

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

**INQUIRY INTO INTEGRITY, EFFICACY AND VALUE FOR MONEY
OF NSW GOVERNMENT GRANT PROGRAMS**

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At Macquarie Room, Parliament House, Sydney, on Monday 21 September 2020

The Committee met at 9:40.

PRESENT

Mr David Shoebridge (Chair)

The Hon. John Graham

The Hon. Courtney Houssos

The Hon. Trevor Khan

The Hon. Natalie Ward

PRESENT VIA VIDEOCONFERENCE

The Hon. Matthew Mason-Cox

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The CHAIR: Welcome to the first hearing of the Public Accountability Committee Inquiry into Integrity, Efficacy and Value for Money of NSW Government Grant Programs. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land and pay my respects and those of the Committee and those in attendance today to the Elders past and present and emerging, and extend that respect to First Nations people present. Today we will hear from Local Government NSW and representatives from a range of Sydney councils. We will also hear from Tim Hurst, CEO of Local Government NSW. There has been widespread concern about the integrity, efficacy and the value for money of New South Wales Government grant programs. Perhaps at the top of that concern is the exceedingly large amount of money delivered to local councils before the commencement of the last State election. Many councils say they benefited greatly from the funding; other councils asked why not them.

Before we commence I make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript will be placed on the Committee's website when it becomes available. All witnesses have a right to procedural fairness according to the procedural fairness resolution, adopted by the House in 2018. There may be some questions that a witness could answer only if they had more time or with certain documents at hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days.

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LINDA SCOTT, President, Local Government NSW, affirmed and examined

The CHAIR: I now welcome our first witness, Linda Scott from Local Government NSW. Do you have a brief opening statement that you would like to give?

Ms SCOTT: I do, thank you, Chair. I thank the Committee for the opportunity to appear and represent the local government sector in New South Wales at this hearing today. As noted in our submission, financial sustainability of local government is a longstanding issue in this State, where councils are squeezed at both ends by rate pegging and cost shifting from State and Federal governments. Due to the rate peg and other factors, many councils, particularly in rural, regional and remote New South Wales, are limited in their ability to generate own-source revenue. Grants are therefore an essential source of funding for local government, helping to fund the significant amount of work councils undertake from road, cycleway and pedestrian work construction, through to the maintenance of community facilities and the delivery of services to support residents, such as child care and aged care. Without access to grants, councils will struggle to maintain and improve essential services and infrastructure for their often growing communities.

Councils expend time and resources in good faith preparing grant applications and supporting evidence and expect that their applications will be assessed fairly and equitably. From our experience, the administration of grant programs has been generally thorough and transparent in New South Wales. However, councils have deep concerns about the adequacy of funding in some areas, requirements to co-fund, the complexities of the application processes and the timing of funding rounds, application periods and deadlines for project completion. There is also an opportunity for improvement to provide certainty around grant funding. For example, ongoing annual or multi-year funding programs rather than one-off programs and an allocation of funding that is better matched to need, are changes that would support the grant system run by the New South Wales Government. Local Government NSW recognises the unprecedented level of New South Wales expenditure on recovery assistance and economic stimulus in response to natural disasters and the pandemic, and we have also been fortunate to partner with the New South Wales Government to deliver a number of local government grant programs.

We are audited for those and do them equitably and fairly. That funding has enabled councils to drive locally-led recovery, delivering projects that help sustain local economies, increase livability, keep people in jobs and keep businesses employing people. We welcome the focus of the Committee, recognising that taxpayers demand and rightly deserve the appropriate use of their taxation dollars. In order to maintain public trust in our Government, its leaders and institutions must provide transparency and accountability in the administration of all grant programs. Councils know this well. Local Government NSW supports the fair and equitable allocation of grant funding that provides value for money, infrastructure and services to communities in need, regardless of political affiliation. I look forward to answering your questions.

The CHAIR: Thank you. We will start with questions from the Opposition.

The Hon. JOHN GRAHAM: Thank you for your opening statement, Ms Scott. As you have said, a range of those grant programs run out very smoothly. The main focus for today's inquiry is on the Stronger Communities Funding, particularly on the tied grant round, which is the one that has attracted the most comment from councils and in public. That was the round that ran out from around 28 June 2018 particularly through to the end of February 2019, the week before the election. It was less smooth and has attracted quite a bit of comment, largely for the lack of information about it for councils.

The Hon. TREVOR KHAN: Point of order: I thought this was question and answer time, as opposed to speech time.

The CHAIR: I think we are getting to the question.

The Hon. JOHN GRAHAM: I am happy to head to my question. Can you give us any guidance about discussions you have had about councils' ability to find out about that funding?

Ms SCOTT: Typically, as the peak body for local governments, as you can imagine, when we hear from governments—be they State or Federal governments—about funding programs that councils are eligible for we would promote them and provide information and support to councils to ensure they are aware of what they are able to access in terms of funding. It is the case that there was very little information about how to apply for that particular grant. We certainly understood that the terms required councils that had been merged as part of the New South Wales Government's program of forced council mergers, to be the only eligible applicants. That is not the case for a range of other grant programs and so that was our understanding when we were communicating with members about the program and their eligibility.

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The Hon. JOHN GRAHAM: That eligibility changed in June 2018 when it was broadened beyond councils that had been merged. Is that correct?

Ms SCOTT: I know that to be correct now from the public information. I am not aware if Local Government NSW was informed of that at the time. I personally was not aware of that change.

The Hon. JOHN GRAHAM: But you would often be out promoting grant programs. Were you out promoting this program—the tied grants funding round—to councils, saying, "You might be eligible for this potential source of funds"?

Ms SCOTT: It was not one of the grant programs that was the easiest to access information about and so unlike, for example, the recent grants made by the New South Wales State Government to the arts and cultural sector, where we have welcomed the announcement of them and put out press releases and information in our newsletter for councils to ensure they have awareness about it, this information was not as readily available for this grant program.

The Hon. JOHN GRAHAM: One of the unusual things about this scheme is that it is granted to councils, although councils are not asking for this funding. Often it is determined by New South Wales Government decisions. There is a risk here that what the Government decides the council may not have been asked about. What sorts of problems does that cause on the ground?

Ms SCOTT: Councils have a requirement under New South Wales law to have a long-term strategic and financial set of plans that they undertake public consultation on to ensure that the infrastructure and other spending priorities that they put forward as an elected body are in line with community expectations. We know, for example, that where councils apply for or accept grants that are outside of that long-term strategic vision that they have been required to undertake consultation on, this can be the subject of questions, for example, from the Auditor-General or a range of the other integrity agencies. It certainly is the case that it is important for councils—and we advise them of this—to ensure that the things that they are applying for funding for and the things that they are receiving grants for are in line with the long-term strategic and financial plan that they have consulted their community on and not ad hoc items that have not been through that same robust process.

Of course, I should provide the important caveat that, should there be a drought, storm, flood or obviously COVID or a range of other unexpected events or events that councils perhaps do not have in their strategic plan, grant funding would be something they would seek in response to that. If the funding is for a standard infrastructure project that is required for maintenance or as a result of a growing or changing community demographic, typically councils would apply for things in line with their long-term financial and strategic plans.

The Hon. COURTNEY HOUSSOS: This grant program actually goes further than that. I am not sure if you are familiar with the guidelines, but they say that any shortfall in funding and any of the ongoing costs are actually borne by the council as well. It is not just about not doing something that is not in the council's priority list. This potentially puts an added burden on to the councils. I note your submission talks about the difficulties and the need to abandon rate pegging. Can you talk about what that would actually do for a council?

Ms SCOTT: For example, if a council were to receive a grant from the New South Wales Government to build a pool for their community, the maintenance and ongoing cost to run the pool would typically never be covered by the grant program. It does mean a significant financial burden on councils. This is within the category of expenses that we refer to as cost shifting where, while a grant may pay for the initial infrastructure or some of the cost of that initial infrastructure typically with a matched component required for the council, the provision of maintenance and ongoing servicing of that asset is required to be met by the council. We campaigned very hard about this and every two years still report about the impact of cost shifting.

We have repeatedly found that cost shifting from State to local governments is significantly increasing year on year to be in the hundreds of millions of dollars over time. We also call on the New South Wales Government consistently when it is providing grant funding to ensure that it covers not only the cost of the asset but some of the maintenance and other ongoing costs. For a council to receive grant funding for an asset, particularly if it is new, it can often mean an enormous expenditure requirement for the matching contribution and also for the maintenance, staffing and other costs that are required to run that public asset.

The Hon. JOHN GRAHAM: One of the unusual things about this program is that councils apply after the decision has been made to give the grant. They apply after the funding has been announced.

The Hon. TREVOR KHAN: That is your assertion. This is the question.

The Hon. JOHN GRAHAM: Yes. I am putting that to the witness. I can assure Mr Khan that we will certainly come round on this in the afternoon with the Government witnesses. When councils are applying well

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after the actual decision point, does that make the sorts of problems you are describing worse? Does it mean that disconnect between what they actually want and what they receive might be worse?

Ms SCOTT: I cannot speak for the Government or the Office of Local Government about the procedures.

The Hon. JOHN GRAHAM: That is very right.

Ms SCOTT: However, if the council were to receive funding for something that was not in their long-term financial plan, then the budgeted costs of maintenance, which often run into tens or hundreds of millions of dollars depending on the asset, and the ongoing costs of running the facility are not budgeted for. We know, for example, that when councils have put their long-term strategic plans out to community consultation, various government integrity agencies will come and check that they have done public consultation about that. We know in the past that the Office of Local Government has surveyed communities to check that the council's community priorities match with independent surveys of what community wants.

As the regulator, the Office of Local Government then uses that as an integrity check for the council. There are a number of regulators—the Auditor-General, the Office of Local Government, et cetera—that have controls and checks over the way councils budget, prioritise and actually spend their own money. If a grant program were to provide councils with money that they did not have in their long-term strategic plan and had not budgeted for the maintenance and operation of, that is obviously a challenge that might bring that council to the attention of regulators. Councils are very aware of that point.

The Hon. COURTNEY HOUSSOS: I note your submission and opening statement talked about the need for councils to utilise grant programs to provide services across a range of different areas. You will be very familiar with grant programs. Can you tell us about the principles that should usually underpin a grants program, particularly at the start of it? How notification, assessment, criteria, application forms—can talk us through how that would normally work?

Ms SCOTT: It is certainly the case that councils do find themselves eligible for a range of State and Federal government applications. At a Federal level, for example, there is the Federal assistance grant that is worked out by an independent body based on a formula that is very transparent. Councils can make submissions to that body, but the formula is decided by the independent body and funding is allocated accordingly. Similarly a range of Federal road funding grants typically are provided through a process that involves an independence of parliamentary decision-makers and is done on the basis of a formula.

We would always advocate that grants to councils and, indeed, the use of public money generally is done in a manner that is fair, transparent and not gerrymandered. Councils themselves must be aware of these obligations in the allocation of their own grant programs and the Office of Local Government indeed provides guidance to and regulates councils in their provision of grant funding. We are very aware of best practice guidelines to ensure that funding is allocated in a fair and transparent way. Being a level of government, we do this ourselves. It is critically important to see these principles upheld for community trust.

The Hon. COURTNEY HOUSSOS: You talk in your submission about the need for fairness and transparency. That is certainly something that the Office of Local Government insists on at council level. Before a council was able to approve a grant, it would need to go through some kind of public process. Is that right?

Ms SCOTT: Correct. Local governments would advertise the grant program and make our communities aware through a community engagement program about those grants. Typically there is quite a significant public exhibition period before councils then make decisions about the grants. If you are on a local government, then the papers for the meeting are published. They would always contain, for example, the people who applied for the grant and staff recommendation about who was nominated for the grant. If there are any changes made to that staff recommendation, it is done in a public meeting and a public forum. Now every local government in this State live streams its meetings. It is not only public in the council chambers but also public online. Any changes from the staff recommendation are in light of the public audience and very much in the public domain.

The Hon. JOHN GRAHAM: There might changes, but it is very public. It is clear that it is in the public interest.

Ms SCOTT: Yes. For example, I can give you an example from my council. We had a local community group apply for a festival grant. According to the criteria, that festival grant was not supported by the staff. But the council had a public debate about the merits of that particular festival to the community at that time for a range of other reasons. This festival happened to be in Alexandria when WestConnex was being built. We felt strongly as a council that the area needed community support and activation. Therefore, on the basis of community good a recommendation was made to alter the staff recommendation in a very public and transparent way to ensure that

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the community group received the grant. Like any public money, the community group then in receipt of the grant would have to acquit that money, explain how they used it and show evidence of that, so that there was a transparent way to ensure that the public money was being used appropriately.

The Hon. COURTNEY HOUSSOS: This hearing is into the Stronger Communities Fund. The first round—and we are focused on the tied grant funding and that is where our conversation has been this morning. The first round in the Stronger Communities Fund actually allowed councils to run a grants program overseen by the Office of Local Government that had quite strict requirements around it. Can you just explain that for us?

Ms SCOTT: I am not familiar with the details of the first grant round—my apologies. But typically any grant round that councils are facilitating or themselves funding would have to go through the process that I have just outlined—that is, advertising the grants; making sure they are on public exhibition; that the staff recommendations, if the council is the decision-maker, are published in advance of the meeting to the public; that the meeting is held in public; that decisions are open and transparent and then the funding is acquitted. That is the way councils make their granting decisions.

The Hon. TREVOR KHAN: Could I ask a short question?

The CHAIR: Sure, you can keep butting in, Trevor.

The Hon. TREVOR KHAN: I do not think there is any suggestion, is there, that—whether it be the first round or the second round of what we are talking about here today—funding agreements were entered into, I will say, essentially between the State Government and the local government in the usual manner? There has to be a funding agreement, is that not right?

Ms SCOTT: Again, I am absolutely not familiar with each of the individual funding agreements for this—

The Hon. TREVOR KHAN: Of course not.

Ms SCOTT: —particular grant round, so I could not provide you with those assurances. But typically when the council is in receipt of a funding arrangement from a State or Federal government there is an agreement that councils must acquit in order to assure State and Federal governments that the money has been spent in line with the program. But I cannot provide you assurances about the individual grants.

The Hon. TREVOR KHAN: Just to be clear on that: Having entered into the funding agreement, essentially the local council then oversights to ensure—whether it be money that they are using themselves to complete something or somebody within their area is doing it—that the funds are acquitted consistent with the funding agreement. That is the practice, is it not?

Ms SCOTT: Yes. If there is a funding agreement and the council is required to spend the funding in a certain way then it certainly is the case that the local government—be it their own staff members, through contractors or through other community groups that they may go through the grant process for—it is certainly is the case that it is their role to acquit the funding. However, of course, the mechanism of allocating the funding to the councils is also vitally important. Obviously councils, if they are in receipt of funding, are typically very grateful for that. Typically they have a range of community projects that they would like to fund in line with their long-term strategic and financial plans. But the allocation of that funding from Federal or State governments to local governments is not a decision made by local governments.

The Hon. TREVOR KHAN: Of course not, no.

The Hon. COURTNEY HOUSSOS: Obviously my colleagues talked about the acquitting of the funding, but the part the Committee is really concerned about is that initial process: the advertising, the application, the notifications and who has actually been told that the grants funding is available. As your submission notes, councils spend a lot of time compiling submissions for grant applications. This is not a victimless crime, in the sense that there are plenty of hardworking people out there in local government who go above and beyond to put the effort in to apply for grants regularly. Is that not the case?

Ms SCOTT: That is the case, and we are talking about hundreds if not thousands of staff hours to ensure that these grant programs are applied for when they are publicly available. Again, the two pathways to grants that I have outlined—either the way the Federal Government might do, for example, the Federal assistance grants through an independent body, a granting body that works according to a publicly available formula—we advocate that that be the main mechanism for awarding grants, because it saves those hundreds if not thousands of hours of staff time. It provides an independent, transparent mechanism for local governments to have their funding allocated and it is done with a robust level of public confidence.

The Hon. JOHN GRAHAM: You have talked about the quite strict—

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The CHAIR: Sorry, the Hon. Natalie Ward had just one question.

The Hon. NATALIE WARD: I just had a question on the application process. Thank you, Councillor Scott, for coming today. I just wanted to be clear: It is not always the case that there is an application process in every single case, is it?

Ms SCOTT: No. As I was just saying, there is a process, for example, with the Federal Government in the way that it awards Federal assistance grants, where it has an independent body, a formula that it undertakes consultation on and commissioners who are independent from Government. That is a process that gives people public confidence in the way that the grants are allocated. There is not an application process for that.

The Hon. NATALIE WARD: We were just talking about the need for application processes, but it is not always the case for that \$750 million worth of Federal funding that is administered that way—is that not correct?

Ms SCOTT: Yes, with an independent arbiter in between and commissioners.

The Hon. NATALIE WARD: Then that goes to councils unconditionally, for councils to administer according to local infrastructure and other priorities. Is that correct?

Ms SCOTT: It is not unconditional. There is a contract to explain the requirements for that, but it is not specific, for example—

The Hon. NATALIE WARD: But the determination of the priority of where it goes to is unconditional. It is up to the council, according to—

Ms SCOTT: Correct.

The Hon. NATALIE WARD: —its local needs, to determine where it goes.

Ms SCOTT: Correct.

The Hon. NATALIE WARD: It is unconditional in that sense, that it is not the Feds saying, "You have to spend it on this". It is for you, as you outlined, to consult with the community and decide what the priority is.

Ms SCOTT: Correct.

The Hon. NATALIE WARD: In that sense it is unconditional.

Ms SCOTT: There is a contract. Councils have to comply with that.

The Hon. NATALIE WARD: Sure, in the overarching way. But the priority and where it is allocated is up to the council's discretion, is it not?

Ms SCOTT: It is up to the council's discretion in the sense that they have a requirement to consult with their communities. That consultation process is often audited by the State to ensure that it is done appropriately and in line with community expectations. Those priorities are put on exhibition, voted on by the council and decided in a very transparent way.

The Hon. NATALIE WARD: But it is not always the case, is it, that they have to go through that? For mayoral funds, for example, they do not have that public consultation process. Mayoral funds can be allocated to projects according to the decision of the mayor.

Ms SCOTT: It depends on the delegations of each individual council, but typically a mayoral fund might be allocated as part of a mayoral minute. That would come to a council for decision, allocation and ratification.

The Hon. NATALIE WARD: But, again, not an application process, not an advertised process. A discretion is there for the council to determine according to its local needs.

Ms SCOTT: For example, if it were done through a mayoral minute the mayoral minute would be advertised to the community as part of the public exhibition of the council papers. It would be done in a public forum that is webcast and it is voted on by the governing body, the council, to expend that money.

The CHAIR: But we are not investigating mayoral grants here, Ms Ward. That is not the subject of the inquiry.

The Hon. NATALIE WARD: No. But for example, just saying it is not the case in every single—just for context, there are very often grants given that are not subject to the same application process. That is very much the case with Federal funding.

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The Hon. COURTNEY HOUSSOS: Maybe not a quarter of a billion dollars, though.

The Hon. NATALIE WARD: Some \$750 million—

The CHAIR: Rather than a chat between members, I ask whether that ended your questioning, Ms Ward?

The Hon. NATALIE WARD: For the moment, thanks.

The CHAIR: Councillor, thank you for coming in today. When it came to the Stronger Communities funding, can you advise us as best you can what notification the New South Wales Government gave to Local Government NSW about what were the two rounds of Stronger Communities funding before the last State election?

Ms SCOTT: I am not aware of those notification processes, Chair. Again, as you can imagine, councils receive a number of grants, so I am not aware of those. I am happy to take that on notice.

The CHAIR: But if the Government is intending to roll out funding to local councils through a grants program that is in the hundreds of millions of dollars you would ordinarily expect a large degree of fanfare about that—and direct communication from the Government to Local Government NSW—would you not?

Ms SCOTT: Again, to give you an example from recent weeks, the State Government has recently opened a grants program for councils to apply for arts and performance support. This has been mentioned in Parliament by the relevant Government Minister. There has been media about this, and we have also done a media response welcoming it. Typically it is an announcement where a funding program opens and something that Local Government NSW would also respond to the opening of and welcome.

The CHAIR: And tell your members that there is a large amount of funding available—here is the criteria, here is how you apply. That is part of the work of Local Government NSW, is it not?

Ms SCOTT: That would definitely be something that we would regularly communicate with our members about.

The CHAIR: If you were told by the Government about the opening-up of criteria for a grants program in the hundreds of millions of dollars you would make it your business, would you not, to tell your members about it?

Ms SCOTT: Yes. Any grant program that we know about that local governments are eligible for is something that we would certainly communicate about. I am happy to take the details about communication about this program on notice.

The CHAIR: In late June 2018, the New South Wales Government updated its guidelines for Stronger Communities funding so that it could be available not just to councils that were created as a result of mergers but also—and I will read from here—

The Hon. TREVOR KHAN: Point of order—

The CHAIR: I have not finished my question.

The Hon. TREVOR KHAN: You have not got even close to asking a question yet. I invite that that be done.

The CHAIR: Alright, but it will make it quicker if you could hold your point of order until the question is finished.

The Hon. TREVOR KHAN: It depends if it is a speech.

The CHAIR: I have ruled against your point of order.

The Hon. TREVOR KHAN: Of course you would.

The CHAIR: I am sure that surprises you. At the end of June 2018, the Government changed the guidelines for Stronger Communities funding. Previously they had only been available to councils that were created as a result of a merger. I will read from their papers:

The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

The words "and to councils previously subject to a merger proposal" were added. Was Local Government NSW consulted in any way about that broadening of the guidelines?

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Ms SCOTT: I certainly was not. I would have to take on notice whether we received any correspondence or consultation about this. I certainly was not consulted and I was not aware of it.

The CHAIR: Given that it increased the number of councils who were able to apply from a relatively small handful to dozens and dozens of councils, do you think that it would be incumbent upon the Government to broadly publicise those changes to councils and to Local Government NSW?

Ms SCOTT: Again, I cannot speak for the New South Wales Government, as you can imagine. But for example if a council were to make a change to a grant program, that would typically need to be something that would be advertised and put on public exhibition. Councils would make a decision about that in a forum that was public and in a very transparent way. Any changes that a council were to make to their own funding allocation would typically be done in a manner that would be very much in the public eye. The engagement program that followed that would be very much designed to engage as many applicants as possible.

The CHAIR: I assume that is because sunlight is a good disinfectant when it comes to the use of public money. Councils do that so that you can see clearly that you have a transparent process, which has integrity. Isn't that why councils do that public work?

Ms SCOTT: Councils put a ray of sunlight on all of their operations both because it is the right thing to do with public money but also because we are required to do that under the New South Wales Local Government Act. A range of regulators in the State Government—be it the Auditor-General or the Office of Local Government—regulate the activity of councils to ensure that we do that.

The CHAIR: Because of this change in funding, Hornsby Council found itself eligible to get some \$90 million in public funding out of these grants rounds. Have you had any communication to your office from any councils about the fact that such a large amount of funding was opened up to just one council?

Ms SCOTT: Again, with respect to the specifics of the question about correspondence, I would have to take that on notice. But I have certainly had communications with Hornsby Council about their funding and I understand that they are going to appear before this inquiry as well. It is probably best to address the details of that question about how they managed it to them. As I said earlier, councils who are in receipt of State and Federal Government funding typically need to expend it in a way that is determined by a contract or some sort of agreement. I do not think that there is any suggestion or evidence here that councils who are in receipt of that funding have not done so.

The CHAIR: No-one could criticise a council for managing to get \$90 million out of the State Government, could they? The question is whether or not that was a fair allocation from the State Government.

Ms SCOTT: That is a question for the State Government, but yes.

The CHAIR: Yes. Have you had the benefit of looking at the ICAC submission for this inquiry?

Ms SCOTT: No, I am sorry. I have not.

The CHAIR: Could I ask you to have a look at the ICAC submission, and particularly at their recommendations on page 17, and provide us on notice with Local Government NSW's view about those recommendations?

Ms SCOTT: Yes, happy to.

The CHAIR: Have any councils communicated their views to you about having local MPs involved in assessing grants?

Ms SCOTT: Certainly the consistent feedback that we hear from local governments is that when announcements are made—particularly with respect to the awarding of funding to councils—it is important that the mayor and councillors be advised of that so that they can either attend or be part of the announcement. I am aware that that does happen in some areas of the State and does not happen in other areas. Of course, I am also aware of local members not even being aware that funding announcements are being made in their own seats. This is something that mayors consistently talk to me about. Certainly when a Government or even Opposition MP is visiting an area, I always counsel them to contact the mayor and councillors first to make them aware that they are coming.

The CHAIR: If I could try and decode that a little, do you mean that there have been complaints raised with you about the State Government having a Government MP announce funding for a local council and not inviting the mayor or the councillors to that announcement?

Ms SCOTT: Correct.

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The CHAIR: How often has that happened, to the best of your knowledge?

Ms SCOTT: On a fairly regular basis in the lead-up to an election.

The CHAIR: What is the view from local government about the kind of arrangement where a funding announcement that is going to so intimately impact on local government is made excluding the mayor, excluding the councillors and excluding the council? What view do council take about that?

Ms SCOTT: I think it is fair to say that councillors universally feel strongly that that should not be the case. Again, any MPs that I talk to—Government, Opposition or crossbench—if they are visiting a local government area [LGA], I always encourage them to make contact with the mayor and councillors. I encourage them to go and visit and have a conversation with them even if they are not making an announcement. As you can imagine, mayors and councillors certainly feel extremely frustrated when funding announcements—particularly for the local government—are made in their area without their knowledge or without them being offered an invitation to attend.

The CHAIR: Have any of your members raised with you the practice of the New South Wales Government providing a notification about grant funding but also including a non-disclosure agreement with that, which needs to be signed by the council, to prevent the council going out and telling the community about the successful grants until the State Government has got all of its ducks lined up?

Ms SCOTT: I do not have knowledge of the individual contracts that councils are party to, so it is unfortunately not a question I could answer.

The CHAIR: In terms of the involvement of MPs in the announcement of local government grants by the State Government, I want to go back to your carefully constructed earlier answer. Were there other occasions where the local non-Government member was excluded from an announcement about council funding, and a Government MP from either outside or who has ministerial responsibilities was brought into the local area to make the announcement?

Ms SCOTT: Without going into specifics, it is certainly the case that that occurred. In a range of areas around the State in the lead-up to the State election, Government MPs made announcements without informing the local member and in some cases also without informing the councils. As you can imagine, particularly if those announcements are made about a piece of infrastructure that is outside a council's local long-term strategic plan, that puts the council in a very challenging position. There has therefore been a public announcement about a grant that they have been offered that brings with it obligations for—as I have already outlined—maintenance and ongoing costs. If it is outside their long-term strategic plan, it may bring added regulator activity from either the Office of Local Government or from the Auditor-General. It puts councils in an extremely difficult position.

The CHAIR: Of course, by that time the media has been alerted, the local entity that is receiving the grant funding is very excited and it really is a fait accompli for councils. They are stuck with it regardless, aren't they? That is the political reality.

Ms SCOTT: It is a very, very challenging situation. Obviously, each council needs to make their own decision about that.

The Hon. NATALIE WARD: May I ask a question just on that topic?

The CHAIR: Yes, by all means.

The Hon. NATALIE WARD: Thank you. Just on that topic, in fairness, it happens both ways, though, does it not?

Ms SCOTT: Again, I always counsel any member of the Government, Opposition or crossbench to consult with their announcement.

The Hon. NATALIE WARD: I am sure you do, but it does happen both ways, does it not?

