

STATEMENT in the matter of: Kyogle Shire Council

Place: Kyogle Shire Council

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Date: 30 July 1991

Name: JOENSTON, Sheryl Letitia Age: 41

Address: [REDACTED] Tel.No. [REDACTED]

Occupation: Bus Proprietor and Shire President

STATES:

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.
2. I was elected to the Shire Council in September 1980 representing, what was then described as "B" Riding, although the boundaries for the Ridings have changed since that election. I have served continuously on Council up until the present time, however, I will not be standing at the next election, as I know longer live within the Shire, although I am a Candidate for the Casino Municipal Elections to be held in September this year. I was elected Deputy Shire President in 1984/85 and I was elected Shire President in 1988, and have held that position until the present time. I am also a Councillor on the Northern Rivers County Council, representing Casino, Richmond River and Kyogle Municipal and Shire Councils. I am the Deputy Chairperson of the Northern Rivers Regional Organisation of Councils, a peak organisation which represents 14 Local Government bodies in the northern region of N.S.W.
3. I attended the Kyogle Shire Council Meeting held on Monday, 15 February 1988. This was a particularly important meeting which involved consideration of the Council's finances and the Council Minutes which have been tendered, underline the importance of it. One of the issues discussed in the course of the meeting was consideration of the Shire Engineer's Report in respect of the hire of the scraper, which he had undertaken prior to the Council meeting.

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4. The Shire Engineer presented the report and Cr. Sandra Davies brought up in discussion that Murphy Standfield had recently purchased or leased an elevating scraper in Ipswich and had actually driven it past her home when he was bringing it back to Kyogle prior to the Council meeting on that day. It is my belief that it was not a subject brought into discussion by the Shire Engineer at all.
5. My memory is that the Shire Engineer was asked to explain why we expecting the supply of an elevating scraper when we asked for quotations on the open-bowl scraper. He explained that the time of material to be removed was not the same as the Geotechnical Survey had stated, and upon which he had previously based his assessment of the type of scraper he required. I have a memory that he was asked by Councillors why he had not indicated to all possible suppliers of scrapers that elevating scrapers should be quoted as well, and I believe that he said that some suppliers had indeed done that, as is shown by the quotation documents.
6. The Shire Engineer was told that Noel Piggott had an elevating scraper which he had not quoted on because of the type specified in the newspaper advertisement. The Engineer replied that the elevating scraper of Noel Piggott was not in great order mechanically, it was old and unreliable, and he would not have recommended it be accepted because of this reason. Noel Piggott was given the opportunity to address the Council on this subject, which he did.
7. I have read to Minutes of the meeting which are an Exhibit before this Commission (A22) and now appreciate that the Minutes did not and fully and accurately represent the discussion that took place. I believe that they are a summary of the discussion and whilst it could be said that a more accurate account ought to have been brought to the attention of the minute taker at the next Council Meeting, this was not done, principally I believe because, whilst there was considerable discussion about the scraper, Councillors individually and collective did not see the matter as being important. I have heard the evidence of the Shire Engineer before this Commission, and notwithstanding what is recorded in the Minutes, I do not believe that the Shire Engineer in any way mislead Council in relation to this matter.
8. I do not believe that undo pressure was placed on Councillors by the Shire Engineer. All the Engineer did was put all of his reasons to Council for accepting the quote of Murphy Standfield for the supply of an elevating scraper and the majority of Councillors accepted his full explanation.

Witness: ..... Signature: .....

- 9. There was ample opportunity for Councillors who did not accept the explanation of the Shire Engineer to foreshadow another motion, move an amendment or indeed give notice of recission of the Council's resolution. No Councillor recorded their vote against the motion to adopt the Shire Engineer's actions.
  
- 10. I sat on the Finance Committee when it sat as a Committee of the Whole, and also when the Finance Committee was made up as a sub-committee of Council, from September 1988 up until the present time. During the period of time that I was on the Finance Committee, Warrant details were provided to all Councillors and I cannot remember any issue arising out of the payment for plant hire being referred by the Finance Committee to the Council, the only item I can remember being queried in such a way as to warrant general Council consideration was the matter of payment for repair of plant.
  
- 11. My memory of the Council Meeting at the Bonalbo Bowling Club on Wednesday, 9 August 1989, as it concerned the Engineer's Report and the recommendation of the acceptance of the Murphy Standfield tender for the gravel haulage contract was that a motion for the Suspension of Standing Orders to allow the Shire Engineer's Report to be dealt with prior lunch because of the presence of Matt Brown and his father, was carried. I remember a question from Cr. Berwin Smith in relation to the capacity of Murphy Standfield, the recommended tenderer to meet the specifications of the contract. The Engineer replied that there was ample opportunity to take action against Mr Murphy Standfield if he did not fulfil his requirement of the contract. If he did not fulfil his obligations under the contract, Standfield's contract would be cancelled and the next lowest contractor would be sought to fill the gap. I cannot remember any discussion on insurance during deliberation on this item. Mr Standfield's tender was the lowest tender, I believe, Mr Matt Brown's tender was the third on forth lowest tender.

Witness: ..... Signature: .....

