the role of a waste and resource recovery centre. It is really not clear when the additional purpose for the property arose and the basis for that. The question of
30 funding for the purchase was discussed at the council meeting. Because it was now going to be a waste and resource recovery centre this allowed access for funding from the domestic waste budget management reserve. And, indeed, it was anticipated that there may be an increase in domestic waste rates to assist in funding the purchase. It was anticipated that that would provide about \$5 million in funding and
35 then the rest of the purchase, which included additional costs and amounted to \$32.7 million, would have to be found in borrowing from banks. Now, as we foreshadowed, issues which the inquiry will also focus upon is how the purchase of this property aligned with council's strategic plans. There are issues as to whether this particular site and its anticipated use was contemplated in council's strategic or
40 strategy documents.

There are also issues about the research and analysis undertaken to confirm that the property would be suitable to operate as a waste and resources recovery centre. This raises one matter that has arisen during the inquiry. That is the installation of what is
45 known as the Croc, that is a mattress recycling equipment. Now, it appears that the mattress recycling equipment - and there are two such pieces of equipment - were anticipated that they would be installed on the 600 Cowpasture Road. Now, we

understand that the purchase of the first Croc was financed in part by a grant from the Environmental Protection Authority. Secondly, the second Croc was purchased by the council. Now, it is anticipated that use of the Croc to recycle mattresses would not only be confined to rate payers of Liverpool council, but also it was a business that could be offered to other councils which allowed them to transport their discarded mattresses for a fee to be recycled by the Croc. So it was anticipated that this would be generating additional income for the council.

We understand that at the moment there - to develop 600 Cowpasture Road fully there is a need for a development consent and at the moment that there are problems with progressing the development consent. That the two Crocs are - have been purchased but are currently in operation at the Rose Street depot. Again, information provided to the inquiry concerns issues about whether given the situation of 600 Cowpasture Road, usually whether it's going to be appropriate to be used as a waste and recovery centre, and in particular whether the Crocs can ever be transported to that area.

Other issues that arise under this topic that we anticipate will be raised in evidence is the level of confidentiality surrounding the purchase of the property. Now, obviously where council is anticipating or looking at the purchase of a property there is an element of commercial-in-confidence and, indeed, the Local Government Act anticipates that if it's going to be discussed at a council meeting that is one of the areas where council can move to a closed session. But concern has been raised about after the resolution determining that the property would be purchased there again was a lack of public consultation about what was planned, where it was going to be planned, how the members of the public were ultimately told that the property had been purchased, and aspects of whether there was the rushed purpose with no or limited public consultation and whether other procedures and policies of council were adequately followed.

Another, again, broad topic that we will outline now is the question of the financial management of the council. It is anticipated that that will have two aspects. The first aspect is the financial management of the council and its long-term financial health, and in particular matters that have been raised by the Auditor-General. Now, in the - in the tender bundle that will be tendered shortly, there are a number of documents which have a source from the Auditor-General. From the financial statements that are published by the council every year and are available on the website, there is the audit report by the Auditor-General which sets out a consideration of the financial statements and financial information contained in those statements, and in particular whether particular ratios which the Auditor-General utilises in looking at local government finances have been met.

Also before - we anticipate before the inquiry will be a number of what are known as Auditor-General management letters, which again appear to be part of the audit process where there are particular issues identified by the Auditor-General in the audit. They are subject to a management letter seeking further action, review, investigation by the council. Now, as part of the evidence dealing with the issue,

tomorrow we anticipate the inquiry will hear evidence from Brad Medina, who is the assistant director to the Auditor-General. He has been called not to give evidence specifically about the audit of Liverpool City Council, what was either revealed or found by the Auditor-General during the last audit which isn't for the past financial year that's just passed, but for the 2024 financial year, but more to assist the inquiry in identifying how the Auditor-General operates, what are these various ratios that the Auditor-General utilises, what they take into account and why they are important, why they are identifying the ratios and identifying in particular whether certain councils have not met those ratios. For example, in the local government 2024 financial audit report published on 31 March 2025 of this year, a publicly available document, there is an analysis of financial sustainability, which includes that identification of a number of councils who did not meet any of the three financial sustainability benchmarks. One of those councils was Liverpool City Council. In the report there is an identification of what those ratios are and we will be exploring what they are, what they take into account with Mr Medina. It is also noted in this report in appendix 4 that in an identification of what's described as council liquidity, that is whether the council's available cash and investments are not subject to external restrictions, were sufficient to meet three months of general funds expenses are listed. There is identification of the most liquid councils, there is also identifies of the least liquid councils and in the list of least liquid councils Liverpool City Council is included.