Ms SCOTT: But I think with respect to Government funding programs, and this one in particular, it has certainly the scenarios that I have just outlined have occurred. Hand on heart, I am not aware of any other funding arrangements that were made, for example, about local governments by crossbenchers or the Opposition that have not been done in consultation with councils.

The Hon. NATALIE WARD: Sometimes there are. Yes, I appreciate that.

Ms SCOTT: And as you can imagine, I would be happy to condemn them, if that was the case.

CORRECTED

The Hon. NATALIE WARD: Can I bring one to your attention that I was at recently. Sometimes it happens that there are sod turnings when Government members are not invited or are not acknowledged. There are plaques that are put on buildings or locations that do not acknowledge.

The Hon. TREVOR KHAN: Shame. I've never been on a plaque. I wonder why that is.

The Hon. NATALIE WARD: For example, recently the Granville Centre, funded by the State Government, was opened. There was no mention on the plaque whatsoever of the State Government, so it does happen both ways, does it not?

Ms SCOTT: Well, again, I am not aware of that scenario. I am not sure who did the sod turning or the plaque.

The Hon. NATALIE WARD: I think the council.

Ms SCOTT: Right. Look, I think it is quite different, though, is it not, when you have a scenario when a funding arrangement is announced that brings with it financial obligations on the local government that they are not aware of. I absolutely understand that politically it is critically important to recognise those levels of government that have funded a project, particularly at the completion or opening. I have no argument with that.

The Hon. NATALIE WARD: Actually, with respect, it is part of the agreement.

The CHAIR: I think you have got to let her answer.

The Hon. NATALIE WARD: Sorry, but it is part of the agreement.

The CHAIR: No, no.

The Hon. NATALIE WARD: All right.

The CHAIR: I think you have got to let Councillor Scott finish her answer.

The Hon. NATALIE WARD: Right. If you could finish your answer and then I will ask you.

The Hon. TREVOR KHAN: Very reasonable.

Ms SCOTT: But I think it is quite a different circumstance, as I have outlined, when you have a funding announcement made and that brings with it financial obligations and other integrity obligations on the local government that they need to meet without their knowledge.

The Hon. NATALIE WARD: So when there is a plaque at an opening or dedication or something that has been funded by the State Government, which does not recognise the State Government, which is part of the funding agreement actually—it is required to be—that is fine and acceptable to the local government organisation?

Ms SCOTT: Local governments should always uphold their obligations contractually, absolutely. That is really important.

The Hon. NATALIE WARD: Thank you.

The CHAIR: But the State Government does not have a whole lot of upkeep problems or expenditure in relation to a plaque whereas if the local council is having to maintain a community facility for the next 10 to 20 years that can often be quite difficult, particularly if it goes outside the council's strategic plan. That is the case, is it not?

Ms SCOTT: That is correct and councils have obligations they have to meet about their own community consultation about how they have to spend their own funding, so it can also attract the interest of regulators if they are to sign an agreement that sits outside that pre-existing infrastructure and financial plan.

The CHAIR: Yes, and in fact the State Government has required councils to have that long-term infrastructure and plan and to stick to it. That is part of the State Government's obligations. Is that right?

Ms SCOTT: Correct, and those obligations are outlined in the Local Government Act and a range of other legislative instruments.

The CHAIR: Would it be fair to characterise those kinds of actions by the State Government as unprincipled?

Ms SCOTT: Well, I will leave the characterisation, perhaps, to members of the Committee.

The Hon. TREVOR KHAN: Well, some.

The Hon. NATALIE WARD: Indeed.

CORRECTED

Ms SCOTT: I will leave that to some members of the Committee.

The Hon. NATALIE WARD: Indeed. Equally, the actions of the councils could be characterised as unprincipled.

The CHAIR: Well, if not unprincipled, perhaps we could agree on unhelpful?

The Hon. NATALIE WARD: I do not know this is helpful.

Ms SCOTT: It puts councils—a scenario that has a local government learning about a funding allocation via the media when that funding allocation or grant is outside their long-term community strategic plan and is outside their budget, that puts councils in a very challenging position and they attract the interest of regulators.

The CHAIR: I will read you just one small part from the ICAC submission and I will just ask for your take on it. This is about the concerns about funding being directed to marginal electorates or the like, and they conclude as follows:

Of course, some citizens view pork-barrelling as corrupt, or at least lacking in merit, and politicians are expected to face the resulting political consequences. Equally, just because pork-barrelling is not corrupt or necessarily illegal, it does not follow that it is a desirable way to administer public funds.

Does Local Government NSW have a view about whether or not guidelines should prohibit pork-barrelling—that is the direct intentional allocation of money to marginal electorates?

Ms SCOTT: Well, our submission certainly called for funding to be allocated in a fair and transparent way. We certainly have had a range of resolutions from councils: For example, in 2019 we had a resolution from the Carrathool shire calling on us to lobby the New South Wales and Federal governments to allow reasonable time frames for remote councils to submit applications. We have had resolution from the Hawkesbury council calling on us to ensure that funding for roads and bridges is incorporated into council's operational plans and done in a fair and transparent manner.

We have had motions from the Wingecarribee Shire Council to review grant funding distribution, calling on us to advocate to the New South Wales Government to review the methodology and determining the level of grant funding and to be done on a needs basis and reducing the complexity of funding program applications. So we have had a range of motions calling for us as the peak body for councils to advocate for fairness, transparency and ease of application changes to the way that the New South Wales Government funds local governments.

The CHAIR: And finally, surely fairly and transparency means a prohibition of pork-barrelling. Surely that is implicit, is it not?

Ms SCOTT: We always advocate for all levels of government, including our own membership, to fund anything with public money in a way that is fair and transparent and not done on a gerrymandered basis.

The Hon. NATALIE WARD: Thank you, Councillor Scott. I have got a question for you which may be so specific that it may not be within your immediate knowledge, and I invite you to take it on notice if that is the case, just to be fair. You spoke about community expectations and councils conducting independent surveys about what communities may want so their grant and funding align with community expectations. Is that correct?

Ms SCOTT: Yes.

The Hon. NATALIE WARD: Did I characterise that correctly?

Ms SCOTT: Correct.

The Hon. NATALIE WARD: Yes. I just want to understand how the Northern Beaches project to spend \$100,000 as a minimum up to \$1.7 million with no caps on a COVID-19 commemoration statue was in line with community expectations?

The CHAIR: I think I will take a point of order on that. That is not about grants.

The Hon. NATALIE WARD: It absolutely is.

The CHAIR: It is not about State Government grants.

The Hon. NATALIE WARD: It absolutely is.

The CHAIR: I think it falls outside the terms of reference.

The Hon. NATALIE WARD: No. I press my question, Chair. I have invited the witness to take it on notice. We spoke about—

The CHAIR: But the—

CORRECTED

The Hon. NATALIE WARD: If I may finish? We spoke about community expectations. We spoke about transparency of grants. I think it is a fair question to understand how we are meeting community expectations by councils.

The CHAIR: I will read the terms of reference:

1. That the Public Accountability Committee inquire into and report on the integrity, efficacy and value for money of NSW Government grant programs, and in particular:

If there is a suggestion that New South Wales Government grants money was used for this fairly vainglorious project, then by all means.

The Hon. NATALIE WARD: Also the terms of reference state:

- (b) the manner in which grants are determined, including:
 - (i) the oversight ...
 - (ii) the transparency ...
 - (iii) the independence ...
 - (iv) ... role of Members ...
 - (v) ... and
- (d) any other related matter.

The CHAIR: Yes.

The Hon. NATALIE WARD: I submit to you that it is a matter that falls within the purview of this Committee. I would just like to understand how it meets community expectations.

The CHAIR: I just make it clear.

The Hon. NATALIE WARD: You do not need to run cover for the Northern Beaches Council.

The CHAIR: I definitely do not; nor for that particular project.

The Hon. NATALIE WARD: Well, then, what is the problem with the question?

The CHAIR: Because it is outside the terms of reference—

The Hon. NATALIE WARD: I submit it is not.

The CHAIR: —which is in relation to the "money of NSW Government grant programs". Again, I give you the invitation: If there is a suggestion that any State Government money was used on it, by all means put the question. But if that is not the case it is outside the terms of reference.

The Hon. NATALIE WARD: It was obtained from a fund.

The CHAIR: I will ask you again: Is it definite that State Government grant money was used on that project?

The Hon. NATALIE WARD: I would like to understand it better.

The CHAIR: Well, I am sorry.

The Hon. NATALIE WARD: I do not see why the Committee should shut down questions about grants from councils.

The CHAIR: I am going to—

The Hon. NATALIE WARD: After all, that is why we are here, is it not?

The CHAIR: I am going to stick to my ruling. The question is out of order.

The Hon. TREVOR KHAN: Outrageous.

The CHAIR: Yes. But that is not a statement about that project. It is just out of order.

The Hon. NATALIE WARD: In the words of Walt Secord, cover-up, cover-up.

The CHAIR: If you are going to cavil with my ruling, that is okay, but I will go to the Deputy Chair.

The Hon. NATALIE WARD: Well, I press my question, that's all.

The CHAIR: That has successfully ended the time. Thank you, Councillor.

CORRECTED

Ms SCOTT: Thank you.

The CHAIR: I think you did take a number of questions on notice, if we could have those answers within 21 days?

Ms SCOTT: I did. Thanks very much.

The Hon. TREVOR KHAN: —this morning in perpetuity so you can save some time.

The CHAIR: You might come back for this.

(The witness withdrew.)

CORRECTED

KHAL ASFOUR, Mayor, City of Canterbury Bankstown, sworn and examined

DARCY BYRNE, Mayor, Inner West Council, affirmed and examined

The CHAIR: Do either of you wish to make a brief opening statement?

Mr ASFOUR: I thank the Committee for inviting me to appear and present the case of Canterbury Bankstown council. The only way that I have described this whole Stronger Communities Programme grant process was as a rolled gold rort. To discover that there was an additional \$252 million available to councils that had merged, and 95 per cent of that money went to Liberal and Nationals-held seats, with not one dollar spent in my local area, I am pretty upset and angry, and so are the residents of Canterbury Bankstown council. It is especially disappointing that in June 2018 I wrote to the then Minister for Local Government, the member for Vacluse, telling her that as the largest council in New South Wales—at that time we were going through the merger. We were aligning systems and our council departments and I asked for more money, because there was an enormous cost involved in relation to amalgamations.

I was given a response from the then Parliamentary Secretary for planning Scott McDonald congratulating council on its efforts but also saying that there was no money at all to help with the amalgamations. He did not mention anything about this grant. He did not mention that we could apply. If we applied and did not receive anything, I would probably cop that, but we were not even told about it. In my view it was a grant process that was essentially done in secret. It can be construed in a number of ways. Either that it was an oversight by the Minister or by the Parliamentary Secretary, or that they were playing politics and splashing the cash in Liberal or Nationals-held seats.

To be excluded and not even told about it goes to the very heart of the decision-making of the Government, where they splash around cash—95 per cent of which goes to Liberal and Nationals-held electorates. It totally throws out of the window principles of transparency, integrity and equity and that is why I referred this matter to the ICAC. It is important and I understand that they have made a submission. I cannot comprehend how when councils give out grants—when councils spend any money, they need to go through a transparent and public process. It goes to a council meeting and it is debated and resolved to spend that money. It is similar to the grants programs. This certainly was not the case and I feel that councils are under a more stringent process than the State Government.

I have also, along with my Inner West Council colleagues, briefed Senior Counsel Bret Walker. We are waiting on his advice to see if there is any legal course that we can take to get some action from the State Government and some recourse as to what legal avenues—obviously, Bret Walker has not come back with his advice. He has been busy with the Ruby Princess.

The CHAIR: He has a lot on his plate.

The Hon. TREVOR KHAN: Actually more than that!

The Hon. COURTNEY HOUSSOS: He is finished now so he might have some time.

Mr ASFOUR: He has been busy and this rort obviously occurred before the previous State election. The first time that I heard about this grant program was on 9News. That is a deplorable way to treat the 360,000 residents of Canterbury Bankstown council.

The CHAIR: Do you have that correspondence back and forth to table?

Mr ASFOUR: Sure. I am happy to table that.

Mr BYRNE: I am here to give evidence on behalf of the people of the Inner West Council and to ask for your assistance in having the funds that our community was cheated out of returned for investment in desperately needed community infrastructure. Through the Stronger Communities—Tied Grants program, a blatantly partisan impropriety has been committed by the New South Wales Government and the Office of Local Government [OLG] against the people of the inner west and Canterbury Bankstown. A fund established specifically to pay for infrastructure in forcibly merged councils like ours was kept hidden and was instead laundered to favoured councils, many of which were not even amalgamated. As Mayor Asfour has said, the Inner West Council will join with Canterbury Bankstown council in legal action seeking just compensation for our communities over the funds that have been secretly misappropriated.

I call for the abolition of the Office of Local Government and for it to be replaced by an independent statutory commission that the people of New South Wales can trust and have confidence in. Sadly, for some time now that office has been declining into a moribund but relatively benign entity, failing to provide useful policy

CORRECTED

advice or effective regulation of local government in New South Wales. However, the damning revelations about the maladministration of this \$252 million scheme demonstrate that the Office of Local Government was converted into a clearing housing for the Liberal-Nationals Coalition's 2019 election campaign slush fund. In fact, just last Friday—only three days before I was due to give testimony to this inquiry—I received correspondence from Mr Tim Hurst from the Office of Local Government informing me that he was referring me to the NSW Civil and Administrative Tribunal, seeking my suspension from public office. It is no coincidence that the Office of Local Government has begun seeking my removal from public office following the discovery of the secret slush fund overseen by the OLG and as a result of our ongoing advocacy to bring the facts about this rort into the light. Mr Hurst's referral is quite clearly an attempt to intimidate and prevent me from giving evidence today.

I table this blatantly political threat and related correspondence, and I restate my commitment to fight for the return of the funds that the inner west community is owed regardless of Mr Hurst's authoritarian action. Had the funds from this program been distributed fairly and on a per capita basis, inner west residents would have received \$24 million in funding. I would like to explain to the Committee the vital improvements that could have been delivered for the 200,000 residents of the inner west had they not been cheated out of their fair share of funding. It is very dispiriting to discover the lengths that the Government and its henchmen have been willing to go to to perpetrate and cover up this injustice against our residents. Is this really what local government in this State has been reduced to—nothing more than a funnel for slush funds, siphoned off into Government electorates and marginal seats, seemingly—according to the documentation that you are in possession of—approved secretly by the Premier, the Deputy Premier and the Office of Local Government with no probity, no transparency and no oversight?

It is a system in which mayors and councillors can be undemocratically removed from office, as we were in 2016—and as has been slated for me again now—if we have the temerity to object to pork-barrelling and outright corruption. I say that we can do better than that. The recommendations of the Committee must be a catalyst for ending the rorts and properly compensating our residents, who are the real victims of this scandal.

The Hon. TREVOR KHAN: I seek that we immediately go into Committee. There is a matter that should be discussed in the absence of everyone.

The CHAIR: Alright. I am happy to entertain that. I think we should be clear though that any time taken from this segment of the hearing will be added at the end.

The Hon. TREVOR KHAN: I am not doing it for that reason.

The CHAIR: I just want to be clear before we go into Committee.

The Hon. JOHN GRAHAM: It is very unusual, however, given the member who is asking, I think that it is appropriate to do.

The CHAIR: We will just go off air briefly now.

(Short adjournment)

CORRECTED

The CHAIR: I am sorry for that inconvenience. Councillor Byrne, the Committee has resolved that the matter you raised in relation to Mr Hurst, specifically the alleged motivations of his suspension, will be a matter that we will not be investigating further at this point of the hearing. Indeed, we will not be looking at it until we have given Mr Hurst the opportunity to have a position in response to that.

Mr BYRNE: I am happy to waive confidentiality and for Mr Hurst to explain his actions.

The CHAIR: Indeed. We would intend to provide him with a copy of the materials that you have provided to us, as well as the transcript, and to get his response in due course.

Mr BYRNE: I am the only party that confidentiality would apply to, so I waive that and look forward to his explanation.

The CHAIR: Very well. Thank you. With that small interruption, I will now hand over to the Opposition for the first round of questioning.

The Hon. JOHN GRAHAM: Just to be very clear about the case that you are putting, you are both eligible councils under this fund. You are turning up here representing more than half a million residents and neither of you got any funding under these programs.

Mr BYRNE: That is right. In fact, Mr Asfour rang me after he had heard from Channel 9 and said "Did you know that there was \$250 million available for amalgamated councils like ours?". I said "No, you are wrong" because I remembered the rounds that did exist and there was not anything like that amount available. After a while he managed to convince me that, no, we just had not been informed that we could apply for the funds that were meant to be available for amalgamated councils. To discover that \$90 million went to Hornsby which was not even amalgamated was really quite astounding.

Mr ASFOUR: Not only that, but to discover that the guidelines of the grants were changed to include councils affected by the merger—not necessarily just merged councils but the ones that were affected, so boundary adjustments, or ones that were, maybe, proposed to merge and then did not when the Government changed their decision, yet they were still eligible.

The Hon. JOHN GRAHAM: So your councils making up more than half a million residents have merged and you do not get funding, but a whole lot of other councils now brought into this scheme that have not merged are now eligible.

Mr ASFOUR: Correct, and with Canterbury Bankstown and the Inner West being largely populated councils, the fact that we were not even told is the point here. I am more than happy to go through a process. I am more than happy to apply for grants and if we do not get it then that is life, right? There should be a criteria that should be followed and that is where grants should be allocated. To ask the question and ask for more money because of the huge amounts involved in amalgamating councils and be told that there was none was a blatant lie.

The Hon. JOHN GRAHAM: You have told us how you heard, but tell us when you heard. I think in your submission, Mr Byrne, you talk about this media report and say it was last month. That is from your submission in July this year. Are you both talking about the same media reports?

Mr ASFOUR: There were a number of reports. I cannot tell you the date off hand of the first one, but after, I was in my living room watching the Channel 9 news and it came up, and it got me very interested to know why we did not receive any money.

Mr BYRNE: I think 26 May was when we first heard about it received via media enquiry.

The Hon. JOHN GRAHAM: This year?

Mr BYRNE: Yes.

The Hon. JOHN GRAHAM: So these funds roll out from June 2018 and the first you hear about it, on behalf of your residents, is in recent months.

Mr ASFOUR: Correct.

Mr BYRNE: Yes, and I guess the other thing that is really troubling, putting aside party political arguments and partisan differences, is the human cost of the money that we missed out on. The \$24 million that we would have been entitled to per capita on a fairly distributed fund could have paid for—We just opened a brand-new magnificent Marrickville Library that has won all sorts of awards and it cost \$24 million. We could save Leichhardt Oval and Henson Park, two of Australia's most beloved suburban grounds, and futureproof them for 50 years with \$24 million. Or we could fix every single dangerous footpath and road in our local government area and then some with that funding. There is a huge impact on the community from that loss of opportunity.

CORRECTED

The Hon. JOHN GRAHAM: Instead you get nothing. Councillor Asfour, what might you have done?

Mr ASFOUR: There was plenty that we could have done. We would have been happy to develop a solar farm at Riverwood, which is similar to the Hornsby project—it is an old brick pit. That would have created jobs and reduced the energy costs of our ratepayers. Being the largest council, we have 46 local centres. We need town centre upgrades. We need to invest in our sporting infrastructure. I have got so many local clubs—soccer clubs, football clubs, hockey clubs—that are all looking for either upgraded clubhouses, new toilets, or better drainage so they can operate their canteens on the weekend. These are all important things to the mums and dads of our local government areas. Any money would have helped us to achieve those things and brought forward projects. At the moment, we are budgeted to do what we can afford. What we would love is a cash injection, just like Hornsby got and just like the other councils got in regional New South Wales as well, to be able to deliver for our communities on the same level that they are.

The Hon. JOHN GRAHAM: Instead you got none. Councillor Byrne, in your submission you make the point that despite the fact you are here representing merged councils, councils whose mergers were called off were some of the big beneficiaries from this tied grants round. In fact, in your submission you say that it "astonishingly accounted for 50 per cent of the total funding distributions".

Mr BYRNE: That is the calculation that we have made: that half of all the money from a fund that was meant to assist amalgamated council went to councils that were not amalgamated. My understanding of the documentation that you have been provided is that the amendment to the guidelines that allowed that to occur was approved by the Premier.

The Hon. JOHN GRAHAM: Those guidelines are obviously crucial to know whether you can apply. You did not know about the program. Had you ever seen those guidelines before?

Mr BYRNE: Not until they were obtained by your Committee.

Mr ASFOUR: No, not at all. We did not know about the program, let alone the guidelines.

The Hon. JOHN GRAHAM: In fact, that is in part because they were never published. How unusual is that for a grants program that you might be applying for?

Mr ASFOUR: You would expect a council to receive an email at the least, a phone call at best, a letter to the Mayor, and it does happen and it has happened from Federal and State governments stating that "We are running this grants funding program. Apply. This is the criteria". It did not have any of that.

The Hon. JOHN GRAHAM: If you were running a grants program in your council and a resident wrote to you and said that they were interested in applying for money and you wrote back saying that you have got no money, while you are running a secret grants program, what approach would the Office of Local Government take?

Mr ASFOUR: They would come down really hard on me and the council because it is a blatant fabrication. The difference with councils is that we have a budget that is publicly exhibited and in that budget there is an allocation for community grants. Last year, Canterbury Bankstown's was about half a million dollars—\$540,000 I think—and we run workshops before the grants even open. We get community groups to come in, we have a conversation about what they are interested in and what we need in our community, and then we have that conversation and they apply. That application is then assessed against the criteria. There are rankings and a subcommittee of councillors that goes through the rankings, and, ultimately, a decision is made as to where to expend the money.

That then goes to the next level, which is a public, open council meeting where there is accountability, transparency and a debate is had by councillors. A resolution is then made to expend that money to those groups for the programs.

The Hon. JOHN GRAHAM: In public?

Mr ASFOUR: Yes, 100 per cent in public.

The Hon. JOHN GRAHAM: In fact, if you did not adhere to that there would be penalties.

Mr ASFOUR: There would be regulations and breaches to the Act, and the Office of Local Government would, I have no doubt, be writing to seek an explanation and seeking to take action.

The Hon. JOHN GRAHAM: Mr Byrne, I will not ask you about what the Office of Local Government might do—

The CHAIR: Bugger all.

CORRECTED

The Hon. JOHN GRAHAM: —but I might ask you about the processes in your council. What are your obligations and what are your practices?

Mr BYRNE: It is as Mayor Asfour was articulating. We are not able to make any funding decisions without a public resolution of the council, which is tabled in public and published. I concur with what Mayor Asfour has said—that if we had sought to allocate funding secretly without the transparent process that we would be in breach of the model code and of the Local Government Act. It is certain in my mind we would have action taken against us by the Office of Local Government. One of the problems with what is occurring here is that the entity that is responsible for regulating local government is not adhering to its own probity requirements and it is causing a loss of confidence across the sector, which is why I am proposing an independent statutory commission to replace the Office of Local Government.

The Hon. COURTNEY HOUSSOS: I thank you both for your time and for your very compelling testimony. Your submissions were excellent and they have informed our Committee and the work that we will be doing. I wanted to come to the question of the Stronger Communities Fund, which we are largely discussing today. Both of your councils received funding under what could be characterised as round one of the funding. Is that correct?

Mr ASFOUR: That is correct. All merged councils received \$10 million.

The Hon. COURTNEY HOUSSOS: One of the options for councils was to run a grants program. Is that correct?

Mr ASFOUR: As part of the \$10 million, \$1 million needed to be spent on community programs and community infrastructure and so a grants program was run at the time by the administrator—because, effectively, we were sacked—for community groups to then apply for that \$1 million.

The Hon. COURTNEY HOUSSOS: I accept that you were both not in your positions at that time because there were administrators. But you may be familiar with the processes that would be imposed by the Office of Local Government on councils around things such as notification, advertising, application processes and an independent set of criteria to be judging those against. If you are running a grants program, you have to actually run a grants program, is that not the case?

Mr BYRNE: That is right and that was specified as a requirement of the grants that were issued to the councils that were in administration. I was familiar with the process as a close observer. There were very strict requirements for the grants to be properly publicly advertised and for all parties in the community to have an opportunity to apply.

The Hon. TREVOR KHAN: Can I clarify whether it was \$10 million or \$20 million that went to Canterbury Bankstown?

Mr ASFOUR: It was \$10 million.

Mr BYRNE: Just to clarify—and I will seek clarification about this subsequently so I am happy to take it on notice—but my recollection is that there was \$10 million in administration costs for the cost of the merger and then \$10 million for infrastructure. I think in the end it was because we were three councils —

The Hon. TREVOR KHAN: You got another \$5 million.

Mr BYRNE: Yes. All of that was overseen by the administrator.

The Hon. TREVOR KHAN: Sure.

The Hon. NATALIE WARD: So \$25 million.

The Hon. TREVOR KHAN: So yours was \$25 million. I suggest to you, Mr Asfour, that yours was \$20 million.

Mr ASFOUR: I will take that on notice. I understood it to be \$10 million. At the time I was not the mayor of the city because I had effectively been sacked and there was an administrator. I understand that it was \$10 million and I think Scot MacDonald's letter says that to me as well. I have tabled that so I do not have a copy with me.

The CHAIR: We can give you your copy back.

Mr ASFOUR: I am happy to clarify that.

The Hon. NATALIE WARD: I think you are well advised to take that on notice and clarify.

Mr ASFOUR: I will have a look at the letter.

CORRECTED

The Hon. COURTNEY HOUSSOS: Either way, \$10 million or \$20 million is significantly less than the \$90 million—or perhaps \$100 million—that was given to Hornsby council. Is that correct?

Mr BYRNE: That is right. The purpose of the \$10 million in administration costs for merged councils was a reflection of the fact that it was a very expensive process. In fact, it costs a lot more than \$10 million to merge three councils. I will not go into the details of the subsequent budgets that have been adopted but that did not even touch the sides. Whilst I am sure the projects that were funded through those infrastructure grants were worthy and were overseen properly by the council administrator, they have not remotely met the infrastructure needs of the community.

Mr ASFOUR: Can I just read from the letter from the office of Gabrielle Upton and signed by Scot MacDonald? It states:

The State Government has provided \$10 million under the New Council Implementation Fund towards the upfront costs of merging the former councils into one new entity.

Unless the letter is wrong—

The Hon. TREVOR KHAN: I think you will find, Mr Asfour, there was a further brief.

Mr ASFOUR: You may be right. I am not disputing that I am just stating what is written in the correspondence from the Government.

The Hon. NATALIE WARD: That might be at one point in time—

The Hon. COURTNEY HOUSSOS: The information that was provided to you by the Government—

The CHAIR: Hansard will have trouble transcribing three people at a time, let alone four. Could we try to have one person speaking at a time, please. I will go to Ms Houssos for a final question of clarification on this.

The Hon. COURTNEY HOUSSOS: The information that was provided to you by the Government—because obviously you were not the mayor the time, having being sacked by the Government—was that you received \$10 million?

Mr ASFOUR: That is right.

The Hon. COURTNEY HOUSSOS: Mr Byrne, you noted in your submission the amount of money that we are talking about here is one-quarter of a billion dollars. It is 2½ times the sports rorts program that we saw a Federal level. This is a significant amount of money that you were not even told about.

Mr BYRNE: Well, Bridget McKenzie fell on her sword over a \$100 million grant scheme. This is sports rorts on steroids. Some \$250 million in one State Government is one of the biggest rorts that we have seen in the history of New South Wales. I do not think that can be understated.

