



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

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

**PUBLIC HEARING
SYDNEY**

**THURSDAY, 31 JULY 2025
AT 10.43 AM**

DAY 13

APPEARANCES

**Ms T McDonald SC, Senior Counsel Assisting
Ms B Anniwell, Counsel Assisting
Mr E McGinness, Counsel Assisting
Mr J Emmett SC and Mr D Parish, Counsel for Liverpool City Council
Ms C Palmer, Counsel for Mayor N Mannoun
Ms C Hamilton-Jewell, Counsel for Mr P Ristevski
Ms J Gallagher, Counsel for Mr S Mallard**

Any person who publishes any part of this transcript in any way and to any person contrary to any direction against publication commits an offence against s 12B of the Royal Commissions Act 1923 (NSW).

<THE HEARING RESUMED AT 10.43 AM>

COMMISSIONER: Old habits, Mr Emmett. Yes, Ms McDonald.

5 **MS McDONALD:** I call Shayne Mallard.

COMMISSIONER: Yes. Before that happens, can I raise one matter from the transcript.

10 **MS McDONALD:** I'm sorry.

COMMISSIONER: It is at 877. The passage starts at line 32 to the end of that page. This was the start of a topic that was later dealt with in private session. I just wonder whether the - this portion should be redacted from the public version of the
15 transcript.

MS McDONALD: It seems to be traversing the topic that led you to make that order.

20 **COMMISSIONER:** All right. Unless anyone wants to be heard against it, what I propose to do is make an order pursuant to section 12B of the Royal Commissions Act that the passage of the transcript, being 877 lines 32 to 47, not be published, and it can just be redacted in the public version of the transcript. Is that convenient?

25 **MS McDONALD:** Yes.

COMMISSIONER: I'll make that direction.

MS GALLAGHER: Just going to mention my appearance. I understand
30 authorisation has been permitted for my appearance on behalf of Mr Mallard. Gallagher.

COMMISSIONER: Yes. Leave is granted for that purpose. Thank you. Any other administrative matters?
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MS McDONALD: No.

COMMISSIONER: Mr Mallard? Thank you, Mr Mallard. Do you wish to take an oath or affirmation?
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MR MALLARD: Affirmation, Commissioner.

<MAXWELL SHAYNE MALLARD, AFFIRMED>

45 **COMMISSIONER:** Yes, Ms McDonald.

MS McDONALD: Please state your full name.

MR MALLARD: Maxwell Shayne Mallard.

MS McDONALD: You're known as Mallard?

5 **MR MALLARD:** Yes, I go by my middle name.

MS McDONALD: Your current occupation?

MR MALLARD: Good question. I am currently unemployed.

10 **MS McDONALD:** Eventually looking for further work?

MR MALLARD: Yes.

15 **MS McDONALD:** You're not retired?

MR MALLARD: No, I'm not retired yet. I was made redundant at Liverpool Council recently.

20 **MS McDONALD:** Now, I want to ask you first some questions about your work history and also your - in particular, your work history of working with local councils. To assist you, I'm going to pull up a copy of your curriculum vitae. Will document LCC.010.007.8834 be called, please.

25 **ASSOCIATE:** Do you want that document on the livestream?

MS McDONALD: Yes.

MR MALLARD: I'm a bit greyer now.

30 **MS PALMER:** Youthful photo?

MR MALLARD: Beginning of my term in Parliament.

35 **MS McDONALD:** Yes. And if we move through the document, we'll start with executive summary. It sets out your tertiary qualifications. You were a graduate of Macquarie University in political science and Australian history?

MR MALLARD: That's correct.

40 **MS McDONALD:** And then in the third paragraph on that page, it talks or refers to you being an elected councillor from 2000 to 2012, having first been elected to South Sydney Council, and then that council merged with the City of Sydney?

45 **MR MALLARD:** Correct. It was amalgamated. That's correct.

MS McDONALD: Then you were subsequently elected to the City of Sydney Council.

MR MALLARD: That's correct.

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MS McDONALD: And during that period you chaired the finance, property and tenders committees, and you also - did you chair or were you a member of the planning and development committee?

10 **MR MALLARD:** No, I was a member of the planning and development committees in the Central Sydney Planning Committee, which I referred to there which is - referred to the CSPC which deals with CBD developments to the value of, I think, above \$50 million. I was on that for a couple of years from the council.

15 **MS McDONALD:** Now, from being a councillor, in the next paragraph you speak about being a senior advisor to the CEO and the Mayor of Liverpool City Council from 2012 to 2014.

MR MALLARD: Mm-hmm.

20

MS McDONALD: Now, the Council then - if you can just excuse me for a minute - that council finished its term around September 2016?

MR MALLARD: Right. That would be right. It was after I left.

25

MS McDONALD: The mayor was Ned Mannoun?

MR MALLARD: That's correct.

30 **MS McDONALD:** There were a number of councillors who were either representing or linked with, respectively, the Liberal Party and the Labor Party?

MR MALLARD: That's correct. There was a majority of Liberal councillors on that Council.

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MS McDONALD: And that included Tony Hadchiti?

MR MALLARD: Correct.

40 **MS McDONALD:** Gus Balloot?

MR MALLARD: Yes.

MS McDONALD: Sabrina Mamone?

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MR MALLARD: Yes.

MS McDONALD: Mazhar Hadid?

MR MALLARD: Mazhar Hadid, yes.

5 **MS McDONALD:** And Peter Ristevski?

MR MALLARD: That's correct.

10 **MS McDONALD:** There were some Labor members, or Labor representatives being councillors Wendy Waller?

MR MALLARD: Yes.

15 **MS McDONALD:** Ali Karnib?

MR MALLARD: Ali, yes.

MS McDONALD: Anne Stanley?

20 **MR MALLARD:** Yes.

MS McDONALD: And Geoff Shelton?

25 **MR MALLARD:** Yes, that's right.

MS McDONALD: And there was one Independent being Peter Harle?

MR MALLARD: Yes, a veteran.

30 **MS McDONALD:** Still there?

MR MALLARD: Yes, indeed.

35 **MS McDONALD:** Now, in your CV, you described the position as the senior advisor to the CEO and the Mayor. Strictly on a reporting basis or an organisational structure, who did you report to?

40 **MR MALLARD:** Well, when I started at Liverpool Council in 2012, I reported to a director at that time, Billie Sankovic, and then subsequently I reported to the CEO, which was Farooq Portelli.

MS McDONALD: Excuse me for a minute. Mr Mallard, the acoustics in this beautiful courtroom -

45 **MR MALLARD:** I normally get complimented on my deep voice. I will speak louder.

MS McDONALD: That would be wonderful if you could speak louder.

COMMISSIONER: Use your Parliament voice.

5 **MS McDONALD:** You described it in your CV as being the senior advisor to the CEO and the Mayor?

10 **MR MALLARD:** Yes, if I can explain that then. Technically, structurally reported within administration of the organisation. You don't report to the mayor. So, a CEO or before that was a director. For public consumption, you refer to - I always refer to saying I'm an advisor to the CEO, and I also advise the Mayor, but it is through the CEO.

15 **MS McDONALD:** But you worked intimately with the Mayor?

MR MALLARD: Yes, that would be right.

20 **MS McDONALD:** And at that stage, where the Council offices were located, was your office or your desk or work area close to the Mayor's office?

25 **MR MALLARD:** There were a number of iterations between '10 and '12. As I said, I reported to a director initially and sat in open plan area of her area. The position that I - was created was the first time it had been created at that time, I understand, so they were still working out how they would work. Ultimately, I - after the Mayor moved offices on - in Moore Street, swapped offices physically. I was located in a breakout office close bay the Mayor's office - like, I could see - my door looked to the corridor and I could see who came in and out - into the mayor's suite. I wasn't actually in the mayor's suite.

30 **MS McDONALD:** And at that point, did the Mayor have an executive assistant?

MR MALLARD: Yes, he did.

35 **MS McDONALD:** A deputy or executive assistant?

40 **MR MALLARD:** I don't recall him having a deputy assistant back then, but he may have had support staff in Billie Sankovic's team which were located right next door as a director. There may have been some additional support staff in there doing additional work to support the mayor.

MS McDONALD: And were you the only person occupying an advisor role?

MR MALLARD: That's correct.

45 **MS McDONALD:** Now, did you leave that role to become a member of Parliament?

MR MALLARD: Yes. In 2014, I won the preselection for the Upper House and resigned immediately, left at the end of that calendar year, and then I was campaigning for the election, which happened in March - sorry March '15 - 2015.

5 **MS McDONALD:** And that was for the Upper House?

MR MALLARD: Yes, that's right.

MS McDONALD: And you were successful?

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MR MALLARD: Yes, indeed. For eight years in the Upper House.

MS McDONALD: During that time when you were a member of the Upper House, did you work closely with John Ajaka?

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MR MALLARD: Yeah. So, I worked closely with all of the Coalition Upper House members. Of course, it's only a small team. And prior to John - John was a minister when I got elected, so I dealt with him in that role. Subsequently, when Don Harwin moved into Cabinet, he was the President of the Upper House when I was there, and
20 Mr Harwin appointed me as what's technically called temporary chair of committees. It's a quaint parliamentary term, but it basically means a temporary Deputy President to go in the chair when the President is not available, and you also chair all the amendments in the house. Mr Harwin appointed me to that. Subsequently when John Ajaka was no longer in Cabinet, and he was elected by the House to become
25 President, he continued me in that role, but recognising there were probably about five - four or five members that had that title.

MS McDONALD: Now, when you became a member of the Upper House, you gave an inaugural address?

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MR MALLARD: That's traditional.

MS McDONALD: Yes.

35 **MR MALLARD:** Indeed.

MS McDONALD: I'll bring up the transcript -

COMMISSIONER: Could I ask a question about that document before we leave it.

40

MS McDONALD: Yes.

MR MALLARD: I'm happy to read it out. I'm quite proud of it.

45 **COMMISSIONER:** Towards the bottom of the page that's on the screen, Mr Mallard, there's reference to your roles as parliamentary secretary for infrastructure

and the aerotropolis, and parliamentary secretary for Western Sydney. Can you just give me a general summation of your activities in those roles?

5 **MR MALLARD:** Well, Gladys Berejiklian as Premier appointed me secretary for infrastructure and aerotropolis. Today - previously and now again today they refer to as junior minister, but back in that period, Mr O'Farrell as Premier made it clear they were Parliamentary Secretaries, and you had a broad remit. So, it was to represent ministers in those capacities, so I did a lot of public speaking at, like, property industry events, and I went round and met with local councils. In fact, I did one visit
10 to Liverpool to talk about the aerotropolis and the airport at Liverpool, and then consequently when Dominic Perrottet became Premier, I was proud to be promoted, in effect, and made Parliamentary Secretary for Western Sydney, and that was only for the last six or eight months of the government.

15 **COMMISSIONER:** The aerotropolis, did you have much involvement in that?

MR MALLARD: No. I reported to stairs the Minister for Western Sydney, I think he was at that time, and he had the aerotropolis under his area. My view was - what I was trying to do was get the message out more broadly to the electorate and to the
20 business community about the opportunities of the aerotropolis. I was in a dark a bit trying to work out how it worked. I know better today because Liverpool Council is intimately involved in the aerotropolis, but back then I was feeling around in the dark about how it all worked.

25 **COMMISSIONER:** Thank you.

MS McDONALD: You spoke about when it was Premier Perrottet, you were appointed, what was it, secretary -

30 **MR MALLARD:** For Western Sydney. Parliamentary Secretary for Western Sydney, which is what I had wanted before but didn't get.

MS McDONALD: And in that role, did you have any involvement in the series of grants that the Commissioner has heard about the WestInvest grants?
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MR MALLARD: Yes. I didn't have a role in any determination of it. It was done at arm's length by government. But I certainly advocated for some grants, most famously the grant to restore the Canterbury ice-skating rink. A total Labor area, but they had cottoned on to me to help advocate for that.
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MS McDONALD: And that was granted?

MR MALLARD: Yes, indeed it was. And I spoke at a rally there alongside Labor members and Green members - it was a big community - about that. Anything - any
45 grant that was announced in Western Sydney, I was usually invited to, so with the Premier or ministers to announce grants. And I did - you might be leaning to Liverpool - without having any advocacy for Liverpool to get a grant at all, I did

attend the announcement of the grant for Woodward Park, I think it's called, down the river. The project there. I attended that event.

5 **MS McDONALD:** Is that the one linked with Brickmakers Creek?

MR MALLARD: No, Woodward Park is down on the Georges River, and brick makers is a kilometre to the west at Woodward Park. And I didn't participate in that announcement.

10 **MS McDONALD:** Can we bring up the inaugural speech, please.
INQ.044.001.0003. I don't know if you've looked at this recently?

MR MALLARD: I had a quick browse of it this morning since you -

15 **MS McDONALD:** Bring back some memories?

MR MALLARD: Indeed. The inaugural speech. They say long after you're gone is often how you're judged.

20 **MS McDONALD:** I'm not going to go through it in detail. There are just a couple of entries that I wanted to draw your attention to, and I think it's on page 5. Now, as you said, the inaugural speech, it traditionally gives your background, and this one does, gives the background of family and how your family came to Australia et cetera but
25 I wanted to first draw your attention to the - it's the third paragraph but the second complete paragraph?

MR MALLARD: Starting "to Liberal Mayor".

30 **MS McDONALD:** Yes. So, there you expressly thank the then Mayor of Liverpool City Council, Mr Mannoun where you say:

"Thank you for the lessons you've taught an old hand like me."

35 And then you say many complimentary things about Mr Mannoun. But there are other politicians that towards the end of your speech you single out, but here you've identified Mr Mannoun. Did that reflect that you had a very close working relationship with him?

40 **MR MALLARD:** Yes indeed.

MS McDONALD: And also, you're both obviously members of the Liberal Party. Within the Liberal Party, were you similar factions or - I know there's a claim that there are no factions in the Liberal Party?
45

MR MALLARD: I am under oath. Yes. We were both members of what's called the moderate faction, yes.

MS McDONALD: And to assist us, who's usually associated? Is that like, for example, Malcolm Turnbull's associated...?

5 **MR MALLARD:** Malcolm wouldn't associate himself in the faction per se, but people like John Brogden, Marise Payne and Don Harwin, Stuart Ayres and that ilk of people. That's just a small list.

MS McDONALD: Now, can I take you to the paragraph above that, and there you talk about appreciating the role of Local Government, and you say:
10 "Thank you to Liberal councillors."

And Mr Hadchiti, Mr Hadid, Mr Mamone, Mr Balloot and Mr Ristevski are all acknowledged?
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MR MALLARD: Yes, indeed and I think from memory all or most of them were present at the inaugural speech. There were about 300 people at the inaugural speech, but they were there.

20 **MS McDONALD:** When you were working for Liverpool Council, as I asked you beforehand - sorry, work during that particular Council period, 2012 to 2016?

MR MALLARD: Yes. 14. 2014.

25 **MS McDONALD:** Sorry, the term was 2012 to 2016?

MR MALLARD: The term, yes. My period was just those two years. Okay, sorry.

MS McDONALD: You did work - you had Labor councillors?
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MR MALLARD: Yes indeed.

MS McDONALD: And you had an independent councillor?

35 **MR MALLARD:** That's true. That's correct.

MS McDONALD: You didn't acknowledge -

40 **MR MALLARD:** In hindsight, reading it I thought I should have because I had a very good working relationship with the Labor councillors and councillor Harle. In hindsight, I probably should have mentioned that. But, nonetheless, this is a partisan speech. I am a Liberal - newly elected member of Parliament. It is a Liberal audience. 300 people there to see me and cheer me on. The Premier was in the room. So, in the context it's a partisan speech, I think you'll probably find through the
45 speech references are to Liberal politicians, although I note I acknowledged Tony Pooley who is a close friend now who was the Labor mayor of South Sydney. I acknowledged him in the speech.

MS McDONALD: Now, you acknowledge Mr Ristevski, and, as you said, you were working there from about 2012 to 2014?

MR MALLARD: Yes.

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MS McDONALD: What was your relationship with Mr Ristevski?

MR MALLARD: Excellent. Very good. Positive working relationship with him and all the Liberal councillors and all the councillors in general. I had no problems with any of them.

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MS McDONALD: Did you make any observations when you - during that period of employment at the council about the relationship between Mr Ristevski and the Mayor?

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MR MALLARD: It seemed to be cordial. It was commented upon after I left by some senior staff at the council, "Shayne, it all fell apart after you left." It was certainly a well-working team.

MS McDONALD: Excuse me for a minute. And if we can just move down that page where you refer to the Hollywood roll calls?

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MR MALLARD: Oh, dear.

