

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 Friday, 6 September 2019 at 10.00am  
(Day 5)

Before Mr Richard Beasley SC, Commissioner

1 (Public Hearing)

2  
3 THE COMMISSIONER: Before we have the first witness, just  
4 on the matter that was raised yesterday about the  
5 McCullough Robertson report, in the time that is left  
6 available today after Mr Mulligan's evidence, I want to  
7 resolve that as far as possible. What I need to hear,  
8 I guess first from Mr Ryan, but Mr Singleton and Mr Glover  
9 can also make a submission, is for what purpose it is  
10 sought to either tender the whole of that report, or for  
11 what purpose do you want to tender either part of it or  
12 have an agreed fact about a finding or findings in the  
13 report? What I really need to know is: what will the  
14 relevance of any of those things be to me answering the  
15 terms of reference, because that's really the test of  
16 relevance.  
17

18 So all three of you can have a say about that, but  
19 obviously primarily, Mr Ryan, that's what I need to hear:  
20 what is the relevance to me, in answering the terms of  
21 reference, of any part of the McCullough Robertson report?  
22

23 If I think it is not relevant, that's the end of it.  
24 If I do think it is relevant, then either some of it or all  
25 of it will go in. If it is to be all, I appreciate that  
26 it's not possible to make any ruling in relation to  
27 privilege today, because the council no doubt would want to  
28 put on evidence about the circumstances in which Ms Reid  
29 was engaged, to what use the report has been put, who it  
30 has been distributed to, et cetera, et cetera, which would  
31 all be affidavit-type evidence or sworn evidence, and so  
32 it's certainly not going to be possible for me today to  
33 deal with an argument about legal professional privilege,  
34 because there would have to be some underlying evidence to  
35 make a ruling about that.  
36

37 What we could achieve is a finding in relation to  
38 what, if anything, is relevant from that report. Also,  
39 again, I would encourage taking some time, if you haven't  
40 done so already, for everyone to reach agreement about how  
41 I deal with it. In that case, I don't have to take it any  
42 further, there will be some agreed pathway. That's what  
43 I intend to do, but we're not going to hold Mr Mulligan up  
44 for that. Is that all clear?  
45

46 MR SINGLETON: Yes, it is, thank you, sir.  
47

1 THE COMMISSIONER: You have a couple of things you want to  
2 raise?  
3  
4 MR GLOVER: Just one matter, very briefly. If you have  
5 yesterday's transcript, page 458.  
6  
7 THE COMMISSIONER: Just while I'm finding that, are you  
8 going to provide me with a copy of the report you have  
9 distributed?  
10  
11 MR GLOVER: Yes, I will.  
12  
13 THE COMMISSIONER: I won't have it tendered yet, I will  
14 mark it for identification.  
15  
16 MR GLOVER: At line 13, my friend Mr Ryan asked  
17 a question, and the answer commences at line 18. The  
18 recollection of all of us at the bar table is that the  
19 answer was, "That would not be my description".  
20  
21 THE COMMISSIONER: Okay.  
22  
23 MR GLOVER: So the word "not" should be inserted between  
24 "would" and "be". I don't know if that will have any  
25 significance in the inquiry.  
26  
27 THE COMMISSIONER: Neither do I, but, anyway, if that is  
28 agreed then that word should be inserted into the  
29 transcript. So line 18 should read, on page 458:  
30  
31 A. That would not be my description of  
32 the procurement process.  
33  
34 MR GLOVER: That's correct. That's agreed.  
35  
36 MR SINGLETON: Commissioner, on that answer, Ms Twomey has  
37 reflected overnight on it. We would wish to supply some  
38 more clarifying detail about it for the sake of accuracy.  
39 We're working on the precise statement of it. She will be  
40 available either to testify to it or, given the nature of  
41 the inquiry, I will read out the council's position on the  
42 matter.  
43  
44 THE COMMISSIONER: Is she here?  
45  
46 MR SINGLETON: She's in the building.  
47

1 THE COMMISSIONER: Right. Just after Mr Mulligan finishes  
2 she can step back in and clarify that.

3  
4 MR SINGLETON: Thank you.

5  
6 MR GLOVER: Finally, Commissioner, I hand up a copy of the  
7 report of Blackadder Associates.

8  
9 MFI #11 REPORT ENTITLED "BLUE MOUNTAINS CITY COUNCIL PUBLIC  
10 INQUIRY - ORGANISATION STRUCTURE AND RESOURCE ALLOCATION  
11 ISSUES" PREPARED BY BLACKADDER ASSOCIATES, DATED SEPTEMBER  
12 2019

13  
14 THE COMMISSIONER: I think Mr Mulligan should be sworn  
15 again.

16  
17 <MARK ANDREW MULLIGAN, resworn: [10.06am]

18  
19 <EXAMINATION BY MR GLOVER:

20  
21 MR GLOVER: Q. Mr Mulligan, once again, would you state  
22 your full name, please?

23 A. Mark Andrew Mulligan.

24  
25 Q. Do you still hold the same position at the ANU that  
26 you were in when we last spoke?

27 A. That's correct.

28  
29 Q. You gave some evidence in relation to another term of  
30 reference in June. I'm going to attempt to avoid covering  
31 the same ground, but bear with me if we touch on some of  
32 the same issues. Now, you were first engaged by the  
33 council in about August/September 2016; correct?

34 A. Yes.

35  
36 Q. Prior to that engagement, did you know  
37 Mr Stuart Liddell?

38 A. Yes.

39  
40 Q. How did you know him?

41 A. I had worked with him at an organisation that was  
42 known by a few different names - Advance Energy, Country  
43 Energy and Essential Energy - but, in effect, it was the  
44 same organisation, it had just gone through a number of  
45 mergers and name changes as a result.

46  
47 Q. Did you work in the same parts of that business?

1 A. For a period of time I did, yes.

2

3 Q. Did you report to him at any stage?

4 A. I did at one stage.

5

6 Q. And in what roles were you in when that occurred?

7 A. My first time reporting directly to Mr Liddell would  
8 have been between 2003 and - February 2003 and September  
9 2004, as the high performance culture program manager.

10

11 THE COMMISSIONER: Q. You were in that position?

12 A. I was in that position, correct.

13

14 Q. What was his position?

15 A. He was the general manager, human resources. I can't  
16 remember his exact title, but he was essentially the head  
17 of HR.

18

19 THE COMMISSIONER: Thank you.

20

21 MR GLOVER: Q. During the time you worked together in  
22 that business, did you also work in different areas?

23 A. Yes, indeed. In fact, in the 17-odd years I was with  
24 Essential Energy, I only worked directly to Mr Liddell for  
25 that period between February 2003 and September 2004.

26

27 Q. In that answer you said you were there for 17 years.  
28 Was Mr Liddell there for the same amount of time, to your  
29 recollection?

30 A. No.

31

32 Q. Did he leave before you?

33 A. He started some time after me and then he left before  
34 I left.

35

36 Q. And after Mr Liddell left that organisation, did you  
37 have any contact with him after then?

38 A. Very intermittent. A couple of phone calls touching  
39 base; doing some referee checks on some people that had  
40 used Mr Liddell as a referee; and when I then started doing  
41 some consultancy work in Canberra, I became aware that he  
42 was also in the area, so, again, reached out to touch base.  
43 But it was probably one or two times, like, every year, and  
44 then there was probably a period of time in there when  
45 I didn't have any contact with him for several years.

46

47 Q. Did you have a social relationship with Mr Liddell at

1 any stage?

2 A. Certainly when we worked together. I mean, the  
3 organisation, you know, we were just over 4,000 people, but  
4 we were based out at the Bathurst office and, you know, we  
5 had a social club and so people got together after work.  
6 But we weren't involved in any sporting clubs or anything  
7 of that nature together.

8  
9 Q. But outside the work social environment, if I can  
10 describe it that way, did you and he have a friendship?

11 A. Well, we had a work friendship, yes.

12  
13 Q. It has been suggested that you and he were "very close  
14 friends"; what do you say to that?

15 A. I would suggest that that is not an accurate  
16 description.

17  
18 THE COMMISSIONER: Q. So it was a work friendship which,  
19 when you worked together, involved socialising with other  
20 work colleagues, but, otherwise, there wasn't an ongoing  
21 social friendship that you would have with someone that was  
22 a long-term friend?

