

**REPORT ON PROCEEDINGS BEFORE**

**PUBLIC ACCOUNTABILITY COMMITTEE**

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

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**At Parliament House, Macquarie Room, Sydney, on Wednesday 9 December 2020**

**The Committee met at 10:00.**

**PRESENT**

Mr David Shoebridge (Chair)

The Hon. John Graham  
The Hon. Courtney Houssos  
The Hon. Trevor Khan  
The Hon. Matthew Mason-Cox  
The Hon. Natalie Ward



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**The CHAIR:** Welcome to the fifth hearing of the Public Accountability Committee's inquiry into the integrity, efficacy and value for money of New South Wales Government grant programs. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I pay my respects to those Elders past, present and emerging and extend that respect to other First Nations people present. I do that as well on behalf of the members of the Committee. Today we will hear from former staffers from the offices of the Premier, the Deputy Premier and the former Minister for Local Government as well as Mr Tony Harris, the former Auditor-General of New South Wales.

I have expressed before as the Chair of the Committee that it is with reluctance that we bring former ministerial staffers before the Committee. Mr Crocker, I once again express our reluctance to bring you before the Committee. We are unfortunately required to do so because our express invitation to the Premier to come and attend and give evidence was refused by the Premier in correspondence as recently as 20 November 2020. It is not our preference to bring ministerial staffers before the Committee, but in the absence of clear documentary trails and in the absence of alternate methods of finding the truth we are compelled to adopt this course. We hope that you will be treated with courtesy and provide the information we need as best as you can.

Today's hearing is open to the public and is being broadcast live on the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses may say outside of their evidence at the hearing. I therefore urge witnesses to be careful about any comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry's terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. If witnesses are unable to answer a question today and would like more time to respond they may take a question on notice, in which case written answers to questions taken on notice are to be provided by 25 January 2021. To assist with audibility, please speak clearly into the microphones. As we have a number of witnesses in person and some by videoconference, it may be helpful to identify who questions are directed to.

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**MATTHEW CROCKER**, Former Policy Adviser, Office of the Premier, affirmed and examined

**The CHAIR:** Could you please give your current position and the former position in which you have been brought here?

**Mr CROCKER:** My current position is as a director of origination with the Plenary Group. I believe I have been brought here given my previous role as a director of policy in the Office of the Premier.

**The CHAIR:** Did you want to make a brief opening statement?

**Mr CROCKER:** I do have an opening statement to make. Thank you for inviting me to be a witness here today. As the Committee members may be aware, I am no longer employed in the New South Wales public sector and have not been so for 18 months. Prior to that point I had the role of policy director in the Office of the Premier. I was in that role from February 2017 to May 2019. In that role I oversaw the work of approximately eight policy advisers and gave advice to the Premier on a range of policy areas. In most areas my role was to generally oversee the work of others in the policy team, and I was not involved in the detail of most matters that the Premier's office dealt with. In fact, it would have been impossible to do so. As you might appreciate, it was a busy office and at any time there would be many issues that I was required to be across. I think it is also important to make clear that my role was not an executive role; it was an advisory role. I did not have the power or authority to make decisions on funding or government policy, and I did not do so.

In relation to the Stronger Communities Fund, I would make the following comments. Firstly, the Stronger Communities Fund was not a program run by the Premier, the Office of the Premier or the Department of Premier and Cabinet [DPC]. It was a program run by the Office of Local Government, oversighted by the Minister for Local Government. My expectation was that there were appropriate processes in place to administer this fund in line with general government practice. Secondly, the program was administered consistent with a decision of Cabinet. As noted in the Office of Local Government's briefing note of September 2017 that has been tendered to the Legislative Council, on 27 July 2017 Cabinet decided to redistribute remaining unspent merger funds to resolving outstanding issues from the merger process for both newly merged councils and councils that were subject to merger proposals, including the funding of court costs. To my understanding, the decision of Cabinet, as reflected in that briefing note, was that the funding was to resolve outstanding issues from the merger process and support councils that needed additional support through funding of identified projects in those council areas.

Thirdly, to my knowledge, the Premier's office did not have any real involvement in the program until about April 2018, about nine months after the decision of Cabinet was made in July 2017. As the Office of Local Government briefing note makes clear, the proposal from the Office of Local Government was to announce funds in September 2017 and for councils to provide delivery plans by December 2017. The briefing note also states that the funds had to be allocated in the 2017-18 financial year or by 30 June 2018. In about April 2018 it became clear that time frames were not being met and that the Cabinet decision was not being implemented in a timely way. At that point, the Premier's office became involved in supporting the Minister's office and the Office of Local Government in implementing the Cabinet decision.

To the best of my recollection, with the exception of one issue which I will come to, I did not have detailed involvement in the program or involvement in individual projects to be funded under this program. I gave general advice to the relevant policy adviser on how to deal with the issue. To my recollection, that general advice was to act consistently with the Cabinet decision and specifically that outstanding issues should be addressed in three areas: firstly, that there should be a focus on resolving significant outstanding issues from the merger process, which was predominantly the Hornsby council and Parramatta council issue; secondly, that there should be an equitable split between regional and metropolitan councils; and, thirdly, given that councils that had taken legal action were having their costs paid for by the Government, those councils that had not taken legal action but spent council funds preparing for mergers that did not happen had a reasonable expectation of compensation. In all three cases, this advice was consistent with my understanding of the Cabinet decision.

The only element of the program that I had particular involvement in was the funding provided to Hornsby council and the related issues with Parramatta council. As the Committee may be aware, as a result of the mergers the boundary between Hornsby and Parramatta council was shifted, which resulted in Hornsby council becoming smaller and losing significant revenue. I became involved in this issue around April of 2018. I cannot recall exactly how it came about, but it was not unusual for me to provide advice and support in complex issues where other ministerial offices needed additional support.

In terms of my involvement, I can advise the Committee that I sought advice from Hornsby council on their concerns and the general manager Steven Head. Mr Head provided an economic report from BIS Oxford

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Economics and a report from TCorp that explained their case. They were seeking in the order of \$280 million in compensation and provided a number of options to achieve this figure, including cash compensation as well as a number of projects that they claimed they would no longer have the capacity to fund as a result of the boundary change. They also raised their legal dispute with Parramatta about section 94 funds. I spoke with Sue Coleman, the acting general manager of Parramatta council, to understand Parramatta's perspective on this issue. To my recollection, the matter was considered as part of the 2018-19 budget process. As has been noted by this Committee, additional funding was provided by the Consolidated Fund to support Hornsby council, which delivered two regionally significant community open space and sporting facilities.

To the best of my recollection, I had a general discussion with the Premier about the Stronger Communities Fund when the issue originally came up in April 2018 and discussed my views on the Hornsby proposals with the Premier as part of the overall briefing on budget matters. Finally, I am aware that the Committee may wish to ask questions about the document management practices in the Premier's office. I am aware that there is an investigation underway under the State Records Act and by the Information and Privacy Commission into these matters. As such, I do not believe it would be appropriate for me to comment on those matters while those ongoing investigations are underway. To my recollection, there were appropriate document management processes in place in the office to comply with the State Records Act and training on compliance with the State Records Act. In any case, to my understanding, the documents in question have now been produced. I do not intend to make further comments on these matters, and I am happy to take any questions you may have.

**The Hon. JOHN GRAHAM:** I want to reiterate the Chair's observation that you have been called reluctantly because the Premier has declined this invitation. You correctly observe that you are not in an executive but an advisory capacity. I agree with that observation you have made. We will just hand you those documents—the documents that were shredded, the documents that were deleted from the Premier's office computer system. I just want to ask you some questions about those documents, which have now been produced to the Parliament. These are the working advice notes which were provided. Have you seen these notes before? Evidence has been given that you have seen these notes in another form. Is that correct?

**Mr CROCKER:** Yes. I went through the papers that have been provided to the Legislative Council under the Standing Order 52. I would say originally I may have seen this document on the way through to the Premier.

**The Hon. JOHN GRAHAM:** The evidence to the Committee has been the senior policy adviser prepared this, it went via you to the Premier and you would have seen it at that point. Is that correct?

**Mr CROCKER:** That was the general practice with these notes.

**The Hon. JOHN GRAHAM:** Understood. There is space on the working advice note, if you can see on the third page, for comments from the chief of staff or the policy adviser who is dealing with it. Did you write anything on that note as it went in to the Premier?

**Mr CROCKER:** I honestly could not recall on a note which was put together 2½ years ago. I could not give you a—

**The Hon. JOHN GRAHAM:** That is in relation to both of those notes; you cannot call whether you wrote on this note or not.

**Mr CROCKER:** I could not give you an answer that I could be certain whether I wrote on those notes or not.

**The Hon. JOHN GRAHAM:** The evidence from the chief of staff was that these notes went via you and that she did not review them before they went to the Premier. Is that your recollection?

**Mr CROCKER:** It depended on the context of the note. My recollection of the evidence was that it depended on the context of the note as to whether it came via me, whether it went via the chief of staff or whether it went via both of us.

**The Hon. JOHN GRAHAM:** I am not asking about the context. I just want to know about these two specific notes, these two working advice notes. Is that your recollection, to the best of your recollection, that these two notes went via you but not to the chief of staff?

**Mr CROCKER:** I honestly could not give you a considered recollection on two briefing notes from three years ago.

**The Hon. JOHN GRAHAM:** I do not want to ask you in detail about the shredding of the documents or the document management practices; however, you do have obligations to this Parliament and this

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parliamentary Committee. I simply want to ask you: When did you become aware that these documents had been shredded?

**Mr CROCKER:** I was not aware until the evidence that was provided before the Committee.

**The Hon. JOHN GRAHAM:** Can you give us any information about when these documents were shredded?

**The Hon. TREVOR KHAN:** The answer to that is nonsense. He has already given evidence that he was not aware until the evidence was given.

**The CHAIR:** I will allow the question because he may have had some information given to him since then.

**Mr CROCKER:** Mr Graham, as I previously said, there is an investigation underway under the State Records Act into these matters.

**The Hon. JOHN GRAHAM:** Have you been made aware, since you first became aware the documents were shredded, of the time when these documents were shredded?

**Mr CROCKER:** Sorry, I do not understand the question, Mr Graham.

**The Hon. JOHN GRAHAM:** Have you been told at any point since you first became aware these documents were destroyed, when they were destroyed?

**Mr CROCKER:** This is in the context of since the previous hearing?

**The Hon. JOHN GRAHAM:** Yes.

**Mr CROCKER:** No.

**The Hon. JOHN GRAHAM:** One of the questions here is about what the Premier wrote on these notes that have been shredded or we no longer have that document. We know the Premier wrote on this and made some notations. Do you recall what the Premier wrote on these notes?

**Mr CROCKER:** As I said, Mr Graham, these are matters from 2½ to three years ago. I do not have a recollection of specific comments on these notes.

**The Hon. JOHN GRAHAM:** The Premier's office for the best part of six months has said that these notes did not exist, there was not a record. That is the view they put in the upper House.

**The Hon. TREVOR KHAN:** No. I take the point of order. That is not correct. What they have indicated is that there were no documents to produce. Let us be fair about this.

**The Hon. JOHN GRAHAM:** You are entitled to that view. I am happy to constrain the question.

**The CHAIR:** Let us wait until the end of the question. Sometimes the end of the question might clarify the objection and then I will be happy to hear the objection.