MS McDONALD: Which I think is a good description. But as you previously referred to, you make mention there to a number of fellow Liberal parliamentarians both state and federal and you then say:

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"I welcome also friends and colleagues."

30

And the first person that you identify is Minister John Ajaka. You knew Mr Ajaka before you went to join the Upper House?

MR MALLARD: Yes, I first met Mr - I heard of Mr Ajaka, but I hadn't had any engagement with him until he emerged as a candidate for - potentially for the Upper House. He was a councillor on - I think it was Rockdale Council, and I met him at a Local Government conference at the Carrington Hotel in the Blue Mountains, and that's the first time I met him, just before he went into the Upper House.

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MS McDONALD: Could we return to Mr Mallard's CV, which was LCC.010.007.8834, please. We move to page 3, please. Just concluding your work history, as the second entry indicates, you were a member of the Upper House from March 2015 to March 2023 and at that election, did you stand again?

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MR MALLARD: No. I didn't have the support of the party to continue, so that was the end of my eight years. I'm honoured to serve eight years in the Parliament. So that concluded in 2023 - March 2023. I didn't run again, no.

45

MS McDONALD: The next entry is Senior Policy Advisor to the CEO, Liverpool City Council May 2023 to present?

5 **MR MALLARD:** That's at the date of the - so the date of the CV, which was a CV I supplied when I applied for the directorship, yes.

MS McDONALD: Yes, I was going to get you to clarify that.

10 **MR MALLARD:** It's not been updated yet. It should be.

MS McDONALD: When you were employed again by Liverpool City Council, commencing around May 2023, were you initially employed on a temporary contract but as a policy advisor, or was it the senior policy advisor position?

15 **MR MALLARD:** It was an initial contract of three months. That was the expectation. And from memory, because I've got it there in the CV, I think it was senior policy advisor. That's what it was. I was in the position back in '12 to '14, I think it was just called policy advisor back then.

20 **MS McDONALD:** Now, this was what's known as a direct -

MR MALLARD: Direct appointment. Contract appointment.

25 **MS McDONALD:** How did it come about?

30 **MR MALLARD:** I recall Julie Scott, who is the Manager of City Economy and ultimately wound up reporting to me as a director, rang me up in - in the period after I'd finished in Parliament, so would have been probably April, and asked me if I was interested in giving a hand in the government relations space, and I said, "I'm open to suggestions", but I didn't hear back from her at all. And then, subsequently, Mr Ajaka contacted me and said, "Come have a talk to me." And, obviously, out of Parliament, a bit of time to spare so - and I love Liverpool, as you can tell from my inaugural speech, the city, and so I went and met with Mr Ajaka, who I had huge respect for, and he had been appointed CEO - I'm not sure when, but we were still in government when he was appointed CEO - and we discussed the opportunity to give a hand to facilitate the relationship between the elected body and the organisation, which is the sort of expertise I'd developed.

40 **MS McDONALD:** So, your expertise, as you said, was between the role of the councillors developing strategic policy et cetera and then the actual Council staff -

MR MALLARD: Yes.

45 **MS McDONALD:** - who are in charge of operations and putting into place or into operation the various strategies that the governing body determine.

MR MALLARD: Yes. Yes.

MS McDONALD: And your expertise from - in that area, you've been a member of Parliament for about eight years. Are you referring back to when you were working - when you were a councillor with the City of Sydney or -

5 **MR MALLARD:** Indeed. The 12 years - three from memory at South Sydney Council, which is a very different council to the City of Sydney, and then the subsequent period with the City of Sydney, I quickly appreciated, and I was well regarded for my understanding of the differentiation between the elected body and the role of elected councillors, a complex and difficult role, and the operational body
10 and interface between the two.

MS McDONALD: So that was primarily your experience when you were a councillor on South Sydney and then City of Sydney?

15 **MR MALLARD:** That's correct. I mean, I never had one code of conduct made against me in my whole career because I respected and understood those two relationships, and, in fact, the CEO of the City of Sydney, Monica Barone, was a referee for me for the job of director at Liverpool City Council.

20 **COMMISSIONER:** How would you describe the delineation between the function of the governing body and the function of the operational stuff?

MR MALLARD: It's at two levels, and one is, as Counsel Assisting pointed out, the strategic budget. Back in those days, right up until recently called the structure, right,
25 the interface between a mayor, Liverpool's popular elective, I think gives, in my view, more authority to a mayor than the turnover that occurs at other counsel, and the CEO and then the directors, right. The second level, which is where often conflict occurs, is the representation for - to the administration body on behalf of the constituents, whether they be property developers or home-owners or people
30 concerned around dogs in parks, whatever it is, making sure that that interaction is professional and documented. I was always very careful with the procedures on that. That's the two levels effectively.

COMMISSIONER: Why do you say the second level is one that can give rise to conflict in your experience?
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MR MALLARD: You're representing constituents who are concerned around a tree - you know, a council tree hanging over their yard, right? That's a common one at Liverpool. So, you know, the councillor wants the tree cut down. The tree policy
40 says no, no, we'll just trim it back. You've got to go through the process and document it carefully, make sure that the councillor can go back to the constituent and say, "I have made representations on your behalf. This the policy. We can do this to improve it", you know? And so, you've got to be clear about those communications. It's - Council would much rather say, "Get out there and cut the tree
45 down."

COMMISSIONER: Why is it important to document those?

MR MALLARD: I always documented interactions with Council staff to avoid any ambiguity when I was a councillor, but also insisted on it when I advised the Mayor about - and other councillors about this sort of thing. Always document what you're doing.

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COMMISSIONER: I take it you agree that there is a difference between asking on behalf of a constituent and directing staff?

MR MALLARD: That's correct. That's correct. It is a representation on behalf of a constituent. Sometimes you would make a representation that, you know, frankly you didn't with, you know, like cutting a tree down. But you would put forward the case and then take the advice and work out how to resolve it.

COMMISSIONER: Is that another reason why, in your view, it is important to document those interactions?

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MR MALLARD: Yes.

COMMISSIONER: So there can be no later confusion as to whether it was a question or a representation as opposed to a direction?

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MR MALLARD: Absolutely. In my career in Local Government, I think - yeah, my whole career in Local Government, councillors had control over development applications, which has now been removed from councils. So, you had to be very careful about making representations on behalf of a developer or, you know, a house owner who wants to extend their house or something. I always made sure that was in writing, making very clear that I just want information about that.

25

COMMISSIONER: Thank you.

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MS McDONALD: Can I just pick up on some of your answers?

MR MALLARD: Mm-hmm.

MS McDONALD: You referred to the importance of documentation, and that was not only documentation when you were on the Council staff side, but also when you were a councillor, you would document either requisitions or questions or matters that you raised on behalf of constituents.

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MR MALLARD: Yes. Nearly - nearly always via email.

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MS McDONALD: And in addition to it being recorded in an email - and when you say an email, you would be utilising your councillor email?

MR MALLARD: Yes. And at the City of Sydney, we were lucky enough to have a full-time assistant. Each councillor has an EA type person, and so they were able to

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do the documentation for it all and go into the Council record-keeping system called TRIM, so it was recorded.

MS McDONALD: Could you just excuse me?

5

COMMISSIONER: What about your time as a staff member at a council? Did that process that you describe of making sure those requests or requisitions are in email important on the other side of the fence as well?

10 **MR MALLARD:** Do you mean in terms of council interaction is with me as a director?

COMMISSIONER: Yes.

15 **MR MALLARD:** By and large, that would be in writing, and my EA adviser, Lauren Myers, was very thorough in making sure they were captured in TRIM so that we had records for purposes such as this. So, it was transparent, that interaction.

20 **COMMISSIONER:** And with your director staff member hat on, was that of assistance to you in being able to manage councillor requests for information or the like?

MR MALLARD: Yes. We were pretty inundated, as you probably have heard, with councillor requests in my period as a director. Yes. That's how we managed them.
25 There is a policy of staff interaction, I think. We had to turn a response around, from memory, three to five days. It's a lot of pressure.

COMMISSIONER: And also, from the point of view of ensuring there was no misunderstanding as to what was being asked for and what was within your purview to provide.
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MR MALLARD: Absolutely.

MS McDONALD: There was a reference then to a policy. I will bring the policy up.
35 It is OLG.001.001.0276, and that can be live streamed.

COMMISSIONER: Get a text message in council asking for things as a director?

40 **MR MALLARD:** It wasn't common. Obviously, the Mayor would text sometimes about, you know, can someone do something or come to this function or something, but there wasn't very - it wasn't that common. Yeah. No. Not a common thing at all. I discouraged it.

COMMISSIONER: Why?
45

MR MALLARD: Because I prefer to get the email through to the proper process. I took - particularly when I became a director, and I resigned from the party because I

became a director, I took a very serious position on public service. I was honoured to be a senior public servant. It had certainly been one of my aspirations. And so, I treated all the interactions very professionally with a focus on the policies and the professionalism of the interaction with the councillors and with the public or the stakeholders.

MS McDONALD: Just before I take you to part of the policy, and if we move up a little bit, you can see that it's dated July 2023. You - the Commissioner asked you about text messages. Were there communications via a WhatsApp group?

MR MALLARD: Not that I participated in.

MS McDONALD: So, you didn't participate in any WhatsApp group when you were first - and I'm focussing on your most recent employment with the Council. Probably didn't have them in 2014. I can't remember back then, but anyway?

MR MALLARD: Look, I have to refresh - there may have been a WhatsApp group when I was on contract as an adviser, which I withdrew from. You know, you get added to these things without your consent, which I withdrew from, so I didn't participate. You may have some records where I may have interacted early on, but it is not something I continued.

MS McDONALD: You weren't party a to a WhatsApp group which the Mayor organised or the Mayor participated in?

MR MALLARD: I vaguely recollect I was added, and I withdrew from it.

MS McDONALD: And you were added -

MR MALLARD: Certainly not involved in anything when I was a director.

MS McDONALD: When you were added, that was when you started in the senior advisor position?

MR MALLARD: Not 100 per cent certain, but it was - there was a WhatsApp group at that time. But, as I said, I withdrew from it pretty quickly.

MS McDONALD: When you were still in the senior advisor role?

MR MALLARD: That's correct. There was no - I was not involved in any WhatsApp for long, and I wasn't involved in any WhatsApp as a director.

MS McDONALD: Now, this was the policy that you were referring to?

MR MALLARD: Yes.

MS McDONALD: Could we move through to attachment A, please. Page 8. And if we look at the second row, which is operational or strategic advice. So:

5 "The request can be made to CEO, directors, managers, and also the councillor support officer."

The councillor support officer, is that that email address councillor support?

10 **MR MALLARD:** Yes.

MS McDONALD: And we've had some evidence about its operation. It seems to be an email address where such requests can be made, and then somebody will filter it out to the appropriate section within the Council?

15 **MR MALLARD:** It's pretty much like a triage point. Yes. Yes.

MS McDONALD: Yes. And then you can see in the next column how the information is be requested, and it's got, look, it's councillor or the Mayor's choice whether it is in writing or made verbally, but then it says:

20 "The CEO, directors, managers, councillor support are required to keep a file note of verbal requests where appropriate, then the response will be provided verbally, memo or email."

25 And then I think that timeframe might have been the timeframe that you just recently referred to?

MR MALLARD: Yes.

30 **MS McDONALD:** Then restrictions on information:

"No specific restrictions but can be refused on legitimate grounds."

35 And then the final column record-keeping requirements:

"General principle is to keep a record of all transactions; however, if it is a routine matter not required.

40 Now, that last requirement, record-keeping requirements, your understanding when you were working as a director was not -was not only an obligation imposed on you or your staff but also on the Mayor or the councillor?

45 **MR MALLARD:** Well, this policy applies in both directions, so it would apply to the Mayor and the councillors. The Mayor had an EA and an assistant EA that would also be responsible for capturing this information.

5 **MS McDONALD:** And your experience of dealing with such requests when you were a director, do you know if there was any requirement on either the mayor or the councillor about standards or how they are to keep a record - their record of the transaction? For example, was there a requirement of it being put into a file note or something like that?

10 **MR MALLARD:** Well, it wasn't my area to raise awareness to the councillors or train the councillors about the record keeping. It was in civic that [sic] did that. I recall when I first became an advisor to the CEO - like, in 2023 when I returned to the Council - I brought - I brought up to the Mayor's office a woman whose name escapes me right now, but she was responsible for archiving and record keeping in TRIM, and she did a bit of a training session for him, and I and I think maybe Lauren sat in on that because Lauren was his EA - Lauren was - on how TRIM worked. I needed a refresher on how that worked, and I know Lauren, as I said to you before in
15 regards to her working for me when I was the director, was fastidious in keeping TRIM records. So that other side of the equation wasn't my responsibility to bring them up to speed on that, but I will say when I was at the City of Sydney I remember being trained on record keeping as a councillor, how important it was, so I think there was a change to the Act at the time, over a decade ago.

20 **MS McDONALD:** It appears to have been informal training the person whose name you can't remember and you provided?

25 **MR MALLARD:** Just a junior staff member of the organisation.

MS McDONALD: To the Mayor. Was that also provided to councillors at the time?

30 **MR MALLARD:** No, I organised this just myself for the Mayor and also for myself to bring me up to date on TRIM record keeping. I'd served a term on the board of the State Records Authority, so I was well aware of the critical importance of keeping records. Yes.

MS McDONALD: Yes.

35 **COMMISSIONER:** Whilst this is on the screen, Mr Mallard, can I just direct your attention to the second row, operational or strategic advice. In the third column which Counsel Assisting has directed your attention to, it says it is the Mayor or councillor's choice whether a request is submitted in writing or made verbally. Do you see that?

40 **MR MALLARD:** Yes.

45 **COMMISSIONER:** Do you have a view about where a councillor - Mayor or otherwise - is seeking operational or strategic advice from the staff as to whether it is appropriate or a good idea for such requests to be made verbally as opposed to being put in writing?

MR MALLARD: I recall this document going through fairly quickly for the organisation, and I didn't pick up on that, but I would have spoken out internally against it being verbally.

5 **COMMISSIONER:** Why?

MR MALLARD: Routine can be verbally.

10 **COMMISSIONER:** Access to documents, can I have a copy of the minutes?

MR MALLARD: If you want to talk about restructuring the organisation, that should be in writing or requests about information.

15 **COMMISSIONER:** Why do you have that view?

MR MALLARD: Goes back to what I said before, transparency, accountability.

COMMISSIONER: Clarity?

20 **MR MALLARD:** Clarity. Lack of ambiguity. Certainty about the response from the organisation back to the councillor, so another person, say the CEO, can look at the response and go, "Well, that looks reasonable. That adheres to policy." And that has protected me a couple of times, and it's better to be in writing, yes.

25 **COMMISSIONER:** Can we just scroll down to the next row?

MR MALLARD: Routine matters as it points out in the final column, that can be verbal like, "Can you organise someone to come to this lunch with me," type of thing. You don't need to have it in writing.

30 **COMMISSIONER:** Is any operational or strategic advice a routine matter though?

MR MALLARD: I'd put down a routine matter would be just - I would have thought the mayor picking up the phone saying, "Can you come to my office for a meeting with so and so from the University of Sydney."

35 **COMMISSIONER:** "Can I have a copy of the minutes of a meeting?"

MR MALLARD: That's right, yes.

40 **MS McDONALD:** In part of one of your most recent answers, you said something along the lines of this policy was formulated or passed in a hurry?

45 **MR MALLARD:** Probably not the right word to use, but it was - there was a lot of policies being reviewed at the time. The CEO was keen on having policies updated. They were quite out of date in the system, so there was lots of things passing through

at the time, yeah, and on top of your own directorship, to look at someone's else's area - this not my area - is a lot to do.

5 **MS McDONALD:** And you did say this, but I didn't catch it. Of the directorate, whose responsibility was this?

MR MALLARD: I think - I think it's Tina Bono's area, which is - which would be responsible for this area.

10 **MS McDONALD:** If you go through to page 7, please. This might have - this is, as it says, dated July 2023, but there it appears to be the office of the CEO?

15 **MR MALLARD:** Executive Services fell under the directorship of - it moved around a bit, but under Tina Bono's area, which - see, they've consulted quite a few departments there, but I think it was her area. That's where the councillor support staff sat in her directorate, we were talking about before, the triaging, and this policy very much relates to that interaction, yeah. But, I mean, other directors like Farooq Portelli, because he's got legal, and the internal ombudsman doesn't exist anymore. I'm surprised that that's there, and the CEO's office at that time was just - I think
20 that's John Ajaka or Jason. Nonetheless, it was only one staff member.

MS McDONALD: Can I take you back to one of your answers where the Commissioner asked you about the demarcation between the elected body and then the Council staff. One of the areas where you said sometimes there's tension or
25 difficulty is where a councillor is raising a matter on behalf of a constituent, and you gave the example of the tree?

