



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

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

**PUBLIC HEARING
SYDNEY**

**MONDAY, 01 SEPTEMBER 2025
AT 10.11 AM**

DAY 24

APPEARANCES

**T McDonald SC, Senior Counsel Assisting
Ms B Anniwell, Counsel Assisting
Mr E McGinness, Counsel Assisting
Mr D Parish and Mr N Andrews, Counsel for the Liverpool City Council
Ms K Richardson SC, Counsel for Mayor N Mannoun
Ms C Hamilton-Jewell, Counsel for Mr P Ristevski
Mr D Tynan, Counsel for Mr J Breton
Mr T Boyle, Counsel for J Akaja**

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 10.11 AM

COMMISSIONER: Anything to do before we start?

5 **MS McDONALD:** Not from our perspective.

COMMISSIONER: Mr Breton, you're still on your oath from last Tuesday.

<JASON BRETON, ON FORMER OATH

10

MS McDONALD: Mr Breton, I want to turn to a different topic; that is, recruitment policies. Currently, does the Council have any - a policy dealing with recruitment?

MR BRETON: Yes.

15

MS McDONALD: What is the title of that policy?

MR BRETON: I don't know verbatim. The recruitment policy.

20

MS McDONALD: Excuse me for a minute. Produced to the inquiry was a recruitment policy 2019 - sorry. Hold on. 2012. Is that the current policy?

MR BRETON: I don't know. That seems a bit dated, but it may be. I just don't know if it's been updated recently.

25

MS McDONALD: Now, recruitment of employees of Council is governed to a considerable degree by the Local Government Act?

MR BRETON: It is.

30

MS McDONALD: It has requirements such as employment should be according to merit?

MR BRETON: Yes.

35

MS McDONALD: It allows employment on a temporary contract. Generally is - that is allowable but is limited to 12 months?

MR BRETON: Correct.

40

MS McDONALD: I think it might be able to be extended in circumstances of parental leave or something like that, but the usual - in the usual circumstances it's limited to 12 months?

45

MR BRETON: Correct.

MS McDONALD: There is the Local Government Award and also there is the salary scheme which is produced by Council and that, prima facie, determines the salary that an employee will receive?

5 **MR BRETON:** Yes.

MS McDONALD: That is subject to the payment to an employee of what has been described to the inquiry as a market rate?

10 **MR BRETON:** Yes.

MS McDONALD: Mr Dansie gave evidence that a market rate is determined by looking at the market and that is usually facilitated by access to market surveys of salaries for comparable positions?

15

MR BRETON: Yes.

MS McDONALD: And he gave as an example his organisation keeps such record of - or survey of market rates and he also nominated a number of other private organisations that keep such surveys?

20

MR BRETON: Yes.

MS McDONALD: Is there a policy within Council which determines when and in what circumstances a market rate will be applied to an employee's salary?

25

MR BRETON: I don't know, but my approach is manager is above get independently assessed by Mercer, which is a company.

30 **MS McDONALD:** You just said manager and above?

MR BRETON: That's my approach, yes.

MS McDONALD: Okay. And when you describe it as your approach, that's the - in a sense, the procedure that you personally adopt when looking at the role of a manager or a director and whether they should be being paid a market rate rather than that - if I can describe it the award and the salary scheme amount?

35

MR BRETON: Correct. Yes.

40

MS McDONALD: All right. That's your approach. Do you know if there's any other procedure or guidance for other positions within Council where there may be either an application or a consideration of paying the market rate?

MR BRETON: Yeah, there's been both in my experience. There's been an application by some directors - in fact, Director Kakish in relation to planners and senior planners. I know there was - there were market conditions where they could

45

name their own price, effectively. So I think there was an application through the Ajaka tenure to meet the market to attract those - that talent to Liverpool, and that had very, very positive results on the DA times. And I think on occasions other managers or directors have made application for market rates to be applied for
5 bespoke roles, but I can't cite any particular -

MS McDONALD: All right. Can I take you back to the example you gave of planners. And from your answer, that appears to be something that arose when Mr Ajaka was the CEO?
10

MR BRETON: Yes.

MS McDONALD: When you say there was an application by the director, is your understanding that - for example, the director Ms Kakish has had difficulties in recruiting planners? And her application is to the CEO that, "In these circumstances I'm having difficulty attracting planners. I think we need to offer market rate"?
15

MR BRETON: Yes.

MS McDONALD: So that's broadly the application that you've referred to?
20

MR BRETON: Yes, that's the scenario.

MS McDONALD: And if such an application is made, is it your understanding that to determine, well, what is the market rate, there should be some kind of reference to one of those outside bodies that keep the market survey of rates?
25

MR BRETON: That's what I'd do. I think, in practice, in the planner scenario, I think that Ms Kakish had surveyed a number of councils to get the market rate and had made a determination based on like councils to derive the market rate, and that would go up via memo to the CEO, who would look at it and either endorse it or not.
30

MS McDONALD: But is it your understanding, even though it may not be in an actual policy or procedure, there is some application or involvement by the CEO?
35

MR BRETON: Yes.

MS McDONALD: And that, in a sense, the rate that's being offered has to be justified or demonstrated that it actually does reflect the market in some way?
40

MR BRETON: Yes. Could you excuse me for a minute.

COMMISSIONER: When you said there was a period where planners could effectively name their own price, I think you said just - there was a period in 2021, '22, '23, perhaps where there was a relative shortage of planners in the market. Is it - is my understanding correct?
45

5 **MR BRETON:** Yeah, I think I - well, that's correct. And I think there was a couple of market drivers in relation to constructions and the number of DAs. We were sitting at about 1300 when the problem was at its highest and we are sitting now below 300, and that was because of a saturation of new planners in, but you had to buy them at a price. And a lot of government planners, from my experience, go out into the open commercial market where they can do better.

10 **COMMISSIONER:** And that was felt by a number of other councils, not just yours? Is that your understanding?

MR BRETON: Everybody was cannibalising the same market.

15 **MS McDONALD:** I just want to take you through an example of employment in a position where the person was paid at a market rate and just take you through, as reflected in the documents produced to the inquiry, the procedure that was followed. And I'll - I acknowledge, to begin with, there are some - some part of this you weren't the CEO at the time, but you do become the acting CEO at some stage.

20 **MR BRETON:** Okay.

MS McDONALD: Now, the position that I want to ask you some questions about is the position of senior adviser.

25 **MR BRETON:** Yes.

MS McDONALD: Now, I've got some documents that I want to show you. Details have been redacted. Some of my questions may involve you needing to actually look at the figures. If that's the case, we've got unredacted hard copies here, and what I will do is at that point we can distribute those. So within the hearing room we can actually see the figures, just in case you need to look at them to answer my questions.

MR BRETON: Okay.

35 **MS McDONALD:** All right. Now, is it your understanding - and I'm looking at - sorry, with the senior adviser position, its history was it was a position that existed in the Council which was 2012 to 2016?

MR BRETON: Yes.

40 **MS McDONALD:** When there was a change in the mayor and a different Council was elected in 2016, that position was abolished?

MR BRETON: Yes.

45 **MS McDONALD:** In 2021, when a new Council was elected and Mr Mannoun was the mayor, that position was reactivated?

MR BRETON: Yes.

MS McDONALD: And the person who was put in that position to begin with was Mr Mallard?

5

MR BRETON: Yes.

MS McDONALD: And then at some point Mr Mallard applied for the position of director City Futures and was successful in being appointed to it.

10

MR BRETON: Yes.

MS McDONALD: Which meant that position became free.

15

MR BRETON: Yes.

MS McDONALD: Would document LC - excuse me. Just before this is live streamed I'll check there's redactions. LCC.010.009.9343, please. Can we just go to the - yes. All right. Now, Mr Breton, as I've said, there are some documents which are sent to Mr Ajaka because he was the CEO at the time, but they're necessary to put before you just to kind of understand the whole chronology.

20

MR BRETON: Yes.

25

MS McDONALD: Now, can you see this is a memo from Mr Mallard to Mr Ajaka, 6 September 2023. And it's the engagement of Ms Boustani on a 12-month temporary contract.

MR BRETON: Yes.

30

MS McDONALD: Now, just before I go there, were you aware that Mr Mallard, when he was in that position, received a salary of a hundred - all right. I won't ask that question.

35

COMMISSIONER: I think that was dealt with in public last time, but I'm not quite sure.

MS McDONALD: I'll deal with it this way.

40

COMMISSIONER: All right.

MS McDONALD: Can you look at the memo, please. Can you see here Mr Mallard is putting forward Ms Boustani to be appointed to this 12-month temporary contract?

45

MR BRETON: Yes.

MS McDONALD: And if you go down the bottom of the page, can you see there's a recommendation that she be engaged and then an appropriate ATRP of - and then there is an amount, which incorporates base salary plus superannuation plus car allowance?

5

MR BRETON: Yes.

COMMISSIONER: Is it perhaps easier if Mr Breton has the unredacted from the get-go so we can work it through?

10

MS McDONALD: Yes.

MR BRETON: Yes.

15 **MS McDONALD:** Sorry. Maybe the Commissioner would like one.

<THE HEARING ADJOURNED TO PRIVATE SESSION AT 10.26 AM

<THE HEARING RESUMED AT 10.31 AM

20

COMMISSIONER: Thank you. Yes.

MS McDONALD: Mr Breton, if you go back to the first page, I had shown you document - the memo from Mr Mallard to Mr Ajaka and the section which set out the appropriate ATRP, Mr Breton?

25

MR BRETON: Yes.

MS McDONALD: Maybe if you can close that -

30

MR BRETON: Yep.

MS McDONALD: - and just listen to me to begin with. And you - in your evidence, you said the description of the salary you thought was ambiguous?

35

MR BRETON: Yes.

MS McDONALD: Now, this document that I've put on the screen, which is LCC.010.009.9340, down the bottom it sets out the details of the employment contract, which was a temporary contract entered into for the 12 months, and it would appear from what is written there the construction of the offer was - that was put in the contract was a salary of X amount plus superannuation plus some kind of car allowance?

40

45 **MR BRETON:** Yes.

MS McDONALD: So that the overall amount that the employee would be receiving would be - if I can describe it as the base salary plus super plus car allowance?

MR BRETON: Yes.

5

MS McDONALD: Okay.

COMMISSIONER: Is the car allowance an amount paid to the employee or is a vehicle supplied?

10

MR BRETON: Either/or.

COMMISSIONER: They can elect?

15

MR BRETON: In this instance it was paid.

MS McDONALD: Now, with positions - that can be brought down for the minute. With positions within the Council, are position descriptions compiled for all positions or only certain positions?

20

MR BRETON: All.

MS McDONALD: All. When a position description is changed, is it the procedure that the proposed amendment should go to a joint consultative committee?

25

MR BRETON: Yes.

MS McDONALD: And the proposed amendment is put forward to that committee?

30

MR BRETON: Yes.

MS McDONALD: Now, would document LCC.001.003.0091 be brought up. And that can be - excuse me. Excuse me for a minute. I don't know if - now, this is the joint consultative committee, and you can see it's a meeting of 1 February 2024.

35

MR BRETON: Yes.

MS McDONALD: And if you go down to under section 2 - sorry. The proposal change under 1 is:

40

"Proposed permanent creation and change in reporting line for the senior adviser role to be changed from a direct report to the CEO to a direct report to City futures."

MR BRETON: Yes.

45

MS McDONALD: And then if you look at section 2, the supporting information:

5 "In early 2023, the new CEO and executive recommended a 12-month temporary role, senior adviser, to assist the Council and Executive deliver the Council-endorsed mayor's 100-day plan. In creating the City Futures directorate in September 2023, it is now proposed to recruit to permanently fill the position and become a direct report to the Director City Futures."

MR BRETON: Yes.

10 **MS McDONALD:** And if we go to page 2 - yes. Sorry. You can see that it's signed by Julie Scott, the person from human resources, Christie Wilson and also Shayne Mallard?

MR BRETON: Yes.

15 **MS McDONALD:** And then if we can move through the document, page 4 to begin with. You can see that's the current structure, and the senior adviser position is reporting directly to the Manager City Economy?

20 **MR BRETON:** Yes.

MS McDONALD: If we go to page 5, we've got the proposed change. So we've got the senior adviser reporting directly to the Director City Futures?

25 **MR BRETON:** Yes.

MS McDONALD: Then if we go through to page 13, we've got the position description, and this is the current position description for the senior adviser. You can see that?

30 **MR BRETON:** It was, yes.

MS McDONALD: Sorry. At the time before the change was implemented, that was the position description?

35 **MR BRETON:** Yes.

MS McDONALD: And then if you go through to page 16, that's the amended position description?

40 **MR BRETON:** Yes.

MS McDONALD: And you can see that the changes, in a sense, aren't that dramatic. They're really reflecting what was proposed, the change in who the employee would report to.

45 **MR BRETON:** Yep. Correct.

MS McDONALD: Right.

COMMISSIONER: This is mid-2023?

5 **MS McDONALD:** No, I think it's February 2024.

COMMISSIONER: Thank you.

10 **MS McDONALD:** Now -

COMMISSIONER: You were director of Operations at that time, Mr Breton?

MR BRETON: Yes.

15 **MS McDONALD:** But this wouldn't have come under your purview?

MR BRETON: No.

20 **MS McDONALD:** Now, I'm just going to take you up to an end point of July 2024. And I can take you to a response from the human resources section, but it would appear that in determining the salary plus the superannuation plus the car allowance, there was no reference to - there is no evidence of how that market rate was determined. I can take you to the reference if you want me to.