We also note that in the most recent long-term financial plan for '25-'26, it was identified that the net operating result of the council before capital grants and contributions, next year was anticipated to move from a deficit of about just over - I think it is 5 million to a surplus of just over 0.8 million. However, in the graph of anticipated net operating results for subsequent years, it is anticipated that the council will return to being in deficit until about 2029-2030. So it is anticipated that the inquiry will look at given that prospect or that prediction, the long-term financial plan and sustainability of the council.

Under this umbrella another topic that we will seek to explore is the question of grants to the council and how those grants are being used. In particular, Liverpool Council were the successful recipient of six grants under a scheme known as the Western Sydney Infrastructure Grants Program, previously known as West Invest. Applications for these grants opened in 2022, they were announced in January-February 2023. There was an expectation that if successful in receiving a grant the projects would commence from September 2023 with the majority of them being completed by December 2027. Now, I anticipate that an employee of the council, Emily Tinson, who is the program manager from Western Sydney Infrastructure Grants Program, will be called to give evidence to give an outline of the various grants and where they are up to. Very - in a very quick summary the six grants, for example, included just over 53.4 million to deliver the Carnes Hill Aquatic and Leisure Centre, 43.9 million to deliver the Brickmakers Creek to Woodward Park project, 27.7 million to help deliver an upgrade to the Lighthorse Park Embellishment and Upgrade Project and then there were three grants which were dealing specifically with upgrades to particular streets or major roads within the

council. So, for example, 13.4 million for the Macquarie Street upgrade, 8.3 million for the Scott Street upgrade, and 7.2 million for the Railway Street upgrade.

5 Now, the grants program does anticipate that there can be an application for variation to the grant. For example, if a milestone which is anticipated to have been reached in the project has not been reached, and a variation for an extension of time can be sought. One area of concern is that with these grants that were made specifically for particular projects, which again reflected either management plans or other work that had been undertaken by the council have either been changed or have been sought to be changed. For example, the Carnes Hill Aquatic and Leisure Centre was anticipated the original grant anticipated and the grant was for a new 50-metre pool. We understand that a variation has been sought which was ultimately granted and it is no longer a 50-metre pool but is a 25-metre pool. Again, we understand part of the issue was that the costs for a 50-metre pool were not reflected in the actual amount granted. Whether that was a result of difficulties or not appropriate identification of costs at the application for a grant stage, or whether it's a matter that has arose over time with the increase obviously in cost of labour and other resources, is a matter that will be explored and, in particular, whether there is anything that can be done to try and prevent that occurring in the future.

20 Another matter that has come to light relatively recently is that the 43.9 million for the Brickmakers Creek to Woodward Park project has also been subject to an approach for variation so that a substantial amount of the funds would be used not for that project as defined in the application and the grant, but for the building of an amphitheatre or dome as part of the Woodward Park precinct. We understand that that initial application for a variation was rejected, but there are moves to make maybe a supplementary variation to seek some use of that grant money for that purpose. But, again, it is flagged as a matter of possible concern where there is work done on, "This is the project, it is put to the state government that we need these funds and this is what we want to deal with it" variations which seek such a substantial change and the reasons for that variation.

35 **COMMISSIONER:** Do I take it from all that these grants are tied to the particular purpose identified in the application?

MS McDONALD: Yes. Our understanding is that if you were successful with the grant a deed is provided. The deed identifies the scope of work. Now, if there is to be some variation in the scope of work that variation can be sought. Obviously with some of these there are relatively minor variations.

40 **COMMISSIONER:** Yes.

MS McDONALD: The variation for the pool from the 50-metre to a 25-metre pool would appear to be more substantial, but our understanding is such a variation was made and it has been approved by the particular entity which I think sits within Treasury. I might have to check that.

The most recent variation which deals with this building of some kind of amphitheatre or dome seems to be a relatively recent development and doesn't seem to have been approved as a variation by the government at the moment.