23 A. No. I think I recall having Mr Liddell and his wife  
24 to dinner once in the entire time that we were together.  
25 I never went to a function or had dinner at his place. So  
26 I think if you were describing somebody as a close friend,  
27 you would have some expectation that, you know, you would  
28 be getting together at each other's place on a reasonably  
29 regular basis to watch football or cricket or, you know,  
30 have a meal, and that wasn't the case.

31  
32 MR GLOVER: Q. Now, the inquiry is also aware of  
33 a suggestion that Mr Liddell had a connection to a company  
34 called Skillset. Are you aware of that entity?

35 A. I am, indeed.

36  
37 Q. And the inquiry is also aware of a suggestion that  
38 your wife was employed or engaged by that company at some  
39 stage?

40 A. She was.

41  
42 Q. Is that right?

43 A. Correct.

44  
45 Q. During the period that she was there, was Mr Liddell  
46 involved in that company, to your knowledge?

47 A. He was a director on the board.

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Q. From that do I take it that, to your knowledge, your wife never worked with Mr Liddell during the time she was at that company?

A. No. In fact, I believe that she never even talked to him during that time. The board were quite separate from the leadership and executive team of the organisation.

THE COMMISSIONER: Q. What is Skillset?

A. They started off as a group apprenticeship scheme and then they expanded their services into things like environmental services, but primarily, the basis of their business was a group apprenticeship scheme.

Q. I don't understand how group apprenticeship schemes work, I'm sorry.

A. They would find placements for apprentices across a range of trades. They were actually the employer, and they would charge a small-to-medium enterprise --

Q. Like a labour hire for apprentices?

A. Correct.

Q. What was your wife's role there?

A. She was a project manager.

MR GLOVER: Q. I'm going to ask you some questions about your first engagement with the council in 2016. How did you first become aware of that opportunity?

A. I had a phone call some time in August from Mr McKay.

Q. Do you have a recollection of that phone call?

A. I couldn't tell you the specifics. It was simply introducing himself, asking if I was still working in the field of safety; asking if I would be potentially interested in looking at a project piece of work for Blue Mountains City Council, to which I said yes, I would be; and then we organised a date to meet face to face.

Q. You had a meeting with him and Mr Hargreaves; is that right?

A. That's correct. I looked at my diary. I believe it was on or around 14 August 2016.

Q. I'm going to ask that you be shown exhibit 28. Just turn to page 3 for me.

A. Yes.

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Q. At the top of that page there's an email from you to Mr McKay of 5 August. Do you have that?

A. Yes.

Q. Then you refer to having attached a capability outline?

A. Yes.

Q. I am just going to show you this document. There is one for the Commissioner. Is that the capability outline that you provided?

A. To the best of my knowledge it is, yes. Obviously I've modified it as the consultancy developed and other clients came on board, but to the best of my knowledge that would have been accurate at the time of that email being sent.

MR GLOVER: I tender that.

EXHIBIT #55 COMPANY OVERVIEW FOR MA & SE MULLIGAN  
CONSULTING SERVICES

MR GLOVER: Q. Would you turn to page 5?

A. Yes.

Q. This is an email from Mr Hargreaves to you of 15 August. Do you have that?

A. Yes.

Q. I don't need you to go to the detail. Mr Hargreaves sent you a briefing paper about the project; correct?

A. Correct.

Q. That was prior to your meeting, was it? Well, it was, it says so about halfway down page 5.

A. Yes.

Q. I take it having been told a little bit about the project by Mr McKay and having read this briefing paper, you formed a view about whether it was a role that was suitable for you?

A. That's correct.

Q. What was your view?

A. I thought it fitted nicely into my skill set.



1 Q. You had undertaken work of this nature before?  
2 A. I had.  
3  
4 Q. Over your career and in general terms has this been a  
5 significant portion of the work that you've done of this  
6 nature?  
7 A. Yes.  
8  
9 Q. Following the meeting - would you turn to page 19,  
10 please. This is an email from you that actually commences  
11 on the foot of page 18, an email from you to Mr McKay and  
12 Mr Hargreaves?  
13 A. Yes.  
14  
15 Q. Over on page 19 you refer to the meeting "yesterday",  
16 so that places the meeting at about the 17th, which is  
17 close to your recollection?  
18 A. Yes.  
19  
20 Q. About two-thirds of the way down the page you quote  
21 some rates. Do you see that?  
22 A. Yes.  
23  
24 Q. Were they your standard commercial rates at the time?  
25 A. They were.  
26  
27 Q. Jump ahead to page 99 for me, please. That is your  
28 confirmation of your engagement letter, do you have that,  
29 9 September?  
30 A. Yes.  
31  
32 Q. You had done some days work prior to this; is that  
33 right?  
34 A. Correct, some scoping work.  
35  
36 Q. Was that done on a day-by-day fee arrangement?  
37 A. Yes. I'd have to go back and check the invoices,  
38 but I believe that those single days, until this was  
39 received, were charged out at the \$1,800 rate.  
40  
41 Q. Apart from this letter were there any other  
42 contractual documents relating to your engagement that you  
43 signed with the council?  
44 A. Not that I've got, no.  
45  
46 Q. At any stage during the process that lead up to your  
47 engagement with the council in 2016, did you have contact

1 with Mr Liddell about it?

2 A. Not that I recall.

3

4 Q. From your perspective was this a process being  
5 conducted by Mr McKay and Mr Hargreaves; is that right?

6 A. Yes. All my contact via email was with either or both  
7 of them.

8

9 Q. As we discussed last time, your role was to lead the  
10 safety improvement project; correct?

11 A. That's correct.

12

13 Q. Who did you primarily work with at the council in  
14 leading that project?

15 A. Mr McKay and Mr Hargreaves.

16

17 Q. Did you have a team that worked with you?

18 A. I had two resources, Mr Anderson and Mr Keyes.

19

20 Q. And they were what is sometimes described as the  
21 safety team; is that right?

22 A. Correct.

23

24 Q. What was their role in assisting you with this  
25 project?

26 A. It was essentially trying to allocate tasks associated  
27 with the project that fitted their skill set and assist me  
28 being able to access information, provide historical  
29 documentation, assist with, you know, the general analysis  
30 of where the safety management system was currently at, and  
31 help make decisions about where the safety management  
32 system needed to get to.

33

34 Q. There has been some evidence given to the inquiry that  
35 elements of the business were resistant to change in the  
36 area of being addressed by the safety improvement project.  
37 Do you have a view about that?

38 A. I think that's a fair assessment.

39

40 Q. From your observation what areas of the business were  
41 resistant to the change?

42 A. Most areas.

43

44 Q. Most areas. Can you describe your observations of how  
45 that resistance manifested itself?

46 A. I think in the first instance what I saw was that  
47 there wasn't an established consultative framework for work

1 health safety and therefore, people had become disconnected  
2 with what was being done in terms of the safety management  
3 system of work. I talked to a lot of people and the best  
4 way I could probably describe it is that they had a sense  
5 of it was being done to them rather than with them and so,  
6 therefore, people then just decided to do their own thing  
7 or keep doing what they'd always done because they didn't  
8 really believe that they'd been engaged in any changes that  
9 were made around work health safety for a number of years.

10  
11 Q. Was part of the safety improvement project to rectify  
12 that situation?

13 A. It was and one of the first pieces of work that I was  
14 asked to undertake was to review the consultative framework  
15 and to re-establish that and there was an establishment of  
16 a peak work health safety group, as well as two depot work  
17 health safety committees and a work health safety committee  
18 to capture the head office, if you like, and other  
19 administrative functions.

20  
21 Q. Correct me if my recollection is wrong, but one of the  
22 first documents you worked on was the charter for that  
23 group; right?

24 A. Correct.

25  
26 Q. You concluded that engagement on 23 December 2016. Do  
27 you remember that?

28 A. Yes.

29  
30 THE COMMISSIONER: Q. Just before you move on, part of  
31 Mr Anderson's and Mr Keyes' role was to assist you in your  
32 role that you were engaged to do; correct?

33 A. Correct.

34  
35 Q. Were they cooperative and were they of assistance to  
36 you?