25 **MR BRETON:** As of what date?

MS McDONALD: Just before July 2024.

30 **COMMISSIONER:** So at the time the temporary appointment is made?

MS McDONALD: Yes. Until about the - let's say the end of June 2024.

MR BRETON: Correct. That's correct.

35 **COMMISSIONER:** When you say "correct", that accords with your understanding?

MR BRETON: Yes. And then something happened after that date.

40 **MS McDONALD:** Then what appears to have happened is that Ms Boustani can only be in the temporary role for 12 months?

MR BRETON: Yes.

45 **MS McDONALD:** It's - something's got to happen in September. And then in July an approach is made to Mercer for information about what the market rate would be?

MR BRETON: Yes.

MS McDONALD: Now, would document LCC.010.009.9400 be brought up, please. Yes. Now, you can see this is dated 11 July 2024?

5 **MR BRETON:** Yes.

MS McDONALD: And you can see it's:

10 "Mercer Consulting is pleased to provide Liverpool City Council with an independent work value assessment for the senior adviser role."

And as part of that, you can see:

15 "In providing this advice, Mercer has undertaken the following activities."

And you've got:

20 "Reviewed the role and organisation documentation provided by Liverpool City Council."

MR BRETON: Yes.

25 **MS McDONALD:** Now, if we go through to page 7, we have the position description for the senior adviser role?

MR BRETON: Yes.

30 **MS McDONALD:** Now, if you need it, I can take you back to the position description that was before the consultative committee in February. But just looking at that, you can see that it has a last review July 2024, then next review 2026?

MR BRETON: Yes.

35 **MS McDONALD:** And it is substantially different from the position description that the consultative committee looked at and reviewed in February 2024?

MR BRETON: Agreed.

40 **MS McDONALD:** We haven't been able to find that this was put before the consultative committee, and it's just unclear how this amended - substantially amended position description came about. Were you - was this position description - because this is July 2024, when you were the acting CEO - was it put to you?

45 **MR BRETON:** No.

MS McDONALD: You've - until I've shown it to you today, you haven't seen it before?

MR BRETON: No.

5

MS McDONALD: Do you have any idea of how it's arisen?

MR BRETON: Like, I've got an opinion.

10 **MS McDONALD:** No, I don't want your opinion. I want to know do you -

MR BRETON: No.

MS McDONALD: Okay.

15

COMMISSIONER: Should an amended position like this - is it largely - or significantly different from the last one that went to the consultative committee - have gone back to the consultative committee?

20 **MR BRETON:** Perhaps, Commissioner, but there's two things: The JCC has no veto right, and the issue that went to the JCC was hierarchical. The JCC didn't even consider the contents within; they were talking about the hierarchy.

25 **MS McDONALD:** That was the particular amendment in February, but this, where there's a substantial change in the position description, should it have gone to the joint consultative committee?

MR BRETON: Yes.

30 **MS McDONALD:** And as the acting CEO, should have you been informed of this amendment to the position description and, really, a considerable enhancement of the role?

MR BRETON: Perhaps.

35

MS McDONALD: This enhanced position description seems to now be the basis on which Mercer is providing its opinion of the relevant market rate?

MR BRETON: It was.

40

MS McDONALD: Now, what occurs next in the chronology is that there were - the permanent position of senior adviser was advertised. Three people were interviewed, including Ms Boustani, and ultimately she was the successful candidate?

45 **MR BRETON:** Yes. I don't know how many people. I sent it out external and she was the successful candidate.

MS McDONALD: All right. Just excuse me for a minute.

COMMISSIONER: External to a recruitment agency?

5 **MR BRETON:** Chandler Macleod. Yep. I insisted it go external to Chandler Macleod.

COMMISSIONER: Was there a particular reason why you insisted that that happen?

10

MR BRETON: Yes.

COMMISSIONER: What was it?

15 **MR BRETON:** I wanted separation from the appointment of any staff member, given the history of the appointment.

MS McDONALD: What do you mean by that?

20 **MR BRETON:** The successful candidate was the mayor's previous legal adviser or lawyer. I wasn't - I'd had no knowledge of how the appointment was made in the first place. The fluctuations between the director in charge and then sharing the same role previously - I just wanted to make sure it was a transparent, appropriate process.

25 **MS McDONALD:** Now, I now want to take you to some email exchanges which discuss what salary and other aspects should be offered to Ms Boustani in this temporary position. And if document LCC.028.001.0062 could be brought up. Yes, please. And I'll just hand up an unredacted version for Mr Breton and one for the Commissioner. And we - sorry, Ms Associate. Could we go through to page 5, down
30 the bottom. This is right down the bottom. You can see it's an email from Craig Knappick to Julie Scott?

MR BRETON: Yes.

35 **MS McDONALD:** And if we turn to page 6, what I'm looking at is the paragraph that says:

40 "As you know, Betty is currently as a temp on X. This permanent role is graded at X minus Y (inclusive of super, exclusive of car allowance which is an additional X as indicated in the ATRP attachment in the letter) hence, in fact, she will earn more in total due to the receipt of the car allowance. Please let me know if there's any salary issues which need to be discussed with the acting CEO."

MR BRETON: Yes.
45

MS McDONALD: Then if you go across to the bottom of page 4 - actually, if you go to the top of page 4. This is from Ms Boustani, saying, "I think there's" - to Julie Scott:

5 "I think there's some confusion. I've never been on a 'blank' package including super. When I started, my letter of offer said 'blank' plus super, which came to 'blank' plus X. Can we please double-check that I have been paid properly in accordance with my letter of offer since I started?"

10 Then if we go to page 3, Julie Scott to Craig Knappick, says:

"This is not going away, so we will meet with her later today and may have to make a recommendation to the acting CEO/Shayne."

15 Then at the bottom of page 2, Mr Knappick:

"Okay. Let's keep talking."

20 Then at the top of page 2, "Finally had" - this is from Mr Knappick. Sorry, no, it's from Julie Scott, I apologise, to Mr Knappick:

"Finally had a chance to speak with Betty this afternoon. She cleared up the situation. When she commenced in the role she was on a base of X plus super plus car allowance, then she received a CPI increase. All she is after for her LOO" -

25 **MR BRETON:** Letter of offer.

MS McDONALD: Right:

30 ". Is X base plus super plus Y car allowance."

MR BRETON: Yes.

35 **MS McDONALD:** Then if we go across to page 62. This is from - up the top, from Mr Knappick:

40 "I can't make that offer because that's not what the role is graded at and not what is in the budget for that role. Her old salary was determined by the prior CEO. The real role is in the budget for X including super. Putting her on X plus super is, in fact, an ATRP of closer to Y, and hence, even though not a manager, she would be the third-highest paid person after the directors. And then if we provided a car allowance, it would be another Z, so her total salary package would be then that amount."

45 **MR BRETON:** Yes.

MS McDONALD: Okay. And - excuse me for a minute. Excuse me for a minute. I'm hoping this is on the system. Do we have LCC.028.001.0119?

COMMISSIONER: Just show it in the room?

5

MS McDONALD: Yes.

COMMISSIONER: Don't put it on the live stream.

10 **MS McDONALD:** Down the bottom of that page, can you see an email from Mr Knappick to you, "Contract for recommended applicant"?

MR BRETON: Yes.

15 **MS McDONALD:** And then if we go across the page:

"Trying to bring this appointment of the senior adviser role to conclusion."

Then there's - if we move down, there's a reference to the Mercer evaluation?

20

MR BRETON: Yes.

MS McDONALD: And - which appears to have been for the total employment cost. And then if you go across the page, to page 3. Down the bottom, Next Steps, we've got:

25

"Potential options: Gain acting CEO approval to offer existing salary package, either X as offered or current salary of Y whilst a temp, potentially due to the value brought by the current incumbent. This is above the Mercer evaluation but sits within what has been informed by Finance as budgeted for the role. If this was offered, then you could remove the car allowance."

30

(2):

"Negotiate lower salary to the amount in line with the Mercer evaluation, which would see a significant reduction in salary with a cash component of X rather than Y as offered or current of Z."

35

And then:

"Consider alternate applicants that may accept the salary range."

40

And then ultimately it was resolved. Do you recall being involved in this?

MR BRETON: Advised but not involved.

45 **MS McDONALD:** All right. You didn't play a role in determining what would ultimately have been offered to Ms Boustani?

MR BRETON: I don't recall that. Only - I would have spoken to Craig Knappick about ensuring it's within the budget, which is identified at point 1.

5 **MS McDONALD:** All right. If we could then bring up LCC.028.001.0097. And I'll hand you and the Commissioner an unredacted version. Yes. Thank you.

MR BRETON: Yes.

10 **MS McDONALD:** This ultimately is the offer put to Ms Boustani?

MR BRETON: Yes.

15 **MS McDONALD:** And you can see in the second paragraph the annual total remuneration package is set out?

MR BRETON: Yes.

MS McDONALD: And that it's not inclusive of a car or a car allowance?

20 **MR BRETON:** Yes.

MS McDONALD: And then if you jump through to page 5 - and you can see on the screen are the redactions, but can you see that Ms Boustani is receiving the cash salary plus super?

25 **MR BRETON:** Yes.

MS McDONALD: Which comes to a certain amount?

30 **MR BRETON:** Yes.

MS McDONALD: And then, it would appear, on top of that she is getting a car allowance?

35 **COMMISSIONER:** Not sure that's right.

MS McDONALD: Just from the first page, where it says:

40 "It's not inclusive of a car or a car allowance."

COMMISSIONER: Then on page 5 it's "blank" with a dash.

MS McDONALD: Pre-tax vehicle?

45 **COMMISSIONER:** Yes. That's where a car allowance - well, do you know? Is that where car allowance would be?

MR BRETON: Yeah. It's not included, as described in this schedule.

MS McDONALD: So, Mr Mallard - sorry, Mr Breton, what I'm - are you right?

5 **MR BRETON:** Yes, I'm -

10 **MS McDONALD:** What I want to put to you is this is an example of where there appears to be an absence of procedures as to the determination of a market rate, the basis of that market rate. What - and in putting that to you, what I'm emphasising to begin with is it appears Ms Boustani is brought in and there is no evidence, and indeed confirmation, by Liverpool City Council to the Office of Local Government that there was no market evaluation of the position until July 2024.

15 **MR BRETON:** Okay.

MS McDONALD: So there appears to be - it's completely unclear how the initial salary - and I'll put it broadly - that Ms Boustani received was determined?

20 **MR BRETON:** Yes.

MS McDONALD: Also, it appears that there is some confusion as to what the components of what she was to receive was, whether it was to be a total package with subcomponents of salary, super plus car allowance or base salary plus, in addition, super plus car.

25 **MR BRETON:** Agree.

30 **MS McDONALD:** There seems to be, in the lead-up to the - actually obtaining a market determination for the role, there appears to be an amendment to the position description which - again, it is unclear where that came from, what it was based on, whether it went to the joint consultative committee.

MR BRETON: It's unclear.

35 **MS McDONALD:** And finally, it would appear that even in obtaining the Mercer report, there seems to be a confusion about what Mercer is actually evaluating. That is, is it evaluating a total package of base plus super plus car? Or not a total salary, but a salary of X and then on top of that super and on top of that car.

40 **MR BRETON:** It's unclear.

45 **MS McDONALD:** Now - excuse me for a minute. This, in a sense, case example links up with some criticisms made by the Audit Office of the recruitment and remuneration policy and process of the Council?

MR BRETON: Yes.

MS McDONALD: In the management letter sent by the Audit Office in December 2024, they identified first that there was an increase in the appointment of temporary positions plus direct temporary positions. Do you recall this?

5 **MR BRETON:** Yes, there had been an increase in a period. Yes.

MS McDONALD: Their analysis found that a number of the direct appointees were awarded salaries that are above the Council's approved salary bands and no support and basis could be provided for these, as the Council policy does not require
10 maintenance of such documentation. For example, market salary surveys.

MR BRETON: That's what they reported in relation to historical matters, yes.

MS McDONALD: Well, the issue that we had in the case study we just looked at is
15 that there was no market salary survey until July '24. So the gap that the Audit Office referred to was a gap in keeping the documentation. It would appear for this position that there was no market survey or reference back to the market until July '24.

MR BRETON: Until I made it happen, yes.
20

MS McDONALD: Sorry?

MR BRETON: Until I made it happen, yes.

25 **MS McDONALD:** I'm not asking you about who made it happen.

MR BRETON: Yep.

MS McDONALD: I'm looking at the gap -
30

MR BRETON: That's correct.

MS McDONALD: - that somebody can be employed on a salary considerably above the grading for the salary with no reference back to the market.
35

MR BRETON: Correct.

MS McDONALD: Has there been any rectification in terms of policies or procedures within the Council which require, before you offer a market rate, that
40 there must be some reference to the market in some way?

MR BRETON: There has been no policy or procedural change, but there has been a rectification.

45 **MS McDONALD:** Generally?

MR BRETON: Yes.

MS McDONALD: And in what form is that rectification taken?

5 **MR BRETON:** Well, I haven't direct appointed anybody in my tenure and I haven't appointed a job without a Mercer.

MS McDONALD: So -

10 **MR BRETON:** So I've tested the market on every occasion.

MS McDONALD: So from your time, every time there is an appointment which is going to be paid according to a market rate, you've required it to go to Mercer?

15 **MR BRETON:** Yes. Manager and above to Mercer. And I can't recall any instance of a person below manager being appointed in my tenure on a fixed-term appointment.