- 12. There was no declaration during discussion by Cr. Bob Standfield to the relationship between him and Murphy. Nor did any Councillor or Staff Member relate to the meeting that he should have made a declaration. However, I believe every person in the room, including the Gallery, knew of this relationship. I did and as President of the Shire, at that time, I feel in hindsight that I should have raised the matter. I felt that I certainly would have if I had thought it out at the time. Every Councillor had the opportunity to raise a "point of order" at that time in regard to the failure of Mr Standfield to declare an interest, if such an interest existed. The facts of the matter are, however, that there was no hiding the relationship between the Councillor and the person who had been recommended for the tender, because it was common knowledge.
- 13. Councillor Standfield did not vote as I recall and did not participate in the discussion. Technically, according to the Local Government Act, his non-vote was to taken in the negative as he was present at the Council Chamber. The motion to adopt the tender of Murphy Standfield was carried, even with Cr. Standfield's vote counting in the negative. I do not remember Cr. Davies and Cr. Smith voting against the adoption of the tender.
- 14. I remember that following my declaration that the motion was carried, Cr. Sandra Davies uttered words to the effect "it was a set up". It was not until at this time that I realise that there was some discontent with a Councillor in relation to the awarding of the contract. The business having been determined, I felt it was better to ignore her comment and adjourn the meeting for lunch. It was during lunch that I ascertained from discussions amongst other Councillors that there was a great deal of ill-feeling from Matt Brown about the recommendation of the Engineer and the eventual award of the contract to Murphy Standfield.
- 15. In my position as Councillor and Shire President, I have had over the last eleven years a great deal of contact with Shire Staff. As Shire President, I have almost daily contact with the Shire Clerk and other Senior Council Staff discussing the full range of Council business. I have never had to on any occasion query the honesty and integrity of the Senior Staff of this Council. I have also found the Shire Clerk, the Shire Engineer and other Senior Staff responsible to them, fully co-operative with my request for information and I have never had reason to believe that they have any way sought to hide information either from me or other Councillors, nor to display complete co-operation with the elected representatives of the Shire. I believe that this has been the experienced of my predecessor David Lovell and of those that have preceded him as Shire President during the time that I have been a member of Council.

Witness: ..... Signature: .....

16. Since the elections, however, of Cr. Smith and Davies in 1987, there has been a consistent pattern on their part of querying and challenging the recommendations of Senior Staff in relation to a range of issues. One of the features of their conduct in Council meetings has been attempts on occasions to pursue an agenda of "staff bashing", which I and the majority of Council have viewed over this period of time as unreasonable.
17. On several occasions, Cr. Smith, and on one occasion with Cr. Davies and Missingham, has approached both the Council's Bank Manager and the Council's Auditor to discuss matters relating to Council business without any consultation with Council generally or myself as Shire President. It would be an understatement to say that so far as the "politics" of Councillor concerned, Cr. Davies, Smith and to a lesser extend Cr. Missingham have seen themselves as being political opponents of myself and other Councillors, and have regularly found themselves in the course of resolutions concerning Council business in a minority.
18. On one occasion, Cr. Smith at a Council meeting at Cawongla on 6 February 1989 tabled an invitation for Councillors and Senior Staff to be present at a public meeting arranged by him, Cr. Davies and Cr. Missingham to explain the Council's financial position, the adapted rates and Council's six year financial plan which had been adopted earlier that year. The meeting was chaired by Cr. Smith and it proceeded to be a "kangaroo court" against the Shire Staff, particularly the Shire Clerk and the Shire Engineer. At the next Council meeting, resolution was tabled, arising out of the public meeting, calling for the resignation of the Shire Clerk alternatively his removal by the Minister for Local Government. The Council resolved to receive the letter and then continued on with the next item of business. A number of the issues arising out of that public meeting were the concern of the Local Government Inquiry which was held in November 1989.
19. One of the issues raised in that Local Government Inquiry was the attempt by the Council to remove it Auditor, which had been approved by the Local Government Minister and sanctioned as a consequence of the findings of the Inquiry. Cr. Smith had obtained the documents from the Auditor, that Council was endeavoring to remove, and was in conflict with the majority of Council on this issue.
20. It was consequence of the public inquiry by the Local Government Commissioners that Philip Thew prepared the Report which was Item 5 of the Ordinary Meeting of 4 December 1989, the minutes which have been tendered to the Inquiry being conducted by the Independent Commission Against Corruption.

Witness: ..... Signature: .....

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21. It is my belief from my observation of Council business, the attitude of Cr. Smith and Cr. Davies to Senior Staff and their actions during the period of time that they have been on Council, that neither of them are prepared to give Senior Council Staff a fair go, they have demonstrated a closed mind on a number of issues which has been very damaging to Council and the morale of Staff generally within the Council. One particular example of this springs to mind concerning a recommendation made by Shire Engineer that traffic lights be installed for roadworks traffic control, which was discussed at the Council meeting on 15 May 1989. The business minute in relation to this is 89/G530, a copy which I can supply to the Commission. The Shire Engineer indicated that the estimated purchase price of the lights was \$14,000, however, he also indicated that the wages cost for two staff members to man to stop/go signs, in lieu of the traffic lights, for twelve months would be approximately \$28,000. The Shire Engineer's recommendation would have meant a substantial saving for Council. Shire Cr. Davies would not accept the recommendation of the Shire Engineer and voted against his recommendation, and if she had had her way in relation to the matter, it would have cost the Council more money. I believe it would be fair to say that the Council over the last three to four years has not been a very happy place politically, however, I have tried over the period of time that I have been Shire President to prevent the polarization of the Council, so as not to adversely affect the efficient running of Council operations. I believe that the majority of Councillors have been concerned to achieve as much conciliation as is possible on most issues, but regrettably Cr. Davies and Smith, as well as Cr. Missingham have had little interest in achieving this.

Witness: ..... Signature: .....

STATEMENT in the matter of: Kyogle Shire Council

Place: Kyogle Shire Council

Date: 29 July 1991

Name: LOVELL, David William Age: 45

Address: [REDACTED] Tel.No. [REDACTED]

Occupation: Farmer

STATES:

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.
2. From 1968 until 1977 I was employed by the Department of External Territories and subsequently the Government of Papua New Guinea in various positions principally as a senior legal officer.  
  
In June 1977 I moved to the above address and was employed in a legal capacity by two firms of local solicitors until 1979.  
  
Since 1979 I have been self employed on my property upon which I run cattle and grow bananas and also as a fencing and timber contractor.
3. In 1983 I was elected as a Councillor for A Riding of Kyogle Shire and was re-elected in 1987. I was elected President of that Council in 1987 and Deputy President in 1986, 1990 and 1991. During this period I have also been Chairman of various Committees within the Council, primarily the Town Planning and Building Committee.
4. The Council Meeting of February 15, 1988, was an extremely important meeting from a financial point of view. I, as President, had arranged for Council's Bank Manager and Auditor to be present and make reports to Council. Decisive measures had to be taken to arrest Council's adverse financial situation and I outlined these in a long Presidential Minute with recommendations which were adopted by Council.

Witness: [REDACTED] .... Signature: [REDACTED]

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This meeting also considered problems with delays in receiving D.M.R. payments and resolved that the Shire Clerk and I travel to Sydney and put this matter before the Commissioner.

5. I had discussion with the Shire Engineer prior to that Council meeting and he advised me:

- 1. That he believed that an elevating scraper was more suitable for the planned work on the Wiangaree Deviation than an open-bowl scraper.
- 2. He had exercised his delegated authority and accepted Standfield's quote for scraper hire.

6. I was aware that Mr Noel Piggott would be present at the meeting and that he would complain about not believing that an elevating scraper would be considered in relation to the work proposed,

I was aware that Mr Piggott's machine had previously been used by Council and that its performance was unsatisfactory being slow and subject to breakdown thus holding up other equipment.

From previous experience with Mr Piggott attending Council Meetings as a contractor, I found him unreasonable and difficult to deal with. He was a contractor who had worked on subdivisions which required Council approval of the roadworks and as Chairman of the Town Planning Committee, I knew him professionally, had seen his work and had met with him before in respect of formal business.

7. I believed that quotes had been received for scrapers of both open-bowl and elevating type and that competitive quotes had been received.

In the circumstances, I did not believe that had Mr Piggott quoted hire rates for his scraper, there was any chance they would have been accepted by Council or the Shire Engineer.

I would have preferred that the quote had been worded to allow rates to be quoted for both types of scraper and that I was not placed in the somewhat embarrassing position of having to deal with Mr Piggott's complaints.

It was on this basis that I expressed Council's regret to Mr Piggott.

Witness: ...





Signature: ..





8. I believed that I had a duty to endorse the action taken by the Shire Engineer, so long as that action was not improper, and that not to endorse his action would raise the possibility of litigation, delay the proposed work and would erode the working relationship between Councillors and Senior Officers for inadequate reasons. I believe that the Shire Engineer had acted within his powers. I have no doubt that he did not act on the basis of an improper motive and that all actions he took were in good faith. I have known him since I have been on the Council and I regard him as an extremely conscientious worker, a very good engineer and a totally honest person. He is not necessarily a personal friend, but he is a person with whom I have had some social ~~contracts.~~ *contracts.*

9. I do not remember the Shire Engineer had stated that Mr H.J. Standfield had already purchased the scraper prior to the meeting. If it was said, I believe this is something that I would remember.

Witness:  .. Signature:  .....

STATEMENT in the matter of: Kyogle Shire Council

Place: Kyogle Shire Council

Date: 1 August 1991

Name: LAZAREDES, Anthony

Address: [REDACTED] Age: 53

Occupation: Pharmacist Phone: [REDACTED]

STATES:

1. This statement made by me accurately sets out the evidence which I would be prepared, if necessary, to give in Court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.
2. I am a registered pharmacist in N.S.W. and have conducted my Pharmacy Business in Kyogle for 28 years. I was elected to the Kyogle Shire Council in 1987 and was Deputy Shire President for two years. On my election to the Council, I was made Chairman of a "Razor Gang" to investigate the finances of the Council and make appropriate recommendations for the efficient economic management of the Council. My election to Council was promoted by the Chamber of Commerce of Kyogle, of which I have been a member for 28 years. I was particularly concerned to see that Urban dwellers in the Kyogle Shire Council were represented and also to ensure that financial difficulties arising out of decisions made by previous Councillors were remedied. In particular cause of difficulty for the finances of the Kyogle Shire Council was a decision of a previous Council at the instigation of Councillors representing the Upper Richmond Ratepayers and Citizens Association, to reduce rates by 30% leaving the Shire Council with a totally inadequate rate base. I was also concerned about deterioration to Council's roads and road plant, consequent upon these earlier decisions.

Witness: .. [REDACTED] ... Signature: . [REDACTED]

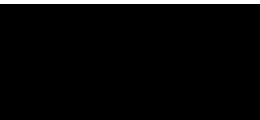

3. I attended the Council Meeting held at the Kyogle Shire Council Chambers on Monday, 15 February 1988. This meeting was an extremely important meeting for Council as there was lengthy discussion relating to the Council's finances which is the subject of reporting in the minutes which I believe have been tendered to this Inquiry. I have read the minutes of the discussion relating to the hire of the scraper. My recollection of the discussion that took place in relation to the scraper is that it took at least half an hour, possibly as long as three quarters of an hour, however, the precise detail of all that was said by Councillors, Shire Engineer, Shire Clerk or anybody else that contributed to the conversation is not now recalled by me. I have read the minutes of the meeting, it refreshes my memory that there was some concern raised by Sandra Davies as to the fact that there was an open-bowl scraper advertised, but an elevating scraper recommended by the Shire Engineer. I believe that the Shire Engineer gave an explanation for this, but I cannot remember the detail of what he said. I remember that Mr Piggott was allowed to speak and I remember that the Shire Engineer replied to Mr Piggott, but I cannot remember the detail of what was said. I remember the Shire Engineer saying that one of the open-bowl scrapers which had been the subject of a quote was not suitable for the job, but I cannot remember the detail of the explanation from the Engineer as to the reason that the open-bowl scraper that had been quoted was not chosen by him, except that the Shire Engineer explained the reason for choosing an elevating scraper rather than an open-bowl scraper. Otherwise, I have no further recollection of the discussion, although as I said it did go for half an hour. The minutes which were accepted by Council, presumably at the subsequent meeting, merely a precis of some of the discussion that occurred in the course of the meeting.
4. I listened to all of the discussion that had taken place in relation to this matter, I heard the Shire Engineer, I heard the other Councillors speak and I heard Mr Piggott speak and I came to an independent decision that the Shire Engineer's action in accepting the quote of Mr Standfield should be accepted on the basis of the material made available to me. I saw no impropriety in the actions of the Shire Engineer in accepting the quotation, on the basis that we were advised that the elevating scraper was the suitable piece of plant to do the particular job which the contract required. It is important to remember that the approval for the go ahead for the Deviation had previously been advised, however, we were still awaiting approval for the finance necessary to commence the job and that when the finances were available it was an important matter for the Council to ensure that the money allocated to us in a given financial year was spent to enable us to continue with the work.