**The Hon. JOHN GRAHAM:** I will start the question again to simply ask you this: Have you been contacted this year at any point by the Premier's office or by the DPC asking whether there was or was not paperwork in relation to this scheme?

**The Hon. TREVOR KHAN:** I will take the point of order and my point of order is this: This is an inquiry into the grants scheme. This is not an inquiry into an SO 52 and whether there has been compliance with the SO 52. This member says he wants to use his time up. He should deal with the matters that are directly before this Committee, which is the operation of the grants scheme, not a compliance with an SO 52.

**The CHAIR:** I do not need to hear any further. The question is in order. It is for the member to choose how he allocates his time. There is a limited amount of time here so as best we can we can use it for direct questioning and I think it is relevant to the terms.

**Mr CROCKER:** Sorry, could you repeat the question?

**The Hon. JOHN GRAHAM:** Did anyone from the Premier's office or DPC contact you this year to say, "Is there any paperwork for this scheme that allocated \$252 million of public funds?"

**Mr CROCKER:** No.

**The Hon. JOHN GRAHAM:** We have heard that this working advice note travelled from the policy adviser via you to the Premier. The senior policy adviser was not involved in direct discussions with the Premier.

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What discussions did you have with the Premier about the Stronger Communities Fund tied grants round? You have referred to one discussion. What discussions did you have with the Premier?

**Mr CROCKER:** As I said in my opening statement, Mr Graham, as I recall I had a discussion with the Premier about the Stronger Communities Fund in general terms when the issue came up in April. I discussed my views on the Hornsby proposals as part of the budget process in 2017-18.

**The Hon. JOHN GRAHAM:** So it was in April 2018. Where were you when that discussion occurred?

**Mr CROCKER:** As in what was the location?

**The Hon. JOHN GRAHAM:** Yes.

**Mr CROCKER:** I cannot recall. I had a lot of discussions with the Premier over the course of my time in the Premier's office.

**The Hon. JOHN GRAHAM:** Was it on the phone or in person?

**Mr CROCKER:** It most likely would have been in person.

**The Hon. JOHN GRAHAM:** In person. So it was likely in the Premier's office.

**Mr CROCKER:** As to whether it was at Parliament House or 52 Martin Place, I could not recall.

**The Hon. JOHN GRAHAM:** You have had no other discussions with the Premier about the Stronger Communities Fund other than that single discussion.

**Mr CROCKER:** As I said, Mr Graham, to be clear, there were two discussions that I recall about Hornsby council and the issues relating to that and the initial discussion about the Stronger Communities Fund in April.

**The Hon. JOHN GRAHAM:** When these notes went in, when the Premier signed these notes or marked on them in some way, you had no discussion at the time with the Premier about this scheme.

**Mr CROCKER:** I think that would have been duplication.

**The Hon. JOHN GRAHAM:** I am not asking you if it is duplication. I am asking did you have any discussion at that time?

**Mr CROCKER:** As I have said, they are the two discussions that I can recall.

**The CHAIR:** Mr Crocker, thank you for attending. Do you recall what discussions you had with Ms Lau about the grants program?

**Mr CROCKER:** Mr Shoebridge, as I said, the issue came up in April 2018. I gave general advice to Ms Lau about how the issue should be handled from my perspective. That was fundamentally that there was a Cabinet decision in place which gave guidance about how the fund was to be administered and that there were three areas where I considered that there were matters to be addressed. First of all, dealing with the outstanding issues, which were predominantly Hornsby and Parramatta council, the issue about the equitable split and the issues of those councils that had not taken legal action but had spent council funds on merger issues.

**The CHAIR:** Mr Crocker, do you recall giving a direction to Ms Lau as to how she would allocate the funds, how the funds would be allocated in terms of who she would consult with?

**The Hon. TREVOR KHAN:** I think they are two separate questions, Mr Shoebridge.

**The CHAIR:** Alright. Do you recall having a discussion with Ms Lau about the role of the parliamentary liaison team?

**Mr CROCKER:** Yes. To give some detail on that issue, the Cabinet decision, as I recall, was that projects should be identified in council areas that should be supported. One of the challenges was to identify those projects in council areas. So I suggested to Ms Lau that she talk to the parliamentary liaison team to find people who have relevant contacts with the relevant affected councils, who might be able to provide some advice on appropriate projects in those areas.

**The CHAIR:** When you say people, do you mean Coalition MPs?

**Mr CROCKER:** People who have contacts with the relevant local councils.

**The CHAIR:** Maybe you disagree with Ms Lau's recollection but Ms Lau's recollection was:

My former policy director—

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meaning you—

then asked me to speak to our parliamentary liaison team in the office to ask them to consult with relevant local MPs ...

Is Ms Lau's recollection right now that I put it to you?

**Mr CROCKER:** I cannot recall the exact nature of my discussion with Ms Lau. It would not be unexpected if the suggestion was to talk to the parliamentary liaison office that they would then contact MPs.

**The CHAIR:** And they contact Coalition MPs. That is the job of the parliamentary liaison team, is it not? They contact your MPs on the ground—that is their job.

**Mr CROCKER:** Yes.

**The CHAIR:** It was difficult to identify the projects though, was it not, to work out which projects should be funded? You said there was some difficulty in identifying the projects, in your earlier answers.

**Mr CROCKER:** So I think I said in my earlier answers that the Premier's office did not become involved until April 2018.

**The CHAIR:** You see, the Premier's office decided never to make an announcement to councils across the board who might be eligible, did they? There was no communication from the Premier's Office to councils in terms of a broad communication to councils saying, "Here is a quarter of a billion dollars. Does anybody want to apply for funding?"

**Mr CROCKER:** The Cabinet decision was in July 2017. That Cabinet decision was the responsibility of the Office of Local Government to implement. Decisions about whether the program should or should not have been announced are issues for the Office of Local Government. They did not involve the Premier's office in the discussion so I do not believe I can comment on that matter.

**The CHAIR:** Indeed, your proposal to Ms Lau was that Coalition MPs speak to their relevant councils that were proposed to receive funding about possible projects that could be funded. That was your direction to Ms Lau, was it not: for Coalition MPs to speak with their councils about proposed funding?

**Mr CROCKER:** As I said, my advice to Ms Lau was in this case, councils which were subject to merger proposals but were not merged had a reasonable expectation of compensation. If you looked at the nature of those councils and the electorates that those councils covered, they were predominantly councils which at that time were either held by Coalition MPs or joint Coalition and Labor MPs, so it seems like a reasonable way to connect with the councils.

**The CHAIR:** To only speak with Coalition MPs, Mr Crocker. That was your direction, was it not: Speak with Coalition MPs about this slush fund?

**Mr CROCKER:** My direction was to contact the councils and the relevant councils that were affected.

**The CHAIR:** And the contact was solely through Coalition MPs, Mr Crocker, was it not?

**The Hon. TREVOR KHAN:** Point of order: That is at least the fourth time the question has been asked and he has answered it three times. Fairly, Chair—

**The Hon. JOHN GRAHAM:** To the point of order: The member is entitled to press the question.

**The Hon. TREVOR KHAN:** He has pressed it three times—

**The Hon. JOHN GRAHAM:** He should answer the question.

**The Hon. TREVOR KHAN:** —and he has answered it.

**The Hon. JOHN GRAHAM:** Well, he should answer the question.

**The Hon. TREVOR KHAN:** And he has answered it.

**The Hon. NATALIE WARD:** He has done so. He has provided the answer. It just does not accord with your conspiracy theory.

**The CHAIR:** I will hear you one at a time. I will not hear two Coalition MPs and the Labor MP at the same time. Have you finished your point of order, Mr Khan?

**The Hon. TREVOR KHAN:** I have finished your point of order.

**The CHAIR:** Ms Ward, did you want to add anything?



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**The Hon. NATALIE WARD:** I agree with my colleague. The witness has answered the question three times fairly. I do not think it is fair to continue to press the question. Mr Graham's submission that he is not answering the question is just wrong; he has answered the question. He is trying to assist this Committee and if the questioner does not like the answer, that is a different proposition. You should move on.

**The CHAIR:** I have heard the objection but I am not persuaded that this witness has answered the question, so I am going to ask you again, Mr Crocker.

**The Hon. NATALIE WARD:** It is a conflict to rule on your own question anyway.

**The CHAIR:** Mr Crocker, you directed that this fund be distributed solely through contacts with Coalition MPs. That was your direction to Ms Lau, wasn't it?

**The Hon. NATALIE WARD:** That is not what he said.

**Mr CROCKER:** Mr Shoebridge, I do not think I would characterise my conversations in that way. As I said, I gave advice on how the issue should be dealt with when it came to the question about the councils who were appropriate to be funded under the program in my view. The question was how to contact those councils and to seek information from those councils about relevant projects in the council areas.

**The CHAIR:** Mr Crocker, do you understand if any non-Government MP was consulted by the Premier's office at any point about this slush fund?

**The Hon. TREVOR KHAN:** Point of order: The characterisation that you are putting on there is unreasonable and inappropriate.

**The CHAIR:** I will recast the question. Mr Crocker, do you understand whether or not any single non-Government MP was ever contacted by the Premier's office about this quarter-billion dollar pool of public money being allocated to councils?

**Mr CROCKER:** Mr Shoebridge, my concern was that the councils were contacted and that projects that were appropriate were able to be identified. The way that that communication happened, I was not particularly concerned with. It would have been my preference that it was done by the Office of Local Government prior to April 2018.

**The CHAIR:** Mr Crocker, are you aware of the Premier announcing some \$255,000 of these grant funds in the middle of the Wagga Wagga by-election?

**Mr CROCKER:** I am not aware of the project or what the \$255,000 would be. As I said, I was not involved in the detail of individual projects.

**The CHAIR:** You were working with the Premier's office on 17 August 2018, were you not?

**Mr CROCKER:** Yes.

**The CHAIR:** Yes. You would have been aware that the Premier made a press release on 17 August 2018, just a fortnight out from the Wagga Wagga by-election, where she announced \$255,000 of upgrades to Adelong, which is in Snowy Valleys Council and that was for the purposes of the Wagga Wagga by-election, was it not, Mr Crocker?

**Mr CROCKER:** To be honest, no, I cannot recall either the press release or the announcement.

**The CHAIR:** Do you recall, at any point, the Premier's office discussing using the Stronger Communities Fund for the purposes of campaign in the Wagga Wagga by-election?

**Mr CROCKER:** I think the evidence from Mr Hurst said that the regional grants were—effectively they had contacted the Deputy Premier's office on those grants and on those programs.

**The CHAIR:** So can you explain why on 17 August 2018, the Premier made the announcement of \$255,000 in grants funding using the Stronger Communities Fund?

**Mr CROCKER:** In my role in the Premier's Office as policy director, I generally did not tend to get involved in local announcements in local electorates. It was just not my role in the office to deal with those issues.

**The CHAIR:** If it was the Deputy Premier's remit, do you have any idea how it was that the Premier made the announcement in the Wagga Wagga by-election?

**Mr CROCKER:** As I said, Mr Shoebridge, I was not in charge of announcements in local electorates. It was not one of the things that was in my remit to be dealing with.

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**The CHAIR:** You had a number of discussions with Hornsby council about the fact that it felt effectively cheated by what happened in the amalgamation process, is that right? It felt it got duded.

**Mr CROCKER:** I do not think I would characterise it in those words, Mr Shoebridge. It is certainly true to say that Hornsby council was unhappy with the outcome of the merger process, and it had sought to raise that with Government since the decision in July 2017 not to proceed with that merger.

