INQUIRY UNDER SECTION 438U OF THE LOCAL GOVERNMENT ACT

BLUE MOUNTAINS CITY COUNCIL

Public Hearing

Held at
Blue Mountains Cultural Centre
30-32 Parke Street, Katoomba, NSW

On Thursday, 12 September 2019 at 10.00am
(Day 9)

Before Mr Richard Beasley SC, Commissioner

1   THE COMMISSIONER: I think we should begin. What is the
2   process for Mr Anderson? We are going to call him, are we?

4   MR GLOVER: Yes, Mr Broad is finalising arrangements with
5   him now and we will dial him in.

7   THE COMMISSIONER: Just before Mr Broad calls Mr Anderson,
8   I'm going to admit into evidence MFI8, subject to the
9   redactions in it now and any further redactions agreed to
10   by the parties or ordered by me. MFI8 will now become
11   exhibit 71.

13   **EXHIBIT #71 DOCUMENT PREVIOUSLY MARKED MFI8 HEADED**
14   **"WITNESS BUNDLE FOR SEPTEMBER 2019 PUBLIC**
15   **HEARINGS", SUBJECT TO ANY FURTHER REDACTIONS**

17   THE COMMISSIONER: Further, I will make this ruling:
18   yesterday application was made by Mr Singleton for the
19   council to exclude parts of exhibit 71 on the grounds of
20   public interest immunity. The documents concerned are at
21   pages 42 to 46 and pages 55 to 66.

23   The document commencing at page 42 is a file note with
24   the subject heading "Code of Conduct Preliminary Assessment
25   Report - Review 16/09" dated 20 December 2016 prepared by
26   Jasmine Cooper, the executive officer. The parts that
27   Mr Singleton sought to have excluded, at least as a
28   public exhibit, are from the heading
29   "Preliminary Assessment" on page 44 up to but not including
30   the heading "Recommendation" on page 46. Is that correct?

32   MR SINGLETON: That's correct.

34   THE COMMISSIONER: In relation to the document that
35   commences on page 55, which is a file note with the subject
36   heading "Code of Conduct - Final Report - Review 16/09"
37   authored by Jasmine Cooper, executive officer, and dated
38   17 February 2017, what Mr Singleton seeks to have excluded
39   as a public exhibit from this document is from the heading
40   "Detailed Consideration of the Allegations" on page 57 up
41   to but not including the heading "Recommendations" on
42   page 66, but excluding as a public exhibit
43   recommendation 7.

45   These documents may be subject to public interest
46   immunity, but there is no need for me to make a ruling on
47   that. I have reached the view that those parts that are

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 1      sought to be excluded should not be a public exhibit for
 2      these reasons:  clearly the documents were prepared on the
 3      basis that they would remain confidential.  They cover an
 4      investigation of a complaint.  I am satisfied that both the
 5      authors of these documents would consider that she was not
 6      creating a public document, nor would any of the people the
 7      subject of the report, including the complainant.
 8
 9          There is no public interest in the report being
10      publicly available.  I therefore exclude those parts that I
11      have just mentioned as a public exhibit in this inquiry.
12      I therefore I make an order under section 12B(1) of the
13      Royal Commissions Act that those parts of the document that
14      I have just referred to in exhibit 71 are not part of the
15      public exhibit and are a confidential part of exhibit 71.
16
17      MR GLOVER:   Commissioner, can I just draw to your
18      attention page 68.  This is part of a table which
19      summarises the review recommendations and number 7 appears
20      there also.
21
22      THE COMMISSIONER:   I make a further order that in relation
23      to the document commencing on page 67 of exhibit 71, headed
24      "Review Held on Recommendations Report and Implementation
25      Plan", that also pursuant to section 12B(1) of the Royal
26      Commissions Act, recommendation 7 on page 68 is also
27      prohibited from publication and is a confidential part of
28      exhibit 71.
29
30          If someone finds other parts in this document that
31      would appear to be covered by the ruling I just made, they
32      can let me know and I will make a similar order in due
33      course.
34
35      MR SINGLETON:   Yes, Commissioner.  We will liaise with
36      Mr Broad in particular to identify any additional
37      paragraphs.  That may happen with the documents in between
38      the two.
39
40      THE COMMISSIONER:   I can make those rulings in my
41      chambers.
42
43      MR SINGLETON:   Yes, Commissioner.
44
45      THE COMMISSIONER:   There are a few other things to tidy
46      up, but I think we'll have Mr Anderson now.
47
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1   Mr Anderson, my name is Richard Beasley. I have been
2 appointed Commissioner of this public inquiry. First of
3 all, thank you for your time this morning. I'm here with
4 Ross Glover, who is counsel assisting the inquiry. You've
5 already spoken with Mr Broad, who is the officer assisting.
6
7   There is also, in terms of the lawyers that might or
8 might not ask you a question, Mr Singleton, he's
9 representing the council, and another person who is playing
10 a role in the inquiry is Councillor Brown, who is currently
11 a member of the governing body of the council.
12
13   I am going to hand you back to Mr Broad, who is just
14 going to take an affirmation from you, and then Mr Glover
15 will ask you some questions. Can I just ask you this: if
16 you don't hear us at any time, let us know and if you don't
17 understand a question that you've been asked, please let me
18 know.
19
20 MR ANDERSON: Yes, no worries.
21
22 **<TREVOR WILLIAM ANDERSON (via telephone), affirmed:**
23
24 **<EXAMINATION BY MR GLOVER**:   [10.47am]
25
26 MR GLOVER: Q.   Can you state your full name, please?
27 A.   My full name is Trevor William Anderson.
28
29 Q.   You were employed by the council; is that correct?
30 A.   I was employed by the council as an OH&S program
31 leader for 21 years.
32
33 Q.   When did you finish in that role?
34 A.   I was made redundant about six to eight weeks ago.
35
36 Q.   Thank you. In about 2016 what was your role in the
37 council?
38 A.   I was the program leader workplace safety and risk
39 management. By then they might have changed it to program
40 leader safety.
41
42 Q.   Thank you. In general terms what were your day-to-day
43 responsibilities?
44 A.   My day-to-day responsibilities were to administer,
45 develop and administer council's WH&S programs, policies
46 and procedures, to attend the OH&S committees, any
47 management meetings I was required to attend. I used to go

out onsite with the workers. I'd attend the depots. I had
an office in - the main office was in headquarters. I had
an office in Springwood depot and I had an office part-time
in Katoomba depot. I also was responsible for all
Workers' Compensation matters and injury management.

Q.   Thank you. One of the inquiry's terms of reference
directs attention to the engagement of Mr Mark Mulligan by
the council in 2016?
A.   Yes.

Q.   Are you aware of the circumstances of his engagement?
A.   Yes. I am aware that a decision was made to bring in
external consultants to work on the WH&S procedures,
I forget what they would call them, but they first brought
in a bloke called Michael Shellshear. He had no local
government experience and wasn't all that high up in
safety. Michael lasted about four to five months and then
he left and then it was decided that they would bring in
another person and that person was Mark Mulligan.

        I didn't agree with either of the appointments.
I thought we could have done it. All we needed to do was
to bring people up off the floor and they could handle the
day-to-day running and we could review our policies and
procedures, but I wasn't listened to. They decided that -
I was told - I was in a office, in a meeting room, in the
Kadumba meeting room and John Hargreaves, Stuart Liddell
and Grant McKay were there talking to Michael Keyes and
myself and they said they were bringing them in for the -
they were bringing someone in and we had to keep doing
business as usual. I said we could do it, but no, and then
it was decided - they said they needed to have someone
straight away. I said, "Well, do you want some people that
I know, you know, off in the field that might be able to
help?", because I worked with a number of consultants over
the many years I was there, and the statement was made
that, "No, we're all going to pick one person and from
those three people the decision will be made." And that
decision ended up being Mark Mulligan.