Witness:

Signature: ..

I remember that the Shire Engineer told us that he favoured a lighter piece of equipment, as it could work in better with the Kyogle Shire plant already available. I thought this would be advantageous with the advent of wet weather which was likely during this period. The lower B rate also made this more attractive.

5. I do not remember specifically Sandra Davies saying that she had seen a elevating scraper drive past her place a few days before the Council meeting, however, she was always saying at Council meetings that she saw various things passing by her place that were in some way relevant to Council business, and to be frank I had heard it some many times before and since that I had lost interest in what she said about these sorts of matters.
6. Prior to the meeting at Bonalbo in August, I was phoned at home by Mr Matt Brown regarding the forthcoming letting of tenders for haulage contracts. He informed me that he had heard certain rumors that M. Standfield had allegedly informed his workmen that he knew what Mr M. Brown had quoted for haulage, plus others involved in the tenders and that he had the contract.
7. I suggested to Mr Brown that I was not fully conversant with the subject, but I had noticed briefly in the business paper which had been delivered to me, but the business paper was at the shop. I suggested he contact me the next day to give me time to investigate his accusations.
8. Prior to meeting him the next day, I contacted the Shire Engineer to explain fully to me the mechanics involved regarding the public tender in question.
9. When I informed Mr Brown the next day of what I was told when he came to see me, I inferred from our conversation that he was not completely familiar with the mechanics of a public tender.
10. I thought this strange for a person involved in this type of business. I indicated to him that any member of the public could have access to all tenders submitted once they had been opened and recorded according to normal procedure and suggested to him that Mr M. Standfield by way of enquiring at the counter would be aware of all matters pertaining to the tender of the haulage contract.
11. As to the allegation that he had the job, I said that would be idle gossip and definitely untrue as the matter was to be deliberated at Bonalbo the following Monday. I also suggested to him that following normal Council procedure unless something unusual happened Council would probably accept the lowest tender.

Witness: ...  .... Signature: ..  ..

However, it was not for me to say what would happen and I suggested he come to Bonalbo to sit in so to speak when the matter came up for discussion.

12. In the course of conversation, I also told him that all of Council were aware that Bob and Murphy were brothers and that Bob would not vote on the motion.
13. I attended the meeting on August 9, 1989, at Bonalbo and after hearing the Shire Engineer's Report and the discussion, I was satisfied that the tendering process was legitimate.
14. Bob did not vote and prior to the discussion, I had given Mr Brown my notes from the Business Paper for him to follow while the matter was discussed.
15. During the period of time that I have been a Councillor, I have had considerable contact with the Shire Clerk and the Shire Engineer and other Council staff. I have always found the Shire Clerk and the Shire Engineer to be fully co-operative and in respect of the Shire Engineer, although I wasn't conversant with many of the technical aspects of his work, I found him willing at all times to explain matters to me, relating to Council business, that I did not understand. I had nothing but admiration for the way in which he did his work, noting that at various times he had a heavy workload, for lengthy periods he did not have a Deputy Engineer to assist him in relation to aspects of his work, the Wiangaree Deviation was a large job which was one of the first major works that he had been instructed to complete since the time of my election to Council, and he had the pressure of having to cope with various problems that had arisen out of a number of floods which had occurred in 1988 and 1989 causing damage to roads and other public and private property within the Shire.
16. I do not believe that the Shire Engineer and the Shire Clerk would knowingly or deliberately mislead Council in relation to any matter and in my experience, I have always found them straight forward and honest in their dealings with Council both in a private capacity and during the course of Council meetings.

Witness:



Signature:



CONSTRUCTION  
 PROGRESS/FINAL CERTIFICATE OF EXPENDITURE

DMR 240:1178

COUNCIL R.4-125

(THIS FORM IS TO BE USED FOR WORKS ON MAIN,  
 SECONDARY, AND TOURIST ROADS)

F 295

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Council KYOGLE SHIRE Road No. TR 83 Plan No. \_\_\_\_\_  
 Work CONSTRUCTION OF WIANGAREE DEVIATION  
 Origin of distance (Focal Point) KYOGLE from 14.160 km to 15.440 km Direction (Focal Point) NORTH  
~~Final~~ Final Certificate No. 32 Expenditure \$ 1202987.50 to 31-01-1991

For Departmental use only

Total Cash Grant Approved \$ 1195989.00

SCHEDULE OF WORKS

Department's Contribution \$ 1202987.50

Council's Contribution \$ -

Total \$ 1202987.50

Payments by Department to Date \$ 1195989.00

Estimated Expenditure during next  
 two months (Progress Certificates) \$ NIL

We certify, in accordance with the conditions under which this Cash Grant was accepted, that:-

- (a) the expenditure shown in this certificate has been actually and bona fide incurred and relates solely to the work covered by the Cash Grant;
- (b) all hire rates and expenses for Council-owned plant and trucks charged to the programme are in accordance with relevant details previously advised to the Department and that they are in accordance with Clauses 44 and 45 of "General Conditions of Assistance to Councils";
- (c) all charges to the programme for hired plant conform to Clause 65 of "General Conditions of Assistance to Councils"; and
- (d) the work is being/has been executed in accordance with the drawings and specifications, where applicable, approved by the Department of Main Roads.

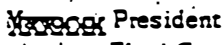
  
 Shire Clerk

  
 Shire Engineer

Date 10 MAR 1991

Approved for submission to Department of Main Roads.. 

Date \_\_\_\_\_

  
 President  
 (Signature required on Final Certificate only)

(Complete remainder of this form for months of September,  
 December, March and June only and for Final Certificates.)