20 **MS McDONALD:** What about any positions that - so positions under manager, there is - you don't insist on any requirement like that?

MR BRETON: There's no procedural requirement, but I just don't recall anybody in my tenure being direct appointed in -

25 **COMMISSIONER:** Would those roles below manager come to you, though? Or would it be dealt with by the manager or director?

30 **MR BRETON:** It's typically dealt with by the director. I think for a direct appointment, though, I think it has to - at least a memo has to come up. I just can't remember one, Commissioner.

MS McDONALD: What about any prior appointments where the incumbent is on a market rate? Has there been any - going back and reviewing that?

35 **MR BRETON:** There was a number of applications in the Ajaka tenure where memos had come up from directors for a salary upgrade.

MS McDONALD: Yes.

40 **MR BRETON:** So it would be a simple one-page document.

MS McDONALD: No, I'm sorry. My question is with those positions where it's just a memo that came up, has there been any - in a sense, in hindsight, going back and looking at, "Well, how do we justify this position"?

45 **MR BRETON:** Retrospectively?

MS McDONALD: Yes.

MR BRETON: No.

MS McDONALD: If we could bring up, please, document LCC.011.001.0020.

5

COMMISSIONER: Whilst that's happening, have you concluded taking Mr Breton through the senior adviser position?

MS McDONALD: Yes.

10

COMMISSIONER: I was just wondering if we deal with the document so he's not burdened with them on that tiny shelf in front of him. Can we mark the bundle?

MS McDONALD: Yes. It consists of four documents. Do I need to read them on to the record or -

15

COMMISSIONER: No, I think the transcript will record the documents that were shown to him. So the bundle of documents - of four documents shown to Mr Breton during his evidence this morning will be MFI20.

20

<MFI #20 BUNDLE OF FOUR DOCUMENTS SHOWN TO MR BRETON DURING EVIDENCE ON MORNING OF 01/09/2025

MS McDONALD: Yes, please. And you see there, Mr Breton, this is the management letter from the Audit Office dated 4 December 2024?

25

MR BRETON: Yes.

MS McDONALD: And can we go through to page 17, please. And can you see at the top, issue 9, Recruitment and Remuneration Policy and Process?

30

MR BRETON: Yes.

MS McDONALD: And I've read out some of the Audit Office's findings through their audit and their gap findings. But if we can go to gap findings, you can see:

35

"A number of the direct appointees were awarded salaries above Council's approved salary bands and no support basis could be provided for these as Council policy does not require maintenance of such documentation."

40

I know you just gave evidence that now you require for the position of manager and above - that there is some kind of Mercer analysis. Have you implemented some kind of policy which requires the keeping or maintenance of such documentation?

45

MR BRETON: So currently, as described, it's still a working document. The human resources team is working on new guidelines.

MS McDONALD: All right. Then we've got:

5 "Council does not have guidelines or defined criteria for when it's appropriate to hire on a temporary basis or for direct appointments or conditions to be met for the direct temporary appointment process to be used."

Has that been rectified?

10 **MR BRETON:** That's being rectified, yes.

MS McDONALD: Who's -

COMMISSIONER: Has been or being -

15 **MR BRETON:** No. Again, the HR team are working on this whole issue in new guidelines.

MS McDONALD: And you've just read out the third dot point:

20 "Management advise that human resources team is currently working on the new guidelines."

That must have been indicated to the Audit Office before 4 December of last year?

25 **MR BRETON:** Yes.

MS McDONALD: You can see, under Implications, the Audit Office identify a number of implications?

30 **MR BRETON:** Yes.

MS McDONALD: Under Recommendations, the second dot point:

35 "Developing criteria and guidelines for use of the temporary direct appointment process."

MR BRETON: Yes.

40 **MS McDONALD:**

"Where market salaries are awarded, require sufficient documentation and support."

And then:

45 "Ensure that officials involved in recruitment process are trained sufficiently."

You said, in line with the third dot point under Gap Findings:

"Management advise that the human resources team is currently working on new guidelines."

5 Have they been finished?

MR BRETON: Not to my knowledge. I know that we advised ARIC and we have an audit team as well who are working on these recommendations with HR. Notwithstanding, I don't need the piece of paper to take my enhanced approach. So
10 we've put in place rectifications and we are working on the total guidelines.

MS McDONALD: Sorry, what rectifications are you talking about?

MR BRETON: That is we are - we aren't proceeding to the - we aren't proceeding in
15 the gap areas identified by the audit. We won't expose ourselves to those same issues again.

MS McDONALD: What, so you're going to, to the best that you can, avoid direct
20 appointees?

MR BRETON: Done. Tick.

MS McDONALD: You're going to develop guidelines where it's appropriate to hire
25 on a temporary basis or a direct appointment?

MR BRETON: In line with the Local Government Act, yes.

MS McDONALD: And there's going to be, sorry, a requirement that if you are
30 going to go to the market there's got to be evidence of you actually referring to the market, whether it's as Ms Kakish did of contacting other councils or engaging somebody like Mercer?

MR BRETON: Yes. There must be some recorded validation of the assumptions
35 that inform the market range.

MS McDONALD: When did you advise ARIC?

MR BRETON: This audit report went to the first ARIC meeting after we received
40 it.

MS McDONALD: Yes. No, but when you said "advised ARIC", I assumed that you
had advised the ARIC what you were doing. I know that the -

MR BRETON: No. No, what I'm saying is the ARIC -
45

MS McDONALD: Yes. Got this.

MR BRETON: The committee would receive this report at the first ARIC meeting.

5 **MS McDONALD:** Yes. But you haven't reported back to ARIC about what you're doing in respect of these recommendations?

10 **MR BRETON:** Yes, it was mentioned in ARIC meeting this year in relation to audit reviews and progress on audits, which is - this is one of them. Audit responses - it comes up.

MS McDONALD: When was - which meeting?

MR BRETON: I don't know. Some time this year.

15 **MS McDONALD:** You only had two ARIC meetings this year, have you?

MR BRETON: Yes. Yes.

20 **MS McDONALD:** So it's either –

MR BRETON: Two.

MS McDONALD: I think - it's February or July, I think?

25 **MR BRETON:** Maybe only one. No, it's been two.

COMMISSIONER: There was one in February, and I think the next one was scheduled for July.

30 **MR BRETON:** Yep.

MS McDONALD: So one of those?

35 **MR BRETON:** Yes. I think it was February we spoke about this, because the general position of ARIC was to make sure we were burning down our audit findings and giving them contemporary -

MS McDONALD: And, sorry, when you say an audit team is looking at that, who's the audit team? Is that within Council?

40 **MR BRETON:** Yes, George Hampouris and Hannie.

MS McDONALD: And what are they doing?

45 **MR BRETON:** They will oversight the audit recommendations being applied by the practitioner. So in this instance, George Hampouris would oversight Craig Knappick in making sure that Craig is proceeding to apply the recommendations.

MS McDONALD: And that, to your knowledge, is an ongoing process. It hasn't finished?

5 **MR BRETON:** That's to my knowledge, yes.

MS McDONALD: Would we turn it the next page. You can see down the bottom it had Management Response, then across the page, Agree:

10 "Recruitment and appointment policy and procedures is currently being reviewed and will address the recommendations raised in the audit. Date to be actioned: 30 June 2025."

15 So if that was that - the recruitment and appointment policies and procedures, if it was a completion of that review and that they will address the recommendations, that hasn't been achieved yet?

MR BRETON: I don't think it's been finalised yet. It's pretty close. We are, what -

20 **MS McDONALD:** I'm sorry. I missed that last -

MR BRETON: I think we're eight weeks - we've slipped eight weeks on it.

25 **MS McDONALD:** Just broadly with the issue of recruitment, you're well aware of the section 430 interim - well, the investigation undertaken by Office of Local Government?

MR BRETON: Yes.

30 **MS McDONALD:** In that - putting to one side the results or their findings, what I want to ask you about is what generated that investigation which appears to be, at some degree, discontent amongst employees concerning transparency with recruitment policies. So there were allegations of people being appointed where they appeared to have - or not even appeared, they definitely had links with, for example,
35 the Liberal Party or personal links with different personnel, either as a - in a directorate management level.

40 That issue of transparency, so that employees know the circumstances where somebody is employed - who, for example, may have had past links with the Liberal Party but has gone through a recruitment process where, for example, you've brought in somebody from outside and any conflict of interest is acknowledged and any means to mitigate that conflict is put in place, have you looked at some form of information to be provided to staff to - in a sense, as an aspect of transparency so that on its face they might have that concern, but when you drill down into the process it
45 was kosher? Do you understand what I'm getting at?

COMMISSIONER: Hang on. Hang on. Hang on.

MR BRETON: That's the longest question I've ever had.

MR PARISH: I object.

5 **COMMISSIONER:** Yes. I might have asked one longer at some point.

MR PARISH: That was a question sandwich. It started with a question about what he understood the motivation to be for the 430 report and then it moved through to a vast range of other questions. Perhaps if it could be at least broken down.

10

COMMISSIONER: I think that's probably right.

15 **MS McDONALD:** Yes. That's fine. You heard that. What I'm looking at is - starting point is do you agree that where somebody comes from outside the organisation and it is publicly known that they've got links, for example, with a political party or maybe other personal or other links with you, a director, a councillor, an issue of transparency in their appointment can arise?

20 **MR BRETON:** It can become important, but I can't contextualise any answer with the 430 report because of its poor quality in this very subject - this very subject.

MS McDONALD: All right. Put 430 to one side, okay?

25 **MR BRETON:** Yes.

MS McDONALD: What I'm putting to you - and I think you agree if we put 430 to one side, if there is an appointment by somebody with those links - either political, personal, some other link, other members of staff can become concerned about the transparency of the appointment?

30

MR BRETON: Yes.

35 **MS McDONALD:** And in those circumstances, where what is actually adopted by the Council is a rigorous process or procedure to make sure that no conflict of interest arose or there was any kind of bias or apprehended bias, have you turned your mind to anything that you can do to ensure the rest of the workforce that it was all done above board.

40 **MR TYNAN:** Just I just clarify (indistinct) specific instances (indistinct)?

COMMISSIONER: I understand it to be a specific question.

MS McDONALD: Yes?

45 **MR BRETON:** Yep. I think in addition to the rules and the Act governing - and the guidelines in governing recruitment, there's the additional layer of the JCC, who has an opportunity. Improvement - it's to what extent transparency overrides a fair

process and is there - we could probably look at something to inform the staff. It does lean itself, though, given our circumstances, to cause further chaos. If somebody's a member of the Liberal Party and the Liberal Party fall out of office, then there's a lot of Liberal Party members who are unemployed, and the same happens when the Labor Party lose an election.

The real challenge for me is there was a number of strikingly similar appointments to members connected with the Liberal Party in the tenure. I'm not sure how to resolve that because you will have biases that are present, but it also allows the right talent to be introduced into businesses because you may have an experience where in a previous employ you have met or worked with somebody that's of a high value to your current employ. And getting people of that quality - sometimes relationship is part of remuneration and is valuable.

MS McDONALD: Can I use, as an example - of a person who applied for the position and obviously had links with the Liberal Party and those links were well-known within the public. They apply for a position within Council - but I think this picks up on something you just said - when you look at their CV, they are qualified and would be an excellent appointment.

MR BRETON: Yes.

MS McDONALD: Okay? But in the circumstances, the other employees just know of the link with the Liberal Party and then appointed. What I'm looking at is whether there is scope or something along the lines of information being provided to the staff, "For this role, this was the interview committee." So, you know, it may have an outsider, then two people who aren't associated with the Liberal Party. "There were X number of candidates and it was determined that person X was the best appointment." So in a sense, you're spelling out to the employees transparently, "This is what we did to ensure that this was an appointment on merit."

MR BRETON: I think there's value. Again, I would send them all out. I wouldn't do them internally.

MS McDONALD: No, no, no.

MR BRETON: I think there's value -

MS McDONALD: What I'm interested in is informing the staff -

MR BRETON: Yep.

MS McDONALD: - that, "We adopted an appropriate procedure to ensure that there wasn't any favouritism," and broadly, "This is what we did."

MR BRETON: Yeah, I think there's value in that. To the degree that the staff would consider that lip service - because you're only telling them, then, that you are - have

been transparent and everything's kosher. The real challenge is, in retrospect, where - let's say a member of the Liberal Party and the CV doesn't stack up. That's a bigger red flag for me. And then looking at internal panels - and they need to be transparent. Maybe wider panels and - or sending them out, particularly where
5 they're at levels we're talking about with some of the rem we're talking about. I think it's better to put more rules around that.

And then if that's part of telling the staff, I think that's okay, but I think that should be in the guidelines. And maybe we disclose transparently the panel and the selection
10 process, but the biggest red flag that I would look at now is where we have - not direct appointments, because I don't think that will happen anymore, but where we've had direct appointments and then that person proceeds and you retrospectively examine the candidacy - and the perception can be seen that it may not have been -

15 **MS McDONALD:** Kosher?

MR BRETON: Okay.

MS McDONALD: Can I just clarify, when you said - I think you referred to sending
20 it outside. Does that - what did you mean by that?

MR BRETON: Just go to an external recruitment agency. Give them the brief, give them the PD. Have one person outline the role and - that is, make it quite clinical. So then relationships don't matter. Prior perceptions don't matter. Biases are removed
25 and you have a professional company doing the appointment.

COMMISSIONER: Can I just pick up on a couple of your answers there where you raised perception. And perhaps a lot of angst that might arise in the staff body arises from perception, like well-known links prior to -
30

MR BRETON: Yes.