MR MALLARD: Yes.

30 **MS McDONALD:** There has been some evidence before the Inquiry about a councillor raising an issue on behalf of a constituent, but being given information, but continually asking questions?

35 **MR MALLARD:** I saw that evidence.

MS McDONALD: So it wasn't an immediate acceptance of the information that that person had been told but he did continue to agitate, via email, so there's a record of it, and kept on pressing the constituent's, issue, and my recollection is, I think there were about maybe four or five attempts by him in raising the issue, and then,
40 ultimately, it just disappeared. On the one hand, you could argue that is a councillor representing a constituent and pursuing the interest of the constituent. On the other hand, it's - you were provided with information from the relevant section of Council, and you didn't accept it, and then your continual agitation then leads to further resources being used. I think my question ultimately is, there's a tension between
45 those two. Do you have any - have you - did you experience that when you were a director. And can you give any indication of how you would resolve that tension?

MR MALLARD: Well, I saw that evidence, and it's specifically around Councillor Ristevski, right? It is - I thought it was quite extraordinary, and it is not the common practice of the councillors I engage with to have that sort of toing and froing and not accepting advice. My view would be that if - and you might get
5 advice, and you don't agree with it. You don't engage with the staff in any case. You engage gauge with directors. Shouldn't be engaging one-on-one with staff. They are - they feel intimidated by councillors, and difficult for them to be - to stand up to councillors across the spectrum - not just at Liverpool. My view would be you'd escalate that - if you didn't agree and thought it was wrong, you'd escalate that. If the
10 director had made that decision, you'd escalate to the CEO. That's what you should do, and then the CEO will review it and make a call on it right, and that's what would be norm practice. In regards to - if I have experience, that's this particular councillor who was, and I guess still is, very vigorous in sending a lot of complaints about - from constituents into the system, and I had one around - do you want me to
15 give you an example?

MS HAMILTON-JEWELL: Sorry, can I ask (indistinct).

MR MALLARD: Sorry. I might need some more water. Who does that?
20

COMMISSIONER: Yes, we'll get that for you.

MR MALLARD: I'm used to my own inquiries with the big jugs.

COMMISSIONER: If we put a jug on that little shelf, it might end up in the tech.
25

MR MALLARD: I could reach over and do it myself. I feel so - like an invalid. Thank you. Did you want me to give an example that impacted upon me?

MS McDONALD: Yes.
30

MR MALLARD: Okay. It's the same councillor. The issue was - and I think he did it through councillor support complaint.

MS McDONALD: And that's the appropriate avenue?
35

MR MALLARD: Yes, and we're constantly counselling councillors about making sure they went via that avenue so - because the staff in councillor support, who are under pressure, documented it correctly and put the stop watch on to make sure
40 that - you know, you saw the policy. It was two days. I thought it was a bit longer to get the response back. So, we had the situation where Councillor Ristevski was unhappy that we had declined his - I think he'd gone through the media manager at that time - declined his request to upload a video of him on to Council's social media, and so I had the staff review his request. I got the complaint. I had the staff review
45 the request.

We extracted the section of the policy which said that the Mayor is the spokesperson for Council, which is the legislation as well, and - but the Mayor can delegate to other councillors the role of spokesperson. In this instance, he had delegated to Councillor Dr Betty Green a role in NAIDOC Week, beautiful video that we filmed, and we uploaded that, and the other one was the Deputy Mayor, Councillor Harle, who was running a campaign, delegated to him by the Mayor and by the Council itself, in fact, on dumped shopping trolleys in Liverpool. So, both those videos went up. Councillor Ristevski argued that -

10 **MS McDONALD:** Can I just stop you for a minute. I might bring up another document. Excuse me. Document INQ.005.001.0012. That can be live streamed.

COMMISSIONER: Whilst that's happening, we might close the door to prevent acoustic leakage into the corridor. I don't know whether it will help. Probably as much more as I can do. Thank you.

20 **MS McDONALD:** We move to the last page. Here it is. Page 5 the email commences. Sorry, it's actually the bottom of page 4. Yes, thank you. Good associate. You can see the start of that is an email from the councillor?

MR MALLARD: Yes, to councillor support.

MS McDONALD: And the appropriate avenue?

25 **MR MALLARD:** Yes, yes.

MS McDONALD: And if we would then move down to the content of the email on page 5?

30 **MR MALLARD:** Yes.

MS McDONALD: :

35 "I've seen multiple posts videos done by the Mayor, Councillor Harle, Councillor Green. Respectfully request to be given an opportunity to do a video post. Please get back to me if that opportunity is available and, if not, why?"

That was sent to councillor support. Was it then forwarded to you?

40 **MR MALLARD:** From memory, it went to the media manager and then subsequently to me to review the answer and then work on that response.

MS McDONALD: I know we've kind of jumped ahead?

45 **MR MALLARD:** Because I wanted all correspondence to councillors to come to me. I didn't want direct.

MS McDONALD: No, I was saying in your employment chronology, I haven't got you appointed as a director yet, but we've jumped ahead.

COMMISSIONER: That's my fault. I started this?

5

MR MALLARD: You've got me unemployed as well.

MS McDONALD: Could you move to the next page?

10 **MR MALLARD:** Okay. Yes.

MS McDONALD: It's the bottom of 3. Thanks. Now, that's an email from you?

MR MALLARD: Yes.

15

MS McDONALD: To the councillor. You've copied in your EA?

20 **MR MALLARD:** Yes, and she would - Lauren would TRIM that into the system and make sure the councillor support had the response back to stop the clock in terms of the response.

MS McDONALD: And then on the next page is your substantive response.

MR MALLARD: That's correct.

25

MS McDONALD: And I think you've given evidence that there were these video posts by the two councillors -

MR MALLARD: Yes.

30

MS McDONALD: - on particular issues?

MR MALLARD: Yes.

35 **MS McDONALD:** And that, as you say - well, you say was delegated by the mayor?

MR MALLARD: Correct.

40 **MS McDONALD:** Staff don't determine which councillors appear. And then you refer to the relevant sections of the media policy?

MR MALLARD: That's correct. And Cara, who was the Acting Media Manager at the time, would have helped me - would have helped me draft that.

45 **MS McDONALD:** And then if we - now, the next - if we go to the next email, which is dated 10 May, which is an email from the councillor, this time not to you but to Mr Breton, and, at that point, Mr Breton had been appointed the CEO?

MR MALLARD: I would need to be refresh on what date. I refer to him as CEO, acting or otherwise. There was two years there.

MS McDONALD: Okay.

5

MR MALLARD: Sorry, one year.

MS McDONALD: There's a particular comment at the beginning of the email. If we can just pass over that at the moment, but then Councillor Ristevski again is pressing that he wants to update the Council Facebook page because he attended an airport conference and wanted to give a report on that. When you provided your response, where you refer to the media policy, did you realise it was to give this report about an airport conference?

10
15 **MR MALLARD:** No. No. No reference to that at all.

MS McDONALD: It was just in context of, "I've noticed the Deputy Mayor and Councillor Green have recently made video posts."

20 **MR MALLARD:** Yes.

MS McDONALD: "I would like to do the same."

MR MALLARD: Mmm.

25

MS McDONALD: And then if we continue up the page, towards the bottom of page 2. This is Mr Breton's response. He says, "I referred your application under 4.1.7 to the Mayor." And then there's a reiteration of what Mr Breton says is included in that media policy. The Mayor alone arbitrates the extent to which another councillor can act as an official Council spokesperson, and then -

30

MR MALLARD: So, this is when I became aware of this interaction because you see I haven't been copied by anybody, and Mr Portelli forwarded all that email trail to me and said, "You should do a code of conduct on Mr - Councillor Ristevski because of what he's said to Mr Breton about your professionalism." So that's the first time I became aware of this trail.

35

MS McDONALD: Okay. And if we can -

40 **MR MALLARD:** And I thanked Mr Portelli for that. I appreciate it.

MS McDONALD: Then in this chain of emails, Councillor Ristevski replies - if we can move - yes:

45 "Thank you, Jason. Does the Mayor determine what is on the Council Facebook page? Isn't it operational?"

I suppose raising that tension between the two roles?

MR MALLARD: Indeed, yes.

5 **MS McDONALD:** And then if we can move to the top. This is Mr Breton replying:

"It's operational, though it's at the mayor's discretion alone to arbitrate the extent to which another councillor can act as an official Council spokesperson for an issue but not on the platform on which one may do that. That decision ultimately remains with the CEO."

Then he says:

15 "Noting your frustration, we also need to refrain from comments in yellow as an example."

And that's a reference to that comment that I passed over very quickly -

20 **MR MALLARD:** Yes.

MS McDONALD: - at the beginning of the email, I think, of 10 May on page 3. Yes. The yellow there. And if we can go back to where we were. Okay?

25 **MR MALLARD:** I hadn't seen this response. The email forwarded at the point when Farooq Portelli forwarded it to me didn't include this interaction. It was an earlier stage of the interaction.

MS McDONALD: The - sorry, could you speak up again?

30 **MR MALLARD:** I don't know what's wrong with my voice today again. Okay. I'll try and be louder.

MS McDONALD: Now, the comment that you just made was that the - you hadn't seen the subsequent interchange between the CEO and the councillor?

35 **MR MALLARD:** That's correct.

MS McDONALD: You had been alerted by Mr Portelli of the comment in yellow?

40 **MR MALLARD:** Yes.

MS McDONALD: And that -

MR MALLARD: It wasn't in yellow when I saw it.

45 **MS McDONALD:** No, I think it is for the purposes of the -

MR MALLARD: The later email.

COMMISSIONER: Mr Breton's email.

5 **MS McDONALD:** I'm sorry. And after receiving that, you made a decision to pursue certain action about it.

MR MALLARD: I raised it with Jason at the next opportunity I had about it because I wasn't aware of it, and I said, " This is a code of conduct," and he told me
10 he had lodged one.

MS McDONALD: Now -

MR MALLARD: At that time, you know, they were flying everywhere, codes of
15 conducts. Yeah.

MS McDONALD: Okay. The reason why we went to this area is that I had asked you about that tension between a councillor pursuing an issue as a constituent and accepting the advice from the staff that had been given pursuant to the policy. You
20 referred to this because you provided the advice to the councillor, and then it would appear that he then pursued it further with the CEO?

MR MALLARD: Yes. Appears that way, and took a personal, like, attack on me as well. Yes.
25

MS McDONALD: But pursuing it with the CEO, if he wasn't happy with your response, in a way that - putting to one side the comment about you, if we try and put that to one side, but actually raising the substance of, "This is the answer I got. I've got some more issues about it." That was appropriate to raise it with the CEO?
30

MR MALLARD: Well, following what I suggested to you before, that's correct. I mean, raising with the CEO, saying, "I'm not happy with this response", my view is - and in writing, I think that's a correct way to appeal the response from a director if you're not happy with it. I don't have a problem with that.
35

MS McDONALD: In your mind - sorry, I withdraw that. What you have suggested, that if an inquiry is made by a councillor, an answer - a fulsome answer is given by a member of staff, the councillor wishes to take it further, doesn't agree with it, your observation that that should then be agitated by the CEO, is that in writing anywhere, or should it be part of the councillor/staff interaction policy?
40

MR MALLARD: Not to my memory is it in writing, but one would not want to encourage every single time the councillors don't get their way to go to the CEO. One would hope they would accept the professional advice from the staff, whether is
45 the planning director or whatever it is, community services director or me, that they'd accept that professional advice. I mean, I coded that advice in the policy very clearly.

MS McDONALD: Let's go back to you being appointed as Senior Policy Advisor.

MR MALLARD: Okay.

5 **MS McDONALD:** Could we bring up document LCC.001.006 - just before you do that, when you were appointed, it was for a three-month contract?

MR MALLARD: It was stipulated to be three months. I don't think it was - I don't recall signing a contract that said that. It was a direct appointment, which can be,
10 under the Act, up to 12 months, but it was indicated to me it would be three months.

MS McDONALD: At that time, were you informed what - whether it was going to be a particular grade within the award and salary system of the Council?

15 **MR MALLARD:** From memory, it was already a graded position.

MS McDONALD: Grade 15. Does that sound -

MR MALLARD: Yes, I think that's right. Yeah. And it - I recall complaining I
20 didn't feel it was enough salary, but who doesn't, and then - so, yeah, that was the situation. It was graded in there, but it was a pre-existing position.

MS McDONALD: Who did you complain to about - or raise, I'm sorry, I apologise, who did you raise -
25

MR MALLARD: The CEO, of course, and he said, "Too bad."

MS McDONALD: When you said it was an already existing position, did you
30 replace somebody?

MR MALLARD: No. I did not replace anyone. I think Haris Strangas who was in a role - a junior role in that capacity, and so - it was in the structure - obviously had been created at some point or re-created - and, yeah, so that's when I looked at it.

35 **MS McDONALD:** Was it your understanding that the particular role was abolished in the structure that operated under Mayor Wendy Waller's Council?

MR MALLARD: I expect that's the case, but I can't confirm that.

40 **MS McDONALD:** Could we bring up LCC.001.006.0015.

ASSOCIATE: Do you want that (indistinct).

MS McDONALD: Yes, please. Excuse me for a moment.
45

MR MALLARD: Is that my appointment?

MS McDONALD: Yes, thank you. This is the letter of offer.

MR MALLARD: Yes.

5 **MS McDONALD:** 3 April 2023.

MR MALLARD: Yes.

10 **MS McDONALD:** You can see it's the full-time temporary appointment to the position of senior advisor. In paragraph 2, it talks about:

"We are pleased to offer you a market rate salary of \$168,000 plus super."

15 **MR MALLARD:** Okay.

MS McDONALD: The terminology "market rate", the Inquiry has heard evidence that that's a rate above the particular grade rate for that position, so that may suggest that you had some luck with the CEO?

20 **MR MALLARD:** No. That salary was the established salary when I applied.

MS McDONALD: All right.

25 **MR MALLARD:** So, I mean, I don't know what they did to establish that rate, but usually they would - human resources or people - the department would engage a company like Mercer to do an assessment, and when I was a director, we used Mercer quite a few times to test the market rate for staff, like, for example the commercial property people, which just don't fit into the grades in the Council structure because the market is so robust for them. So that's probably what happened,
30 but I didn't have engagement with any of that.

MS McDONALD: You don't know that's what happened?

35 **MR MALLARD:** No, I am speculating. I certainly didn't haggle or negotiate this figure. It was a fait accompli.

MS McDONALD: And if we can move to the bottom of - you can see there - sorry, if you can move it a little bit down, please. It states that the position reports to the chief executive officer?

40 **MR MALLARD:** That's correct.

MS McDONALD: And then if we can move to the next page, we'll see that the offer was to be signed by Mr Ajaka?

45 **MR MALLARD:** Yes.

MS McDONALD: While you - could you remind me, how long were you in that role for?

5 **MR MALLARD:** From memory, I think around two months, and then applied for the position of director city futures.

MS McDONALD: And you were appointed to that position roughly around August?

10 **MR MALLARD:** What's the date of this?

COMMISSIONER: April.

15 **MR MALLARD:** So, it would be roughly two months after being appointed when that role starts, so April, May - maybe June. June '23.

MS McDONALD: While you were working, albeit under a temporary contract, in this role as the Senior Policy Advisor, did you press or agitate for an increase in the salary?

20 **MR MALLARD:** Other than the one conversation I mentioned, no. No. I reflected to Mr Ajaka that I felt it was similar to what I earned 10 years earlier, and he helpfully pulled up the employment document from then and found out it was half that money back then, so it was certainly different.

25 **MS McDONALD:** And before you left that position and were appointed the director of city futures, you didn't receive any salary increase?

30 **MR MALLARD:** For this position, not that I'm aware of, no. No. Unless there was any sort of CPI or, you know, standard industry increases that occurred but I'm not aware of any increases, no.

35 **MS McDONALD:** Now, the position of Director of City Futures, was that a new directorate that had been created as part of the restructure undertaken when Mr Ajaka was appointed the CEO?

40 **MR MALLARD:** My understanding was that there had been work being done on what's called the functional structure, and that structure, which I think John inherited that work, was already underway, gave rise to the six directorates, and City Futures, the workshops, which I hadn't been involved in at all, had aligned certain departments into that area it which were about the strategic vision direction of city futures, but it was already in that - the Council had already endorsed the six-directorate model.

45 **MS McDONALD:** You applied for that position. Were you interviewed by a panel?

MR MALLARD: Yes. So, when the decision was made that they would activate that directorate, the - and I will admit I was encouraged to apply.

MS McDONALD: By who?