Another issue identified in the list and which we anticipate there will be case studies, is broadly described as the matter of employment of staff by the council. Now, that topic will involve employees - I'm sorry - of the council starting with the CEO or the general manager and also other roles within council, for example, directorships. Tomorrow we anticipate the inquiry will hear evidence from Adam Dansie, who is the director of Workforce and Legal from Local Government NSW. As we described in respect of the anticipated evidence from the audit office, we do not anticipate that Mr Dansie will be giving specific evidence about particular employment issues, either in the past or potentially currently at Liverpool City Council. The evidence we anticipate that will be called from him is more a general high-level description of the operation of the relevant award, recent changes to the Local Government Act, how that impacts on employment of for example directors within the council, and also questions of the CEO, general manager, how their employment conditions are determined.

Now, this gives rise to a subtopic that will be subject to investigation during the inquiry and that is the number of general managers or chief executive officers who have been employed by the Liverpool City Council from roughly September 2010 to the present day. If one takes into account permanent general managers, over that period there have been six. If one takes into account also acting CEOs, which can include somebody who is then permanently appointed, there have been 11 in total.

COMMISSIONER: Just give me that period again.

MS McDONALD: Starting with September 2010 where Farooq Portelli was appointed the CEO of Liverpool Council. He was there until July 2014. We then had Carl Wulff from July 2014 to 2016. We then had an acting CEO, Michael Cullen for the rest of - for some of 2016. Then a permanent appointment, Kiersten Fishburn, October 2016 to 2020. Then Dr Eddie Jackson, again, starting as at acting CEO July 2020 then he was appointed permanent in November 2020 until February 2022. Peter Diplas from February 2022 to November 2022 in an acting role. Then November 2022, Tina Bono as acting. John Ajaka, appointed December 2022 until April 2024 and then Jason Breton acted from April 2024 to April 2025 and then a permanent appointment from April of this year. Given that outline of the number of CEOs, one is tempted to misquote Oscar Wilde, "To lose one CEO may be regarded as a misfortune. To lose two CEOs looks like carelessness, but to lose six over - permanent appointments over that period may be something else." And it is anticipated that the inquiry will look at those appointments and terminations of their employment, but in particular focusing on the employment and termination of Dr Eddie Jackson and also the appointment and then termination of John Ajaka.

Now, without going into great detail at the moment, the circumstances of Mr Ajaka's termination is a matter that counsel assisting intends to examine for this reason: Making a decision on whether there were grounds or it was appropriate for his

employment to be terminated is not the primary reason for the focus of counsel assisting. What counsel assisting is more interested in is how the term - the question of termination arose, how it was done, what costs were involved and whether there was anything else that could have been done or even incorporated into, for example, a contract of employment, which meant if the matter of termination of the general manager arose it could hopefully be dealt with in a more expeditious and less expensive to the rate payers of the council's manner. For example, with Mr Ajaka, a particular issue arose at a meeting in about April 2024. Without going into the detail at the moment about what occurred in that meeting, there were suggestions that Mr Ajaka go on three or four weeks' leave. Then it was flagged that his employment would be terminated for cause. Now, that is important because under the contract for a general manager or CEO there is usually a unilateral right to terminate the employment without cause, but with payment of about 38 weeks. Initially the approach taken was that Mr Ajaka's employment would be terminated for cause, which means he would receive no payment. Mr Ajaka then bought legal proceedings. Those legal proceedings eventually resulted in a settlement where we understand that he was paid a substantial amount of money, which reflected what he was entitled to under that relevant clause, but also because he started legal proceedings some of his legal fees were paid.

So with this whole process from a financial perspective of costs that were incurred through how it was done, legal fees, ultimately some kind of settlement payment to Mr Ajaka, and also along the lines - along the line engagement of an external investigative agency to look at the circumstances of the termination of his employment meant that there were additional costs incurred by the rate payers of Liverpool City Council. For that reason we are interested in looking at how did the termination arise? For example, with Dr Eddie Jackson we understand that he was - just recently before his termination he was subject to a glowing performance review or appraisal. He was - his employment was then terminated when the new council was elected really at the first - I think first council meeting of that new council. So issues about how and that will involve part of it being why. Though, as I said it's not a matter to assess whether there were valid grounds, but rather looking and taking into account what can be done for the future to ensure that Liverpool City Council do not lose the same number of CEOs with the associated expense and also the unsettling to the council, to the staff of the council and also to the community.