        I do have to say that Grant McKay knew next to nothing
about safety, John Hargreaves probably knew even less.
Stuart Liddell did have a good idea of safety. So yeah,
they came up with the name of Mark Mulligan and then they
engaged Mark Mulligan.

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1        Q.   All right.  Thank you.  I am just going to take you
2        back to a couple of parts of that answer.  You said that
3        you didn't agree with either appointment because you had
4        people onsite.  From that do I understand it was your view
5        that they didn't need to engage outside assistance at all
6        because there were people within the organisation who could
7        do the role?  Was that your view?
8        A.   My view was that yes, I could have done the role with
9        the assistance of Michael Keyes.  We had people,
10       Mick Karafiloff, Stuart Fuller, people that could have
11       helped with the day-to-day stuff, and I also had access to
12       any number of consultants that would come in and do the
13       bits and pieces we needed quickly and to do them
14       separately.  Janine Rich from SafetyNet, yeah, there's any
15       number of consultants we could have used, but no, it was
16       decided not to do that, but we'd have a safety improvement
17       project and they wanted someone in to run it.
18
19       Q.   I think you also mentioned a meeting with Mr McKay and
20       Mr Hargreaves that you were at when the appointment of
21       someone to replace Mr Shellshear was discussed.  Do you
22       remember that aspect of your evidence?
23       A.   Yes.  We were called in and sat down and told this was
24       what was happening and we were told that they would each
25       put forward a name of someone that they knew in the WH&S
26       field and then a decision would be made which of those
27       three people would be appointed to the job.
28
29       Q.   It has been suggested to this inquiry that at that
30       meeting either Mr McKay or Mr Hargreaves said that they
31       were going to pull a name out of a hat to identify who
32       would be appointed?
33
34       MR SINGLETON:   I object to that question.
35
36       THE WITNESS:   No.  I have no recollection of that being
37       said at the time of that meeting.  I did say, "Well, why
38       can't I do it?"  I'd been in the safety field for, at that
39       stage, 28 years, I'd been with council for 19 years at that
40       stage, or 18 years.  I said, "We can do it ourselves", but
41       no.  And yeah.  No.  But I don't remember that name.  There
42       was an inference that, you know, "We'll put those three
43       names into a hat, into the hat, and talk about those three
44       names specifically."  I don't remember anything about
45       pulling their names out of the hat.  Yeah, "We'll put those
46       three names into the hat and see what we come up with",
47       that's my recollection.
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1
2     Q.   There was no suggestion at that meeting that the
3     process was completely random, was there?
4     A.   Well yes, that was the inference.  I mean they should
5     have and what I assumed was, "Well, by the time we
6     advertise and we go through again, we're going to lose
7     another six, eight weeks.  Why can't we just do it?"  But I
8     was told, "No, you have to stick on business as usual and
9     we'll get someone in."
10
11         They said, "No, we need to get this going."  In
12    reality we virtually did all the work anyway, we'd been
13    doing it all along, so yeah, I was sort of at a bit of a
14    loss, despite my influence.
15
16    Q.   You weren't involved in the process of consideration
17    of the replacement for Mr Shellshear, were you?
18    A.   No, not at any time.  I wasn't involved in any of the
19    interviews.  Even for appointing Michael Shellshear, I had
20    no idea where they came from.  Again, Michael was a nice
21    enough bloke but he had no local government background, he
22    had very limited WH&S background.  Yeah, he wouldn't have
23    been my selection.  He was a nice enough bloke.  He'd get
24    stuff off the internet but that was about the extent of his
25    knowledge.
26
27    THE COMMISSIONER:   Q.   A witness has suggested to us that
28    he was a bit academic for the role.  Was that your view?
29    A.   Yes, I think that's very fair to say.  Michael was a
30    great one for trawling through the internet and grabbing
31    policies and procedures and textbooks.  He could quote from
32    textbooks.  He'd quote from the law - he'd quote from the
33    Act but he would get it wrong.  He quoted from the
34    standards and he'd get it wrong and we said, "Well no,
35    that's not actually what the law says."  He'd get a little
36    bit upset about it.
37
38    Q.   Yes.  Thank you,
39    A.   He was very academic.  I don't think he had any actual
40    hands-on experience.  He told me that he'd gone to do some
41    consulting for I think it was the University of Western
42    Sydney, or something, and he'd ended up in their safety
43    role and he'd done that for a couple of years, just
44    reviewing their policies and procedures.
45
46    Q.   Did any difficulties that you noticed that
47    Mr Shellshear had in his role reinforce to you your view
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 1        that you and others already within the council were capable
 2        of managing the safety improvement project?
 3        A.    He told me, he told me and Mick, and he told others,
 4        I'm pretty sure, that he didn't really know why he was
 5        there because he - his words were that 95 per cent of what
 6        he was asked to put in place was already there.  The
 7        policies just needed updating which is what I'd said all
 8        along.
 9
10            Because of the resource constraints, like, I'd been
11        doing the whole lot by myself and so we needed to upgrade
12        everything and to bring in the new terminology and greater
13        reference to the new legislation, but Michael said that it
14        was already 95 per cent there and he didn't really know
15        what he was supposed to be doing there.  So yeah, he was -
16        yes, he was quite - he was quite open about it, but we gave
17        him access to all of our files and bits and pieces and he
18        started changing a few things around.  I reacted badly
19        I suppose.  I told him it was wrong when he wanted to bring
20        in the three separate policies in relation to
21        Workers' Comp, injury management and rehabilitation, I said
22        that wasn't really the scope of the project and we didn't
23        need to have them, but he thought that that was a
24        requirement under the standards and it wasn't and when
25        I pointed that out he was - yeah.  Look, he was a nice
26        bloke but he wasn't really up to the level of things that
27        they wanted him to do.
28
29        Q.    All right. What was your impression of Mr Mulligan
30        once he came, once he was engaged?
31        A.    Mark?  I thought Mark was - he was quite good on
32        safety, you know, general safety, very much like myself,
33        but he had no - he had no experience in local government.
34        He brought things in from the electrical industry where he
35        came from, I think it was Country Energy or something at
36        one stage, so he brought in a lot of their policies and
37        sort of swapped and changed the titles and words of people
38        around to suit our organisation.
39
40            He had the stock-standard stuff.  He obviously had the
41        consultants, he had a number of policies and procedures
42        he'd got, but he, again, he told me as well, "Look,
43        95 per cent of what we want is here, it just needs tidying
44        up", which is what we've said all along.  I found the whole
45        thing very frustrating because we were actually - I was
46        giving him the policies that I'd written 17, 18 years ago
47        and he was just, "Yeah, that's fine", and he put them up
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and - yeah. So there was - I don't think there were any
great improvements put in place, but he was, I found Mark -
he was a good bloke. He was very knowledgeable. Another
great one for - you know, he had a lot of - I suppose his
strength was he brought knowledge from other organisations
that he could apply, but whether they were actually
relevant to what we needed or not was - yeah.

THE COMMISSIONER: All right. Thank you.

MR GLOVER: Q. Mr Anderson, another engagement or
appointment that the inquiry has been directed to in its
terms of reference is Mr Hargreaves.
A. John Hargreaves, yes. Yes.

Q. Are you aware of the circumstances of his appointment?
A. I don't know the actual circumstances. I know that we
were looking for a business improvement officer and then
John Hargreaves arrived. When you spoke to John, again, he
never had any industry experience, not local government.
I think he told me he was a science teacher and he'd been
working in different companies, but he had no practical -
well, in relation to WH&S he had no idea at all. He was
almost computer illiterate, I'd say, and I'd base that on
the fact that he had trouble turning the computer on and
off at times and some of the more basic things he had to
get assistance. I get assistance myself with the computer
and I've been using it for years, but he was nowhere near
the level you would have thought.