37 A. To a point.

38  
39 Q. To a point. Okay. To the extent that they weren't,  
40 can you describe that?

41 A. I'd describe it more of a capability gap rather than  
42 necessarily a willingness to participate. There will  
43 always be in work health safety people who have been a work  
44 health safety officer or a professional for a period of  
45 time. There will be a belief that the way that they do  
46 things is the best way to do it and I'd probably describe  
47 Mr Anderson in that context. He was very experienced and

1 he was very capable with certain aspects of work health  
2 safety, but he also had views that predated the change in  
3 legislation that occurred in 2011 and that was a barrier to  
4 change.

5  
6 Mr Keyes, on the other hand, had come from a  
7 background that you wouldn't typically expect for someone  
8 that's working in safety. His written and oral skills were  
9 limited in terms of being able to engage at the level that  
10 I needed the pair of them to engage at and that created  
11 difficulty in terms of allocating work to Mr Keyes,  
12 particularly in regard to document writing.

13  
14 Q. One witness has suggested to me that there may have  
15 been a belief by both Mr Keyes and Mr Anderson, and perhaps  
16 others, that the council's documentation in relation to  
17 work health and safety was already compatible with the  
18 changes to the WH&S Act in 2011. Was that something you  
19 also understood from them and disagreed with or agreed with  
20 or what?

21 A. I spent a great deal of time in meetings with both of  
22 them going through the requirements of the Act and where  
23 I believe the gaps existed and we cross-referenced back to  
24 a number of independent reports that had been done prior to  
25 my engagement in 2016.

26  
27 Q. That would have included the Willis report, would it?

28 A. Correct, which identified those gaps as well, and  
29 I provided some evidence to them of safety management  
30 system manuals that I had developed or I had audited for  
31 other organisations to make my case and I did feel by the  
32 time I left in December that I'd got them over the line in  
33 terms of understanding the work that we'd set aside to do  
34 and the alignment of the safety management system to  
35 AS/NZS 4801 time was the right thing to do.

36  
37 THE COMMISSIONER: Do we have exhibit 18? It is online,  
38 so it can be shown to the witness that way, but if there's  
39 a hard copy --

40  
41 MR GLOVER: Mine is unmarked.

42  
43 THE COMMISSIONER: Q. Exhibit 18 is the project  
44 management plan for the safety improvement project. Over  
45 the page in the heading it says:

46  
47 Document Owner. Mark Mulligan.

1 Issue Date. 17 October 2016.

2

3 It has a document history, one of which predates your  
4 involvement. Was this document created by you?

5 A. It wasn't created by me. The document was one of a  
6 suite of documents provided to me by Mr McKay and  
7 Mr Hargreaves and I was asked to review it in reference to  
8 the other documentation that they'd provided to me and my  
9 professional opinion in terms of what was achievable, what  
10 wasn't achievable and, you know, how the document could be  
11 improved. At the time that I did it I wasn't aware that  
12 the document control page - because I didn't get to see  
13 that --

14

15 Q. I see.

16 A. I wasn't aware that the document control then listed  
17 me as the document owner. I think that would be  
18 inaccurate.

19

20 Q. I see. A version of this document was provided to you  
21 as the framework for your role as a consultant at the  
22 council?

23 A. That's right, it was one of the documents provided to  
24 me, yes.

25

26 Q. Did you then get to make alterations to it, as you saw  
27 fit, or was it --

28 A. I did. One of the pieces of correspondence I provided  
29 within those first few days of, as I described, scoping was  
30 providing revisions back to Mr McKay and Mr Hargreaves in  
31 relation to this document.

32

33 Q. All right. On page 7 of 16 it outlines phase one and  
34 has 10 matters being what are called deliverables?

35 A. Yes.

36

37 Q. Were they consistent with what it was that you were  
38 able to achieve in the period that you were a consultant  
39 from 5 October to 23 December?

40 A. A number of them were achieved and there were a few  
41 that were going to need to carry over.

42

43 Q. Which ones needed to be carried over, which numbers?

44 A. Certainly item 10, the software application  
45 evaluations, that hadn't occurred; 9 had occurred to a  
46 point that when I'd left in December, the safety management  
47 system manual was provided in draft. There were some gaps

1 to be filled in relation to procedures that were still  
2 outstanding to be completed by Mr Anderson and Mr Keyes, to  
3 allow that document to be published.

4  
5 Q. Yes.

6 A. A number of the others were at stages of  
7 implementation.

8  
9 Q. Over the page is phase two and phase three. I know  
10 they hadn't been commenced during the period that you were  
11 engaged as a consultant, but were they matters that you  
12 provided advice on that this needs to be followed through,  
13 or did it not get that far?

14 A. It didn't get that far.

15  
16 THE COMMISSIONER: All right. Thank you.

17  
18 MR GLOVER: Q. Mr Mulligan, just to pick up on some of  
19 those answers, do you still have exhibit 28 there, which is  
20 that smaller folder?

21 A. Yes.

22  
23 Q. Just turn to page 78 for me, please.

24 A. Yes.

25  
26 Q. A third of the way down there's an email from you to  
27 Mr Hargreaves of 8 September. Do you see that?

28 A. Yes.

29  
30 Q. Is this the email by which you provide your changes to  
31 the initial version of the project management plan that had  
32 been supplied to you?

33 A. Yes. I recall it was via email correspondence and the  
34 timing of that would seem to line up.

35  
36 Q. Would you just turn to page 80. If you just flick  
37 through the next few pages, you will see a version of the  
38 project management plan with track changes?

39 A. Yes.

40  
41 Q. Are they your changes?

42 A. They certainly look like the things that I made  
43 comment on or added to, without going back and actually  
44 sourcing the document from my own records.

45  
46 THE COMMISSIONER: Q. Just have a look at 87 then and  
47 see whether that helps you. 4.2, "Exclusions". Someone,

1 whoever has made the track changes, has said, "John - the  
2 IT solution will enhance", et cetera. Do you have any  
3 recollection of --

4 A. Yes, because I was very big on transitioning to an  
5 automated system to be able to provide opportunities for  
6 staff for hazard identification, incident reporting and  
7 corrective actions.

8  
9 Q. And equally, if you go to 89 at the top, there's a  
10 note, "John, I would recommend you have Trevor and Mick  
11 reporting to you with a dotted line to me."

12 A. Yes.

13  
14 Q. That sort of rules out it either being John, Trevor or  
15 Mick making these changes?

16 A. No, that was me, and it was me because my concern was  
17 that you shouldn't be bringing a consultant in and then  
18 having permanent staff reporting to them during the course  
19 of a project. It doesn't go well because as a consultant  
20 you only have limited capacity to, if you like, enforce  
21 organisational policy and procedures, so that was my  
22 recommendation.

23  
24 Q. It is just a different relationship when you're a  
25 consultant as distinct from someone who is actually the  
26 person they report to within the organisation?

27 A. Correct.

28  
29 Q. Yes?

30 A. Correct.

31  
32 THE COMMISSIONER: Have you finished with that document?

33  
34 MR GLOVER: I have.

35  
36 THE COMMISSIONER: Q. Can I just ask your views, because  
37 it is back chronologically, was the Willis safety  
38 management system review something you were given before  
39 you started your consultancy?

40 A. It was given to me - I can't recall whether it was  
41 given to me before --

42  
43 Q. Or early on?

44 A. It was very early on. It might have been given to me  
45 during those first few days of scoping but I couldn't tell  
46 you exactly, but it --

47

1 MR GLOVER: It is page 21, Commissioner.

2

3 THE COMMISSIONER: Q. All I wanted to ask you was a  
4 general question. Sitting here now, do you recall, having  
5 read it, whether you were in general agreement with the  
6 conclusions reached?

7 A. Yes.

8

9 Q. I think the overall finding from Willis was, the way  
10 they describe it, a lack of maturity in the documentation  
11 that was currently present in council?

12 A. And that was certainly supported by the work that  
13 I did, the manifests that we developed of documents that  
14 were outdated or documents that didn't exist that needed to  
15 exist to ensure compliance with the Act.