COMMISSIONER: - whether personal, political and the like. I take it from some of your answers that one of the ways to manage that perception is a robust process?
35

MR BRETON: Yes.

COMMISSIONER: Documented; correct?

40 **MR BRETON:** Yes.

COMMISSIONER: And followed, obviously?

MR BRETON: Yes.
45

COMMISSIONER: And would that extend to periodic audits of those processes being followed?

MR BRETON: Yes.

5 **COMMISSIONER:** And setting out in clear terms - I know you've said you've put a stop to temporary appointments, but when they are appropriate and suitable to be used?

MR BRETON: Yes.

10 **COMMISSIONER:** Because - would you agree that that adds to the perception issue? That is, if someone is temporarily appointed and then six months later suddenly becomes the permanent choice, that can heighten some of the perception issues. Do you agree with that?

15 **MR BRETON:** Exactly. And the high percentage of permanent - the high percentage of temporary appointments have succeeded as the incumbent into the role, and it's that - it's that metric which is concerning the rank-and-file at the early stage. So if you get in a tent, you're in the job.

20 **COMMISSIONER:** And I don't mean this as a criticism of you, but I think last week you told me in your own position you had the advantages of incumbency because you could point to the things you'd done in the role in the organisation?

25 **MR BRETON:** Yes. It gives you a clear advantage.

COMMISSIONER: I know - understand your concerns with the 430 investigation and the 430 report, but have you looked at or reviewed the recruitment processes of the positions that were referred to in that report since?

30 **MR BRETON:** Yes.

COMMISSIONER: We might return to that after the break. Yes. All right. We'll take morning tea and I will resume at 10 to 12. Thank you.

35 **<THE HEARING ADJOURNED AT 11.33 AM**

<THE HEARING RESUMED AT 11.59 AM

40 **COMMISSIONER:** Yes.

MS McDONALD: Commissioner, I think you were -

45 **COMMISSIONER:** Yes. Thank you. Before the break I asked you whether you'd looked at the recruitment processes that applied to the positions that were referenced in the interim 430 report, and I think you said that you had.

MR BRETON: Yes.

COMMISSIONER: What form did that review take? What did you do?

5 **MR BRETON:** I reviewed the whole report and prepared a document in response to that report.

COMMISSIONER: And in general terms - I don't want you to reference the particular positions. If we need to, that might be appropriate to be done in private. But in general terms, what did you look at to prepare that document? What
10 information did you gather?

MR BRETON: Yeah. So I looked at the recruitment process, the forms, the CVs, the database, et cetera, and just found that predominantly the allegations or comments around potential impropriety formed by the investigator were basically
15 supported by inference alone, and in some cases impossibility. There was one particular example where an allegation is that one person hired one's niece. The simple fact which could have been resolved in one phone call was that the niece joined eight months before the aunty.

20 **COMMISSIONER:** So just in general terms, can you just describe to me the process you undertook in gathering this information and preparing this document?

MR BRETON: So I - I looked back at the persons that were - the focus was on in the 430 and I asked questions of people around the process - that is, other directors,
25 the CEO at the time, and I also looked at some of the source documents. And the source documents, you know, basically inform me that in some instances you could see where the perception was valid. That is, you could make an argument that without the relationship - the pre-existing relationship, that some of the candidates may not have progressed.

30 But I think that's not unique to - that's typical of a process where relationships are inherent, because there are biases towards that. Not to the extent that we are hiring a mechanic for a baker's job, right? Not to that extent. But if you look at - I was particularly interested in the candidature that was released in the process. I really had
35 a look at the quality of the candidature and was - you could make an argument for all the candidates, down to the last seven on some occasions, they were good candidates. And that one person progressed, you will - I have to rely on the panel.

COMMISSIONER: So just to make sure I've understood you correctly, you asked
40 questions of relevant people, you gathered the documents. In some instances, you could identify where a perception of an issue arose; correct?

MR BRETON: Yes.

45 **COMMISSIONER:** And you could see how an argument could be made that that person's candidature might - or ought not to have progressed; correct?

MR BRETON: Yes.

COMMISSIONER: But you could see the counterargument as well. Have you understood you correctly?

5

MR BRETON: Yes.

COMMISSIONER: So there are - on all of those that you looked at, you saw arguments for and against their -

10

MR BRETON: Yeah.

COMMISSIONER: Sorry, for at least a subset of those that you looked at, there are arguments for and/or against the appointment?

15

MR BRETON: Yes. On the assumption that the panel is appropriate, transparent, have made the best decisions on the interview.

COMMISSIONER: And you prepared a document?

20

MR BRETON: Yes.

COMMISSIONER: What did you do with the document?

25 **MR BRETON:** It never saw the light of day.

COMMISSIONER: Somewhere on Council's system?

MR BRETON: Yes.

30

COMMISSIONER: Mr Parish, I'm going to ask that my team prepare a summons for that now, thank you, to those listening, and I would be most grateful if that will be arriving with you as soon as I can sign it, and I would be most grateful if those in your team can work on pulling it out and producing it quickly. I don't want to have to get Mr Breton back if I can ask him some questions about it before he goes. Yes, Ms McDonald.

35

MS McDONALD: Do you remember what you entitled the document?

40 **MR BRETON:** Yes, Response to the 430 Investigation.

MS McDONALD: And when you said it never saw the light of day - you prepared it?

45 **MR BRETON:** Yes.

MS McDONALD: It wasn't produced to Council?

MR BRETON: No.

5 **MS McDONALD:** Was it produced to, for example, your executive leadership team?

MR BRETON: No.

10 **MS McDONALD:** So purely a document that you worked on. And then, in a sense, kept it to yourself?

15 **MR BRETON:** Yes. The context is we were in the Land and Environment Court and I had prepared it for potential presentation in those - in that jurisdiction, and senior counsel didn't proceed with it.

MS McDONALD: I want to move to a different topic. That is, councillor/staff interaction.

20 **MR BRETON:** Yes.

MS McDONALD: We've heard of a policy, the councillor access to information and interaction with staff policy.

25 **MR BRETON:** Yes.

MS McDONALD: During the ARIC meeting in February of this year, an issue was raised about councillor/staff interaction?

30 **MR BRETON:** Yes.

MS McDONALD: Would you bring up, please, LCC.014.002.1411. And this can be live streamed. That's the first page. You can see it is the ARIC committee meetings for 26 February of this year?

35 **MR BRETON:** Yes.

MS McDONALD: And if we go to page 2 - hoping I've got the right page. This is under your report. Right. It's the paragraph that starts with:

40 "The acting CEO also discussed increasing complexity of Council interactions with staff."

MR BRETON: Yes.

45 **MS McDONALD:** Could I ask for that just to be progressed down the page a wee bit. Yes. You refer then to the staff interaction policy and:

"The volume and nature of those interactions are placing strain on operations."

And you talk about:

"It continues to be a high-risk issue and included in the Council's risk register."

5

Can I just pause there. We've got the interaction with staff policy, which on one level determines how the councillors are to interact with staff.

MR BRETON: Yes.

10

MS McDONALD: The issue that you were raising at the ARIC meeting, did that go to the question of whether councillors were not complying with the policy or rather a different issue - that is, the number or volume of requests being made by councillors?

15

MR BRETON: Both.

MS McDONALD: All right. The first aspect - so I'm not looking at volume, I'm looking at how councillors interact with staff. Were you raising there that there were times where councillors did not comply with the policy?

20

MR BRETON: Yes.

MS McDONALD: Are they - in what way did they not comply with the policy?

25

MR BRETON: Direct emails predominantly, and direct comments - sometimes derogatory in nature, directly towards the staff themselves without going through the appropriate channels.

30

MS McDONALD: Okay. Can I just stop you there. You said direct emails for staff. And what was the second one?

MR BRETON: Or conversations with them. Impromptu conversations and interactions.

35

MS McDONALD: The direct emails to staff - so they would be emails that didn't go to Councillor Support or, in a sense, weren't - you weren't copied into them or a director wasn't copied into them?

40

MR BRETON: Typically the director might be copied in, but the - on occasions, there were emails directly to practitioners - and requests. So these weren't - there was - I know I'm not talking to the volume, but there was a number of requests that were without a contemporary forensic purpose.

45

COMMISSIONER: And going to -

MR BRETON: To practitioners to provide 12 years of data in relation to this or something like -

COMMISSIONER: What do you mean by practitioners? Just with -

MR BRETON: So somebody - let's say somebody below a manager.

5

COMMISSIONER: Below a manager?

MR BRETON: Yeah, yeah. Which the then policy allowed - it's been changed only as last week.

10

MS McDONALD: So the policy of 26 July 2023 has now been replaced?

MR BRETON: Correct.

15

MS McDONALD: Right.

MR BRETON: Yes. Last week.

COMMISSIONER: At the meeting last week?

20

MR BRETON: Correct. Yes. And it only allows two levels of interaction. That is, the CEO or director.

MS McDONALD: So in future, if a councillor wants to raise an issue, the - sorry, when you say "interaction" - we've heard evidence of the Councillor Support email -

25

MR BRETON: Yes.

MS McDONALD: - where requests are made through it. So it goes through to Councillor Support, then they determine where it should be referred to, et cetera.

30

MR BRETON: That remains legitimate process, yes.

MS McDONALD: All right. This change of there are now, kind of, two persons or positions where there can be initial interaction - you've said CEO and director?

35

MR BRETON: Only. And then it's permission-based.

MS McDONALD: And what do you mean by that?

40

MR BRETON: The councillor may ask the director if they can interact with a manager, and only on the permission of the director is that appropriate under the policy.

MS McDONALD: All right. Can I take you back to this report to the ARIC. You spoke about - you say there - you reiterated that:

45

"SafeWork had reviewed the situation three times, with findings confirming that the Council was acting within legal and regulatory boundaries."

What did Safe Work review? What are you talking about there?

5

MR BRETON: All the artefacts in relation to the risk between councillors - there's a risk - I did my homework. So there's a risk on the risk register - it was mentioned last week. This is ORR, or operational risk register, 133. It was entered on 20 February and the risk title is Risks Associated With - Risks Caused By - sorry, Risks Caused
10 to Council Staff and Councillors By Councillors. It has 23 controls or actions against - recorded against the risk, and this was the risk register I'm referring to in this paragraph. So that was in response to SafeWork's advice after visiting us three times.

15 **MS McDONALD:** All right. And just one thing. When you say "artefact", is that like a record?

MR BRETON: It is a record now because I've asked for a -

20 **MS McDONALD:** No, no, no.

MS McDONALD: It's just you used the word "artefact".

MR BRETON: "Artefact"? Okay.

25

MS McDONALD: It means record?

MR BRETON: Yes.

30 **MS McDONALD:** Right. And when you talk about SafeWork reviewing the situation three times, are you referring to the visits by Inspector Maltby which occurred in February?

MR BRETON: I am, yes.

35

MS McDONALD: And then that paragraph concludes with the reference to the Council's risk register. So you're referring to risk register 133?

MR BRETON: Yes. ORR133. The exhibit that I was shown last week was, I think,
40 a 2023 document.

COMMISSIONER: Yes.

MR BRETON: I have a contemporary document that I looked at this morning, and
45 I've sought a copy of - from my team, which is that - the contemporary risk register, and that explains the same risk but with 23 controls and actions.

COMMISSIONER: Right. Well, those assisting me can add it to the summons that Mr Parish will get shortly.

5 **MS McDONALD:** And this risk register, it also includes the risks that you gave evidence about last week, which arose primarily through use of social media?

MR BRETON: Yes.

10 **MS McDONALD:** In the next paragraph, we've got:

"The committee raised whether stricter controls on councillor access to staff should be implemented, citing examples from other councils where such measures had successfully reduced workplace stress."

15 You acknowledge these concerns but emphasise the need for a balance between protecting staff and not burdening the directors with all the councillor interactions and requests. In the meeting, can you recall what the other examples from other councils were that were raised by the committee?

20 **MR BRETON:** I think the committee member - Sheridan had mentioned Camden Council or her involvement whilst she was on a council. I don't think it was specifically detailed information, just that there were other councils that had better processes for separating this crossover of councillors to staff. I just think it was more general. And I basically understand that, but we have to get a balance between
25 protecting the staff and not having any interaction and also the load and burden. The burden was really, again, about volume.

MS McDONALD: Yes. I'll get to that in a sec. So the first aspect of circumstances in which a councillor can interact with a member of staff, that's now been reformed
30 from 26 July 2023 policy to a new policy that was adopted last week?

MR BRETON: Correct.

35 **MS McDONALD:** And in this new - you've also raised that another aspect of it was volume. Has volume been dealt with in any way in the new policy?

MR BRETON: No, not volume. Well, yes. If I reduce the amount of contact points and then put a permission hierarchy in, I will reduce volume.

40 **MS McDONALD:** It won't prevent a councillor from issuing requests through Councillor Support, will it? It won't have an effect on volume that way?

MR BRETON: The policy won't?

45 **MS McDONALD:** Yes.

MR BRETON: The policy won't. But I have taken a position in relation to that.

MS McDONALD: All right. What's your position?

5 **MR BRETON:** My position is we will not respond to any request that is not - that does not have a contemporary forensic purpose that allows the councillor to undertake their civic duties.

MS McDONALD: You say you've taken a position -

10 **MR BRETON:** Yes.

MS McDONALD: - on that. Is that position incorporated into the policy?

15 **MR BRETON:** Not - no, not yet. It's a position I've espoused to the ELT.