     I don't know that he had a grasp on what our - he
didn't understand what our business was, so I don't know
how he was going to improve it. He had a lot of
flow charts, he was a good one for flow charts, but I'm -
I'm a blacksmith by trade, I'm from the - my original
ground was in mechanical engineering so I did understand
flow charts and a lot of his flow charts were just wrong
and when you'd ask him about them, "Oh, all right", so he'd
change this and he'd change that, but he never appeared to
me to be very good quality, I wouldn't have thought.
I would be very surprised that he was the best candidate.

     Grant McKay actually told us he had to go up and see
Robert Greenwood, who was the general manager at the time.
Stuart Liddell had withdrawn himself because he obviously
had a conflict there and Grant, myself and Michael Keyes,
late one afternoon he came back from - he's gone up to see

Robert and Robert had interviewed two people with Grant and one of them was John Hargreaves, the other was a female applicant, and Grant told us that, in Robert's words, the female didn't know what she was talking about and he didn't want that old bloke anywhere near the place, and that was John Hargreaves.

Grant McKay was quite flustered because he obviously had instructions he had to get someone in there. I think the first three or four applicants that were actually suitable for the position had dropped out for whatever reason, so he was quite agitated and he was visibly upset about it. We said, "Well, just go back to the market, mate. If you can't get them, you can't get them." And then a couple of weeks later John Hargreaves had the job so - yeah.

Q.   Thank you. Finally, Mr Anderson, do you recall that in late 2017 Mr Mulligan was appointed as the acting director service delivery? Do you recall that?
A.   Yes, I do remember that, but he'd been - he left from the safety side in December, because I saw him on the Christmas break and I said, "I'll see you in a couple of days when you come back." He told me that no, he hadn't had his contract - he had no contract renewal, so he wouldn't be back until at least February and then he never came back at all. And then I think it was - yes, it would have been September I suppose, maybe August, but he'd apparently gone to the market for a new director and yeah, Mark Mulligan appeared again, and again, I have no idea - like, he's not an engineer, that I knew of, or a civil engineer in local government; he may well be but he never mentioned it to me. Yeah.

I have also been told by a few people, so I put credibility to it, that there was a meeting down at Springwood where Robert Greenwood had stood up in front of the three, at that time, managers in the area, all who had acted over the last 10 to 15 years in senior management roles, and Robert Greenwood told me they were dysfunctional and none of them had been reappointed for the job. You can check that if you want. Talk to Ken Phillips and Rhett Hahn, and I think Kirrilly Twomey was also at the meeting. So that set off a bit of raucous and next thing you know Mark Mulligan was appointed.

Q.   You obviously weren't involved in the process that

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1    resulted in his employment; correct?
2    A.   No, I was cut right out of anything to do with any
3    employment from the day that Stuart Liddell was there.  I
4    will say, just for background, I'd been there at that stage
5    for 15 years.  I was in the HR department and I was called
6    upon to do the acting HR manager's role across those
7    15 years when Bob Bentley was on holidays.  The whole
8    thing - I raised a number of times, our whole recruitment
9    practices, we weren't doing what we were supposed to do
10   under the Local Government Act.  We appointed a number of
11   people.  I mean, you're looking at two now, but there were
12   a number of people who had been appointed in those six
13   years or so that Robert Greenwood was there, and Stuart,
14   that just didn't have interviews, weren't interviewed
15   properly, the recruitment process.  I raised those concerns
16   and I imagine that's why I never - I imagine that's why I
17   never got another acting role or anything like that.  But,
18   yes, I know your scope is only for two, but someone really
19   needs to look at the whole amount, and that's a different
20   conversation.  There are a lot of people there that have
21   been employed under those conditions.  It's not just these
22   two you're investigating.
23
24   MR GLOVER:   Thank you.
25
26   THE COMMISSIONER:   They are the only questions Mr Glover
27   has.  I'm just going to ask Mr Anderson if Councillor Brown
28   wants to ask you a question?
29
30   COUNCILLOR BROWN:   No.
31
32   THE COMMISSIONER:   No, she doesn't.  Now I will ask
33   Mr Singleton, who is acting for the council.
34
35   <EXAMINATION BY MR SINGLETON:
36
37   MR SINGLETON:   Q.   Mr Anderson, you never submitted a
38   business case or other written submission seeking more
39   resources for your team in order to comply with the new
40   Work Health and Safety Act and regulations, did you?
41   A.   I actually did.  I put a proposal to Grant McKay.  He
42   wanted to know how we could improve things.  I put in a
43   proposal.  He asked that - I think Michael Keyes put one in
44   and I put one in.  My proposal was to employ three people
45   in the safety team.  Michael was tied up in a lot of risk
46   management things, which he shouldn't have been doing
47   because we had supposedly employed a risk management person
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1   for that role.
2
3   My opinion was that between myself and Michael and one
4   other person in the team, we could have done all that we
5   needed to do. It was a relatively minor role to bring our
6   policies and procedures up to date. We were already
7   compliant. I think if you have a look, you'll see that
8   while we were there, until it was taken over by
9   Grant McKay, we never had an issue with WorkCover, we never
10   had an issue with anyone. But, yes, they had this prepared
11   and I had actually put that to Grant McKay, and that was
12   the proposal. He never put in a business case. I was out
13   of the loop, so to speak, so I had gone from being, yes, I
14   did report to the managers and I was sort of the
15   spokesperson for safety, but then when they brought in
16   Grant McKay, I lost any influence at all.
17
18   I did put in a proposal, and I think it should be on
19   the record, but, yes, that was my proposal, that three
20   people - and I also gave the same proposal to the
21   current CSO.
22
23   THE COMMISSIONER: Q.   Can I just ask you, do you recall
24   approximately when you put that proposal to Mr McKay.
25   A.   I couldn't tell you exactly when.
26
27   Q.   To try and help you, I think he started his employment
28   with the council in 2014. Mr Shellshear, I think, came on
29   board in late 2015, or some time in 2015. Was he there?
30   A.   Yes, it was before the structure. It was before they
31   decided to do the safety improvement structure, and it
32   was in the formative years of that.
33
34   Q.   Was it before Mr Mulligan was engaged?
35   A.   Oh, yes, yes. I think so.
36
37   Q.   Can I ask you --
38   A.   I'd have to have a look.
39
40   Q.   Don't worry, it's not a memory test. I was just
41   trying to find out approximately.
42   A.   Yes.
43
44   Q.   Did you ever get to read the Willis report of 2015?
45   A.   The Willis report. Which one? Willis did a number of
46   reports. We had a report from Willis, and then a fellow
47   came in and supposedly did a desktop audit, but --