DESCRIPTION OF WORK As set out in the Schedule of Works	Unit	Estimated Cost and/or Schedule of Tender as Approved			Actual Work Done and Cost Thereof		
		Quantity	Rate	Amount	- Quantity	- Rate	- Amount
<u>PROVISION FOR TRAFFIC</u>	Item			20600			3318.27
<u>DRAINAGE</u>							
R.C. Pipe Culverts				21700			43355.01
(i) Concrete Headwalls	M3			6950			8253.34
(ii) Outlet Protection	M3			1120			3895.34
Subsoil Drains	M			7650			25690.50
Batter Drains	M			8000			9664.44
Lining & Facing Open Drains				10000			
<u>EARTHWORKS</u>							
Clearing	H.A.			4880			7377.81
Stripping & Stockpiling topsoil	M3			7430			29816.01
Drilling & Blasting	M3			9000			9256.39
Excavating (Winning & hauling)							
(i) By Dozer	M3			12110)			
(ii) By Scraper				183700)			410073.28
(iii) By Truck (Slip failure)	M3			11400			38603.60
Selected Subgrade	M3			41200			22720.64
Spreading, compacting & trimming	M3			389650			52115.53
<u>SUB BASE AND BASE</u>							
Sub-base (thickness 300mm)	M3			158100			146373.83
Base (Thickness 150mm)	M2			122100			129814.94
<u>WEARING SURFACE</u>							
Sprayed bituminous Surface (20mm)	M2			65080			47914.47
<u>MISCELLANEOUS</u>							
Fencing (inc. gates)				11470			16615.39
Roadside furniture & guard fencing	Item			51180			70233.32
Landscaping, revegetation & erosion control				34000			17049.77
<u>JOB SITE CHARGES</u>	Item			11500			5844.00
<u>PUBLIC UTILITY ADJUST.</u>							
On cost				7100			7749.61
Non professional super.	Item			115770			64890.83
Land Acquisition				20000			6419.01
Re-establishment costs	Item			29000			24323.24
				50000			1618.23
E - Whenever it is expected that the moneys allocated be insufficient to complete the work approved, the matter be taken up IMMEDIATELY with the Divisional neer. The Department cannot undertake to recognise nditure incurred without its prior approval.				Total Estimated Cost	1410690	*Total Actual Cost	1202987.50

any item in which the actual cost is significantly above or below the estimate is to be covered in a separate report.  
any significant difference between the actual cost shown on this page and the expenditure shown on the reverse page is to be  
explained in a covering report.





[REDACTED]  
[REDACTED]  
24/2/92

As the former Works Engineer to Kyogle Shire Council from August 1983 to April 1990 and July 1990 to June 1991 I had occasion to have contact with Mr Lex Moss nearly every day. From December 1983 he was employed as Overseer at the Bonalbo Depot and during this time exhibited a great interest in his work and the community.

He made himself available for seven days a week and frequently carried out inspections at weekends and placed warning signs etc up during storms and other emergencies without thought of recompense. At all times he kept in contact with me during emergencies and kept me informed as to the actual state and the steps he had taken.

I received no complaints from the staff under his control as to any attitude problem with Mr Moss and I felt that at times he did protect his staff.

Besides his normal duties he carried out the acquiring of stores each week from Kyogle, delivery of Library books and Bush Fire Brigade deliveries thus giving him less time for supervision.

I had no reason during the above period to doubt his work as I considered him to be a willing and conscientious employee of Council and supporter of his Community.

[REDACTED]  
W. H. Grayson



Secretariat  
121 Macquarie Street  
Sydney NSW 2000  
Tel (02) 287 6780  
or (02) 287 6624  
Fax 287 6625

## COMMITTEE ON THE ICAC

01 July 1992

Mr Patrick Knight  
[REDACTED]  
[REDACTED]

Dear Mr Knight

At its meeting last night the Committee considered a letter which you sent to Bryce Gaudry MP on 1 May 1992, concerning the ICAC's investigation into roadworks in Kyogle Shire.

Enclosed for your information is a copy of a letter I wrote to Bill Rixon MP in May in relation to this matter. I wish to re-affirm the Committee's intention to visit Kyogle to take evidence in relation to the concerns raised by you and others about the ICAC's investigation.

The Committee's Project Officer, David Blunt, will be in touch with you in due course when the details of the Committee's visit are available.

Yours sincerely

M J Kerr MP  
Chairman

knight.001

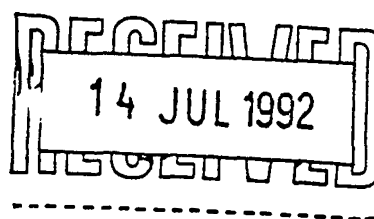
# ICAC

## INDEPENDENT COMMISSION AGAINST CORRUPTION

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Mr David Blunt  
Project Officer  
Committee on the ICAC  
121 Macquarie Street  
SYDNEY NSW 2000

7 July 1992



Dear Mr Blunt,

I refer to the correspondence from Mr Rixon, MP, to the Committee, referred to the Commission, and to the issues raised in the letter to Mr Rixon from Mr Patrick Knight, the Shire Engineer for Kyogle Council.

The investigative nature of Commission hearings does not infringe the principles of natural justice. That has been recognised by Mr Justice Grove of the Supreme Court in his decision in *Aristodemou v Temby and Independent Commission Against Corruption*, of 14 December 1989.

As the Commission's report of the Investigation into Roadworks in the Shire of Kyogle shows, Mr Knight, and other senior council officers, were represented by counsel throughout the Commission's hearing. Mr Norrish QC cross-examined witnesses at length, and Mr Terracini, a counsel with prior experience of Commission hearings, made submissions on their behalf.

The Commission has previously discussed with the Committee the public interest in holding hearings in public, and the Commission's inability to control media reporting. The amendments to s31 of the ICAC Act, to permit the Commission greater flexibility to hold private hearings, may go some way to ameliorating damage caused by inaccurate reporting. However, the reasons for holding hearings in public remain, and the Commission will continue to hold hearings in public as much as can be done consistent with fairness to individuals and the circumstances of particular investigations. Clearly there is a public interest, and interest by the public, in the Commission's doing so. The latter was demonstrated by the considerable protests when the Commission recently decided, in another hearing, to hear submissions in private.