MS McDONALD: All right. Don't you need to espouse it to the governing body?

20 **MR BRETON:** Yes. If it goes to the policy, I do. But I've just taken - I've taken a position deliberately, to reduce the volume and to start to influence better behaviours.

MS McDONALD: So this position that you have taken -

MR BRETON: This position actually existed, but it was around cost and time.

25 **MS McDONALD:** But you - in a sense, it suggests that a request is made, that request goes to Councillor Support?

MR BRETON: Yes.

30 **MS McDONALD:** When do you vet - or in what circumstances do you vet the request to determine whether there's a contemporary forensic purpose?

35 **MR BRETON:** Typically when a director sends me the email. And I'll make an assessment whether it's nonsense. The actual provision is already allowed in the policy. Again, I think it talks to - in addition to four hours or X amount of money. So if a request came through, I can still reject it if it's going to cost \$20,000 and 1000 hours. I can still say no to it, but the -

40 **MS McDONALD:** That's actually incorporated in this new policy?

MR BRETON: Yes. Yes.

45 **MS McDONALD:** The position that you've taken about not responding to a request which doesn't have a contemporary forensic purpose, that's been conveyed to your executive leadership team?

MR BRETON: Yes.

MS McDONALD: How?

MR BRETON: I spoke to them at the meeting.

5

MS McDONALD: So not in an email or anything like that?

MR BRETON: No.

10 **MS McDONALD:** Not in a briefing note?

MR BRETON: No. It's simply a position. I needed to stop the nonsense.

15 **COMMISSIONER:** Is the position you've adopted at least in part because you formed the view that the information being requested was not necessary for the councillor or councillors to effectively discharge their function?

20 **MR BRETON:** Yes, Commissioner. On a number of examples, where we would be asked - staff would be asked to draw out detailed records from periods - again, 12 years ago for no purpose before Council - and then when the evidence - when the evidence arrived back to the author of the request, it would then be on social media.

25 **COMMISSIONER:** There might be some examples where there would be a need to review history for a matter that comes before Council, but your point is that wasn't what was happening here?

MR BRETON: That was not what was happening. And not to - and again, you know, on loose numbers - 120, 140 this year.

30 **MS McDONALD:** Of the - of requests?

MR BRETON: Yes. Yes.

35 **MS McDONALD:** And of the rough numbers that you've indicated, are you - is your evidence that they were not for a contemporary forensic purpose, or can you give an indication of roughly the percentage which came outside - being for a contemporary forensic purpose?

40 **MR BRETON:** I couldn't guesstimate at this stage. Only to the extent that, you know, 90 per cent are from a single author - higher than 90 per cent. And I haven't gone back and retrospectively looked at each of them. I just - when nonsense presented, I just had to put a control in because it was an inappropriate use of staff time in my opinion.

45 **MS McDONALD:** When you say "nonsense presented", your reference to "nonsense", is that that - in your view, the request was not for a contemporary forensic purpose?

MR BRETON: Correct.

5 **MS McDONALD:** The position that you've taken, when did you take the position and when did you inform the executive leadership team?

MR BRETON: Three months ago.

10 **MS McDONALD:** From that time - so around May, roughly?

MR BRETON: Yes.

15 **MS McDONALD:** From that time, have there been any requests that you have refused on this basis?

MR BRETON: Yes. Myself and Farooq Portelli have both written back to the author on occasions and advised the author that we're not proceeding with the request.

20 **MS McDONALD:** Where you've written back indicating that you're not proceeding with the request, have you set out the basis for the refusal?

25 **MR BRETON:** Yes. My - if I had written back it probably wouldn't have been directly to the author. It would have been instruction to Councillor Request or Tina Bono, as the director, just saying, "We're not doing it because it doesn't meet the criteria," or something similar to that. Or, "Hold off," or, "Don't proceed," or something as simple as that.

30 **MS McDONALD:** But if the response is, "We're not proceeding," roughly because it doesn't comply with the criteria, that suggests that the criteria is public and a councillor would be able to refer to it to determine what you're basing the decision on?

35 **MR BRETON:** Yes. I may - my intent - or did I do it? I may have sent LCC councillors a general email about this - and I'll try and discover if I did. I don't want to say I absolutely did, but it was my intent to probably solidify this into process post these proceedings.

40 **MS McDONALD:** Putting to one side the merit of your approach, councillors need to know what criteria you're using. You really need to inform them of that?

45 **MR BRETON:** They were. They would have been by the person who returned the response. I just didn't do it personally. So I may have given a direction to Councillor Support or the director, "Stop. Not doing it."

MS McDONALD: Yes.

MR BRETON: Simple just, "Jason, are we doing this?"

MS McDONALD: I'm sorry?

5 **MR BRETON:** I might get an email from Tina Bono, perhaps.

MS McDONALD: Yes.

10 **MR BRETON:** "Jason, are we going to provide this information?" And I might have just said no. Then Tina Bono would be responsible for writing back to the author and saying, "We're not going to proceed because of undue cost or time," probably relying on the part of the policy that's actually recorded.

15 **MS McDONALD:** All right.

MR BRETON: Not saying, you know, contemporary forensic purpose.

MS McDONALD: So the - that isn't within the new policy?

20 **MR BRETON:** No.

MS McDONALD: And in the requests which have been refused under this new - under this new position, has there been any reaction by any of the councillors who made the request? Sorry. Once they've been told, "We're not doing it," has there
25 been any follow-through by the councillor?

MR BRETON: I remember one instance where the councillor remonstrated the refusal. I just can't - it wasn't a particularly obvious remonstrated. He just basically said, "Well, I'm not satisfied with that. I'll take it elsewhere." I think that was one that
30 came back, but I just can't - typically no. Once the councillor is advised - and then it might come up - the same issue might come up in a different forum.

MS McDONALD: What do you mean by that?

35 **MR BRETON:** Well, something might get posted about the exact same subject and the reluctance of Council to do stuff or - yep.

MS McDONALD: Excuse me.

40 **COMMISSIONER:** Mr Breton, I think the interaction policy went to the June meeting and the induction policy went to the August meeting. Does that accord with your recollection?

MR BRETON: Yes. I know that the new policy's only just passed.
45

COMMISSIONER: Yes. I think -

MR BRETON: It was June?

COMMISSIONER: I think it was June.

5 **MR BRETON:** Okay.

COMMISSIONER: And the induction policy came up the other night.

10 **MS McDONALD:** Yes. Okay. Yep.

COMMISSIONER: What was the - were you involved in the changes to the interaction policy, in developing that?

15 **MR BRETON:** Yeah, I think - I think I became more involved only in the table on the last page - that is, the who.

COMMISSIONER: All right.

20 **MR BRETON:** I just had –

COMMISSIONER: That's what I want to ask you about. So that's good.

MR BRETON: Yep. Yep.

25 **COMMISSIONER:** What drove the change to limit schedule 1 to you and your ELT?

MR BRETON: Control.

30 **COMMISSIONER:** What do you mean?

35 **MR BRETON:** Control and - well, I had to protect the workers. I mean, these were real issues. A number of staff were feeling under inordinate amounts of pressure, stress, going off sick because of the issues. So I just had to filter and protect the staff below the directors, where they - removing their obligation to do something and making it more permission-based and then try and filter and protect the workforce.

40 **MS McDONALD:** Could you bring up, please, OLG.001.001.0276. Yes, please. This is the old policy. Can we go through to page 8. Now, this was the old attachment A and this is the one that's now been amended - that you spoke of.

MR BRETON: Yes.

45 **MS McDONALD:** If you look at the second column, From Whom to Gain Approval, we've got CEO, directors, managers, and then - I'm just looking at the second row - Councillor Support officer. So is the position now that, in respect of

operational or strategic advice, managers and Councillor Support officer has been removed?

5 **MR BRETON:** That's my understanding, yes. Just looking at the - referencing this table to the other table, yes.

MS McDONALD: And then -

10 **COMMISSIONER:** I have it open on my screen. I can just assist. It's CEOs, director and Councillor Support officer.

MR BRETON: Yep. Yep.

15 **COMMISSIONER:** So managers has been removed?

MR BRETON: Managers, yes. And the Councillor Support officer - by way of process, because it - that's the conduit.

20 **COMMISSIONER:** And that's the person or one of the people who sits in the Councillor Support team, to whom those emails go?

MR BRETON: That's exactly right. That is the email administrator, yep.

25 **MS McDONALD:** And then the final one, if we can move - just have a look at that - and I haven't got the new one up. There, again, is it - you know, you can see that there's reference to executive assistant to the mayor, executive assistants to the CEO, IT helpdesk, et cetera. Is it your recollection that all of those have been removed other than CEO and directors or -

30 **MR BRETON:** I'm going to refer to the Commissioner.

35 **COMMISSIONER:** At the risk of giving evidence myself. So I'm only looking at the one that was attached to the business paper because I went to the website and I clicked on the link and it sent me to a thing called Squid or something requiring a login, but this is what was attached to the business paper. And that last row in the second column says:

40 "Executive services staff, Councillor Support officers, executive assistant to the mayor."

That's all - the only three that are there.

MR BRETON: Okay. That makes sense.

45 **COMMISSIONER:** This was passed?

MR BRETON: Yes.

COMMISSIONER: So as it was put up it was passed?

MR BRETON: Yes.

5

COMMISSIONER: All right. What are Executive Services staff? Who's within that ambit?

MR BRETON: The team comes under Tina Bono and looks after Civic and
10 Executive Services. So the team that runs the council meeting and runs Executive Services events.

COMMISSIONER: So they are - are they manager level or below?

15 **MR BRETON:** No, below. Below.

COMMISSIONER: So for that material, councillor support and requests - what's within that column? That row, I should say. There's been - that's identical in the
20 version that was passed. What's the difference for that, between access to documents and operational strategic advice?

MR BRETON: I guess the - it's a formal request for anything other than - including
and/or documents. Documents is discrete. They want a document. And on the other
two, it appears that - or my interpretation is that it's more of an advisory request.
25 "Can you tell me about this," or this strategic position or this operation or, "What are you doing about illegal waste?" And then the Councillor Support requests are the, "I need support in doing this and I kind of need data," or need something else. I guess that's my interpretation.

30 **COMMISSIONER:** Is there overlap?

MR BRETON: Yeah. Yeah, I don't think they're described particularly well.

COMMISSIONER: Because the third row would then allow councillors to contact
35 staff below manager level, would it not? Whereas the other two - save for Councillor Support - that team - send them to you or the executive leadership team.

MR BRETON: Yeah, it looks like they're quite - the third category is quite routine and transactional. I note the timeframe. Knock it over in days.
40

COMMISSIONER: So is the last column perhaps informative that it refers to administrative support?

MR BRETON: Yes.

45

COMMISSIONER: Is that what's intended by that?

MR BRETON: I think that's the intent, Commissioner.

COMMISSIONER: You think that might be able to be clarified? Whether in the document or by way of training and - you know, just -

5

MR BRETON: Perhaps what would be helpful is a description of the title and the - so what is - what is meant by access to documents. What is meant by councillor support and request. What falls in the ambit, what - why are they categorised in that way.

10

COMMISSIONER: Yes.

MR BRETON: What demarcates categories -

15 **COMMISSIONER:** That might help staff as well as councillors, do you think?

MR BRETON: Agreed.

20 **MS McDONALD:** I've now got it up on the screen. You haven't got the final column, which was Recordkeeping Requirements. And I've only got the new attachment A on the screen and I don't know - is that dealt with elsewhere?

MR BRETON: I don't know. I assume so.

25 **MS McDONALD:** Because that's pretty -

MR BRETON: I mean, we're governed by the Records Act. I mean, it's clear that we have recordkeeping requirements. I don't know why that's been taken out of the table, if it has been.

30

MS McDONALD: Because there is evidence before the inquiry of - although you have requirements under legislation about keeping of records, that that on occasion isn't observed.

35 **MR BRETON:** Yes.

MS McDONALD: But you don't know off the top of your head why that column was -

40 **MR BRETON:** I don't.

MS McDONALD: And can I just turn to the column Restrictions to Information. You've removed, for example, in the first row there are no specific restrictions, but you've kept the CEO and the - is somebody missing there? The CEO and the something have discretion?

45

MR BRETON: Public officer?

MS McDONALD: I don't know. It's missing.

5 **COMMISSIONER:** Yes. Public officer was in the last one and it's missing in the current one.

MR BRETON: Okay.

10 **MS McDONALD:** So the CEO and the public officer have discretion to refuse a request on legitimate grounds. That was - that part was in it before. Has there been ever any request or raising for articulation about what the legitimate grounds would be?

15 **MR BRETON:** Can you ask the question again?

MS McDONALD: Sorry. Can you see -

MR BRETON: Yes, I can see the wording.

20 **MS McDONALD:** That existed previously?

MR BRETON: Yes.

25 **MS McDONALD:** On its face, it looks - a discretion which is linked to legitimate grounds but no articulation about what the legitimate grounds are.

MR BRETON: Yes.

30 **MS McDONALD:** I'm just wondering, to your knowledge, under the old policy - and probably under the new policy it's too soon - has there been any question raised about what are the legitimate grounds, how do you determine them?

35 **MR BRETON:** Yeah. Or civic purpose. Civic purpose has been the clear catalyst for what a request - whether it meets it or not - So is it for a civic purpose. And then is it - does it present an adverse condition on employees if it's, you know, going to take two weeks and \$5000, et cetera. And there were - those time and cost thresholds applied.