16

17 THE COMMISSIONER: All right. Thanks.

18

19 MR GLOVER: Q. You finished on 23 December 2016,  
20 correct?

21 A. Yes.

22

23 Q. At any stage prior to then was there a view about  
24 whether you would return in 2017 and continue work?

25 A. There were conversations with Mr McKay and  
26 Mr Hargreaves and Mr Liddell and I expressed that I'd be  
27 available, but then as we got deeper into December and  
28 there had been nothing formal provided to me, I accepted  
29 another piece of work and I advised them accordingly, but I  
30 also said that I'd be very happy to come back, if the  
31 opportunity arose, to continue to work with the project.

32

33 Q. Beyond some discussions about your availability and  
34 willingness to return, it didn't progress beyond that?

35 A. No.

36

37 Q. Are you aware of any reason why the council didn't  
38 take you up on your availability?

39 A. I didn't ask. As a consultant it's not your business,  
40 you know, to ask for justification as to why someone  
41 chooses not to engage you, so I left it at that.

42

43 Q. Thank you. I am going to move to your engagement in  
44 the acting director service delivery role now in 2017. How  
45 did you become aware of that opportunity?

46 A. I received a phone call from a gentleman by the name  
47 of Paul Phillips from Hays Executive Search.



1 Hays Executive Search were an organisation I'd dealt with  
2 previously where I had been contacted numerous times over  
3 the years being asked by different people if I was  
4 interested in applying for specific executive roles, but  
5 I hadn't had any dealings with Paul previously, so I just  
6 assumed that it was, you know, them picking up on their  
7 database, being asked to do a recruitment exercise and  
8 therefore received a phone call. It wasn't an unusual  
9 thing for me to get phone calls from recruitment agencies.

10  
11 Q. Did he give you an outline of the role?

12 A. He did.

13  
14 Q. And did you form a view about whether it was one that  
15 you would be interested in, firstly?

16 A. I did. I was interested in it because of, obviously,  
17 having had exposure to Blue Mountains City Council  
18 previously. Seeing that there was, you know, an executive  
19 commitment to change and that the challenge to then effect  
20 that change through the workforce was one that I thought  
21 was appealing to me at that stage of my career, so yes,  
22 I was very interested in it.

23  
24 Q. Did he at that time make you aware that it was only a  
25 12-month role?

26 A. Yes.

27  
28 Q. Did he explain to you why?

29 A. Yes.

30  
31 Q. What did he tell you?

32 A. He explained to me that the current general manager,  
33 Mr Greenwood, was transitioning out and that the view was  
34 to give the incoming general manager, whoever the council  
35 chose that to be, would have the flexibility in regard to  
36 looking at reviewing structures and reviewing personnel and  
37 rather than locking in somebody to that role, having it as  
38 a 12-month contract, then if they chose to retain that  
39 role, if there was a restructure, I, like anyone else,  
40 would be able to apply, but if the incoming general manager  
41 had a different view or a different style, didn't like the  
42 cut of my jib, then, you know, I'd be finishing at the end  
43 of that 12 months.

44  
45 Q. From your experience, did that approach sound  
46 reasonable enough to you?

47 A. It was reasonable to me because in my consultancy I'd

1 done a number of roles as an interim executive placement  
2 and at the time I was contacted I was actually in the  
3 middle of an interim executive placement at the Australian  
4 National University, so it wasn't something that was  
5 unfamiliar to me and I felt reasonably comfortable in going  
6 back to an organisation that I at least had had exposure to  
7 and understood their systems of work, knew a number of the  
8 personnel, obviously, and it also meant from my perspective  
9 living in Bathurst I wasn't going to be away overnight a  
10 lot, so that was quite appealing to me as well.

11

12 Q. What about the day-to-day responsibilities of the  
13 role, did you form a view about whether they matched your  
14 skills and experience?

15 A. I got the opportunity to form a bit of a view in 2016  
16 and in terms of the some of the roles that I held, you  
17 know, at a senior management executive level at  
18 Essential Energy, which included managing fleet services,  
19 managing property services, when I looked at the nature of  
20 the portfolio, I felt that there were a lot of things  
21 within that portfolio that I had reasonable inherent  
22 knowledge of, and I also regarded myself as being a good  
23 people manager and that really was the crux of the role,  
24 was trying to get penetration culturally with the team to  
25 start to effect change and move forward.

26

27 Q. Thank you. Now, after that initial contact with the  
28 gentleman from Hays, how did the process proceed from  
29 there?

30 A. After the initial phone call I was then sent a couple  
31 of documents, like a disclosure document, which  
32 I completed. Mr Phillips then sent me a position  
33 description and some other information. We then scheduled  
34 a time and I did a formal phone interview.

35

36 Q. With him?

37 A. With Mr Phillips, yes. After that phone interview  
38 I then received, I can't remember the timing but it would  
39 have been a week or so after, another phone call asking if  
40 I'd be available to have an interview in the Blue  
41 Mountains, which I attended. From memory, in the first  
42 interview was Mr Greenwood, Mr Liddell, I think there was  
43 one other person but I can't be 100 per cent sure, so  
44 I undertook that interview and then a couple of weeks later  
45 I came back for a second interview, which was with the  
46 remainder of the senior leadership team and that was,  
47 effectively, the process up until such time as I was then

1 offered a role.

2

3 Q. So you were interviewed by the entire ELT; is that  
4 right?

5 A. Correct.

6

7 Q. Is that something that was common in your experience  
8 of being interviewed for executive roles?

9 A. It was.

10

11 Q. Did you form a view about the level of detail that  
12 went into the process to recruit for this role?

13 A. I thought it was very thorough and I like what it says  
14 culturally. I like what it says in terms of the senior  
15 leadership team having an interest in who their peer and  
16 colleague is going to be and being actively engaged in that  
17 process and having come from an interim placement with ANU  
18 who took a similar approach, again, it told me that they  
19 were generally interested in moving the culture forward of  
20 the organisation.

21

22 Q. There have been some suggestions made that at the  
23 council there was a boys' club or a jobs for the boys  
24 culture whilst Mr Liddell was there. Are you aware of  
25 those suggestions?

26 A. I have read some of those claims, yes.

27

28 Q. I appreciate that you only had two relatively short  
29 stints at the council, but in the time that you were there  
30 did you observe anything of that sort?

31 A. No.

32

33 Q. Did you observe or become aware of any occasion on  
34 which Mr Liddell used his position to appoint people to  
35 roles or engage consultants on the basis of the  
36 relationships he had with them?

37 A. No.

38

39 Q. Did you observe or become aware of any occasion on  
40 which Mr Liddell misused his position in relation to the  
41 appointment of anyone?

42 A. No.

43

44 THE COMMISSIONER: The witness mentioned position  
45 description 4. I have seen it. Can you tell me where it  
46 is?

47

1 MR GLOVER: Yes. MFI 8.  
2  
3 THE COMMISSIONER: I have it in front of me. I have found  
4 the Hays Executive thing, the interview notes. I remember  
5 seeing it.  
6  
7 MR GLOVER: There is one at page 119.  
8  
9 THE COMMISSIONER: 119. All right. That is July 2016.  
10  
11 MR GLOVER: Yes. I am just having a look through to see  
12 if we have another one.  
13  
14 THE COMMISSIONER: I am sure there was one I saw in the  
15 course of term of reference 4.  
16  
17 MR GLOVER: I can't find one, sitting here, for 2017.  
18 There may be one in the records.  
19  
20 THE COMMISSIONER: We might try and find it at morning  
21 tea, then.  
22  
23 MR GLOVER: Yes.  
24  
25 THE COMMISSIONER: Keep going.  
26  
27 MR GLOVER: That's all I have for Mr Mulligan.  
28  
29 THE COMMISSIONER: Q. When you came on as the acting  
30 director, service delivery, in November I think it was,  
31 2017, was there any aspect of that role that involved you  
32 assisting in completing phase 2 and phase 3 of the safety  
33 improvement project, or had that moved on since then?  
34 A. It hadn't moved on much, I have to say. I mean, I had  
35 an interest in it moving forward, because one of my primary  
36 concerns was the quality of documentation that the field  
37 crews that were within my control had access to. They were  
38 working with outdated safe work method statements, outdated  
39 procedures, and so my interest was in making sure that they  
40 actually had better quality resources and training  
41 available in relation to safety.  
42  
43 Q. Who had responsibility for phase 2 and phase 3 being  
44 looked at? Was that Mr Keyes and Mr Anderson and Mr McKay?  
45 A. I believe so. I believe so, because that team hadn't  
46 changed since I'd been there in 2016, so my assumption was  
47 that they continued to have carriage of the operation.