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 1
 2      Q.    I'll just get someone to tell me where it is in the
 3      evidence to see if I can be more precise with my question.
 4
 5      MR GLOVER:    October 2015.
 6
 7      THE COMMISSIONER:    Q.    It was October 2015, dealing with
 8      what the council needed to do to upgrade its safety
 9      documentation and the like.
10      A.    Yes, I did read that.
11
12      Q.    It was a safety management system review.
13      A.    Yes.  I did read that and I made comments to
14      Grant McKay, because the original one that I read had a
15      paragraph in there that said that neither I nor Michael
16      were qualified to do the jobs that we were currently doing,
17      which I took great offence to, given that I'd been in the
18      safety industry for 28 years.  I was brought in and I'd put
19      in the systems that we had in place, and the person that
20      was supposedly doing the desktop audit didn't look at any
21      of our policies and procedures because they weren't in TRIM
22      files.  They didn't have TRIM files attached to them.  As
23      we had explained to him, no, they weren't TRIM because our
24      resources didn't really allow us to do any of that.  I'd
25      been trying for a number of years.
26
27          To give you again some background, I did all of the
28      safety and workers comp and rehab there for probably
29      15 years, and by myself.  So I kept asking for resources.
30      Michael came in, and we were building Michael up to do some
31      other stuff.  I used to work with John Odgers, he's in risk
32      management.  John's quite knowledgeable.  So we got along
33      all right.  We did quite well, but --
34
35      Q.    I think to assist your memory, the consultant from
36      Willis was a person called Graham Kenafacke.  Does that
37      ring a bell?
38      A.    Yes, that's the report we call the hatchet job.
39
40      Q.    I take it from that that you didn't necessarily agree
41      with the contents of the report?
42      A.    I didn't agree with the contents of the report.  I
43      didn't agree with the way the report was done, and I didn't
44      agree with the way that the report and the outcomes of the
45      report were being influenced by a couple of people at
46      council, with a view to build a case that we didn't have a
47      safety system.
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 1
 2      Q.    Who did you think was --
 3      A.    We did have a safety system.
 4
 5      Q.    Who did you believe was influencing that report?
 6      A.    Well, that was Brett McKay and Yas Muralitharan,
 7      I think it was.  That was the thing - I'll give you an idea
 8      of how well this report was done.  I was the safety officer
 9      there.  I'd looked after it for, like I say, at that stage
10      for 16-odd years.  He interviewed me for one hour.  He
11      called me in to the meeting room and in the first five
12      minutes he said, "Well, you don't actually have a system in
13      place".  I said, "We do", I said, "That's what all these
14      documents are".  "No, no, they are not TRIM".  So I just
15      thought the whole thing was a set-up.  Grant had told us
16      all along that he needed some justification to get the
17      safety improvement plan up, but we weren't going to be
18      running the program.
19
20           If you read that report, take from it what you like,
21      have a look at what the report says, but have a look at the
22      realities of life.  We had a good safety record in the
23      Blue Mountains City Council up until the time they started
24      interfering with it and deliberately running it down.
25
26      Q.    How do you mean deliberately running it down?
27      A.    Well, there's a lack of resourcing.  Like I say,
28      Michael Keyes was working with me and he was brought on to
29      do the workers comp and some of the risk management admin,
30      and we were moving away from that and getting more involved
31      with safety.  Then John Odgers was made redundant, Yas was
32      brought on as the risk management person, but she did no
33      risk management.  Then Mick had to do all the risk
34      management from there on.
35
36      Q.    Mr Keyes?
37      A.    She attended a couple of meetings, but never did the
38      practical stuff, she never did any of the processing and
39      all of these things had to be done by --
40
41      Q.    Sorry, when you said Mick then, that's Mr Keyes, is
42      it?
43      A.    Yes, Mick Keyes, yes.  We've got up to two people
44      doing the safety and Mick was developing along quite well,
45      he was going well.  He's got a lot of practical knowledge
46      and he was picking more and more of it up.  We were going
47      real good.  But then Mick had to do the risk management
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 1     stuff.  Again, when I asked for someone to come in
 2     and - even an admin person, Grant McKay kept saying we can
 3     have an admin person maybe two days a week, three days a
 4     week, that would have relieved a lot of pressure.  Because
 5     I was also doing all the admin for the workers comp, for
 6     the rehabilitation, the safety minutes.
 7
 8     Q.   So the main problem, as you felt it, was simply an
 9     under-resourcing in terms of the number of people in the
10     group?
11     A.   Yes, yes.  When it was pointed out what we needed to
12     do to bring it up to speed so that we could do it properly,
13     that was all ignored.  I mean, they spent millions of
14     dollars - if you look at everyone they brought in, it's
15     just unnecessarily.  In my opinion, again, because all the
16     people that were making decisions around the safety side of
17     it and the risk management side of it had no idea - they
18     had no practical knowledge of safety at all.  None of them
19     even had any theoretical knowledge of safety or workers
20     compensation.  They ran the place into the ground.
21     Basically we had a good organisation, with systems in
22     place, they weren't perfect, but they passed every scrutiny
23     that was put in place previously by Willis when they'd done
24     the comparison against 17 other councils within the west at
25     the time, and with WorkCover.  We never had a problem.  It
26     wasn't until they deliberately ran it down.
27
28          I would also say that around that time, I'd always
29     dealt with WorkCover.  Then I was taken out of that.  I was
30     put more and more - I was eventually moved to just doing
31     workers comp, and the safety was managed - the relationship
32     with WorkCover was managed by Grant McKay and that's why we
33     went from having probably 7 or 8 or 9 improvement notices
34     in 15 years to whatever we had.  No-one would listen about
35     the asbestos when the asbestos issue rose.
36
37          I'd worked with asbestos in the railways.  I did my
38     apprenticeship in the railways, I knew a fair bit about it.
39     I'd been in workshops where we'd taken hold of it, but
40     no-one listened to me.
41
42     Q.   Sorry, we might well ask you to give some evidence in
43     relation to asbestos management at a later time, because
44     I'm not currently dealing with the asbestos terms.
45     A.   Sorry.
46
47     Q.   That's fine, but for reasons relating to other
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  1        investigations, we haven't got to the asbestos terms of
  2        reference.  Mr Broad or Mr Glover may contact you in
  3        relation to any assistance you can give in terms of
  4        evidence in relation to those issues.  I might just hand
  5        you back now to Mr Singleton, who I think still has some
  6        more questions.
  7
  8        MR SINGLETON:    Thank you, Commissioner.
  9
 10        Q.    I just want to get the sequence correct, Mr Anderson.
 11        I'll put it to you and see if you agree.  The Willis report
 12        dated October 2015 was received and that's the one you
 13        called the hatchet job; that's the first step?
 14        A.    Yes.
 15
 16        Q.    You responded to it with a written proposal about
 17        resourcing to respond to the issues raised in
 18        November 2015?
 19        A.    I'd already had discussions with Grant McKay and it
 20        wasn't just in response to that Willis report.  I would
 21        have to find out when I actually first put the proposal to
 22        Greg but, again, I haven't got any records.  I couldn't
 23        really get anything before I left because I was told to
 24        leave and not come back.  I can't help you a real lot.
 25
 26        Q.    Just wait for the question, Mr Anderson.  I'm just
 27        getting the sequence.
 28        A.    Yes.  The answer to your question is the sequence - I
 29        had put those proposals to Grant McKay I'm pretty sure
 30        before the Willis thing ever came about.
 31
 32        Q.    I have your document in front of me.  Let me be fair
 33        with you.  I don't know myself when it was submitted, but
 34        I'll read the heading to you to refresh your memory.
 35        "Discussion Paper on Proposed Resourcing G&R Branch
 36        November 2015".
 37        A.    Yes.
 38
 39        Q.    It has your name and title at the bottom.  It has
 40        three --
 41        A.    I wrote it.  That's the one I put in writing to Grant.
 42        We'd had a number of other discussions long before that.
 43        That's why he finally asked me, "Well, what would you do",
 44        so that's the document I put to him about the restructure
 45        of the safety branch, yes.
 46
 47        Q.    Thank you, Mr Anderson.  I'm just trying to get the
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 1      sequence at the moment.  Let me recap so that we can make
 2      sure we are at the same place.  The sequence is that at
 3      various times you had conversations with Mr McKay, you say
 4      that?
 5      A.   Yes.
 6
 7      Q.   In October 2015, the Willis report is received?
 8      A.   Yes.
 9
10      Q.   In November 2015, you put in your written discussion
11      paper, which, as you say, is more than just responding to
12      the Willis report and covers resourcing from a wider
13      perspective; correct?
14      A.   Yes.  After I was requested to actually put it in
15      writing so Grant could take it, that's correct.
16
17      Q.   So you were asked to put it in writing and you did.
18      A.   Yes.
19
20      Q.   And then the decision was made, among other things, to
21      employ Michael Shellshear in early 2016?
22      A.   Yes.
23
24      Q.   Implicit or explicit in that decision was the
25      rejection of your proposals?
26      A.   I never heard anything more about it, so, yeah, I took
27      it that they weren't going to look at my proposal.  He
28      didn't even come back to me about it, didn't discuss it.
29
30      Q.   And you disagree with management's decisions in this
31      regard?
32      A.   Yes, I do.  I think it's a terrible waste of
33      ratepayers' money and it just delays the process.
34
35      MR SINGLETON:   Commissioner, I have no further questions.
36      I have provided a copy of the discussion paper to counsel
37      assisting and I will give one to Councillor Brown.
38
39      THE COMMISSIONER:   Thank you.
40
41      Q.   Mr Anderson, just before you go, you mentioned a name
42      and we need some assistance with the spelling.  I know
43      you've talked about Mick Keyes, who has actually already
44      given evidence.  You said a name that sounded like Mick
45      Karafiloff.  Could you spell that for us?  Do the best you
46      can.
47      A.   K-A-R-A-F-I-L-O-F-F.  He's still a council employee.
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1
2    Q.    Okay, we shouldn't have any trouble trying to find his
3    name, then.
4    A.    Mick had helped with a lot of the programs that we'd
5    been through and I'd had him review a lot of the safety
6    operating procedures we'd done.  He had experience at
7    Qantas in the safety area.  I think he has some certificate
8    in safety.  He was an active member of the WHS committees
9    when I was there.  It was my view that I could have brought
10   Mick up, and Stuart Fuller was also quite good with the
11   safety.  I could have brought them up into help us with the
12   safety role and we could have gone on and done the review
13   that was required.
14
15   Q.    Thank you very much for that and thank you for your
16   time this morning.
17   A.    Thank you.
18
19   Q.    As I said, the inquiry has not got to the asbestos
20   management terms of reference, but it may well be that we
21   will seek some assistance from you for evidence in relation
22   to those issues when we get to it.
23   A.    All right.  Are you also looking at bullying?
24
25   Q.    We are looking at whether the council has a
26   consultative and supportive working environment.  That will
27   no doubt also be tied up with asbestos management as well.
28   If you want to give some evidence in relation to that, then
29   we will certainly be in contact with you.
30   A.    I'd be happy to talk about that as well.
31
32   Q.    Thank you very much for your time this morning.
33   A.    Thank you for the opportunity and I'm sorry if I got
34   off track a bit.
35
36   THE COMMISSIONER:    That's all fine, thank you.
37
38   <THE WITNESS WITHDREW
39
40   MR GLOVER:    I will just hand up a copy of the discussion
41   paper that my learned friend Mr Singleton was discussing
42   with the witness.  For completeness, I tender that.  That
43   will be exhibit 72.
44
45   EXHIBIT #72 ONE-PAGE DOCUMENT HEADED "DISCUSSION PAPER ON
46   PROPOSED RESOURCING G&R BRANCH NOVEMBER 2015" AUTHORED BY
47   TREVOR ANDERSON, PROGRAM LEAD SAFETY
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THE COMMISSIONER: Did you want to say something,
Councillor Brown?