40 **MS McDONALD:** And the determination of the cost and time that will be involved, you seek that information from the particular director or manager that would be looking after the particular request?

MR BRETON: Usually it's flagged back to me.

45 **MS McDONALD:** With that information?

MR BRETON: Yeah, "This is going to take three weeks and we haven't got" - and it's - the records are archival and X, X, X. Yep.

MS McDONALD: Excuse me for a minute.

5

COMMISSIONER: Did anything in particular prompt a review of this policy or was -

10 **MR BRETON:** Yeah. Details set out in the ARIC report. Basically the staff had had enough of - particularly the volume, but the nature of the requests was so onerous that we had staff 100 per cent of the time managing this stuff.

15 **COMMISSIONER:** Did you keep statistics on the volume - do you - I'll withdraw that and start again. Does the Council keep statistics on the number of councillor requests coming through in any given period?

MR BRETON: Yes.

20 **COMMISSIONER:** Have you looked at any trends over time?

MR BRETON: Yes. There's been an exponential growth since the new Council was formed.

25 **COMMISSIONER:** Thank you.

MS McDONALD: I want to ask you some questions broadly about the budget.

MR BRETON: Yes.

30 **MS McDONALD:** Could document INQ.001.001.1122 be brought up, please. You can see these are the minutes of the ordinary meeting held on 26 November. Not yet.

ASSOCIATE: Do you want this document on the live stream?

35 **MS McDONALD:** Yes, please.

MR BRETON: Yes, I can see them.

40 **MS McDONALD:** And can we move through to page 30. Now, you'll recall that the budget that was passed in June '24 suggested that there would be - would be back in the black, a surplus?

MR BRETON: Yes.

45 **MS McDONALD:** And that was because of the inclusion of - or the forecasted sale of two properties.

MR BRETON: Yes. It went surplus, deficit based on those two properties.

MS McDONALD: You took over from Mr Ajaka - so you were the acting CEO when the budget was finalised?

5

MR BRETON: Yes.

MS McDONALD: The - you've heard the evidence about the issue of making two directors and some managers redundant?

10

MR BRETON: Yes.

MS McDONALD: That was raised in the - I think in the various email and then the meeting of April.

15

MR BRETON: Yes.

MS McDONALD: That wasn't pursued as a budget strategy for this budget?

20

MR BRETON: No.

MS McDONALD: It relied on basically the sale of two properties?

MR BRETON: Yes.

25

MS McDONALD: And in this document - I'm sorry, in this part of the minutes, there's a reference to, at first, a budgeted adjustment, and there's a reference to Project 24 report, which we'll come back to. But that propose that it be deferred and dealt with as part of the Project 26 report was lost?

30

MR BRETON: Yes.

MS McDONALD: And then there is a motion that's because 3 Hoxton Park Road was not going to be sold, that there had to be an adjustment in terms of revenue and the ultimate surplus that was forecasted to be made from the sale?

35

MR BRETON: Yes.

MS McDONALD: And then if you follow down the resolution, it includes adjustment of the budget to reflect the resolution of Council not to dispose of 3 Hoxton Park Road. And then, fourthly, for you to secure an optimal leasing option for that property and to report back.

40

MR BRETON: Yes.

45

MS McDONALD: Now, can we bring up, please, document LCC.004.004.7338. This is the confidential booklet for the meeting of the - excuse me. Sorry, just before I move from that first page, it's a confidential booklet for 26 February?

5 **MR PARISH:** Commissioner, some of the information in here relates to ongoing projects that are commercially sensitive.

COMMISSIONER: Have I made an order about this? Yes.

10 **MR PARISH:** I think it's a TBC.

COMMISSIONER: All right. Can we - well, pursuant to section 12B of the Royal Commissions Act, I direct that the content of - is it over the whole document?

15 **MR PARISH:** I expect there are certain aspects to it that are ongoing.

COMMISSIONER: Can we deal with it in this way. If counsel assisting - we won't put it on the live stream. If counsel assisting goes to the page to which she intends to take the witness, you can tell me if there's a problem. And then I'm happy to make an
20 order over the particular parts of it that you wish to press for a confidentiality order in due course.

MR PARISH: Thank you, Commissioner. Yes.

25 **COMMISSIONER:** All right. So we won't put it on the live stream, and we'll just go to the page first and we'll see if we have to do anything more.

MS McDONALD: All right. Could we first go to page 3. And can you see Confidential Report Number 1 Project 26?
30

MR BRETON: Yes.

MS McDONALD: Then I want to go to page 5.

35 **COMMISSIONER:** Mr Parish, is Project 26 part of the concern? I heard two yeses before you even got -

MR PARISH: Yes.

40 **COMMISSIONER:** Because -

MS McDONALD: All right. I want to go to page 4 with the four initiatives.

COMMISSIONER: I think I am interested to hear about Project 26 in a more
45 expansive way. So perhaps it's - rather than us tip-toeing around it, it's probably convenient to do it in private and then review the transcript and only redact those

portion that are necessary. So then Mr Breton can tell me about the initiatives in more fulsome terms. Is that a - is that convenient?

MS McDONALD: Yes.

5

COMMISSIONER: All right. Pursuant to section 12B of the Royal Commissions Act, I direct that this next passage of hearing take place in private, and that the transcript of this session not be published otherwise than in accordance with the usual direction. And everybody who's in here can stay. Yes. Thank you. And I'll just wait for the operator.

10

<THE HEARING ADJOURNED TO PRIVATE SESSION AT 12.50 PM

<THE HEARING RESUMED AT 3.09 PM

15

COMMISSIONER: Yes. We're in public. Thank you.

MS McDONALD: Mr Breton, I was asking you some follow-up questions from the evidence you gave the other day about standing as a candidate in the December '21 Council election at Liverpool.

20

MR BRETON: Yes.

MS McDONALD: And you gave evidence of having a discussion with Mr Mannoun, attending his electoral campaign office -

25

MR BRETON: Yes.

MS McDONALD: - and a suggestion being made to you, I think by Mr Harte, that you may want to stand as a ticket for independents.

30

MR BRETON: Yes.

MS McDONALD: As part of your campaign, did you receive any donations to assist you in your campaign?

35

MR BRETON: One.

MS McDONALD: How much was that for?

40

MR BRETON: \$5000.

MS McDONALD: Who was that from?

45

MR BRETON: Sam Sofi,, is-o-, if-i.

MS McDONALD: And where is he from?

MR BRETON: He's a Liverpool local, restaurateur and kind of very popular known person around Liverpool, involved in many, many activities, most notably motor racing.

5

MS McDONALD: Didn't you receive \$1000 from Mr Mannoun?

MR BRETON: Not to my knowledge.

10 **MS McDONALD:** Would document JCA.001.0001.0007 - yes. Thank you. If we go to - not the top email, but can you see an email from you dated 23 November?

MR BRETON: Yes.

15 **MS McDONALD:** This is from you to Mr Mannoun:

"Thank you so much for your support of my campaign to run for a seat in the South Ward. As a Liverpool local, born and bred on the streets, et cetera, your kind assistance will help me with advertising and costs associated with my campaign, which would not be possible without you."

20

MR BRETON: Yes.

MS McDONALD: What you are acknowledging is a donation of \$1000 that came through Mr Mannoun as a conduit - in a sense, as a conduit?

25

MR BRETON: Is that a question?

MS McDONALD: Yes.

30

MR BRETON: What is the question?

MS McDONALD: What you are acknowledging is that you received money via a bank transfer for your campaign, which Mr Mannoun organised.

35

MR BRETON: I can't recall the \$1000 you refer to.

MS McDONALD: Excuse me for a sec. Probably a silly question. In November 2021, you had a bank account?

40

MR BRETON: Yes.

MS McDONALD: That bank account was in your name?

45 **MR BRETON:** Yes.

MS McDONALD: I'll show you this document. I'm sorry. You can give one to the Commissioner as well. Can I first ask you - this is at - what's known as a trace document?

5 **MR BRETON:** Okay.

MS McDONALD: Can I first take you to the information under BSB and account?

10 **MR BRETON:** That's my account.

MS McDONALD: Right. This is from the bank and it records a transfer of \$1000 from a particular bank account into your bank account, with the reference, "Election contribution".

15 **MR BRETON:** Yes. I'm concerned about the transaction amount.

MS McDONALD: Why?

20 **MR BRETON:** Well, I can read it as \$100,000. Where's the amount?

MR BRETON: It's under Transaction Amount and it's in the amount of \$1000.

MR BRETON: Okay. So it's - I've got a number here, "0000100000".

25 **MS McDONALD:** Last two are cents. We can show you -

MR BRETON: In any case, I have no - I have no recollection whatsoever of that contribution amount.

30 **MS McDONALD:** All right. The - if we can go back to the email -

MR BRETON: Yes.

35 **MS McDONALD:** - which was JCA.001.0001.0007. And if you can just move it down a little bit and we just concentrate on that. That was your email address?

COMMISSIONER: That's been redacted on the screen.

40 **MS McDONALD:** Sorry. Oops.

MR BRETON: Yes.

MS McDONALD: Addressed to Mr Mannoun?

45 **MR BRETON:** Yes.

MS McDONALD: What I'm suggesting to you is that - and, sorry, I'll start again. You sent that email to Mr Mannoun?

MR BRETON: Yes.

5

MS McDONALD: What that email is in substance referring to is the thousand dollars that was transferred into your account.

MR BRETON: Okay.

10

COMMISSIONER: Do you agree or disagree or you don't know?

MR BRETON: I do not recall that transaction, but I retrospectively thank Mr Mannoun for doing so. I thought I had one donation from Sam Sofi at \$5000 and I'd run the rest of the failed campaign on my own coin. Did miserably and moved on with it.

15

MS McDONALD: But is the position you're not denying you received \$1000 as a contribution to your campaign, you just can't recall at the moment?

20

MR BRETON: I can't recall at any stage, and I'm not denying anything. I've got records in front of me - exhibits in front of me that indicate that my name, my bank account and a number - if there was a decimal point, looks like \$1000, and a thank you email. So I think the evidence is clear that \$1000 was donated. I don't recall it whatsoever.

25

MS McDONALD: All right. The email that you have forwarded would suggest that - sorry, I withdraw that. The email is thanking Mr Mannoun; correct?

30

MR BRETON: Yes.

MS McDONALD: Can you recall any discussion with him about the source of the funds? Where the funds were originating from?

35

MR BRETON: It's impossible to answer because I don't recall the donation.

MS McDONALD: Okay.

MR BRETON: So the answer's no.

40

MS McDONALD: Have you heard of a company called Icon Property Investments?

MR BRETON: No.

45

MS McDONALD: Excuse me. Even - my question about Icon Property Investments, whether you had heard of it, that also includes up until today. Have you got any recollection of that company?

MR BRETON: No, I don't know who Icon Property Investments are.

MS McDONALD: Could document LCC.006.001.0650 be brought up.

5

MR TYNAN: Commissioner, I'd just note that the date on the bank extract - the -

COMMISSIONER: Yes.

10 **MR TYNAN:** - landscape document is the - post date the email dated the 23rd. I don't know if there's anything -

MS McDONALD: We looked at that. Our understanding is it's just a delay in the information being contained in the bank records as reflected in the trace document.

15

MR TYNAN: Okay.

ASSOCIATE: (Indistinct)?

20 **MS McDONALD:** Yes. Do you recall receiving this letter towards the beginning of the year?

MR BRETON: Can I see the letter, please? A bit more detail of it.

25 **MS McDONALD:** In particular the first paragraph, which refers to a particular company - or at least one company.

MR BRETON: Yes.

30 **MS McDONALD:** And then if you note the second paragraph, it asserts:

"It is noted that at the request of the mayor our client donated" -

35 now, the amount there, there is a discrepancy in the amount and the trace amount in the - from the bank records. It nominates 2000, but the trace document is 1000 to your campaign. Now - and also, if you go to the top of the page, where it lists the addressees of this document, it refers to you and has your private email address. Again, they're not using your Council email address?

40 **COMMISSIONER:** Yes, it's redacted on the screen.

MS McDONALD: It's redacted. Sorry. Will you accept from me -

45 **MR BRETON:** I'll accept that, but what I'm challenged with is we have - you took me to evidence that Mr Mannoun donated some money - the wrong amount, and now you're taking me to another piece of evidence that says that Icon Properties donated a different amount. So I'm really challenged with where -

MS McDONALD: No, no. Just listen to me. What we have is an email from you thanking Mr Mannoun; correct?

5 **MR BRETON:** Correct.

MS McDONALD: And I put to you that - and then we have evidence that around this time \$1000 was deposited into your bank account with the reference "Election contribution".

10

MR BRETON: Yes.

MS McDONALD: And with the source document and your email to Mr Mannoun, what I suggested to you was that your email to Mr Mannoun seemed to be - or was thanking him for some kind of financial contribution.

15

MR BRETON: Yes.

MS McDONALD: And my recollection is that although you don't have a recollection of this, you agreed that that seemed plausible.

20

MR BRETON: Yes.

MS McDONALD: I then asked you about your knowledge of a company called Icon Property.

25

MR BRETON: Yes.

MS McDONALD: You said that you had no recollection of it.

30

MR BRETON: No, not really.

MS McDONALD: What I'm referring you to now is that in January of this year you received - and if you can accept it from me - an email in your personal email account which refers to this company, Icon Properties Proprietary Limited.

35

MR BRETON: No, there's no evidence at all that I received that email. I think if I'd have received this email I would have done something about it.