The Hon. COURTNEY HOUSSOS: Let us be clear, governments make funding decisions all the time—they decide where they are going to allocate money. But this was badged as a grants program and there are certain requirements that are imposed on a grants program. In fact, they are imposed by—

The Hon. TREVOR KHAN: Is this a question or a speech? Mr Byrne is quite capable of giving—

The CHAIR: Is that a point of order?

The Hon. TREVOR KHAN: Yes, it is.

The CHAIR: I note the point of order. I assume this is travelling to a question?

The Hon. COURTNEY HOUSSOS: Yes.

The CHAIR: I will let it travel rapidly.

The Hon. TREVOR KHAN: Get it there.

The Hon. COURTNEY HOUSSOS: Mr Byrne and Mr Asfour, you would be familiar that governments make funding decisions but if you are going to have a grants program there are certain obligations around telling everyone that the money is available, setting some criteria and making an assessment against that, and allowing people to complete application forms to apply, especially when you are talking about one-quarter of a billion dollars.

Mr BYRNE: I have never seen this before. There has never been an instance in which there was a grants program available for councils that we were eligible to apply for in which the agency overseeing the grants program did not even notify us that the program existed. The fact that Mayor Asfour wrote to the Minister at the

CORRECTED

time articulating our need for greater infrastructure investment, particularly in such a large local government area, and received official correspondence back stating that there was no funding available is quite extraordinary.

The Hon. COURTNEY HOUSSOS: Mr Asfour, did you want to add anything?

Mr ASFOUR: I totally agree with Mr Byrne. I wrote to the Minister and was told:

The Minister has considered your request and is not able to provide additional New Council Implementation funds for Canterbury Bankstown Council.

So it was considered and we were not given any money and we were not told about any grants programs. I totally agree with your characterisation and the question.

The Hon. COURTNEY HOUSSOS: Let us just clarify again, you wrote to the Minister at the same time that this grants program was being told to—

Mr ASFOUR: I wrote to the Minister on 8 June 2018.

The Hon. COURTNEY HOUSSOS: And as we heard earlier today—

Mr ASFOUR: The response was provided—there is no date on the response but it was provided after that time, obviously.

The Hon. COURTNEY HOUSSOS: This is exactly the time that certain councils were getting a phone call from someone saying that they needed to apply for this funding and yet yours has not been?

Mr ASFOUR: That is right.

The Hon. COURTNEY HOUSSOS: Mr Byrne, you spoke earlier—and I would like both of you to provide reflections on—merging councils is an expensive business. You are consolidating infrastructure, you have staff costs—there are all kinds of things—and, in the meantime, you still have sporting clubs, footpaths to fix and other services to continue to provide to the community that are suffering as a result of this decision taken by Government. Can you provide us a bit more about some of the financial decisions that you have had to make as a result of these merged councils? Who is missing out because you did not know about this money?

Mr BYRNE: It has been very challenging, particularly because the financial benefits that the Government said would eventuate through merged councils were fictitious. You do not need less garbage collectors on the street or fewer people in your childcare centres just because the council has changed its name. Obviously merging three bureaucracies has organisational difficulties. A lot of staff have had to leave. That has been very costly. Let us be honest, local government across New South Wales has a great infrastructure backlog. We are trying to focus on investing heavily in reducing that backlog—the basics and the things that the community depends upon, including paths, roads, sporting fields, swimming pools.

The fact that we were prohibited from applying for these grants that we should have been able to access has a direct impact on our ability to provide those services and that infrastructure. Ashfield Aquatic Centre, which will be opening in two weeks, has cost us \$44 million to build. We have had to borrow from TCorp to do it. Residents will be paying that back for a generation. If we had received the \$24 million that we should have received in a fair process, that would have paid for half of Ashfield pool. Maybe we could have redirected funds into our roads and footpaths. I must say Canterbury Bankstown is one of the most disadvantaged areas in New South Wales and its largest merged council. I thought that it was particularly tragic for them to be deliberately excluded.

Mr ASFOUR: Tragic is an appropriate word. By merging the councils—there were different standards on both councils. Canterbury and Bankstown had operated independently and differently. There was a need to invest in—and my example would be the sporting grounds in Canterbury. There had been a lack of investment over time. We also lost \$5 million in rates after we merged because a special rate variation ended that was in place for 15 years. Because of a rate freeze on all merged councils, we were not allowed to apply that \$5 million in rates. We have lost that every year since the merger. We asked the then Minister to allow us to do that and were told it needed a change in the Act and was not possible. Not only are we short on asset infrastructure backlog and not only are we trying to catch up to make sure that the standards of our community centres, sporting fields and town centres are equivalent across the whole city, we are doing it with two hands tied behind our back because we lost the special rate variation.

Bankstown has now been supplementing the old Canterbury to make sure that the assets are up to scratch and also not receiving any of this money, which certainly would have helped in making sure that our town centres—we have just finished Canterbury town centre to the tune of \$9 million. There are a number of soccer clubs that are knocking on my door wanting their sporting field upgraded first. I have to explain that we can only

CORRECTED

do this over time because we are restricted in what we have to spend. Certainly, this money would have allowed us to upgrade those fields a lot faster to the betterment of our local community.

The CHAIR: The response that you got back from the office of the Minister and signed by Scot Macdonald, frustratingly, like many government ministerial responses, is undated, but it was emailed to you. Do you think you could get your office to make some urgent inquiries and find when that email was received? If you could notify the Committee at some point during the hearing, that would be very helpful.

Mr ASFOUR: Yes, I will do that.

The CHAIR: How many residents live in Canterbury Bankstown?

Mr ASFOUR: About 370,000.

The CHAIR: How many live in the inner west?

Mr BYRNE: Two hundred thousand.

The CHAIR: Councillor Byrne's analysis was that if the inner west had had a fair allocation of funding, they would have received something like \$25 million. Did you have a figure from Canterbury Bankstown on what you say you were cheated from?

Mr ASFOUR: I would estimate it to be in the \$35 to \$40 million mark, considering we are a larger population and if you do it on a per capita basis.

The CHAIR: What do you want to say on behalf of your residents in relation to what I think you described as a "gold-rolled rort" that short-changed your residents by \$35 to \$40 million?

Mr ASFOUR: My residents are livid. The amount of phone calls that I received after the airing of this on Nine News was extraordinary. Because it has come up that this went all the way to the Premier's and the Deputy Premier's office, they need to explain to the residents of Canterbury Bankstown why they were fleeced of this money and why they were ignored and forgotten about. They need to explain that because there is no explanation I can give on behalf of the Government for the processes that they went through to ensure that certain areas of New South Wales received this money badged as merger money and certain areas were not even told about it. It is a really tough thing to do. The Premier, I believe, needs to come out and explain herself.

The CHAIR: Just a fortnight after you sent your correspondence, desperately putting the plight of your council and the need for additional funding, the Premier actually signed updated guidelines for the tied grants funding. What do you make of that timing?

Mr ASFOUR: I think the timing speaks for itself. I think for her to change the guidelines to allow for other councils including Hornsby—and we know that the Mayor of Hornsby, Philip Ruddock, is a good friend of the Premier—and others to be eligible for this funding at the detriment of my community is outrageous. That is why I referred the matter to ICAC, because I truly believe that it is corrupt conduct.

The CHAIR: I think your council is wholly within areas that are held by non-government MPs at a State level. Is that right?

Mr ASFOUR: No. Not the seat of East Hills.

The CHAIR: The seat of East Hills.

Mr ASFOUR: Correct.

The CHAIR: What proportion of your council is in there?

Mr ASFOUR: My local government area is about five to six State seats, so about 20 or 25 per cent.

The CHAIR: Councillor Byrne?

Mr BYRNE: The entirety of the inner west municipality is within State Government seats that are held by non-Government MPs.

The CHAIR: Do you have any observations or suspicions about why you were notified or not notified?

The Hon. TREVOR KHAN: Chair, I have allowed some of this to go on. What you are inviting is simple speculation. People are entitled to an opinion, but what you are now—

The CHAIR: I will address it in a different way.

The Hon. TREVOR KHAN: Yes.

CORRECTED

The CHAIR: Did any of your local State MPs advise you about the potential to access a quarter of \$1 billion in new funding?

Mr BYRNE: No. When we discovered the fund's existence and I spoke to the State MPs covering our local government area, they were as shocked as we were. None of them were aware that the fund had existed or had been contacted by the Government to encourage them to arrange for an application.

Mr ASFOUR: Absolutely no-one that I am aware of that I spoke to—none of the members of Parliament knew. Obviously East Hills has a new member of Parliament that was not the local member at the time. But, no, they were not aware as far as I know.

Mr BYRNE: I do not think we need to go to motivation. We only need to look at the facts. I think 95 per cent of the entirety of the fund was allocated to projects in Liberal Party or The Nationals electorates or marginal seats that the Government was hoping to win at the election. I think that tells you everything you need to know.

The Hon. NATALIE WARD: Councillor Asfour, East Hills is in your council area.

Mr ASFOUR: Yes.

The Hon. NATALIE WARD: That is a marginal Liberal seat, is it not?

Mr ASFOUR: Yes.

The Hon. NATALIE WARD: The funds did not go to that section.

Mr ASFOUR: It did not go the local government area, no.

The Hon. NATALIE WARD: Right.

Mr ASFOUR: Other funds were obviously expended.

The Hon. NATALIE WARD: Is that not the complete opposite of what you are saying? It was a marginal Liberal seat. Funds did not go there.

Mr BYRNE: They would have to have told Councillor Asfour about the existence of the fund if they did that.

The Hon. NATALIE WARD: Be that as it may, the fact is that not every—as you are trying to say, it was targeted to marginal Liberal seats. This is a marginal Liberal seat. The money did not go there.

Mr ASFOUR: Ninety-five per cent. So five per cent did go to—

The Hon. NATALIE WARD: The seat of Oatley is also in your council area.

Mr ASFOUR: A very marginal part of Oatley. Half a centre.

The Hon. NATALIE WARD: Also a marginal seat in your area that did not get any money.

Mr ASFOUR: Clearly, they did not tell those members about this grants program. That is why I was not told.

The Hon. NATALIE WARD: No, I did not invite you to comment about who was told. I just asked for the factual answers.

Mr BYRNE: But it would be interesting if those members—

The CHAIR: We should have one person speak at a time. Was there a further question from Ms Ward?

The Hon. NATALIE WARD: It was a factual question, that is all.

The CHAIR: What was the question?

The Hon. NATALIE WARD: I think I have put the question. There is a marginal electorate that funds did not go to.

The CHAIR: The question is put, but you cannot dictate the answer. Councillor Asfour and Councillor Byrne—

The Hon. TREVOR KHAN: With respect, Chair, I think the point that you make is correct. A question is asked and an answer is given. But also, with respect to Mr Byrne, we do not need to gang up in the exercise. It is one question to one witness, and we can take it from there.

CORRECTED

The CHAIR: Alright. But I will say again that the question is put to a witness, but it is open to each witness to respond and it is not open to the questioner—

The Hon. TREVOR KHAN: Not at the same time, Chair.

The CHAIR: I agree. But it is not open to the questioner to determine the answer—as much as I would like it to be, on occasion. We will hear responses from Councillor Asfour and Councillor Byrne in that order.

Mr ASFOUR: At the time of these grants the former member for East Hills did not notify me and, I assume, was not notified, and neither did Mr Coure as the member for Oatley. Their not notifying me is the same—

The Hon. NATALIE WARD: That is my point. No funds were there.

Mr ASFOUR: —as the Government not notifying me.

The CHAIR: I will take a point of order against the Hon. Natalie Ward. You have to allow the witnesses to finish their answers. Councillor Asfour?

Mr ASFOUR: The point is, if those two members were to notify the council then we could have asked questions of the Office of Local Government. We could have made an application. The fact that they did not means they were not obviously aware, because I assume they would want funding for local communities. But they were not made aware and I was not made aware. That is why I state the fact that this was a program that was done for certain parts of New South Wales and not for others.

The CHAIR: Councillor Byrne?

Mr BYRNE: I think Councillor Asfour has answered the question.

The CHAIR: You see, Councillor Asfour, if you had found out about a quarter of a billion dollars being available for council funding you might have told other Labor, non-government mayors about it.

Mr ASFOUR: I would have told everyone I could about it so we could find out which projects we should spend that money on if we were successful, so we knew how to put in the right application. But we were not told about it. I was not aware of it; neither, obviously, were other MPs in my local area.

The Hon. NATALIE WARD: Chair, I have some further questions when you have time.

The CHAIR: You can ask them now.

The Hon. NATALIE WARD: Councillor Asfour, you talked about "splashing cash"—I think they were your words in your opening statement.

Mr ASFOUR: Yes.

The Hon. NATALIE WARD: You are one of the top five councils in the State—the biggest council, as you have said—that I think has received the most money from State Government grants. Is that not correct?

Mr ASFOUR: I do not know what you are basing that on.

The Hon. NATALIE WARD: Of Government funding that has been given to councils across the State, you are one of the top five councils. You have received in the top five most amount of funding of all councils. Is that not correct?

Mr ASFOUR: Being the largest council, I would like that to be true. I will take that on notice. I am not aware of that.

The Hon. NATALIE WARD: Please do. From Government—

Mr ASFOUR: But I am talking about this grant program in particular.

The Hon. NATALIE WARD: Sure, but my question is about funding. You have received over \$81 million of funding from the State Government. Is that not correct?

Mr ASFOUR: Less than Hornsby, yes. Hornsby received \$90 million; we received less than that over a whole range of grants—

The Hon. NATALIE WARD: I am not asking you about Hornsby. That council will appear later—

Mr ASFOUR: Sure. I will take that number on notice.

CORRECTED

The Hon. NATALIE WARD: I am asking about your council, if I may. After being merged you received \$20 million—I put it to you that you also take that on notice. There was some \$10 million for the new implementation fund plus \$5 million per council to councils merged—10 plus 10 is 20. I understand what you are saying about what is in the letter, but can I urge you to perhaps take that on notice, because we do not want \$10 million—

The Hon. COURTNEY HOUSSOS: Point of order—

The Hon. NATALIE WARD: Can I finish? We do not want \$10 million—

The CHAIR: I will take a—

The Hon. NATALIE WARD: —to go missing, do we?

The CHAIR: I will take a point of order—

Mr ASFOUR: We have already spent it.

The Hon. NATALIE WARD: It was \$20 million.

The CHAIR: The witness has already said that he would take it on notice. That has already been taken on notice.

The Hon. NATALIE WARD: Alright, good. Thank you. It was not correct when you said earlier that you get nothing. You have got \$81 million from the Government; you have got \$20 million—

Mr ASFOUR: What I said was we got nothing from this grant program.

The Hon. NATALIE WARD: Okay. Councillor Byrne, you have received \$63 million in State Government funding to your council and you got, I think, \$25 million in the first round. I understand what you are saying, but it is in the first round that you received \$25 million.

Mr BYRNE: Our contention is not that we have been excluded from every grant program—and, of course, we have very good officers who apply for grants all the time. I have a great working relationship with Minister Stokes and he has been very generous in providing money in a proper way for community infrastructure. Our contention is that we were not informed of the existence of this program and that that was improper.

The Hon. NATALIE WARD: Okay. I turn briefly to your earlier comments. I do not want to revisit the issue, but in reference to your comments about the Office of Local Government there are a number of very good people who work there. I invite you to perhaps clarify that you were not extending your comments to those people. There are 70-plus members of the Office of Local Government who are employed there, some of whom have worked there for over 10 years. I am sure your comments were not intended to extend to those good people, were they?

Mr BYRNE: I am calling for the abolition of the agency because the local government sector has lost confidence in it and we need to have a new statutory commission established that will be independent of ministerial interference.

The Hon. NATALIE WARD: I say to you that I think that your comments were perhaps not very helpful to those dedicated staff, who work very hard in that office?

Mr BYRNE: I want to make sure that the local government sector is performing very well. That is not possible if the Office of Local Government is mired in corruption scandals.

The Hon. NATALIE WARD: Alright. Thank you.

The CHAIR: Councillor Asfour, in answer to your request for some additional funding you were advised by the Parliamentary Secretary under the Minister's letterhead that:

Additional implementation or transition funding has not been provided to any metropolitan council.

That is untrue, is it not? That is just plainly false. Can you—

The Hon. TREVOR KHAN: Sorry, could you just read that wording again?

The CHAIR: "Additional implementation or transition funding has not been provided to any metropolitan council."

Mr ASFOUR: I cannot speak for other councils, Mr Chair, but we did not receive any.

The Hon. TREVOR KHAN: The devil may be in the detail, but it talks in terms of "implementation funding", whatever that may be defined as.

CORRECTED

The CHAIR: We might explore this with Mr Hurst in due course.

The Hon. JOHN GRAHAM: I would encourage you to do that, Chair.

The Hon. TREVOR KHAN: I think that otherwise it is a bit difficult on these witnesses.

The CHAIR: Councillor Asfour, have you had any direct communication with Mr Hurst about these funding programs?

Mr ASFOUR: No.

The CHAIR: Have you sought to communicate with the Office of Local Government directly about these funding programs?

Mr ASFOUR: About this one in particular? No. Obviously I was only made aware of this a few months ago. When writing to the Minister prior to the election, I took the response at its word. No, I have not had a conversation with Mr Hurst regarding this grants program.

Mr BYRNE: Chair, just in relation to that, the Inner West Council has passed a unanimous resolution expressing its concern. Liberal, Labor, Greens and Independent councillors all agree that it was wrong that we had not been informed. I wrote to Mr Hurst on 24 August with a very long list of questions regarding the Stronger Communities Tied Grants Program. I am yet to receive a reply.

The CHAIR: Alright. Councillor Byrne, I invite you to table the council resolution and the correspondence in due course.

Mr BYRNE: I have tabled the correspondence already and I will forward the resolution.

The Hon. TREVOR KHAN: Is that in the bundle that you gave the Committee?

Mr BYRNE: Yes.

The CHAIR: Can I ask you about the announcements? When State Government grant funding is given to councils, is there a set process that is followed for the announcement of such funding? Is there a standard way in which it is announced?

Mr BYRNE: There is usually a requirement upon the council to include reference to the Government's contribution in communications about the grant, and to invite a Government representative to attend the opening at the conclusion of the project. In my experience most councils are really keen to do that, because we know that if the Government has been generous enough to provide funding for works in our area that it is a good idea to keep collaborating with it and to make it feel appreciated and welcome. That is the normal process.

The CHAIR: You do not bite the hand that feeds you. Would that be a fair summary, Councillor Asfour?

Mr ASFOUR: I think as local government we are always looking for that extra dollar to keep investing in our communities. There is no doubt about that. No, why would we? No.

The CHAIR: I think the Hon. Natalie Ward put a proposition that a number of councils have adopted a path of cutting the State Government out of these kinds of projects. I am asking you what your experience is.

Mr ASFOUR: We sign agreements, and obviously the State Government emblem is on the plaque should the State Government have contributed towards any project. My issue, if you will allow me, Mr Chair, is on the announcement of the grant funding. We usually get notified—there are a number of cases where we have been notified by media release of the local member. The problem, while funding is accepted—

The Hon. TREVOR KHAN: I would say some local members find out by media release as well.

Mr ASFOUR: The problem, though, is if they announce—and I am just going to use numbers here—but if they announce \$100,000 for a clubhouse, that is well and good. The club then obviously expects the council to deliver it, because it is the council's asset. The problem then becomes if the clubhouse costs \$200,000 or \$300,000 the council is then expected to fund that shortfall. There is no conversation prior to the announcement as to what something like that would cost. I guess my idea is that we need to have that conversation beforehand. Council is then under pressure and feels obliged, and if it was to redirect funding to finish that project—because it does not want to lose the hundred grand that I am talking about—then something else misses out or is delayed. There needs to be some thought as to how that works into the future. After an announcement is made and money is promised, the pressure on councils to then do the work when there is a shortfall causes issues in councils.

The CHAIR: We are looking at what the guidelines should or should not be in relation to grant funding. Do you think that there should just be an unambiguous requirement that the council is notified of a proposed grant and consents to the proposed grant before it is announced? Should it be in black and white?

CORRECTED

Mr ASFOUR: Yes. It is very simple. That covers the shortfall problem and aligns the council's forward works program with the money it has for the projects that it has committed to the community to undertake.

The CHAIR: Councillor Byrne, have you found the same in the inner west? Have you found out in a media release that you have the benefit of a grant to a community organisation that ends up not covering the whole cost of the project, and then you end up having to dip into ratepayers' funds to finish the project?

Mr BYRNE: That has certainly occurred in some instances. Where there is a co-contribution from the New South Wales Government and the council, I always think it is best if we can sit down and talk and agree to terms. The community does not really care where the funding comes from; they just want to see the positive outcome. One of the things that people have said to me in the lead-up to giving testimony today is that they would like for me to focus on the fact that we do actually want the money to be returned. Putting aside all of the arguments about how this occurred and the propriety of it, there is still an issue that we were cheated out of \$24 million and we still have a desperate need for that funding for infrastructure.

The CHAIR: I know that you are briefing lawyers on this in order to try and get fair funding. But is your message to the Premier, "Let's not have a legal stoush but put the money back—the \$34 million to \$40 million for Canterbury Bankstown and the \$25 million for the Inner West"? Is that your message?

Mr BYRNE: That is really our sole aim. We would like the money that was taken improperly to be returned to our community so that local residents can see the benefit of it in improved community infrastructure.

Mr ASFOUR: I 100 per cent agree with that.

The CHAIR: Yes. It is about fairness, isn't it?

Mr ASFOUR: Equity, fairness, transparency—all of those things are needed and the community expect that from Government. Not having that erodes public confidence in Government.

Mr BYRNE: One other issue just related to that—sorry to take a small liberty. There was a perception in the community at the time that we were undemocratically removed from office that councils that were not in blue-ribbon—

The Hon. TREVOR KHAN: I am going to have to take a point of order. I know Mr Byrne—

The CHAIR: Yes, I think that is probably not responsive. It may be apparent in response to other questions.

The Hon. TREVOR KHAN: I understand.

Mr BYRNE: No problem. Understood.

The Hon. NATALIE WARD: We heard earlier from Local Government NSW about funding and we have heard from you about caps. I was interested in whether you think that grant applications should be based on caps or based on applications, because we have heard both.

Mr BYRNE: I am not sure I understand the question.

Mr ASFOUR: What do you mean by "caps"?

The Hon. NATALIE WARD: You talked about the number of people that you represent.

Mr ASFOUR: Oh, per capita.

The Hon. NATALIE WARD: Sorry, lingo. Caps—per capita. Is your preference for grants to be based on per capita or based on applications?

Mr BYRNE: That is really a matter for the Government. The purpose of articulating what we would have been entitled to on a fair distribution per capita basis was just to demonstrate that there had been a significant loss to our community. It is really a matter for the Government whether they want to have grants that are available on a per capita basis or through application. We would be happy with either as long as we were notified.

The Hon. NATALIE WARD: But I am asking you for your opinion about what your preference would be. Given that you have raised per capita, is that a way forward that you think might be a fairer way to establish funding?

Mr BYRNE: Not necessarily. We would just like to avoid a situation in the future in which we are not even notified of the existence of a fund.

The Hon. NATALIE WARD: That is not my question. We have heard that; it is on the record. I am interested in your council's views about which of those.

CORRECTED

Mr ASFOUR: I do not have a preference. If there is a specific grant for the environment and that is where it should be spent, then so be it. If there is a specific grant that goes generally to the whole local government area, then it could be on a per capita basis. There is no preference.

The Hon. NATALIE WARD: Okay. If you do not have a preference and this grant is not per capita, then you accept that that is a fair and reasonable basis also.

Mr ASFOUR: I do, yes.

The Hon. NATALIE WARD: For the purposes of this fund.

Mr ASFOUR: For the purposes of this, we were not told about it and so it did not matter whether it was per capita or not.

The Hon. NATALIE WARD: I have heard that; it is on the record. But for this, it is entirely reasonable in your view that it is not per capita. You have said either/or would be acceptable.

Mr BYRNE: I think we have answered the question.

Mr ASFOUR: I would like to know how the other councils were given the money and I would want to be assessed on that same criteria.

The Hon. NATALIE WARD: I will take that as unresponsive.

The CHAIR: I do not know if that comment is fair. I think both councillors have said they do not necessarily prefer per capita but that in any event they require notice of it. I do not think you can characterise their answers as unresponsive.

The Hon. NATALIE WARD: Okay. You hold development contributions from developers, do you not?

Mr ASFOUR: Correct.

Mr BYRNE: Yes.

The Hon. NATALIE WARD: How much do you hold in developer contributions?

Mr BYRNE: I will take that on notice but I do want to compliment the Government on a recent decision to free up the requirements around the use of developer contributions. Because they are largely dedicated to specific works attached to a particular development, a change in regulations in response to COVID has enabled us to initiate a \$20 million stimulus package in which we are investing heavily in basic infrastructure. That has been very helpful.

The Hon. NATALIE WARD: Do you spend all of that on infrastructure or do you sometimes hold some of that for a period of time?

Mr BYRNE: It has been the practice across local government that lots of those funds have been held because they are dedicated to specific projects. I compliment the Government on having changed the regulations to enable those funds to be invested now.

Mr ASFOUR: They are held because they are attached to a section 94 plan. When that plan then becomes active, that money is then spent. They are not held just to prop up the books.

The Hon. NATALIE WARD: I understand.

The CHAIR: That is the law.

Mr ASFOUR: They are held because the law is that they need to be attached to the plan.

The Hon. NATALIE WARD: I am not quibbling that; I am just trying to understand the numbers.

Mr ASFOUR: Sometimes the plan needs updating and upgrading more frequently but that is definitely the way it works.

The Hon. NATALIE WARD: You will take that on notice to let the Committee know?

Mr BYRNE: Yes.

Mr ASFOUR: The number? Yes.

The CHAIR: I am happy for the question to be taken on notice but just for the record I think section 94 contributions, as they were once called, are probably outside the terms of reference of the inquiry.

CORRECTED

The Hon. NATALIE WARD: It might provide context for funding.

The Hon. JOHN GRAHAM: Thank you both for your submissions. It has been very helpful just to clarify the community reaction to this. Mayor Asfour, I just want to take you back to one moment you have described for us. Hundreds of millions of dollars have gone out in this fund before the election. You took us to when you found out at the end of May this year. You are watching the news in your lounge room and this is the first you have heard of the scheme. You ring Mayor Byrne. It takes some time to persuade him that this in fact is not a fantasy but is accurately reported on the news. What else did you do? Have you talked to other councils who share the concerns that you have both articulated here today?

Mr ASFOUR: After speaking to Mayor Byrne and doing further investigation, I was made aware. Then there were obviously articles in *The Sydney Morning Herald* that raised this and delved further into this. The level to which the grants program occurred without notice and how much we missed out on became apparent. Obviously the community were livid. As a result, my action was to refer the matter to ICAC.

The Hon. JOHN GRAHAM: Do other councils share the concern? This would have gone around the local government networks.

Mr ASFOUR: Yes, as far as I know. I have spoken to Mayor Byrne but I am not sure if the others would have applied. But the merged councils, I would dare to say, did receive some sort of funding.

Mr BYRNE: I have spoken to other mayors who received funding and who still thought it was quite an extraordinary process. For example, at Ryde Council, the mayor informed me that he actually found out about the grant from one of the Councillors—Councillor Maggio—who is the cousin of Minister Dominello. That was the nomination process that occurred at Ryde Council to the mayor and the general manager.

The Hon. JOHN GRAHAM: That was actually how the council found out.