1  
2 THE COMMISSIONER: All right. Mr Ryan, do you have any  
3 questions?

4  
5 MR RYAN: I do, thank you.

6  
7 <EXAMINATION BY MR RYAN:

8  
9 MR RYAN: Q. Mr Mulligan, my name is James Ryan. I'm  
10 representing Councillor Brown. I will just ask you  
11 a couple of questions. Just to start with, if you could  
12 just fix me up on a date which I probably should know, but  
13 when you came back in 2017 as the acting director, I know  
14 the structural review went through council in August, and  
15 then I think it was formally signed off in September - when  
16 did you start?

17 A. Not until November.

18  
19 Q. It was November?

20 A. Mmm. I think it was 1 November.

21  
22 Q. So that's quite late in the year at that time. Going  
23 back to when you began as a consultant for phase 1 of the  
24 project, there were three phases of the project, the safety  
25 improvement project, and I think Mr Glover has taken you  
26 through evidence today that you were given a project  
27 outline and then you made some amendments to it; is that  
28 correct?

29 A. That's correct, yes.

30  
31 Q. So you were engaged specifically for phase 1 under  
32 your contract?

33 A. It was primarily phase 1, yes.

34  
35 Q. Would you describe it as only for phase 1?

36 A. Well, I obviously got to consider the other phases of  
37 the project, but the initial engagement was very clear in  
38 terms of the dates that I provided, that I would be  
39 available, to Mr McKay and Mr Hargreaves. So I didn't have  
40 any expectations beyond that.

41  
42 Q. Now, I think in exhibit 28, and I'm not sure of the  
43 page number but I think it might have been at page 80,  
44 there may have been the project outline that was provided  
45 to you before your interview in Bathurst; I think Mr McKay  
46 sent that through to you?

47 A. Yes. I can't recall the exact timing of that outline,

1 but I do recall, before the meeting in Bathurst, I was  
2 given, like, a PowerPoint presentation.

3  
4 Q. Yes, that's right.

5 A. But I don't think I received the actual project plan,  
6 or whatever it has now been called - I don't think  
7 I received that until after the meeting in Bathurst.

8  
9 Q. It is actually that PowerPoint that I'm thinking of,  
10 because that was the sort of basis of the interview, wasn't  
11 it? It was like the outline of the interview questions:  
12 "How would you respond to this situation"?

13 A. That's correct. It was, "Here's the context. Do you  
14 think it sits within your area of expertise? Do you  
15 believe you can assist us?" So it was giving me some  
16 background before the face-to-face meeting in Bathurst.

17  
18 Q. I am struggling to actually find the page number but,  
19 from memory, one of the dot points was compliance with the  
20 work health and safety legislation, I think?

21 A. Correct.

22  
23 Q. So what was meant by that?

24 A. Well, I took it to mean reviewing the currency of the  
25 documentation that was reflected in stages of the project  
26 and ensuring that the documentation met the requirements of  
27 the Work Health & Safety Act 2011.

28  
29 Q. Was there a sense that the council wasn't compliant?

30 A. Well, certainly I got a feeling that there was an  
31 acknowledgment that a previous report, which I then came to  
32 know as the Willis report, had identified lapses, and then  
33 subsequently an initial analysis that had been undertaken  
34 identified that the documentation, which I sort of refer to  
35 as the safety management system, wasn't compliant at that  
36 point with the Act.

37  
38 THE COMMISSIONER: If you look at exhibit 18 that I took  
39 the witness to, and I took him to page 7 of 16, which has  
40 phase 1, the entire objective is for the council to be  
41 compliant with the WH&S Act 2011, and then the 10 tasks are  
42 all directed to, at least in part, achieving that.

43  
44 MR RYAN: Yes, I do see that.

45  
46 Q. That's in phase 1 of the project. But prior to this  
47 I think you said that there was obviously the Willis

1 report. In your evidence earlier you said there were  
2 a number of reports, but I think the Willis report was  
3 probably regarded as a foundational report for this  
4 project; is that right?

5 A. I think it was the catalyst for the project being  
6 developed, but that's my judgment. I obviously wasn't  
7 privy to discussions that were had when the Willis report  
8 was first made available to the ELT and to other members of  
9 council, but it would seem logical to assume that, post  
10 that report, then work was commenced to address some of the  
11 things that were identified within that report.

12  
13 Q. Did I understand, when you said earlier that you went  
14 through this interview process and you began your  
15 consultancy, at that time I think you had access to the  
16 Willis report, and you said another analysis, or maybe  
17 a comparative analysis, had been done of the Willis report  
18 and council's policies which identified gaps and  
19 noncompliances?

20 A. No, I said that I undertook a gap analysis of the  
21 documentation. So the Willis report assisted, you know, my  
22 information gathering, and where there were gaps in that  
23 information, I was able to access that information through  
24 Mr Anderson and Mr Keyes to actually get the documentation  
25 that was most current and then to evaluate where the gaps  
26 were in relation to compliance with the Act.

27  
28 Q. Is that coming in under one of the 10 points of  
29 phase 1 or is that just a preliminary orientation piece of  
30 work that you did to find out where the ground was?

31 A. Well, I believe it's captured as described before,  
32 where we talk about, "Safety Management System that  
33 complies with the WHS Act 2011 and aspires to compliance  
34 with AS/NZS 4801". So that's point 9, phase 1.

35  
36 Q. And you described that earlier as being somewhat  
37 complete, or in progress?

38 A. The analysis had been completed. A number of  
39 documents had been developed, consulted and published, and  
40 when I left in December, my parting email provided an  
41 outline of documents that were identified as needing to be  
42 either reviewed or developed to close the gap and to  
43 complete the work health and safety management system  
44 manual.

45  
46 Q. So when you had done your analysis, did it include an  
47 awareness of the requirements for asbestos policies and

1 registers, et cetera?

2 A. No, because - I mean, when you are talking about - it  
3 identified that there was one document that related to  
4 asbestos, and that was on the document manifest, but I'm  
5 looking at management system documentation; I'm not looking  
6 at an operating procedure. That wasn't part of the scope  
7 of work, nor was it ever requested of me to look at that  
8 level of documentation.

9  
10 Q. When you were engaged at this period and you started  
11 work on phase 1, were there several informal conversations  
12 with Mr McKay or Mr Hargreaves about what was of urgent  
13 priority?

14 A. Well, I think in terms of describing urgent priorities  
15 it was delivering against phase 1 of the project. So there  
16 wasn't a conversation that I recall with them that  
17 necessarily prioritised one thing over another. But, as  
18 I described earlier, one of the things that was obviously  
19 missing, and that you can't sort of set off on a project  
20 like this without, is a consultative framework. So, you  
21 know, that was an assumed priority, because without that  
22 consultative framework there is no mechanism to consult on  
23 all other work health and safety procedures as they are  
24 reviewed and developed and looked to be implemented. So,  
25 notionally, that was the priority.

26  
27 Q. So I guess I was wondering if, outside this priority,  
28 there was a separate --

29 A. No.

30  
31 Q. I think you have answered that question.

32  
33 THE COMMISSIONER: Q. The Willis report, you may recall,  
34 said, "We have found a number of control weaknesses" -  
35 perhaps the witness should be shown exhibit 28.

36  
37 MR GLOVER: I think he has it in the witness box,  
38 Commissioner.

39  
40 THE COMMISSIONER: Q. Would you go to page 27 of  
41 exhibit 28, which is page 4 of the Willis report.

42 A. Page 27?

43  
44 Q. Page 27 of the exhibit. That's the executive summary  
45 of Willis?

46 A. Yes.

47



1 Q. The first dot point down at the bottom under "Summary  
2 of findings":  
3

4 The report puts forward a total of  
5 26 recommendations to be implemented in  
6 order for the BMCC to be considered as  
7 having a fully functional Safety Management  
8 System in accordance with AS/NZS 4804.  
9

10 Just pausing there, firstly, that Australian Standard is in  
11 relation to what - workplace health and safety I assume?