Any suggestion that the Commission sets out to justify preconceived notions would be dispelled by reading the Commission reports which have found allegations unsubstantiated or made no adverse findings, either generally or in respect of individuals.

Suggestions by Mr Knight of impropriety or unfairness in findings about him by Assistant Commissioner Collins should be considered in light of the comments made about Mr Knight in the Commission's report, particularly at pages 22 and 75. An impartial reader might describe those comments as even handed.

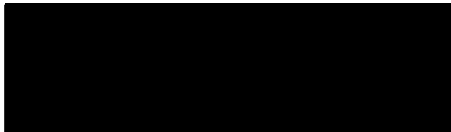
It is wrong to say that Assistant Commissioner Collins treated illiterate witnesses insensitively. The workers' illiteracy was a relevant issue, as false entries had been made in workers' worksheets by other employees.

Council officers who were required as witnesses were told that they would be informed when they would be called to give evidence. Despite that, several attended the hearing at times other than when they were called on to give evidence. There was no requirement by the Commission that they do so.

Attempts were made by Commission officers to keep witnesses informed about when they would be required. This entailed daily contact with some witnesses. Nevertheless, estimates of how long particular witnesses' evidence would take, and when other witnesses would be required, proved difficult to make. This is often the case with hearings, not only at the Commission. It is sometimes difficult to estimate how co-operative and useful or otherwise witnesses will be, or the duration of cross-examination by counsel for substantially and directly interested parties.

The matters investigated were brought to the Commission's attention by local citizens and councillors from Kyogle Council, who perhaps did not share Mr Knight's view that the matters "were not matters of significant corruption by public officials".

Yours faithfully,

A large black rectangular redaction box covering the signature area.

**Deborah Sweeney**  
**Solicitor to the Commission**



Secretariat  
121 Macquarie Street  
Sydney NSW 2000  
Tel: (02) 287 6780 or  
(02) 287 6624  
Fax: 287 6625

## COMMITTEE ON THE ICAC

05 August 1992

Mr Bill Rixon MP  
Member for Lismore  
PO Bx 52  
LISMORE NSW 2480

*Bill*  
Dear ~~Bill~~

I refer to my letter of 6 May 1992 concerning the ICAC's inquiry into Roadworks in Kyogle Shire and a proposal that the Parliamentary Joint Committee on the ICAC visit Kyogle to hear from those people with concerns about the ICAC inquiry.

The Committee has recently received a response from the ICAC to the matters of concern raised by Patrick Knight. It would be appreciated if you could have a look at the ICAC's response and let me know whether you feel it addresses the concerns raised by your constituents. It would also be appreciated if you could let me know whether, in view of the ICAC's response, you feel there would still be benefit to be gained from a visit by the Committee to Kyogle.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'M J Kerr'.

M J Kerr MP  
Chairman

Rixon.002



9  
Secretariat  
Room 925  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Tel (02) 230 3055  
Fax (02) 230 3057

## COMMITTEE ON THE ICAC

05 August 1992

Mr Patrick Knight  
[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]

Dear Mr Knight

I refer to my letter of 01 July 1992 regarding your letter to Bryce Gaudry MP concerning the ICAC's investigation into Roadworks in Kyogle Shire.

Earlier this year the Committee sought the ICAC's comment and response in relation to a similar letter, dated 10 March 1992, which had been forwarded to the Committee by Bill Rixon MP. The Committee has recently received the ICAC's response and I enclose a copy for your information.

I would welcome you comments upon the ICAC's response.

Enclosed for your information is a copy of a letter I have written to Bill Rixon MP in relation to this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Kerr'.

Malcolm J Kerr MP  
Chairman

knight.002



PARLIAMENT OF NEW SOUTH WALES  
LEGISLATIVE ASSEMBLY

MEMBER FOR LISMORE

OFFICE: Suite 1, A.Z.A. Complex  
114 Keen Street  
Lismore, N.S.W. 2480  
PHONE: (066) 21 3624  
FACSIMILE: (066) 22 1403  
MAIL: P.O. Box 52  
LISMORE, N.S.W. 2480

24th August, 1992.

Mr. David Blunt,  
Project Officer,  
Committee on the ICAC,  
121 Macquarie Street,  
SYDNEY. 2000

Dear Mr. Blunt,

Recently, Mr. Malcolm Kerr, M.P., forwarded to me a copy of a letter from Deborah Sweeney, Solicitor to the ICAC Committee.

The people of the Kyogle area believe her comments in no way answer the criticisms of the operations of the ICAC in Kyogle.

They claim the ICAC operated in a most inefficient manner, costing far more than the results justify and the personal rights of innocent witnesses were often disregarded. I am told there were cases where witnesses were asked to attend the Court from the commencement of the Hearing through to the end of the Hearing, without even actually being called up for questioning.

The people believe Ms. Sweeney's comments display a complete lack of understanding of the inconvenience and of the criticisms being levelled, and that her understanding of the culture of a country town was equal to her understanding of the culture of an Aztec community of South America of 1,000 years ago.

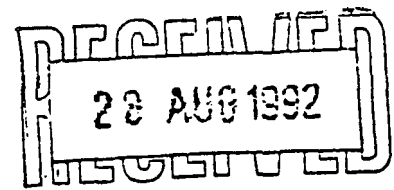
The people of Kyogle would very much like the Committee to come to Kyogle to hear these criticisms first hand.

In the current climate of suggested reform for the operations of the ICAC, they feel their comments may be valuable.

Your assistance would be appreciated.

Yours sincerely,

BILL RIXON, M.P.,  
Member for Lismore.