The CHAIR: But perhaps the Office of Local Government took their cue from *The Hitchhiker's Guide to the Galaxy*. They put the notification on display in the bottom of a locked filing cabinet, stuck in a disused lavatory with a sign on the door saying, "Beware of the leopard." Perhaps that is where they got their inspiration from.

The Hon. JOHN GRAHAM: I encourage you to put that to the office this afternoon.

Mr BYRNE: I think one of the issues that does need to be addressed is that there is a general loss of confidence from the local government sector because of what has occurred in the Office of Local Government. Most of its responsibilities are regulatory. They oversee probity at councils. To have discovered that there has been no probity or transparency in this process really undermines the relationship between the Office of Local Government and every councillor and community in the State.

The CHAIR: At the end of the day it is an integrity issue, isn't it?

Mr ASFOUR: Absolutely.

The CHAIR: Thank you both for your attendance today. I think you took a number of questions on notice. Councillor, did you find out when that email went?

Mr ASFOUR: I have not had an opportunity.

The CHAIR: That is okay. You were busy.

Mr ASFOUR: Yes, I was answering questions. I will endeavour to have it to you.

Mr BYRNE: Thank you for the opportunity.

Mr ASFOUR: Thank you.

(The witnesses withdrew.)

(Short adjournment)

CORRECTED

JOHN GORDON, City Presentation Manager, Penrith City Council, affirmed and examined

CHANDA SABA, Chief Financial Officer, The Hills Shire Council, sworn and examined

MICHAEL EDGAR, General Manager, The Hills Shire Council, sworn and examined

STEVEN HEAD, General Manager, Hornsby Shire Council, affirmed and examined

GLEN MAGUS, Director Corporate Support, Hornsby Shire Council, sworn and examined

The CHAIR: Welcome back to the Public Accountability Committee's inquiry into the integrity, efficacy and value for money of New South Wales Government grant programs. Our next four witnesses are from, respectively, Hornsby shire, Penrith City Council, and The Hills Shire Council—Mr Steven Head and Mr Glen Magus from the Hornsby Shire Council, Mr John Gordon from the Penrith City Council, and Mr Michael Edgar and Mrs Chanda Saba from The Hills Shire Council. I invite each council to give a brief opening statement, if they wish.

Mr HEAD: Thank you, Chair. Thank you very much for the opportunity to present to the Committee. We greatly appreciate that opportunity being afforded to us. Our submission effectively responds to an amount of information circulating that somehow the funds we had received had been inappropriately received by us. In terms of just giving a very brief overview, I think it is important that we maybe set some context for our position. The Hornsby Shire Council along with my colleagues from The Hills are the two councils that were most severely disadvantaged by the reform and amalgamation and merger process that was undertaken by the State Government.

A proposed merger with the Ku-ring-gai Council and the Hornsby Shire Council did not proceed due to court action that was undertaken by the Ku-ring-gai Council. But the Hornsby council had been affected by the substantial loss of areas that were effectively known as the areas south of the M2 corridor. They were turned over to the Parramatta City Council during this period. That left us some \$10 million a year worse off in terms of a net position. That was a matter that was supported independently by Treasury Corp and subsequently by HillPDA—I am sorry, by BIS Oxford Economics.

Our view—and we had certainly sought assurance from Government that Hornsby would be left no worse off as a result of the changes that were made to the boundary and the loss of that area to us and the Government did give us some assurances around that. We received some funds—\$90 million—through two grants for substantial projects. They were for projects that were long-term projects of council, which were very unlikely to be achieved if it was not for that funding. The fact that the funding was provided to us through the Stronger Communities fund was generally of no real importance to us. The view of the Hornsby council was that we required that funding to help offset the impact on our community and the threat that that made to a number of very strategically important projects.

As I said, we worked very hard to see that we could achieve that and we are currently in the process of delivering those very worthwhile projects for the community. I would be more than happy to answer any questions that we might receive. Thank you, Chair.

The CHAIR: Thanks very much.

Mr EDGAR: Briefly, we put in a submission and I will basically touch on a couple of those for you in my opening remarks. We appreciate the opportunity to assist you in your inquiry and what you might want to seek from us today. We do, as a council, rely on State and Federal grants as part of our budget and our funding. It roughly represents, if I take the last financial year is an example, about 8 per cent of our budget so it is very important when you consider the rate people paid for the same financial was 2.6 per cent. So it is not an insignificant number. There is a range of services and assets that, without grant funding, would not run. They are in areas of aged care services, libraries, child care, some of our recreational network, bushfire and particularly roads. Certainly if council was not receiving grants in some shape or form, it would certainly impact on service delivery.

As we have said in our submission we have a fairly, I would not say rigorous, but deliberate process of assessing when we apply for grants. We are particularly interested in not just the capital element of the grant but we are very interested in what to take and can we keep it in service, so the recurrent. That often will lead us to decide one way or the other whether to pursue the grant or not. Certainly we would like recurrent funds to be thought about in future grant programs. We have noticed over a period of time, too, that the acquittal process around some of the grants is getting more and more onerous and more and more—you would think there would be other ways to capture the data rather than repackaging again. We have noticed that over the last couple of years.

CORRECTED

Some of the time lines around the grants, when you go through the actual regulatory process of being able to act on those grants, you are always looking for extensions of time because you just cannot physically meet them at that particular time. But, setting that aside, that is effectively the basis of our submission. I am happy to answer any questions, if you like.

The CHAIR: All right. Thanks very much, Mr Edgar. Mr Gordon?

Mr GORDON: Thank you, Chair. The council also welcomes the opportunity to present to the Committee and overview of our policy in relation to grants that are issued by the New South Wales Government. I would also like to pass on the apologies of the general manager today, he could not be here due to a clash with his calendar. Penrith City, as you are probably all aware, is a fast-growing city. Our population has doubled in the last 20 years and with the development of the Western Sydney Airport on our boundary and a significant amount of road and rail infrastructure that is about to pass through our city, we rely on grant funding to deliver a whole range of services and facilities that general rate revenue cannot normally accommodate.

I suppose there is a broad range of grant programs for which council can apply and we do typically try to consider which grants we apply for carefully and in a considered manner. We look out our strategic directions and strategic documents and make decisions on whether we apply for grants or not based on those documents. An example which I will tender for the Committee is our recently developed *Sport and Recreation Strategy*, which clearly defines what council is looking at for the next 10 to 15 years across the city.

Document tabled.

We try to align our applications, particularly for grant programs, such as the Greater Sydney Sports Facility Fund, to align clearly with those directions. Broadly, council is very appreciative of the quantum of funding that is now available through grants programs. I recall very many years ago—showing my age—when the total quantum of money for sports grants for councils was lucky to purchase a public toilet block. Thankfully, that has now changed significantly and we are now able to deliver some really meaningful services and facilities for our community.

Our submission suggested that there could be some consolidation of existing grant programs, particularly in the sports space where you have the greater facilities sports funds, we have club grant programs, we have Community Building Partnership programs, local sports grant programs and tennis and cricket legacy programs. Each of those programs requires significant input of resource to put the grants together and work through with the relevant departments around what is required. Also a number of our community organisations go through similar processes. That process can be quite onerous and challenging for those volunteer groups.

In relation to the Greater Sydney Sports Facility Fund, if the program is going to extend beyond its current three years, council would like to see funding for that program increased and some alignment between the program and the district plans that are currently being developed by the Office of Sport. Those plans are directly informed by information from council and the sporting community. We are comfortable that we are in a competitive environment and when demand exceeds supply, there will obviously be times when all organisations are disappointed with outcomes. We are of the view that the objectives and outcomes of the grants are generally clearly articulated in the grant documents, and we take the umpire's decision on board and move on to the next round. I am certainly happy to expand upon any information I have just given through the inquiry. Thank you.

The CHAIR: Thank you all for your submissions and for your helpful introductory comments. We appreciate them.

The Hon. JOHN GRAHAM: Thank you for your submissions, which I think will prove quite helpful as the inquiry rolls along. We are looking at two things in general: The administration of grants and, specifically, a fair bit of the focus today has been about one grant fund for councils—the Stronger Communities Fund. I think in relation to Penrith and The Hills you did not receive funds in the form of grants from that fund because you are not eligible. I just want to confirm that.

Mr GORDON: Yes, that is correct.

The Hon. JOHN GRAHAM: Hornsby has received some publicity, because it did receive funds as you have referred to. Firstly, I think that your point is well made—there was real community need. These funds have been applied and no-one begrudges what was clearly some very strong community advocacy. You would have been raising these issues over quite some time from a council point of view. How long had you been raising them?

Mr HEAD: Council had been raising issues with regard to the entire process of local government reform right back to the initial Fit for the Future days. You will see one of the attachments to our submission provides quite a detailed review of all of the reporting that we had undertaken, and much of the advocacy work that we had undertaken. Our views were quite open and out there for the public to see. Over quite a long period of time we

CORRECTED

have made those suggestions. Then, of course, right through the actual process of the merger and the changes to the boundary, the council's views were quite clearly expressed publicly. We had been raising with Government departments and certainly elected representatives about the need for Hornsby residents to not be left worse off if the merger did not go ahead.

The Hon. JOHN GRAHAM: You had been generally advocating for quite a long time. Then this was quite a breakthrough, to get funds for these two specific projects. When did you first hear that you might get funds for these two projects?

Mr HEAD: From my recollection, this was during June 2018. So it was very late. It came together very quickly to us at the end.

The Hon. JOHN GRAHAM: How did you hear about it?

Mr HEAD: We had been continuing to progress matters wherever we had an opportunity. In a discussion with the chief executive of the Office of Local Government, who I believe may have been acting during that period, it was outlined us that there was an opportunity should we choose to apply for some funds through the Stronger Communities Fund.

The Hon. JOHN GRAHAM: That is Tim Hurst, the chief executive?

Mr HEAD: Yes, apologies.

The Hon. JOHN GRAHAM: Was this a meeting or a phone call?

Mr HEAD: There had been a series of phone calls on which we were trying to represent Hornsby's views. Finally there was a phone conversation, which I believe was followed up with an email from Tim Hurst to myself, to undertake an application.

The Hon. JOHN GRAHAM: Do you know when that discussion or email occurred?

Mr HEAD: I would need to confirm the exact date that I received that, but from recollection it was very late in June.

The CHAIR: Mr Head, do you have a copy of the email with you?

Mr HEAD: I do not know that I have one here.

The CHAIR: Do you think you could get one during the luncheon break?

Mr HEAD: Yes, I can certainly try to find a copy.

The Hon. JOHN GRAHAM: That would be helpful. This was communicated by Tim Hurst—the opportunity in the Stronger Communities Fund. Was this the first you had heard of these opportunities within this fund?

Mr HEAD: Yes. We had not made any application for funds through that program prior to that. I have just been handed a memo. It was at 5.00 p.m. on 27 June that I received that email.

The Hon. JOHN GRAHAM: So at 5.00 p.m. on 27 June you are first alerted to the existence of this fund and the opportunity it might represent for the broad issues you had been raising. Those issues were then raised that evening at council, is that correct?

Mr HEAD: Yes. We briefed councillors that this was a likely opportunity for us. I wanted to discuss with the elected body that I would be seeking to place an application for those funds, if they were formally on offer.

The Hon. JOHN GRAHAM: Then the paperwork flowed very fast from that point?

Mr HEAD: Yes, it did.

The Hon. JOHN GRAHAM: When did you receive the paperwork?

Mr HEAD: I believe it was the next day, from my recollection. Then I think we returned it either that day or the following day with some questions or points of clarification.

The Hon. JOHN GRAHAM: You received a funding agreement and you also received a grant application attached to that funding agreement. Is that correct?

Mr HEAD: I believe that is correct. I will confirm that, but I believe that is correct.

CORRECTED

The Hon. JOHN GRAHAM: You had not applied for these funds. As you have said, you had only just become aware of it. That email contained the application form that you then completed. You signed the agreement, applied for the fund and sent it back to the Office of Local Government?

Mr HEAD: Yes, that is correct.

The Hon. JOHN GRAHAM: When did you receive payment?

Mr HEAD: I believe on 30 June.

The CHAIR: Sorry, the rapidity of that is quite extraordinary. You get an email from the Office of Local Government on the evening of 27 June at 5.00 p.m. and then within three days you have 90 million bucks in the bank?

Mr HEAD: Yes, that is correct.

The Hon. JOHN GRAHAM: In fact, just to complete the time line, I think the documents show that you returned it on the following day. So you were notified on 27 June, as you have told us, and you returned the document on the following day. From your point of view it was very rapid and welcome news.

Mr HEAD: For us to be able to go ahead and deliver two projects that had substantial interest and demand from our community, absolutely. I do not think council would ever be in a position where it was not going to accept the funding that was being offered to us.

The Hon. JOHN GRAHAM: Absolutely.

The CHAIR: Mr Head, no-one would ever criticise the council for getting a signature on that document as quickly as you could and getting it back. There is no critique of council.

The Hon. JOHN GRAHAM: Some of the other councils just want to know the secret of how to be this persuasive.

Mr HEAD: I understand the point you make about how rapid it was, but the reality for council was that over a long period of time we had very strongly and publicly advocated for funding to be given to Hornsby Council to compensate us for the impact of the changes that had happened to the boundary. Whilst the final piece may have happened very quickly, and certainly there were no formal offers to us prior to that, but we had been very active in advocating with Government departments and any elected representative that we could about the opportunity to receive funding.

The Hon. JOHN GRAHAM: You have continued that. You make the point in your submission that you welcome the \$90 million, but according to the research you have outlined, you expect another \$168 million to be paid before the council is properly compensated for what you have been through?

Mr HEAD: Yes. I mentioned a little bit earlier the work that BIS Shrapnel did for us in terms of estimating the impact to us. What we looked at was what would a gross figure be that would compensate Council for the impacts of that loss of the boundary area and the figure that we came to was approximately \$260 million, so our view is that there is a further \$160 million-odd that is left to be received.

The Hon. JOHN GRAHAM: The Government has publicly committed to providing further compensation to offset some of the loss. What have those commitments been and who made them?

Mr HEAD: Our understanding is that over time they would continue the discussion with us, so I do not have firm offers of assistance.

The Hon. JOHN GRAHAM: Are they public commitments or commitments in discussions?

Mr HEAD: I would actually have to check with the Government in terms of that.

The Hon. JOHN GRAHAM: I am referring to your submission, that is why I ask about it.

Mr HEAD: To our knowledge—

The Hon. JOHN GRAHAM: Perhaps on notice if you want to clarify.

The Hon. TREVOR KHAN: We are getting to this exercise of talking over each other again.

The Hon. JOHN GRAHAM: I will hand to my colleague.

The Hon. COURTNEY HOUSSOS: Thank you very much. Mr Head, I want to clarify something. You have talked about \$90 million, but I can see an article here in the *Hornsby Advocate* from 28 June talking about \$100 million. Do you know the reason for the discrepancy?

CORRECTED

Mr HEAD: No, I am sorry, I cannot answer that.

The Hon. TREVOR KHAN: Maybe the paper got it wrong.

The CHAIR: Could it be referring to the \$10 million of other funding from the first grant round? Although you would not have received that.

The Hon. COURTNEY HOUSSOS: They were not merged.

The CHAIR: That is right.

Mr HEAD: No. I do not believe so. I am not aware of the \$100 million figure you are talking about, I am sorry.

The Hon. COURTNEY HOUSSOS: All of the paperwork and everything that you saw was for \$90 million.

Mr HEAD: For \$90 million.

The Hon. COURTNEY HOUSSOS: Fifty million dollars for the quarry, is that right?

Mr HEAD: The former quarry at Hornsby Park, yes.

The Hon. COURTNEY HOUSSOS: And then \$40 million for the Westleigh site.

Mr HEAD: Yes.

The Hon. COURTNEY HOUSSOS: Okay, and all of the paperwork that was received in such a flurry was for \$90 million.

Mr HEAD: Yes.

The Hon. COURTNEY HOUSSOS: The *Hornsby Advocate* article says that "a further \$10 million would go towards resolving council boundary issues". This is a mystery to you. It has not been received by council.

Mr HEAD: I am not aware that we have received any direct or further compensation funds for the resolution of boundary issues. We have received further grants from both State and Federal governments since, but I am not aware that there is any specific alignment between those and our boundary changes.

The Hon. COURTNEY HOUSSOS: Would you mind taking that on notice and seeking some more advice? I am after that specific \$10 million. I know that you get lots of different grants, but if you can provide that it would be useful.

Mr HEAD: Just to clarify, you are saying that at that time, in 2018 when it was \$90 million, was that in fact \$100 million? That is the question, is it?

The Hon. COURTNEY HOUSSOS: I am looking to see if there was an additional \$10 million that was provided by the State Government for specific purposes around that time.

Mr HEAD: Okay. Thank you.

The Hon. COURTNEY HOUSSOS: Perhaps it was not from that financial year. It might have slipped over into the next financial year, but sometime around then.

Mr HEAD: Okay.

The Hon. COURTNEY HOUSSOS: The guidelines of this particular grant are very clear. They say that any ongoing costs or any shortfall in funding must be picked up by the council itself. How does that expose your council?

Mr HEAD: In terms of the ongoing cost of those projects—

The Hon. COURTNEY HOUSSOS: Is there a shortfall in funding that you are expecting?

Mr HEAD: The projects that the funding is contributing to are two long-term projects of council. In both areas we have acquired this land over a long period of time and we are seeking to develop both of these facilities for the benefit of the community. There will be ongoing impacts from that. We are currently working through capital expenditure reviews and detailed business plans for how we will continue to manage those. The point I would make is that the projects were identified in council strategic planning documents going back a number of years, both in our community strategic plan and documents that were already in our delivery programs. I think the Committee might have already been briefed about the need each council has to have that documentation in place as part of its long-term planning process.

CORRECTED

The Hon. COURTNEY HOUSSOS: Yes, and the extensive community consultation that is around that as well. We heard about that this morning.

Mr HEAD: Yes.

The Hon. COURTNEY HOUSSOS: Mr Edgar and Mr Gordon, I accept that my colleague established that you did not receive the funding from the tied grants because you were not eligible, but I am interested about some broader principles. You have both indicated that you have a lot of familiarity with grants programs. Mr Gordon, you refer to the "umpire's decision". There is a bit of an acceptance there that there is going to be a fair process and that there is going to be an independent umpire who makes an assessment. What is your expectation when your council undertakes the work to apply for a grants program? Obviously you would be notified of it, told about the criteria, have an opportunity to apply, and then—

The Hon. TREVOR KHAN: Why are you not asking the question?

The Hon. COURTNEY HOUSSOS: Things around the start of the process are what I am interested in.

Mr GORDON: Council certainly has an expectation that any grant that it has submitted is considered on its merits. As I mentioned before, we carefully consider what type of grant we do apply for, and there are grants that may not match up with our strategic direction or match up with our budget funding because a lot of the grant programs do require contributions from council—matching funding and the like. We do that seriously and take a lot of consideration.

In terms of process, officers go through and look at the grants that are available. We make recommendations to our elected council for the grants that we wish to submit, and the elected council ultimately signs off on that list. Then council officers complete the necessary, I suppose, paperwork and work through the process to formally put the grant in. We are also aware that for most grant programs the demand for the money exceeds what is available. It is unrealistic to expect that for every grant we submit we are going to receive funding. We are certainly grateful for any funding that we receive through the process.

From our perspective, we would like that all grants, as I said before, are assessed on their merits, the needs of our community and the information that we have put forward. We trust that the officers in the relevant State government departments do give due consideration to the work we have put in. I think it was mentioned before that many of these grant processes are quite onerous in terms of the information that is required. There are multiple grant programs that are out there and the aggregated effort that goes into putting those grants together is not insignificant. As I said, we do, if you like using that sporting parlance, abide by the umpire's decision, and, as I said, accept the basis that the demand does exceed supply and that everybody cannot be successful.

The Hon. COURTNEY HOUSSOS: To extend the sporting analogy, you expect that there are going to be some fair rules establishing the game in the first place, right?

Mr GORDON: One would hope so, yes.

The CHAIR: You do not want the hand of God intervening.

The Hon. TREVOR KHAN: That is called the bounce of the ball, David. It happens all the time.

The CHAIR: It was a Maradona reference.

The Hon. COURTNEY HOUSSOS: Mr Edgar, would you like to provide a reflection on that as well?

Mr EDGAR: The only way I could add to that is that we have the same sentiment. We appreciate grant opportunities when they arise. We appreciate that there is criteria and we would respond as best as we possibly could. We almost always know that there will be more grants than money available, and a decision will be made and it will be prioritised according to the sponsor of the grants. We do not see that as particularly unusual. I go back to my previous comments at the outset, we tend to apply for things that, if we got, we are happy to get and happy to implement, as distinct from something that would take us off a normal course or take us in a direction we normally would not go. I echo the comments of Penrith Council.

The Hon. COURTNEY HOUSSOS: Thank you. You would not be looking for an opportunity that gets foisted upon you and then puts an onerous requirement for shortfalls or for ongoing maintenance that might not necessarily align with your strategic plan. Is that what you are saying?

Mr EDGAR: Correct, but you would always be open if there was a project that was of such a nature that might be able to be staged, and then you got contact and said there is an opportunity here. I do not think that there would be too many people who would not take advantage of that opportunity if it presented.

CORRECTED

The Hon. COURTNEY HOUSSOS: Thank you. Mr Head, going through your timeline you said that you received the email, or you spoke to the Office of Local Government late on 27 June, and then you received the papers the next day. I have seen some of those funding agreements and application forms that form part of that. Did the Office of Local Government pre-populate that application form with the information and send it to you for the signature? It certainly looks that way when you read it.

Mr HEAD: My recollection is that there was a combination. Some of the amounts and details were provided on the form that we filled in, and we were still required to fill in some components of it.

The Hon. TREVOR KHAN: So you adopted it.

Mr HEAD: Yes.

The Hon. TREVOR KHAN: Intelligently.

The CHAIR: Rapidly, and again no critique.

Mr HEAD: You would expect nothing less of local government, I am sure Chair.

The Hon. COURTNEY HOUSSOS: Have you ever received an application from the Government all ready before? Is the normal course of action that council would go away, undertake the application form and then submit it to the Government? Would that be the normal course of events?

Mr HEAD: Over a long career in State and local government, I am quite used to those opportunities arising very quickly sometimes, and I have found that you need to be able to respond very quickly if you are going to take care of your community.

The Hon. COURTNEY HOUSSOS: I understand that. I am just interested in—

The Hon. TREVOR KHAN: Earlier on, there was an attempt to present this to us as unique. Are you saying that things can evolve very quickly in these matters? It is not essentially a one-off.

Mr HEAD: I suppose what I am saying is that it happens from time to time. The usual program—and I take on board the points both my colleagues raised around having the good, transparent processes in place and that we respect the office and the umpire's decision. I take on board all the points and support everything that has been raised. But I am also, I suppose, realistic enough to understand that at times funds that are available are sometimes quickly dispersed by governments when they are seen to have a need to do so. In both State and local government that has occasionally been my experience.

The Hon. TREVOR KHAN: For instance, if I take one area—and I am from Tamworth so a lot of what I think about is in a regional context—you might get towards the end of the financial year roads funding that becomes quickly available and you are told that you can get X amount of money but you damn well better get the blokes out on the road pretty quickly.

Mr HEAD: Yes, that is absolutely correct. And Roads and Maritime Services [RMS] funding has been one of the key areas that often provides funds in that way.

The Hon. COURTNEY HOUSSOS: I have just one final follow-up. I accept the comments of my colleague around the need for speed at times, particularly towards the end of a financial year. But I want to specifically ask you whether the normal course of events is that council would complete the application form themselves and get that in, especially for a project of this size. Is that right?

Mr HEAD: I think it would be more usual than not that we would fill in a reasonable amount of detail but it is not uncommon to receive funds in the manner that we received them here.

The CHAIR: I might ask, Mr Gordon, Mrs Saba and Mr Edgar, have you ever been in receipt of a grant in the order of \$90 million where it is volunteered by State Government—

The Hon. TREVOR KHAN: You are refining your question—

The CHAIR: —and then delivered in the order of a few days? Can you recall in your experience in local government a grant being proffered and handed to your local council of anything like that magnitude in that time frame?

Mr GORDON: Not that I am aware of, Mr Chair, no.

The CHAIR: Mrs Saba?

Mrs SABA: Not that I am aware of.

The CHAIR: Mr Edgar?

CORRECTED

Mr EDGAR: Mr Chair, not of that quantum but, similarly, I have had experience where at very short notice we were advised of a grant. I am not saying it was anywhere near \$90 million but we have responded very quickly.

The Hon. JOHN GRAHAM: What was the grant funding that was attached to?

Mr EDGAR: You may or may not be aware that in the early COVID-19 response Blacktown and The Hills local government areas were given some grant funding for project in the release areas—in the North West Growth Area—that we had to respond to fairly quickly with projects.

The CHAIR: There was a rationale behind that, wasn't there? Funding needed to happen now, it was a COVID-19 response—we were dealing with a pandemic.

Mr EDGAR: Correct.

The CHAIR: Can I say, I thought the Penrith council submission was extremely useful. In your last response in subparagraph (c) on measures necessary to ensure the integrity of grants schemes, you have a series of dot points. The first point states:

Guidelines, assessment tools and priorities should always be available for review during a grant round.

That is your first point. That is surely the starting point, is it not, for any grant—that the guidelines, assessment tools and priorities should always be available for review?

Mr GORDON: Yes.

The CHAIR: Could I ask if the other two councils could take on notice—because I would take up the Committee's time now by going through them—whether or not you agree with the six points in Penrith council's submission that set out a basic minimum for grants processes, or if you have anything else to add?

Mr HEAD: Certainly.

Mr EDGAR: Happy to take those on notice.

The CHAIR: Mr Head, could I go back to those few short days in which the \$90 million arrived. You said that you received an email at 5.00 p.m. on 27 June 2018 from Mr Hurst. Is that right?

Mr HEAD: Yes.

The CHAIR: Do you recall opening that email yourself that evening?

Mr HEAD: I believe I did, yes.

The CHAIR: You said earlier that on notice you will try to provide a copy of that email over lunch. Is that right?

Mr HEAD: Yes. I think we have confirmed that we did receive it on 27 June.

The CHAIR: Could you, if possible, try to provide a copy of the email?

Mr HEAD: We can see if we can locate the email for you, yes.

The CHAIR: Thank you.

The Hon. TREVOR KHAN: Chair, I encourage you to do that but he has to understand that he is not under a compulsion to do that in that time frame if he cannot do it.

The CHAIR: That is right, yes. The requirement is 21 days. If you can between now—the secretariat will talk with you over lunch about how to make that happen.

The Hon. TREVOR KHAN: What I am suggesting is not a hint not to do it—I think it is helpful to the Committee.

Mr HEAD: Thank you.

The CHAIR: What did you do on receipt of the email?

Mr HEAD: I would have discussed the matter with other members of my senior team, I would have alerted the mayor to the fact that we had received this offer and I would have started preparing for a discussion with the council more broadly. I think we indicated on that on the following evening, from recollection.

The CHAIR: Because your repeated reports to council are that from the Premier downwards a number of promises had been made to Hornsby council. Is that right?

CORRECTED

Mr HEAD: We have certainly outlined that we received assurances that Hornsby would be no worse off for the changes that had occurred.

The CHAIR: And that included assurances from the Premier.

Mr HEAD: I have not heard the words directly given to me from the Premier. There may have been public comments made before I commenced in the role. I am sorry that I cannot confirm that for you absolutely.

The CHAIR: Alright. Do you remember what the response from the mayor was when you told is the mayor about the \$90 million?

The Hon. TREVOR KHAN: Yee-ha, I suspect.