40 **MS McDONALD:** If you go down to page 3 -

COMMISSIONER: Hang on. So from those answers, do I take it that your evidence is you haven't seen this before now?

45 **MR BRETON:** No.

MS McDONALD: Could we bring up LCC.006.001.0603. And if we can go down to page 3. And just (indistinct). And if you - can you see there's an email from Mary Page, a firm of solicitors, and it's to you. But again, I don't have a hard copy. I can obtain a hard copy, but it's to your private email address.

5

MR BRETON: Yes. Yes, that's -

MS McDONALD: And then if we can move up the document.

10 **MR TYNAN:** Can I just pause here and say we have not really had a chance to digest this document, and I think what we're about to go to is the general counsel talking to this document for some reason. I have no idea -

15 **COMMISSIONER:** Okay. Pull it off the live stream for the moment. And then can we put up in the room.

MR TYNAN: Thank you.

20 **COMMISSIONER:** And we'll go to the first page and then -

MS McDONALD: Could we start at the bottom, because it makes a little bit more sense.

25 **COMMISSIONER:** All right. I just want Mr Parish to have a chance to have a look at the document and -

MS McDONALD: I'm sorry.

30 **COMMISSIONER:** - let us know if there's an issue. Do you have it otherwise or would you like it brought up in the room?

MR PARISH: I assume it's been notified (indistinct).

35 **COMMISSIONER:** Okay. I might just notionally adjourn. I won't leave the bench but, Mr Breton, if you need to stretch your legs - or would be more comfortable -

MR BRETON: No, I'm all right.

40 **COMMISSIONER:** But - hang on. You can come in. It's okay.

MS McDONALD: Excuse me for a second.

COMMISSIONER: Yes.

45 **MR PARISH:** Thank you for the opportunity. No privilege or confidentiality claim over it from our point of view.

COMMISSIONER: Thank you. All right. So the document can go back.

5 **MS McDONALD:** Sorry. So just taking you through this, Mr Breton. Where are we up to? Yes, we're right. Can you see you're being forwarded - and I apologise, I don't have a paper copy. I can obtain one for you. But will you accept from me that the email address there is your private email address?

MR BRETON: Yes.

10 **MS McDONALD:** So that's - that is sent to you and you can see in the body of the email:

"Please find attached a letter from solicitors."

15 **MR BRETON:** Yes.

MS McDONALD: And then immediately above that, what - stop. What this appears to be is you then forward that email that went to your private email address to your email address at Liverpool?

20

MR BRETON: Yes.

MS McDONALD: Do you see that?

25 **MR BRETON:** Yes.

MS McDONALD: And you've got a question:

"Why was sent to private email?"

30

MR BRETON: Yes.

MS McDONALD: Do you see that? And then, if we keep on going, you just refer it all to - where you've got "David", I assume that's Mr Galpin?

35

MR BRETON: Yes. Yes.

MS McDONALD: And then if we go to the top of the page, we've got Mr Galpin communicating with Mr Day and also Mr Portelli about the content of the letter that you received from the solicitors?

40

MR BRETON: Okay. Yes. Yep.

45 **MS McDONALD:** Now, what I want to suggest to you - and maybe if we can just fix another piece in the puzzle - could we go back to JCA.001.001.0007. When I brought this up before - if we keep on moving up - what I drew your attention to, Mr Breton, was your email to Mr Mannoun.

MR BRETON: Yes.

5 **MS McDONALD:** All right. If we go to the top of the document, it would appear that Mr Mannoun has forwarded your email to Joe@IconPropertyInvestments.

MR BRETON: Yes.

10 **MS McDONALD:** Do you see that?

MR BRETON: Yes.

15 **MS McDONALD:** If we jump back to - excuse me for a minute - LCC.006.001.0603. And if we go to the bottom of the email chain again, again you've accepted, Mr Breton, that this email from the solicitors attaching that letter was sent to your private email address?

MR BRETON: Yes.

20 **MS McDONALD:** Then if we move a little bit forward, you seem to have a query about:

"Why was it sent to my private email address?"

25 Which you've forwarded to -

MR BRETON: Talking to myself, yes.

30 **MS McDONALD:** Yes.

MR BRETON: Yep. And I sent it to the work address, yep.

MS McDONALD: Yes. And then you forward it on -

35 **MR BRETON:** Directly to the general counsel, yes.

MS McDONALD: - to David.

40 **MR BRETON:** Yep.

MS McDONALD: So just pausing there, the company Icon Properties Proprietary Limited, it would appear that in January of this year you have heard about that company at least for the first time?

45 **MR BRETON:** I just don't recall Icon Property Investments. Cannavo - the name Cannavo is -

MS McDONALD: I think he's the principal of the company.

MR BRETON: I think we're in disputes with him at the moment.

5 **MS McDONALD:** Just trying to explore - back in 2021, when you were standing for election, do you recall Icon Properties Proprietary Limited or Mr Cannavo being mentioned or referred to you?

MR BRETON: No.

10

MS McDONALD: Your evidence is the first time you've come across that company and that individual is either in January of this year or maybe some time late last year because of a dispute between the company and Council?

15 **MR BRETON:** I think so. I just didn't remember Icon Property. Cannavo, absolutely know - know of the issues we're dealing with at the moment. And as far as the pass-on from Icon into Mannoun into Breton, I've given my evidence there.

20 **MS McDONALD:** Okay. The trace of the money, \$1000, is it actually came from Icon Properties.

MR BRETON: Okay.

25 **MS McDONALD:** But is your evidence that, from the documents put before you, the thousand-dollar donation or financial election contribution, your view was that it came from Mr Mannoun?

30 **MR BRETON:** Yes. I would have had to disclose this to the Electoral Commission after the - I'm obliged to disclose all donations post-election in a form to the Electoral Commission. So - and my evidence remains exactly the same as I've said today. I may be proven wrong by that disclosure, but there should be a document that supports either your version or my version.

35 **MS McDONALD:** Sorry, what's your version?

MR BRETON: My version is I got - I don't remember this 1000.

MS McDONALD: All right. So you don't remember it?

40 **MR BRETON:** That's my evidence.

MS McDONALD: Though you accept there is documents which would support that \$1000 was transferred into your private account?

45 **MR BRETON:** Yes.

MS McDONALD: Excuse me. Commissioner, the two documents that weren't - excuse me. The two documents that were not redacted that we just showed Mr Breton, could they be marked for identification, please.

5 **COMMISSIONER:** Yes. The two documents, unredacted, shown to Mr Breton during his evidence this afternoon, being WBC.001.001.0001 and JCA.001.001.0007 will be MFI21.

10 <**MFI #21 TWO UNREDACTED DOCUMENTS BEING WBC.001.001.0001 AND JCA.001.001.0007 SHOWN TO MR BRETON DURING EVIDENCE ON AFTERNOON OF 01/09/2025**

15 **MS McDONALD:** Mr Breton, you've given evidence that though you stood for election you were a bit naive?

MR BRETON: Very.

20 **MS McDONALD:** Had you ever come across the concept of a dummy group standing as independents, the aim being that they appear to be independents but they will immediately channel their preferences off to one of the established parties?

MR BRETON: Like the Teals.

25 **MS McDONALD:** I think a little bit different from that, that -

COMMISSIONER: Perhaps just go back to the question. Ask the question again and let's focus on the question.

30 **MS McDONALD:** Had you come across - it's a strategy or a technique used by the major parties, and what it entails is that you have a ticket of ostensibly four or five independents. What they are, in substance, is, in a sense, a dummy or a front so that people may vote for them but their preferences will automatically go to a major party.

35 **MR BRETON:** I understand.

MR TYNAN: Can I just stand on my feet?

40 **COMMISSIONER:** Yes.

MR TYNAN: I don't have an objection insofar as - well, I withdraw that. Two objections. The first is about the time of when Mr Breton was standing. That just wasn't made clear. If that could be made clear. And then secondly, if the question could just be broken down, because I thought it was lengthy. But if Mr Breton understood it, then I withdraw that.

COMMISSIONER: I think the timing is important.

MS McDONALD: Yes. No, I take that point. I'm talking about when - roughly October, November, December 2021, right?

5 **MR BRETON:** I had no idea of that concept. If you're asking me today -

MS McDONALD: No, I'm not interested in today.

10 **MR BRETON:** Okay. Then my answer's the same. No idea. No idea what I was doing. Ego probably got the better of me. I thought it was a good idea. I had a crack, didn't do very well and that's, as far as I was aware, pretty much the end of the story.

15 **MS McDONALD:** Even though the ticket that you were part of appears to have been organised by Matthew Harte?

MR BRETON: It was. That's my evidence, yes.

MS McDONALD: Who was part of the Liberal Party campaign for the Council?

20 **MR BRETON:** Yes.

MS McDONALD: And that in addition you're sending an email to Mr Mannoun thanking him for his assistance and also, I would suggest to you, receiving \$1000 in financial assistance?

25 **MR BRETON:** Yes.

MS McDONALD: Even in the - because, Mr Breton, you're not a naive man?

30 **MR BRETON:** No.

MS McDONALD: You've - were very high up within the police force.

35 **MR BRETON:** Yes.

MS McDONALD: You occupied many important and responsible positions within either public or private enterprise.

40 **MR BRETON:** Yes.

MS McDONALD: In those circumstances, I would suggest to you, it's really not believable that you didn't know what was going on in November/December '21 when you stood for Council.

45 **MR TYNAN:** Can I object. I don't know that there's a premise for - to suggest that this is not believable.

COMMISSIONER: I'm sorry, Mr Tynan, I just didn't hear the last bit of that.

MR TYNAN: I said I don't think is there a premise for the proposition to be put to Mr Breton that his evidence is not believable.

5

COMMISSIONER: Yes.

10 **MS RICHARDSON:** (Indistinct) related objection, that there is no premise for the fact that this is "what was going on". So we've had an (indistinct) from a hypothetical that sometimes major parties engage (indistinct) no evidence of what was in fact going on, and now it's been conflated to put to this witness - not only was it going on, which hasn't been put, but a very serious attack on his credit is being put on that basis (indistinct) objection, in my submission.

15 **COMMISSIONER:** I think both of those things are right.

MS McDONALD: Yes.

20 **COMMISSIONER:** So I reject the question.

MS McDONALD: What I'm saying to you - or suggesting to you, Mr Breton, is - and maybe - I'm sorry. What I'm suggesting to you is that is what was occurring back in November/December 2021 when you stood as part of that ticket for the Council.

25

MS RICHARDSON: (Indistinct) that. Still no clarity as to what was occurring. This is a very serious allegation. It needs to be broken down and put to the witness as to what is being positively put was occurring and query whether there is a basis for the final question.

30

COMMISSIONER: Well, I'll deal with the first half first. I think - I think the point is valid. Just need to clarify what it is that you're suggesting was happening. And then Mr Breton's clear exactly what he's being asked to respond to.

35 **MS McDONALD:** Mr Breton, if I can put it to you in this way. What I'm suggesting is that the ticket that you stood on with two other Hartes and the other gentleman whose name I've forgotten - this is what I'm ultimately putting to you was a front so that voters would be attracted to what ostensibly seems to be independents which were really a dummy for an established party because what happened is your - the
40 preferences would be immediately allocated to the major party. That's what I'm putting to you.

45 The basis for me to put that to you is that you had a meeting and dealings with Mr Mannoun. You went to his campaign or electoral office and the whole concept of this independent ticket was put forward by one of his campaign workers, Mr Harte, right? The other aspect that I would put to you is that the preferences went to the Liberal Party. And then the evidence that we've seen today that Mr Mannoun is assisting you

in your campaign, as evidenced by the email that you sent to him - and also, I would put to you, that you received \$1000 from him. So that's what I'm putting to you and that's the basis on what - that I'm putting that to you. Do you agree that at the time, that was what was occurring?

5

MR BRETON: No.

MS McDONALD: In retrospect, looking at it, do you have a belief that that is what was occurring?

10

MR TYNAN: I object to that. I'm not sure how that assists the inquiry. Speculating on now - on how he might have considered it back then.

COMMISSIONER: Yes. I reject that question.

15

MS McDONALD: At the time, so we're talking October/November 2021, did it ever pass your mind that that might have been what you were involved in?

MR BRETON: No. Because by - involvement would mean I understood the activities. So the answer is no.

20

MS McDONALD: So at no time did it pass your mind that this might be why Mr Mannoun was helping you so much, giving you \$1000 -

MR TYNAN: Can I object? I mean, the witness has - these propositions have been put to Mr Breton, he's answered it. He's answered it categorically, and now he's being asked again whether it was in his mind at the time. He actually just answered the question before that.

25

MS McDONALD: Not as a definite proposition but whether it passed through his mind at all, the possibility.

30

COMMISSIONER: I think it's been answered, but you can answer it again.

MR BRETON: Do you want me to answer it again?

35

COMMISSIONER: Yes.

MR BRETON: No. No. Not everything that's brown and wiggles in the grass is a snake. In retrospect, you can put these pieces together and they look fantastic as evidence. I've given my - I didn't have a clue what I was doing. I thought that was blatantly obvious by the fact that I hadn't met any of my running partners.

40

MS McDONALD: You hadn't what?

45

MR BRETON: I hadn't met them. I gave it in evidence last week. I didn't know the Hartes. I didn't know the two other gentlemen on the ticket. It was a suggestion that

was given to me. I thought it was a damn good idea. I thought I'd have a crack and I failed miserably, and then when I went for a job at Liverpool City Council I failed that as well.

5 **MS McDONALD:** Well, no. You got ultimately an acting role as a director.