BR:BA



ROOM 1127  
121 Macquarie Street  
SYDNEY NSW 2000

11

Telephone: 02 251 4089  
Facsimile: 02 251 4050

## COMMITTEE ON THE ICAC

8 September 1992

Mr Bill Rixon, MP  
Member for Lismore  
PO Box 52  
LISMORE NSW 2480

Dear Mr Rixon,

I refer to your letter of 24 August 1992, concerning the proposed visit to Kyogle by the Committee on the ICAC.

The Committee considered your letter at its meeting last week and resolved to go ahead with the proposed visit.

The date which has been set for this visit is Thursday 1 October. I realise that you will not be able to accompany the Committee on that date, however, the Committee feels it is important that this visit take place at the earliest opportunity.

I would hope to be able to discuss arrangements for the visit with you during the Parliamentary sitting next week.

In the meantime, I am enclosing some copies of a background brochure on the Committee and the Discussion Paper on the Review of the ICAC Act released by the Committee last week. Please feel free to provide these to interested constituents, particularly those you think the Committee should meet on 1 October.

Yours sincerely,

David Blunt  
Project Officer

cc. Mr Patrick Knight

Rixon.003



Room 1129  
121 Macquarie Street  
SYDNEY NSW 2000

Telephone: 02 230 3055  
Facsimile: 02 230 3057



## COMMITTEE ON THE ICAC

9 September 1992

Mr Robin Rodgers  
[REDACTED]  
[REDACTED]

Dear Mr Rodger,

I refer to your letter to the Hon. Gerry Peacocke MP, dated 15 April 1992, concerning the ICAC inquiry into roadworks in Kyogle Shore, which was referred to the Committee on the ICAC for its attention.

Enclosed for your information is a copy of a response the Committee received from the ICAC in relation to concerns about the inquiry which had been brought to the Committee's attention.

The Committee has resolved to visit Kyogle to hear first hand from those with concerns about the inquiry. This visit will be taking place on Thursday 1 October. If you wish to meet with the Committee during its visit it would be appreciated if you could contact the Committee's Project Officer, David Blunt, who is making the arrangements for the visit.

Also enclosed for your information is a background brochure on the Committee and a Discussion Paper on a Review of the ICAC Act released by the Committee last week.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Malcolm Kerr', written in a cursive style.

Malcolm Kerr, MP  
Chairman

15 April, 1992

The Hon. L.S.B. Peacocke, M.P.  
Minister for Local Government  
Parliament House  
SYDNEY NSW 2000

Dear Gerry,

Subject I.C.A.C. investigation into road works in the Shire of Kyogle.

You would be aware that the I.C.A.C. brought down its findings in January 1992, after an investigation into the affairs of Kyogle Shire Council. I do not want to get involved with the specifics of these findings nor the personalities involved, but rather to make you aware of concerns that I have as a result of this event. As Post Office Agent at Bonalbo I am in the position to have a good overview of the community and the way it reacts to such an event. I make the following comments

1. A small community like Bonalbo is very volatile as compared to a large community and once the I.C.A.C. investigation became public a division occurred between people. There were two distinct groups, those who wished to support persons named by the inquiry, and those who were supporting the witnesses who came forward. No small community can afford to have this sort of division forced upon it. It does destroy community spirit and impedes the social life and the common purpose that all people should have of general improvement.
2. I note that the I.C.A.C. has an advertisement on television encouraging people to come forward with information. There is a danger in this that the informant can bypass laid down procedures within an organisation for handling complaints. This does not allow that organisation the chance to put its own house in order.
3. The I.C.A.C. only receives one side of the story for a protracted period before the inquiry goes public. This could have the effect of allowing the investigators to pre-empt their final conclusion. For example if a particular name kept coming up during the course of the investigation a conclusion could be reached that this person was guilty without first of all hearing their defence.
4. There is nothing to stop collusion between witnesses. A witness may strengthen their argument by seeking other witnesses to testify. I note that in the Kyogle Shire Council case many of the witnesses were from the same group of friends.
5. Selective publicity by the media and sensational headlines further polarise the community. This also denies any named person the benefit of the full terms of natural justice. An innocent persons reputation may be irreparably damaged. This to me is a grave concern.

RECEIVED

- 5 MAY 1992

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6. Much of the evidence given is only hear say and should be verified where possible. For example in the case of the Kyogle Shire Council inquiry there was conjecture over the quantity of gravel delivered to a property. Rather than listen to verbal evidence to me it would have been more practical to have a qualified surveyor measure the quantity, which to date has never been done.

7. In the case of the Kyogle Shire Council the findings of the I.C.A.C. report indicate collective culpability, in that many employees did not follow laid down work practices and procedures. Surely in this situation it is wrong to single out certain people for consideration of further action. It should be either all, or none.

8. The I.C.A.C. process is very costly and at the end there is no real definitive result, only considerations to be applied by others.

9. When the public enquiry starts it is very disruptive to the organisation under investigation and causes loss of productivity. These effects can continue on and the finality may take years as it can depend upon examination of the evidence by the Public Prosecutor. This delay prevents the organisation becoming co-hesive and productive again.

10. Because people have a fear of the I.C.A.C. they become inhibited to perform every day work practices and procedures. Because informants and named persons have to work together there is a mistrust, because informants could still be reporting to I.C.A.C. Informants can use this as a threat against other people to obtain their own demands.

My alternative to the method of using the I.C.A.C. is that a team should be set up within the Department of Local Government, comprising of Councillors, Engineers, Clerks, Accountants, Health Inspectors, Rates Clerks, etc. The people chosen should be the best in their respective field.

This team would visit at random but each council at least once per year to audit finances, check procedures and work practices, morale of staff, conduct of meetings and any evidence of wrongdoing. Any criminal activities detected should become a Police matter and be dealt with by the normal course of law. This team would also educate councils on new methods, procedures, laws, etc.

Because councils would not know when to expect a visit they would try to keep their house in order at all times. Any areas of defect could be corrected immediately without glare of media publicity with less disruption to the organisation, and the community in general. I believe this method would make Councils more accountable effective and efficient. This method has always worked well in Australia Post.

I trust that my comments are helpful and that you give them due consideration.  
I have also sent a copy of this letter to our local member Ian Causley.

Kind regards  
Yours sincerely,



Robin Rodgers





## COMMITTEE ON THE ICAC

25 September 1992

Mr Patrick Knight  
[REDACTED]  
[REDACTED]

Dear Mr Knight,

I am writing to you concerning your meeting with the Parliamentary Joint Committee on the Independent Commission Against Corruption on Thursday 1 October. As you have been advised by the office of Bill Rixon MP, the Committee would like to meet with you at 10.00 am, in the conference room at Kyogle Hospital.

The purpose of the Committee's visit to Kyogle is to enable Committee members to hear from residents of the Kyogle area who have concerns about the conduct of the ICAC's inquiry into Road Works in the Shire of Kyogle. In view of the experience of that inquiry the Committee is keen to hear of any suggestions as to how the ICAC's procedures may be improved in future.

Enclosed for your information is a list of those people the Committee is meeting with on 1 October. The Committee's meeting will be conducted in public and you are welcome to be present while the Committee meets with others. You are also welcome to have lunch with the Committee between 1.00 - 2.00pm.

I would emphasise that the Committee intends to conduct its meeting in as informal and relaxed a manner as possible.

Some people the Committee will be meeting have raised concerns about their position if they say things which are critical of the ICAC. In order to address these concerns the Committee will need to follow some formalities.

The Committee's meeting will take the form of a Committee hearing. When you arrive at the hospital conference room I will hand you a summons signed by the Chairman of the Committee, Malcolm Kerr MP. This is not to compel you to

attend. Rather it is to ensure the Committee complies with the requirements of the Parliamentary Evidence Act. The Committee Chairman will ask you to take an oath or make an affirmation before you speak to the Committee. When you have taken an oath or made an affirmation and acknowledged that you have received a summons everything you say will be covered by Parliamentary privilege.

The Committee Chairman will ask you for your full name and address. He will then invite you to have your say about the ICAC inquiry and any suggestions you have for improvements to the ICAC. The Chairman and other Committee members will then ask you questions arising from what you have to say.

It would be of great assistance to the Committee if you could make a few notes in writing about what you want to say to the Committee and provide them to me when you arrive at the meeting. However, this is not absolutely necessary.


As stated above, the Committee's intention is that its meeting will be as informal and relaxed as possible. Any formalities that are followed are only to ensure that everything that is said is covered by Parliamentary privilege.

Enclosed is a background brochure on the Committee. In relation to the Committee members whose pictures appear on page four, Mr A Tink MP has recently resigned from Committee and has been replaced by Mr P Zammitt MP. The Committee members taking part in the visit are: Mr Malcolm Kerr MP; Mr Bryce Gaudry MP; Mr John Turner MP; Mr Paul Zammitt MP; the Hon Jan Burnswoods MLC; and the Hon Stephen Mutch MLC.

I would particularly draw your attention to page two of the brochure which sets out the functions of the Committee. As you can see section 64(2)(c) of the ICAC Act prohibits the Committee from reconsidering "the findings, determinations or other decisions of the Commission in relation to a particular investigation or complaint". Therefore, the Committee is not able to reconsider the findings of the ICAC in its "Report on Investigation into Road Works in the Shire of Kyogle". What the Committee is interested in is the procedures and practices of the ICAC, and how they can be improved, not the specific findings of the ICAC in relation to the Kyogle inquiry.

I trust this provides you with all the information you need in relation to your meeting with the Committee. Should you have any questions or require any further information please do not hesitate to contact me on the above number. I look forward to meeting you next week.

Yours sincerely,



David Blunt  
Project Officer

Northern Star 30/9/92

Page 3.

# ICAC watchdog to sit in Kyogle

By PETER ELLEM

The watchdog committee reviewing the Independent Commission Against Corruption Act will hold a public hearing at Kyogle Memorial Hospital's conference centre tomorrow.

Six of the nine members of the Parliamentary Standing Committee on the ICAC, including chairman Malcolm Kerr, will hear evidence from 11 witnesses, six of whom have made written or verbal complaints about ICAC procedures.

These complaints relate to an ICAC investigation into Kyogle Shire roadworks by Assistant Commissioner

Bruce Collins, QC, at the Kyogle Courthouse in July-August 1991.

Mr Collins' 88-page final report was released in January this year.

The committee's project officer, Mr David Blunt, yesterday confirmed from Sydney that the committee had received a written complaint from Kyogle Shire engineer Mr Patrick Knight.

"The State Member for Lismore, Bill Rixon, also made representations on behalf of Mr Knight and other individuals who made verbal complaints to the committee," he said.

"Mr Knight complained that citizens' reputations had been damaged

unnecessarily because ICAC had not done enough 'homework' before embarking on a full public hearing in Kyogle.

"Mr Knight also believes the ICAC showed insensitivity towards illiterate workers at his council's Bonalbo works depot and had kept some witnesses waiting for two days without calling them.

"Another general complaint was that the ICAC appeared to have little or no understanding of the politics of a country town."

Mr Blunt said the committee decided to visit Kyogle after Mr Knight and Mr Rixon were dissatisfied with

ICAC's written response to such complaints.

Mr Blunt stressed the committee did not have the power to alter Mr Collins' final report, but was responsible for monitoring and reviewing ICAC's functions under the ICAC Act.

"The results of the committee's hearing could form an appendix on its broader review of the ICAC Act, or be the subject of a separate report," he said.

"A morning session will be devoted to hearing six complainants, while the afternoon involves largely independent witnesses and their observa-

tions of ICAC's handling of the Kyogle hearing."

While the hearing was public, the committee discouraged media coverage.

Morning witnesses are Mr Knight, contractor Murphy Standfield, his brother and Kyogle Shire councillor Bob Standfield, former deputy shire president David Lovell, former shire president Sheryl Johnston and former councillor Tony Lazaredes.

Afternoon witnesses are Cr Val Johnston, Robin Rodgers, of the Bonalbo Post Office, retiree Ron Smythe, teacher Peter McIntyre and draper Bob Bodea.