The Hon. NATALIE WARD: That is not enough.

Mr HEAD: I am sure the mayor would have been happy that we were receiving some initial compensation.

The CHAIR: When did you become general manager?

Mr HEAD: In March 2018.

The CHAIR: In the papers presented to council on 14 November 2018, the discussion in the document—this is from the annexure you provided to the Committee—was talking about the financial impact of what happened during the amalgamation process:

This impact has been the subject of many Council discussions with the State Government since 2016 and has involved the Premier, Minister for Local Government, Treasurer and local Members of Parliament.

Does that twig your memory about the Premier and any conversations with the Premier? I say that because you signed-off on that report.

Mr HEAD: Yes. In essence, if we say the Premier, we were certainly making submissions to the Premier's office. Most of my conversations would have generally been with government departments but there were several conversations, no doubt, with officers from within the Premier's office.

The CHAIR: Who did you speak with at the Premier's office?

Mr HEAD: I cannot—I need to take that on notice as to the adviser I spoke to at the time. I believe he is not there but I can confirm that name and come back to you.

The CHAIR: If you know the name, can you tell us now?

Mr HEAD: I cannot recall but mostly, frankly, we made our representations through to Treasury, the Office of Local Government—so we were really, from an officer's point of view the vast majority of our submissions were really through to Government.

The CHAIR: You had a direct communication with the Premier's office—at least one. Do you remember how many times that happened?

Mr HEAD: There were several phone calls and conversations where we were attempting to progress the council's arguments over a long period of time

The CHAIR: Can you take on notice when those communications were?

Mr HEAD: I can approximate those for you—the period.

The CHAIR: Were they before the good news about the \$90 million or after?

Mr HEAD: Certainly, as I understand, we had been seeking compensation for Hornsby for an extended period of time.

The CHAIR: No but my question is were those conversations—and they may have been both before and after the \$90 million. Would that be fair?

Mr HEAD: Certainly before we were making representations to all areas of government where we could to seek funding for Hornsby—

The Hon. TREVOR KHAN: And public comment.

The CHAIR: When you told the mayor about the payment, apart from him—I assume—saying it was good news, did he say anything about any communications he had had from within the Government?

CORRECTED

Mr HEAD: No, he did not mention anything in that sense.

The CHAIR: When you spoke with the Office of Local Government—Mr Tim Hurst—did he indicate how it was that he suddenly had \$90 million to give you?

Mr HEAD: No, he did not.

The CHAIR: Did you ask about who came up with this \$90 million and who made the decision?

Mr HEAD: No, Chair. I was pleased to see that there was going to be an offer of funds for us. I was really not concerned frankly about the source of the funds. I was more interested in getting funds for Hornsby for compensation.

The Hon. TREVOR KHAN: You cannot blame them for that.

The CHAIR: I want to be quite clear: No-one is blaming Hornsby Shire Council for not looking a \$90 million gift horse in the mouth.

Mr HEAD: I appreciate that, Chair.

The CHAIR: I am just trying to work out who gave it to you. Do you know who made the decision to give the \$90 million?

Mr HEAD: No. As I have outlined, I was happy to receive an offer of funds. I did not ask questions that I did not need the answers to.

The CHAIR: We do know that it was not Tim Hurst though. He did not make the decision.

Mr HEAD: With all due respect, you would have to ask the Government that question. I really can't answer it for you.

The CHAIR: I assume this was the subject of detailed discussion within council over the next few days. Was there any discussion within council about where this money came from and who made the decision to approve the \$90 million?

Mr HEAD: No, Chair. There was no discussion that I can recall. Mr Magus was in the room and he may care to confirm otherwise. There was no discussion about the source of the funds. Our view was that it was a good offer for us and it had positive benefits for the community. It was really a discussion about how we might seek to effect the further funds that we believe Hornsby Shire Council was owed.

The CHAIR: Prior to the email from Mr Hurst, were you aware that there was this tied grant round of funding available for councils that had been impacted by mergers?

Mr HEAD: Yes. I was aware that the Stronger Communities Fund existed and that it was available for merged councils.

The CHAIR: The original funding was for merged councils, but in June 2018 the guidelines were amended and extended to councils that were impacted. That amendment was necessary for Hornsby to get the \$90 million. Were you aware of that amendment?

Mr HEAD: No, not at the time. Not until after we had received the offer of the funds effectively.

The CHAIR: Do you recall at any point getting a circular from the Office of Local Government or any communication from the Government about the change in criteria?

Mr HEAD: I will take that question on notice to check and come back to you. I do not specifically recall it, but that is not to say that I did not receive and read it.

The CHAIR: That is okay. Again, can I be clear: I am not critiquing the council for signing the documents, but we would all agree that \$90 million is a very large amount of money. You would normally require some sort of detailed business case in order to get something like \$90 million. Do you agree?

Mr HEAD: Normally, yes.

The CHAIR: Was a business case provided to the State Government for either of the Hornsby or Westleigh projects at that time?

Mr HEAD: We did not provide detailed business cases, but there would be subsequently as part of the grant process—we would need to go through a couple of expenditure reviews and other elements before we could commit substantial funds from the program.

CORRECTED

The CHAIR: I will just ask the other councils about whether they recall receiving funds in the order of \$40 to \$50 million from a grant process without putting a detailed business case forward. Can you recall that having happened in your experience in local government?

Mr GORDON: No, not that I am aware of.

Mr EDGAR: Not in that quantum, Mr Chair.

The CHAIR: Mrs Saba, you are a chief financial officer.

Mrs SABA: No, unless you take developer contributions into account. We do get funding for that, but there is a plan in there.

Mr EDGAR: That is not grant funding, Mr Chair. That is the difference of funding between the capped rate of a section 94 developer contribution plan, which is what the developer pays, and what the plan authorises.

The CHAIR: Mrs Saba, with your chief financial officer hat on, if council was handing out grant funding in the millions of dollars to a community organisation, would you expect there to be a requirement for a business plan before those funds were handed out?

Mrs SABA: Yes, of course: business plans, performance and whether they are capable of delivering it.

The CHAIR: From a Penrith City Council point of view, that kind of necessary documentation before you hand out public funds would be a sort of unstated assumption. Would not it, Mr Gordon?

Mr GORDON: It is an appropriate and rigorous process that should be gone through with the expenditure of public funds. If Penrith City Council were allocating money in the quantum that you are suggesting, that is a process we would expect to be followed.

The CHAIR: Mr Head, has a business plan now been provided to the State Government for each of these projects?

Mr HEAD: No. We are currently in the process of completing the business plans and through the capital expenditure review process that we are required to undertake.

The CHAIR: You are now completing the business plans more than two years after you have received the funding though. Do you see how some people might see that as somewhat backward?

Mr HEAD: Again, Mr Chair, we were very happy to receive the funding for a project that we were going to be undertaking. We have mapped out the project delivery time frame and looked where the end of the expenditure of capital will occur as per the grant agreement. In that sense, we have got a requirement to complete the capital expenditure reviews before we commit a significant amount of expenditure. That will be occurring in the not too distant future.

The Hon. COURTNEY HOUSSOS: Did you use any of the funding from the State Government to develop the business case?

Mr HEAD: Yes. We are using expenditure from the grant in the development of the projects. Both projects were advanced, but it is still fairly early stages of the detailed development. So, yes, we are utilising some of the funds for that. As I understand, it is allowed under the grant conditions.

The Hon. TREVOR KHAN: We received some evidence this morning that essentially seemed to be arguing—and this was directed towards the Stronger Communities Fund—that the appropriate way to apportion that funding was on a per capita basis. Coming from Tamworth, I am troubled by that proposition in terms of the grant funding that goes to local councils because of the variability of councils. It is not only on a per capita basis that need arises. Would any of you like to comment in terms of the difference in local government areas, for instance, and their needs? I am assuming that all of you have wide experience over a variety of councils.

Mr EDGAR: In a general sense, each and every council would have different priorities and needs. I think if you look at the health of councils across the State it really does not terribly relate to the per capita argument. It might be one measure.

The Hon. TREVOR KHAN: I do not think, for instance, inner west councils would have hundreds of wooden bridges in need of replacement. That would be something that Tamworth Regional Council would face.

Mr EDGAR: I would imagine that is the case. It should be—I would imagine—the merit of the project itself, regardless of how many people are in that particular local government area. I would not necessarily advocate that per capita is a right measure. In fact we have argued against that in the Federal assistance grants, simply because it does not necessarily take into account other nuances around property values or other things that might

CORRECTED

affect the council's ability to deliver its programs. If you are asking me whether I think a per capita distribution of a grant like this is the way to go, I would not think so. I would have thought it would be around a project's need and a merit of the project and per capita might be one element of it.

The Hon. TREVOR KHAN: Mr Gordon.

Mr GORDON: I would probably echo those sentiments. Per capita application of grant funding has a range of challenges associated with it. Even in metropolitan councils in Sydney, needs are very different in terms of councils that are going through growth periods such as Penrith and councils that are established, which are probably going more through a renewal process than the construction of new facilities. Certainly I understand the argument in terms of regional councils and country councils. The per head or per capita argument clearly does not work in that environment. It really does need to be looking at the specific needs and issues of the area in which the grant is being applied.

The CHAIR: I think the whole sector has complained about Federal Assistance Grant funding, primarily roads funding, being allocated on a per capita basis. I think the whole of local government across New South Wales has said that is a particularly odd formula, haven't they?

Mr HEAD: Just to add to that, Chair, I agree with those comments and the comments of my colleagues. The other point I would raise for us—for the Westleigh project in particular—is that it is through our sports field strategy that was adopted over the last year or so that we have identified we have got a very clear need to provide sports grounds that assist well beyond our local government boundaries. For instance, if I take round-ball football, we service about three different governing associations which stretch from well to the east, well to the south and well to the west. We effectively provide home grounds and a disproportionate amount of facilities to those particular areas. A per capita process of a grant application to us there would probably ultimately not provide the best outcome for a broader region—not just for Hornsby Shire Council, in that sense.

The CHAIR: But it might be one element to get a handle on the fairness or otherwise. It is perhaps one of the aspects you would look at. I see a bunch of nodding from witnesses. Is that right?

Mr EDGAR: Yes.

Mr HEAD: Absolutely.

The Hon. TREVOR KHAN: Thank you, Chair. I am grateful to the other members.

The Hon. COURTNEY HOUSSOS: Mr Head, one further question about the funding. Obviously it has not been totally expended. Is the interest on that being returned to the Office of Local Government or is that being retained by the council?

Mr HEAD: No, it is retained by the council. The funds will go to the costs of delivery of projects for Hornsby. It is highlighted, and we are very clear about the amounts of interest that have been earned on the funds over that period of time.

The Hon. COURTNEY HOUSSOS: But the interest is being retained?

Mr HEAD: It is being retained to be used on the projects.

The Hon. NATALIE WARD: Thank you all for coming along today. In the less than one minute that I have I just have one question for Mr Head—my apologies to the other councils. Mr Head, I note the comments made today about the \$90 million, but in the council's submission you say that is just part of what the council is looking at. It was not like a revelation that you suddenly got a phone call that you are getting this giant cheque. You actually had been advocating for this for some time, had you not?

Mr HEAD: Yes, we had been advocating for quite some time. Once it became clear that Hornsby lost the area south of the M2 and that was transferred to Parramatta, and when the proposed merger with Ku-ring-gai Council did not go ahead, from that point we were advocating because we could see the impact that was going to have on our finances and what we could deliver for the community.

The Hon. NATALIE WARD: Because you lost a significant ratepayer base, is that correct?

Mr HEAD: Yes.

The CHAIR: Did you get a giant cheque? My colleague asked you about a giant cheque. Did you get one of those giant novelty cheques?

The Hon. NATALIE WARD: Sorry, Chair, I have one minute that you have allocated to me. Can I just finish my questions please, if I may?

CORRECTED

The CHAIR: Okay.

The Hon. NATALIE WARD: Mr Head, you have noted in your submission that you are thankful for the \$90 million but that, so far, the independent financial assessment undertaken by BIS Oxford Economics, which I think you referred to, and analysed by Treasury showed that you actually require further millions of dollars.

Mr HEAD: Yes.

The Hon. NATALIE WARD: In context, this is not a significant amount in terms of the offset of the disadvantage you have been put at by losing that ratepayer base. Is that correct?

Mr HEAD: Yes. Our context is that the work we did basically highlighted that we would be around about \$10 million per year worse off in a net position, financially. NSW Treasury Corporation itself, when it did the initial analysis, highlighted that we would be about \$160 million worse off over 10 years, which was going to mean a significant impact on our capacity to deliver capital works and other programs and services for the community. Obviously we continue to feel the impacts of that. We are very grateful for the grants that we have received. We support local government receiving an equitable and fair share of grants right across the State. We also believe that Hornsby is due for further compensation from the Government so that we can ensure that our community is no worse off.

The Hon. NATALIE WARD: But it was not just a surprise that came out of the blue. You got an email and you got a cheque. You had been advocating—in fact, your Mayor had been advocating very publicly and critically of the Government on the basis of this loss of funding.

Mr HEAD: He certainly had been, yes.

The CHAIR: Mr Head, if I could just go back to what is called the grant application form; this is the document that was provided to you by the State Government. The actual details on it are just—it is just two lines. One says "Hornsby Quarry, \$50 million" and the next line says "Westleigh recreation area, \$40 million". Were you surprised at how little detail there was?

Mr HEAD: I would normally expect somewhat more than that in the application. But in our view—as you have pointed out, Chair—we were happy to receive the funds, so I did not spend too much time looking at that part of the detail. We knew that there would be ongoing—

The CHAIR: You could not have spent long looking at that part of the detail, Mr Head.

Mr HEAD: Point taken, Chair. We certainly knew that there would be ongoing reporting and that it would take quite a bit of work to meet the ongoing reporting requirements.

The CHAIR: Just to be clear, that aspect of the application was filled in by somebody in Government and not by yourself.

Mr HEAD: Yes. No, not by ourselves.

The CHAIR: There is a requirement under the agreement to provide a bunch of material to the State Government by 22 December 2018: council's plan for the delivery of the projects, including information on governance arrangements, costings, time frames and expected benefits. Was that provided to the State Government by that date?

Mr HEAD: It has been provided. I cannot confirm the date for you, but it was certainly provided to the Government, yes.

The CHAIR: Could you provide details about that on notice?

Mr HEAD: On notice, thank you.

The CHAIR: Thank you.

The Hon. JOHN GRAHAM: I will just return to that question about the speed. Having now reviewed some of the documents, they do confirm exactly your recollection of the events. You have a discussion at around 5.00 p.m. on the twenty-seventh—in fact, the emails from Office of Local Government then show the funding agreement being sent at precisely 5 p.m. on the twenty-seventh. You then receive back an email at 2.33 p.m. the following day saying, "Thanks, I'll organise payment" from the Office of Local Government. That is after you have signed off the form; in fact, that is less than 24 hours, reviewing the emails that we have received from the Office of Local Government. In my mind that really accords with the timeline you have presented to the Committee, but is there anything else you want to add about that?

CORRECTED

Mr HEAD: I do not think so, at the moment. As I said, Mr Graham, I am happy to take any questions on that.

The Hon. JOHN GRAHAM: Obviously this is around the end of the financial year. One of the pressures sometimes is to disburse funds by the end of the financial year. Was that part of the discussion that you had at any point? Was that issue raised, about having to do this by 30 June?

Mr HEAD: I suspect that it was part of the Government's thinking, but I really—again, I did not question that.

The Hon. JOHN GRAHAM: But it was not explicitly canvassed at any point?

Mr HEAD: I do not believe it was explicitly canvassed with me, no. My assumption was that there was probably money left in a program somewhere and, as such, they were able to provide us with the funds.

The Hon. JOHN GRAHAM: Was there a point at which you were notified you were successful? This all unfolded very quickly. You had this initial discussion. Was there a point at which you were told, "Okay, this is definitely approved"? That really happened upfront.

Mr HEAD: I think that happened upfront. I think the expectation for us was that if we completed the application form and sent it back that—

The Hon. JOHN GRAHAM: Provided you applied.

Mr HEAD: Yes, that the funds were going to be made available to us.

The CHAIR: The question was asked about—you were successful. You actually found out about the opportunity and the fact that you won the prize all in the same communication. It was not as though there was something—

Mr HEAD: No, exactly.

The Hon. JOHN GRAHAM: From your point of view, all of this interaction over the course of what is less than 24 hours happened with Tim Hurst from the Office of Local Government.

Mr HEAD: Yes.

The Hon. JOHN GRAHAM: You were not interacting with others at that time.

Mr HEAD: No, it was only with Mr Hurst at that point of time.

The CHAIR: Unfortunately we have run out of time. I am sorry to the witnesses to keep you back for 10 minutes; we had some technical difficulties this morning. I think a number of you have taken questions on notice. Again I remind you there is 21 days in which to respond. That said, if you can help with that other communication the secretariat will be here. But if you have any questions about anything taken on notice the secretariat are vastly more professional than any member of the Committee and they will help you with all of those inquiries. I again thank you for your work in your local communities and thank you for your assistance today.

(The witnesses withdrew.)

(Luncheon adjournment)

CORRECTED

TIM HURST, Chief Executive Officer, Office of Local Government, sworn and examined

The CHAIR: Welcome back to the afternoon hearing of the Public Accountability Committee's Inquiry into the efficacy, integrity and value for money of NSW Government grant programs. Our sole witness for this afternoon is Mr Tim Hurst, the chief executive officer of the Office of Local Government. Mr Hurst, I note that you have not put a submission in. Did you want to make a brief opening statement?

Mr HURST: Yes, if I may. The Office of Local Government plays a key role in implementing funding programs as part of the Government's commitment to supporting the State's 128 local councils to deliver for their local communities. Since 2011, more than \$17.2 billion has been provided through the State Government to New South Wales councils to deliver and improve local infrastructure, services and facilities. About half of this funding has gone to regional and rural New South Wales. This funding boost has helped local councils to provide local infrastructure, essential services and community programs including local roads, arts and culture, waste management, water security, sport and recreation and tourism.

Since 2011, the Office of Local Government alone has allocated more than \$9.1 billion to New South Wales councils across a range of funding programs. This includes funding from the Local Infrastructure Renewal Scheme, the Stronger Communities Fund, the Innovation Fund as well as pensioner rebates on council fees and charges, funding for joint organisations and contributions towards local government companion animal management and emergency services levy costs. The Office of Local Government looks forward to continuing to support our State's 128 local councils to provide key infrastructure facilities and services to their local communities. I look forward to answering the Committee's questions about these programs this afternoon.

The Hon. JOHN GRAHAM: Thank you for that opening statement. Most of this morning's session before the Committee has been focused on the Stronger Communities Fund. Can you confirm that the Office of Local Government is the lead agency for that fund?

Mr HURST: There were two tranches of the funding. The Office of Local Government was the lead agency for the second tranche of funding, the tied grants round.

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.

The Hon. JOHN GRAHAM: Yes, but you do not want to change the information you have submitted to the Parliament.

Mr HURST: No, if that is the information previously provided.

The Hon. JOHN GRAHAM: Guidelines changed 27 June 2018. When were the first grants announced from that fund for the tied grants round with the new eligibility?

Mr HURST: The original eligibility or the changed eligibility?

The Hon. JOHN GRAHAM: Changed eligibility.

Mr HURST: There were three sets of guidelines for the Stronger Communities Fund. There were the original guidelines published by the Department of Premier and Cabinet, the first set of guidelines for the Stronger Communities Fund tied grants round and then a revised set of guidelines.

The Hon. JOHN GRAHAM: When were the second set issued?

Mr HURST: The third set, actually. They were issued in late June of 2018.

The Hon. JOHN GRAHAM: They were signed off on the twenty-seventh. When you say they were issued, were they made publicly available?

Mr HURST: When I say they were issued, we began to make grants under those guidelines at that time. The guidelines were of course provided as an attachment to the funding agreement provided to every council that was successful in that tranche of the funding.

The Hon. JOHN GRAHAM: I think we will come back to those.

Mr HURST: The guidelines were attached in each case to the funding agreement. We started to use those revised guidelines with funding agreements issued after that time.

CORRECTED

The Hon. JOHN GRAHAM: You used them almost immediately after it was signed off on 27 June. We have heard evidence this morning from Hornsby that you were straight on the phone or straight on the email at 5.00 p.m. that day to give them the good news, inform them about the program for the first time, offer them the chance to receive funding and offer to get a funding agreement and a funding application to them that afternoon. Is that correct?

Mr HURST: No. There was no funding application for the tied grants round.

The Hon. JOHN GRAHAM: The information you have provided to the Parliament contains at Attachment 1 in all of these funding agreements a document which is described as a funding application.

Mr HURST: I would characterise it as a funding agreement, and yes, the funding agreement was provided in each instance to councils who received funding under the program.

The Hon. JOHN GRAHAM: There is a funding agreement which is forwarded, which is signed and has to be endorsed. There is also separately Attachment 1, a grant application form. This must be familiar to you.

Mr HURST: I do not have one with me just at the moment.

The Hon. JOHN GRAHAM: Attachment 1 to every one of the funding agreements that you have sent us—pick one at random—is a grant application form. You say there is no application form; I say there is an Attachment 1 entitled "Grant Application Form". Does that refresh your memory?

Mr HURST: It is titled a grant application form but I think it could more properly be characterised as part of the funding agreement that was issued simultaneously.

The Hon. JOHN GRAHAM: I can understand why you might take that view because it is issued at the same time as an offer for the funds. I agree with you that it is very unusual. This has been described by councils this morning as the application form. Do you disagree with that characterisation by them?

Mr HURST: Clearly it is titled an application form. I would more properly characterise it as legally part of a single document, which is a deed between the council and the Office of Local Government to receive the funding and use it for the specified purposes.

The Hon. JOHN GRAHAM: We might come back to that question, Mr Hurst. The guidelines were changed on 27 June and you were straight on the phone at around 5.00 p.m. You emailed to Hornsby an offer of \$90 million with a funding agreement at precisely 5.00 p.m. the same day the guidelines were approved. Is that correct?

Mr HURST: That matches my recollection of what happened.

The Hon. JOHN GRAHAM: The first grants out of this fund are then announced the following day, 28 June. Hornsby becomes public late on 28 June. I think there is a Georges River announcement that very morning. Does that sound accurate?

Mr HURST: I will rely on your dates there.

The Hon. JOHN GRAHAM: I am relying here on documents you have supplied to the Parliament.

Mr HURST: Sure.

The Hon. JOHN GRAHAM: The whole process for Hornsby is wrapped up in less than 24 hours between when you make your call and when they return the funding agreements and Office of Local Government emails back to say "Thanks, I will process the payment". Does that sound correct?

Mr HURST: It was certainly done very quickly. That is right.

The CHAIR: There is a very specific question asked of you. If you cannot answer the specific question then by all means do not do that but a very generalised response is not helpful. A very specific question was asked of you about a 24-hour time frame within which a \$90 million application or agreement was forwarded, signed and returned. I think the question is of a serious nature and deserves a considered response.

Mr HURST: If you are asking me whether I have a copy of the dates in front of me to confirm those dates, I do not. But I do agree that my recollection is that it was a very quick turnaround, one which I am very pleased to say is an excellent example of us being responsive and being able to turn around these applications in a way that councils have been asking for. This is a matter that actually came up in the submissions to this inquiry. I know that the Lismore City Council in their submission actually said that that the delay between a grant application and the delivery of funds often significantly diminishes the value and impact of the project.

The Hon. JOHN GRAHAM: There has been no delay here, Mr Hurst. I accept that.

CORRECTED

Mr HURST: That is correct.

The Hon. JOHN GRAHAM: What I might ask you to do is take—

The Hon. NATALIE WARD: No, let him finish.

The CHAIR: I think we will allow Mr Hurst to continue this version.

Mr HURST: I am very proud that we were actually able to agree to the funds and disburse them very quickly. I do not think that there is a problem with that.

The CHAIR: Well, you see, Mr Hurst, your earlier answer was that there was no application. In fact, you denied there was even an application form, and now you are suggesting that you should be commended for the rapid turnaround of an application. I am confused. Can you please clarify that?

The Hon. NATALIE WARD: No, don't answer that. I am going to take a point of order. That was not what he said, with respect, Chair. He said he characterised it as the one document. I do not think that he said there was no such document. I am happy to be corrected by *Hansard*, but that was not my understanding of his evidence and I think that, to characterise it that way, is unfair.

The CHAIR: Well, I hear you, but not only do I have a very clear recollection of it, Mr Hurst insisted upon the position. So I do hear your point of order but I do not think it is well founded.

The Hon. NATALIE WARD: He said three times he characterised it as the one document.

The CHAIR: Mr Hurst, you said earlier—

The Hon. TREVOR KHAN: I will take another point of order: At the start of this, it was decided with some latitude being given to the Government, that there would be a division of time. I suppose this is really a point for Labor but it seems to me that that was the considered position that we all agreed on and that is what should happen. I do not think Mr Graham is being incompetent in his questioning in anyway, and I do not really think he needs help. I think it would be fair to him to let him pursue his line of questioning.

The CHAIR: Well, I hear your point of order. It is really a matter for Mr Graham.

The Hon. TREVOR KHAN: No. It is actually a matter for the Committee because that is what we resolved, Chair.

The CHAIR: I will hear from Mr Graham.

The Hon. JOHN GRAHAM: I am keen to proceed with my line of questioning. I do not mind deferring to the Chair briefly but I do have a significant amount to get through in this first section.

The CHAIR: I will come back to Mr Hurst later. Proceed, Mr Graham.

The Hon. JOHN GRAHAM: Thank you, Chair. Mr Hurst, you have given very clear evidence—and I am thinking particularly about your estimates; not all of it was clear but this bit was—about who was making decisions whether or not you were in charge of deciding who got these grants. This is what you said, "That funding allocation was not. No, it was not made by the Office of Local Government. The allocations were advised to OLG." You also said, "The Office of Local Government was advised the councils and the projects. Our role was to administer the grants by drafting them and executing the funding agreements and making the payments to the councils." I agree. To me that sounds accurate. That is the evidence you gave at the time. It is your role. You are executing the funding agreement. You are approving the financial allocation. You are under delegation in the Public Finance and Audit Act to actually send the funding agreement, but you are not the grant decision-maker. That is correct, is it not?

Mr HURST: Yes, that is correct.

The Hon. JOHN GRAHAM: Every grants program has a decision-maker—someone who is choosing who gets this grant. Who is the decision-maker for these programs?

Mr HURST: So it was a different decision-maker for different grants.

The Hon. JOHN GRAHAM: Take us through that.

Mr HURST: You will find attached to—so you clearly have the documentation there. In each case there was a briefing note. That was where, as you mentioned, that expenditure approval was contained. It referenced in each case, for every one of the grants under this program, the process by which the Office of Local Government was advised of the amounts and the council and the projects. That is documented in the material which has been provided.

CORRECTED

The Hon. JOHN GRAHAM: Yes. And those decision-makers—I will ask you to confirm this—are the Premier, the Deputy Premier, and on occasion, the Minister for Local Government. Is that correct?

Mr HURST: So it was different in the case of different grants.

The Hon. JOHN GRAHAM: For this tied grant funding, that round, the three—it was different for different grants—but the three people, the three decision-makers, were the Premier, the Deputy Premier and the Minister for Local Government. Is that correct?

Mr HURST: So it was always a Minister in the Government, but it did differ between the different amounts and the different councils.

The Hon. JOHN GRAHAM: Were other Ministers involved other than the Premier, the Deputy Premier and the Minister for Local Government?