12 A. I assumed that that was a bit of a typo and - where  
13 they are actually referring to 4801. Because later on when  
14 it starts describing, you know, compliance with the Act,  
15 et cetera, et cetera, it is specific. But I didn't --  
16

17 Q. Assuming it is a typo, that refers to what?

18 A. Again, it's not my report. They do refer back - it's  
19 not a standard I'm necessarily familiar with, but at the  
20 time it may have been, like, one of the supplementary  
21 standards that did align to safety, but it's not one that  
22 I worked with.  
23

24 Q. Okay. Dropping down, then, the summary says:  
25

26 The recommendations address a range of  
27 control weaknesses in the current safety  
28 management system which includes:  
29

30 . WHS policies do not align with [the Act].  
31

32 A. Yes.  
33

34 Q. The second bullet point:  
35

36 . Inadequate processes in regarding hazard  
37 identification, risk assessment and review  
38 mechanisms.  
39

40 The fourth bullet point over the page:  
41

42 . Current codes of practices and  
43 legislation are not reflected across the  
44 organisation.  
45

46 The last bullet point:  
47

1           . Lack of sufficient safety audit  
2           processes.

3  
4           Tell me if I'm wrong, but these are things that, if they  
5           are missing from an organisation, they are things that,  
6           within, for example, a council, need to be remedied fairly  
7           quickly or as quickly as possible, do they?

8           A.    Yes, they do.

9  
10          MR RYAN:   Q.    Mr Mulligan, just picking up from there,  
11          you spoke earlier in your evidence to Mr Glover talking  
12          about the resistance that you experienced, and I think that  
13          Mr Glover asked you "Where", and I think you said the whole  
14          of the organisation, or everywhere, or some shorthand like  
15          that.

16  
17          THE COMMISSIONER:   "Most of it".

18  
19          MR RYAN:   "Most of it", thank you.

20  
21          Q.    Then you said that you attributed this to a mindset  
22          which hadn't caught up with the new legislation, the 2011  
23          legislation?

24          A.    Had contributed to a lack of consultation and  
25          engagement with the workforce.

26  
27          Q.    I think you subscribed to a belief - you said words to  
28          the effect they "had had things done to them but not done  
29          with them"?

30          A.    Correct.

31  
32          Q.    So they didn't have buy-in and they were resentful and  
33          resistant?

34          A.    That's a good summary.

35  
36          Q.    Another witness has suggested to the inquiry that you  
37          were a good selection for this position because you had a  
38          personality that could force its way through.

39          A.    That's a kind thing for him to say.

40  
41          Q.    I guess that seems at odds with your description of  
42          understanding how people need to travel with the process,  
43          for it to be consultative and to embed the new culture in  
44          the organisation.

45  
46          MR GLOVER:   Is that a question?

47

1 THE WITNESS: I'm not sure if there is a question embedded  
2 in there but I'm happy to try to answer something if it is  
3 a question.  
4

5 THE COMMISSIONER: I think what a witness said before was  
6 that they had concerns that the prior employee, I think,  
7 who was in charge of the safety improvement project, or had  
8 carriage of it, was academically strong but didn't have  
9 a great personal relationship with other people in the  
10 organisation and wasn't able to have perhaps a robust  
11 enough approach to press the project forward. My  
12 understanding of what that witness said about Mr Mulligan  
13 was that he had the technical expertise to do it but also  
14 he was confident that he had the people skills to get  
15 people along and on board in circumstances where they were  
16 likely to be initially resistant to change.  
17

18 MR RYAN: The note I have is that he had a personality  
19 that could force its way through. I haven't checked with  
20 the transcript, but I am happy to leave it there and we can  
21 go on.  
22

23 THE COMMISSIONER: I don't think there was a suggestion  
24 that Mr Mulligan was going to come in as a bully; I think  
25 it was just a suggestion that he had sufficient experience  
26 and would be able to encourage people to embrace change in  
27 a way that previously there hadn't been a great deal of  
28 success.  
29

30 MR SINGLETON: If it assists --  
31

32 THE COMMISSIONER: No doubt the transcript is more  
33 accurate than the summary I have just given, but that was  
34 the gist of it.  
35

36 MR SINGLETON: I think Mr Ryan is referring to the top of  
37 page 353 of the transcript.  
38

39 THE COMMISSIONER: Which says what?  
40

41 MR SINGLETON: This is the witness Mr McKay, I will read  
42 from the beginning of the answer:  
43

44 We subsequently interviewed Mark Mulligan.  
45 That took place in Bathurst. That went for  
46 about an hour as well. Two things struck  
47 me about Mark. Number one, he was

1           technically very competent and his  
2           skill-set was a good match to the  
3           assignment and he had the background and  
4           personality that I believe could force his  
5           way through and be influential with those  
6           he was going to deal with at council.  
7           I thought he had a lot of personal power in  
8           the way he came off in that meeting.  
9           I found him agreeable but not a pushover  
10          and I wanted someone who had a strong  
11          personality in addition to having the  
12          skills to do the role.

13  
14          That's the first paragraph of a long answer.

15  
16          THE COMMISSIONER:   I reckon my summary was pretty good, if  
17          I do say so myself.

18  
19          MR SINGLETON:   I read it because you asked me to, but that  
20          is the transcript reference.

21  
22          THE COMMISSIONER:   Thank you.   That must be the part you  
23          are referring to, I think.

24  
25          MR RYAN:   It is.   It accords with my memory.   That's what  
26          I was asking.

27  
28          THE COMMISSIONER:   What's the question, though, that you  
29          want to put to the witness about that?

30  
31          MR RYAN:   Q.   I thought there was a sense in that  
32          sentiment that I think is at odds with, "let's take  
33          everybody with us and bring them on board".   I guess, as  
34          I started out saying, you have described an approach which  
35          suggests it is important to explain things to people to get  
36          them forward, and yet, at the same time, from that  
37          evidence, there is a sense that a certain amount of  
38          forcefulness was required as well?

39  
40          MR SINGLETON:   I object --

41  
42          THE COMMISSIONER:   You can put a direct question to  
43          Mr Mulligan about how he drove forward his own project when  
44          he was brought on as a consultant, but asking him to  
45          speculate about what precisely Mr McKay meant isn't  
46          helpful.   You can ask a direct question of Mr Mulligan as  
47          to what his approach was.   I assume you would only be doing

1 that if someone has told you he had a particular approach  
2 that ultimately ended up being relevant to the terms of  
3 reference I have to deal with.

4  
5 MR RYAN: I'm simply asking about the contrast that I felt  
6 between those things, but I am very happy to leave it.  
7 I think Mr Mulligan has answered the question of what his  
8 approach is.

9  
10 THE COMMISSIONER: Okay.

11  
12 MR RYAN: Q. Mr Mulligan, that was that project, and it  
13 finished on 23 December?

14 A. Yes.

15  
16 Q. Then in 2017, on 1 November, you came back as an  
17 acting director on a 12-month contract?

18 A. Correct.

19  
20 Q. So you were contacted by Hays, which you have  
21 described as not unusual, and then you were interviewed by  
22 the whole executive leadership?

23 A. I was interviewed first via phone by Paul Phillips  
24 from Hays. So that was about a 30 to 40 minute phone  
25 interview. And then, yes, I had two subsequent interviews  
26 with members of the ELT.

27  
28 Q. What was the ELT interested in? That's a very broad  
29 question, I know, but giving a sense of that interview,  
30 what were the key areas they were interested in?

31 A. They were interested in my skills and experience and  
32 how that would be applied to the role at Blue Mountains  
33 City Council.

34  
35 Q. Were there areas that they felt were a priority?

36 A. Not that I recall specifically, no.

37  
38 Q. What about the key areas of change that they were  
39 trying to achieve?

40 A. There was certainly conversation around the change  
41 program that I experienced in 2016 with regards to safety,  
42 and how that then translated to other change pieces -  
43 technology, for example, and the application of technology  
44 across council; conversations around structures and better  
45 alignment of functional areas to deliver better quality  
46 services to ratepayers. There were a number of those  
47 conversations. But it was not an interview or a set of

1 questions I found unusual or any different to most other,  
2 you know, executive role interviews I had been involved in.  
3 They were the questions you would expect to get.  
4

5 Q. Just to summarise there, was it about the safety  
6 project, the safety improvement project, or was it  
7 a broader set of safety?

8 A. No, it was about the role, but obviously some context  
9 was able to be provided in relation to, you know, the  
10 overall change process and the cultural change that the ELT  
11 were trying to embark on and how it had, you know,  
12 similarities to the safety project piece of work in terms  
13 of trying to lift, you know, the standards of policy and  
14 procedure across the board; lift standards of customer  
15 service; get better alignment of service delivery across  
16 the board. So, you know, all those types of things  
17 resonated with me in terms of an organisation and  
18 a leadership team that were prepared to acknowledge and  
19 embrace that things had not been done as well as they could  
20 have been in the past, but they had a, you know, commitment  
21 and a plan, moving forward, to improve the organisation.  
22

23 THE COMMISSIONER: The key responsibilities for  
24 Mr Mulligan as director, service delivery, are outlined at  
25 exhibit 1, page 451, if anyone is interested. It is  
26 a document headed, "Mr Mulligan's Duties As Director  
27 Service Delivery" then "Position Summary", then "Key  
28 Responsibilities".  
29

30 Q. So what it says is your responsibilities were:  
31

- 32 1. Develop, implement and manage  
33 strategies, plans and budgets for the  
34 directorate (including Parks & Support  
35 Services, Transport & Civil Assets, Waste &  
36 Cleaning, Leisure & Visitor Information  
37 Centres;  
38 ...
- 39 3. Provide policy, planning and  
40 operational advice to the GM ...
- 41 4. Lead and drive the implementation of  
42 good governance...
- 43 5. Lead and drive a strong customer  
44 service culture across the directorate  
45 to achieve or exceed relevant internal and  
46 external service performance standards.  
47

1 Do you remember all of those?

2 A. I don't remember them specifically, but they are very  
3 common in position descriptions at that type of level in a  
4 service organisation.

5  
6 Q. Yes. And:

7  
8 The Director Service Delivery will also  
9 lead and champion the organisational values  
10 and behaviours of Working Together, Work  
11 Safe - Home Safe, Service Excellence, Value  
12 for Money, Trust & Respect, and Supporting  
13 Community.

14  
15 A. Yes.

16  
17 MR GLOVER: Commissioner, while we pause there, and  
18 I don't mean to interrupt my friend, on the question of the  
19 position description at the time Mr Mulligan was considered  
20 for the role, having searched through the records, I am  
21 fairly confident the version that is at page 119 of MFI 8  
22 was also the same one, and that summary that you have been  
23 referring to at page 451 of exhibit 1 is also consistent  
24 with that version of the position description.

25  
26 THE COMMISSIONER: Okay. Thank you for that.

27  
28 MR RYAN: Q. Mr Mulligan, just moving on from that  
29 conversation in your interview, which is perhaps less  
30 formal than the position description, you said earlier  
31 a brief comment that phases 2 and 3 hadn't moved on much.  
32 By the time you got back, which I'm assuming is November,  
33 I think you said they hadn't moved on much.

34 A. That's correct.

35  
36 Q. Which is probably disappointing. So, when you were  
37 there, through November and December, were you expected to  
38 pick that project up or was the project actively working  
39 with someone else?

40 A. I wasn't expected to pick the project up, no. That  
41 wasn't part of my role. I did have several conversations  
42 with Mr Anderson in relation to aspects of the project, and  
43 particularly field-facing documentation, so primarily safe  
44 work method statements, that I wanted prioritised to ensure  
45 that the suite of documents that our field workers had were  
46 up to date and current with the legislation.

1 Q. Apart from that conversation with Mr Anderson, did you  
2 have any sort of level of awareness that the project was  
3 being progressed or where it was at?

4 A. I don't believe the project was being progressed  
5 because, as I said before, nothing really had moved forward  
6 in that space. I was certainly aware that a lot of  
7 resources and energy had been put to the asbestos  
8 management plan as a priority.  
9

10 Q. Yes.

11 A. And that could be a way of explaining why stage 2 and  
12 stage 3 of the accredited safety plan had not been  
13 progressed. I don't recall specifically putting that to  
14 Mr McKay or anybody else, but reading between the lines,  
15 there were a number of resources deploying on that  
16 particular piece of work who were exceptionally busy and,  
17 you know, given the priority associated with that, it would  
18 be understandable that other aspects of the safety  
19 improvement program were put on hold.  
20

21 MR RYAN: Thank you, Commissioner, no more questions for  
22 me.  
23

24 THE COMMISSIONER: Thank you.  
25

26 <EXAMINATION BY MR SINGLETON:  
27

28 MR SINGLETON: Q. Mr Mulligan, were you located at  
29 Pacific Centre in Katoomba when you were a consultant in  
30 2016?

31 A. Yes.  
32

33 Q. Did the work involve much fieldwork?

34 A. It didn't necessarily have to, but if you were going  
35 to engage and understand were there gaps in the system,  
36 regardless of whether it was within the work health safety  
37 management system or some other system, you actually have  
38 to talk to the people who are using that system. So  
39 I purposely sought out to engage with staff at both depots  
40 and also with staff who were at leisure centres and tried  
41 to get both, if you like, people that were at the coalface  
42 and also line supervisors so that I got a broad view and a  
43 balanced view of where things were at.  
44

45 Q. When you say both of the depots, which two depots do  
46 you have in mind?

47 A. Katoomba, so South Street, as it's referred to, and



1 Springwood.

2  
3 Q. The people working there were they in the service  
4 delivery directorate?

5 A. Some were, some weren't, I mean it's mixed, and at the  
6 time I was less concerned, in 2016 I was less concerned  
7 about the structure than I was about the actual system of  
8 work, so I didn't really pay a great deal of attention  
9 I must say to where people specifically sat in the  
10 structure. I just wanted to talk to people who were using  
11 particular documents that were embedded within the work  
12 health safety management system.

13  
14 Q. At the South Street depot which people or categories  
15 of people were you talking to?

16 A. Look, I recall having, you know, an hour or so  
17 conversation with a road gang. I think they were called,  
18 like, the light patch team at the time, I'm not sure  
19 whether that terminology is still current, so there was,  
20 like, a leading hand, team leader and four other people,  
21 asking them about the way that they approached their job  
22 day to day, the documentation they use, et cetera.

23  
24 I spoke to a number of fellows that drove the garbage  
25 collection trucks. I spoke to the storeman. I spoke to -  
26 I know I spoke to Rhett Hahn who was sort of notionally the  
27 most senior person at that depot, so I got introduced to  
28 him first, sort of thanked him for, you know, giving me  
29 access to people, and I also spoke to two guys from parks  
30 and grounds. It was really who I could access in a  
31 reasonable period of time without, you know, delaying their  
32 day and the work that they had scheduled.

33  
34 Q. At Springwood?

35 A. Yes, that was at Springwood.

36  
37 Q. You say the Light Patch Team was at Springwood?

38 A. Yes.

39  
40 Q. And all the rest?

41 A. Yes.

42  
43 Q. What about South Street?

44 A. South Street. I got introduced to a range of people  
45 who were in the office building there, sort of supervisors  
46 of various activities. I spoke to another road crew there,  
47 I can't recall whether they were heavy patch or light patch

1 but they were a similar type of crew to Springwood and  
2 I wanted to do that because I wanted to see if there was  
3 any difference between their approach to a similar task and  
4 the crew work that Springwood took.

5  
6 I spoke to one if not two people who were in the  
7 stores area and I spoke to, again, another two people from  
8 parks and gardens, again, trying to get sort of a gauge on  
9 whether they did things any differently at that depot than  
10 the same type of crew did out at the Springwood depot.

11  
12 Q. Did you have much interaction with the integrated  
13 planning and finance group?

14 A. No.

15  
16 Q. What about the development and customer services  
17 directorate?

18 A. No. No, I didn't. I mean I would have had  
19 intermittent contact with people from there through the  
20 consultative framework that was established because I sat  
21 on a number of those meetings that occurred at the back-end  
22 of 2016, but my interest was more about, you know, the  
23 field-facing workforce.

24  
25 Q. Yes. The last group and directorate I mentioned, the  
26 level of interaction you had was significantly less than  
27 with those two that you have described?