COMMISSIONER: Were each of Mr Portelli and Mr Wulff and Ms Fishburn, was their employment terminated or did they resign?

MS McDONALD: My recollection is -

COMMISSIONER: If you don't know we can come back to it.

MS McDONALD: Yes. Excuse me for a moment. Yes, we can take that on notice.

COMMISSIONER: That's all right. Yes. Yes, of course.

MS McDONALD: At this point another matter in that we wish just to make comment about, is the status of what is being described as the interim report. Now, the interim report was the result of an investigation being conducted by local government - the Office of Local Government under section 430 of the Local Government Act. Now, what is being described as an interim report was produced. There were proceedings then in the Land and Environment Court in which the court raised some concern about the interim report, what it involved blow particularly findings, et cetera. The position that counsel assisting submit is that the procedure under section 430 is quite separate from the inquiry here many. That this inquiry is not bound or not restricted by any of the findings or comments made in that particular report. However, with some matters there is obviously going to be a level of overlap. If there is matters of overlap where an issue concerning a, for example, a particular individual whom may have been subject to some possible adverse comments or adverse allegations from the interim report, are important - sorry, the subject matter is a matter that you have to consider, then in those circumstances our proposal is that it will either be a matter of seeking to tender an affidavit from that person that was read in the proceedings, in the Land and Environment Court or again, depending on the circumstances, we may seek to have that person called to give evidence. But prima facie the two investigations, if I can describe them in that way, are quite separate and what you will look at and what evidence you will take into account is the evidence that you hear and that will be tendered in this proceeding.

Finally on case studies that have been identified and that we wish to raise in this opening, another matter that the inquiry will look at is the interrelationship between the actual governing body and those councillors and the staff the council and how they operate. There is a system or a procedure established at Liverpool City Council where a councillor wish to raise a matter, for example of that on volition or because a constituent has contacted them, so an email is sent to, I think what's known as the councillor support email. Once it is sent there is a determination of which particular part of the operating section of council will deal with this matter, inquiries are made and then responses are sent back to the particular councillor. There are some issues from about whether that procedure A, is always complied with, or whether at times councillors may bypass the councillor support email system and deal with staff immediately. Also we anticipate there may be an issue with councillors raising particular issues through that mechanism, being given a response or an answer as to - of the particular issue, but then not accepting that and continually issuing emails making issue, seeking for further investigation into a matter which could have been dealt - well, was dealt with in a sense by the first response.

Now, as - excuse me. As foreshadowed at the beginning of the opening, this is to identify case studies which as presently advised and on the material that we have it is anticipated will be raised during the inquiry period. As we foreshadowed with further documents being received the case studies may be added to, but there will be notification to the parties.

Can we now just set out very briefly the way that the evidence as presently considered will continue? Tomorrow we anticipate that Mr Dansie and Mr Medina will be called to give evidence, and as we have foreshadowed to give evidence on financial matters and also employment matters, but at a high level of generality. This week we anticipate that there will be evidence called from particular employees of the council. For example, Mr Nadan who is the chief financial operator, Mr Portelli who is one of the directors, and also Mr Pasley. And I haven't got his actual title in front of me, but my recollection is he is the one who is looking after the Croc and other aspects of the waste management system.

COMMISSIONER: Have you got a video of the Croc chewing a mattress?

MS McDONALD: I don't think we have at the moment, but we will -

COMMISSIONER: You will be able to find one, I'm sure.

MS McDONALD: There was some discussion about whether we should have a view to go and have a look at the Croc.

COMMISSIONER: Yes.

MS McDONALD: Maybe if we could take that on notice. Other employees of the council who we anticipate will be called will include Emily Tinson who is in charge of the grants, and also a Mr Sheldon Rodricks who will be relevant to this issue of the - where councillors are using the councillor support email system and whether that is subject to abuse.

COMMISSIONER: I take it there is an interaction policy as well, a councillor interaction policy with staff, that should direct them to whom they can have contact with.

MS McDONALD: If we can take that on notice.

COMMISSIONER: Of course. Of course.