MR MALLARD: By the Mayor and by Mr Ajaka and by other people that knew me. Said, "You should get in and give it a go." I was, whilst clearly not happy with my remuneration, I was content in that role. I thought it was an important role to maintain the functionality between the elected body and the organisation, that advisor role, in my view, is very critical. But I was very excited about City Futures. I had - in my policy advisor role, I had taken the Mayor to meet Monica Barone at the City of Sydney, and we had gone through something I'm very passionate about, Sydney 2030 and now Sydney 2050. I'd worked very deeply on that, particularly 2030 when I was a councillor. And also, a body called Sustainable Sydney, and Monica laid out all of those amazing strategic visionary documents and plans that the city's involved with, and that triggered the Mayor to say to John Ajaka we should activate that sleeping directorate. It was there in the structure but hadn't been activated. So, I did apply. I did apply, as did other people, and it was a panel to answer your question, yes.

MS McDONALD: Who was on the panel?

MR MALLARD: It was obviously the CEO, the CEO of Campbelltown, Lindy Deitz, I think it, is and Stephen Blackadder.

MS McDONALD: Just before we leave the Senior Policy Advisor role, you've spoken about - that you thought - your view was it was important in that observing the difference in the functionality between the governing body and the council. You saw that as your primary role as the policy advisor?

MR MALLARD: I saw that as a skill that I had, and it was to the benefit of the organisation that I applied it, which was to make the relationship between the mayor and the elected body - the Mayor is the leader of the elected body - and the operational side understand each other and not have misunderstandings, and I particularly thought that was an important role to play between Mr Ajaka and Mr Mannoun.

COMMISSIONER: Why?

MR MALLARD: (Indistinct) when Mr Ajaka was appointed, I was still a member of Parliament. I thought this will be interesting. But the Mayor had a reputation, as we know, of going through quite a few CEOs, and I thought, well, let's see, this could me made work, you know. There was a lot of respect between the two, so I thought let's see how this goes. At that point, I wasn't even looking to work there. I just thought this will be interesting how this unfolds. But like I had that role 10 years earlier and tried to maintain the liaison between the Mayor, the elected body, which the Mayor controlled, and Mr Farooq Portelli. Ultimately, the Mayor fired Farooq Portelli, and I was involved in all that, trying to make that professional, and then brought on another CEO, and then I left. I think that's a - I don't think it's unique to Liverpool. I think the Lord Mayor of Sydney had key advisers to maintain her

relationship with the organisation when I was there. The Labor Mayor of South Sydney did as well. I think that's not unique to Liverpool.

5 **COMMISSIONER:** In the period that you were in that senior advisor role, were you also available to the other councillors?

10 **MR MALLARD:** Absolutely, yes. And I made a point making that clear to them back 10 years earlier and now. I was available to write speeches. I did speeches for councillors. Coached councillors for media. Yeah. I was accessible to the
15 councillors. I wasn't as close to the new councillors at this Council because I didn't have time to establish my credentials as a non-partisan operator, but I had a very good relationship with Councillor Dr Betty Green, who was the candidate against Ned Mannoun at the Council election, because I had identified a lot with her issues. But back at the previous Council, '12 to '14, I had a great relationship with all those
15 councillors.

COMMISSIONER: You were in the role for a lot longer in that stint.

20 **MR MALLARD:** Yeah. They got to see my professionalism.

MS McDONALD: So, your perception and how the Senior Policy Advisor role worked when you occupied it was - is this correct - you were kind of a bridge between the governing body and the actual Council, so that if matters arose that really are operational, but the councillor or the Mayor is becoming agitated, you
25 could act as a mediator between the two?

MR MALLARD: I would make it professional and transparent and accountable as possible. If there was an issue that the Mayor was getting very agitated about, I would try and resolve how we're going to get through this issue. An example was
30 Big Park and injecting drug users making a lot of mess there. The Mayor was very angry about it. Got on media. So, I helped to liaise between the directorates involved and Area Health and that to pull together some kind of strategy to help deal with this issue. That's the sort of level.

35 **MS McDONALD:** And the description a Senior Policy Advisor.. That sounds a bit of a misnomer in the way - and I'm not criticising what you did, but, rather, it seems more a facilitator /mediator type role?

40 **MR MALLARD:** No, there is a policy role too. I probably haven't played that enough.

MS McDONALD: What did that involve?

45 **MR MALLARD:** Well, I was a - I supported the Mayor's vision, and I was a huge advocate for the university city, and we were - you know, that dates back to my first stint, and now this second stint, and then as a director. So, policy on that was to attract universities to the city. So, we'd do presentations to universities, to

stakeholders. We had the airport. I was very involved in 2012 to '14 in - I joined the Council with a council that had been elected in 2012 to '14, opposed to the airport, which had been traditional out there, of course, at that time, and the councillors came to me and said, "The community doesn't seem to be as agitated about the airport as they used to be", so I developed - and it got a runner up award in Local Government awards - I developed a consultation process with the community that gave them the tools to say the community wants the airport for jobs and for access to their overseas families and that, and that's the sort of policy work, so any time I saw a strategic opportunity, I'd sit down or the mayor brought it up, we'd sit down and work on it.

10 **MS McDONALD:** Your consultation process for the airport, that was during the previous -

15 **MR MALLARD:** '12/'14.

MS McDONALD: Commissioner, we didn't - because we started late, we didn't have our usual break.

20 **COMMISSIONER:** Yes.

MS McDONALD: Is it appropriate to have a quick break now?

COMMISSIONER: Why don't we take 5 minutes to stretch the legs and rest the voice, and I'll come back just shortly before 12.15.

25 **MS McDONALD:** Thank you.

COMMISSIONER: What time is it?

30 **MR MALLARD:** 12.07

<THE HEARING ADJOURNED AT 12.07 PM>

<THE HEARING RESUMED AT 12.25 PM>

35 **MS McDONALD:** Commissioner, before recommencing the evidence, I've been informed that the transcript from yesterday had been on the website for a period of time before you made the further non-publication order this morning. I just raise it and - with a suggestion that if any member of the public or media have observed
40 what now is covered by the non-publication order, if they can keep in mind that that evidence is now covered by the order.

COMMISSIONER: Yes.

45 **MS McDONALD:** And a redacted version will be placed - redacted version of the transcript will be put up on the website.

COMMISSIONER: Yes. Well, for anyone observing, the order I made prevents any portion of what is to be redacted from being published. Is there anything more for me to do other than to reiterate the direction I've made? Yes, thank you.

5 **MS McDONALD:** Now, you applied for the director's position. You were successful?

MR MALLARD: Yes.

10 **MS McDONALD:** Now, you spoke before the short break that Mr Ajaka had devised a functional design for the six directors or the six directorates?

MR MALLARD: No, I'm not certain that Mr Ajaka did it. I know that the directors that the Council had been working on a functional design. I'm not sure if it was under
15 Mr Ajaka's direction or if it was happening already, but there was a functional design, and they had already determined - so it was obviously working group of directors - existing directors - already determined what areas of the different areas of the Council would go into city futures and fit into that agenda of that part of the Council.

20 **MS McDONALD:** Would you bring up, please, INQ.013.001.0003.

ASSOCIATE: (Indistinct).

25 **MS McDONALD:** Yes, please. I will just draw your attention to the top of the document, which is - has structure as at August 2023. Then if we can move down the document. It's headed Functional Design. You've got the Chief Executive Officer, and then you've also got the various directorates, first one being Director City
30 Futures with your name there, and with a number of kind of - I think they're either described as divisions or sections, including community and critical infrastructure planning, commercial development, grants and partnerships, city economy, innovation and communication, marketing and branding.

MR MALLARD: Yes.
35

MS McDONALD: Is it your recollection that when you were appointed as the Director of City Futures, they were the sections that came under your jurisdiction?

MR MALLARD: The functions, yes, but also over in the far right-hand column
40 where Farooq Portelli is, the last one, corporate strategy and performance, when I became a director was placed in city futures.

MS McDONALD: All right so that was removed from Mr Portelli's?

45 **MR MALLARD:** Some of them were moved around since then, yes.

MS McDONALD: All right. I want to revisit evidence that you gave this morning. Which was when you were appointed the director, you resigned your membership of the Liberal Party.

5 **MR MALLARD:** Yes.

MS McDONALD: Can you reiterate why you did that?

10 **MR MALLARD:** Well, there was media - in fact, there was a speech in Parliament where it was alleged that I got the job because I was a Liberal. There was media reporting of that in The Australian, and I did not want that association to taint my professionalism in the role. As I said, I was honoured to be a public servant. It was one of my aspirations in my life, a senior public servant, and I felt that it wasn't appropriate to be a party member in such a senior public service role.

15 **MS McDONALD:** Now, I'll bring up -

MR MALLARD: I might say I made that clear to the Labor councillors at the time so that they knew where I was coming from.

20 **MS McDONALD:** Would you bring up a later structure, LCC.002.010.2298, and it can be live streamed. You can see from the left-hand side this is the establishment structure at the Council as at January 2025. Director of City Futures is on the far left-hand column. Underneath, it's got total 36 positions. What was that referring to?

25 **MR MALLARD:** Equivalent full-time employees in my directorate. I also shared - it's not very easily described here, but we had an innovation which the infrastructure planning team, which is over in - underneath Acting Director Operations, the fourth column across, I shared that team with myself. So, I did the strategic planning work with them. It was a team of architects, landscape architects and community planners, and over on - in the operations side, they did the sort of delivery of it, and we were experimenting on sharing that together because there had been a disconnect between those two teams.

35 **MS McDONALD:** And under Acting Director of Operations, which particular - I call them sections but you describe them as functions. Which one did you just refer to that you shared?

40 **MR MALLARD:** This isn't functions now. The previous one was functions. This is now actually units - you know, departments. The infrastructure planning, right down the bottom, okay. It's one, two, three, four, five - six up from the bottom of that column.

45 **MS McDONALD:** Yes.

MR MALLARD: I shared that with the Director of Operations, but not all 47 positions were shared. There would have been probably 20 - 15, 20 that were shared

with me. They were originally - in the earlier graphic you showed, they were actually in my department. But we identified this disconnect, you know, the silos, the disconnect - the guys would - the team, guys and girls, would do a strategy, tree strategy, bicycle lane strategy or whatever, and then it wouldn't come out in operational side. There would need to be a better connection, so we were sharing that which is unusual for councils to do that. We were experimenting with that.

MS McDONALD: And the reference to 36 positions, that is in the directorate as at January 2025, there were 36 full-time -

MR MALLARD: Yes.

MS McDONALD: - employees?

MR MALLARD: Equivalent full time.

MS McDONALD: Positions?

MR MALLARD: Equivalent full time, yes.

MS McDONALD: The role of the Senior Policy Advisor, did that come under your responsibility or was it under another section?

MR MALLARD: No. It came to me when I was - when the directorship was created. It's not reflected there, but it's just a single position, yeah. So previously it reported to the CEO, and then it came across to me - to my portfolio.

MS McDONALD: I'm moving to a different topic, and this is when you were working as a director, the lead-up to the budget for '24/'25?

MR MALLARD: Okay.

MS McDONALD: Which was put before Council in June 2024?

MR MALLARD: Okay.

MS McDONALD: Now, we've heard evidence about, broadly, the procedure with the budget, that there is a first iteration of the budget.

MR MALLARD: Yes.

MS McDONALD: It's been described by one witness the first iteration is kind of the wish list?

MR MALLARD: Yes.

MS McDONALD: Where directors put in the various projects and other operations that they would really like to pursue next year, and also the costings and also any revenue that that particular - the functions under that directorate could generate?

5 **MR MALLARD:** Yes.

MS McDONALD: And you - and then as a matter of consultation with the mayor and the councillors, the draft budget is refined, changed with the aim that it gets to a stage where it's put on public exhibition; that's correct?

10

MR MALLARD: Goes through the Council then goes on public exhibition, yes.

MS McDONALD: But in the lead-up to it going on public exhibition, there may be a number of consultations or meetings with councillors.

15

MR MALLARD: Workshops, yes.

MS McDONALD: Yes, workshops?

20 **MR MALLARD:** Yes.

MS McDONALD: About the budget. Is your understanding when it gets to the stage just before it's being put on public exhibition, have the councillors indicated their approval, or is it more fluid at that stage?

25

MR MALLARD: That particular year that budget process as you know led to the ultimate issue with Mr Ajaka but there were fairly - some councillors are quite robust in their discussion. Some are passionate about the proposals that directors are bringing forward. Some councillors didn't even show up. And the mayor was in and out of those meetings quite regularly, and the workshop would go for quite a few hours, so one would expect by the time it got to go out on public exhibition, there was a sort of general consensus. One or two councillors might want to stand - make a political issue about something, but it would be going that way. I've got to say, that process isn't the process I experienced at other Councils as a councillor.

30

35 **MS McDONALD:** You didn't?

MR MALLARD: No. But there is a lot more pressure on Liverpool Council than other Council I was on in terms of revenue. There is just not enough money in the Council to do all the things we want to do in a high-growth area. That's a big issue. Cost shifting and rate pegging, and it's not unique to Liverpool. It is the same in most of Western Sydney councils.

40

MS McDONALD: The procedure that you experienced as a councillor at South Sydney and then the City of Sydney, just very generally, what was the procedure there with the budget and the involvement of councillors?

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5 **MR MALLARD:** South Sydney I was quite involved because I was chairman of finance committee there and probably in today's thinking transgressed a bit operational, but, you know, we came forward with proposals that came from our election campaign, and the CEO of the day and the mayor of the day would - they'd come back with suggestions how to incorporate that in the finance and the budget, right? That that's South Sydney. City of Sydney, there's clearly work done behind the scenes that I'm not involved in because I wasn't in the governing group, and then we'd have a workshop or finance committee, and we would be presented with a draft budget, and the staff would go through the capital works projects. We would have a say. We could adjust things. It was not impossible to do that. And then it would go on exhibition, but the City of Sydney makes an incredible profit every year, so it's not the pressure. And if you wanted to do something special, you would put up a notice of motion. You know, I got \$50,000 to help the restoration of Saint Stephen's church just across the road on Macquarie Street.

15 **MS McDONALD:** Opposite Parliament?

20 **MR MALLARD:** Saint Stephens, down at Hyde Park. Saint James. Did that through a notice of motion, had a debate and it was approved. That was the way to do it.

25 **MS McDONALD:** So, your experience with Liverpool is because of the revenue pressures, it's - it goes through this procedure of workshops, et cetera, with ultimately a refinement of the budget, which hopefully reflects a general consensus, goes on public exhibition, and then I take it members of the public have an opportunity to raise matters?

30 **MR MALLARD:** Yes. And, traditionally, you don't get much feedback on that. This last budget they did. But, traditionally, you don't get lot of feedback on the budget on exhibition. More likely you'll get feedback from government departments and your own internal departments.

35 **MS McDONALD:** Now, if I can ask you some questions about the lead-up to the '24/'25 budget, I referred to evidence about the first iteration is often the wish-list budget, and then it's kind of whittled down. Do you recall a meeting that the mayor attended where, at that point, the budget forecast a deficit of around \$20 million?

MR MALLARD: Yes, I do.

40 **MS McDONALD:** And, again, roughly, in that lead-up to June, when was it held?

MR MALLARD: I'd have to check my diary notes, but I would have thought it would be eight weeks or 10 weeks out. Maybe eight weeks out.

45 **MS McDONALD:** And at that point, the forecast deficit was about \$20 million?

MR MALLARD: Yes. So, Mr Ajaka had said to the directors, and I was a new director, "dream big. Dream big. Come forward with your suggestions", so long as

they align with the CSP, the Community Strategic Plan, which is the document that captures the aspirations of the community after every election, and his view was dream big, and I did, and told my team to dream big, and take - and then we'll put forward the whole lot in the early stages and let the councillors determine the priorities. That was his approach.

MS McDONALD: Can I just ask you, when you were told to dream big, was dreaming big more in the "what we want to achieve", as in these are the projects, these are the type of things that we want to do?

MR MALLARD: Yeah. Well, in my area, it was things like I had the tree strategy and Liverpool has one of the lowest tree canopies in metropolitan Sydney, so I was keen to pump more money into tree-planting. We were developing an app, and we'd been doing it internally. We were ready to develop it to the stage to go to market. That required half a million dollars. Banner poles through the city. We didn't have those. That's sort of dreaming big. And also I wanted to lift up the standard of the CBD. Other directors had their other projects. I know the IT area needed significant investment, and that was put in there. Yeah.

MS McDONALD: So you were told, "Go forth, dream big." You then came back and had a meeting where the - you had at least dreamt big?

MR MALLARD: Yeah, I dreamt a bit too big apparently, but yes.

MS McDONALD: To your observation, other directors had dreamt big?

MR MALLARD: Some, yes.

MS McDONALD: And taking into account all of the big dreams, did that lead to the budget with the forecast deficit of about \$20 million?

MR MALLARD: That's correct.