COUNCILLOR BROWN: Do you mean like make a submission or
just ask a question?

THE COMMISSIONER: You looked like you wanted to say
something to me.

COUNCILLOR BROWN: Yes. I don't want to go over it again
but I wanted to clarify it. I have not raised an issue of
a work health and safety notice of motion that I raised
because I understood that was going to be in the asbestos
bit.

THE COMMISSIONER: Yes, you can do that then.

COUNCILLOR BROWN: That's right. I'm just trying to work
out whether we --

THE COMMISSIONER: Don't worry, yes.

COUNCILLOR BROWN: It was a resourcing motion but it
applied to safety and asbestos.

THE COMMISSIONER: You can certainly raise that.

COUNCILLOR BROWN: Okay, that's fine.

THE COMMISSIONER: When we get to that, yes. All right.
I wanted to have Dr Dillon recalled to ask a couple of
questions that I should have asked yesterday.

MR SINGLETON: I don't know whether she knows that. She
did know that. I am gratefully relieved to know that.

THE COMMISSIONER: Let's wait and rearrange the tables
first. Come forward, Dr Dillon. I should say this, that
if anyone wants to ask another clarifying question of
Dr Dillon, they're free to do so, given I've asked her to
come back. You're on your former oath, Dr Dillon.

<ROSEMARY ANN DILLON, on former oath: **[10.55am]**

THE COMMISSIONER: Q.   Yesterday - and this commences at
transcript 854 at about line 11 - I asked you some

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1     questions about impact on the morale of people at the
2     council as a result of what was being broadcast on radio
3     and you gave some evidence about that and Mr Glover asked
4     you some questions and I might have asked some
5     supplementary questions.  What I probably need to clarify
6     with you though is there is obviously more than one issue
7     being either broadcast on 2GB or in the media, the Gazette,
8     or whatever.  One related to issues concerning asbestos at
9     the council.  You obviously recall that.  You need to say
10    "yes" for the transcript.
11    A.   Yes, I do recall, yes.
12
13    Q.   Then there were the assertions and comments made on
14    2GB by Mr Hadley that Mr Tooma had a conflict of interest?
15    A.   Yes.
16
17    Q.   That he was best friends with or best mates with
18    Mr Mulligan?
19    A.   Yes.
20
21    Q.   That's already the subject of a couple of interim
22    reports.  There was also more germane to certainly term of
23    reference 3 comments and assertions made that a boys' club
24    existed at the council?
25    A.   Yes.
26
27    Q.   That the employment of Mr Hargreaves and the
28    engagement and employment of Mr Mulligan was a result of
29    that boys' club?
30    A.   Yes.
31
32    Q.   That Mr Mulligan wasn't necessarily qualified for the
33    roles?
34    A.   Yes.
35
36    Q.   That Mr Hadley had uncovered what he said was
37    corruption within the Blue Mountains Council related to
38    these things?
39    A.   I'd have to - I believe so, yes.
40
41    Q.   Just take my word that that's what he said.
42    A.   Yes.
43
44    Q.   Corruption amongst senior council officers?
45    A.   Yes.  On a number of occasions he said I lied, aside
46    from the more recent time where he said I misled and then
47    raised the lying.  I think he said I had pimples on my
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 1    tongue.
 2
 3    Q.   All right.  That Mr Mulligan was "Getting money
 4    without a quote being asked for because of his association
 5    with Stuart Liddell"?
 6    A.   Yes.
 7
 8    Q.   Do you remember that?
 9    A.   Yes.
10
11    Q.   That Mr Bruhn, Mr Mulligan, Mr Greenwood, Mr Liddell
12    and Mr McKay were all part of the boys' club?
13    A.   Yes.
14
15    Q.   That there was a protection racket being run by the
16    council to protect Mark Mulligan?
17    A.   Yes.
18
19    Q.   You recall all those things, in general terms,
20    being --
21    A.   Yes.
22
23    Q.   What I want to differentiate between is there no doubt
24    was an impact on moral on the council as a result of things
25    that might have been said about asbestos or in the paper
26    about asbestos and how the council perhaps should have done
27    better?
28    A.   Yes.
29
30    Q.   Or the council was in some way at fault in relation to
31    certain issues?
32    A.   Yes.
33
34    Q.   And obviously I haven't got to that in the terms of
35    reference yet, but the specific matters I've just raised
36    with you --
37    A.   Yes.
38
39    Q.   -- did those matters, in your assessment and in your
40    knowledge, have an impact on the council's morale and did
41    it have an impact on the specific people I've just
42    mentioned, for example?
43    A.   Yes, absolutely.  Absolutely.  I don't really want to
44    give names but if I could give an example that if you read
45    back through the 2GB transcripts, in one instance what
46    would happen is sometimes not only would Ray Hadley target
47    a particular person, say a relative on a recruitment side,
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1   or whatever, but they'd also bring in their wife or
2   partner. When other people are brought in that can have a
3   very significant impact on people and that becomes very
4   serious, in my view, but there was a significant impact in
5   that particular case on the staff member involved, an
6   impact that then impacted the running of the council and
7   the business of the council.
8
9   I felt that was very unfair the way people were being
10   spoken about, but when they bring in other people then that
11   are linked to those people it becomes increasingly not
12   good, but those people that were named - and we did
13   ourselves count the number of times that he did target
14   those various people, so I could probably give you
15   statistics on that in the earlier days - I know that those
16   people, and I had to talk with them and work with them,
17   were deeply, deeply affected in terms of their reputations.
18
19   Q.   Without going into the specifics that includes, I take
20   it, Mr Bruhn, Mr McKay and Mr Liddell?
21   A.   Yes, and Mr Mulligan.
22
23   Q.   And Mr Mulligan?
24   A.   And Mr Mulligan.
25
26   Q.   I left out comments that Mr Liddell should go back to
27   the golf course and improve his handicap and get out of the
28   council and Mr Mulligan should go back to Bathurst. That's
29   in the same category, I take it, of comments that were --
30   A.   Yes, absolutely, absolutely, and that had further
31   consequences, and again I won't go into all the details, in
32   terms of other organisations picking up on that and coming
33   back to me and making accusations against these people and
34   I was able to say, "Look, these are unfounded claims", but
35   they had consequences even beyond the council into the
36   lives of these people and the associations and
37   organisations, other organisations they're involved in.
38
39   Q.   Tell me if you don't know, please, but did these
40   allegations alone - leave aside the asbestos matters -
41   create, for want of a better expression, community gossip,
42   to your knowledge?
43   A.   Oh, absolutely, absolutely.
44
45   Q.   And by that I mean negative community gossip?
46   A.   Absolutely. Absolutely.
47