Mr HURST: Not that I can recall but—

The Hon. JOHN GRAHAM: Mr Hurst, you are the lead agency administering this round. You are the key official in the lead agency. You are turning up to this hearing to talk about it. You seriously are telling me you cannot recall if there was another Minister involved in the administration of this grant?

Mr HURST: Yes. I am saying I do not recall that any other Minister provided an approval, but in each instance you can find out who that was by looking at the documents which we have provided to the—

The Hon. JOHN GRAHAM: And looking at the documents, you agree, that the decision-makers here are the Premier, the Deputy Premier and the Minister for Local Government.

Mr HURST: So it was always a Minister and, as I say, it varied between the different amounts. In each case you can find through the trail of documents who it was in each instance.

The Hon. JOHN GRAHAM: Yes. Well, I am asking you do those documents confirm my view that the Premier, the Deputy Premier and the Minister for Local Government were the decision-makers. This is quite important to the administration of this fund.

Mr HURST: Right, and I encourage you to have a look at the documentation, which records the decision-making and was kept by the Office of Local Government.

The CHAIR: Well, Mr Hurst, you have an obligation to answer the questions that are given to you and not simply by referring us to a set of documents when I am not sure even what set of documents you are referring to. The question has been asked, and it is not helpful for you simply to refer to a group of documents that I am not even aware what corpus of documents you are referring to. If you could, endeavour to answer the question. I will let Mr Graham put it again.

The Hon. JOHN GRAHAM: I just want you to confirm what the documents show—that the three Ministers in the Government sign this off and emailing your office were the Premier, the Deputy Premier and the Minister for Local Government. That is where you got these approvals from.

Mr HURST: Okay. There were numerous grants paid under the scheme and different Ministers approve different grants. I do not know which one you just handed up previously but you had the package which we have provided to the Parliament—

The Hon. JOHN GRAHAM: Yes.

Mr HURST: —as part of your scrutiny of this program that indicates for whichever grant that was, where that approval came from and the basis for which it was provided for any individual grant.

The CHAIR: Mr Hurst, I say again.

Mr HURST: You have a complete set of papers.

The CHAIR: I say again: Your job as a witness is not to refer us to a set of documents where we can find the answer. Your job is to answer the question to the best of your knowledge. I will again invite Mr Graham to put the question to you and for you to answer without referring us to where we may find the answer ourselves.

The Hon. JOHN GRAHAM: I will clarify. I am referring to the package as a total, that is, the whole round. You have said you do not recall any other Ministers other than these three. I do not understand why you will not say, plainly, the decision-makers for this fund are the Premier, the Deputy Premier and the Minister for Local Government. You are providing the support as the key agency. Why can you not say that?

Mr HURST: Right. It is because it was different for the different elements. I do not know how—

CORRECTED

The Hon. JOHN GRAHAM: The total of Ministers that were involved in any capacity as the decision-maker for this grants round were those three. Is that correct?

Mr HURST: So I do not recall there being any other Minister who approved those items. That is—

The Hon. JOHN GRAHAM: Mr Hurst—

The CHAIR: No, no. I do not think Mr Hurst had finished.

Mr HURST: I do not know there is anything more I can add there.

The Hon. JOHN GRAHAM: More than half these grants by value were signed off by the Premier. Is that correct?

Mr HURST: If that is the analysis you have done of the papers we have provided to the Parliament. I have not added it up. Sorry.

The Hon. TREVOR KHAN: Can we just clarify: The documents provided to the Parliament, is that in response to an SO 52?

The Hon. JOHN GRAHAM: Yes.

The CHAIR: Correct.

The Hon. TREVOR KHAN: If so, when? Just so we are all on the same page.

The CHAIR: Exactly.

Mr HURST: Do you want me to answer that?

The CHAIR: Mr Hurst, the simple question from Mr Khan is: When you are referring to documents provided, what documents have you provided? When were they provided?

Mr HURST: Sure. So they were provided in response to a Standing Order 52, Mr Shoebridge, that I understand you asked for. I do not have the date of that request but it is the only order for production of documents that you have made about these papers.

The Hon. TREVOR KHAN: And it would have been within what sort of time frame? This year?

Mr HURST: It was following the estimates committee last year.

The Hon. JOHN GRAHAM: I think it was 3 June.

The Hon. TREVOR KHAN: It was 3 June?

The Hon. JOHN GRAHAM: Yes.

The Hon. TREVOR KHAN: Right. Thank you. It is just that if I am going to look at a set of documents, I need to have some idea as to what I am going to have to go and ask for.

The Hon. COURTNEY HOUSSOS: Well, with respect, it is not just you, Mr Khan. It is the public who are asking questions about these.

The Hon. TREVOR KHAN: Oh, please! Don't interrupt. I actually want to find out what this is about.

The Hon. COURTNEY HOUSSOS: As do we.

The CHAIR: Moving on. The Hon. Courtney Houssos?

The Hon. COURTNEY HOUSSOS: I would like to ask, along the lines of my colleague's questions, there is \$250 million in this tied grants fund. You are saying that it was signed off by the Premier, the Deputy Premier and the Minister for Local Government. Is that correct?

Mr HURST: Not "and". I am not aware of any grant where more than one Minister was the decision-maker for the grant.

The CHAIR: Assume the "and" was disjunctive. The question will be put again on the assumption that the "and" was disjunctive.

The Hon. COURTNEY HOUSSOS: Either the Premier, the Deputy Premier or the Minister for Local Government could approve funds under this program. Is that correct?

Mr HURST: That is the group of Ministers who I am aware of who signed these off.

CORRECTED

The Hon. COURTNEY HOUSSOS: Were there any other Ministers involved in the approvals of grants in this program?

Mr HURST: In terms of the decision-maker, I have answered this question before the Hon. John Graham—not that I am aware of.

The Hon. COURTNEY HOUSSOS: So we have got the Premier, the Deputy Premier and the Minister for Local Government as the decision-makers, but you are the one that is administering the grants. Is that correct? You are the administrator of the program.

Mr HURST: The Office of Local Government administers the program, yes.

The Hon. COURTNEY HOUSSOS: Was your office responsible for the overall governance of the program?

Mr HURST: I used the word "administration" of the program. The Hon. John Graham previously mentioned the features that come with administering the program. Those were the functions undertaken by the Office of Local Government.

The Hon. COURTNEY HOUSSOS: According to your testimony to budget estimates, your office drafted the guidelines. Is that correct?

Mr HURST: Yes, drafting the guidelines was also a feature.

The Hon. COURTNEY HOUSSOS: Why were the guidelines changed?

Mr HURST: Because the Government decided to change them.

The Hon. COURTNEY HOUSSOS: Was there a problem that your office identified with the original guidelines?

Mr HURST: I was prepared eventually to get to this point. What I am concerned about is that there is a document which has been the subject of another Standing Order 52 request by the Legislative Council. That document, as you may be aware—the Legislative Council was advised on 17 September by the Hon. Damien Tudehope that the signed written brief approving the guidelines for the tied grant round of the Stronger Communities Fund are documents that are held under Cabinet-in-Confidence and will not be provided to the House.

The Hon. COURTNEY HOUSSOS: I am asking you whether you think there was a problem with the original guidelines.

Mr HURST: I am unable to discuss the process of amending the guidelines because of, as I mentioned, the Cabinet-in-Confidence nature of the process.

The CHAIR: If you are relying on that then I suggest that you provide us with a copy of the correspondence, because it has not been seen by myself.

Mr HURST: I was relying on the Hon. Damien Tudehope's comments in the House on 17 September.

The Hon. TREVOR KHAN: I will take a point of order at this point relating to procedural fairness resolution 10: Questions to public officials—a category into which Mr Hurst falls, because I know where we are going here:

Public officials will not be asked to give opinions on matters of policy, and will be given reasonable opportunity to refer questions to more senior officials or to a minister.

The Hon. Courtney Houssos' question is getting very close, if not there, to asking Mr Hurst to comment on matters of policy. That is the point of order that I take.

The CHAIR: Perhaps you might want to re-craft your question when we come back to a further round. On 4 March, when you were in front of the budget estimates, I asked you a series of questions about who actually approved the funding for this tied grants round. Do you remember that?

Mr HURST: I remember the discussion, yes.

The CHAIR: After an exchange back and forth, I asked who made the decision if not you. You were just administering the decision that came from another place as to which councils were and which councils were not eligible to receive funding. Your answer, for the record, was:

I cannot answer that question. I can only advise that we were told the councils to pay and the projects, and the Office of Local Government prepared the agreements, sent them to the councils, executed them and paid the funds.

CORRECTED

Do you want to revisit the answer that you gave then when you said that you could not answer the question?

Mr HURST: I could not answer the question at that time. Clearly, since that time I have refreshed my knowledge of those documents. There are other documents which you did request in a call for papers subsequent to that estimates committee meeting. I believe that the things that I said at the committee meeting are borne out by the papers that you now have.

The CHAIR: This might be easier. I will hand you a bundle of documents. I am sorry, I have only got two. They are tabbed. For the benefit of the Committee, those are some of the documents that were produced under the SO 52. Having asked you the question of who told you and having had it taken on notice, you said, "I am sorry, I agree to take that on notice." Your answer was:

OLG allocated funds based on the Stronger Communities Fund grants guidelines, approved by the former Minister for Local Government in 2018.

Do you remember giving that answer on notice? Was that your answer?

Mr HURST: Sorry, I do not have a copy in front of me. If you are reading from *Hansard* then I accept that was my answer.

The CHAIR: This is the answers on notice.

Mr HURST: Then it is the Minister's answer.

The CHAIR: Did you tell the Minister that:

OLG allocated funds based on the Stronger Communities Fund grants guidelines, approved by the former Minister for Local Government in 2018.

Mr HURST: I think that the word "allocated" is probably not wisely chosen there. We paid the money in accordance to the guidelines.

The CHAIR: You say "not wisely chosen", was it wrong?

Mr HURST: No. I think that you are making a very fine distinction about the distinction between grants being allocated, as in the decision-making role, and being paid, which is the expenditure approval function under the Government Sector Finance Act.

The CHAIR: I was not making any distinction. I was asking for clarification on when you said "not wisely chosen". When you say "not wisely chosen", is that because it is wrong?

Mr HURST: I think that "allocated" can have different meanings, as we have found discussing this at the Committee today.

The CHAIR: Why don't we go back one step. Who approved the amended guidelines?

Mr HURST: I have explained why I cannot comment on the process of approving the amended guidelines. There is the secretary certification letter that was dated 17 September 2020 that provides the detail on the reasons for that. I understand that the Legislative Council was advised on 17 September about the Cabinet-in-Confidence nature of that document.

The CHAIR: Are the guidelines not attached to all of the funding agreements?

Mr HURST: Yes, the guidelines are attached.

The CHAIR: Are you seeking to claim Cabinet privilege over the guidelines?

Mr HURST: No. You asked me a question about who approved them.

The CHAIR: Why don't we make this easier. Have you got the bundle of documents? Go to tab four. Have you got that?

Mr HURST: Yes.

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.

CORRECTED

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.

The CHAIR: The document I am showing you there has no privilege claim over it. It was provided and it is in the public domain, and you cannot retrospectively claim privilege over this. So I am asking you again, is the plain truth in this email, that these three Ministers signed off on the guidelines, something that you acknowledge?

Mr HURST: I was a recipient of the email, not the author of the email. I cannot comment on matters that are Cabinet-in-confidence.

The Hon. TREVOR KHAN: I will take the point of order Chair. Mr Hurst has now been asked a question I think at least three times—and I am not suggesting that the question was improper—and he has answered it in a similar way three times. He has indicated that he will take it on notice.

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.

The CHAIR: Moving from the guidelines to the actual decisions, when I asked you on 4 March 2020 who made the decision and you gave the answer "I cannot answer that question" you knew at the time that the Deputy Premier, the Premier and the Minister for Local Government had made the funding decisions. Did you not? You knew at the time that is who made the decisions.

Mr HURST: The answer that I gave was correct at that time. You had never raised this program ahead of that hearing, and it was some time after those funds had been dispersed.

The CHAIR: I will take you to tab one, which is the inside page. This is an email to you on 20 June 2018. It is about the Central Coast funding and it comes from the Deputy Premier's office. It states "Hi Tim, DP has agreed to the following projects for the Central Coast" and there is then a list of \$4 million of tied grant funding approval from the Deputy Premier. Are you saying you just had no memory of this advice from the Deputy Premier of this tied grant funding when you answered the questions on 4 March? You had no memory?

Mr HURST: At the time, you had never asked a question about this program before that day. I had no idea at the time, when I was answering you, about who had signed off on each of these grants.

The CHAIR: I had not asked a question about it because nobody knew about it. You had never told anybody. Do you understand that? The guidelines were never published, the decisions were never announced and you had never told anybody. Do you understand why no one had asked a question beforehand?

Mr HURST: And your question is?

The CHAIR: Do you understand why nobody asked a question? You failed to publish the guidelines and you failed to tell anybody that \$250 million was available to a subset of councils. Do you accept that?

Mr HURST: Are you asking for my opinion about your knowledge of the matter?

CORRECTED

The CHAIR: I am asking whether you agree or not that you and your office, the Office of Local Government, never told anybody in a public way about the changed eligibility and the fact that a quarter of a billion dollars of public money was available to a subset of councils?

Mr HURST: Every council that received funding under the program received the guidelines that made it clear about the program and its eligibility.

The CHAIR: When you said you could not answer the question on 4 March, are you saying you did not remember this advice from the Deputy Premier's office of the 28 June 2018? Is that your evidence?

Mr HURST: The day that you asked me that, that is correct. That was my answer.

The CHAIR: I take you to document two, and again it is on the obverse page. This is an email from the Premier's office to you of 28 June 2018, and it says at the introduction "The Premier has signed off further funding for metro councils. Outlined below is what has been approved" etc. That email, of course, includes details of a raft of tied grant funding approved by the Premier. Are you saying that when you answered the question on 4 March 2020 you could not remember receiving this email?

Mr HURST: We have already identified that there were a number of different emails from a number of different decision-makers about this program.

The CHAIR: If you would answer the question, are you—

Mr HURST: No. At the time I answered the question I did not have that recollection.

The CHAIR: I take you to document three, which is an email from Sarah Lau three days before this on 25 June 2018—again, to you. It reads "Below are the additional metro council projects the Premier has approved", and then you are asked to prepare media releases for the announcement of the project etc. and also include a line from the local government Minister. There is a series of projects in the millions of dollars approved by the Premier. Are you saying that on 4 March 2020 you had no recollection of receiving that email from the Premier's office?

The Hon. TREVOR KHAN: I will take a point of order. This inquiry has a set of terms of reference that, admittedly, are broad and go to the question of grant funding. What we are engaging in now is an extended exercise in what essentially would be done before a privileges inquiry with regards to whether a witness has given truthful evidence before a committee. The closest I can remember sort of related to Mr Macdonald and a Standing Order 52, but really the question of whether this witness gave accurate information before a budget estimates does not go to the central point about the grants program itself. I am not being critical, but I wonder if we are, in a sense, becoming distracted from what is the main issue before this Committee.

The Hon. JOHN GRAHAM: To the point of order. I am sympathetic in general.

The Hon. TREVOR KHAN: You always are.

The Hon. JOHN GRAHAM: This evidence was quite fundamental to the very reason this inquiry was established.

The Hon. TREVOR KHAN: I accept that.

The Hon. JOHN GRAHAM: When the Chair has finished testing it, we certainly have some additional questions along these lines, so I would be hesitant to see it cut off at this early stage.

The CHAIR: Ms Houssos?

The Hon. COURTNEY HOUSSOS: I agree with my colleague, Mr Graham, and say that I take Mr Khan's point that this may seem unrelated given it came from budget estimates, but, in fairness, the questions at budget estimates started the process of this inquiry. Establishing truthfulness or not of those is actually fundamental to the outcome of this inquiry.

The Hon. TREVOR KHAN: I am not suggesting that this is unrelated, but what I am saying is it is tangential, and there is a point of, in a sense, diminishing return. That is really the only point. I am not being critical, I just think we have potentially become unnecessarily distracted, if I could put it that way. I will not put it any higher or any lower than that, Chair.

The CHAIR: Are you pressing the point of order and insisting on a ruling?

The Hon. TREVOR KHAN: I am, yes.

The CHAIR: At this stage, I do not allow the point of order.

The Hon. TREVOR KHAN: I am not surprised. I have put the stake in the ground. We will go on.

CORRECTED

The CHAIR: Mr Hurst, are you saying when you gave your evidence on 4 March 2020 that you could not remember receiving that email expressing clearly that the Premier approved the funding on 25 June 2018?

Mr HURST: That was my evidence at the time, Mr Shoebridge.

The CHAIR: Mr Hurst, are you saying now that when you gave that evidence on 4 March 2020 you had no recollection at all about you having been advised in writing by the Premier's office on 25 June 2018 that the Premier had approved those projects, is that your evidence?

Mr HURST: As I have just said, that was my evidence, yes.

The CHAIR: I know that was your evidence, I am testing whether or not your evidence was true.

Mr HURST: I have the documents. I gave that evidence under oath, Mr Shoebridge.

The CHAIR: Indeed, Mr Hurst.

Mr HURST: Yes.

The CHAIR: And, I am suggesting to you, and I will put it in the plainest possible terms, that your evidence was untrue.

Mr HURST: I reject that assertion, Mr Shoebridge. It is unfounded.

The CHAIR: Mr Hurst, I have set out the basis upon which my proposition to you, that your evidence was untrue, by showing you the detailed documents that contradict your evidence. I will put this proposition to you—

Mr HURST: No, Mr Shoebridge, it does not contradict my evidence.

The CHAIR: —and you can answer it in full. Was the evidence you were giving on 4 March 2020 deliberately untrue in order to hide the involvement of the Premier and the Deputy Premier in these controversial grants?

Mr HURST: No, Mr Shoebridge, I completely reject that assertion. I also think that it is ridiculous to suggest what was in my head at the time that you raised these matters in a completely unrelated matter in an estimates committee hearing years after the time that this program was being administered.

The CHAIR: Mr Hurst, was it usual to approve a \$90 million grant in the space of 24 to 48 hours? Not only just to approve it but to propose it, to provide it to the council, and have it approved within 24 to 48 hours? Was that unusual?

Mr HURST: It has happened this year on another program. I do not consider it unusual to be able to turn around the money to councils for those purposes that quickly.

The CHAIR: Who approved the \$90 million to go to Hornsby Council?

Mr HURST: It will be in the papers that were provided.

The CHAIR: Mr Hurst, you cannot suggest that you have not prepared an answer to this question and you do not know this question, who approved the \$90 million to go to Hornsby Council?

Mr HURST: If you would like to give me the time I am prepared to go through the papers provided under Standing Order 52 and give you that answer.

The CHAIR: Feel free to do it now, Mr Hurst.

Mr HURST: I do not want to mislead you by you forcing me to answer a question solely on my memory of events from more than two years ago.

The CHAIR: Mr Hurst, are you seriously saying that in your preparation for this hearing you did not review the paperwork around the \$90 million that was provided to Hornsby Council under the tied grant funding, is that your evidence?

The Hon. TREVOR KHAN: Mr Chair, what has happened is two things, you indicated to the witness that you would give him the time to go through the paperwork and do it now. Is that not what we have got to, having invited him to do that?

The CHAIR: I am more than happy, that was not my understanding.

The Hon. TREVOR KHAN: That is what you said.

CORRECTED

The CHAIR: I thought he was going to go away and look at it in due course. Feel free to look at it now, Mr Hurst, and you can give us the answer if you have the documents with you.

Mr HURST: Sure.

The Hon. TREVOR KHAN: Just to be clear, this is obviously chewing up a bit of time, if this chews into the Government time before the break then it chews up our time. The witness is entitled to have the time.

Mr HURST: I can take it on notice, Mr Shoebridge.

The CHAIR: No, it is best you give us the answer now, Mr Hurst.

Mr HURST: Yes, 27 June 2018 is the date that I have here that we were advised to make those payments of \$50 million to rehabilitate Hornsby quarry and \$40 million for the Westleigh recreation area.

The CHAIR: By who, Mr Hurst?

Mr HURST: That email was from the Premier's office.

The CHAIR: The Premier approved it?

Mr HURST: That is what the email says, Mr Shoebridge.

The Hon. COURTNEY HOUSSOS: Mr Hurst, I will start where I left off, which is around the guidelines. Did you or your office carry out an audit of the original guidelines or processes prior to the changes?

Mr HURST: I am not sure what you are suggesting, in order to determine what?

The Hon. COURTNEY HOUSSOS: To see if the guidelines were not working. You made changes to the guidelines. I am interested to see what repertory work you did; did you do any modelling, did you find anything out, did you make any suggestions before amending the guidelines? Or was it based solely on the advice that you received from the ministerial office?

Mr HURST: This is, once again, relating to the process of changing the guidelines. I am aware that there is a statement that Minister Tudehope has made in the Legislative Council, that the signed written brief approving guidelines for the tied grants round are documents that are held under Cabinet in confidence and will not be provided to the House. I need to let the Committee know that I am unable, as a public servant, to comment on that as they are Cabinet in confidence.

The Hon. COURTNEY HOUSSOS: You are saying that was on 17 September. Can you double-check that was not on 16 September? I have had a quick look here.

Mr HURST: The date I have been provided is the seventeenth, it was the date of the debate in the Legislative Council.

The Hon. COURTNEY HOUSSOS: The sixteenth, it was the Wednesday.

The Hon. JOHN GRAHAM: Yes.

The Hon. COURTNEY HOUSSOS: Mr Hurst, I wanted to ask about the guidelines themselves. Are you aware that they do not comply with the Department of Premier and Cabinet [DPC] policy for how a grants process should operate?

Mr HURST: You are talking about the DPC better practice guidelines?

The Hon. COURTNEY HOUSSOS: Good practice.

Mr HURST: That document is non-binding guidance for the design of grant programs across the government. There are obviously a lot of differences in the way that New South Wales government agencies administer grants and structure their grant programs and that flexibility is important to make sure that the grant programs can respond to the needs of the different programs.

The Hon. COURTNEY HOUSSOS: You are saying that it should not be the guiding principle?

Mr HURST: What I am saying is that councils, in particular, are different to other grant recipients. Local government is not a non-government organisation, which the guidelines go to some pains to define. Local councils are, in fact, independent self-governing bodies established by the Local Government Act. They actually have obligations under the Local Government Act on what their role and functions are and have an obligation to act on behalf of the community. There are also a lot of processes under the Local Government Act that govern how local councils operate, the audit and assurance process in terms of activities of local councils and I think it is important, and certainly in all of the grant programs that the office of local government administers we are mindful

CORRECTED

of local government's special position as a recipient of grants that recognises their role under the Local Government Act.

The Hon. COURTNEY HOUSSOS: I am going to stop you there. I will come to the obligations on local government later. I am asking you specifically, is it your contention that the principle that the DPC policy 2010- 16, Good Practice Grants Administration, that says Grants programs should, "provide the same information package to all prospective applicants". Is it your contention that that is not applicable to local government?

Mr HURST: I will make the observation that many of the Office of Local Government's grant programs do not have an application process.

The Hon. COURTNEY HOUSSOS: Can you tell me which ones other than this program do not have an application process?

Mr HURST: I think the biggest of all, we distribute almost \$800 million a year in financial assistance grants to councils. Councils are not required to apply for that funding. I cannot imagine what purpose, apart from creating red tape, would be served by requiring councils to prepare application forms for financial assistance grants.

The Hon. COURTNEY HOUSSOS: So those financial assistance grants, are they provided on a per capita basis to local governments?

Mr HURST: In part. The grants are also provided on the basis of a model that takes into account identified need.

The Hon. COURTNEY HOUSSOS: Okay, so there is a pre-prepared per capita model that provides a certain amount of funding to local government each year and it is your contention that a secret \$250 million slush fund should be correlated with those. Is that correct?

Mr HURST: No. That is a very significant program. It was only one example of the programs we provide to local government—

The Hon. COURTNEY HOUSSOS: Perhaps you can provide some others?

Mr HURST: —that by design are based around making the administration as straightforward as possible, reducing the regulatory burden on councils in needing to provide applications for the money they are eligible for receiving. Another program from just this year was grants that were provided to the 33 councils who were natural disaster declared by the bushfires. Eligibility for that money was determined essentially for councils who already had that natural disaster declaration in place. I do not see what purpose would have been served in following the guidance in this best practise guidance from the DPC in requiring each of those councils to submit an application for the funding.

The Hon. COURTNEY HOUSSOS: With respect Mr Hurst, there is a very different situation when you have natural disasters and you need to get funding out the door quickly and there is a \$250 million fund that is being squirrelled away—secretly hidden away—without telling all councils that they have access to it. Can I ask you this? Did you tell those 33 councils that were eligible for the natural disaster funding—did your office email them or call them or in some way communicate with them—to tell them that they were eligible for that funding?

Mr HURST: My understanding is that for many of them the first they would have seen is the letter enclosing a short form funding agreement to sign and send back to allow the money to be paid.

The Hon. COURTNEY HOUSSOS: Did it go to all 33 councils?

Mr HURST: Every council who received funding under the program needed to get and sign a funding agreement.

The Hon. COURTNEY HOUSSOS: Mr Hurst, I am asking you whether the 33 councils who were eligible or received the information— This is a key point that has been illustrated in testimony this morning that the largest merged council in New South Wales and another significant council, both of which covered half a million people, did not know about this funding arrangement, did not know about \$250 million—

The Hon. TREVOR KHAN: Point of order: There has got to be a question.

The Hon. JOHN GRAHAM: I thought this was a very good question.

The Hon. TREVOR KHAN: This is not a question it is—

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The CHAIR: I think the question is how did that happen? How is it that two of the largest councils eligible for funding did not know anything about it?

The Hon. COURTNEY HOUSSOS: With respect, I will come to that question. My first question is did the 33 councils, who were entitled to the natural disaster funding, receive notification?

Mr HURST: They received a letter with a short form funding agreement.

The Hon. COURTNEY HOUSSOS: Great. So the 33 councils—

The Hon. NATALIE WARD: Let him finish. You have got hours of time.

Mr HURST: But other councils were not advised about that funding. They were not advised about the program. They were clearly not eligible for that program.

The Hon. COURTNEY HOUSSOS: That is my point, Mr Hurst. The councils that were not eligible were not told about it but the councils who were eligible were told about it. Is that correct?

Mr HURST: The councils who were eligible were actually given funding agreements.

The Hon. COURTNEY HOUSSOS: Excellent. Okay.

The Hon. TREVOR KHAN: Point of order: You have got to let the witness finish the answer.

The CHAIR: We have established that every council that was eligible for that round of funding got told about it, Mr Hurst. Is that right?

The Hon. COURTNEY HOUSSOS: So Mr Hurst, I come back to the tied grants. I come back to the fact that at least two significant councils found out about this only through a media report years after the fact. Why were these councils not notified that they were eligible for tied grants funding? Why was it kept secret?

Mr HURST: The guidelines actually talk about the councils who the Government is able to make a decision to make funding to.

The Hon. COURTNEY HOUSSOS: Are you talking about the tied grants funding?

Mr HURST: Yes, so the tied grant criteria. It makes it clear that the projects are selected by the New South Wales Government. So only councils that had projects selected by the New South Wales Government were approached analogous to the other example with the funding agreement.

The Hon. COURTNEY HOUSSOS: So your defence is that— The DPC guidelines say you should provide the same information package to all prospective applicants. It goes on to say you should develop strategies to ensure high-level awareness of grants programs and your defence of that is to say that because the guidelines that you constructed were constructed in such a way that that therefore allows this secret fund? It is \$250 million of public money, Mr Hurst.

Mr HURST: The guidelines say that projects are identified by the New South Wales Government. Those councils who had projects identified by the New South Wales Government received the funding agreement for consideration.

The CHAIR: I think we will come back to this, Mr Hurst. But I will now hand over to the Government who have a brief round of questions, if wanted, before we have a short break.

The Hon. NATALIE WARD: Sure. The Hon. Trevor Khan?

The Hon. TREVOR KHAN: I always refer to you. You know that.

The Hon. NATALIE WARD: Thank you, Mr Hurst, for coming today. I just wanted to ask about the funds that had not had an application process. You briefly mentioned the Emergency Services Levy. Could you tell us about those and other circumstances where grants are given? I think you mentioned bushfires and I think you also mentioned the Emergency Services Levy.

Mr HURST: Sure.

The Hon. NATALIE WARD: What was the process? What was the criteria? Who was notified and how was it done?

Mr HURST: As part of the Government's local government stimulus package, which was announced in response to COVID-19, there was a funding package made available to councils to compensate them for the increase in the Emergency Services Levy at a time when many councils were facing revenue shortfalls and looking for ways to improve the way that they manage their budget. That program did not require councils to apply through

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the design of the guidelines. It was set up so that each council would be provided with a particular amount that equated to the amount of the increase in the Emergency Services Levy for them. The Government designed that program to make it as easy as possible for councils to receive the funding. There was a short funding agreement which was provided to each of those councils and upon returning that funding agreement, the councils were paid the amount. There was no need for them to provide an application.

The Hon. NATALIE WARD: That funding agreement—that form—did that have in it as part of that package one of those other documents that may or may not have the word application form on it? Is it the same format in these where the one thing was given to them as part of it?

Mr HURST: It was certainly a single document. Whether it used the word application or not, I cannot be sure but it is in the nature of an agreement—

The Hon. NATALIE WARD: A funding agreement.

Mr HURST: —between the council and the Government that provides the conditions which the money is being provided for. The obligations on the council which are principally around the use of the funds and the reporting. We try as much as possible to streamline those reporting requirements to make it easy for councils to use the money for the intended purpose. There is no need, by design, with payments made under the stimulus program for councils to submit applications and therefore no need for there to be an evaluation of the applications. The way that the program is defined—and the amounts that councils were eligible for—were determined and it went to councils on that basis. Similarly, the bushfire recovery amounts. The main amount was \$33 million paid to 33 councils. I am pleased to say that it was one of those opportunities where we are able to turn around that money very quickly.

Mr HURST: My recollection is that within two days of receiving the money OLG had paid those amounts out to the councils; councils who—this was in January of this year—were still in the midst of the bushfires and that funding was vital to allowing them to fund recovery and response arrangements in their community at that time.

The Hon. NATALIE WARD: Quickly. So turn it around quickly—here is the money, here is the form. It is all in one.

Mr HURST: Very limited guidance around the purpose of the fund. So recognising councils' autonomy and independence. Councils determined what they were able to use that funding for. It only had to be, and I think the words in the agreement were along the lines that it was for a purpose which council considered necessary to support the recovery of the local community from bushfires; so very, very broad criteria. I think in that case we actually managed to get it down to a single page that the councils had to sign and return, trying to minimise the administration necessary.

The Hon. NATALIE WARD: I turn to one other matter. We heard evidence this morning from Canterbury Bankstown and Inner West councils about funding that they received. I want to clarify those amounts. We seem to have mislaid \$10 million somewhere in Canterbury Bankstown council. I want to see if you are across those details because, as far as I understand it—I may have it completely wrong—there was an implementation fund of \$10 million for each merged council and then \$5 million for each of those councils that had been merged, so in the case of—

The Hon. TREVOR KHAN: No, no. Sorry, that is alright. You might be right.

The Hon. NATALIE WARD: I confess I am not an expert on this. I am happy to be corrected.

The CHAIR: Are we getting to a question?

The Hon. NATALIE WARD: We are. I am trying to clarify that my understanding is, and could you confirm or tell me if I am wrong, Mr Hurst, that Canterbury Bankstown received \$20 million with a breakdown of \$10 million for an implementation fund and \$5 million for each council—times two is 10, plus 10 equals 20. Am I incorrect in that understanding?

Mr HURST: Yes. My records suggest that Canterbury Bankstown council received a total of \$20 million in 2016 which was comprised in equal parts of Stronger Communities Fund and New Council Implementation Fund.

The Hon. NATALIE WARD: And that funding would be in their financial documents. It would be in their balance sheet, their budgets. You do not simply lose \$10 million, do you?

Mr HURST: Once again, one of these questions about why councils are different as grant recipients. The committee will probably be aware that the Auditor-General actually audits the accounts of all councils so the

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amounts that are being provided and the use that they are put to is also audited as part of the audit process. That would appear in their audited financial statements for that financial year.

The Hon. NATALIE WARD: Which they would have, presumably, at their fingertips, no matter who the mayor of the council is, whether it happened under a previous mayor or the current one.

Mr HURST: They are obliged to provide it as part of their annual report and, obviously, provide copies to us. We publish it on our website if anyone is having trouble getting hold of the financial statements for a council.

The Hon. NATALIE WARD: Alright. I might reserve some time for other things.

The CHAIR: Sure. Earlier the Committee resolved to have a short break in the middle of the hearing. If it is convenient we will have a 10-minute break now and return at 3.20 p.m., Mr Hurst.

(Short adjournment)

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Mr HURST: I have one matter I would like to clarify at the beginning which relates to a previous answer.

The CHAIR: Mr Hurst, before you clarify that matter, there is another matter I want to raise with you. I am remiss for not doing it earlier. In his opening statement, Councillor Byrne made certain statements in relation to yourself. The Committee has resolved, firstly, to not further interrogate either you or Mr Byrne about that matter today and, secondly, to give you procedural fairness by forwarding you some correspondence with documents we received and with the relevant extract from the hearing transcript and allow you to respond to that as you see fit. But not today—we do not intend to ask you any questions on that today.

The Hon. TREVOR KHAN: Unless he wanted to say something.

The Hon. NATALIE WARD: Yes, unless he would like the opportunity.

The CHAIR: Yes, unless you wanted to say something on the record, that matter having been raised this morning. I do not know whether you are aware of it.

Mr HURST: Yes. I would prefer to respond in time because the matter is before the tribunal now.

The CHAIR: Mr Hurst, there is no criticism of you for doing that. I think that is entirely appropriate, should you choose to do that. You will receive correspondence from us in due course in that regard. Having clarified those matters, I invite you to put something on record.

Mr HURST: Yes, the information I had about the more recent Standing Order 52, I said that Minister Tudehope had made those statements in the Legislative Council on 17 September. It was, in fact, on 16 September, so I would just like to clarify that.

The Hon. TREVOR KHAN: I do not think much will turn on that.

The Hon. COURTNEY HOUSSOS: I was trying to find them.

The CHAIR: Ms Houssos was right.

The Hon. NATALIE WARD: Yes, it was Wednesday.

Mr HURST: I do apologise.

The CHAIR: Mr Hurst, in answer to questions from my colleague, Ms Houssos, about who was eligible or not eligible for the tied grant round funding, do I understand your evidence to be that unless the Government chose a project for a council, that that council was not eligible even if they were subject to a merger proposal?

Mr HURST: Yes, the guidelines for the tied grants round make it clear that the tied grants round of the Stronger Communities Fund will provide funding for specific projects, identified by the New South Wales Government, within the new councils and to councils previously subject to a merger proposal. That was the guideline. In terms of the criteria for selecting projects, section 6 states:

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

It goes on with some further elements. What I am suggesting is that just because there were a number of new councils created in 2016 and further councils who were subject to a merger proposal, that eligibility, in fact, turned on whether or not there was a project identified by the New South Wales Government for that council.

The CHAIR: Mr Hurst, I am having trouble squaring that answer that you give now with the answer that you gave on 4 March 2020 when I asked you, and I read the transcript onto the record:

Could you, on notice, provide us a list of all the councils that were eligible for funding?

And you answered:

All of the councils who were eligible for funding were councils who were created in the 2016 mergers or affected by one of the merger proposals made during that period. That was your answer.

Mr HURST: I think the answer there is that these were all councils which were eligible to have a government-identified project in their local government area but, as we have already identified, there was not an application-based process; that the projects were identified and advised to the council and, at that point, they were provided with a funding agreement.

The CHAIR: Do I understand your evidence to be that this is your explanation for why Canterbury Bankstown was not on the list of eligible councils; because the Government did not identify a project in Canterbury Bankstown. Is that your evidence?

CORRECTED

Mr HURST: The Office of Local Government was not provided details of any projects in the Canterbury Bankstown local government area to fund under the program.

The CHAIR: No, are you saying that Canterbury Bankstown was not eligible? Is that your evidence?

Mr HURST: Eligibility was determined by where there were projects that were funded and I can confirm that there were no projects that were in the Canterbury Bankstown local government area that were advised to the Office of Local Government.

The CHAIR: So you are saying—I just want to be clear so that I understand your evidence—the reason that Canterbury Bankstown was not notified was because, in accordance with your evidence now, they were not eligible. Is that right?

Mr HURST: Under the guidelines, the Office of Local Government, in administering the program, only sent funding agreements to councils where we were advised of a project to fund at that council, and that was what we did.

The CHAIR: Are you saying, it is a simple question, that the reason Canterbury Bankstown was not notified about the funding round is because they were not eligible, is that your evidence?

Mr HURST: The reason that Canterbury Bankstown was not notified is because we were not notified that there were any projects to be funded in their local government area.

The CHAIR: You would say the same about the Inner West Council, I presume, that is why they were not notified?

Mr HURST: There were no projects advised to us for the inner west local government area.

The CHAIR: Therefore, is it your evidence that they were not eligible? I want that answered simply. Is it your evidence that those two councils were not eligible?

The Hon. TREVOR KHAN: He is entitled to answer the question as he sees fit.

The CHAIR: You can. But, is it your evidence that they were not eligible?

Mr HURST: Eligibility is quite clear in the guidelines that the role of the Office of Local Government in administering the grants is that we notified the councils that we were told were being provided with a grant within their local government area. That is the job of the Office of Local Government in administering the program.

The CHAIR: I am not asking about the Office of Local Government's job, I am asking about your understanding of which councils were eligible. Is it your evidence, yes or no or however you want to answer it, that the Inner West Council and Canterbury Bankstown were not eligible?

Mr HURST: I think the issue here is that the Office of Local Government is not the organisation that determined the eligibility. The eligibility was linked to there being projects identified by the Government.

The Hon. JOHN GRAHAM: But you are administering it.

The Hon. TREVOR KHAN: Order.

Mr HURST: The Office of Local Government is administering the program, we are not determining eligibility.

The Hon. COURTNEY HOUSSOS: But you trusted the guidelines.

The Hon. TREVOR KHAN: Point of order.

The Hon. NATALIE WARD: Whose turn is it?

The Hon. TREVOR KHAN: We are now on to ganging up with three members asking the witness questions, that is unfair on the witness.

The Hon. NATALIE WARD: He has been asked the same question three times.

The CHAIR: A simple way forward may be this: Mr Hurst, I will show you a document, which is the answer that the Minister gave to questions on notice to questions that were put to you at the last budget estimates hearing. You may remember the exchange. I was asking you whether there was a list at the time of councils who were considered to be eligible. You said, no. The guidelines instead talked of the councils who were eligible in terms of that more broad description about councils who were merged or subject to a merge proposal during that period. I said, "Having established that can you provide us with a list of those councils that you consider would

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have been eligible?" Your answer, very cooperative, "Yes, I am happy to do that." You see there is a list of councils. Could I suggest to you if you look at that list in the answers provided by your Minister you will find Canterbury Bankstown on the first page and if you look at the second page you will find the Inner West Council. Is your Minister wrong?

Mr HURST: With due respect, Mr Shoebridge, that is not what the answer says. The answer does state, as I have said, that the guidelines state that funding was to be provided for specific projects identified by the New South Wales Government to the new councils and councils subject to a merger proposal. The guidelines did not identify by name the eligible councils. What follows is a list of councils that were created in 2016 or subject to a merger proposal.

The CHAIR: Mr Hurst, you were asked can you provide us with a list of those councils that you consider would have been eligible. To which you said, yes. To which we get an answer which contains a list of councils, including Canterbury Bankstown and the Inner West Council. Are you saying that the answer given by the Minister is wrong?

Mr HURST: So, they would have been eligible if they had projects identified by the New South Wales Government within their local government area. But, they did not because we were not advised that those councils had projects in the LGA.

The CHAIR: Mr Hurst, I will put this proposition to you, that the answer you gave on 4 March 2020 was much closer to the truth than the answer you are giving now. For fairness I will suggest to you that the answer you are giving now is one of convenience because you realise how bad it looks that neither Canterbury Bankstown or the Inner West were advised of the guidelines. What do you say to that proposition?

Mr HURST: Mr Shoebridge, if you would like to put a specific question I am happy to, once again, take the question on notice. I believe I have clarified the answer that was given from the previous session. If you have a specific question that you feel has not been answered in the way that you would like I encourage you to do that and I will take it on notice.

The CHAIR: Mr Hurst, I want to be absolutely clear: when I say your answer is "convenient" I mean your answer is fabricated to produce an outcome and is not a true answer because you realise how bad it looks that neither the Inner West Council or Canterbury Bankstown were given notice. I want to be clear. I am suggesting to you your evidence is fabricated and I am giving you the opportunity to respond to that.

Mr HURST: Mr Shoebridge, we have already established that the Office of Local Government did not have a role in selecting the projects or the local government areas that were to receive funding. I cannot see what possible answer I can give you about whether or not either of those councils should have received funding. The answer is that under the guidelines we were told the councils that should receive funding and neither of those councils was on that list. That is the fact of the matter.

The CHAIR: Mr Hurst, the answer the Minister gave was correct. There were some 30-odd councils that were eligible to receive the funding but your office failed to notify a significant number of those councils. That was a failure on your part, was it not, Mr Hurst?

Mr HURST: Mr Shoebridge, once again, I have the answer in front of me, the Minister did not say that those councils were eligible. That is something you have read into this, that is not what the Minister said.

The Hon. JOHN GRAHAM: Mr Hurst, I was putting to you that, in fact, in relation to the tied grant funding grounds the Premier signed off more than half the value of these projects. On the last occasion you indicated you were not sure. Can you add any more information to that?

Mr HURST: No, I have not used the break to add those up.

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.

The Hon. JOHN GRAHAM: In the tied grant funding round of the \$252 million. Mr Hurst, I am returning to the issue that you have presented to Parliament, the funding agreements. The Office of Local Government has forwarded significant paperwork in response to the call for papers. You have put forward a set of paperwork that has been helpful to understand this fund. One thing that is not there and it is there in relation to other grants that this Committee will look at, but it is not here in relation to this fund, and that is a written signed approval for the grants. As you have said, you do not decide grants, you are doing the delegated financial approval

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and getting the money out. That is different to deciding on the grants. Where is the written signed approval that says these are the grants that we are choosing?

Mr HURST: In providing that expenditure approval under the Government Sector Finance Act, in each case you will find attached to that submission a copy of the instructions that notified the decision of the relevant decision-maker on each of those grants.

The Hon. JOHN GRAHAM: Exactly. I agree with that, you have attached those to the funding agreement. What you have provided is the funding agreement, the application form, and then the written instructions, we have referred to some of them today—

The CHAIR: —I do not think we have agreement on the application form, do we?

The Hon. JOHN GRAHAM: I will not dwell on that. A series of emails, some have been referred and presented to you today saying the Premier has signed off on this now, the Deputy Premier has signed off on this now, and those come to your office. Where is the signed approval from the Premier for these grants? It does exist for the decision-maker for other grants funds we are looking at.

The Hon. TREVOR KHAN: From the Minister, to be fair.

The CHAIR: The relevant Minister.

The Hon. JOHN GRAHAM: From the relevant Minister.

Mr HURST: That was not provided to the Office of Local Government.

The Hon. JOHN GRAHAM: You do not hold in your office a copy of the approval for these grants. A decision is made, all you have is a note from the Premier's office in this instance saying the Premier's in favour of this, proceed.

Mr HURST: What we have is guidance that the relevant Minister has made a decision to issue those amounts to those councils for those purposes, and, yes, that is the instruction that the Office of Local Government Act defines.

The Hon. JOHN GRAHAM: I agree with that. It is not unusual for the Premier's office or the Deputy Premier's office to email and say the Minister has signed the brief, action it. But, there is always a brief. It is fundamental to the grant process.

The Hon. TREVOR KHAN: Don't you have to ask as a question?

The CHAIR: Where is the brief?

The Hon. JOHN GRAHAM: Well other than in this instance there always is a brief.

The Hon. TREVOR KHAN: Well, you make that assertion. Don't you have to test it with this witness?

The Hon. JOHN GRAHAM: Are you really suggesting that these grants were approved in the Premier's office or the Deputy Premier's office without a written approval brief being signed?

Mr HURST: So the Office of Local Government did not prepare a brief for these matters. We were advised of the relevant projects, the council and the amount.

The Hon. JOHN GRAHAM: I accept that. You did not prepare one. Have you seen a written brief approving these projects other than the emails you have received.

Mr HURST: No, I have not seen a written brief.

The Hon. JOHN GRAHAM: Are you aware of a written approval brief being prepared?

Mr HURST: No, I do not know how many other ways I can answer this.

The Hon. JOHN GRAHAM: These are separate questions. You have been a frequent visitor over the course of this program to 52 Martin Place. In the course of those visits, have you seen paperwork from the Premier or the Deputy Premier signing off these grants as the formal decision-maker for the program?

Mr HURST: No, I have not.

The Hon. JOHN GRAHAM: Normally there would be a recommendation put in front of the decision-maker—in this case the Premier or the Deputy Premier. Did you provide a written recommendation for these grants?

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Mr HURST: No. The Office of Local Government have no role in the assessment or recommending of projects—

The Hon. JOHN GRAHAM: I think you have made that clear.

The Hon. TREVOR KHAN: Point or order—

The Hon. JOHN GRAHAM: I am agreeing with him.

The Hon. TREVOR KHAN: He has got to be allowed to finish his answer because it might be important.

Mr HURST: The Office of Local Government have no role in the assessment or recommendation of projects for funding or otherwise.

The Hon. JOHN GRAHAM: Are you aware of a recommendation being put in front of the Premier or the Deputy Premier to approve these grants? Did someone else drafted it?

Mr HURST: I am not aware of it if that happened.

The Hon. JOHN GRAHAM: You are administering the program and you are unaware of a recommendation about which grants should be approved, is that your evidence?

Mr HURST: My evidence is that we were advised of the successful projects that the decision-maker had agreed to fund. We then took the actions to proceed with developing the agreement, issuing the agreement, having it returned and making the payment to the council. That is the Office of Local Government's role in administering the program.

The Hon. JOHN GRAHAM: This is why I am struggling with it because we disagree with a range of the ways that these grants are being administered in other forms but there is a signed, written approval brief for the grants. Other rules are being bent—and we will come to those in future hearings—but there is always a ministerial signature over the top accepting responsibility for the grants, outlining who gets it and identifying who has made the decision. You have not seen anything like that in relation to this program distributing \$252 million?

Mr HURST: I have not seen that, no.

The Hon. JOHN GRAHAM: That is quite extraordinary. Are you telling me that the New South Wales Premier is signing off hundreds of millions of dollars verbally with her office emailing you the results? Is that what is going on here?

Mr HURST: I cannot comment on what the process was that led to those instruction emails being issued to the Office of Local Government. Our job was to act on them in administering the program.

The CHAIR: Surely you have an obligation to ensure that proper authorisation has been given? It is just a matter of basic audit record. How did you satisfy yourself that proper authorisation had been given? Did you just rely upon an email?

Mr HURST: Sure. The email in each case detailed the decision-maker and the programs consistent with the guidelines.

The Hon. JOHN GRAHAM: But that is different to any other—

The Hon. TREVOR KHAN: Point of order: Mr Hurst is partway through the answer.

The CHAIR: If you had not finished, Mr Hurst, please carry on.

Mr HURST: I am not sure what you are getting at. Are you suggesting that the emails were fraudulent? I do not understand what you are getting at.

The Hon. JOHN GRAHAM: I am suggesting that that is different to virtually every decision in Government where a Minister making a decision will have a recommendation put in front of them and then they will authorise it on a written brief.

The CHAIR: Normally with a signature.

The Hon. JOHN GRAHAM: With a signature and a date. That is fundamental to the process. What you are saying is that for this program you have never seen that.

Mr HURST: For this program—

The Hon. JOHN GRAHAM: You are administering the program and you have never seen it?

CORRECTED

Mr HURST: Yes, that is correct. The decision to go ahead with the payment was based on the information provided by the relevant Minister's Office about the decision that had been made.

The Hon. JOHN GRAHAM: And the Parliament—as you pointed out—has called for this written—It has called for a couple of things. You have referred to the guidelines but Parliament also asked for the written brief signing off these grants and the answer it got back from the Government in the statement from Minister Tudehope was delegated authority for the approval of the briefs for the allocation of funds was held by the chief executive of the Office of Local Government. The signed written briefs were included in the response to the initial order. What you have already agreed, and I think you are correct in saying this, is that is not the brief deciding who gets the grant, that is the funding agreement. Is that correct?

Mr HURST: That is the appropriation expenditure function. It documents the appropriation expenditure function—

The Hon. JOHN GRAHAM: Correct.

Mr HURST: —under the Government Sector Finance Act. I hold an appropriate financial delegation to incur that expense provided by the Minister. In each case, the papers document the process of using the appropriation expenditure function and the material that was provided to justify that administrative position.

The Hon. JOHN GRAHAM: Entirely appropriate but you are not pretending to decide these grants or sign off on the paperwork deciding these grants are you?

Mr HURST: No and I have given evidence previously that—

The Hon. JOHN GRAHAM: Correct.

The Hon. TREVOR KHAN: Let him answer.

Mr HURST: —the Office of Local Government had no role in deciding the grants.

The Hon. JOHN GRAHAM: He is getting this right. I was agreeing.

The CHAIR: Well put a stop to that immediately.

The Hon. JOHN GRAHAM: It raises the question if you are administering the fund and you have not seen an approval, could these really being verbally approved by the Premier in the office telling her staff to send an email to the OLG because that sounds fine—or the Deputy Premier doing that. You are unaware of any recommendation or any written brief?

Mr HURST: I cannot speculate on a process that I do not know about. We were advised of the projects. That information was used to inform my use of the appropriation expenditure function. The brief was signed, the funding agreement was issued to the council and then the payment was made when it was returned.

The Hon. JOHN GRAHAM: You are administering the fund and you have never asked to see that? You have relied on those emails throughout?

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?

CORRECTED

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 tied 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.

The Hon. TREVOR KHAN: I am concerned that what you are asking now maybe a very significant and very elaborate project to undertake. We should be alive that he is entitled to take it on notice but you are asking the witness to construct quite a complex document. If you are saying that has to be done within 21 days, that may be stretching the friendship.

The CHAIR: The witness has agreed to take it on notice so I think we will leave it at that. If there is some difficulty about timing, please let us know, Mr Hurst. I am for interrupting.

Mr HURST: Mr Shoebridge, I might take you up on that, depending on how the task progresses.

The Hon. COURTNEY HOUSSOS: I have a quick question, Mr Hurst. Earlier today, I think it was in response to a question from the Chair, you said that a grant had been turned around this year as quickly as the one to Hornsby council within a couple of days. What grant was that?

Mr HURST: This was emergency bushfire recovery relief payments to 33 councils that were natural disaster declared. It was in January of this year.

The Hon. COURTNEY HOUSSOS: Clearly a different situation. Mr Hurst, I want to clarify: The amount for Hornsby council that came out of the Stronger Communities tied grant funding, was that \$90 million or \$100 million?

Mr HURST: I believe \$90 million is the correct figure.

The Hon. COURTNEY HOUSSOS: Okay. Under point 8 of the guidelines, headed "Accountability and acquittal of funds", the third-last bullet point states:

Any interest received from the investment of the funds is to be added to the balance of the fund.

Is that referring to the tied grants community fund?

Mr HURST: In this case it is because it is in the tied grants guidelines.

The Hon. COURTNEY HOUSSOS: So that means that any interest incurred by the council on the funds that it receives are to be returned to the Government?

Mr HURST: No, it is not about them being returned to the Government. They are to be added to the balance of the money that the council applies to the purpose.

The Hon. COURTNEY HOUSSOS: Okay, so in the case of Hornsby council, which has \$90 million, or slightly less because it is yet to come back with the business case, it is allowed to keep all the interest that accrues. Is that right?

Mr HURST: Yes, so the guidelines specify that they have to actually be added on to the balance that they hold for these activities under the fund.

The Hon. COURTNEY HOUSSOS: Okay but that could mean that significantly more than \$90 million is actually being gifted to these councils or the individual amounts if they do not spend the money immediately. Is that correct?

Mr HURST: I do not know about significantly more but, certainly, if interest accrues on the amount then it gets added to the project balance. Costs also escalate depending on when matters are contracted and

CORRECTED

ultimately there is a section 10 which is about time frames, which also applies, and this is to ensure that councils, so far as possible, do undertake the expenditure in a timely fashion.

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.

The Hon. COURTNEY HOUSSOS: Mr Hurst, I want to ask you about the overall funding. Over 95 per cent of this funding went to electorates held by Liberal Party and National Party members. Can you explain why that is a fair allocation of the money?

The Hon. TREVOR KHAN: Point of order: Public officials are not to be asked to give opinions on matters of policy. To ask a public servant whether something is fair is really stretching the friendship. That is plainly an issue of policy. I am not being derogatory in this sense but this public servant is here to administer a scheme. He is not here to tell us whether he thinks the scheme is fair.

The CHAIR: Mr Khan, you need to rephrase your question. I will allow you to do so.

The Hon. COURTNEY HOUSSOS: Mr Hurst, can you explain why the guidelines drafted by your department led to this outcome?

Mr HURST: The guidelines and the process for approving the guidelines—it is a Cabinet document. I am unable, as a public servant, to discuss the Cabinet process that led to the approval of the guidelines. I think we have previously discussed the limitation that applies to me in discussing it.

The CHAIR: Mr Hurst, maybe we will come back and revisit this after the House has determined any privilege claim.

The Hon. COURTNEY HOUSSOS: Yes, I will reserve those questions for the future.

The Hon. TREVOR KHAN: It is going to be editorial comment on the scheme. We all accept that. Whether we agree on it is another thing but it is just a bit hard to try to extract it from this witness, with the greatest of respect to him.

The Hon. COURTNEY HOUSSOS: Mr Hurst, are you aware that if a council under your supervision wants to run a grants program, certain principles surround those grants programs?

Mr HURST: Yes.

CORRECTED

The Hon. COURTNEY HOUSSOS: What are those principles?

Mr HURST: I think that it is instructive to look at section 356 of the Local Government Act. It states:

- (1) A council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

That is a function that can be delegated so even though you have heard evidence about how grants go to the council, under the Act it is allowed to be delegated if certain conditions are met. Those are listed in section 377 (3) and, in that case—so, for example, that could be the allocation of council or mayoral discretionary funds—if those conditions under section 377 (3) have been met then they do not have to go to a council meeting. But, importantly, different councils have different approaches to how they administer grants and any decision to delegate the allocation of financial assistance, in accordance with section 377, where it is permissible, is at the discretion of the council concerned. Different councils will take a different view on how they run the grants programs. That is the guidance provided by the legislation on the grant-giving functions for councils.

The CHAIR: Mr Hurst, there was some anxiety in your office, particularly from your lawyers, that the simple email that you got from the Premier, indicating that the \$90 million had been approved for Hornsby council, was insufficient?

Mr HURST: Yes. You have seen the email that talks about needing some specific advice about that payment and the components of it.

The CHAIR: What did the lawyers say to you? Did they say, "Look, a simple email is hardly sufficient"?

Mr HURST: Sorry, Mr Shoebridge, I cannot discuss the legal advice that was received but, obviously, you did see that we requested some clarification and that clarification was forthcoming.

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.

The CHAIR: Mr Hurst, I will take you to document five in that bundle that I gave you. It is an email chain of three emails. The first is from you as the acting chief executive of the Office of Local Government on 27 June to Sarah Lau at the Premier's office. Do you see that at the bottom?

Mr HURST: Are we on the first page or the second page?

The CHAIR: The top of the email is on the first page. If you look at the bottom you will see there an email from you to Sarah Lau on 27 June 2018 at 4.01 p.m. Do you see the top of that email?

Mr HURST: Yes, I can see that.

The CHAIR: You say, "Hi Sarah, our lawyers have suggested it would help if we had something beyond your earlier emails to confirm the allocation. Would you mind sending me an email that says the following: Following the decision to revise the funding guidelines the Premier has determined to allocate to Hornsby Council out of the Stronger Communities Fund amounts of \$50 million for Hornsby quarry and \$40 million for Westleigh

CORRECTED

recreation area. Also, everything is on track to get them a funding agreement capable of being executed prior to tonight's council meeting." Do you remember sending that email?

Mr HURST: I do not remember sending the email, but certainly that is an email from me.

The CHAIR: You were concerned about the adequacy of the documentation you had received before you shelled out \$90 million to a council?

Mr HURST: I think it is clear from the first line that at that stage I had taken legal advice. Mr Shoebridge, I have undertaken to get back to you about the nature and the form of that legal advice. I have said I will take that on notice.

The CHAIR: Mr Hurst, the answer you got from the Premier's office is also contained on that page and it says, "Yes, the last I heard re the guidelines is that they were with Minister Upton to sign." That was often quite a long process, was it not, getting something off Minister Upton's desk?

Mr HURST: Sorry, is that a question?

The CHAIR: It was quite a long process to get things off Minister Upton's desk. Do you remember when Minister Upton signed the guidelines?

Mr HURST: No, I do not, Mr Shoebridge.

The CHAIR: It says, "The announcement will be tomorrow for this." Do you see that? Do you know if an announcement was made the following day?

Mr HURST: It is not apparent to me from the emails when the announcement was made, but I know it was in those couple of days at the end of the financial year.

The CHAIR: Then it says, "As mentioned, the quarry is being funded from ConFund under the budget rather than the Stronger Communities Fund. But, I understand both the quarry and Westleigh projects will be subject to the revised guidelines." Do you see that?

Mr HURST: Yes.

The CHAIR: What is "ConFund"? Is that consolidated?

Mr HURST: Yes, it is the consolidated fund.

The CHAIR: Then it says, "The 2018 budget allocated \$50 million to rehabilitate Hornsby quarry and the Premier has determined to allocate \$40 million from the Westleigh recreational area from the Stronger Communities Fund. Both of these projects will be administered by Hornsby council and will be subject to revised Stronger Communities Fund guidelines." Did you then approve \$90 million to go to Hornsby council on the basis of this?

Mr HURST: The basis of my approval is the email attached to be briefing note that provided the expenditure authorisation.

The CHAIR: I have jumped to the conclusion. Do you see there Sarah Lau asks you at the end of that email that she sent, in response to you, "Is this sufficient?" Do you see that?

Mr HURST: Yes, I can see that.

The CHAIR: Was it sufficient?

Mr HURST: I cannot see that there was a reply.

The CHAIR: Mr Hurst, that is not really a responsive answer to my question. Was it sufficient?

Mr HURST: Mr Shoebridge, I did not respond to that question in the email.

The CHAIR: Was the answer you got sufficient?

Mr HURST: I did not answer that question about whether it was sufficient or not.

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?

CORRECTED

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.

The CHAIR: Did you get any further communication from the Premier's office about this specific approval?

Mr HURST: I do not recall getting any further communication, no.

The CHAIR: You do not recall or you did not?

Mr HURST: I am sure that if there was a record of it that would form part of the decision-making it would be attached to the briefing note.

The CHAIR: Mr Hurst, following this email did you sign off on \$90 million going to Hornsby council?

Mr HURST: I signed off on \$90 million going to Hornsby council on the basis of the briefing note that attached a direction from the relevant Minister's office notifying the council of the amounts of the payment.

The CHAIR: Mr Hurst, you have all the documents there, I will give you the opportunity now to find that briefing note.

Mr HURST: Okay. Yes, actually it turns out I was already open on the right page from the last time we spoke about this. That email is provided as tab three to the briefing note.

The CHAIR: Would you hand that to the secretariat?

Mr HURST: The briefing note?

The CHAIR: Correct. And whatever is attached that you say you referenced. Mr Hurst, you did provide \$90 million to Hornsby council under the tied grant funding round, is that correct?

Mr HURST: Yes, the Office of Local Government provided Hornsby council with \$90 million under the Stronger Communities Fund.

The CHAIR: The recommendation that I see here is that the acting chief executive approved the grant payment in the amount of \$90 million to Hornsby Shire Council from the Stronger Communities Fund tied grant round. That is the key recommendation which you signed off on?

Mr HURST: You have my papers now, Mr Shoebridge.

The CHAIR: Yes. But, you see Mr Hurst, \$50 million of that did not come from the fund, it came from consolidated revenue and you knew that because you had the communication from the Premier's office identifying that. Can you explain how that happened?

Mr HURST: Is it about the source of funds or where they lodge once they come to the Office of Local Government, Mr Shoebridge?

The CHAIR: Mr Hurst, it is about the direct communication that you got from the Premier's office that \$50 million of this was coming from the consolidated fund and only \$40 million was coming from the Stronger Communities Fund, I took you to that earlier. I am happy to go back to it.

Mr HURST: The consolidated fund is the process that monies are allocated under the budget at which point it goes to a Minister and from there is able to be spent.

The CHAIR: Sorry, Mr Hurst, some \$50 million did not come from the Stronger Communities Fund at all. You were told that. You were told that the \$50 million for the quarry came from the consolidated fund. I am asking you how could you sign off on a recommendation—I will read it to you, "The acting chief executive approved the grant payment in the amount of \$90 million to Hornsby Shire Council from the Stronger Communities Fund"—all capitalised—"tied grant round.", when \$50 million did not come from that fund but came from consolidated revenue, a separate fund. How did you sign off on this approval?

Mr HURST: Mr Shoebridge, I think you are suggesting that the budget which is a process of allocating money is separate from where the funds lodge once they come to the Office of Local Government. You are imposing a distinction when none exists.

The CHAIR: No, I am simply putting to you that the fact that the Premier told you that \$50 million of this did not come from the Stronger Communities Fund. So I am giving you an opportunity to explain. If that is your answer, that is fine. But I am giving you an opportunity to explain.

Mr HURST: Perhaps if I can answer a different way. All of the money in the Stronger Communities Fund came from the Consolidated Fund when it was appropriated in the budget.

CORRECTED

The CHAIR: Yes. But we you give an authority to allocate generally from the Consolidated Fund or only from the funds that were put into the Stronger Communities Fund—your delegated authority?

Mr HURST: My delegated authority is to expend grant funding allocated from the Consolidated Fund to the agency.

The CHAIR: What Jim Betts said in correspondence last week, was that you had delegated authority for the approval of briefs for the allocation of funds within the Stronger Communities Fund, not from the Consolidated Fund. Are you certain that you had lawful authority to allocate the \$90 million as you did?

Mr HURST: Yes, Mr Shoebridge. All the money in the Stronger Communities Fund came from the Consolidated Fund. It is a source of funding not a fund administered by any particular agency.

The Hon. TREVOR KHAN: Before those papers get lost, is it possible—

The CHAIR: It is.

The Hon. TREVOR KHAN: —for them to be photocopied and the originals returned to Mr Hurst. I am assuming that they might be tabled in due course.

The CHAIR: Why don't we just as well now?

The Hon. TREVOR KHAN: If Mr Hurst can get his copies back as well in case there is further questioning on this point.

The CHAIR: Mr Hurst, was the \$90 million given to Hornsby council part of a negotiated outcome to assist a legal dispute between Parramatta council and Hornsby council over the provision of funds from Hornsby to Parramatta after the section of Hornsby council was transferred over to Parramatta?

Mr HURST: I understand there were negotiations between the two councils and the State Government.

The CHAIR: You were part of those negotiations Mr Hurst, you say it in the passive voice but you were part of that were you not?

Mr HURST: No, I was not part of the negotiations. I relayed information to the councils as it was provided to me.

The CHAIR: There was a legal stoush between Parramatta council and Hornsby council where Parramatta council was demanding the payment of millions of dollars from Hornsby council that they said were owed to Parramatta council after that section of Hornsby council was provided to Parramatta. Do you recall that legal action?

Mr HURST: Yes, I recall the court case.

The CHAIR: Can you recall how much Parramatta council was seeking to obtain from Hornsby council?

Mr HURST: No, I do not know what the amount was.

The CHAIR: You discussed this matter with the Premier's office, did you not?

Mr HURST: Yes, I would have discussed it with the Premier's office.

The CHAIR: Do you remember what discussions you had with the Premier's office in 2018 about the provision of grant funds to Parramatta council to resolve the dispute?

Mr HURST: I do not immediately remember the number but if it is in the emails, Mr Shoebridge, I would appreciate you pointing me there so we can move on to the discussion about it.

The CHAIR: Mr Hurst, I am going to ask you how much was agreed to pay to Parramatta council by the State Government to sort out that dispute? How much was agreed?

The Hon. TREVOR KHAN: Point of order—

The Hon. NATALIE WARD: Point or order: This is well and truly outside of the terms of reference. Legal proceedings between councils are nothing to do with these funds or Government grant programs. My submission is that the question is out of order?

The CHAIR: Yes.

The Hon. COURTNEY HOUSSOS: To the point of order: It has been widely reported that these funds were given as a result of a settlement to this dispute so if this was the causation of why this grant funding was provided then it is central to our inquiry. It is not outside of the terms of reference at all.

CORRECTED

The CHAIR: Yes. Given the payment was made under a grant or a funding agreement, it falls within the scope of the terms of reference.

The Hon. NATALIE WARD: Then I think the line of questioning should be confined to how it relates to the funding and the grant.

The CHAIR: I do note your point of order. Mr Hurst, I assume your office drafted the funding agreement that followed once discussions between the State Government and Parramatta council had concluded. You drafted the funding agreement, I assume?

Mr HURST: As with all of the tied grant round projects, the Office of Local Government drafted the funding agreement, yes.

The CHAIR: Do you remember how much was paid to Parramatta council to sort it out?

Mr HURST: No. But I have the documents here, Mr Shoebridge, or you can just tell me what was paid.

The CHAIR: By all means, if you want to find the figure. If it assists having gone through them myself, I find one agreement which has a grant application form signed by Parramatta council, which provides \$16 million for the development of a community hub in Epping and improvements to Dence Park, Epping. Is that right?

Mr HURST: Yes, I have found the funding agreement there. That is correct. The funding agreement offered the City of Parramatta Council \$16 million for improvements to Dence Park, Epping.

The CHAIR: Where in the guidelines did it provide that \$16 million could be given to a council to sort out a legal stash like this? Where would it provide for that in the guidelines?

Mr HURST: The guidelines said that funding could be provided to a council for projects nominated by the State Government. This is a project nominated by the State Government.

The CHAIR: So even though this was a sweetener to sort out the horrible legal stoush that occurred as a result of the failed merger policy, that was still covered by the guidelines simply because the Government identified a project? Simply by identifying a project, it came within the funding guidelines regardless of the purpose. Is that your evidence, Mr Hurst?

Mr HURST: My evidence is that it was open to the Government to make the payment to Parramatta council under the tied grants round of the Stronger Communities Fund and the Government did so.

The CHAIR: This is a helluva set of guidelines, Mr Hurst, that just seems to allow anyone to just drive a truck through it—a truck full of public money.

The Hon. TREVOR KHAN: Point of order—

The Hon. JOHN GRAHAM: Can I just propose we move on given the—

The CHAIR: Yes, I will withdraw that question.

The Hon. COURTNEY HOUSSOS: Mr Hurst, I want to continue on that point which is the first question I asked—

The Hon. TREVOR KHAN: I will get my point of order ready.

The Hon. COURTNEY HOUSSOS: —today was to establish that you drafted the guidelines, which was the evidence that you gave to budget estimates, is that correct?

Mr HURST: The Office of Local Government drafted the guidelines. I cannot comment, as we have covered previously, on the process of the draft guidelines being approved and what informed the guidelines because it is a Cabinet-in-Confidence matter.

The Hon. COURTNEY HOUSSOS: Okay. But in the course of your office drafting those guidelines, before it went to Cabinet, did you compare it with the DPC guidelines for grants programs or the National Audit Office guidelines for grants programs or against the guidance that you provide to councils about grants programs under your control? Did you compare it against any of those documents?

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?

CORRECTED

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.

The Hon. COURTNEY HOUSSOS: Mr Hurst, if you were to draft grant guidelines for this Government, would you usually consult with best-practice guidelines such as the DPC requirements for grants programs, the Australian National Audit Office recommendations, the recommendations that come from ICAC or even the existing guidelines that you impose on councils that are under your regulatory control?

Mr HURST: That is a hypothetical question, Ms Houssos.

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?

The Hon. JOHN GRAHAM: It may attract some attention, though, so be aware of that.

The Hon. COURTNEY HOUSSOS: I think he is well aware of that, Mr Graham.

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.

The Hon. JOHN GRAHAM: I turn to the question of the guidelines. I respect what you have said. I took a close interest in what the Government said in the Parliament. I accept that the Government is putting the view that this relates to the Cabinet. A decision about endorsing those guidelines, though, is sitting in front of us as an email from the Premier's office saying that three Ministers signed off on it. Those emails show who is approving. A question on notice from your agency has said that this was approved by a Minister, not by Cabinet. It is not usually a decision that the Cabinet would make and, crucially from my point of view, there actually was not time for Cabinet to decide this matter, given the dates that we have now been given today. Did this document go to the Cabinet?

CORRECTED

Mr HURST: Mr Graham, as I am sure you would appreciate, I am precluded—

The Hon. TREVOR KHAN: That is an outrageous question.

The CHAIR: We need to let Mr Hurst answer.

Mr HURST: I am precluded from discussing anything to do with the Cabinet process. There is quite clear guidance about the operation of the Cabinet protocols and the restrictions on public servants who are positively prevented from discussing Cabinet material, the Cabinet process or the process of decision-making.

The Hon. JOHN GRAHAM: I understand that that is your position.

The Hon. TREVOR KHAN: I think it is a legal decision; it is not his.

The Hon. JOHN GRAHAM: Can you tell me this, though, and this is important to your administration: Before you started ringing up councils, before you started sending out funding agreements, were the guidelines in place and approved before you commenced the program?

Mr HURST: I said the program was already running before the guidelines were changed.

The Hon. JOHN GRAHAM: Were the changed eligibility guidelines in place before you commenced that part of the program that related to the changed eligibility?

Mr HURST: The guidelines and the process for changing them is a Cabinet process, Mr Graham. I cannot discuss them.

The Hon. JOHN GRAHAM: Yes. I am not asking you about that. You have to be able to answer this. You are administering the program. Were the guidelines in place when you started sending taxpayers' money out the door?

The CHAIR: By "guidelines" you are referring to the amended guidelines for the tied grant round.

The Hon. JOHN GRAHAM: Yes, approved on 27 June 2018. Were they in place before you rang up Hornsby council at 5.00 p.m., or when the funds were announced the next day were the guidelines approved?

The Hon. TREVOR KHAN: Wait a minute. You have asked him at least two or three different variations on the theme. Your first question was: Were the guidelines in place before you sent out the funds?

The Hon. JOHN GRAHAM: I am happy to let the witness answer.

The Hon. TREVOR KHAN: I think it is unfair that you ask him—

The CHAIR: Mr Hurst, are you in a position to answer that question or do you need it broken down?

Mr HURST: I am explaining that I think that that is ultimately tied to the question of the process of approving the guidelines, which is a Cabinet process and I am not able to discuss it. I have said that I will take these matters on notice for referral to the Minister, which is what the guidance in the Premier's memorandum says I must do in these circumstances.

The CHAIR: But, Mr Hurst, Mr Graham has not ask you about the approval process. He has simply asked you about the timing and I think you are in a position to answer on the timing.

Mr HURST: The timing is linked to the approval process, Mr Shoebridge.

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?

CORRECTED

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.

The Hon. JOHN GRAHAM: An application form is fundamental to the establishment of the grants process and that is one of the reasons you are taking the position you are, is it not?

The Hon. TREVOR KHAN: Is that a question or an assertion?

The Hon. NATALIE WARD: Not for bushfires, that is not his position.

The Hon. JOHN GRAHAM: Is that correct?

Mr HURST: So, no. I have pointed out that there are numerous far bigger programs that are far more important to councils that do not have an application process and there are good reasons for those programs being administered that way. I do not think you will find any council offering to apply for funding for programs where they are going to get the money.

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.

The CHAIR: Mr Hurst, on behalf of Mr Graham, I am going to press the question because that is clearly beyond any reasonable reach of the Cabinet in confidence, the date on which guidelines were legally approved. Having pressed the question you may wish to take it on notice, but it is relevant to whether or not you come back.

The Hon. TREVOR KHAN: I will, however, again take a point of order. Not on the basis that Mr Hurst has advanced, essentially you are again asking this witness to express a matter of opinion on a matter of policy. It is a question you ask of a Minister, it is not a question you ask the public servant.

The CHAIR: I accept that this is not about the reasonableness or the terms of it, it is simply the date on which the guidelines were approved. It is not a question of opinion, it is a question of fact.

The Hon. TREVOR KHAN: I do not think that is what Mr Graham was going to.

The CHAIR: I think that would clarify matters, the date upon which the funding guidelines were approved. Mr Hurst, what date was it?

Mr HURST: Mr Shoebridge, any discussion about the process for approving the guidelines for the program which, of necessity, includes the date on which that occurred, is Cabinet in confidence and something that, as a public servant, I am precluded from discussing with the Committee.

The CHAIR: I will gift whatever time is necessary to Mr Graham to finish.

CORRECTED

The Hon. TREVOR KHAN: I was just going to say if you need an extra minute or two.

The CHAIR: I will give Mr Graham time from my questioning.

The Hon. TREVOR KHAN: There is a lot of kumbaya in this room as long as you are decent.

The Hon. JOHN GRAHAM: Mr Hurst, do you not think it is ridiculous that the Minister is turning up to make an announcement and the act he is performing as he announces the funding is to hand over the funding application? Do you not think that is indicative of how ridiculous this process is?

The Hon. TREVOR KHAN: I will take the point.

The Hon. JOHN GRAHAM: You will take your time back.

The Hon. TREVOR KHAN: No, I will not take my time back.

The CHAIR: You do not have to articulate it, I accept the point of order.

The Hon. NATALIE WARD: I have a different point of order, Chair. It is not the most ridiculous thing that Minister Roberts has ever done, let us get some context.

The CHAIR: I accept both points of order and I do not think that you can ask this witness to express an opinion. That may be your opinion and it may be my opinion, but we cannot ask Mr Hurst to adopt it.

The Hon. NATALIE WARD: It is certainly not mine.

The Hon. JOHN GRAHAM: Given the generous offers, I am going to skip through some of the things I think you have told us. Feel free to disagree with any of these. In relation to this grants program you have not seen and you are unaware of any recommendation or ranking in front of the decision-makers, the Premier or the Deputy Premier, of these projects prior to them making the decision; you have not seen that?

Mr HURST: I have answered that question already, Mr Graham.

The Hon. JOHN GRAHAM: Correct. There has been no publicity about this program and eligibility for it and the guidelines were not made public in terms of the councils who might apply?

Mr HURST: No, I have not said that, Mr Graham.

The Hon. JOHN GRAHAM: The guidelines were not made public other than being emailed?

Mr HURST: The guidelines were attached to every funding agreement that was issued.

The Hon. JOHN GRAHAM: I accept that.

Mr HURST: That is not correct.

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?

CORRECTED

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

The CHAIR: Mr Hurst, you must have known—

Mr HURST: The program is closed, Mr Shoebridge.

The CHAIR: —that the very real concern about the lack of notification about these guidelines would be a matter of some particular discussion in this Committee hearing and you are saying you have come here without being armed with the knowledge about how those guidelines were communicated, or not, to the public? Is that your evidence, Mr Hurst?

Mr HURST: My evidence, Mr Shoebridge, is I did not go to the website, either currently or look at historical versions of the website, and establish whether or not the guidelines were published on the website at that time, which is the evidence that Ms Houssos is asking me to give under oath here today.

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.

The CHAIR: Mr Hurst, do you agree that it is important that legal documents are accurate and correctly reflect reality, particularly when you sign them?

Mr HURST: Are you asking me to express an opinion here?

The CHAIR: No. In your then role as the acting chief executive officer of local government you would have ensured that the legal documents you are signing were accurate and reflected reality, they would not have falsities in them. That would be part of your obligations before you signed a document to ensure that they are accurate.

Mr HURST: Are you making a specific allegation that I signed a document knowing it to be false?

The CHAIR: I am asking you if that was your practice to ensure that legal documents you signed were accurate?

Mr HURST: Mr Shoebridge, it is not my practice to sign legal documents that are false.

The CHAIR: You signed these various funding agreements for the tied grants?

Mr HURST: I signed a variety of funding agreements, that is correct.

The CHAIR: Mr Hurst, it really would assist if you would answer my question more narrowly. It is much quicker. You signed these funding agreements for the tied grant rounds, did not you?

Mr HURST: Which one? Sorry Mr Shoebridge, you have one in front of you there.

The CHAIR: Did you sign on behalf of the Office of Local Government the tied grant funding agreements?

Mr HURST: I am happy to answer that for any specific agreement if you can direct me to one.

The CHAIR: Did you sign any of them, Mr Hurst.

Mr HURST: Yes, Mr Shoebridge.

The CHAIR: Why don't you show me one you signed? There would have been quicker ways to do this but we will do it this way. Which do you have, Mr Hurst?

The Hon. TREVOR KHAN: It is there.

The CHAIR: So this is the agreement with Queanbeyan-Palerang, is that right?

Mr HURST: It was the first in my folder.

The CHAIR: Signed by you.

The Hon. TREVOR KHAN: I have got to say that it did appear to be the first in his folder. He did not go searching.

CORRECTED

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.

The CHAIR: Mr Hurst, I would suggest that your evidence about there being no application forms, being amongst other things contrary to the document itself and to the signed legal document that you entered into, is simply not true and you are giving that evidence because you realise it is inconvenient for there to be application forms because so many councils were not in a position to provide an application because they were not advised. I am suggesting that to you, Mr Hurst, and I am giving you the opportunity to answer it on the record.

Mr HURST: I reject your statement about that. I do not know what more I can do other than, as I have done, to undertake to provide on notice information about how these agreements are constructed and how the elements fit together in a legal sense.

The CHAIR: On 8 June, Canterbury Bankstown council wrote to your then Minister, seeking access for additional funding because of the costs they had incurred as a result of amalgamation. Was that correspondence provided to your office to provide an answer on behalf of either the Minister or the Parliamentary Secretary?

Mr HURST: That is my understanding, yes.

The CHAIR: Did your office draft the answer that was eventually signed and delivered by Scot MacDonald, in his capacity as Parliamentary Secretary?

The Hon. TREVOR KHAN: He was a good Parliamentary Secretary too.

The CHAIR: He actually was.

Mr HURST: Once again, Mr Shoebridge, that is my understanding.

The CHAIR: The council advised the Hon. Courtney Houssos earlier today that they received the letter from Scot MacDonald on 31 July 2018. Would that accord with your understanding of timing?

Mr HURST: I have come prepared for this. I have the office's file copy of the letter but it is undated.

The CHAIR: Which is why I asked the council to clarify when it was received and they say it was received on 31 July 2018, is that your understanding?

Mr HURST: Sorry. I do not have that information. I have endeavoured to find out to be ready to answer this question for you.

The CHAIR: Could I suggest to you that that answer having been provided on the 31 July 2018 to the extent it said: The Minister has considered your request and is not able to provide additional new council implementation funds for Canterbury Bankstown council. Additional information or transition funding has not been provided to any metropolitan council. While some supplementary implementation funding has been provided to some regional councils, these councils initially received only half the level of funding provided to metropolitan councils to support merger implementation. In other words, it rejects the request for additional funding. Can I suggest to you, Mr Hurst, that in providing that answer without informing the council of the existence of the \$252 million tied grant funding, that the answer was misleading? What do you say to that?

Mr HURST: I have a copy of the letter here. I cannot see anything that is factually incorrect with the letter signed by the Parliamentary Secretary.

CORRECTED

The CHAIR: Given Canterbury Bankstown were asking for additional funding and given that they were a council that was intimately affected by mergers, how could you not tell them about the existence of a pool of funding of \$252 million expressly set aside for the council?

The Hon. TREVOR KHAN: Point of order: There is clear evidence before this committee that the round one funding was pursuant to a set of guidelines. Those guidelines were in effect acquitted. You are asking this witness to essentially make policy on the run, including in a letter form, which is beyond his remit. You are asking him to have made some sort of policy decision that because monies had not been acquitted in round one, it was up to him to say: "Hey Mr Blogs or Mr Bankstown council, you have got the money under round one but somehow I will make up a policy that says you are entitled to additional funding." That is entirely unfair on this witness to suggest he has done anything inappropriate at all.

The Hon. COURTNEY HOUSSOS: To the point of order: The timeline says that this letter provided to us by the council was sent on 31 July so the new funding agreement arrangements were in place. So therefore a public servant who is supposed to be providing apolitical advice without fear or favour to the general public should be able to say that there is \$250 million of public funding available that you would be eligible for under the criteria. It was a merged council—in fact it was the largest merged council—it was 370,000 people and they were asking for more funds. There was a fund of \$250 million sitting there, how is that not a question for a public servant?

The CHAIR: I might narrow the question.

The Hon. NATALIE WARD: You are cutting into my time.

The CHAIR: Mr Hurst, when the council wrote to your Minister and requested a meeting at your earliest convenience to discuss opportunities for further funding and support for council in its amalgamation—and that correspondence went on 8 June and was answered around 31 July 2018—how is it that that council was not advised of this pool of \$252 million that was being provided to other councils in similar situations? How is it that this was just not referenced?

Mr HURST: I do not know what you want me to say. The letter is factually correct as we have established. The paragraph that you have read is true. It is the Parliamentary Secretary responding on behalf of the Minister at that time.

The Hon. TREVOR KHAN: It is now 4.47 p.m.

The CHAIR: I am going to the Government.

The Hon. TREVOR KHAN: Could I suggest that the appropriate way to proceed—

The CHAIR: You take as much of his time as needed and it will not be otherwise occupied by other members.

The Hon. TREVOR KHAN: I therefore invite that we ask no questions and call it quits.

The CHAIR: Does the Government have any questions?

The Hon. TREVOR KHAN: No.

The CHAIR: There being no questions from the Government I suggest to other members of the Committee that we conclude today's hearing.

The Hon. JOHN GRAHAM: Very good.

The CHAIR: Mr Hurst, that concludes the questioning.

(The witness withdrew.)

The Committee adjourned at 16:48.