MS McDONALD: And if I could describe that as the dream big budget, was that subject to a meeting that the Mayor attended?

MR MALLARD: Yes.

MS McDONALD: Did anything occur when the Mayor was shown or confronted with a budget with that amount of deficit?

MR MALLARD: Yes. Yes. He got physically very angry and stormed out. We had all the directors there, and I think from memory most of the councillors there. It was in - not our new building, but we leased another building in Scott Street. It was in the boardroom there, where we used to hold the briefing sessions.

MS McDONALD: And your evidence was physically angry?

MR MALLARD: Yes. I could see that - I can read the Mayor's body language. I could see he was, like, really unhappy. I don't know if he'd been alerted to the deficit in this early draft of the budget, but he - I don't remember what he said, but he basically stormed out.

5

MS McDONALD: Do you recall him doing anything physical with any of the papers?

MR MALLARD: I think he hit them down hard on the desk and then left, yeah.

10

MS McDONALD: You said that other councillors were present. Did the meeting continue?

MR MALLARD: I don't believe it did. I think it pretty much wrapped up because without the mayor there, it was - I think - my recollection is it wrapped up.

15

MS McDONALD: Now, after that meeting and you've got the dream big budget, were you given any either direction or guidance - I'm sorry, I withdraw that. Further amendments or changes to the draft budget, did they come from the CEO?

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MR MALLARD: I recall in the CEO's office in Moore Street that we started to go through line items in our budgets, and I do recall there was a lot of focus on me because I think I was responsible for maybe \$6 million of that, because I was a new directorship, so I wanted to get on with projects that related to the portfolio, and so there was some focus on, no, you don't need to do that, take that out, type of thing, where we started to bring the sales in. But Mr Ajaka had a view the councillor had to own the budget. So, this was what the operational people are saying. These are things we need to do to comply - to answer the CSP, the Community Strategic Plan, the direction of this city. These are - this is what we're recommending. You tell us what is important and what we can defer to another year. That basically was his approach to the budget, but that didn't happen that way.

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30

MS McDONALD: If it did happen in that way, was it foreshadowed that there would be feedback from the councillors along the lines of, "You've got a line entry for X amount to plant more trees. We think that's a great idea. That should be included." Or, "That's a silly idea ", or, "We don't think that's a priority. Remove that."

35

MR MALLARD: Subsequent workshops where the councillors went through each of our budgets, and we put the case forward for why. I'll give you an example of mine. I was passionate about the Liverpool app, and councillors were like, "Let's invest half a million for Apple store standard." That was an example. So we'd go through it and other things would go out of the budget.

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MS McDONALD: You just described your understanding of how Mr Ajaka either proposed or thought it would operate and then said something like, "That didn't occur."

45

MR MALLARD: No. Well, the starting point was that meeting where the Mayor walked out and said, "The feedback I got was how dare you bring a deficit like that to a meeting like this." I don't think he said it to me, but I heard it as feedback. So then the process of whittling it back was in the CEO's office and some of it in the Council office, in the Council briefings. Yeah.

MS McDONALD: So -

MR MALLARD: But I think the Mayor expected the CEO, and I know he did with the current CEO and the current budget that just went through, to come to the Council with a budget, to do all the hard work, the heavy lifting to get it to that balanced budget.

COMMISSIONER: Before it was presented to Council?

MR MALLARD: Yes. Yes. That's my interpretation of his position. He didn't want to be present with a deficit budget - certainly not for \$20 million. That's right.

COMMISSIONER: How do you have that understanding? Was that something told to you or that you -

MR MALLARD: Well, it's in Liberal DNA to try and have balanced budgets. We know that state and federal all the time and Labor is always chasing trying to get there. That's fine. I'm not commenting on that. But - so the Mayor was always preoccupied with a balanced budget. I mean, back in the black was his big campaign slogan when we finally got a budget there was that \$1 or \$2 million in the black, which now we know that year's over it is about 15 million in the debt, I believe. So there was a big focus, and it's one of those sort of touch points for Liberals.

MS McDONALD: So after the 20 million deficit budget -

MR MALLARD: Draft budget.

MS McDONALD: Draft budget. I'm sorry, yes. Your evidence is that the process continued with CEO refinement in consultation with directors, input from councillors. Did it - in the meetings that you attended, did it ever get to the stage where the budget was at a point where the Mayor expressed that he was happy with it?

MR MALLARD: I'm not aware of that, no. I'm aware that we were - narrowed it down to \$3 or \$4 million deficit as we're getting closer to the final presentation of a budget to the Council, and we were obviously scrutinising - we scrutinised the projects and the operational and business-as-usual side of it, and we were hammering hard on what revenue was - what revenue opportunities there were.

MS McDONALD: On that, the revenue opportunities, part of your jurisdiction included commercial property?

MR MALLARD: Yes.

MS McDONALD: And that's commercial property that is owned by Council?

5 **MR MALLARD:** That's correct.

MS McDONALD: As part of the ultimate budget for that year, there was a line item for the sale of a Council property at 3 Hoxton Park Road?

10 **MR MALLARD:** Yes.

MS McDONALD: How did the proposal to sell that property - how did that arise?

15 **MR MALLARD:** Well, we were all thoroughly going through our revenue side of our spreadsheet as a director, and I had very little opportunity for revenue. Banner poles as I mentioned, nothing, but had commercial property. And that -

MS McDONALD: Can I just pause. With the commercial property, wouldn't there be revenue through -

20 **MR MALLARD:** Yes.

MS McDONALD: - rent or -

25 **MR MALLARD:** Yes, that's right. Yes. So commercial property, which was at that stage a three-person team, a new team, new created business unit. Didn't exist before. And there was no strategy. There was no software to run it. It was just run by manual files. It was just a disaster that we inherited. And they - the senior manager there, we were going through our property portfolio, right? So, you mentioned rent and the
30 leasing. All the leases were pretty much locked in, and, you know we were working on those for quite - because they were critical to revenue for the Council, particular Liverpool Civic Place.

35 There were some outstanding revenue things that were caught up with legal problems, like telecommunication towers and that that we weren't paying rent. We were sorting that out. They were quite complicated though; they were legal matters. But one of the revenue sources is to look at your property portfolio and identify an asset that's not performing, right? So, we went - we went through the portfolio, which is not huge. A dozen shops, Liverpool Civic Place, 33 Moore Street, the old
40 Council Library and odd buildings around the place, and 3 Hoxton Park Road, which was the rent - the surviving building from the big fire that burned down the Council buildings before my day, it was there. It was two storeys. The top floor was empty. We did have operations in there. They had moved into Moore Street.

45 **MS McDONALD:** Rose Street?

5 **MR MALLARD:** Rose Street was a depot. They had moved into the top floor of Moore Street after we moved out of Moore Street into Liverpool Civic Place, and the ground floor was occupied by the SES on dollar a year rent which is required by state - the council provide accommodation for them. So, we looked at that asset, which was potentially a good site for redevelopment, could be upsized, it was a good location. The SES weren't paying rent in a significantly - good commercial building, and we had an empty top floor which we couldn't get a tenant for at that time. Had been on the market through JLL for some time trying to find a tenant. It wasn't returning good revenue. And you might hear from other people, and particular
10 Councillor Ristevski, arguing it was returning good revenue, but they didn't account for the ground floor not paying rent as for the top floor. We had had interest, unsolicited proposal, just a discussion from a hotel group for the site.

15 **MS McDONALD:** When did that occur?

MR MALLARD: Before the budget process, you know, but that had gone no further, and if it had gone further, we would - you know, expressions of interest process to go through and ICAC guidelines to adhere to, to do that. So, we knew there was interesting. We got an evaluation of between \$12 and \$14 million.

20 **MS McDONALD:** All right. Can I just pause there. Could - would you please bring up LCC.016.001.0037, please.

25 **ASSOCIATE:** (Indistinct).

MS McDONALD: Yes, please. This is an email chain. I'll take you through to page 5. And it's that email from a Peter Panopoulos to a Steve Simat, is it?

30 **MR MALLARD:** Yes. That's the Senior Mansgrt of Commercial Development.

MS McDONALD: Was he part of that group of three that you were referring to?

MR MALLARD: He was the leader of that group of three, yes.

35 **MS McDONALD:** It doesn't say anything - it doesn't, sorry, identify a property, but the subject matter is high-level view, and there's obviously some form of valuation contained in that email.

40 **MR MALLARD:** Yes, that's right.

MS McDONALD: Now, if we would move up.
He emails you:

45 "Hi, Shayne. Please find value opinion of 3 Hoxton Park Road provided by civic valuations."

The date of this is 12 April. Keep on going.

MR MALLARD: Email is in 12 point. I get in trouble for that.

COMMISSIONER: No complaints from me.

5 **MS McDONALD:** We have your email to Mr Portelli, budget adjustment:

"The CEO has requested I bring this new City Futures budget initiative to your attention and add to the budget prior to any discussions with the mayor and councillors."

10

You identify it's this particular property identified for disposal this coming financial year, and then if we just look at the rest of it, you refer back to the valuation?

MR MALLARD: Yes.

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MS McDONALD: And then your final comment is it's subject to the SES tenancy being relocated or leased back for a period to a new buyer but subject to negotiations at the time.

20 **MR MALLARD:** That's correct, yep.

MS McDONALD: All right. And then if we can - I think it is the last email from Mr Breton. Yes. Then you have got an email from Mr Breton to you and Mr Portelli:

25 "If this plays out, I can handle SES at Rose."

MR MALLARD: That's Rose Street depot, yes.

30 **MS McDONALD:** That suggests he was thinking about moving the SES to the Rose Street depot?

MR MALLARD: Yes.

MS McDONALD: :

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"But need a million for the fit-out of a new office space as I will move more" -

40 So there's further movements to accommodate the possible sale of the property. Then you may not have been - yes, you were copied into this. Mr Portelli then forwards to Mr Nadan, and as the Chief Financial Officer, he's the main one dealing with all the draft budget.

45 **MR MALLARD:** Yes. So, he deducted a million dollars from the potential sale for the purposes of the relocation of SES. They also - though it wasn't leased at the time, it was approximately 400K a year rent for that top floor that we had in the budget, so he also - I think there was an email trail where that was deducted as well. Make sure that you reflected those costs, yes.

MS McDONALD: And if we go to the - I think, as you just commented, this is Mr Nadan just making some final changes to how it's going to be included in the budget?

5 **MR MALLARD:** Yes. And you see he says - and you can almost read the excitement in his sentence:

"The budget result will well and truly "black" - \$3 million roughly".

10 **MS McDONALD:** But at this stage the proposed sale of 3 Hoxton Park Road had not been raised with the councillors?

MR MALLARD: No, I don't think it had been at this stage.

15 **MS McDONALD:** In any of the strategic plans that the Council had considered, it hadn't been earmarked or raised?

20 **MR MALLARD:** Well, there was no commercial property strategic - strategy in place, so, you know, we were just starting to do that process, at the same time trying to lease out all of the, you happen, Liverpool Civic Place and manage all those heavy - huge expectations on us to deliver on that. So, the answer to that is no. It had not been identified as an asset that could be sold, although I was told, I didn't see a document, that it was always an expectation that that was once our civic - our headquarters burnt down, a bit of it survived. I believe we actually sold it and bought it back, but that was way before my time, and then Moore Street, our headquarters, 25 and now Civic Place. The view that was expressed to me was there was an expectation we would recycle those assets, and Moore Street was placed in the long-term financial plan for sale to reduce our debt on the new building. So, it was not out of order to have that conversation.

30 **MS McDONALD:** Who told you that there was this view or expectation?

MR MALLARD: I'm not certain. I've got a vague thinking it might have been the mayor, but I can't swear by that.

35 **COMMISSIONER:** What did you mean by recycle those assets?

40 **MR MALLARD:** Well, the portfolio was pretty static, and elements of it weren't performing, elements that were redundant, and no one had taken a strategic view of it. I was arguing to get the money to bring in a major firm to do an audit of all of our commercial properties and then to do an assessment of whether we should retain them or sell them. Now, that sort of kicks into Jason's Project 26 later on, but, you know, I didn't get the support at ELT to do that stage, but, nonetheless, this asset was - it was pretty clear to me and Steve that it was not performing, and we were having trouble getting a tenant for that top floor. We'd had someone come along and 45 kick the tyres about that site, which made me think that - I was surprised when the evaluation came in so high because we had it booked for, what was that, \$7 or \$8 million, I think, and its valuation came in significantly higher.

MS McDONALD: But the valuation you're relying upon, was that first - the valuation in the first email -

MR MALLARD: Yes.

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MS McDONALD: - that was provided by Mr Panopoulos?

MR MALLARD: That's correct.

10 **MS McDONALD:** Could we just go back to a previous email. Yes, page 3. Mr Mallard's email to Mr Portelli on 15 April. Yes, that one. There, you tell Mr Portelli:

"The CEO has requested I bring this new City Futures budget initiative to your attention."

15

So was the sequence that you were looking at revenue possibilities for your directorate?

MR MALLARD: As everyone else was doing too, yes.

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MS McDONALD: You came up with this?

MR MALLARD: Yes.

25 **MS McDONALD:** And then approached the CEO?

MR MALLARD: I would have sat down - look, the commercial property area is the only area of revenue in my portfolio. So, I would have sat down with Steve and Geoff at the time who was there and said, "Let's go through what we've got and what more can we do?" Now, obviously we looked at the rent revenue side of it. Most of the - still haven't leased out at that stage, I don't think, Liverpool Civic Place. That was a big burden on us. But, nonetheless, we went through all the other rats and mice properties, and I hate saying that, you know, we locked in on small contracts. Couldn't make a big difference to the bottom line, and this asset was one that was

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MS McDONALD: Does your evidence that you had a conversation with somebody where they said it was their view or expectation that it would be recycled and you thought it could be the mayor, did that conversation occur in the - once you identified -

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MR MALLARD: Yes.

MS McDONALD: - it as a property?

MR MALLARD: Afterwards, yes.

5 **MS McDONALD:** And you had earmarked it for inclusion as a line item in the budget?

MR MALLARD: That's correct. We would have then taken this to a councillor briefing, which is confidential, and then that item would have been discussed.
10

MS McDONALD: I note the time.

COMMISSIONER: Yes. Shall we come back slightly earlier or how are we tracking?
15

MS McDONALD: I think 2 o'clock.

COMMISSIONER: 2 o'clock. All right. Mr Mallard, we're going to take the lunch break now. We'll resume at 2 o'clock. So if you wouldn't mind being back here a couple of minutes before 2 o'clock ready to go, I'd be most grateful, and I'll adjourn until 2.
20

MR MALLARD: Thank you.

25 <THE HEARING ADJOURNED AT 1.05 PM>

<THE HEARING RESUMED AT 2.06 PM>

MS McDONALD: Mr Mallard, before the break I was asking you about the proposed sale of 3 Hoxton Park Road?
30

MR MALLARD: Yes.

MS McDONALD: And how it became included in the budget. Do you have a recollection at any time in the lead-up to the budget being considered at the Council meeting in June that there was some inadvertent disclosure that that was the property that was earmarked?
35

MR MALLARD: Yes. That occurred at the - at the draft - the budget meeting or the Council meeting when it was to go out on public exhibition, and it was disclosed as a line item in the budget papers online, which was to identify it as an asset to be sold in the coming financial year, and that was an oversight in terms of uploading it on to the system. It was taken down fairly quickly. But - and I think Mr Portelli gave evidence to this effect the other day - my understanding was we had a number of -
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45

MS McDONALD: Sorry.

MR MALLARD: Just a number of properties.

MS McDONALD: I just want to explore this with you. What stage was it inadvertently included?

5

MR MALLARD: I think it was the budget - the meeting of the Council adopted the budget to go on public exhibition.

10 **MS McDONALD:** Right. Right so that's not the June meeting where they actually -

MR MALLARD: When it came back off exhibition and was adopted no.

15 **MS McDONALD:** So, it is pre-exhibition, and your recollection is there was some resolution, or it is discussed at a Council meeting that we've got a version of the budget, and it is ready to go on public exhibition?

MR MALLARD: Yes. It goes to Council, and Council adopts the draft budget, then it goes on public exhibition, comes back off public exhibition with feedback from the stakeholders, the community, then it is adopted by the Council.

20

MS McDONALD: And it is your recollection that the draft budget which was before the Council for them to determine whether it should go on public exhibition, that had disclosed or revealed a line item or the proposed sale of 3 Hoxton Park Road?

25 **MR MALLARD:** Yes. Buried in the spreadsheets and, you know, you've got to realise there's quite a lot of documentation, was the actual identification of the property. But, from memory, it didn't indicate the expected sale value for that property, but it had amalgamated some other properties together and had a larger value. So, it didn't reveal - this is my memory of it - didn't reveal the expectation for
30 that particular property, and I think Mr Portelli said that the other day.