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1    THE COMMISSIONER:   All right.  Is there anything you want
2    to add to that?
3
4    MR GLOVER:   Not from me.
5
6    THE COMMISSIONER:   Is there anything you would like to
7    further explore?
8
9    MR SINGLETON:   I have no questions.
10
11   THE COMMISSIONER:   All right.  Is there anything you would
12   like to ask?
13
14   COUNCILLOR BROWN:   I'd actually like to ask a question
15   that has arisen just from Mr Anderson's evidence.
16
17   THE COMMISSIONER:   All right.  Yes,
18
19   <EXAMINATION BY COUNCILLOR BROWN:
20
21   COUNCILLOR BROWN:   Q.   Dr Dillon, you were the finance
22   strategy group manager before your current role?
23   A.   Yes.  Well, group manager integrated planning and
24   finance.
25
26   Q.   That's right.  And that was in the period that we've
27   just been talking about or Mr Anderson was talking about
28   where they felt that they should be taking on the role and
29   that they were being undermined and they weren't being
30   resourced.  Did you have an inkling of that?  Because you
31   were the financial strategy group manager, did you have an
32   inkling that there was an issue around resourcing?  Did
33   that come through to the executive leadership team or to
34   you as the financial strategy person?
35   A.   I probably had the opposite view.  I remember with the
36   harmonisation, introduction of the new WH&S, all staff were
37   put through workshops in terms of what this new WH&S
38   legislation would mean and I remember participating in
39   those.  And then as a member of the executive leadership
40   team, probably in the period from 2012 onwards, my
41   recollection is increasing attention being focused on
42   safety and even I remember the focus on asbestos in terms
43   of following the 2012 Willis report, I remember us doing
44   the audits of buildings in line with recommendations of
45   that report, and then we had the bushfire, and then there
46   was a real pick-up of the safety improvement project.
47
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I wasn't hearing any detailed information about
1   Trevor Anderson or Mick Keyes or their situation in that
2   team, but what I was seeing at a management level was a
3   growing focus on safety, starting with the introduction of
4   the harmonisation, the new legislation that we had to
5   harmonise too.
6
7   Q.   What Mr Anderson said, you wouldn't actually agree
8   with that. You don't think that was actually what was
9   happening, even if they were experiencing, between what
10   they experience or what they are perceiving and what your
11   organisation was actually doing?
12   A.   I will answer given you asked for my view and I'm on
13   oath. I think there can sometimes be many truths from the
14   perspective you look, but if I put my eyes from a
15   management perspective, it was very evident to me we didn't
16   have an adequate safety management system and we were
17   attempting to rectify issues and improve that through the
18   safety improvement project. I think the safety improvement
19   project was very good and was rightly focused and was
20   picking up on things that hadn't been adequately dealt with
21   in the past.
22
23   Q.   I have one more question, Commissioner. I have been a
24   very big supporter of the restructure, I think you've done
25   a fantastic job.
26   A.   Thank you.
27
28   Q.   One of the things that came through that was actually
29   highlighted in a briefing with the very good external
30   support you had was that the staff wanted more training.
31   When I asked about that, it was that they wanted training
32   that actually helped them progress as a career, the idea
33   that you start developing people's careers within council.
34   A.   Yes.
35
36   Q.   And that that was something that we were now going to
37   look at. Do you think in retrospect - and it is only
38   retrospect - that it might have been possible? What seems
39   to have happened is a conflict where people felt they were
40   being overlooked and their skills were being overlooked for
41   work that the council was going to undertake. With the new
42   approach what could have happened is that Mr Anderson and
43   his colleagues could have had training, so that would have
44   been another way to go at it, and I know this is
45   retrospective, I'm just saying in retrospect that
46   possibility of saying, "Yes, you actually need more skills
47