28 A. Yes.

29  
30 Q. What about the city and community outcomes  
31 directorate, what level of contact with them, if any?

32 A. Again, that would have been minimal.

33  
34 Q. Accordingly, your reflection that there was widespread  
35 resistance to reform or change was based primarily on the  
36 groups where you had more significant contact?

37 A. That's right. Look, I shouldn't have sort of made a  
38 comment that was potentially misleading. It was related to  
39 the people that I was exposed to and because of the nature  
40 of the documentation that I was being asked to review and  
41 develop. That by circumstance ended up being mostly  
42 field-based crews, so it ended up being, you know, the men  
43 and women that were out there picking up garbage, mending  
44 roads, mending footpaths, you know, working at the waste  
45 management facilities, et cetera, et cetera. I had very  
46 limited or no interaction with a lot of office based staff.

1 Q. Perhaps partly based on your later knowledge as acting  
2 director, a significant proportion of the staff you were  
3 dealing with would have been within the transport asset and  
4 civil operations branch?

5 A. Yes.

6

7 Q. That's Mr Hahn's branch, or was?

8 A. Yes, notionally, yes.

9

10 Q. Phase one was your task in 2016, phase one of the  
11 safety project?

12 A. Yes.

13

14 Q. We may have covered this last time, but I'll only take  
15 a minute or two, if you'll bear with me. Correlating that,  
16 you were involved in the writing of tier 1 documentation?

17 A. Yes, that's how I'd describe it.

18

19 Q. Yes. Of the documentation was actually to be written,  
20 is this right, you were to write some, you delegated some  
21 to Mr Anderson and some to Mr Keyes?

22 A. That's correct and there were also a couple that were  
23 delegated to other people who, if you like, were the  
24 subject matter experts in that area. So there was one  
25 around fleet, that was delegated to sort of the head of  
26 fleet services, and a couple of others that related to  
27 other activities that weren't necessarily work health  
28 safety specific, so it made sense that they were allocated  
29 to an appropriate party.

30

31 Q. By the time you finished just before Christmas,  
32 Mr Anderson hadn't completed any of the documents assigned  
33 to him; correct?

34 A. I'd have to revisit my summary email that I sent at  
35 the end of that. I can't recall whether he - he might have  
36 completed one or two, from memory, Mr Keyes I think might  
37 have completed one, but there hadn't been a lot of - there  
38 hadn't been a lot of forward progress on their part in the  
39 documents that were assigned to them.

40

41 Q. And to the extent that some documentation had been  
42 done, you felt the need to re-do some of it yourself?

43 A. Yes.

44

45 Q. Were you aware that the safety improvement project, by  
46 whatever name, that you were assigned to lead in that  
47 period was part of a larger business improvement project?

1 A. I wasn't necessarily aware that it was, like, there  
2 was a formal documented broader business improvement  
3 project, no, but, you know, my experience in other  
4 organisations anticipated that taking safety forward allows  
5 you to take your organisation forward. It has a  
6 significant knock-on effect. It could have been something  
7 that I just assumed, given the organisation was committing  
8 to safety improvement, that in turn was committing to  
9 improving the culture overall.  
10  
11 MR SINGLETON: Those are my questions, Commissioner.  
12 Thank you, Mr Mulligan.  
13  
14 MR GLOVER: Nothing arising.  
15  
16 THE COMMISSIONER: All right. Thank you very much for  
17 coming again, Mr Mulligan. You're excused.  
18  
19 THE WITNESS: Thank you.  
20  
21 <THE WITNESS WITHDREW  
22  
23 THE COMMISSIONER: Should we recall Ms Twomey?  
24  
25 MR SINGLETON: Yes. Might I just have a quick word with  
26 her?  
27  
28 THE COMMISSIONER: We will have a morning tea break.  
29  
30 MR SINGLETON: Could I have a couple of minutes with her.  
31 After morning tea we will be --  
32  
33 THE COMMISSIONER: All right. We will come back at 11.45.  
34  
35 MR SINGLETON: Thank you, sir.  
36  
37 SHORT ADJOURNMENT  
38  
39 THE COMMISSIONER: All right. Shall we finish off  
40 Ms Twomey's evidence?  
41  
42 MR SINGLETON: Yes. Could she be recalled?  
43  
44 <KIRRILLY WENDY TWOMEY, on former oath: [11.50am]  
45  
46 MR SINGLETON: Commissioner, it is convenient for me to  
47 lead the witness from the beginning?

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THE COMMISSIONER: Of course.

<EXAMINATION BY MR SINGLETON:

MR SINGLETON: Q. What is your name?

A. Kirrilly Wendy Twomey.

Q. And you gave evidence yesterday in this matter?

A. Yes, I did.

Q. You gave some evidence to the effect that the procurement system was decentralised and you gave some further evidence about who has access to information about suppliers?

A. Yes, correct.

Q. And you wish to clarify that?

A. I do, if that's okay.

Q. Firstly, in the case of the information about suppliers that was held within the directorate files, what clarification is required in that regard?

A. I rechecked yesterday the record management system of the council and the TRIM files are not necessarily restricted by directorate. The TRIM files are restricted on a more ad hoc basis upon request and the requester determines the access restrictions.

Q. The purchasing team has a role in the context in which we're speaking. Could you clarify what is and is not their role?

A. Yes. The purchasing unit provides purchasing support for officers in council to get assistance in seeking quotes and there's a part of the policy that requires you to seek their advice for a particular value of purchasing, so they provide a support function; they don't provide an assurance function.

Q. By "assurance" what do you mean?

A. So their role is not to check whether the quotations are in fact compliant. That role is the supervisor's or manager's role and it's then overseen by the internal audit function.

Q. In fairness to witnesses who work in that area, very often they would in fact have had TRIM access to many

1 procurement documents and information?  
2 A. Yes, they would.  
3  
4 Q. But it is not necessarily so?  
5 A. No.  
6  
7 Q. In particular, it might not be so in respect of  
8 personnel related issues, including those relating to  
9 contractors?  
10 A. Correct.  
11  
12 Q. Are there any other clarifications you wish to make?  
13 A. No. Oh, may I add one more?  
14  
15 Q. Certainly.  
16 A. I just, in fairness, want to be clear that they  
17 wouldn't ordinarily have access to a restricted file.  
18  
19 Q. Yes.  
20 A. That was the - that's what I wanted to re-clarify.  
21  
22 Q. Yes, but the restriction would not be automatically  
23 based on directorate but would be ad hoc on the basis of  
24 decision by people involved in the particular procurement?  
25 A. That's correct.  
26  
27 MR SINGLETON: Yes, thank you, Commissioner.  
28  
29 THE COMMISSIONER: Thank you. No-one has any questions,  
30 I take it, arising out of that?  
31  
32 MR GLOVER: I don't.  
33  
34 MR RYAN: No.  
35  
36 THE COMMISSIONER: You are excused, thanks.  
37  
38 THE WITNESS: Thank you.  
39  
40 <THE WITNESS WITHDREW  
41  
42 THE COMMISSIONER: Is there any agreement about  
43 McCullough Robertson?  
44  
45 MR SINGLETON: I think no, well, not enough to preclude a  
46 discussion now.  
47

1 THE COMMISSIONER: Mr Ryan, you want what parts of the  
2 McCullough Robertson report in and for what purpose?  
3 I have read your submission.  
4

5 MR SINGLETON: May we make this respectful submission  
6 about how this proceeds?  
7

8 THE COMMISSIONER: Yes, go ahead.  
9

10 MR SINGLETON: Caution should be exercised to ensure that  
11 the content of the report is not stated in public. It can  
12 be done obscurely by paragraph numbers.  
13

14 THE COMMISSIONER: No. I will make an order that this  
15 argument take place by private hearing then.  
16

17 I make an order that pursuant to section 12B(2) this  
18 discussion is to take place in private session. The  
19 inquiry is now moving into private session and until  
20 further order by me, I will direct that the transcript of  
21 this discussion be restricted to publication to those that  
22 I have already indicated have a sufficient interest in the  
23 proceedings. That direction is made under section 12B(1)  
24 of the Royal Commissions Act.  
25

26 (The inquiry commenced a private hearing)  
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