MS McDONALD: What other properties were amalgamated?

35 **MR MALLARD:** From memory, it was the car parks at Hammondville that were sold to Sporties subsequently. I don't recall others. I think it might have been only two.

MS McDONALD: I will return to that.

40 **MR MALLARD:** Okay.

MS McDONALD: Can I just ask you about some evidence you gave this morning about when you were still a member of Parliament, and you were involved in some of the announcement of successful grants pursuant to the WestInvest?

45

MR MALLARD: Yes.

MS McDONALD: My recollection is you spoke about attending some announcement at Woodward Park?

MR MALLARD: Mm-hmm.

5

MS McDONALD: Was that correct?

MR MALLARD: No. I've transposed two park, and I think you were picking up on that, and I realised I attended the announcement of the Light Horse Park which is - abuts the Georges River just below Liverpool CBD. It was that park. Woodward Park is the one down at where you mentioned Brickmakers Creek. I wasn't involved in that announcement. I apologise for that. I actually used to do it at Council too.

MS McDONALD: All right. Can I take you back to the preparation of the budget for '24/'25?

15

MR MALLARD: Yes.

MS McDONALD: I have asked you questions about 3 Hoxton Park Road and that proposed sale, how that came about. I want to ask you more about the development of the budget, and you've spoken about that meeting where there was the around \$20 million deficit, where the Mayor - I think you described it as stormed out?

20

MR MALLARD: Yes.

25

MS McDONALD: Subsequent to that meeting, were you aware up until a period in April that there were discussions about rationalisation of staff and, in particular, whether directors or directorates should be abolished?

MR MALLARD: I was aware of - I wasn't aware of discussions per se, but I was aware of the email that the Mayor sent through to Mr Ajaka saying - suggesting these measures. That's probably when I became aware it was in play again.

30

MS McDONALD: You just said, "in play again"?

35

MR MALLARD: Yes, about to expand on that. I might say, going back to '12/'14 and then now, the period now, the mayor was very focused on too many managers, not so focused on too many directors at that time. It was such a distraction for the organisation that we started renaming managers different titles to get to - because recruiting staff from other Councils, they'd come along and, you know, a coordinator was running an area that a manager ran at other councils. It was getting quite difficult for us to manage that issue, and I did an analysis of our growth in managers from when I was there in '10/'12 to '12-'14 to now and growth in the population, and it showed there hadn't been exceptional growth. It was on par with that sort of growth in the community and the budget. Yeah. But the mayor was very focused on too many managers, want more people out there cutting grass, that type of thing.

40

45

MS McDONALD: So, as you've just given evidence, it was concentrating more on the manager level not the directorates?

5 **MR MALLARD:** Yeah. I - the first that directorates came back into - or came into discussion was that email that the Mayor sent to Mr Ajaka which was - became quite - currency of it became quite well known.

MS McDONALD: I'm just trying to find that.

10 **MR MALLARD:** Because I'm right in saying the conversation where the Mayor allegedly said to Mr Ajaka get rid of Michelle, get rid of Shayne, that's after that email went to John. I think that's the chronology there. So, I was well aware of that conversation.

15 **MS McDONALD:** I wasn't expecting to take you to this, but you'll remember it's an email where -

COMMISSIONER: Is it OLG.001.001.0310? Now, this is going to be either really good or a spectacular fail on my part but -

20 **MS McDONALD:** Associate, could you help?

COMMISSIONER: Is it that?

25 **ASSOCIATE:** (Indistinct)

COMMISSIONER: Yes. The transcript will reflect I was right.

30 **MS McDONALD:** If you can stop there. Thank you. You can see email from Ned Mannoun to Mr Ajaka, Mr Portelli, Ms Macnaught copied in, and then we've got:

"Can you please provide the following modelling and recommendations for the budget."

35 The first point:

"A reduction of management costs by \$2 million. This can be achieved by a mixture of lessening the amount of directors and managers."

40 Now, after that email was sent, the next week there is a meeting between the four people who were copied into the email?

MR MALLARD: Yes.

45 **MS McDONALD:** That meeting was held on 16 April, and it is a meeting in which Mr Ajaka uttered the words, "Shut the F up."

MR MALLARD: Mm-hmm.

MS McDONALD: Before that meeting, were you told or were you shown a copy of this email dated 12 April?

5

MR MALLARD: Not that I recall, no.

MS McDONALD: In the lead-up to the meeting on 16 April, were you told anything about the meeting and what it was anticipated would be discussed?

10

MR MALLARD: No. Didn't even know the meeting was occurring.

MS McDONALD: So, the particular points raised in this email - and I've focused on point number 1 - you had no knowledge of it and had no knowledge of these issues may be raised in the context of the budget?

15

MR MALLARD: My recollection is I didn't know about this email until after the confrontation in that meeting when discussion occurred about why has this happened and so forth. The reference was to an email that indicated getting rid of directors and managers and so forth. That was the first. I don't recollect I knew about it beforehand, but I certainly found out. Everyone knew about the confrontation. It spread through the building within minutes, yeah.

20

MS McDONALD: Right. Can I just pause there?

25

MR MALLARD: Yes.

MS McDONALD: How did you find out?

30

MR MALLARD: It was overheard by his EA, and she alerted me to it. So, the confrontation was loud enough to go through a closed door.

MS McDONALD: All right. And the EA heard it?

35

MR MALLARD: Yes.

MS McDONALD: And the EA informed you?

MR MALLARD: Yes. It was my EA on secondment.

40

MS McDONALD: Right.

MR MALLARD: Lauren, yes.

45

MS McDONALD: So, she was your executive assistant at the time,

<REDACTED DISCUSSION COMMENCED AT 2:18PM. REDACTIONS HAVE BEEN MADE PURSUANT TO A NON-PUBLICATION ORDER MADE BY THE COMMISSIONER)>

5 **<THE DISCUSSION CONCLUDED AT 2:23PM>**

COMMISSIONER: Yes, Ms McDonald.

10 **MS McDONALD:** Mr Mallard, I was asking you some questions about how you became alerted to the meeting that occurred in the offices of Mr Ajaka on 16 April?

MR MALLARD: I became aware of the meeting at its conclusion from my EA who was on secondment to Mr Ajaka's office.

15 **MS McDONALD:** Now, you - that's how you found out. Within the organisation, did it appear to you that an account or a description of what occurred at the meeting was spreading throughout the organisation?

20 **MR MALLARD:** Yes.

MS McDONALD: Do you know the source of that? Of other people finding out?

MR MALLARD: No, I can't - I can't answer that.

25 **MS McDONALD:** After you found out, did you speak to anybody who was involved at the meeting?

30 **MR MALLARD:** At some point in time, I obviously spoke to the CEO when - and that's when he revealed what the Mayor was wanting to do, get rid of two directors and get rid of managers and so forth. I'm not sure when that was, whether it was that day or subsequent day, but -

MS McDONALD: When he - sorry. He showed you that email?

35 **MR MALLARD:** I don't think - I've seen this email, but I'm not sure who showed it to me I've got to say. I have seen this email, but he told me about it. Because I don't recall the discussion around point 4, and that's my area, about the leasing figures on those properties.

40 **MS McDONALD:** But in some way he discussed with you a proposal that there would be directors positions abolished?

MR MALLARD: I think the was more clear than that. He said to me that the Mayor wanted to get rid of me and Michelle.

45 **MS McDONALD:** And that was completely new to you?

MR MALLARD: Well, I - by then, I had heard two directors were in the firing line, and I instinctively knew that one would be Michelle, and I suspected one might have been mine, but that confrontation where he said that included the discussion around who has to go.

5

MS McDONALD: You said that you'd heard two directors were in the firing line. When did you hear that?

MR MALLARD: Not certain. It makes sense that I had some sense of it before this meeting occurred then. Certainly, was confirmed after that meeting had occurred. Yeah. I can't pinpoint when I heard, but I had heard some talk that the mayor was wanting to reduce the Council by one or two directors. Perhaps John mentioned it to me, but I can't recall.

MS McDONALD: Now, in this discussion with Mr Ajaka, either that day or a subsequent day, the particular words that he used in the meeting, did he discuss that with you?

MR MALLARD: I recollect he - because everyone knew what he'd said that he had said that - you know, "I lost my cool, and I regret it". He did say he was generally regretting it. And then there was all that negotiation to try and get an apology which I was on the periphery of.

MS McDONALD: That was going to be my next question. The Inquiry's heard evidence about - in particular I think it was Councillor Goodman -

25

MR MALLARD: That's right.

MS McDONALD: - acting as some kind of conduit between the two gentlemen. Your peripheral role, what was it?

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MR MALLARD: It was purely Mr Ajaka telling me how those negotiations were going each time, like, he was - so I'd be in meetings for other reasons, and other people would be asked to leave, and he would sort of talk to me about this situation, my unique understanding, and my understanding from Mr Ajaka was that the - he used the term the goal posts kept being shifted, apology with conditions being - so he was trying to negotiate to go and sit down with the Mayor through Goodman. Goodman was intermediary, and each time there would be a change in the apology, and it was not - it had conditions put on it which Mr Ajaka kept rejecting. I think written apology, apology to Council, it kept moving. Something to do with the media.

40

MS McDONALD: Something to do with?

MR MALLARD: With media, you know, with a media release and Ray Hadley. I think it was let Ray Hadley know, something like that. It just kept moving. I just sensed Mr Ajaka's frustration. That would be my assessment of that.

45

MS McDONALD: But your role seems to be more as a confidante to Mr Ajaka?

MR MALLARD: A little bit at that time it was, yes.

5 **MS McDONALD:** While this is all occurring, is there still work on the budget?

MR MALLARD: Yes, yes. I mean, this - I think there was an ELT where Mr Ajaka raised what it happened, you know, and we kept on going with the work we were doing. This led to - I mean, the Hoxton Park and that type of elements going into the
10 budget, Mr Ajaka was strongly of the view that the proposal to get rid of two directors and a whole lot of managers required a restructure, so it couldn't just be done overnight.

MS McDONALD: The - in the lead-up to the Council meeting towards the end of
15 April, was it your understanding that the apology had still not - had not been forthcoming?

MR MALLARD: My understanding was the apology hadn't occurred. That's right, yes.
20

MS McDONALD: In the lead-up to the Council meeting at the end of April, was there any discussion - were you part of any discussion about whether Mr Ajaka should attend, where Mr Ajaka should sit at the meeting?

25 **MR MALLARD:** Is this the Council meeting - just for my memory, is this the Council meeting where they were in a closed session and then ultimately suspended him?

MS McDONALD: Yes.
30

MR MALLARD: There - so we all left the room, including John, and they had a long, long deliberation in there, and then when it finally broke, I'm not quite sure how - in that sort of role as a confidante, I went round to - and a liaison between the mayor at times, I went round to the back passage to the kitchen, and the Mayor and
35 Councillor Macnaught, who was Deputy Mayor, she was quite distressed, were there, and it was indicated to me - I'm not sure if Jason had already been told, he may have been told, Jason -

MS McDONALD: Breton?
40

MR MALLARD: - Breton, that he was being suspended, and that they didn't want him to go back in the chamber.

MS McDONALD: Sorry. Mr - you think Mr Breton was already told that Mr Ajaka
45 was going to be suspended?

MR MALLARD: I think that's right. I don't think the Mayor told me because I already knew when I went to them, and I - so then I went back and said to John, "Come with me. We'll go in the kitchen and have a talk to the mayor: And, you know, I have to say, I was quite distressed, and I just said to the four of them - four
5 of them and - three of them and me, four. I said, "Liberals don't do this to Liberals. What are you doing?" Macnaught said, "Liberals don't bully other Liberals." Something to that effect.

MS McDONALD: Sorry, who said that?

MR MALLARD: Councillor Macnaught, was very distressed? And then pretty much it was clear to me that the mayor - they were indicating - and Jason was there or came in there then. They were indicating he had to go, and I pointed out that, legally, John was still the CEO, not even suspended, because at the Council meeting
15 in camera resolved something, it has to be reported in an open session to the public. That's when it becomes Council position. So, at this point in time, John had every right to sit anywhere he wanted in the chamber because he was still CEO, and my view he had a moral right to be there to see - to look at the people who were going to do this to him. So I pointed that out to them. I said, "No, this is not legal yet." Mr
20 Breton, who is not from Local Government, didn't know that, and the Mayor realised I was right, and then I think John had gone back out, and I said to them - I relayed to him, "They don't want it you in the chamber still", but I didn't say, "I don't want you in the chamber." I just relayed it, and he said, "I'm going in there." There was some negotiation which I wasn't involved in, and he stood behind the director's chair,
25 didn't stand up to get the seat next to the CEO - next to the Mayor, then the relation was read out to the Council chamber and adopted, accepted, then it was binding. And then I sought live at the council meeting and went and helped him - took him to his office.

MS McDONALD: You spoke at, I think, two times your observation that Ms Macnaught was upset. Did she say why she was upset?

MR MALLARD: I think it's - well -

MS McDONALD: Did she say anything to you?

MR MALLARD: Well, she said "Liberals don't bully Liberals." She said that. So, I think she felt - my interpretation was she was upset because she felt - the whole process was very distressing.

MS McDONALD: The meeting commenced, and there was a number of matters dealt with, and, at that point, the Mayor was and Mr Ajaka were sitting next to each other at the usual table where the Mayor and Mr Ajaka would sit?

MR MALLARD: At the beginning of that meeting, yes.

MS McDONALD: And it seems to have progressed for a period, and if you just had zoomed in and were watching it, it would appear that nothing was wrong.

5 **MR MALLARD:** Yes. And all the directors were relieved - a sense of relief that it looked like things were going to be calming down and moving forward. Surprise to all of us, though, sort of - certainly a surprise to me that they suddenly moved in camera to deal with a confidential matter, which you know what that means straight away. I had no inkling of it before.

10 **MS McDONALD:** Right. Now, after that meeting, Mr Ajaka went on the leave. Did you realise that there was an inquiry by an organisation called Weir?

15 **MR MALLARD:** The resolution of the Council was in camera, that was to have an independent inquiry into the allegations of workplace bullying, whatever it was, so I didn't know the company's name, but I knew there was an investigation underway.

MS McDONALD: You weren't interviewed for it?

20 **MR MALLARD:** No, no.

MS McDONALD: And, ultimately, I think it was in the May Council meeting, there was a termination of Mr Ajaka's employment with court, so, in substance, it was like a summary dismissal.

25 **MR MALLARD:** Yes.

30 **MS McDONALD:** Now, you continued working as a director, and the budget was prepared and ultimately went for the Council in June. In that period leading up to the budget in June, was there any further discussion of the rationalisation of the two directors, managers and possibly other staff?

35 **MR MALLARD:** Not that I - not really that I recall. At that point in time, we'd got the budget to the \$3 million surplus position with the Hoxton Park Road sale added to it, and pretty much it was a budget that Jason as acting CEO had been handed in its near completion. So, I don't recall that. But there were still rumours swirling around about the future of City Futures and Michelle's director - Michelle's position. And so that was always in the atmosphere, and it created a lot of instability in the workforce.

40 **MS McDONALD:** What instability did it create?

45 **MR MALLARD:** Well, I - so I - we had a workshop, an ELT workshop, in Lanear, I think, from memory, and Jason was acting CEO, and Michelle facilitated it, and we had to do the old-fashioned stick-it notes, you know, a SWOT analysis of the organisation. So, I was quite frank in terms of my view that a weakness or threat to the organisation was instability of the structure, and the constant churn of CEOs and churn of structure because it takes - look, I left a month ago, and it was still bedding

down the previous structure from two years ago, right, through the unions and so forth. It creates a lot of instability in the organisation to keep changing structures and leadership.

5 So I put that stick-it note up, and we had to explain our stick-it notes, so I got up and explained mine, and then Jason, as acting CEO, said - and I've got this in my diary notes because I was so offended - he said, "Well, everyone knows coming out of the Mayor's office is that City Futures will be abolished by September this year." I took umbrage at that because it was more bullying of me I thought. And obviously, I
10 relayed that back to some key managers in my team saying, "If you're hearing about this, let me know." But yeah, that was just one example, and so it created instability.

MS McDONALD: That meeting where you put the sticky note up?

15 **MR MALLARD:** Yes.

MS McDONALD: When did that take place?

MR MALLARD: I would have to take that - it would be in my diary notes. I keep
20 notes of key meetings. If you like, I could take that on notice. I can't recall.

MS McDONALD: And it was prefaced by - the comment that City Futures will be abolished by September of next year, that followed on from -

25 **MR MALLARD:** This year. This year.

MS McDONALD: This year, sorry. That followed on from a comment about something about the Mayor's office?

