

General Manager's Office

21 November 2014

Ms Teresa McMichael
Director
Legislative Council
Select Committee on the Planning Process in Newcastle
and the Broader Hunter Region
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Dear Ms McMichael

RESPONSE TO QUESTION ON NOTICE AND INVITATION TO PARTICIPATE VIA TELECONFERENCE

Reference is made to your letter dated 20 November 2014 in respect of the abovenamed matter.

I believe that making an appearance at the Committee hearing via teleconference next Monday, 24 November 2014 at 1.45pm, is not ideal despite the technological feasibility of oral communication that it allows. The teleconference however, would not allow me the opportunity to provide evidence to the Committee on a face to face basis, which is my preference, so that both the Committee would be afforded the best possible means of posing questions to me and, in return, I would be afforded the corresponding opportunity to best understand the line of questioning and consequently better able to respond to those questions. Teleconferencing would therefore be both an unfair and a less satisfactory substitute to making an appearance in person or responding to questions in writing.

In this regard, I also note that the Committee Chairman The Hon Fred Nile MLC made the statement on page 39 of the uncorrected transcript of the Committee hearing proceedings held on Friday, 7 November 2014 that:

"The Committee can submit any questions to the general manager to answer even though he is not here if the Committee want to clarify the submission at any time".

That opportunity remains open.

In addition, I further refer to the questions raised by Mr David Shoebridge MLC at the Committee hearing on 7 November 2014 and recorded in the same transcript at page 38 concerning my absence overseas on leave both on that day and currently. I wish to confirm that my overseas trip, whilst on leave during the period 3 November and 21 November 2014 (inclusive), was approved, booked and paid for months in advance of the establishment of the Committee of Inquiry and was the sole reason why I was unavoidably unavailable to attend the Committee hearing in person on 7 November 2014.

In terms of some of the comments made by the Committee concerning the signing of the Council submission by me in my capacity as General Manager of Newcastle City Council, I wish to draw to the Committee's specific attention the letter of invitation by the Committee Chairman that was addressed to me, as General Manager. The letter went on to say:

*"On behalf of the Committee, I would like to invite **you** [emphasis added] to make a submission to the inquiry."*

I believe that I have correctly done so having regard to the exigencies of time in meeting the Committee's short period for lodgement of submissions. I note that Mr David Shoebridge MLC put to Mr Chrystal during his questioning in respect of the matter of Council's submission that "your administration has shown contempt for the governing body of your council" and Mr Chrystal deferred that question to me. Contrary to treating anyone with contempt, in my view, responding as I did, I respected:

- (i) the invitation of the Committee Chairman as outlined above;
- (ii) the deadlines imposed by the Committee;
- (iii) the elected Council of the City of Newcastle by ensuring a timely response was provided consistent with the decisions reached by resolution of the full elected Council and in place at that time; and
- (iv) fulfilled my obligations as General Manager of the City of Newcastle as per the Local Government Act.

The written submission that was duly lodged with the Committee was reflective of Council as an organisation and of the resolutions that had been passed by the elected Councillors up until that time. The submission did not contain anything new that had not been previously submitted to NSW Ministers, government departments or agencies and was entirely consistent with the views of Council, as an organisation, and the resolutions that had been previously passed by the elected Council. The Committee must equally appreciate that the elected Council typically holds its Ordinary Council Meeting only once per month and in the context of the October meeting, was held on 28 October 2014, being the week following the deadline for the lodgement of the written submission on 24 October 2014.

Notwithstanding the foregoing, I understand that a number of individual Councillors have chosen to lodge submissions with the Committee and indeed are scheduled to present today to the Committee's public hearing to give evidence. That is their individual prerogative and right. Although the elected Council operates via majority decision-making, there will always be individual Councillors who may nevertheless hold different and contrary views to the majority and whose views may or may not be reflected in the majority decisions of the elected Council in the form of resolutions passed by the elected Council. That is the nature of the democratic process.

I confirm that I have reviewed this letter in its final form and have authorised Mr Peter Chrystal, Acting General Manager, Newcastle City Council, to sign it on my behalf in my absence whilst overseas.

Yours sincerely

Ken Gouldthorp
GENERAL MANAGER