MS McDONALD: As we foreshadowed, under the umbrella of the question of employment, we anticipate that evidence will be heard from two previous CEOs or general managers, Dr Eddie Jackson and also Mr John Ajaka. The current general manager, Mr Jason Breton will also be called to give evidence. Also it is anticipated that a number of other councillors will be called. They include councillors from previous councils, for example, Councillor Kaliyanda and from the current council, Councillor Dr Betty Green, Councillor Macnaught, Councillor Monaghan, Councillor and deputy mayor - sorry, Councillor Harte, Councillor and Deputy Mayor Harle, Councillor Ristevski and also the Mayor Mannoun. But as foreshadowed before, that proposed witness list is subject to change.

They were the matters that counsel assisting wished to raise at this point in the opening. Before, from counsel assisting's perspective, finishing today there were some - there is some evidence that we wish to tender. Is it appropriate to do that now or did you - Commissioner, did you wish to see if any other represented party wish to make a comment at this point?

COMMISSIONER: I might just do that first and then we will come back to tenders. Mr Emmett, did you wish to say anything at this stage?

MR EMMETT: Yes, I won't be long. But I note the time.

COMMISSIONER: When you say you won't be long -

MR EMMETT: Five minutes.

COMMISSIONER: Ms Richardson, how long - do you wish to say anything?

MS RICHARDSON: I don't propose to.

COMMISSIONER: Ms Hamilton-Jewell, do wish to say something g?

MS HAMILTON-JEWELL: I don't wish to-

COMMISSIONER: We might sit on given we have had a break already.

MR EMMETT: There is one point. It will only take 30 seconds.

COMMISSIONER: Yes. Of course, of course.

MR EMMETT: Commissioner, can I just confirm first with the technical people that this microphone is picking me up?

COMMISSIONER: Yes. I think we are all good, Mr Emmett.

MR EMMETT: Thank you. Just - the matter about which we wish to confirm instructions, it was a reference to the interim report which doesn't sound like you will necessarily receive and you may not need to. Just to be clear, when confirming instructions our understanding is the Land and Environment Court didn't just raise concerns about it said it involved a denial of procedural fairness. Now, that's not a matter for you to inquire into.

COMMISSIONER: No, and Robson J issued a judgment.

MR EMMETT: Robson J says what it says.

COMMISSIONER: It says what it says and I have a recollection, been party to that, although not an active one, that some step was taken before Robson J to notionally withdraw the report, whatever that might mean.

5 **MR EMMETT:** Yes.

COMMISSIONER: So I understand the point.

10 **MR EMMETT:** May it please. Commissioner, we - that is I and those I lead -
appear for the council. That is the body politic with separate legal personality. It is
our intention to appear and make submissions in the interests of the council as a
whole. As some previous inquiries have observed, the legislation that is the Local
Government Act, has an allocation of functions, sometimes described as a separation
15 of powers, between the elected governing body on the one hand and the staff,
including the general manager, on the other.

Our instructions presently come from senior council staff with appropriate
delegations, but as we say it is our intention to appear and make submissions in the
interests of the council, that is the body politic with separate legal personality. Can
20 we indicate some aspects of those interests? In doing so, we recognise that the
council's various interests are not always easy to reconcile. That's one of the reasons
why we think it is useful to avert to some of those interests at the outset of this
hearing. The council has an interest in seeking to ensure that all aspects of its
management and operations comply with the law and in seeking to promote a culture
25 of compliance. The council has an interest consistent with that in optimising the
performance of its statutory functions and the delivery of its services to the
community. Central to those - to those matters will be the principles that apply to
councils under sections 8A to 8C of the Local Government Act, and the council's
strategic plans to which you've heard reference already.

30 Related to that the council has an interest in hearing the concerns of the community.
We recognise that an important aspect of this public inquiry is for the Commissioner
to receive evidence about and consider those matters. At the same time the council
has an interest in seeking to maintain and promote the well-being of the staff and
35 indeed of its councillors. That means whilst we do not represent any individual staff
member we anticipate making submissions by reference to the interests of staff
members, because the council has a proper interest in their well-being, mindful also
of the council's position as their employer.

40 So far as the council is aware, no council employee has been notified that they are a
person in respect of which - in respect of whom it is anticipated that allegations of
wrongdoing or improper conduct may be made or adverse findings may be sought.
Nevertheless, this public inquiry is itself a source of stress and anxiety for many
council staff, even if they are not persons of interest about whom findings may be
45 made, we recognise that and we imagine others involved in the inquiry recognise that
too.

And the council has an interest in trying to assist the inquire so that it is not left with an incomplete picture or a lop-sided picture of matters of concern. We know, Commissioner, you are well aware of the dictates of procedural fairness and that you would not make findings in respect of allegations or assertions unless interested
5 parties have had a proper opportunity to test or respond to them. We also accept that evidence is likely to include allegations or assertions into which it is not possible to inquire fully in the limited time available. It may become appropriate for us to draw your attention to evidence indicating factual disputes and questions may arise, whether it is necessary or appropriate, to resolve particular factual disputes. Given
10 that it appears facts or allegations may emerge in the course of the hearing, natural justice may require a flexible approach to ensure interested parties have a fair opportunity to consider and respond to allegation.

Especially given that this public inquiry is likely to be the subject of public
15 commentary, including on social media, it is important to emphasise at the outset the council's position that allegations or assertions must be treated as no more than allegations or assertions unless findings are made about them. We are mindful that the public airing of allegations can itself cause distress, including to people who are not separately represented at the public inquiry. Related to that, if findings are sought
20 about particular matters in which the council has an interest, and the council is concerned that the public inquiry has not received all relevant evidence in relation to the factual matters in question, the council will endeavour to make submissions about that and endeavour to assist to ensure that procedural fairness is accorded.

25 We acknowledge of course that you and those assisting you are well aware of the requirements of procedural fairness. This is not intended to be an objection to anything that has occurred to date, rather a statement of the council's position as you would appreciate, Commissioner, in part for the benefit of others who may be following the inquiry.

30 **COMMISSIONER:** Of course.

MR EMMETT: Unless there are any other questions, those are the matters we wish to address by way of opening.

35 **COMMISSIONER:** Thank you, Mr Emmett and if only to echo, we are well and truly alive to the issues you have raised, in particular the stress that a public inquiry like this can bring to bear on the organisation and those who may be called to give evidence. We are alive to that and I'm grateful for the cooperation between the
40 parties already and hopefully that will continue and the proceedings can run as smoothly as possible with as limited disruption to people's lives, albeit it will disrupt people's lives as is possible. I'm grateful.

MR EMMETT: May it please. Thank you.
45

COMMISSIONER: Yes, Ms McDonald.

MS McDONALD: Commissioner, before finishing for today, could I tender some evidence?

COMMISSIONER: Yes.

5

MS McDONALD: The way that I would seek to do that is to hand up an index to the material that is being tendered.

COMMISSIONER: Thank you.

10

MS McDONALD: If I can just take you to the index.

COMMISSIONER: Yes.

15

MS McDONALD: The first two pages are not marked as, for example, volume TB1, but appear to be matters where I suppose strictly they are not evidence.

COMMISSIONER: So should I - do you want me to mark them or should they be excluded from the tender?

20

MS McDONALD: Maybe if they can just be - instead of marked as an exhibit, just marked as -

COMMISSIONER: Marked for identification.

25

MS McDONALD: Yes.

COMMISSIONER: Document INQ.012.001.0010 and 012.001.0012, will be MFI1 and 2 respectively.

30

MS McDONALD: Now, your Honour, if you would go to the next page. These - this is headed Legislation and Other Instruments. Again, what I would suggest, Commissioner, that in respect of the nine individual documents, given that the number of documents, if this could be MFI 3, but if somebody wishes to refer to an individual document within MFI 3 the procedure will be MFI 3 and then an

35

identification, for example, of document INQ.012.001.0001.

COMMISSIONER: Yes. The bundle of documents in the list handed up this afternoon and headed Legislation and Other Instruments will be MFI 3.

40

MS McDONALD: Now, on the next page there is a volume which is identified as TB1. We tender that. We suggest, Commissioner, that that volume and the documents which are listed - the 24 documents listed there become exhibit 1. But, again, if a particular document is sought to be shown to a witness or referred to, if the identification number of the document can be used.

45

COMMISSIONER: Yes. We will have to use the document IDs in the hearing room so they can be brought up on the screen and in any writing that might follow.

MS McDONALD: Yes.

COMMISSIONER: Are all of the material in this list have been made available to the authorised parties?

5

MS McDONALD: Yes.

COMMISSIONER: Does anyone have any difficulty with me receiving this term at the moment?