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 1      but we are willing to help you get them", so that the
 2      feeling of, "Oh, I've been here 20 years and I'm now being
 3      overlooked"?
 4      A.   Yes, and that's possible in retrospect and I don't
 5      know what training opportunities were or weren't offered to
 6      those staff, but certainly in retrospect and currently the
 7      more we can get people working to each other's strengths
 8      and working together the better off we are.  I think we
 9      needed to transform and implement some changes and I think
10      change is never easy.  I think it can be challenging, so it
11      is how well we manage change and bring it forward.
12
13      THE COMMISSIONER:   Q.   Mr Anderson, I think, from his
14      evidence, might suggest that he didn't feel like he needed
15      any extra training.  His view was that he had the capacity
16      to do the tasks that Mr Shellshear and then Mr Mulligan
17      were brought in to do.  I don't want to put words in his
18      mouth but that's my impression of his evidence.  He clearly
19      said he didn't see the need for Mr Shellshear and
20      Mr Mulligan to come in.
21      A.   Yes, that was my impression as well.  I will add
22      of course I'm currently working with the chief safety
23      officer who we have appointed and I will say that ahead of
24      the organisational new structure I prioritised a
25      restructuring of the safety area of council and that was
26      because I saw it as important and that restructure has now
27      been implemented and is in its early months.  It has
28      strengthened field-based staff.  We've got two field-based
29      officer.
30
31           It has strengthened Workers' Compensation review.  It
32      has strengthened data analytics and business analytics and
33      it will position us to enable us to introduce the other
34      phases of the WH&S, as in getting a system up and running
35      that will help us in oversighting and managing and
36      integrating with risk assessment.
37
38      Q.   I just need to ask a couple more questions on what I
39      was asking you earlier before I invited Councillor Brown to
40      ask any questions.  Obviously, one of my terms of
41      reference, as you would be aware, of course we're only
42      dealing with employment issues, is number 6, which is about
43      whether the council is facilitating a consultative and
44      supporting work environment or has facilitated such an
45      environment.
46      A.   Yes.
47
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 1     Q.    Just going back to the questions I was asking you
 2     about the impact on certain staff from the allegations that
 3     were floating around in late 2017, early 2018, I think you
 4     said yesterday that the council set up some form of
 5     counselling support?
 6     A.    Yes.
 7
 8     Q.    Was that made available to the people we've mentioned
 9     today?
10     A.    My understanding is yes.  In the case of - sorry, we
11     actually developed - I don't know whether it's worth
12     tabling a copy but we've brought copies with us - a staff
13     and councillor support strategy.  In addition, we've had a
14     lot of concurrent investigations, as you're aware, with the
15     multiple EPA and multiple SafeWork, a police investigation
16     and an Ombudsman investigation and a public inquiry and an
17     requirement to implement the performance improvement order.
18
19     Q.    Yes.
20     A.    The compounding effect of all those processes which
21     really - I would say the fact that we've survived through
22     implementing all those in itself is testament, but in doing
23     that it has had a toll and impact on staff.
24
25     Q.    Yes.
26     A.    Especially, say, with the earlier interview - and also
27     I should mention McCullough Robertson, Reid and the Clyde &
28     Co independent investigations.  Just imagine if the same
29     people are having to be interviewed through all those
30     different processes and are having to do work on those
31     different areas.  It has had quite a cumulative impact and
32     we recognise that.
33
34         For the people that volunteered to be interviewed by
35     via McCullough Robertson and Clyde & Co process and for the
36     people that were to be interviewed by the EPA and SafeWork,
37     we offered all of them a similar support and I think we've
38     brought copies of the letter and that included legal
39     support.  If I could have a copy of the letter you showed
40     me earlier, I could just - it was through Marsdens that we
41     gave the support when we did the EPA and the - is that
42     okay, Trevor, if I could get a copy of that letter just to
43     read, to explain why - this is a document tabled.
44
45     Q.    What am I looking at?  I've been handed a staff and
46     councillor support strategy.  This is Version 18/9/18.  Was
47     there an earlier version?
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1    A.    There were multiple versions we were working on and we
2    were already supporting staff through the
3    McCullough Robertson interviews, the Clyde & Co interviews,
4    EPA and SafeWork interviews and this was - we were - this
5    was sort of developed as that was happening.
6
7    Q.    Yes.
8    A.    And it also targeted the upcoming public inquiry, but
9    you'll see the range of what we've been trying to do.  We
10   wanted just to make sure we had measures in place to
11   support both staff and councillors.  If I can just get back
12   to the legal support we provided staff being interviewed
13   for various investigations, we engaged Marsdens Law and he
14   was there to be able - he was someone with legal
15   qualifications --
16
17   Q.    Mr Butterfield.
18   A.    Mr Butterfield.  So he could explain - it was not to
19   advise them on anything what to say or do.  It was really
20   just to give them the understanding of what the process
21   involved, what their rights were, what might happen.
22
23   Q.    When was this pro forma letter created?
24   A.    I'd have to take that on notice and get back to you
25   but we certainly were giving legal support through, as
26   I said, all those different interview processes to start.
27
28   Q.    Yes.
29   A.    In addition --
30
31   Q.    It certainly goes back to when SafeWork were involved
32   because you've specifically mentioned SafeWork?
33   A.    Yes.  I think if we could take it on notice, maybe
34   we'd give you that particular information.
35
36   Q.    Sure.
37   A.    In addition - as I mentioned yesterday, in addition to
38   the Council's normal employee assistance program we also
39   engaged another firm and I can't recall - it's Eco Health
40   and I think we have some document that might elaborate on
41   that which we'll table and that was not just normal
42   counselling support, but it was counselling support that
43   had expertise to particularly help given the particular
44   things that our staff were going through and our
45   councillors would be going through.  I might just get a
46   copy too, thanks.  Did I get the name - Eco Health Oz.
47
```

```
1       Q.   All right.
2       A.   We've also put staff through, quite a significant
3       number of staff through a half-day workshop on just how to
4       cope and manage with the stress and how to better support
5       their - especially for managers, in how to support their
6       staff.  I don't know if that gives you a bit of an
7       overview.
8
9       THE COMMISSIONER:   Yes, thank you.  Are these being
10      tendered?
11
12      MR GLOVER:   Yes, Commissioner, I tender them.
13
14      THE COMMISSIONER:   All right.  I think I might just make
15      them one exhibit.
16
17      EXHIBIT #73 DOCUMENT HEADED "STAFF AND COUNCILLOR SUPPORT
18      STRATEGY", PRO FORMA LETTER FROM THE OFFICE OF THE
19      CHIEF EXECUTIVE REGARDING ACCESS TO SUPPORT SERVICES, AND
20      PRO FORMA LETTER FROM THE OFFICE OF THE GENERAL MANAGER
21      REGARDING SAFEWORK NEW SOUTH WALES INVESTIGATION
22
23      THE COMMISSIONER:   They were the questions I had, thank
24      you.  Does anyone have any questions that arise from any of
25      that?
26
27      MR GLOVER:   No, Commissioner.
28
29      MR SINGLETON:   I don't have a question.
30
31      THE COMMISSIONER:   You are excused, Dr Dillon.
32
33      <THE WITNESS WITHDREW
34
35      MR SINGLETON:   Commissioner, you did raise a matter, and I
36      have the information - I forgot that Dr Dillon was to be
37      recalled, although I was told - and that was the number of
38      people who received these letters.  I have that
39      information.
40
41      THE COMMISSIONER:   You can just tell me that.
42
43      MR SINGLETON:   I am instructed that 68 staff were sent
44      letters offering non-legal support and approximately
45      61 staff members were offered legal support.  This is in
46      respect of being interviewed by regulatory authorities, and
47      they were such matters as the general manager has testified
```

```
 1     about.
 2
 3     THE COMMISSIONER:   Thank you for that.  Is there any
 4     further material to be tendered?
 5
 6     MR GLOVER:   Yes, the councillor handbook.
 7
 8     THE COMMISSIONER:   Yes.
 9
10     **EXHIBIT #74 OFFICE OF LOCAL GOVERNMENT, NSW GOVERNMENT**
11     **COUNCILLOR HANDBOOK, OCTOBER 2017**
12
13     MR GLOVER:   Commissioner, whilst we have been sitting here
14     this morning I have received an email from Mr Ryan about
15     MFI18.
16
17     THE COMMISSIONER:   Yes, of course.
18
19     MR GLOVER:   I will hand up MFI18, a copy of his email
20     submission and a copy of the clearer version of MFI18.
21
22     THE COMMISSIONER:   Does Mr Singleton have that email?
23
24     MR GLOVER:   Yes, I have just passed it to him.
25
26         Commissioner, what I propose is to tender MFI18 in its
27     clearer form.  Mr Ryan's submission goes somewhat beyond
28     relevance, so it's not a matter for today.
29
30     THE COMMISSIONER:   You're content to tender it, though?
31
32     MR SINGLETON:   I would object to a submission being
33     received into evidence.
34
35     MR GLOVER:   I don't tender that.
36
37     THE COMMISSIONER:   I'm not going to receive that.  I'll
38     just treat it as a submission.
39
40     MR GLOVER:   I'm content for MFI18 in its clearer form to
41     become an exhibit.
42
43     THE COMMISSIONER:   MFI18, which is a bundle of emails
44     which commences with an email from Councillor Brown to
45     councillor Hollywood and Gabrielle Martin dated 7 June
46     2019, sent at 9.47am.
47
```

EXHIBIT #75 DOCUMENT PREVIOUSLY MARKED MFI18, BUNDLE OF EMAILS COMMENCING WITH EMAIL FROM COUNCILLOR BROWN TO COUNCILLOR HOLLYWOOD AND GABRIELLE MARTIN DATED 7 JUNE 2019, SENT AT 9.47AM

MR SINGLETON: Just in case it helps anybody, the emails aren't in sequence.

THE COMMISSIONER: No.

MR SINGLETON: You can work them out from the times.

MR GLOVER: Finally, Commissioner, there is one more documentary tender and that's the report to the Minister on the compliance with the performance improvement order. May I just have five minutes to sort that out?

THE COMMISSIONER: You can. Is this the last documentary tender?

MR GLOVER: I have just been handed another one, which I will deal with now, the integrated planning and reporting manual that was discussed yesterday. I tender that.

EXHIBIT #76 NSW GOVERNMENT DEPARTMENT OF PREMIER AND CABINET DOCUMENT ENTITLED "INTEGRATED PLANNING AND REPORTING MANUAL FOR LOCAL GOVERNMENT AND NEW SOUTH WALES - PLANNING A SUSTAINABLE FUTURE" DATED MARCH 2013

MR GLOVER: I just need five minutes to clarify with Mr Singleton.

THE COMMISSIONER: Do you want me to raise submissions and what's left now, or give you the five minutes now and do that later?

MR GLOVER: May I have the five minutes now?

THE COMMISSIONER: Yes, we will adjourn for five minutes, or however long Mr Glover needs.

SHORT ADJOURNMENT

MR GLOVER: Thank you for that time, Commissioner.

    I hand up two documents. The first is a report by the general manager of 26 February 2019, and attached to that

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 1       is a progress achieved report titled "Progress Achieved
 2       Against Recruitment Investigation Improvement Plan".
 3       That is the final report to the Minister which indicates
 4       that all of the recommendations of the McCullough Robertson
 5       review have been completed.
 6
 7       THE COMMISSIONER:   Sorry, I have got a minute by the
 8       mayor.
 9
10       MR GLOVER:   Sorry, I have done them in the reverse order.
11       Attached to that report of the minute by the mayor on
12       29 May 2018 there's a report, enclosure 3, performance
13       improvement order.  Do you have that?
14
15       THE COMMISSIONER:   Yes, I do.
16
17       MR GLOVER:   There's a colourful landscape report.  That is
18       the initial report to the Minister.
19
20       THE COMMISSIONER:   The document that's entitled
21       "Enclosure 3" is the report to the Minister?
22
23       MR GLOVER:   That's right.  That's the first one in time
24       dealing with the McCullough Robertson review.  Then the
25       other document is the report by the general manager of
26       26 February 2019.  That attaches another report to the
27       Minister, and this is the report that first notified the
28       Minister that all of the recommendations had been
29       implemented.
30
31       THE COMMISSIONER:   Is that January 2019?
32
33       MR GLOVER:   It is.
34
35       EXHIBIT #77 BUNDLE OF DOCUMENTS INCLUDING REPORT TO
36       MINISTER COMMENCING WITH MINUTE BY THE MAYOR FOR ORDINARY
37       MEETING 29 MAY 2019
38
39       EXHIBIT #78 BUNDLE OF DOCUMENTS INCLUDING REPORT TO THE
40       MINISTER OF JANUARY 2019, COMMENCING WITH A DOCUMENT
41       "REPORTS BY GENERAL MANAGER ORDINARY MEETING
42       26 FEBRUARY 2019"
43
44       THE COMMISSIONER:   That's all of the documents?
45
46       MR GLOVER:   That's all of the tenders for today, thank
47       you.
```

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 1
 2     THE COMMISSIONER:   All right.
 3
 4          If anyone feels as though a relevant document has been
 5     missed during the submissions period, they can contact
 6     counsel assisting about that.
 7
 8          My view about submissions is that counsel assisting
 9     should go first, then any other interested party then files
10     their submissions by a set date and there be a short period
11     for any reply submissions from anyone.  Is that suitable?
12
13     MR SINGLETON:   We invite you to consider the sequence in
14     which the questioning has occurred.  We anticipate that we
15     might have a significant need to reply to what is put by
16     Councillor Brown.  I base that really on the basis that we
17     have tended to follow up questioning in that way.  In a
18     sense, for us to have a bigger reply submission than chief
19     submission, which could be the result, is inelegant.
20     I invite you to consider that approach.
21
22     THE COMMISSIONER:   This is an administrative inquiry, not
23     an adversarial inquiry, so I think I would prefer to do it
24     the way I've suggested, but there will be a reply period.
25
26     MR SINGLETON:   I don't cavil with that.
27
28     THE COMMISSIONER:   How long do you think you would need,
29     Mr Glover?
30
31     MR GLOVER:   4 October?
32
33     THE COMMISSIONER:   Three weeks, all right.  I will make a
34     direction that counsel assisting is to provide me his
35     written submissions on or before 4 October 2019.  I also
36     direct that those submissions be provided to the council's
37     legal representatives, to Councillor Brown, and I also
38     think that they should be public, and in that case, once I
39     have them I will make a direction that they are put on the
40     website so that anyone can view them.
41
42          In response?
43
44     MR SINGLETON:   We would seek the same amount of time.
45
46     THE COMMISSIONER:   Are you content with that,
47     Councillor Brown?
```

```
1
2      COUNCILLOR BROWN:   Yes.
3
4      THE COMMISSIONER:   Any interested party, including the
5      council and Councillor Brown, is to provide me with their
6      submissions on or before 21 October 2019.  I am not saying
7      days that are Saturdays or Sundays, am I?
8
9      MR GLOVER:   21 October is a Monday.
10
11     THE COMMISSIONER:   And the 4th?
12
13     MR GLOVER:   Friday.
14
15     MR SINGLETON:   So the 25th would be the three week
16     bracket.
17
18     THE COMMISSIONER:   Yes, you are quite right.  25 October
19     it should be.  I will change that to 25 October 2019.
20
21          Any reply submissions to be provided to me by
22     15 November 2019.
23
24          I'm minded to set a page limit.  I'll give
25     consideration to that rather than directing that at the
26     moment, so that people can think about it.  You can say
27     something about that now.
28
29     MR SINGLETON:   It's a very tempting idea.  We should have
30     as much as Mr Glover.
31
32     THE COMMISSIONER:   That's fair.  I haven't had a
33     discussion with Mr Glover about this so I won't make a
34     direction about that at the moment.
35
36          I also had in mind that all submissions should be made
37     publicly available, because it's a public hearing, but
38     obviously they will need to be checked.  Just bear that in
39     mind.
40
41     MR SINGLETON:   We would presently intend not to have
42     anything confidential but, if we did it, we would put it in
43     a confidential annexure.
44
45     THE COMMISSIONER:   Yes.
46
47          I am not going to set dates right now, but obviously
```

```
 1    what is remaining are the asbestos management terms of
 2    reference, which are 1, 2, 5, 7 and 9, and those parts of
 3    6 and 8 that might be relevant to asbestos management.
 4
 5         As I said, I won't set dates right now, but I do want
 6    dates agreed within the next week, if possible, please,
 7    because all interested parties, and of course that includes
 8    the council, its senior staff and its governing body, need
 9    to know there is going to be an end to this inquiry.
10    I would like council, or everyone that's relevant, to have
11    a discussion about a likely estimate as to the amount of
12    time that might be needed.  I will set it down for what is
13    considered to be the greater estimate, with a hope that we
14    finish early.  The one thing I don't want to happen is to
15    set it down for a period of time and then not finish the
16    evidence and then have to find a date months later.  So I
17    want it set down for a period where everyone is comfortably
18    satisfied that the evidence is going to finish.
19
20         As I said, I would like to be able to put out a notice
21    of what those dates are within a week.
22
23         Is there anything further that anyone needs to raise?
24
25    MR GLOVER:   Not at the moment, Commissioner.
26
27    MR SINGLETON:   No, Commissioner.
28
29    THE COMMISSIONER:   We will adjourn.  Thank you all for
30    your assistance.
31
32    **AT 11.36AM THE COMMISSION WAS ADJOURNED ACCORDINGLY**
33
34
35
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47
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