30 **MR MALLARD:** Yes. Everyone knows hearing out of the Mayor's office that City Futures will be abolished by September.

COMMISSIONER: Was that a meeting earlier after - in the latter part of - I'm sorry. Was that a meeting September 2024 you're speaking of or September 2025?
35

MR MALLARD: '24. And this meeting was - Jason was acting CEO. It would be post-the Budget. I think we're talking probably July/August. I could get the date.

COMMISSIONER: Post-budget.
40

MS McDONALD: Excuse me for a minute. Ultimately, with Mr Ajaka's position, as I said to you, in May there was a resolution that his contact be terminated with cause, and then Mr Ajaka took some legal action, which - and I'm just jumping over all the details, the Commissioner has heard a lot about it. But ultimately, it led to a
45 negotiated agreement where - or settlement of the dispute whereby he got a sum of money and also the - a substantial part of the legal fees that he incurred were paid by Council as well.

MR MALLARD: Yes.

5 **MS McDONALD:** Earlier today, you gave evidence of when you were still in Parliament when you heard that Mr Ajaka had been appointed the CEO, and Mr Mannoun was the Mayor. I think your comment was something along the lines of, "This is going to be interesting." Your prophecy was fulfilled?

MR MALLARD: Unfortunately.

10 **MS McDONALD:** Do you have any comment about - you know, in particular, you've raised the instability in respect of the structure?

MR MALLARD: Churn of structures, yes.

15 **MS McDONALD:** But also, part of that would be the removal of CEOs, quite a few over the period with Liverpool City Council. Could you expand further on the detriment that you saw within the organisation?

20 **MR MALLARD:** Well, I mean, from self-interest, the abolition of City Futures right now is, again, redirecting - prioritising the strategy of the Council from what had been put in place 24 months ago, barely enough time to bed it down. I was working on a project called Liverpool 2050, which I had to leave, behind, which wasn't finished, and massive consultation of the community and stakeholders. I don't know where that's going yet. That was a subject - there was a Council resolution to
25 do it.

But the movement of staff around that happens in the restructures creates a - and change of directors creates - just inherently creates instability. I really felt myself that I was really in the saddle in that last six months to 12 months with understanding my
30 team, and they understood me and respected me, and I think that's replicated across the board when you keep changing CEOs and directors and keep rearranging the departments.

Before the amendments happened to the Act, whereby Council had control over the
35 structure, and I applaud those amendments, I - that happened when I was on contract as a policy - Senior Policy Advisor, the Council had control over structure, and the Mayor - so I was advising John and I was sitting in an office adjacent to the Mayor and the Mayor kept delaying and delaying and delaying and mucking around with the structure. And I said to him - John was pulling his hair out because there was
40 constantly, "We're going to defer it. We're going to defer it. We're not going to do it." This was coming from the Mayor. And he had a big whiteboard in his office, and he was constantly rearranging the structure, and I just went in to the Mayor and said to him - I'm just thinking whether or not I was a director by then - but I went in to the Mayor and said to him, "For god's sake, Ned, you've got to put it through tonight and
45 not defer it because while you keep deferring it, the whole organisation is on egg shells, holding their breath, not sure what the future holds for them, where they go.

We're having - we've got recruitment issues attracting quality people. Comes up all the time in interviews, the instability of the Council. And I think, Mr Mayor, you don't appreciate, which I do appreciate" - so makes me think I must have been just made a director - "you don't appreciate the knock-on effect of delaying the
5 restructures. It's - and as I just said to you, two years and we're still bedding down some of the ones from when I first became a director - a huge amount of consultation. Position descriptions, union engagement, very strong union engagement, a lot of processes to go through to bed down the structure led alone get on with the job of serving the people of Liverpool."

10 So, I emphasise to the delays having your vision for Liverpool, my vision which was 2050, your vision for Liverpool which he was embraced to is being delayed because we can't get on with it. Can't allocate the resources to it because of the delays in the structure so - and they did put the structure through then. Not saying it was my - not
15 giving myself credit, but I just think part of the push on it, but now, of course, as we know, Councils following ICAC recommendations, Councils don't have a say in the structure, just the budget. They have a say, but they don't have control of it, yes.

MS McDONALD: You spoke about the abolition of your directorate and also
20 Michelle McIlvenny's directorate. Could document INC.004.001.0012 be brought up, please. Now, is that a document that you've seen which foreshadowed the abolition of your directorate, Michelle McIlvenny's directorate, and then the reorganisation of I call them sections underneath each director?

MR MALLARD: This was a power point that Craig Knappick put up at the ELT
25 meeting, Craig Knappick was the Chief People Officer. And it was - it was after I'd been - explained - put to me that I should be made redundant or had an option to take a redundancy, and I remember looking at that, and it was like looking at my funeral notice. I felt pretty aggrieved at the time. I was in quite a bit of shock about it all.
30 Yes, I'm familiar with that.

MS McDONALD: Before taking you to it in more detail, you said that you had
already been explained to you that your directorate was going to be abolished, and that you had the option of taking a redundancy?

35 **MR MALLARD:** Yes. So, I'd taken week's leave, and other directors had been in - with meetings with Jason as CEO now to discuss the future of their directorates and so forth, and I understand that Michelle had had the conversation. So, I came back from leave.

40 **MS McDONALD:** Do you remember when this was?

MR MALLARD: No. Again, I could take that on notice, sorry. It was - if you work
backwards, I was on - I was notified - I accepted my redundancy at the beginning of
45 June and was made redundant beginning of July, so this - I would say this was in May, late May, guessing. And so I was on leave, and then so I had a meeting on the Monday morning I think it was with Craig Knappick and Jason Breton where Jason

expressed the view that what they did was very important, they had lot of support, but he's collapsing the directorates from six to four, and that one - the other - and that there was no role for City Futures going forward, and the other director was Michelle McIlvenny. He indicated there might be opportunity for contributing in the future, in a consulting role or something, but that there was a redundancy offer on the table, which was my contract and all per the contract - you know, the 36 weeks our contract had. I was under a contract system not the award system.

MS McDONALD: You were under the old system where you had been specified senior staff?

MR MALLARD: That's correct.

MS McDONALD: And you were employed under a contract?

MR MALLARD: That's correct, yeah. Compared to John Ajaka, it was a generous situation. All my entitlements. I looked at that. It was pretty clear I wasn't welcome there. I said, "I'll get back to you tomorrow." Then there was a meeting - an ELT meeting that afternoon where the tune changed a little bit, and I have diarised this in the meeting, where basically Jason said, "We're collapsing it to four directorates. We propose to amalgamate to four directorates. The two directors that are impacted," and Craig Knappick was there as well, and this is when this went up, "Is Mallard and Michelle. They've been advised." I was sitting right there. She was on the phone actually. I think she'd been on leave. "They have been advised they can take redundancy, or they can apply for one of the other four directorships, but if they do, all the four directorships will be spilled", so the (indistinct) was massive not to apply for another directorate. And, yeah, so that was pretty clear then that that was the situation, and then there was discussion about Jason taking a 10 per cent pay cut, expected the remaining directors to take a pay cut. So, I was pretty much in shock, and then I went home, and I discussed it with my partner, and I said it was, you know, it appears I'm not really welcome there and the work I do. I had a huge successful report card the work I'd done, you know, top of the list was securing Wollongong University for all the commercial floors.

MS McDONALD: We'll come to that.

MR MALLARD: Okay. So, I'd delivered really well in that 18 months to 22-month period as a director, but I said I'm not going to stay there if I'm not welcome, and that's the situation, and behind the scenes you think the Mayor is not happy about me being there or wants to reduce that. I confronted him about that too.

MS McDONALD: Can I just pause there?

MR MALLARD: Yes.

MS McDONALD: So, you've given evidence about coming back from leave, and you think it was around May, and being told by Mr Breton that two directorates were

going to be abolished. Then there was the ELT meeting where this proposed model was put forward. Jumping back to last year where you learned that it was flagged in that meeting, I think of 14 or 16 April, that the Mayor was looking at -

5 **MR MALLARD:** Yes.

MS McDONALD: - the budgeting for losing at least two directorates, and you and Michelle had been named?

10 **MR MALLARD:** Yes.

MS McDONALD: That seems to have been put to one side, and, as you said, because of the proposed sale of 3 Hoxton Park Road, that appeared to then, as I said, put to one side. Did you - up until the time you left the Council, did you have any
15 discussion with the Mayor about your role and why he nominated your directorate in that meeting?

MR MALLARD: I was pretty disappointed that that had happened, all right. It was so secret that he was no fan of Michelle's, right. And - but, as I said, I had a good
20 track record of what I was doing, and he bought into vision. I mean, when I first talked to him about the role of City Futures, I said, "Ned, you've been Mayor now for quite a significant time. It's now time to create a legacy, not just you mowed the grass, but a legacy for the future of the city because it is really powering on," in my view, Liverpool. I had heard that he had - I had heard, not from John, although John
25 said it later, from someone else, that he had nominated me, Michelle, and when pressed by John in that meeting, nominated me as the other director to go. I confronted him about that in a sort of moment, to my mind it seems to be like just sort of caught him in a corridor or something or at a Council or something. I can't remember exactly. It wasn't a formal meeting. I didn't make a meeting to see him
30 about it. He said words to the effect to me, "It's not personal, Shayne. It is not about friendship. It is about the organisation." Yeah.

MS McDONALD: The decision by Mr Breton to abolish your directorate, was that ever explained to you why?
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MR MALLARD: Only in the context of budget.

MS McDONALD: So, it was saving money?

40 **MR MALLARD:** Yeah.

MS McDONALD: To try and achieve the surplus?

MR MALLARD: Well, Mr Breton was fond of putting up a graph that showed the
45 growth in salaries, and it was a big preoccupation of the Mayor as well who believed we were all overpaid. So that view was we can - I remember that graph. We can pull

down, you know, the upward trajectory. I remember him telling us, "But in three years' time, it will be back in the same spot."

5 **MS McDONALD:** You mentioned at this meeting there was a proposal that Mr Breton would take a 10 per cent cut?

10 **MR MALLARD:** He - I don't know exactly how he did it, but he sort of indicated that he - put that forward as part of his propose to become CEO - part of his application, pitch to the Council for CEO.

MS McDONALD: Did you also say there was some kind of proposal that the directors would take a cut in pay?

15 **MR MALLARD:** Yes, Mr Breton referred to haircuts, that all the directors had to take a haircut.

MS McDONALD: And your construction of a haircut was a cut in pay or -

20 **MR MALLARD:** Yes, yes.

MS McDONALD: Do you know if that's occurred?

25 **MR MALLARD:** I only hear that there's disputes around it because the directors are all on contracts, as was I, and they've all now got more responsibilities so there's - but that's all I can say. I mean, I might leave that for you to ask Mr Breton because I'm no longer there.

MS McDONALD: All right. Excuse me for a minute?

30 **MR MALLARD:** I mean, you'll note from this, one of the things that surprised me on this organisational layout is that most of my directorate went into the CEO's office in those grey boxes.

35 **MS McDONALD:** I was going to ask you about that. So, you've got the now-four directorates and then you've got the office of the CEO, and is it your understanding that commercial development, audit and risk, and city strategy and performance are now direct reporting to the CEO?

40 **MR MALLARD:** Yes. But audit and risk weren't in my area, that was in Michelle's area. And then communications which I had is over in Community Services. There it is, second one down on the first column.

45 **MS McDONALD:** So, what I might do is bring up another document which - it's our understanding this is the functional organisation structure that was adopted in June of this year. INQ.009.001.0033. I understand that we were provided with a hard copy of this document at the hearing on 17 July by - at page 524, yes, and if that can be live streamed. And that's got the same, I suppose, structure that we just looked at in that

the office of the CEO has those three areas for responsibilities, two of which were your responsibilities?

5 **MR MALLARD:** Yes. I haven't seen this before, but yes. And then city economy, Julie Scott's area, is over in planning and design, second from the bottom, third column. And then communications, marketing and brand which is an important department - they're all important - is the second one down in the first column. Stage 2 of the restructure is examining all those areas below the directorships.

10 **MS McDONALD:** And is it your understanding - when you say stage 2, was that in the email? Sorry, when you say stage 2, what are you speaking about?

15 **MR MALLARD:** It's always been referred to - and I think it is under the award - that it has to be done this way. So, the directorships were the first to restructure, and whole business units were just moved into other areas that couldn't be messed around with. Stage 1 is the directors, and then stage 2 which, when I was at the Council, it was proposed to commence that after the inquiry, so they could focus on it after the inquiry, would be then the directors that survive and drilling down into their business units and determining does that fit in this area or not?

20 **MS McDONALD:** Right. So, in a way, the sections underneath the directorships, this may be an interim structure?

25 **MR MALLARD:** Yes. Yes. Yes. Like, I don't see - I gave this feedback before I left because I was aware of this. City economy shouldn't sit in planning and design. There's opportunities for conflicts of interest there. The city economy deals with property industry and all kinds of things, and that's the planning director there. You know, you don't have them - you have protections about that. So, city economy in my view should be over - if you're going to have a CEO's office, I put it over there because it's really important.

MS McDONALD: All right. And other than raising saving of money, has anything else been raised with you about why your directorate was earmarked for abolition?

35 **MR MALLARD:** Not formally, no.

MS McDONALD: Informally?

40 **MR MALLARD:** Colleagues with a view that the CEO didn't like me so that was that. That was that.

MS McDONALD: Now, you spoke about one of the challenges to your directorate was that you had responsibility for leasing of Civic Place?

45 **MR MALLARD:** Yes.

MS McDONALD: Would you please bring up LCC.002.002.0088.
LCC.002.002.0088. Made it up? It's an Audit, Risk and Improvement Committee meeting report on Civic Place.

5 **MR MALLARD:** ARIC. I can probably talk to you without seeing it.

MS McDONALD: Just while we're trying to find it, would you attend the meetings of the Audit, Risk and Improvement Committee?

10 **MR MALLARD:** Yes. Either in person or online.

MS McDONALD: And when you did attend, on occasion did you provide reports to them about Civic Place?

15 **MR MALLARD:** Yes. George Hampouris, who was in Michelle's area in audit and risk, he coordinated that the reports ARIC wanted, and I inherited the situation that there was a - every ARIC meeting had a report on Civic Place. I mean, ARIC looks at risk, and Civic Place was a big risk. So, there was a report there, so I inherited that process, so started to review the reports and go through them and speak to them. We
20 had a consultant, whose name escapes me right now, who had been put on with the approval or with the knowledge or, I guess, they had to have an approval role, but they were very comfortable that there was a property expert the Council had put on a contract to work on the management of Civic Place, which I inherited that contractor.

25 **MS McDONALD:** Would you just excuse me. Thank you.

ASSOCIATE: (Indistinct)

MR MALLARD: Tim Gavin is the person I'm talking about.
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MS McDONALD: Could we just pause for a minute.

COMMISSIONER: While that's happening, Mr Mallard, do I understand that Civic Place was a standing agenda item at ARIC meetings?
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MR MALLARD: Yes. It still is at the moment, but pretty much we've concluded. The tail end of it now is about defects issues.

MS McDONALD: Now, you can see from the first page, this is a report by Tim Gavin, though authorised by you?
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MR MALLARD: Yes. So he is the contractor I referred to.

MS McDONALD: Right. And he's producing this report to the ARI Committee
45 concerning basically risks associated with Civic Place?

MR MALLARD: Yes.

MS McDONALD: And would you please go through to page 4?

MR MALLARD: This would have been probably the first report I had seen as a director.

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MS McDONALD: Excuse me.

COMMISSIONER: Can we just take the document down, please, operator, for the moment, and then we'll - the live stream. It was never live streamed. Okay. I'm told it wasn't pushed to the live stream.

10

MS McDONALD: It may be innocuous page 1. It may be page 4 -

COMMISSIONER: Should we - can the concern be addressed by not - by just having it in the room, Mr Emmett, or is it something that you need some more time with?

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MR EMMETT: Could we take a five-minute adjournment or less? Can I just have a couple of minutes to understand the nature of the document and take instruction.

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COMMISSIONER: Of course. I won't leave the bench, but, Mr Mallard, feel free to stretch your legs for two minutes if you wish, or sit there if you wish, but we'll adjourn for just a few moments.

<THE HEARING ADJOURNED AT 3.07 PM>

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<THE HEARING RESUMED AT 3.15 PM>

<ADJOURNED INTO PRIVATE SESSION AT 3.15 PM>

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<THE HEARING RESUMED AT 3.17 PM>

COMMISSIONER: All right. Thank you. Yes, Ms McDonald.

MS McDONALD: Mr Mallard, you've given evidence that as part of your directorate, you were given responsibility for Civic Place and, in particular, leasing of any of the available floors -

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MR MALLARD: Sure.

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MS McDONALD: - that could be leased for commercial purposes.

MR MALLARD: Yes, yes.

MS McDONALD: Now, the document that I've taken you to was a report in July 2024. The particular page that I'm taking you to indicated that - and this was page 4 - at that particular time, there are references to certain organisations, but some of

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them it's - there is that they have signed a heads of agreement. Others, there's - that they're preparing a business case or they're considering going into a lease, and then there are at least two - I'll call it one floor and one particular area where it seems that there really wasn't anybody on the horizon at that point. Is that fair to say?

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MR MALLARD: Yes.

MS McDONALD: And if I can just take you through this now, you can see that on level 2 there was, at that stage, a signed heads of agreement with the police?

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MR MALLARD: Yes. Yes, that's correct.

MS McDONALD: Have they entered into a lease with the Council?

15 **MR MALLARD:** Well, can I step back one step?

MS MCDONALD: Yes.

20 **MR MALLARD:** This doesn't reflect anything that all that's going on in the building now.

MS McDONALD: I'm sorry?

25 **MR MALLARD:** This does not reflect the commercial situation in the building today. All right? This was my first report. I will admit I was way under the water with regard to this big commercial building, and this was Tim Gavin advice on the leasing situation, but that - the outcome today is very different to that.

30 **MS McDONALD:** All right. What I was intending to do was to use that to prompt you -

MR MALLARD: Okay.

35 **MS McDONALD:** - to give evidence on what the position was when you left the Council, and you left the Council - was it at the end of June this year?

MR MALLARD: I'm doing your job, I'm sorry. Yes, I left the Council end of June. 1st of July was my last day.

40 **MS McDONALD:** All right. Now, can I ask with Civic Place, there are a number of floors which are occupied by the Council?

MR MALLARD: Yes. So ground floor to 7 are all commercially available, inclusive, and 8 to 11 is the Council.

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MS McDONALD: And they're obviously all occupied?

MR MALLARD: Yes.

MS McDONALD: When you left at the end of June this year, the commercially available floors, so ground to 7, were they all leased?

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MR MALLARD: Yes.

MS McDONALD: So there are - there is no available areas to be leased in Civic Place?

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MR MALLARD: When I left, there was 60 square metre or 100 square metre on the ground floor hidden in the back we were trying to do something with. That was all.

MS McDONALD: And that was the idea of having a coffee cart?

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MR MALLARD: No, the coffee cart was on the ground floor, which the DA was being finalised when I left to actually be developed into a proper cafe. The space behind reception was to be the customer service centre, but Mr Ajaka wanted it in the library. It is in the library, functioning quite well there, so that space was redundant for that purpose. And it is not an attractive space to lease, so we were trying to work out what to do with it. We got an architect in to do some plans for meeting rooms which we could hire out when I left.

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MS McDONALD: Just summarising. The commercial areas, ground floor to 7, are all leased?

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MR MALLARD: Yes.

MS McDONALD: And with a number of those tenants for relatively lengthy periods?

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MR MALLARD: Yes, yes. All the leases - so we contracted through procurement process for a property firm to represent - this is before I became a director - to do this work with us and JLL got that award and we worked - the team and me and JLL worked very closely together to resolve the problem we had with the building. So, when I was a director, there was one tenant only that was moving in, which was Saint George Community Housing, which you see is level 4, and that was that. All the rest of this was speculative, and the police are there.

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So I could go through the floors if you like. Mezzanine, which is above 1, mezzanine, 1, 2, 3, Wollongong University; 4 is Saint George Community Housing; 5 and 6, Wollongong University; and 7, police. They are all leased. There is often misinformation around you gave too much incentive. Everyone is an expert in property, and I wasn't, but I quickly became one. But JLL did reports on every single lease, heads of agreement. All went to Council in confidential meetings, and a matrix was provided with comparable properties, CBD Sydney right through to Penrith. Floor space per square metre, percentage of incentive, outcome, and we were at the

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top of all of those because is the only A-grade building in Liverpool and probably I would say south-west Sydney.

5 **MS McDONALD:** And when you say an A-grade building, what do you mean by that?

MR MALLARD: Well, real estate is categorised A, B, C in terms of amenity.

10 **MS McDONALD:** So that is a recognised real estate category?

MR MALLARD: That's correct. So, Moore Street is B grade. It needs an upgrade, less environmentally sustainable, it's less attractive to work in. You know, this new building is state of the art.

15 **MS McDONALD:** Now I'm moving to another topic, but just before I do, can I take you back to your evidence about Mr Ajaka and the termination of his employment, and I had asked you some questions about the April council meeting where the Council had gone into a closed session, and a decision was made that his employment would be suspended pending an investigation. I fast forwarded to May
20 when they're at the council meeting. There was - I think it was through a mayoral minute that his employment be terminated with cause, which resulted in a summary dismissal, and other than any entitlements that he'd already accrued, he would not receive any payment. In the lead-up to that May meeting, did you have a discussion with any - with the Mayor or the councillor - or a councillor about what was
25 happening with Mr Ajaka?

MR MALLARD: Mr Ajaka was still on leave at home, and I knew - I used to contact him regularly. I knew he was very distressed, and he wanted to come back at that point. He wanted to come back into the role. When I got - it kept - the situation
30 kept moving when they were going to make a decision on him, and, of course, my understanding was that the independent review had not finished its work, so I felt natural justice said that shouldn't happen. That's my feeling. And report to the Council. And I thought pretty much that would clear it up and move forward. But I can't wind of the fact that the councillors were looking to dismiss him at that Council
35 meeting. I'm not sure how I got wind of it.

MS McDONALD: I was about to ask that. How did you get wind of that?

40 **MR MALLARD:** We expected it to happen - something was going to happen at any of the council meetings, you know, and - I really can't recall how I got wind of it, but I heard this. I wasn't in contact with the Mayor about it. He'd really shut down, and I was quite isolated from him during this because I think he could see I was close to John as well. Then I reached out to the Mayor, but he didn't return my text. Not uncommon. And then I bumped into Councillor Mel Goodman and said, "What are
45 you guys doing today?", and he said -

MS McDONALD: Can I just pause you. When you say, "What are you guys doing today?", was today the May meeting of the Council?

5 **MR MALLARD:** Yes. And he said, "We're getting together this afternoon. We're going to go through what we're going to do with John." And I put the case to Mel. I said, "Look, I tried to reach out to the Mayor, but treat him dignity and give him his entitlements so he can get on with his life, then he will go." That was the hint John had given that he would move on. Mel said, "I'll try my best." So fast forward a few hours. The Council meeting - I don't want to be quoted on the time, but I think the
10 was a 2 o'clock meeting. I remember it was very hot, and I was out the about front of the Council building, the library, and Mel was out there with his cigar having a cigar. I looked at him and he went like that across his neck.

MS McDONALD: All right.
15

MR MALLARD: The cutting symbol across his throat, which to me meant that what I had suggested didn't happen. I said, "What are you guys doing?", and he said, "I tried. I tried. But the Mayor doesn't want to pay him out because we've paid out too many CEOs, and the public perception of him paying out another one would be
20 negative." I looked at him in disbelief, and he said, "He can go to court and get his money." That's what he said. So in my view, that was a strategy.

MS McDONALD: Commissioner, I'm moving to a different topic, but it's a topic which involves an ex-employee of the Council, and some confidential information
25 will be raised about that person, and I would seek for this evidence to be given in a private session.

COMMISSIONER: All right. Is there any difficulty with those in the room remaining in the room? All right. Pursuant to section - I'm sorry, should I also make
30 a non-publication order over this portion of the transcript at the same time?

MS McDONALD: Yes, please. Yes.

COMMISSIONER: Pursuant to section 12B subsection (2) of the Royal
35 Commissions Act, I direct that the next part of this hearing take place in private session. I also direct pursuant to section 12B subsection (1) that the transcript of the private session of the inquiry not be published other than to the legal representatives of the authorised parties with the usual counsel qualifier attached, and we'll go into private session.
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<ADJOURNED INTO PRIVATE SESSION 3.30 PM>

<THE PRIVATE SESSION CONCLUDED AT 4.03 PM>

45 **<PUBLIC SESSION RESUMED AT 4.03 PM>**

MS McDONALD: Commissioner, that finishes that discrete part of the evidence where we moved into a private session.

COMMISSIONER: Yes.

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MS McDONALD: I have a couple more topics for Mr Mallard, and I would anticipate some of the other parties will have questions of him. The way that we are progressing, there is one witness, Emily Tinson, who is a current employee of the Council. We were quite keen to get her evidence finished tomorrow -

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COMMISSIONER: Yes.

MS McDONALD: - because she has some other commitments when we return. What I propose is if Ms Mallard's evidence could finish now, and if he could then return on our first day, which I think is about 18 August, and tomorrow we will hear evidence from Ms Tinson.

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COMMISSIONER: All right. Yes. I mean, I don't have a difficulty with that. Mr Mallard, you've heard that. We will have to get you back. Before I let you go, though, today can I just ask you a couple of things?

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MR MALLARD: Sure.

COMMISSIONER: In case I forget in 10 days or so time. Earlier this morning when Counsel Assisting was asking you about the budget process, and you were drawing a distinction between your experience at South Sydney and then the City of Sydney and what you'd experienced at Liverpool, you made an observation concerning revenue pressures that Liverpool was facing. In my note, it was cost shifting and rate pegging. Can you just expand on what you had in mind when making that observation?

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MR MALLARD: Well, in a bigger picture, I think Local Government is under - is under lot of pressure and potentially at breaking point in some areas, and particularly the growth areas, the new growth areas. Because the Council - lack of resources to deliver infrastructure, like kerbs and roads and gutters, particularly parks, I had design of parks in my area for a while, and they don't have the resources to do that. The community has an expectation that that will be delivered, and they put lot of pressure on the Council and the councillors to deliver it. So, the issue is rate pegging which is barely at CPI. As we know, after COVID, material costs went through the roof. There's no recognise of that in any revenue in terms of rates. And, of course, the community pushes back on rate increases anyway as you saw with North Sydney recently.

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So there's that. There's expectation for counsels to do more than the old-fashioned rates, roads and rubbish. Now they're expand nothing to other areas, as we saw, like creek rehabilitation, you know, land care type areas. All kinds of things that require more resources, and all that stuff's funded usually by grants, trying to get grants, and

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I had the grants team. And then - so that's - so that's the two pressures. The revenue sources are very restricted to rates, and I think, from memory, we are supposed to try to retain rates within - don't quote me, but it is either 60 per cent or something like that of the revenue, and you need to identify other -

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COMMISSIONER: You're talking about the OLG performance ratios?

MR MALLARD: Yes. The fees and charges, parking meters and then entrepreneurial things like commercial property, that's where councils are more and more going, trying to find revenue, and then as I said there's this pressure - growing pressure - for more services to be delivered by the Council to the community. That's the two pressures. And in growth areas, it is much more - a greater pressure. We got a growth - so IPART, the independent pricing body, takes submissions and sets the rates for councils, or recommends - sets the rates and councils adopt it, right? No council's rejected, as far as I know, an IPART recommendation. And IPART did agree for the growth councils including Liverpool and Campbelltown and Wollondilly and Camden, which are massive growth councils - even bigger than Liverpool - an extra few percentage on top to help them fund the delivery of infrastructure in growth areas, but still not enough.

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COMMISSIONER: What's an example of cost shifting that you had in mind?

MR MALLARD: Well, when I was in government, we reformed the Crown Lands Act with the ability to transfer the management and development opportunities in Crown land to the councils more, because a lots of parks - Hyde Park here in Sydney is Crown Land; it's not council-owned. A lot of parks are Crown Land in the care and control of the Council. But there are so many restrictions on there, we couldn't even open - big park in Liverpool is a Crown Land. To get a cafe, we virtually had to go to the minister to get approval for commercial use. You had to go back to every single parcel of Crown Land and redo a Crown Land plan of management, which is very expensive. So I had plans of management in my area underneath my community consultation, you have to go to exhibition, have independent review, costs money, takes time. Meantime, you can't do anything. The cost shift comes to the council to review the Crown Land, so that's just one example.

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In the press recently, the council elections. It is a bit controversial in Liverpool because they used an independent company, but they're going up in costs all the time. Councils have to run these elections and pay for them, but they don't get the revenue from all the fines issued for the pool who don't vote. The State Government keeps all that. At least we get - the council gets the parking fine revenue after the state takes its cost part out of it in all councils except for the CBD of Sydney, but even then, Liverpool Council has six rangers or 240,000 residents, and a whole lot of villages so - not very effective.

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COMMISSIONER: And how did those revenue pressures affect the budget process in your observation?

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MR MALLARD: When I was there in '12-'14, and Farooq was the CEO, the budget - there wasn't that level of consultation with the Council. In fact, I was critical of it. The budget came to the councillors pretty much fait accompli, but always had a nice little surplus, couple of million dollars. When I came back this time, I was
5 shocked that they were struggling to - they couldn't get a surplus, largely because servicing the debt on the new building was holding -

COMMISSIONER: The Civic Place debt?

10 **MR MALLARD:** Yes. Yes. And, you know, we were talking before revenue was starting to come in. Most of the revenue will start kicking in July 1 next year. Two years later than expected, but COVID was one of the big reasons. Wollongong University walked away because of COVID but came back later. So I think that, in all fairness to the Council, was an unexpected - like, everyone's dealing with
15 COVID, outcomes afterwards - unexpected setback on their revenue expectations, but it will come online largely July 1 next year.

COMMISSIONER: And is it the challenge or the revenue pressures are taken up in the budget process trying to do as much as the Council can strategically,
20 operationally, with a limited ability to generate more income?

MR MALLARD: Yes, and councils that stick their neck out like Liverpool did in terms of building that building, which, you know, maybe in 10 years time will be a significant revenue contributor once they get that debt down, take a great risk, and
25 you'll see councils falling over all the time with these sort of ventures. They're not encouraged.

COMMISSIONER: But until I gets to that stage, I take it there's a period of careful management and observation that's required?
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MR MALLARD: Yes. And, again, increasing population, increasing pressure on Council to deliver service. Our biggest complaint, not through customer service because there's two different - but biggest complaint through Councillors and through social media is cutting the grass. Liverpool, I don't have a figure, but
35 umpteen thousands of acres of parks.

COMMISSIONER: Lots of grass?

40 **MR MALLARD:** When I was there in '12 to '14, prisoners, people in correctional orders, community service were part of our team. Mow the grass and look after the -

COMMISSIONER: Part of council core function, I suppose?

45 **MR MALLARD:** Yes, yes. And the CEO and Mayor had the view that the restructure, around 2 - there's \$2 million in the budget this year for redundancies because the view is there is going to be more job losses if you've got that in the

budget. But their view is those job losses were redeployed in frontline workers, which is yellow vests mowing grass.

5 **COMMISSIONER:** All right. All right. Well, that completes your evidence for the moment, and we'll see you again on the - remind me of the date.

MS McDONALD: 18th.

10 **COMMISSIONER:** 18th of August. But you're free to go for the moment. Thank you for your attendance and attention today, and I'll see you again on the 18th?

MR MALLARD: Thank you, Commissioner.

15 <**THE WITNESS WITHDREW**

COMMISSIONER: Is there anything else to do this afternoon?

MS McDONALD: No thank you.

20 **COMMISSIONER:** All right. If that wording of the order could perhaps be ready to go first thing in the morning, and if there's a list of any other orders people want varied, if that could be communicated to the assisting team so I can do it in a job lot in the morning, I'd be grateful. You want to start at 10?

25 **MS MCDONALD:** May I inquire through you, Commissioner, I know it's difficult without hearing her evidence.

COMMISSIONER: Yes.

30 **MS McDONALD:** But may I inquire whether parties anticipate many questions for Ms Tinson.

COMMISSIONER: I suppose that's -

35 **MS MCDONALD:** I know it's -

COMMISSIONER: Can I - no one will be bound to any utterance that follows, but sitting as we sit today, does anyone anticipate needing long with Ms Tinson? Accepting that the position will change, and there will be no criticism if it does.

40 **MR EMMETT:** For my part, don't anticipate it. Cannot say - can't go beyond that.

COMMISSIONER: Of course. All understood on that basis.

45 **MS PALMER:** Same understanding.

COMMISSIONER: Okay.

MS McDONALD: Could I suggest a 10 o'clock start.

COMMISSIONER: Yes.

5 **MS McDONALD:** But if it looks as if we're running out of time if we could have a shortened lunch break and maybe go past 4.

COMMISSIONER: I'm entirely happy to accommodate whatever is sensible. Just
liaise with your colleagues. If there's a problem, let me know. 10 am tomorrow.
10

MS McDONALD: Yes.

COMMISSIONER: Thank you, everybody

15 **<THE HEARING ADJOURNED AT 4.14 pm>**