10

MR EMMETT: The only difficulty, and I anticipate this it may be resolved -

COMMISSIONER: Yes.

15 **MR EMMETT:** I know a number of applications have been made for orders under section 12B of the Royal Commissions Act.

COMMISSIONER: Yes.

20 **MR EMMETT:** That may all have been dealt with. I know, Commissioner, you made some orders this morning. As I stand here I don't know and I would just like an opportunity to get instructions on that.

COMMISSIONER: Of course.

25

MR EMMETT: And confirm if it may many be if all orders have been made and thank have been sought we have no objections. That may be the case for others as well. As I stand here I don't know that for certain.

30 **COMMISSIONER:** All right.

MS McDONALD: That has been dealt with.

COMMISSIONER: Okay.

35

MS McDONALD: Could you just excuse me?

COMMISSIONER: Yes, of course. Mr Emmett, save for that is there any difficulty in me receiving and marking this now and then I can attend to any further non-publication orders, either tomorrow morning or if it's by agreement in chambers this afternoon?

40

MR EMMETT: Not from my client's perspective.

45 **COMMISSIONER:** So I can mark it. All right.

MS McDONALD: Commissioner, can I indicate you have made some non-publication orders.

COMMISSIONER: Yes.

5

MS McDONALD: I won't read them on to the record at the moment.

COMMISSIONER: No.

10 **MS McDONALD:** But I will provide a copy to our various learned friends so that they can double-check that -

COMMISSIONER: All right.

15 **MS McDONALD:** - any document they were concerned about has been included in the annexure.

COMMISSIONER: Yes. I don't profess to have read all of it but there is some personal information in some of them for the like which might be part of
20 Mr Emmett's concern that can be dealt with in due course. They are not going to be going up on the website.

MS McDONALD: No.

25 **COMMISSIONER:** So we can manage that. All right. Is the same course adopted for each bundle?

MS McDONALD: Yes.

30 **COMMISSIONER:** All right. Exhibit - the bundle of documents in the list handed up this afternoon headed TB1, organisational charts, will be exhibit 1.

<EXHIBIT 1, BUNDLE OF DOCUMENTS.

35 **COMMISSIONER:** The bundle of documents headed TB2 Policies in the list handed up this afternoon will be exhibit 2.

<EXHIBIT 2, BUNDLE OF DOCUMENTS HEADED TB2 POLICIES.

40 **COMMISSIONER:** The bundle of documents headed TB3 in the list of documents handed up this afternoon will be exhibit 3.

<EXHIBIT 3, BUNDLE OF DOCUMENTS HEADED TB3.

45 **COMMISSIONER:** The bundle of documents headed TB4, the financial statements in the list handed up this afternoon will be exhibit 4.

<EXHIBIT 4, BUNDLE OF DOCUMENTS HEADED TB4, THE FINANCIAL STATEMENTS.

5 The bundle of documents headed TB5, integrated reporting and framework documents in the list handed up this afternoon will be exhibit 5.

<EXHIBIT 5, BUNDLE OF DOCUMENTS HEADED TB5, INTEGRATED REPORTING AND FRAMEWORK DOCUMENT.

10 The bundle of documents headed TB6, council meeting minutes in the list handed up this afternoon will be exhibit 6.

<EXHIBIT 6, BUNDLE OF DOCUMENTS HEADED TB6, COUNCIL MEETING MINUTES.

15 And finally, the documents in the bundle headed TB7, general exhibit, in the list handed up this afternoon will be exhibit 7, including the four video files marked A to D at the end of the list.

20 **<EXHIBIT 7, BUNDLE OF DOCUMENTS HEADED TB7, GENERAL EXHIBIT.**

Is that all the matters for today?

25 **MS McDONALD:** Yes. Thank you.

COMMISSIONER: Right. I thank the parties for their forbearance -

30 **MS McDONALD:** I'm sorry Commissioner.

COMMISSIONER: Yes. Not in the list I have?

MS McDONALD: No. That isn't being tendered at the moment.

35 **COMMISSIONER:** All right. I thank the parties for their forbearance with the network this morning. And I thank you for your patience with the limitations of this room. 10 o'clock tomorrow? We will adjourn until 10 am tomorrow. Thank you.

<THE HEARING ADJOURNED AT 1.15 PM