**The CHAIR:** The original deal for Hornsby was that it would give up part of Epping to Parramatta and then it would get to gobble up Ku-ring-gai Council in recompense. It was kind of a package deal put to Hornsby, was it not? You were in that amalgamation process; that was the package being offered to Hornsby, was it not?

**Mr CROCKER:** That was a decision of the Cabinet at the time. I do not think it is my role to comment on the policy decisions at that point in time.

**The CHAIR:** That was the original proposal, was it not? It gives up a part of Epping and then it amalgamates with Ku-ring-gai—that was the original proposal, was it not?

**Mr CROCKER:** That was, to my recollection, the nature of the proposal that the Government put forward.

**The CHAIR:** You have read the BT reports and the documentation that came from Hornsby about how it says that it was financially prejudiced. That was set out in some detail in those documents, Mr Crocker.

**Mr CROCKER:** Yes. Yes, I referred to that.

**The CHAIR:** Because it gave up Epping but did not get to get Ku-ring-gai, it felt that it had been short-changed by some \$279 million to \$295 million, did it not? That was its case.

**Mr CROCKER:** That was Hornsby's point that it made to the Government. That was its complaint to the Government—that the council was reduced in size and that had a significant financial impact on it—and it sought to quantify that, yes.

**The CHAIR:** Then Parramatta sued Hornsby council for some \$16 million worth of reserves that were allocated for Epping but Hornsby refused to hand over to Parramatta council. You know that because you have read the background documents, do you not, Mr Crocker?

**Mr CROCKER:** That is a statement of fact, as I understand it.

**The CHAIR:** Both these councils, Parramatta council and Hornsby council, had Liberal-dominated administrations at the time. That is a fact too, is it not?

**Mr CROCKER:** I actually do not know the make-up of the councillors on Parramatta council. In fact, actually, at the time of the decision to not continue with the—sorry, I am not aware of the political make-up of Parramatta council.

**The CHAIR:** Mr Crocker, I will put this proposition to you: You sat down with Hornsby council and Parramatta council, perhaps at different times, and organised a \$16 million State Government sweetener, using the Stronger Communities funds, to go to Parramatta council in order to sort out the legal dispute between the two councils, did you not? That is what you organised: a \$16 million tax-funded sweetener to stop these two councils litigating against each other.

**Mr CROCKER:** Mr Shoebridge, as the Cabinet of July 2017 made clear, the funds in the Stronger Communities Fund round were there to resolve outstanding matters from the merger process. My role in relation to Hornsby and Parramatta councils was to seek information from the councils so that the decision-makers in Government could make a decision on what they would like to do with those outstanding issues.

**The Hon. COURTNEY HOUSSOS:** Mr Crocker, I wanted to come to this question of the projects that were approved. I refer you to the testimony provided by Ms Lau to this Committee. I will read it directly to you. She said, on the subject of your actions:

... he advised me on the councils and the proposed funding splits ...

Is that accurate?

**Mr CROCKER:** Ms Houssos, as I said, my role and what I did was to give general advice to the relevant policy adviser on how to deal with those issues. I think I have covered the areas in which I gave advice on those matters.

**The Hon. COURTNEY HOUSSOS:** This is the heart of the question: How were these projects determined? I note in your opening testimony you talked about how you did not have an executive role, but there

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is really no clarity about who determined that these projects were in and these projects were out. Did you determine that these projects were in and other projects were out?

**Mr CROCKER:** I did not have a role in individual projects under this program.

**The Hon. COURTNEY HOUSSOS:** That does not actually marry up with what you have just been telling the Committee when it comes to the question of Hornsby council. You got quite involved in the question of Hornsby council. Is it your testimony that you only got involved in the allocation for Hornsby council?

**Mr CROCKER:** As I said in my opening statement, I was particularly involved in the issues in Hornsby and Parramatta councils. In the remaining council areas I gave general advice to the relevant policy adviser on how to deal with the issue.

**The Hon. COURTNEY HOUSSOS:** Who made the determination that this project was in and this project was out, that this council would get this money and the other council would not? Who made that determination?

**Mr CROCKER:** I think as I said, the role of the Premier's office in this process was to collate information and provide advice. As to the formal determination of which projects were funded, that was done by the Office of Local Government.

**The Hon. COURTNEY HOUSSOS:** No, that is not accurate, Mr Crocker. Your office—and you were cc-ed in on emails, as we have all seen, from Ms Lau saying, "These are the projects that will be funded and these are the projects that won't be funded". Who made that determination before Ms Lau sent those emails?

**Mr CROCKER:** I think, as the documents and the evidence to the Committee have shown, Ms Lau put together briefing notes that were provided to the Premier, and on the basis of those briefing notes then Ms Lau sent those emails.

**The Hon. COURTNEY HOUSSOS:** Yes, but those briefing notes came through you, Mr Crocker. Her testimony to this Committee is that you are the one who told her how to split up the funding. Are you saying that that is not the case?

**Mr CROCKER:** I think I gave a clear answer on the categories of council that, in my view, were appropriate to be funded given the Cabinet decision at the time. In implementing that advice, the councils would have fallen out of those categories, I would have thought.

**The Hon. COURTNEY HOUSSOS:** I will get to the question of the specific councils in a moment, but at the moment I am asking you about the specific projects. Who decided that this council would get this amount and that council would get that amount? Are you saying that it was Ms Lau's decision?

**Mr CROCKER:** No, I think it was actually just a factor of mathematics, Ms Houssos.

**The Hon. COURTNEY HOUSSOS:** I am sorry?

**Mr CROCKER:** I said I think it was a factor of mathematics. If you worked through the issues, there was funding that was determined as part of the budget process for Hornsby council and the related issues. There was an equitable split between regional and metropolitan councils, and there was this third category of other councils that were affected by the merger, had spent funds in preparation and had not merged.

**The Hon. COURTNEY HOUSSOS:** I am interested in your use of the language "equitable split". I do not think anyone could talk about an equitable split—

**The Hon. TREVOR KHAN:** Let us ask questions rather than engage in editorial comment.

**The Hon. COURTNEY HOUSSOS:** Okay. Mr Crocker, you are not answering the question. No-one can tell us—

**The Hon. NATALIE WARD:** No, he is, actually. Three times he has answered it.

**The Hon. COURTNEY HOUSSOS:** No-one can tell us who made the determination that this project would be funded and that project was not. Your contention that it was simply a question of mathematics is just not accurate. Are you saying that the way the fund was determined was that we said we were going to give this much money to Hornsby and then the rest would be divided amongst the councils that chose not to pursue legal action?

**The Hon. NATALIE WARD:** Point of order: The question has been asked, in slightly different ways, four times. The answer has been given that there were three categories. Even I have taken that much in, that they

## CORRECTED

are the categories. The witness has provided that answer three times now. I do not know what else he can assist this Committee with, and I object to the continual asking of the question if a member does not like the answer.

**The CHAIR:** I understand your point of order. We have very limited time with this witness, and we do not want to have to bring the witness back. Points of order that continue to be made suggesting that members cannot press a question when there has been a direct answer—

**The Hon. NATALIE WARD:** The question has been pressed three times. That is not a fair characterisation, Chair.

**The CHAIR:** —let me finish—that a member cannot press a question repeatedly when there has not been a direct answer—

**The Hon. NATALIE WARD:** There has been, three times: asked and answered.

**The CHAIR:** —I do not think have much merit. I will allow the member to ask the question again.

**The Hon. NATALIE WARD:** Well, she will get the same answer.

**The Hon. COURTNEY HOUSSOS:** Are you saying that it is a question of mathematics, that you said this amount of money—the vast majority of the fund—is going to go to Hornsby and the rest can be divvied up among the councils—

**The Hon. NATALIE WARD:** That is not what he said.

**The Hon. COURTNEY HOUSSOS:** —who are not challenging the mergers by legal action?

**Mr CROCKER:** Ms Lau put together the table based on that broad advice that I gave. That advice went through to the Premier, and the Office of Local Government made the final determination on projects.

**The Hon. COURTNEY HOUSSOS:** Mr Crocker, what you have just told us contradicts evidence from Ms Lau and from Mr Hurst that has been provided to this Committee. Do you understand that?

**Mr CROCKER:** In which way?

**The Hon. COURTNEY HOUSSOS:** I read you the direct quote. The councils and the proposed funding splits were provided by you. Ms Lau has said the proposed funding splits were provided by you.

**Mr CROCKER:** And I think I explained my advice on those funding splits and how they should—

**The Hon. COURTNEY HOUSSOS:** I have limited time so I am going to move on.

**Mr CROCKER:** —appropriately work.

**The Hon. COURTNEY HOUSSOS:** Mr Crocker, I want to ask you about the question of the councils who were actually eligible. You characterised this a couple of times: "in your view" the councils that were appropriate. That is correct, yes?

**Mr CROCKER:** Yes.

**The Hon. COURTNEY HOUSSOS:** And your characterisation—well, actually, let me read from the working advice note that has been reconstructed: "... for metro local councils who engaged constructively in the merger process." What does engaging constructively mean? Does that mean not legally challenging it?

**Mr CROCKER:** So, they were Ms Lau's words, not my words. As I said, there was a category of councils who had spent funds and had prepared for the merger process using council funds. For the councils that had taken legal action, they were fully compensated for that legal action and those councils were not out of pocket. For the councils that had not taken legal action but had spent money on preparation, those councils unless they received some form of compensation, those councils would have been worse off under this process so they had a reasonable expectation of compensation.

**The Hon. COURTNEY HOUSSOS:** I think that is a rewriting of history, Mr Crocker, because—

**The Hon. NATALIE WARD:** Well, no. I take objection to that characterisation of the answer. The witness is entitled to be treated under clause 19 of our resolution with courtesy. That was not what he said.

**The CHAIR:** The member is entitled to contest an answer. I did not treat that as discourteous but I think it is a robust contest. The member is entitled to contest answers given by witnesses without being interfered with—

**The Hon. NATALIE WARD:** They should also be accurate.

**The CHAIR:** —without being unduly interfered with.

## CORRECTED

**The Hon. NATALIE WARD:** We don't want accuracy getting in the way!

**The Hon. COURTNEY HOUSSOS:** Mr Crocker, I put it to you that the largest merged council of Canterbury-Bankstown was not told about this fund, despite not challenging it legally, despite writing to the Minister and asking for additional funding.

**Mr CROCKER:** On Canterbury-Bankstown, the merger happened so there was no legal challenge. They received funding under the previous round of the Stronger Communities Fund and I think even the letter that Canterbury-Bankstown wrote to the Minister for Local Government when I looked at it said that they were the most efficient council in the State and that they had acted effectively in putting the merger in place. In that context, there was a Cabinet decision that said there were outstanding merger issues that should be dealt with.

**The Hon. COURTNEY HOUSSOS:** They get \$6 million and Hornsby gets \$90 million. That is a fair and equitable carve-up. Is that really your testimony, Mr Crocker?

**The Hon. NATALIE WARD:** That was not his testimony.

**Mr CROCKER:** And in the case of Canterbury-Bankstown, my recollection under the previous round of the fund was they were eligible for \$20 million.

**The Hon. TREVOR KHAN:** Indeed.

**The Hon. COURTNEY HOUSSOS:** I am going to move on because I have limited time. I would like to ask you, Mr Crocker, did you ever meet with the Mingara Recreation Club during your time in the Premier's office?

**Mr CROCKER:** No, I do not know where the Mingara Recreation Club is.

**The Hon. COURTNEY HOUSSOS:** Okay. Mr Crocker, the Mingara Recreation Club received funding under the Stronger Communities Fund and this has been spoken about by the Premier in Parliament. Are you aware of this project?

**Mr CROCKER:** Can you assist me by telling me where the Mingara Recreation Club is?

**The Hon. COURTNEY HOUSSOS:** The Mingara Recreation Club is in the electorate of The Entrance.

**The CHAIR:** Tumbi Umbi, I think.

**The Hon. COURTNEY HOUSSOS:** The Central Coast Council. Thank you, Chair. They received \$425,000 for athletics track resurfacing.

**Mr CROCKER:** I am sorry, what is the question about the Mingara Recreation Club?

**The Hon. COURTNEY HOUSSOS:** Are you aware of this project funding?

**Mr CROCKER:** No. I think even in Mr Hurst's evidence, the projects in the Central Coast Council were under the advice of the—

**The Hon. TREVOR KHAN:** Of Laura Clarke.

**Mr CROCKER:** —of Laura Clarke.

**The Hon. COURTNEY HOUSSOS:** Yes, and we will ask Ms Clarke some questions about this later, I am sure.

**The Hon. TREVOR KHAN:** She is out the front now.

**The Hon. COURTNEY HOUSSOS:** But I am asking you, Mr Crocker, if you ever met with the Mingara Recreation Club.

**Mr CROCKER:** Right. I think I have answered that question.

**The Hon. NATALIE WARD:** For the second time.

**The Hon. COURTNEY HOUSSOS:** Okay.

**The Hon. JOHN GRAHAM:** One of the reasons my colleague is asking about this is that on 22 June 2018 this club had dinner with the Premier and David Elliott and donated to the Liberal Party. Were you aware they had done that?

**The Hon. TREVOR KHAN:** Oh, this is outrageous.

**The Hon. NATALIE WARD:** So what?

## CORRECTED

**The Hon. TREVOR KHAN:** The witness has indicated he does not know anything about the project. You cannot use your question in the way you are. That is outrageous. It is unfair to this witness and it is inappropriate as a member of the Committee.

**The CHAIR:** I will deal with the point of order. The witness has said that he is not aware of the Mingara club and he has not met with the Mingara club. I will allow this line of questioning about the dinner—if he is aware of a dinner—but I think after that, we might get back on.

**The Hon. JOHN GRAHAM:** One of the reasons I am asking about the Central Coast is the electorate of Terrigal—

**The Hon. TREVOR KHAN:** Point of order: He is entitled to ask a question but what he is doing is not asking questions. He is seeking to use this inappropriately in some sort of weird narrative. Now, there is a limited amount of time. It should be used to ask this witness questions.

**The CHAIR:** There is a limited amount of time. To the extent a short preamble assists in understanding the question, a short preamble is acceptable. But it is about questions, not about statements.

**The Hon. JOHN GRAHAM:** The electorate of Terrigal received 23 grants. The electorate of Gosford received one. The electorate of The Entrance received one for this project. Wyong and Swansea got zero. Is the reason that this project in The Entrance received funds because they donated to the Liberal Party? What discussions did you have with the Deputy Premier's office, if any?

**Mr CROCKER:** I have no recollection of these matters at all. As I said, I had no involvement in the individual projects to be funded under this program and the funding for projects in the Central Coast. It was considered a regional council for the purposes of this fund and they were matters dealt with by the Deputy Premier's office in consultation with the Office of Local Government, to my understanding.

**The Hon. JOHN GRAHAM:** The working advice notes that are sitting in front of you have behind the heading "Premier's comments" these three options: "Approved, Noted or Not approved". Do you recall which of those three options the Premier chose in relation to these two notes? Did she approve them, not approve them or note them?

**Mr CROCKER:** As I think I answered earlier, Mr Graham, on notes from two and a half years ago I cannot recall what the Premier wrote on the notes. I think you can draw your own conclusions.

**The Hon. JOHN GRAHAM:** The Premier says she has been consulted about this scheme but you agree that this note asks her to approve or not approve these grants. You agree that that is clearly what is on these notes in front of you?

**The Hon. NATALIE WARD:** Or noted. "Approved, Noted or Not Approved". There are three options.

**The CHAIR:** Mr Crocker?

**Mr CROCKER:** The purpose of the notes was to make sure that the Premier was aware of the support that we were giving in terms of this program. It was not unusual for the Premier to want to be briefed on matters which affected local electorates and local MPs. She generally did not like to be in a position where an MP may raise something with her that the office may have been working on and she was not aware of it.

**The Hon. JOHN GRAHAM:** But you agree this note is not for her information. This note that passed through you—these two notes—asked the Premier to approve, to note or not approve this fund, these grants, this specific allocation of funding?

**Mr CROCKER:** Mr Graham, if it was a formal approval of funding for projects, it would have been the normal practice, in my expectation, that there would have been a briefing note that came through from the Department of Premier and Cabinet in the vast majority of situations or, in unusual situations, from another department and that would have been the context of an approval for the project.

**The Hon. JOHN GRAHAM:** Yes.

**Mr CROCKER:** That was not the case of these notes.

**The Hon. JOHN GRAHAM:** And that is what is incredibly unusual about this scheme, is it not? Two hundred and fifty-two million dollars is spent. There is no departmental brief, not from DPC, not from the Office of Local Government. Do you agree with that observation, which has clearly been made by others?

**Mr CROCKER:** That is a matter for the Office of Local Government about how they administer the program.

## CORRECTED

**The Hon. JOHN GRAHAM:** Yes, but you never saw a brief.

**The Hon. TREVOR KHAN:** Let him finish.

**The Hon. NATALIE WARD:** Let him answer.

**Mr CROCKER:** My expectation on all of the programs that the Government undertook was that there are appropriate governance and approval processes in place.

**The Hon. JOHN GRAHAM:** The note from Sarah Lau relating to Hornsby's log of claims says this:

Matt and I met with the general manager of Hornsby council today to discuss the council's log of claims and the cost of these projects. Matt Kean also attended this meeting.

It then goes on to say at the next dot point:

As per your instruction—

That is the Premier's instruction—

we are now progressing the other council claims out of this funding.

This does not say that the Premier has been consulted. This says the Premier has instructed that the council claims be paid out of this funding. Does this not show that the Premier is centrally involved in the allocation of these funds?

**Mr CROCKER:** As I think I said in my opening statement, I had a conversation with the Premier early in the Premier's office involvement in this program where I advised her of the issue and the fact that there were in the order of \$150 million of funds outstanding under this program and to see whether she had particularly strong views on the issue. As I recall, the general perspective that she gave—consistent with the points here—is that, if Hornsby Council is a significant issue which was holding up everything else, you should seek to progress the advice on both issues in parallel rather than waiting to resolve Hornsby before resolving all of the other issues.

**The Hon. JOHN GRAHAM:** But do you agree it was the Premier's instruction to pay the council claims out of this funding?

**Mr CROCKER:** I do not think that is what the briefing note says and I do not think that was my recollection of the conversation with the Premier.

**The Hon. JOHN GRAHAM:** I will give you another document. The Premier's defence is, "Yes, this went to a range of Coalition seats." In fact, 95 per cent of this funding went to Coalition seats. She says, "It went to other electorates as well. It went to electorates like Balmain, Heffron and Maroubra."

**The CHAIR:** It did not go to Balmain.

**The Hon. JOHN GRAHAM:** That list that is in front of you is a list of the electorates with the projects where the money was spent. There is no Balmain, there is no Heffron and there is no Maroubra. Can you identify the projects that the Premier is talking about where money was spent in these electorates?

**The Hon. NATALIE WARD:** Point of order: Just before you answer that, I would just like to clarify the provenance of this document. Who has prepared this? Where has this come from?

**The Hon. JOHN GRAHAM:** This was prepared off the information that has been made available to the Parliament.

**The Hon. NATALIE WARD:** So you have prepared this.

**The Hon. JOHN GRAHAM:** Yes.

**The Hon. NATALIE WARD:** Your office has prepared this document.

**The Hon. JOHN GRAHAM:** Correct—based on the information that has been provided.

**Mr CROCKER:** I cannot review a document that has just been handed to me of several pages, but to make some comments in response to the question: When you look at the councils who were eligible for funding under this program and the electorates that they were in, about 85 per cent of the councils who were affected were either in Coalition electorates at the time or joint Coalition and Labor electorates. To the point about Inner West Council and Bayside Council, I think they are examples of successful mergers. I do not think anyone is claiming—

**The Hon. JOHN GRAHAM:** I will not ask you to move to that. I will simply ask you this: There is no project in Balmain, there is no project in Heffron and there is no project in Maroubra. The Premier is claiming this. Can you tell us, do you know of any project in any of those electorates?

## CORRECTED

**Mr CROCKER:** Mr Graham, my advice on the program was to administer in accordance with the Cabinet decision on the matter and that was to deal with outstanding issues in the merger process.

**The Hon. JOHN GRAHAM:** And do you accept that, based on your advice, 95 per cent of that money ended up in Coalition electorates?

**The CHAIR:** Mr Graham, your time has finished. Mr Crocker, the reason there was no funding for Balmain and the reason there was no funding for Heffron is because the communication scheme devised by you meant the member for Balmain and the member for Heffron were cut out of the loop and were never told this funding was available. Is that right? The member for Balmain and the member for Heffron never knew about the funds.

**The Hon. TREVOR KHAN:** No, that is two questions.

**The Hon. NATALIE WARD:** It is also not accurate.

**The Hon. TREVOR KHAN:** Point of order: You either ask that he developed the communication scheme or you ask what somebody else was or was not told.

**The CHAIR:** Mr Crocker, we established earlier that you developed the communication scheme. You told Ms Lau where to go and how to communicate about the funding. We established that earlier, is that correct?

**Mr CROCKER:** That is not correct, Mr Shoebridge.

**The Hon. NATALIE WARD:** Have her seek information.

**Mr CROCKER:** I think, as I said earlier, the Cabinet decision was made in July 2017. The administration of the program and the communications of that program were a matter for the Office of Local Government and the Premier's office only got involved some nine months later.

**The CHAIR:** The only communications that came out of the Premier's office because of the direction you gave to Ms Lau were communications that went to Coalition MPs. Is that correct?

**Mr CROCKER:** As I answered that question previously, that was a matter of how to contact and find appropriate projects for councils which were under those categories that I have discussed earlier.

**The CHAIR:** Mr Crocker, you know full well sitting there that the reason that the member for Heffron, the member for Balmain and their constituents never got a red cent is because they were never told because there was a politicised communication scheme coming out of the Premier's office. You know that, do you not?

**The Hon. TREVOR KHAN:** Again, I will take the point of order—

**The Hon. NATALIE WARD:** No, that is entirely unfair. It is just wrong.

**The CHAIR:** Well, I am going to press the question.

**The Hon. TREVOR KHAN:** No, I will take the point of order and you will hear it—

**The CHAIR:** I will hear it.

**The Hon. TREVOR KHAN:** You are asking two questions at once. You can ask the first part but then you load on a further question on the end, and it is unfair on the witness to load him up in that way.

**The Hon. NATALIE WARD:** And it is factually incorrect.

**The Hon. JOHN GRAHAM:** To the point of order: I am just going to indicate that I will be moving an extension of time for this witness if there are continuing points of order.

**The Hon. NATALIE WARD:** We are entitled to take a point of order.

**The Hon. TREVOR KHAN:** You can have this whole thing blow up, John. It is reasonable that this witness be asked questions but the questions have to be fair.

**The Hon. NATALIE WARD:** And factually correct.

**The CHAIR:** I hear your objection, but simply for comity—there is no merit in the objection—I will endeavour to break it up.

**The Hon. TREVOR KHAN:** I am happy with comity.

**The CHAIR:** Mr Crocker, it was a politicised decision to only inform Coalition MPs, was it not?

**The Hon. NATALIE WARD:** You are just trying to get your grab for television now.



## CORRECTED

**Mr CROCKER:** Mr Shoebridge, the scheme was administered in accordance with the decision of Cabinet and the decisions about communicating the nature of the program was a matter for the Office of Local Government.

**Mr DAVID SHOEBRIDGE:** The only communications that came out of the Premier's office for this \$255 million pool of public funding went through Coalition MPs. Did they not, Mr Crocker?

**Mr CROCKER:** I would not characterise that as communications; it was a request for information from councils.

**Mr DAVID SHOEBRIDGE:** The only request for information went to Coalition MPs, Mr Crocker.

**Mr CROCKER:** Mr Shoebridge, we were trying to contact relevant councils.

**The CHAIR:** Mr Crocker, the Premier has accepted that this was a pork-barrel scheme. Do you accept the characterisation from the Premier?

**The Hon. NATALIE WARD:** No, it is not within his purview.

**Mr CROCKER:** I do not think it is my role here, Mr Shoebridge, to give an opinion or a reflection on the Premier or the Premier's comments.

**Mr DAVID SHOEBRIDGE:** Well you were the person who directed Ms Lau as to how she would go about communicating for this fund. Is that correct?

**Mr CROCKER:** I think I have given clear answers on those questions.

**Mr DAVID SHOEBRIDGE:** Because of the highly politicised nature of that direction, this was a pork-barrel scheme from day one, was it not, Mr Crocker?

**Mr CROCKER:** Mr Shoebridge, I gave the relevant advice to the policy advisor on the relevant council areas which were affected in line with the decision of Cabinet.

**The CHAIR:** Mr Crocker, have you got a document there that has got "(7) (a) 6" on the top right-hand side?

**Mr CROCKER:** Yes.

**The CHAIR:** This is one of the deleted and shredded briefings that went to the Premier. Can I be clear? Ms Lau says she did not give these directly to the Premier. Would you have been the conduit that got these to the Premier's office and into her actual in-tray?

**Mr CROCKER:** That was a usual process, yes.

**The CHAIR:** So it is more likely than not that you were the conduit. Is that correct?

**Mr CROCKER:** Yes.

**The CHAIR:** Do I understand that it is your evidence that the Premier was not approving projects? That was the job of the Office of Local Government. Is that your evidence?

**Mr CROCKER:** Yes.

**The CHAIR:** Do I understand that you had an assumption that there were appropriate approval processes in place? Is that your evidence?

**Mr CROCKER:** I have, in my experience of dealing with the New South Wales public sector—there were generally appropriate processes in place to manage funds and the expenditure of public monies.

**The CHAIR:** That would normally require some sort of a merit assessment of a project—if it actually had merit.

**Mr CROCKER:** I do not think it would be fair to characterise—there were different ways and different rules under each different program. The rules relating to this program were put together by Mr Hurst and the Office of Local Government.

**The CHAIR:** Signed off by the Premier.

**Mr CROCKER:** Signed off by the Minister for Local Government and seeking the concurrence of the Premier, yes.

**The CHAIR:** There was no merit assessment. Was no merit assessment of projects unusual?

## CORRECTED

**Mr CROCKER:** I could not comment on the usualness of that across any number of different programs. I have not taken a survey of the different approval regimes of different schemes.

**The CHAIR:** But you accept that these guidelines had no merit analysis and that no project had to have an actual analysis of its merit.

**Mr CROCKER:** The program was administered in line with a decision of Cabinet and the structure and organisation of the guidelines was a matter for the Office of Local Government. I worked on the basis that they did their job diligently and professionally.

**The CHAIR:** Before you would have handed a document given to you by Ms Lau to the Premier, it would have been your usual practice to read it and ensure that it was of an acceptable standard at least to go to the Premier, I assume.

**Mr CROCKER:** Generally, yes.

**The CHAIR:** You would double check. I suppose you would pay particular attention to any recommendations.

**Mr CROCKER:** I would generally review the notes, yes.

**The CHAIR:** I will take you to this (7) (a) 6 document. You see on the first dot point on page 1. It says:

There is \$25.34m in funding to spend on open spaces projects for metro local councils who engaged constructively in the merger process.

Where does this concept of "engaged constructively in the merger process" come from? Is that in the guidelines?

**Mr CROCKER:** Mr Shoebridge, as I said, I gave advice to Ms Lau on how to interpret the Cabinet decision on councils which were affected by the merger process—or impacted by the merger process, if you like. There was a category of those councils who had spent funds in preparation for the merger process. Those councils received no compensation because, if they had taken legal action, that legal action would have been compensated. If they had undertaken works in preparation for the merger that did not happen, they received no compensation.

**The CHAIR:** None of that is in the guidelines. It is your evidence that the money was allocated in accordance with the actual approved guidelines, not in accordance with your general assumptions about what was behind Cabinet. I assume it is your evidence that the money had to be allocated in accordance with the guidelines.

**Mr CROCKER:** The source of the authority in my recollection was the decision of Cabinet as the representative of the elected Government. I sought to practically implement that decision of Cabinet. That was implemented and reflected through guidelines which were not put together by me. They were put together by the Office of Local Government.

**The CHAIR:** Mr Crocker, you know that part of the political analysis in the Premier's office was to punish even Coalition councils that had stood up, like Ku-ring-gai Council, to the forced merger proposal. That was part of the idea, was it not?

**Mr CROCKER:** Mr Shoebridge, as I have explained, there was a category of councils that had expended ratepayers' money on preparing for a merger that did not happen. For councils such as Ku-ring-gai, they had spent ratepayers' money on legal action. They had recovered the cost of that legal action and that was not the case for other councils.

**The CHAIR:** They were not going to get any funding on open space projects because, in the eyes of the Premier, they had not engaged constructively in the merger process. They had actually fought back for their residents. They were being punished, weren't they?

**Mr CROCKER:** I have given evidence on my advice on those proposals and I would not disagree with that characterisation.<sup>1</sup>

**The CHAIR:** Can I take you to the last page of the document? This is a document that you agree you most likely reviewed and most likely read and handed to the Premier. Do we agree on that?

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<sup>1</sup> In correspondence to the committee dated 22 December 2020 Mr Matthew Crocker requested that the word 'not' be omitted from this sentence. He intended to say: 'I have given evidence on my advice on those proposals and I would disagree with that characterisation'.

## CORRECTED

**Mr CROCKER:** I did not say I handed it to the Premier, but it would have gone through me into the Premier's office.

**The CHAIR:** See the first recommendation to the Premier that says, "Approve the proposed funding at Table 1". Do you see that?

**Mr CROCKER:** Yes.

**The CHAIR:** That is an accurate reflection of what was happening. The Premier was there to approve the funding.

**Mr CROCKER:** Mr Shoebridge, if it was a formal approval process, I would have expected that there was a briefing note from either the Department of Premier and Cabinet or the Office of Local Government which gave formal authorisation for funding. That was clearly not the case in this matter.

**The CHAIR:** Mr Crocker, the truth is that, if it was anything other than a gross, politicised, pork-barrel use of public money, you would expect that. But because this was a gross, politicised, pork-barrel use of public money, this is what went in front of the Premier.

**Mr CROCKER:** Mr Shoebridge, as I think I have explained, when you look at the councils that were affected by the merger proposals, they were predominantly affected in Coalition or shared Coalition and Labor seats. It was a program which was administered under a decision of Cabinet and it was a program administered under that decision by the Office of Local Government.

**The CHAIR:** Mr Crocker, if you look at this last page, the funding has been approved. The money has all been approved even before the finalised guidelines have been signed off by the three relevant Ministers. This was all back to front, was it not, Mr Crocker?

**Mr CROCKER:** I would disagree with that characterisation, Mr Shoebridge.

**The Hon. NATALIE WARD:** After a Cabinet decision, Mr Crocker—thank you for your assistance today. I have one quick question, if I may. It is incorrect to say that some councils did not receive anything. Perhaps in the tied grants, but in the earlier round the members for Heffron, Maroubra and Rockdale posed with a photo with a check in hand from the Stronger Communities Fund at the Deli Women & Children's Centre. Are you aware of that?

**Mr CROCKER:** I am aware that those merged councils received significant funding under the earlier rounds of the program, as they were entitled to. The Cabinet decision on the subsequent fund was to deal with outstanding issues. Those councils had received previous significant funding—

**The Hon. NATALIE WARD:** They had.

**Mr CROCKER:** —under that program. You could characterise those councils as successful merged councils.

**The Hon. NATALIE WARD:** And it is quite a reasonable expectation that they would not receive anything in the second round because they had received it in the first round. They had proudly posed with the check.

**Mr CROCKER:** Yes, indeed.

**The Hon. NATALIE WARD:** Are you aware that the member for Granville posted a post on Facebook about the fantastic news that the Granville Centre had finally opened, thanks to funding from this program. You are aware of that.

**Mr CROCKER:** I am aware that Cumberland City Council received funding under the program. They are a successful council and a vast improvement on the previous councils that were there beforehand.

**The Hon. NATALIE WARD:** Yes. Non-coalition seats. Can we go to—I think we talked about Balmain earlier. The member for Balmain let the Inner West Council know that the Village Church Annandale received funding to create an open village garden. Are you aware of that one?

**Mr CROCKER:** I am aware that the Inner West Council received funding under this program and, of course, also in that area. The new park on top of the Rozelle rail yards is going to be a significant improvement to open space in that part of the world and that is a significant and expensive investment by the Government in open space in that area.

**The Hon. NATALIE WARD:** So it is entirely incorrect to characterise—

**The Hon. JOHN GRAHAM:** Point of order, Chair.

## CORRECTED

**The Hon. NATALIE WARD:** You have had your time.

**The CHAIR:** But I heard your point of orders. I will hear Mr Graham's point of order.

**The Hon. JOHN GRAHAM:** I just want to make it clear for the record that these are separate grant systems, given the crossover in the question.

**The Hon. NATALIE WARD:** I made that very clear at the outset that the reason that there was nothing in the second round—

**The CHAIR:** That is not a point of order. Back to you, Ms Ward.

**The Hon. NATALIE WARD:** Well, it is entirely appropriate, because they were already provided for in the first round.

**Mr DAVID SHOEBRIDGE:** Ms Ward, I have already ruled that it is not a point of order. You are entitled to ask your questions.

**The Hon. NATALIE WARD:** I am asking, if I may. It will just take more time. My final one, Mr Crocker, is in relation to a non-Coalition seat which received money, countering the allegation that no non-Coalition seats received anything. That is the seat of Strathfield. Burwood Council received funding to deliver upgrades to Henley Park. Are you aware of that?

**Mr CROCKER:** Yes, I am.

**The Hon. NATALIE WARD:** Would you say it is a fabulous project and well worthwhile? It is non-Coalition.

**Mr CROCKER:** Absolutely. To be clear, the Burwood Council is a clear example of a category of councils that had spent money in preparation for a merger. When that merger did not occur, they had a reasonable expectation that they should get some kind of recovery from that. That was a category that they were part of.

**The Hon. NATALIE WARD:** Thank you. I would be remiss if I did not mention Georges River Council. It is in the Kogarah electorate, if I am not mistaken, which is non-Coalition. It received funding of which Hurstville Oval was the recipient. Are you aware of that one also?

**Mr CROCKER:** Yes.

**The CHAIR:** If you are confusing the two different rounds, we are talking about the tied grants round.

**The Hon. NATALIE WARD:** No, I am not confusing anything.

**The CHAIR:** This is not the \$255 million tied grants round.

**The Hon. NATALIE WARD:** If I can ask my questions, Chair. I made the point at the outset that there was no missing out. They received money in the first round.

**The Hon. COURTNEY HOUSSOS:** Before the witness departs, he said that \$20 million was provided to Canterbury-Bankstown council. We should clarify that it was actually \$10 million.

**Mr CROCKER:** If I can comment on that, there were two elements of the fund. There was a New Council Implementation Fund, which as I recall was in the order of \$10 million, and the Stronger Communities Fund in the order of \$10 million. Combined, the council received \$20 million in funding. In fact, the letter that Canterbury Bankstown Council wrote about this issue was requesting funding under the New Council Implementation Fund.

**The CHAIR:** Yes. Thanks, Mr Crocker. That was in the earlier funding rounds, as you correctly point out.

**Mr CROCKER:** Yes, that is right.

**The CHAIR:** Thank you for your assistance. I do not recall any questions taken on notice but if there were, the secretariat will contact you and you have until 25 January to get back to us.

**(The witness withdrew.)**

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CORRECTED

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**LAURA CLARKE**, Former Deputy Chief of Staff, Office of the Deputy Premier, sworn and examined

**The CHAIR:** Welcome back to the hearing of the inquiry into integrity, efficacy and value for money of New South Wales Government grants programs. Do you want to give a brief opening statement?

**Ms CLARKE:** Yes, please. I understand that I am here today at the request of the Committee to provide evidence on the Stronger Communities Fund. I no longer work for the New South Wales Government. I left the Office of the Deputy Premier over 18 months ago, where I previously served as deputy chief of staff between November 2016 and April 2019. I no longer have access to any documents from my time there. The Stronger Communities Fund was administered by the Office of Local Government, an agency that did not report to the Deputy Premier and sits outside of his portfolio responsibilities and, therefore, outside of my duties as a member of his staff. It is my understanding that the Deputy Premier was not the approver of the fund. To the best of my knowledge, I have been asked to attend today as the documents provided to this Committee include correspondence between myself and the Office of Local Government or emails relating to the Stronger Communities Fund that I am cc-ed on.

The Deputy Premier often received funding requests for projects from MPs, councils or community groups. The majority of those were supported via the Regional Growth Fund. In relation to the Stronger Communities Fund, I recall the Deputy Premier having the opportunity to provide feedback for projects for regional councils impacted by the mergers. To the best of my recollection I was advised by Tim Hurst, CEO for the Office of Local Government, to email these projects through to him indicating the Deputy Premier's support. My understanding was that these were to be considered with other projects that other newly merged councils had applied for. After this conversation with Mr Hurst, I undertook the following: I informed the Deputy Premier of my conversation with Mr Hurst. Local MPs were asked to bring forward potential projects for councils impacted by the mergers. I encouraged the local MPs to speak with relevant councils in obtaining these projects. The Deputy Premier's office received funding requests from local MPs or councils impacted by the mergers via email or correspondence to the office. I would then run the projects past the Deputy Premier verbally, before sending them to Mr Hurst. I believe that I also copied the Premier's office and Minister Upton's office into these emails.

It is my understanding that responsibility for approval rested with the Minister for Local Government or Office of Local Government. As I understand, eligible projects were approved by the CEO, Mr Hurst. The projects that I sent to the Office of Local Government were all for regional councils impacted by the mergers. Many of these councils were enduring a crippling drought, which meant that the investment in those projects required urgent attention. The funding provided would have made a significant impact. My recollection is that only a small proportion of the Stronger Communities Fund went to regional projects and that the emails I sent to the Office of Local Government were not part of the decision-making process. To my knowledge, this was undertaken by the Office of Local Government.

**The Hon. JOHN GRAHAM:** Thanks for appearing, Ms Clarke. Have you seen the table that was distributed by the Office of Local Government that sets out each of the grants in this fund, including who was responsible? We will give you a copy of that now. This has been provided to the Parliament. It sets out each of the grants, who authorised the cheque, who sent the cheque out—normally the Office of Local Government—who identified the project and who conveyed the project identification. In most instances the Deputy Premier or the Premier identified the project. It says "Project identification conveyed by" and then in the case of regional councils, it is usually the deputy chief of staff or director of policy. That would have been your role, if I understand what you have told us.

**Ms CLARKE:** Correct.

**The Hon. JOHN GRAHAM:** Yes. You were conveying that the project that had been identified in some way.

**Ms CLARKE:** Yes. As I said in my opening statement, Mr Hurst had asked for those projects to be passed on to him.

**The Hon. JOHN GRAHAM:** Yes. In your opening statement, you have reiterated the view that you believe that the Deputy Premier was not approving these grants. Is that correct?

**Ms CLARKE:** That is correct.

**The Hon. JOHN GRAHAM:** That is obviously disputed. We are still hunting for the person who approved this grant. No-one will own up to it but you are reiterating your view. The Deputy Premier actually goes further than that in his public comments. He says, "Firstly, the Stronger Communities Fund is not a fund that I administer." He is clearly involved in the administration of this fund in some way.

CORRECTED

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**Ms CLARKE:** That is not how I understood it.

**The Hon. JOHN GRAHAM:** So you want to put the view to the Committee that the Deputy Premier is not involved in any way in the administration of this fund.

**Ms CLARKE:** That is how I understood it.

**The Hon. JOHN GRAHAM:** Thank you for that evidence. You have described the process that took place. The projects are identified and you run them past the Deputy Premier verbally. If I understand you correctly, you are saying to us that there is no paperwork and no brief that the Deputy Premier signs at any point in relation to those projects.

**Ms CLARKE:** That is correct.

**The Hon. JOHN GRAHAM:** Unlike in the Premier's office, where two working advice notes allocated \$141.8 million of public funds and the Premier wrote on those notes, in the Deputy Premier's office there was simply no paperwork altogether.

**Ms CLARKE:** I cannot speak for the process that was in the Premier's office, but in the Deputy Premier's office there were no documents of that type.

**The Hon. JOHN GRAHAM:** So for basically the balance of the fund—a couple of grants were approved by the Minister for Local Government and the Premier approved \$141 million, but the rest of the \$252 million going out to regional councils was simply approved with no paperwork.

**Ms CLARKE:** I did not understand—sorry, my understanding was that the Deputy Premier was not the approver of those projects.

**The Hon. JOHN GRAHAM:** Did you ever see a brief, though, from the Office of Local Government that came to the office that said, "Here are the projects, the Deputy Premier might sign this," or, "Here are the projects that should be approved or would be approved."? There was no departmental brief?

**Ms CLARKE:** No, no brief.

**The Hon. JOHN GRAHAM:** That is quite unusual, is it not? For any government decision, there is almost always a government department brief.

**Ms CLARKE:** And that is why I stand by the fact that the Deputy Premier was not the approver of this fund.

**The Hon. JOHN GRAHAM:** So no government brief from the Office of Local Government, no government brief from the Department of Premier and Cabinet, and the bit you were dealing with then—at no point was there any paperwork where these projects were selected, or where the amount of money was allocated between councils in the Deputy Premier's office?

**Ms CLARKE:** No, that is correct.

**The Hon. JOHN GRAHAM:** We have touched on the Central Coast Council—

**The Hon. TREVOR KHAN:** Well, she may not know that.

**The Hon. NATALIE WARD:** Not in her evidence.

**The Hon. JOHN GRAHAM:** I am informing the witness that we have touched on the Central Coast Council. I want to put to you some of the facts around that. This came via the Deputy Premier's office, not the Premier's office. In the Central Coast Council area, the grants fall into these electorates: Twenty-three of them ended up in the Coalition electorate of Terrigal, one of them ended up in The Entrance, one in Gosford, none in Wyong and none in Swansea. They almost all ended up in Coalition electorates there. Do you know who made the decision to allocate almost all of that money that went to the Central Coast Council to the Coalition electorate?

**Ms CLARKE:** That is a matter for the Office of Local Government.

**The Hon. JOHN GRAHAM:** Are you saying they made that decision?

**Ms CLARKE:** As I explained in my opening statement, the office—either through myself—spoke to local MPs about putting forward projects. A number of projects were put forward from the local member, Mr Crouch, and those were passed on to the Office of Local Government, as requested. The decision around allocations or approval rests with the office.

**The Hon. JOHN GRAHAM:** There is a range of MPs in this council area, but in the Central Coast area, Adam Crouch, the Liberal MP, was the only MP consulted, is that correct?

## CORRECTED

**Ms CLARKE:** The only MP that I consulted.

**The Hon. JOHN GRAHAM:** That you consulted, yes. And Mr Crouch naturally said, "Well, give all the money to my electorate."

**Ms CLARKE:** That is a matter for Mr Crouch.

**The Hon. JOHN GRAHAM:** Well, it is also a matter for the public interest, but Mr Crouch's advice was, unsurprisingly, "give all the money to Terrigal." About \$425,000 went to The Entrance, \$200,000 to Gosford, \$4,875,520 went to Mr Crouch's electorate of Terrigal. There was no money to Wyong, no money to Swansea. Mr Crouch was clearly in favour of that, but who decided that? Who decided Mr Crouch was right and that he should get all the money?

**Ms CLARKE:** That is a matter for the Office of Local Government.

**The Hon. JOHN GRAHAM:** Are you saying the Office of Local Government made that decision?

**Ms CLARKE:** Yes.

**The Hon. JOHN GRAHAM:** Because they dispute that. You are saying they did? They decided to give that money to the electorate of Terrigal?

**Ms CLARKE:** The role of decision-making and approval rested with the Office of Local Government.

**The Hon. JOHN GRAHAM:** The Office of Local Government heavily disputes that. They say they were told which grants were provided. Can you give us any more detail about why you think they made this decision to give the money to Terrigal?

**Ms CLARKE:** I cannot speak for them.

**The Hon. JOHN GRAHAM:** What discussions did you have with the Premier's office or the Premier's team about the Central Coast allocation?

**Ms CLARKE:** I do not recall any conversations.

**The Hon. JOHN GRAHAM:** With the Premier's office?

**Ms CLARKE:** Correct.

**The Hon. JOHN GRAHAM:** What other discussions did you have about the allocation of funding in relation to the Central Coast Council? Was it just with Mr Crouch?

**Ms CLARKE:** Yes. I do not recall any conversations with the Premier's office surrounding the Central Coast.

**The Hon. COURTNEY HOUSSOS:** I wanted to ask you specifically around this question of whether the Deputy Premier was approving projects or not, and I have got an email that I specifically would like to draw your attention to. I have got copies for you and for the Committee members here. Originally an email from Mr Hurst was sent to you and to Alysia Smith, who I understand works in the electorate office of Mr Barilaro. It says:

... Laura can you please confirm for our audit records that the Deputy Premier has approved these project allocations to the Councils.

**The Hon. NATALIE WARD:** I am sorry, I do not want to interrupt, but I cannot follow where this is in this document that you have just tendered.

**The Hon. COURTNEY HOUSSOS:** On the front page.

**The Hon. TREVOR KHAN:** I think it is halfway down the front page.

**The Hon. COURTNEY HOUSSOS:** Thank you, Mr Khan. Yes, it is halfway down the first page. It says:

... Laura can you please confirm for our audit records that the Deputy Premier has approved these project allocations to the Councils.

And then it goes on. You reply to the email, that says:

Sorry for the late response — yes confirmed all approved by the DP.

I assume "DP" is shorthand for the Deputy Premier. What was the process that you went through after receiving that email to then send that response?

**Ms CLARKE:** I have outlined the process in my opening statement.

## CORRECTED

**The Hon. COURTNEY HOUSSOS:** Okay, so you spoke to the Deputy Premier, is what you said?

**Ms CLARKE:** Correct.

**The Hon. COURTNEY HOUSSOS:** Okay. These are quite specific words. This says "for our audit records that the Deputy Premier has approved these project". Is it still your contention that in this grants project, the Deputy Premier had no role in approving those grants?

**Ms CLARKE:** It is.

**The Hon. COURTNEY HOUSSOS:** This says specifically for their auditing reasons that they require an approval from the Deputy Premier, and you, as the deputy chief of staff, conveyed that approval?

**Ms CLARKE:** From the outset there was a process that was put to me, and which I have indicated in my opening statement, and that is the process that I followed.

**The Hon. COURTNEY HOUSSOS:** Did the words "for our audit records"—do you remember this email?

**Ms CLARKE:** No, I do not.

**The Hon. COURTNEY HOUSSOS:** Looking back at this email now, would you think that the words "for our audit reports" actually would twig that maybe there is something slightly more serious here? Maybe we actually need to be looking into this a little bit more? You are using very specific words—"approving these projects".

**Ms CLARKE:** Look, I stand by the process that Mr Hurst had indicated to me going into this program.

**The Hon. COURTNEY HOUSSOS:** Okay, but this is millions and millions and millions of public money that is being approved off the back of an email from you after a verbal conversation with the Deputy Premier for auditing purposes.

**Ms CLARKE:** Again, as I understood it, the Deputy Premier was not the approver of the fund.

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, that is, as my colleague has said, contested by the Office of Local Government. The director of the Office of Local Government has come here and said they were waiting for an email from you, and you sent this email in response to "for auditing purposes" and said it is approved by the Deputy Premier. You do not think that that constitutes an approval of millions of dollars of public money?

**Ms CLARKE:** Again, that process that I followed was as I indicated in my opening statement.

**The Hon. COURTNEY HOUSSOS:** I am going to come to the question of the grant provided to the Mingara Recreation Club. As you outlined in your opening statement, you said local MPs were asked to bring forward potential projects for councils impacted by the mergers. That was not just local, it was local Coalition MPs, is that correct?

**Ms CLARKE:** That is who I spoke to, yes.

**The Hon. COURTNEY HOUSSOS:** Local Coalition MPs, okay. And you were the only person from your office speaking to MPs about this grants program?

**Ms CLARKE:** Other staff members may have, but I cannot remember.

**The Hon. COURTNEY HOUSSOS:** But we can assume that local Coalition MPs were being contacted about this project?

**Ms CLARKE:** By myself, yes.

**The Hon. COURTNEY HOUSSOS:** Okay. So, the Mingara Recreation Club was the only recipient in The Entrance to receive \$425,000 for resurfacing of the athletics club. Are you aware of that project?

**Ms CLARKE:** I am not specifically, no.

**The Hon. COURTNEY HOUSSOS:** Was it simply that Mr Crouch sent you an email that said "this is a worthy project?"

**Ms CLARKE:** Yes, that is the process that I indicated in my opening statement.

**The Hon. COURTNEY HOUSSOS:** Are you aware that, subsequent to that, they then made a number of very significant donations to the Liberal Party and attended a fundraiser with the Deputy Premier?

**Ms CLARKE:** No, I am not aware of that.



## CORRECTED

**The Hon. COURTNEY HOUSSOS:** So they donated—

**The Hon. TREVOR KHAN:** Point of order: She said she is not aware of it. I know what is going on. This is an inquiry about a grants process. She has indicated what she did. She has indicated what she does and does not know. I suggest that what is now being done is outside the terms of reference.

**The CHAIR:** I will allow this proposition to be put and I will hear the proposition and then I will rule on the point of order.

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, what process was in place to assess the Mingara Recreation Club application for funding?

**Ms CLARKE:** The role of the assessor was with the Office of Local Government, as I understood it.

**The Hon. COURTNEY HOUSSOS:** Okay, so the Office of Local Government have told us that they needed an email from you to say, "This is the project that needs to be identified". The guidelines are very clear: They need to be identified by the New South Wales Government and you identified the project. What criteria did you use before sending that email?

**Ms CLARKE:** That was not my understanding.

**The Hon. COURTNEY HOUSSOS:** Did you at any point check to see whether they had made political donations to the Liberal or to the National Party?

**Ms CLARKE:** No, because I did not see that as my role or responsibility.

**The Hon. COURTNEY HOUSSOS:** So all you needed was an email from Mr Crouch saying, "This is the project", and then you emailed to the Office of Local Government.

**Ms CLARKE:** Yes, that was the process that was outlined by Mr Hurst.

**The Hon. COURTNEY HOUSSOS:** And was it your expectation then that Mr Hurst was the one that would then apply the DPC guidelines around grants programs—

**Ms CLARKE:** Yes.

**The Hon. COURTNEY HOUSSOS:** —that would say that there would be an independent assessment against these criteria?

**Ms CLARKE:** To me, that is the role of the administrator of the fund.

**The Hon. COURTNEY HOUSSOS:** So let me be clear: It was your expectation that Mr Hurst was responsible for adhering to the Department of Premier and Cabinet guidelines on this question?

**Ms CLARKE:** Yes.

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, is this the same process for all grants programs administered by your office: You just needed an identification by an MP, an email from them to you, you would verbally brief the Deputy Premier and send off an email to a department and the money would be paid? Is that the process?

**Ms CLARKE:** This program was not administered by the Office of the Deputy Premier.

**The CHAIR:** Ms Clarke, thank you for your attendance and your assistance. In your opening statement you said:

To the best of my recollection I was advised by Tim Hurst ... to email those projects through to him indicating the Deputy Premier's support.

Is that right?

**Ms CLARKE:** Yes.

**The CHAIR:** Then you said:

My understanding was that they were to be considered with other projects that other newly merged councils had applied for.

What did you mean by that? What is your understanding?

**Ms CLARKE:** I understood that there would also be metropolitan projects that would be considered.

**The CHAIR:** Where did your understanding come from?

**Ms CLARKE:** From Mr Hurst.

## CORRECTED

**The CHAIR:** Did he tell you that the projects would then be considered in a pool or something? What did he say to you?

**Ms CLARKE:** I do not recall; I do not remember.

**The CHAIR:** Did he tell you about a merit assessment process or a comparison process?

**Ms CLARKE:** No, not to my recollection.

**The CHAIR:** I am trying to work out what you meant when you said your understanding was that these were to be considered with other projects? What does that mean?

**Ms CLARKE:** I understood that a number of projects would be considered as part of this fund—both regional and metropolitan.

**The CHAIR:** How was that affecting the approval process, the fact that there would be regional and metropolitan funds? How does that constitute an approval process?

**Ms CLARKE:** That is a question for Mr Hurst.

**The CHAIR:** I am trying to work out what you meant when you said your understanding was that these were to be considered with other projects. Do you say Mr Hurst told you that there would be a merit assessment process or some other process undertaken by the Office of Local Government?

**Ms CLARKE:** No, Mr Hurst did not go into that extent with me.

**The CHAIR:** Mr Hurst told you, did he not, to just identify the projects?

**Ms CLARKE:** He told me a process in order to have projects considered for funding and that is what I have outlined in my opening statement.

**The CHAIR:** Ms Clarke, I am going to take you through a number of documents that were produced in accordance with orders for papers. Because they have all been produced in accordance with orders for papers there are a bunch of different numbers on them. Do you see in the top right hand corner of the first one there is the number one?

**Ms CLARKE:** Yes.

**The CHAIR:** Then if I ask you to just over the next page you will see two and then—trust me—the symbol on the third one is meant to be three. I apologise for the handwriting—four, five, et cetera. I will just take you through and I will just identify the numbers using those numbers. Is that okay?

**Ms CLARKE:** Sure.

**The Hon. NATALIE WARD:** So these are 44 pages that have just been handed to the witness.

**The CHAIR:** Correct. There are a series of different emails and email chains and I will take you to them. You will see on page one that there is an email chain that concludes at least when the document is produced on 6 February 2019. Could I ask you to go to page two? This is the manner in which they were produced to the Parliament from the Deputy Premier's office. You will see at the bottom of page two, there is an email from you to Mr Hurst and others of 24 August 2018. Do you see that? About point seven of the page—70 per cent of the way down the page. Do you see that?

**Ms CLARKE:** Yes, which time are you—

**The CHAIR:** 24 August, at 9:51 in the morning. You say:

Hi Tim and Mark

The DP has approved funding of \$600,000 to Edward River Council to assist Deni Play on the Plains Festival Ltd with building a new office complex ...

Do you see that—"The DP has approved funding"?

**Ms CLARKE:** Yes.

**The CHAIR:** You made sure your emails were accurate, did you not, Ms Clarke?

**Ms CLARKE:** I understand I used a number of words, indicating the Deputy Premier's support for projects.

**The CHAIR:** Well, you made sure when you were working in your role as Deputy Chief of Staff that your communications were accurate. That is correct, is it not?

CORRECTED

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**Ms CLARKE:** To the best of my ability.

**The CHAIR:** So when you said, "The DP has approved \$600,000 of funding to Edward River Council", that was accurate?

**Ms CLARKE:** Yes, but I understood that the Deputy Premier was not the approver and that by passing on this email to the Office of Local Government, it would then go through an approval process.

**The CHAIR:** Is that in accordance with the "understanding" that you spoke about earlier in your opening statement?

**Ms CLARKE:** Correct.

**The CHAIR:** But I thought you agreed with me that that was not about an approval process, that understanding? That Mr Hurst had never told you about an approval process or a merit assessment process?

**Ms CLARKE:** I stand by my opening statement.

**The CHAIR:** But your opening statement does not include anything about an approval process or a merit assessment process, Ms Clarke—

**Ms CLARKE:** No, because that is—

**The CHAIR:** —let me finish—because you were never told about one.

**Ms CLARKE:** Yes. My expectation was that that would be dealt with by the Office of Local Government.

**The CHAIR:** That did not come about through a conversation with Mr Hurst, did it, if it is an expectation?

**Ms CLARKE:** Yes, but as they were the administrator of the fund, that was an expectation that I had.

**The CHAIR:** Where did that expectation come from?

**Ms CLARKE:** That is normal practice, as I understand it, with programs and funding: that the fund itself was administered by the Office of Local Government and, therefore, I would expect necessary approval processes.

**The CHAIR:** But Mr Hurst never told you that, though, we can agree on that?

**Ms CLARKE:** That is correct.

**The CHAIR:** Ms Clarke, do you now accept that is because that never happened?

**Ms CLARKE:** It was still my expectation that the Office of Local Government would be administering the funds appropriately.

**The CHAIR:** Could I take you again to that email that you sent? Your evidence is that having sent that email, some other process would happen in the Office of Local Government? Is that right?

**Ms CLARKE:** That is correct.

**The CHAIR:** So how could you have an expectation that a media release would be produced because you say "can you please arrange a media release"?

**Ms CLARKE:** From my recollections, it was not uncommon for Mr Hurst to email me in reply to these emails, wanting to know whether a media release would be expected.

**The CHAIR:** But Ms Clarke, you cannot be asking for a media release about a project that you say had not been approved. Do you see the problem?

**The Hon. NATALIE WARD:** Well, no they are separate things. I object to that question. That is not a fair characterisation of her evidence. She has said there was an approval within her remit and she has explained the arrangements for the media release. You cannot link the two.

**The CHAIR:** My question was not seeking to characterise a reference—

**The Hon. NATALIE WARD:** Or you have to put it to her.

**The CHAIR:** You cannot seek a media release for a project that has not been approved can you, Ms Clarke?

## CORRECTED

**Ms CLARKE:** My understanding was that the project would be approved, and in saying that a media release is required would be following the necessary approvals that would go through the Office of Local Government.

**The CHAIR:** But you accept there is nothing in your email about saying "following necessary approvals by the Office of Local Government". You accept that is not in your email, Ms Clarke?

**Ms CLARKE:** There is nothing in my email, but that is how I understood the process to be.

**The CHAIR:** Could I take you to page 6? Again, it is an email chain—all of these documents have been produced by the Deputy Premier's office or the Office of Local Government. You will see the top of it is an email from Mr Hurst of 17 December. Just before that is an email from you on 17 December 2018 at 4.49 p.m. Do you see that? It is about 20 per cent of the way down the page.

**Ms CLARKE:** On page—

**The CHAIR:** Page 6.

**Ms CLARKE:** Yes.

**The CHAIR:** In it you say:

Hi Tim—updates approved by the DP.

Do we agree that "DP" means Deputy Premier?

**Ms CLARKE:** Yes.

**The CHAIR:** Do we agree "approved" means approved?

**Ms CLARKE:** As I said, I used a number of words in my emails to Tim Hurst.

**The CHAIR:** Does "approved" mean approved?

**The Hon. NATALIE WARD:** You have asked her that once, I object. If you are going to put a characterisation on the word you need to explain and put to the witness fairly what your characterisation is.

**The CHAIR:** I am. Ms Clarke, I am putting to you that "approved"—

**The Hon. NATALIE WARD:** No, you are repeating the same thing and she has answered it.

**The CHAIR:** With all due respect, the witness has not answered it. Ms Clarke, I am putting to you that when you used the word "approved" you meant approved.

**Ms CLARKE:** I used the word "approved", but I still expected the approval process to be conducted by the Office of Local Government.

**The CHAIR:** I take you, then, to document 17. I think you may be familiar with this because my colleague took you to this earlier. It is an email chain from 16 and 19-20 November 2018. Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** You will see halfway down is an email from Mr Hurst to, amongst others, yourself. It states:

Also Laura can you please confirm for our audit records that the Deputy Premier has approved these project allocations to the Councils.

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** Do you see that, above that, you actually respond to Mr Hurst? You say:

Hi Tim

Sorry for the late response – yes confirmed all approved by the DP.

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** That was true, was it not?

**Ms CLARKE:** Again, I outlined the process in my opening statement as I understood it. I do not remember receiving this email regarding audit records.

## CORRECTED

**The CHAIR:** Do you remember sending the email confirming that the Deputy Premier had approved the projects?

**Ms CLARKE:** I do not actually remember sending it. It was some time ago.

**The CHAIR:** Do you agree, Ms Clarke—you agreed earlier that Mr Hurst never told you about an approval process. That is common ground between us, is it not?

**Ms CLARKE:** I understand what you are saying, but Mr Hurst had outlined a way for myself or the Deputy Premier to put projects forward for consideration.

**The CHAIR:** Ms Clarke, if there was some alternate approval process that you thought was going on in the Office of Local Government, you could not have sent that reply, could you?

**Ms CLARKE:** I understood that regardless of what I was sending to the Office of Local Government that there was a separate and proper approval process. The program was not administered by the Deputy Premier's office or his department, so those matters were the responsibility of the Office of Local Government or the Minister for Local Government.

**The CHAIR:** Ms Clarke, nobody told you that, and the contemporaneous records are directly contradictory to that. Do you want to reconsider your evidence?

**Ms CLARKE:** No. I stand by my opening statement. That is how I understood it.

**The CHAIR:** We will carry on. I ask you to turn to page 22. Do you see at the bottom of that page is an email from you of 31 July 2018 at 12.28 p.m.?

**Ms CLARKE:** Yes.

**The CHAIR:** In it, you state:

Apologies for the short notice. See attached the breakdown of projects for CGRC—

That is, I think, Cootamundra-Gundagai Regional Council—

from the additional merger funds, which the DP has now approved.

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** That was true at the time you sent it, was it not? The Deputy Premier had approved the projects?

**Ms CLARKE:** I have outlined the process previously, Mr Shoebridge.

**The CHAIR:** Do you think there was some process that the Office of Local Government would undertake after that to review it, some merits process or something?

**Ms CLARKE:** Correct. Whether it is merit or not, that is a matter for the Office of Local Government.

**The CHAIR:** Then how could you write the next sentence in that email where you state, "Steph Cooke would like to announce tomorrow"? Are you saying that you thought there was a magical 24-hour process for approval in the Office of Local Government in addition to this?

**Ms CLARKE:** I do not remember this email specifically, but if it was impossible, I expected Mr Hurst to tell me so.

**The CHAIR:** Ms Clarke, you knew it was the Deputy Premier and—at least in terms of this set of funding—National Party MPs who were deciding the projects and you were just informing the Office of Local Government about that. You knew that the decisions were being made by politicians, did you not?

**Ms CLARKE:** That is not how I understood it.

**The CHAIR:** I take you to the rest of this email on the top of page 23. It states:

Please note, Steph Cooke would like the remainder (\$150,000) to go towards a local Youth Mental Health Strategy. Details are still being developed.

It was Coalition MPs—and, in this case, National Party MPs—who are just determining where public money goes without any assessment. That is what was happening here, is it not?

**The Hon. NATALIE WARD:** No, that is not her evidence at all.

## CORRECTED

**The CHAIR:** That is what was happening here, was it not, Ms Clarke?

**The Hon. NATALIE WARD:** That is not her evidence.

**Ms CLARKE:** I have already outlined the process as I understood it, Mr Shoebridge.

**The CHAIR:** Mr Hurst forwarded on your email on 31 July 2018, and he said:

... please see the attached list for Cootamundra Gundagai, approved by the deputy premier.

Do you see that?

**Ms CLARKE:** Which email are you referring to?

**The CHAIR:** Again, it is on page 22 just above yours. That was right, was it not: They were approved by the Deputy Premier?

**Ms CLARKE:** Again, that is not as I understood the process.

**The CHAIR:** We might do the rest quite quickly. I ask you to turn to page 32. Do you see that, page 32?

**Ms CLARKE:** Yes.

**The CHAIR:** Do you see halfway down, again from you:

Hi Tim

As promised, here is the approved list of projects for Federation Council from additional merger funds. The Deputy Premier has approved this.

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** That is because the Deputy Premier had approved them, is it not?

**Ms CLARKE:** I have already answered that question, Mr Shoebridge.

**The Hon. NATALIE WARD:** She has answered this. It is getting boring.

**The CHAIR:** Ms Clarke, I ask you to turn to page 33. Some 70 per cent of the way down the page there is an email from you on 15 June 2018 to Mr Hurst. It states:

Hi Tim

The DP has agreed to the following allocations against the remaining merger funds ...

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** Then on page 35 you state:

Please see the final list of projects and costings for tranche 3 for Central Coast Council. This has been approved by the DP.

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** Then on page 36, halfway down: "all approved by the DP." Some \$1.9 million worth of funding. Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** Then on page 37, halfway down:

DP has approved the following projects for Central Coast Council.

Do you see that?

**Ms CLARKE:** Is that the email of Monday 27 August?

**The CHAIR:** Correct.

**Ms CLARKE:** Yes.

**The CHAIR:** Then, again, on 20 June 2018:

DP has agreed to the following projects for Central Coast Council ...

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CORRECTED

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Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** You state at the bottom of that, "please arrange paperwork and a media release". Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** Ms Clarke, it is unfortunate that I have to put this to you but I am now at this point: The evidence you have given about you thinking the Premier was not the approver of the project—

**The Hon. NATALIE WARD:** Do you mean the Deputy Premier?

**The CHAIR:** Sorry. The evidence you have given about the Deputy Premier not being the approver of these projects is just not true, is it, Ms Clarke?

**The Hon. NATALIE WARD:** No. That is not fair.

**The CHAIR:** You knew at the time and you repeatedly said that it was the Deputy Premier that approved them—

**The Hon. NATALIE WARD:** That is not the case.

**The CHAIR:** —and those communications were true.

**Ms CLARKE:** Again, Mr Shoebridge, I have answered this question. That is not how I understood it.

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, did you ever receive an email back from Mr Hurst saying, "This project hasn't been approved"?

**Ms CLARKE:** I do not recollect any.

**The Hon. COURTNEY HOUSSOS:** Can I ask you this: Did you ever receive any feedback by email or otherwise that a project had been assessed?

**Ms CLARKE:** Not that I recollect but I would not expect Mr Hurst to come back to me with those sorts of questions or responses because he did not report to the Deputy Premier. He reported to the office—I am sorry, the Minister for Local Government.

**The Hon. COURTNEY HOUSSOS:** Did he ever come back to you and say, "I need a little bit more documentation for this application."?

**Ms CLARKE:** Not to my recollection.

**The Hon. COURTNEY HOUSSOS:** Okay. So in all the documentation that has been provided to the upper House under the standing orders, we have got countless emails from yourself approving projects and not a single email back from Mr Hurst saying, "We need more information. This project is not approved.", or that the assessment has been completed. In fact, there is no evidence of assessments—

**The Hon. NATALIE WARD:** Is there a question?

**The Hon. COURTNEY HOUSSOS:** —that have been undertaken. Is it your evidence today that you believe that these assessments were somehow magically being conducted by the Office of Local Government?

**The Hon. NATALIE WARD:** Point of order: It is a pejorative question to include "magically".

**The Hon. COURTNEY HOUSSOS:** Okay. I will take "magically" out. Is it still your assertion that the Office of Local Government was undertaking these assessments?

**Ms CLARKE:** That is a question for the Office of Local Government. I followed the process that Mr Hurst had put to me, which was to put forward projects to the Office of Local Government. I would expect that assessments, which would usually happen with programs, would be undertaken by the Office of Local Government.

**The Hon. COURTNEY HOUSSOS:** So if your expectation was that assessments were being undertaken, Ms Clarke, can I take you to page 38 of the documents provided to you by Mr Shoebridge. It said, "And you instructed the Department of Local Government not to contact the council until the release was issued". How then could the Office of Local Government be expected to be conducting an assessment of that project?

**The Hon. NATALIE WARD:** Well, that is again a question for the Office of Local Government. She said that.

## CORRECTED

**The Hon. COURTNEY HOUSSOS:** No. My question is to Ms Clarke about her understanding of the assessment of these projects—

**The Hon. NATALIE WARD:** Then you should ask that question.

**The Hon. COURTNEY HOUSSOS:** —at \$4.71 million—

**The Hon. NATALIE WARD:** Then you ask that question to her, not her expectation of the Office of Local Government.

**The CHAIR:** