



# Office of Local Government

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Ms Monica Loftus  
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By email: [Public.Accountability@parliament.nsw.gov.au](mailto:Public.Accountability@parliament.nsw.gov.au)

Dear Ms Loftus

Thank you for your email of 1 October 2020 providing the transcript and questions taken on notice during the inquiry into the integrity, efficacy and value for money of NSW Government grant programs on Monday 21 September 2020.

Please find attached answers to the questions taken on notice during the hearing. I do not need to highlight any corrections to the transcript.

Yours sincerely

**Tim Hurst**  
**Deputy Secretary**  
**Local Government, Planning and Policy**



**Answers to questions taken on Notice**  
**Inquiry into the integrity, efficacy and value for money of NSW Government**  
**grant programs**  
**Monday 21 September 2020**

**Page 43**

The Hon. JOHN GRAHAM: It is mainly that tied grants funding round that has attracted attention and has been the source of the questioning today. The guidelines for that fund changed on 27 June 2018. I am relying there on evidence you gave to the Parliament in response to a question on notice. That is correct, isn't it?

Mr HURST: I would have to confirm the date but it was certainly late in the month of June in 2018.

**Answer**

**The revised guidelines were approved on 27 June 2018.**

**Page 49**

The CHAIR: This is an email conversation between Laura Clarke at the Deputy Premier's office and yourself. It has come from a senior policy adviser at the Premier's office. It says:

Metro projects and funding guidelines should be hopefully signed by Prem tomorrow. Once the guidelines are signed, I will pass them over to you to get the DP sign and then we can get Min Upton to sign.

Do you see that?

Mr HURST: Yes, I can see those words.

The CHAIR: Were they the three Ministers who signed off on the guidelines?

Mr HURST: I was a recipient of that email, not the author. Once again, I am not authorised under the Cabinet confidentiality rules to answer any question about the briefing note. The Legislative Council was advised on 17 September that that document is Cabinet-in-Confidence. The matter is being actively considered by the Legislative Council. It is not appropriate for me to answer that question. I need to take that on notice.

**Answer**

**Yes.**

**Page 50**

The CHAIR: There is one other proposition I would put to you and ask you if you want to answer it now or take it on notice. When the Minister provided an answer on notice as to who signed off on the guidelines, and the Minister's answer was "The Stronger Communities Fund Tied Grants round guidelines were approved by the former Minister for Local Government on 27 June 2018", I suggest to you that the answer was false and that, in fact, it was the Deputy Premier, the Premier and the Minister for Local Government. Do you have any reason to suggest that proposition is wrong?

Mr HURST: I think that is a question for the Minister.

The Hon. JOHN GRAHAM: On that question, you have provided an answer to the Parliament that contradicts the email that has just been referred to. It goes to your

office's answer to the Parliament to a question on notice asked by the Chair. This clearly contradicts it. Do you want to correct the record?

Mr HURST: My understanding is that it is the Minister's response to the Parliament. I believe it is a question for the Minister.

The CHAIR: You have taken it on notice otherwise?

Mr HURST: Yes, I will take that on notice.

**Answer**

**This is a question for the Minister.**

**Page 60**

The Hon. JOHN GRAHAM: Could you take on notice how much of the value of the \$252 million was respectively approved by the Premier, the Deputy Premier and the Minister for Local Government?

Mr HURST: Yes, I will take that on notice.

The CHAIR: That is in the tied grant round.

**Answer**

**Of the \$252 million total in the tied grants round, \$141.8 million was allocated by the Premier, \$61.3 million was allocated by the Deputy Premier, and, \$48.9 million was approved by the Minister for Local Government.**

**Page 63**

Mr HURST: Those emails are a record of the Office of Local Government being advised—consistent with the program guidelines—of the council, the project and the amount. The guidelines say that these are for projects identified by the New South Wales Government and the Office of Local Government then proceeds with issuing the funding agreement.

The Hon. JOHN GRAHAM: Not all of them make clear what the direction is. For example for Parramatta, it is your email to your office which is recorded in the documents you have sent to Parliament saying this is a \$16 million single project. There appears to be no endorsement from the office. Have you got any guidance on that project?

Mr HURST: I would have to take on notice about any particular example but I am sure in that instance it was forwarding on advice that had been received.

The Hon. JOHN GRAHAM: Perhaps you could take that on notice and indicate whether that was a verbal approval in that case.

Mr HURST: Yes.

The CHAIR: It may be easier for you to take on notice providing the answer to who approved each specific project and provide a detailed table identifying who approved each specific project. Would you be in a position to do that?

Mr HURST: So to summarise the material that has already been provided under the call for papers process which we have fully complied with?

The CHAIR: To provide an answer as to who approved which specific project under the \$252 million. You have heard the Hon. John Graham say it is somewhat confusing following the paper record. Will you provide on notice an answer of who approved which specific projects for the entirety of the tide grant funding?

Mr HURST: Yes. I will take that on notice for each of the projects.

The CHAIR: In doing that, could you provide the written brief for each project?

Mr HURST: Mr Shoebridge, you have those documents. They are in the call for papers that you have already received a response to and that each of you have been reading from during the course of this hearing.

The CHAIR: I am asking if you will take it on notice. I do not want to take up any more of the Hon. John Graham's time.

Mr HURST: Yes.

### Answer

Council Name	Date of Funding Agreement	Date of Guidelines	Funding Agreement Amount (\$)	Number of Projects Funded	Expenditure authorised by	Authorisation date	Delegated authority Date	Projects identified for NSW Government by	Project identification conveyed by	Project identification date
Armidale Regional	30/08/2018	27/6/18	\$5,950,000	1	CE OLG	13/07/2018	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	15/06/2018
Burwood	8/08/2018	27/6/18	\$2,600,000	1	CE OLG	6/07/2018	30/5/16	Premier	Senior Policy Advisor	26/06/2018
City of Canada Bay	23/08/2018	27/6/18	\$2,370,000	2	CE OLG	6/07/2018	30/5/16	Premier	Senior Policy Advisor	28/06/2018
Central Coast	14/02/2019	27/6/18	\$2,126,000	4	CE OLG	26/09/2018	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	27/08/2018
	14/02/2019	27/6/18	\$1,918,450	9	CE OLG	6/12/2018	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	28/11/2018
	28/02/2019	27/6/18	\$1,456,070	12	CE OLG	13/02/2019	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	3/01/2019
Cootamundra-Gundagai Regional	26/09/2018	27/6/18	\$5,800,200	24	CE OLG	31/08/2018	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	31/07/2018
	27/6/19	27/6/18	\$149,800	1	CE OLG	27/06/2019	30/5/16	Deputy Premier	Senior Policy Advisor	27/6/19
Dubbo Regional	30/11/2017	8/9/17	\$27,760,000	10	Minister for LG	19/09/2017	N/A	Local Government Minister	Minister for LG	19/09/2017

<b>Council Name</b>	<b>Date of Funding Agreement</b>	<b>Date of Guidelines</b>	<b>Funding Agreement Amount (\$)</b>	<b>Number of Projects Funded</b>	<b>Expenditure authorised by</b>	<b>Authorisation date</b>	<b>Delegated authority Date</b>	<b>Projects identified for NSW Government by</b>	<b>Project identification conveyed by</b>	<b>Project identification date</b>
Edward River	08/11/2018	27/6/18	\$600,000	1	CE OLG	11/09/2018	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	24/08/2018
	19/02/2019	27/6/18	\$4,990,000	7	CE OLG	14/02/2019	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	5/11/2018
Federation	20/12/2018	27/6/18	\$5,590,000	6	CE OLG	12/12/2018	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	5/12/2018
Georges River	25/07/2018	27/6/18	\$9,500,000	5	CE OLG	28/06/2018	30/5/16	Premier	Senior Policy Advisor, Officer of the Premier	28/06/2018
Hilltops	30/08/2018	27/6/18	\$5,762,189	23	CE OLG	26/7/18	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	17/07/2018
	28/06/2019	27/6/18	187,811	1	CE OLG	27/06/2019	30/5/16	Deputy Premier	Senior Policy Advisor	27/06/2019
Hornsby Shire	28/6/18	27/6/18	\$90,000,000	2	CE OLG	27/06/2018	30/5/16	Premier	Senior Policy Advisor	27/06/2018
Hunters Hill	29/11/2018	27/6/18	\$1,000,000	1	CE OLG	25/10/2018	30/5/16	Premier	Senior Policy Advisor	28/06/2018
Lane Cove	30/08/2018	27/6/18	\$937,000	5	CE OLG	31/07/2018	30/5/16	Premier	Senior Policy Advisor	28/06/2018
Mid-Coast	18/02/2019	27/6/18	\$12,500,000	10	CE OLG	12/02/2019	30/5/16	Premier	Senior Policy Advisor	03/01/2019
Murray River	28/2/19	27/6/18	\$4,095,000	7	CE OLG	14/2/19	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	13/2/19
Murrumbidgee	14/2/19	27/6/18	\$5,590,000	11	CE OLG	13/2/19	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	16/11/18

<b>Council Name</b>	<b>Date of Funding Agreement</b>	<b>Date of Guidelines</b>	<b>Funding Agreement Amount (\$)</b>	<b>Number of Projects Funded</b>	<b>Expenditure authorised by</b>	<b>Authorisation date</b>	<b>Delegated authority Date</b>	<b>Projects identified for NSW Government by</b>	<b>Project identification conveyed by</b>	<b>Project identification date</b>
Northern Beaches	30/11/17	8/9/17	\$21,100,000	11	Minister for LG	19/9/17	N/A	Local Government Minister	Minister for LG	19/9/17
City of Parramatta	20/11/18	27/6/18	\$16,000,000	1	CE OLG	9/11/18	30/5/16	Premier	Senior Policy Adviser	6/11/18
Queanbeyan – Palerang Regional	23/11/18	27/6/18	\$5,489,780	23	CE OLG	20/11/18	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	20/11/18
	19/2/19	27/6/18	\$99,780	5	CE OLG	13/2/19	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	6/2/19
City of Randwick	8/2/19	27/6/18	\$2,580,000	1	CE OLG	22/1/19	30/5/16	Premier	Senior Policy Adviser	25/6/18
City of Ryde	30/8/18	27/6/18	\$2,350,000	6	CE OLG	13/7/18	30/5/16	Premier	Senior Policy Adviser	25/6/18
Snowy Monaro	22/11/18	27/6/18	\$5,250,793	16	CE OLG	20/11/18	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	20/11/18
	19/2/19	27/6/18	\$339,000	4	CE OLG	14/2/19	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	6/2/19
Snowy Valleys	20/12/18	27/6/18	\$5,695,000	27	CE OLG	18/12/18	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	17/12/18
	25/1/19	27/6/18	\$255,000	5	CE OLG	22/1/19	30/5/16	Deputy Premier	Deputy Chief of Staff, Director of Policy	17/12/18
Waverley	5/2/19	27/6/18	\$500,000	1	CE OLG	17/12/18	30/5/16	Premier	Senior Policy Adviser	25/6/18
	27/2/19	27/6/18	\$1,500,000	6	CE OLG	26/2/19	30/5/16	Premier	Senior Policy Adviser	20/02/19

## Page 65

The Hon. COURTNEY HOUSSOS: So, in accordance with those, are you able to tell me whether all of the funding has been acquitted before 30 June 2020?

Mr HURST: No. We also receive applications to vary time frames which are provided for under the funding agreement.

The Hon. COURTNEY HOUSSOS: Okay. Could you provide on notice a list of those variations and when the funding will then be acquitted for each of those variations?

The Hon. TREVOR KHAN: Oh, deary me.

The Hon. NATALIE WARD: It could be hundreds.

The Hon. COURTNEY HOUSSOS: I am interested in whether any outstanding money resides with councils if the projects have not been completed.

Mr HURST: Yes, there have definitely been variations granted under the fund and, yes, I will take it on notice but, once again, it is quite a big exercise to go through and check each of those and the variation that might have been applied to it.

The Hon. COURTNEY HOUSSOS: I am not interested in all the variations.

The Hon. TREVOR KHAN: That is what you are asking.

The Hon. COURTNEY HOUSSOS: I am trying to rein it in a bit for you, Mr Khan.

The CHAIR: Limit the scope.

The Hon. COURTNEY HOUSSOS: I am interested in funding that has not been fully acquitted by 30 June; any variations that have allowed that funding to remain with councils.

Mr HURST: Is this for Hornsby council or for all councils under the—

The Hon. COURTNEY HOUSSOS: For all councils. I am interested in how much of the \$252 million has not been spent. I am expecting you to take that question on notice.

Mr HURST: I will have to take that on notice. It is a significant exercise.

## Answer

**Of the 24 councils that received funding, 14 councils sought a variation to the Funding Agreement timeframe, 2 councils are yet to reach the end date of the original funding agreement (June 2022), and 1 is complete.**

**OLG is working with the 7 remaining councils regarding project delivery updates and any requests to vary funding agreements. A number of these councils are either bushfire or COVID affected councils and OLG has allowed some latitude for these councils to address their reporting obligations.**

## Stronger Communities Fund (SCF) Round 2 - requests for variation to funding agreement:

Council	Funding Agreement end date
Central Coast	December 2020
Cootamundra-Gundagai	June 2021
Dubbo	September 2021
Edward River	March 2021
Federation	December 2020
Georges River	December 2021
Hilltops	December 2020
Hunters Hill	June 2021
Lane Cove	June 2021
Northern Beaches	September 2022
Randwick	June 2021
Ryde	June 2021

Snowy Valleys	March 2021
Waverley	June 2021

**Stronger Communities Fund (SCF) Round 2 - funding agreements ongoing:**

Council	Funding Agreement end date
Hornsby	June 2022
Parramatta	June 2022

**Stronger Communities Fund (SCF) Round 2 - all Projects complete:**

Council
Armidale

**Page 66**

The CHAIR: I will press it, Mr Hurst. What legal advice did you receive as to the sufficiency or otherwise of the initial approval you got from the Premier for the \$90 million for Hornsby?

Mr HURST: I will have to take that on notice, Mr Shoebridge, because you are pressing the question about legal advice that was received by the Office of Local Government.

The CHAIR: Did you get the advice in writing?

The Hon. TREVOR KHAN: Point of order: The witness has taken the question on notice. It is item 12 on the—

The CHAIR: I am aware of it. I looked at it before.

The Hon. TREVOR KHAN: Good.

The CHAIR: But I will press this point: Did you get the advice in writing, Mr Hurst?

Mr HURST: Mr Shoebridge, I have already said that I will take your question on notice and I will report back to you, if I can, about the nature and form of the legal advice that was received.

The CHAIR: I am not asking you to disclose the content of the legal advice, Mr Hurst, I am simply asking whether you got it. At this point the additional question I am asking you is whether you got it in writing. Do you remember whether you got it in writing or not?

Mr HURST: I have endeavoured to come back to you on notice to ensure that I give you a correct and complete answer, Mr Shoebridge.

**Answer**

**The advice was written. The legal advice received was internal advice from OLG's Director Legal in two emails one on 25 June 2018 and the other on 27 June 2018 both of which have been produced in response to the call for papers and legal professional privilege is claimed over them.**

**Page 67**

The CHAIR: I am asking you now, Mr Hurst, and it is not a complicated question, was the answer you got from the Premier's office that I just read to you and that you have just read again, was it sufficient?

Mr HURST: Sufficient for what, Mr Shoebridge?

The CHAIR: Sufficient to address the concerns you had about getting it properly documented?



Mr HURST: As I have said, I have undertaken to come back to you on notice with the legal advice, the nature and the form of it, if I am able to, about any concerns that there may have been about the phrasing of that.

**Answer**

**The answer I received from the Premier's office was sufficient to enable me to exercise my delegated authority to expend the funds.**

**Page 70**

Mr HURST: I apologise; I know that we have covered this but I am unable as a public servant to talk about the process of providing that material that may have formed part of a Cabinet-in-confidence document.

The CHAIR: Mr Hurst, did you have a discussion with your Minister about this; about the position you have adopted now?

Mr HURST: I base this advice on my understanding of the Cabinet conventions and the guidance that the former Premier has given to public servants appearing before parliamentary inquiries.

The CHAIR: But, Mr Hurst, that did not answer my question. Would you mind answering the question?

Mr HURST: Your question was: Has the Minister reviewed the legal basis which I have for not being able to answer these questions?

The CHAIR: No, my question was: Did you have a discussion with your Minister about the responses you are giving now in relation to Cabinet-in-confidence?

The Hon. TREVOR KHAN: I raise the issue of fairness to the witness. What you are asking this witness now—

The CHAIR: The witness is able to take it on notice and that might be the appropriate response.

The Hon. TREVOR KHAN: Yes.

The CHAIR: Mr Hurst, do you want to take the question on notice?

Mr HURST: I think the other thing that is relevant is that this matter is still being actively considered by the Legislative Council and so I think for that reason it is not appropriate for me to answer the question at this time and so I agree to take that on notice.

**Answer**

**Prior to the hearing on 21 September 2020 I did not discuss with the Minister the evidence I was to give to the Committee.**

**Page 71**

The Hon. COURTNEY HOUSSOS: Okay. Are there any other grants programs where you do not require a signature from a Minister in order to authorise funding?

Mr HURST: I would have to take that on notice.

The Hon. COURTNEY HOUSSOS: Can you provide me with a list of those programs and the minimum requirement? Does an email from a ministerial office suffice? What is the requirement?

**Answer**

**The Deputy Secretary holds financial delegation under the *Government Sector Finance Act 2018* providing authority to approve any grants funding allocation within Budget. The following are recent OLG programs where funding was provided without a signature from a Minister.**

**In early 2020 \$43,533,337 was allocated from Treasury to the DPIE budget for immediate financial support for bushfire affected local councils. The funding came with two conditions, namely that the council was to provide a delivery plan within 3 months and secondly that the council report back to the Commonwealth Government in 12 months' time. Funds were disbursed by the Deputy Secretary under delegated authority.**

**Under the COVID-19 Economic Stimulus Package councils have access to two areas of financial assistance – The Job Retention Allowance (JRA) and funding for the increase in the Emergency Services Levy (ESL). Eligible Councils continue to claim and to be paid the JRA subsidy. Councils access these payments by entering into the Funding Agreement. Funds are disbursed by the Deputy Secretary under delegated authority.**

**The NSW Government identified in early 2020 that \$32.7 million was to be allocated to DPIE as part of the package to cover the 2020-21 increase in ESL for local councils. Funds were disbursed by the Deputy Secretary under delegated authority.**

**In addition to the above, Councils can access the following grants programs or subsidy payments, conditional upon entering a funding agreement and meeting the conditions, and the funds are disbursed by the Deputy Secretary under delegated authority:**

- **Low Cost Interest Loans Initiative - \$ 1.468 million disbursed to date**
- **Local Infrastructure Renewal Scheme - \$96.128 million disbursed to date**
- **Innovation Fund – approximately \$4 million disbursed to date**

**Each year the NSW Government distributes Financial Assistance Grants to councils – their total estimated entitlement for 2020-21 is \$793,720,184. Councils are receiving approximately half of the estimated entitlement in 4 instalments during 2020-21 and the other half of the entitlement was paid in advance in May 2020. Funds are disbursed by the Deputy Secretary under delegated authority.**

## **Page 71**

**The Hon. JOHN GRAHAM: I have a question about one issue that we have not covered, which is the conflict-of-interest declarations for this grants program. It is usually central to a grants program. As the administrator, how many conflict-of-interest declarations do you hold for the tied grants round of the Stronger Communities Fund?**

**Mr HURST: Are we talking about how conflicts of interest are managed within the department for our departmental staff?**

**The Hon. JOHN GRAHAM: Normally in relation to a grants program, particularly in relation to decisions being made, the organisation administering it would hold any conflict-of-interest declarations that were made. How many do you hold in relation to these hundreds of grants, these hundreds of millions of dollars?**

**Mr HURST: I am not aware that we hold any conflict-of-interest declarations for the grants that were made under the Stronger Communities Fund tied grants round.**

The Hon. JOHN GRAHAM: Alright, so you are not aware that you hold any. Can you take that on notice and confirm that it is in fact zero?

Mr HURST: I am happy to take that on notice.

**Answer**

**The Office of Local Government does not hold any conflict-of-interest declarations specific to this grants program.**

**Page 72**

The Hon. JOHN GRAHAM: Let me put the question this way: It is possible, given what you have said and given what we have seen, that the Premier signs off on these guidelines—the Premier's office has emailed saying that the Premier has signed this on the twenty-fifth, it is on the way to the Deputy Premier, then on the way to the local government Minister on the twenty-seventh, the local government Minister signs that off, you tell the Parliament that that happens on the twenty-seventh. If it then has to go to Cabinet, which might take a week or weeks, you are dishing out public money while this is going through the Cabinet process and these guidelines are not approved. Is that not a ridiculous proposition, Mr Hurst? You are saying that that is possible?

Mr HURST: Mr Graham, I am going to have to take that on notice. Once again it is tied to the question of the process for approval of the guidelines. This is a Cabinet process and I am prevented from talking about it or the matters that would reveal the process of Cabinet decision-making.

The Hon. JOHN GRAHAM: The final issue I want to ask about, which returns to where I started, is about the grant application form. I can understand why you do not want to admit there is an application form but I reiterate that it clearly states, "Attachment 1 Grant Application Form" and this is sent as part of the funding agreement to the council. How would you describe this document? Can you take us through that wording again?

The Hon. TREVOR KHAN: The document otherwise known as—getting musical.

The Hon. JOHN GRAHAM: If this is not a funding application form, what is it?

Mr HURST: It is a funding agreement that comprises the different elements. Mr Graham, I am prepared to take it on notice and get some very specific advice that talks about the legal basis for this being drafted and executed as a deed between the Government and each council, if that will assist you.

The Hon. JOHN GRAHAM: I welcome you take it on notice. It is not a funding agreement because the funding agreement is immediately before that. Then attachment one is described as the grant application.

The Hon. NATALIE WARD: Did we not start here the other day?

Mr HURST: I have agreed to take this on notice so that I can explain the relationship between the funding agreement and its attachments.

**Answer**

**Following the creation of new councils in 2016 neither the New Council Implementation Fund (NCIF) nor Stronger Communities Fund (SCF) guidelines required a council to submit 'an application' to obtain funding. Newly created councils were eligible for funding and the amount was determined by whether or not the new council was created from two or three former councils.**

The funding was distributed and recorded by way of a completed template funding deed between each new council receiving funding and the Office of Local Government (OLG). Each deed included Attachment 1 entitled 'Grant Funding Sought by Council Application' and Attachment 2 was described as an acquittal certificate. Each council was invited to complete, sign and return the deed including the attachments to receive the funded grants.

The terms and structure of the 2016 template funding deed was settled in consultation with Office of Local Government Legal, NSW Treasury and the Department of Planning and Environment.

Under the 2018 SCF tied grants round guidelines there was no application process. The eligibility of councils for the funding was set by the Guidelines, all councils that were created in 2016 or affected by the creation of a new council were eligible. There was no application process for distribution of the funds to eligible councils, this was determined by Government, consistent with the guidelines approved by the Government in 2018.

When the guidelines were approved OLG used the same template funding deed to document the disbursement of the funds and it continued to adopt the same title for Attachment 1 for the Tied Grant funding round 1 deeds 'Grant Funding Sought by Council Application.' Attachment 2 became the tied grant guidelines and attachment 3 was the acquittal certificate.

Later versions of the deed saw the title of Attachment 1 changed from 'Grant Funding Sought by Council Application' to 'Grant Application Form'. This did not change the fact that councils were still not required to submit 'an application' to obtain funding.

In all cases, the Attachment 1 document identifies the particular council that was to receive funding, the amount of funding and the project(s) that were being funded so they form an essential part of the deed returned to OLG by the Council which received the funding.

### **Page 73**

The Hon. JOHN GRAHAM: I hear that you have put that view. I will put these two examples to you to test how ridiculous that is in the real world and see if that changes your view. Firstly, we have been told by Hornsby council that they get a call the day the guidelines are signed off, possibly they have not gone to Cabinet yet, but the day the guidelines are signed off at 5 p.m. they are told not only are they getting the money but there will be a funding application attached to the funding agreement on the way. They receive that minutes later. After they know they have got the money they get to apply. Or, it leads to this example, Minister Roberts is off announcing the Lane Cove and Hunters Hill merger funds at community events on Wednesday and Saturday respectively, this is in July 2018. An email from the Premier's office says, "When he announces the funding he would like to physically hand over the funding agreement docs to the respective GMs". In fact, Minister Roberts is not only announcing the funding and handing over the funding agreement, he is actually handing over the grant application form so the council can apply, is that not correct?

Mr HURST: Mr Graham, you started that question with the premise about the day that the guidelines were approved. Unfortunately, it means I have to take it on notice. I am not able to discuss anything relevant to the Cabinet process. I am prevented from doing so by the Premier's memorandum.

**Answer**

**The revised guidelines were approved by the Government on 27 June 2018. On that day the Office of Local Government received directions as to which councils were to receive funding and OLG issued the funding deed to the councils.**

**Page 74**

The Hon. JOHN GRAHAM: That is the only action that was taken to make them public?

Mr HURST: They are public, they went to every council who received funding under the program.

The CHAIR: That is the only notification that you are aware of that your office did in relation to the guidelines?

Mr HURST: There may have been more, I will have to take that on notice as well.

The CHAIR: I think that is what Mr Graham was asking you, Mr Hurst. If there were more please tell us.

Mr HURST: He said that they were not made public, Mr Shoebridge, and that is not correct.

The CHAIR: We seem to be having a definitional problem here, Mr Hurst. "Public" means available to the public at large, not provided in discrete correspondence to individual councils. I do not understand what you mean by "public". What do you mean by "public"?

Mr HURST: Something being tabled at a council meeting is being made public, Mr Shoebridge.

The CHAIR: Mr Hurst, did the Office of Local Government make the amended guidelines public?

Mr HURST: They were included, at the very least, with every funding agreement that went to every council that received funding. Beyond that, how they were publicised I am happy to take on notice.

The Hon. COURTNEY HOUSSOS: Did you put them on a website, did you put them on the Local Government website?

Mr HURST: I will have to take that on notice.

**Answer**

**The allocation of round 2 Tied Grant funding was restricted to councils created in 2016 and councils previously subject to a merger proposal based on the specified criteria set out in the guidelines including that the funding was for projects identified by the NSW Government with the allocation of funds to be based on priorities identified by the Government.**

**This did not require the guidelines to be published on the OLG website, however a copy of the guidelines was attached to each funding deed sent to a council that had been allocated funding.**

### **Page 75**

The CHAIR: Mr Hurst, the truth of the matter is the guidelines were never made public, that the only notification that the Office of Local Government got, apart from emails back and forth between the Premier, the Deputy Premier and the local government, was when you sent them as attachments to the funding agreements to individual councils; that was the only public notification, was it not?

Mr HURST: Mr Shoebridge, I think that is yet to be established and I have undertaken to answer that question on notice.

### **Answer**

**See answer to previous question.**

### **Page 76**

The CHAIR: Like all of the deeds in your folder Mr Hurst, 1.1 of this deed says "Funding request: In consideration for the submission of the completed grant application form being attachment one, Council agrees to accept and apply the funds provided by OLG in accordance with and subject to the terms of this agreement." Was that an accurate reflection of there both being a funding request and upon the submission of a grant application form? Was it true what you signed?

Mr HURST: I believe I have agreed to take on notice the question about the legal construction of these deeds as a document with the several parts. I am not sure what your assertion about any fault that there may be with paragraph 1.1 is?

The CHAIR: I am not suggesting that there is any fault. I am suggesting that it correctly reflects the fact that there was, as per the legal document signed by you, a funding request and the submission of a completed grant application form. I am suggesting that is 180 degrees contrary to your evidence to this inquiry that there was no grant application form. So I am giving you the opportunity to explain how you signed something so contradictory to your evidence to the Committee.

Mr HURST: Mr Shoebridge, I have agreed to take on notice the question of explaining how these deeds are constructed and the elements that sit within them. This is a legal question and I am not qualified to give legal advice on how these deeds are constructed.

### **Answer**

**As explained in answer to the previous question the funding deeds were prepared by Office of Local Government and settled by OLG Legal. I am advised that to document the disbursement of the funds a deed was entered into by each council that received funding and the Office of Local Government.**

**Councils that were selected to receive funds were advised of their selected projects and provided with the template funding deed with details of the selected projects set out in Attachment 1. If councils agreed to receive the funding they then completed the deed by signing it. I then executed the deed as the delegate and the funding was then provided and has been administered subject to the terms of the executed deeds.**