MR BRETON: Correct.

10 **MS McDONALD:** And then -

MS RICHARDSON: I object to that. What's the basis of that question? That the outcome of a failed election is that he got a particular type of employment?

15 **COMMISSIONER:** I'm not sure that was the question.

MS McDONALD: No. I was following -

COMMISSIONER: I think it was responding to something Mr Breton said.

20 **MS RICHARDSON:** Well, you know, these are very serious allegations. They need to be broken down, in my submission, as to exactly what's being put and the basis upon which they're being put.

25 **COMMISSIONER:** Not disagreeing with you. I just - not sure that was the question, but we can start again with a fresh question.

30 **MS McDONALD:** Mr Breton, you just gave in an answer, "I didn't get the job at Liverpool City Council." But you did get a job as - I think it was an acting director - I forget what it was - of City Presentations, was it?

MR BRETON: Correct.

MS McDONALD: Then you became an acting director of Operations?

35 **MR BRETON:** Yes.

MS McDONALD: And then you became the director of Operations?

40 **MR BRETON:** Correct.

MS McDONALD: And in answer to my question last week, at no time in you applying originally unsuccessfully for the CEO and for these subsequent positions did you reveal your association with Mr Mannoun that arose from October, November, December 2021?

45 **MR BRETON:** No.

MS McDONALD: What I suggest to you is that association is something that you should have revealed when you were applying for the various positions.

5 **MR BRETON:** I wasn't required to. And what was the association? I only met him for a short period.

MS McDONALD: And you got \$1000 from him and you received assistance from him in your campaign.

10 **MR BRETON:** The period of time between these events, it's not - I didn't - I have never, you know, had a meal at anybody's home, I haven't - I'm not this person's friend, okay? I was in a circumstance where I was introduced to Mr Mannoun - this is all in evidence - I did a little bit of work for him, putting the Gantt chart up, and during that process had a discussion about some candidacy for running. Didn't have a
15 clue how to do it. Didn't do the forms. Didn't know who was on my ticket. I think that all goes to demonstrate my mind at the time and, per chance, an opportunity comes up at Liverpool City Council, which - they come up, apparently, all the time, but per chance I applied for it through an independent third party and failed. Didn't get the job. And the assumption is that - or the assertion is - which is, with respect,
20 really distasteful, that by some way what I - the circumstance in two thousand - parachuted me into this - well, my talent -

MS McDONALD: No, I'm not putting that.

25 **MR BRETON:** My talent got me there.

MS McDONALD: Mr Breton, what I put to you was, given that association, were you of the view that that was something that should have even been revealed or disclosed when you were applying for those different positions? Your answer is that
30 your view is, no, that they didn't?

MR BRETON: N-o. Clearly no.

35 **MS McDONALD:** Excuse me for a minute. All right. I'm moving to a different topic. Excuse me for a minute. Excuse me. Excuse me for a minute. Sorry, Mr Breton. Could you bring up document INQ.001.001.1043.

ASSOCIATE: Would you like that document live streamed?

40 **MS McDONALD:** Yes, please. Now, this is the agenda for the government's committee meeting back in October 2023.

MR BRETON: Yes.

45 **MS McDONALD:** Could we move to page 223. Can you see there this is - thank you - a report that you prepared as the director of Operations, dealing with the delivery management framework?

MR BRETON: Yes.

MS McDONALD: And if we just move through the document, it commences with:

5

"The Operations directorate conducted a review of how Council delivers major projects. In fact, all of its projects."

MR BRETON: Yes.

10

MS McDONALD: And if we continue down, just - can you see you say:

"In designing our response and by using WestInvest as the catalyst, the Council has designed and is delivering a new approach for the deliver management framework."

15

MR BRETON: Yes.

MS McDONALD: And then you've got - if we move a little bit further down:

20

"The DMF is made up of an online framework of standard forms and templates managed centrally, increased transparency in project financials with direct inputs from" -

And is that a particular system, Tech One?

25

MR BRETON: Yes, finance system.

MS McDONALD: And then:

"Data analysis and project health reporting via PowerBI."

30

Another system?

MR BRETON: Yes.

35

MS McDONALD: And then it continues:

"Collectively, the DMF allows the Director Operations to understand five key project metrics."

40

And if we continue to the next page:

"The budgeted cost of the project, the timeliness for project delivery, the cost of the project to date, committed funds for ensuing period and the project's cost to complete."

45

MR BRETON: Yes.

MS McDONALD: Now, this, as - and I've just taken you to the outline there, or the summary. So this is a particular framework which, as it said - inspired by - is it the project framework or project - management project framework that was established by the State Government for the WestInvest grants?

5

MR BRETON: No. No, the genesis of this was just - it's just essentially a project management framework. Most of the fundamentals are from Downer, and I use WestInvest as the catalyst because I'd just been landed \$150 million in a project portfolio and wanted to start better project governance using that project.

10

MS McDONALD: All right. We've heard evidence concerning one of the WestInvest grants, which involve the Carnes Hill pool.

MR BRETON: Yes.

15

MS McDONALD: And you will recall the evidence was that the grant was for a 50-metre pool.

MR BRETON: Yes.

20

MS McDONALD: A variation to that grant was sought and obtained, where the 50-metre pool is now a 25-metre pool.

MR BRETON: Yes.

25

MS McDONALD: The evidence of Ms Tinson was that the reason - put broadly, the reason for the variation is that there was a flaw or problem with the costing that was used in the application for the grant.

30

MR BRETON: Yeah, the cost estimation was poor. Yes.

MS McDONALD: Have you looked at that?

MR BRETON: Not recently.

35

MS McDONALD: What was the basis of the cost estimation being poor? What was the problem?

40

MR BRETON: I think fundamentally they do a QS at a certain stage two years before the grant's offered or a year before the grant's offered, and market circumstances mean that the cost of materials escalate and - that there's increased price.

MS McDONALD: All right.

45

MR BRETON: And I think on this occasion - I think Turner & Townsend done the QS and may have added an extra zero in there somewhere.

MS McDONALD: I'm sorry. Say that again?

MR BRETON: Turner & Townsend did a QS or a report on -

5 **MS McDONALD:** Can I just pause you, when you say QS -

MR BRETON: A quantitative survey - surveying report.

10 **MS McDONALD:** Yes.

MR BRETON: And there was an anomaly in their figures as well.

MS McDONALD: Was the QS report the basis for the grant? Or was that

15 something -

MR BRETON: I think it was post the grant.

MS McDONALD: All right.

20 **COMMISSIONER:** Was the genesis of that project and the application for the grant - was that before your time?

MR BRETON: Yes.

25 **COMMISSIONER:** And was - did you review that process as part of this piece of work that's been put on the screen?

MR BRETON: Yes. I mean, these kind of problems, this and many others, were the

30 reason the DMF was implemented.

COMMISSIONER: When you say this and many others, what other sorts of - I take it project-management type issues?

35 **MR BRETON:** Almost identical project-management type issues where grant funding and co-funding didn't add up to the project budget, the cost of the project. So I had a project - Governor Macquarie Drive is a good example, where we had 6 million co-funded by the Federal Government, so a six and six, Federal Government and the Council, but the first cost estimate was 20.

40 **COMMISSIONER:** I see.

MS McDONALD: So just focusing on that problem, that the cost estimate that is put forward as the cost of the project and the basis of the grant - as part of this

45 procedure - or procedure, how have you tried to fix that?

MR BRETON: Yeah, so it's gated now. So you can't - you can't proceed with a project at Liverpool City Council with a QS that is over six months old. So you must have a contemporary QS and that provides a project gate - that's a go/no-go. So until that's done we don't proceed. And there's been a number of projects that have been
5 stopped, halted or delayed because of this approach.

COMMISSIONER: What about the discrepancy between the grant funding or the funding available and the project costs? Are there any measures that can be done to, sort of, anticipate and head off that problem or is it -
10

MR BRETON: No, because –

COMMISSIONER: - part of the gateway will address that in turn?

MR BRETON: We couldn't proceed on that scenario if - on that six, six and 20 scenario under the DMF. It won't allow it. The only way to get - to beat that now is to resubmit a variation to the grant application to try and fill the gap, and there's been a number of projects that have been put on - have been stopped or halted or delayed because of this.
20

COMMISSIONER: And as part of this work, have you been able to identify why circumstances like that arose? That is, where you've got a six plus six but it's - or whatever it was, 20 or 25 total?

MR BRETON: Yes. Look, there's a couple of reasons. Poor project management's the first one, but that's too simplistic. It's over-ambitious and aspirational estimation by project - sorry, by bid teams who are going for the grants, who are more focused on getting the grant than the granular details of delivering the grant. And I see this typically in the lack of application of project contingency at the right numbers and
30 also a desire to win the grant at all costs because, essentially, that's how we get our money. So grants are a real problem.

I think WestInvest has a much more mature project-management approach to contingency, in that it's not part of the grant. So if we're granted 50 million for
35 Carnes Hill, they will only give us 40 million and the 10 million is contingent funds, and then only when you prove that a risk that's emerged during the project had been realised can you draw down on the contingency which are held by the State Government. Much, much smarter way.

COMMISSIONER: That was the structure put in place by the State Government when -

MR BRETON: Yes. Yes.

COMMISSIONER: - designing the project?

MS McDONALD: Commissioner, I note the time. I've got two more topics.

COMMISSIONER: How are we going with Mr Breton's evidence more generally?

5 **MS McDONALD:** If I could just turn to my learned friends. I understand that there are -

COMMISSIONER: How much longer do you think you'll be?

10 **MS McDONALD:** Probably about half an hour, three-quarters of an hour.

COMMISSIONER: All right. I've got a few questions, which might take - depends how many questions I ask, but about 15 minutes. I've asked a few already, so hopefully that will take my time. No one will be - not going to bind anyone to it, but is anyone at the moment intending to seek to ask Mr Breton some questions?

15 **MR PARISH:** Three topics (indistinct).

COMMISSIONER: 50 or 15?

20 **MR PARISH:** 15.

COMMISSIONER: One-five. Yes.

25 **MS RICHARDSON:** One or two topics. Probably about 20 minutes. It'll probably be - if it's tomorrow, it would be my junior, not me.

COMMISSIONER: Okay.

30 **MR TYNAN:** I can't give an exact -

COMMISSIONER: Of course.

35 **MR TYNAN:** - time estimate like my friends because we need to give consideration to what's asked by others.

COMMISSIONER: Yes, of course. So we're looking until about just after morning tea and before lunch. Is that - I'm sorry, Mr Boyle and Ms Hamilton-Jewell.

40 **MR BOYLE:** Yes. I think -

COMMISSIONER: You're blocked from my view.

MR BOYLE: Yes. We have a few in the back as well.

45 **COMMISSIONER:** All right.

MR BOYLE: I think, for my part, up to half an hour.

COMMISSIONER: Okay. All right. Same?

5 **MS HAMILTON-JEWELL:** No. Possibly longer, Commissioner. I suspect maybe an hour. Maybe a little bit longer.

COMMISSIONER: All right. Okay.

10 **MR BOYLE:** And the only other issue, Commissioner, is that - I mean, if Mr Breton is around tomorrow, then it may be that later in the afternoon is more convenient for me, as I've got a hearing somewhere else in the morning which I'm optimistic will have concluded.

15 **COMMISSIONER:** Well, unfortunately for Mr Breton, he will be here tomorrow, but, yes, I'll leave it with you to coordinate with your colleagues as to timing. And if that can be accommodated, of course we will.

MR BOYLE: Yes.

20 **COMMISSIONER:** Well, I would like to finish Mr Breton tomorrow -

MS McDONALD: Yes.

25 **COMMISSIONER:** - and let him get back to the business of running the Council.

MS McDONALD: Running a council.

30 **COMMISSIONER:** So we can do whatever we can to make sure that happens. Do we need to start slightly earlier or are we comfortable that we'll get it all done?

MS McDONALD: Could you just excuse me. I'm just thinking - not to try and limit the inconvenience for Mr Breton. Maybe if we start at 10.

35 **COMMISSIONER:** All right.

MS McDONALD: So hopefully - and we'll leave Mr Boyle to the end.

COMMISSIONER: We need to sit slightly longer.

40 **MS McDONALD:** Obviously subject to you asking questions and anything in re-examination, so we don't have Mr Breton hanging around and -

45 **COMMISSIONER:** Yes. All right. Well, if we need to sit slightly longer to finish Mr Breton and that can be accommodated with everybody's other responsibilities, family caring and the like, then I'd like to do that. But anyway, we'll just see. I've said what I've said. I'd like to finish Mr Breton tomorrow, but if there's some

impediment to that then that can be raised with me. Mr Breton, we'll see you tomorrow, and hopefully that will be it.

<THE WITNESS WITHDREW

5

COMMISSIONER: Yes, Mr Tynan.

MR TYNAN: Sorry to cut you off, Commissioner.

10 **COMMISSIONER:** That's all right.

MR TYNAN: I'm instructed that Mr Breton has some commitments on Wednesday as well, so that probably puts a sharper focus on (indistinct).

15 **COMMISSIONER:** All right. Well, at the risk of repeating myself - but if we can finish him tomorrow, then that would be wonderful for -

MR TYNAN: All right.

20 **COMMISSIONER:** - his perspective and progress more generally. Is there anything to do this afternoon before I adjourn?

MS McDONALD: No. Thank you.

25 **COMMISSIONER:** All right. I'll adjourn until 10. Thank you.

<THE HEARING ADJOURNED AT 4.05 PM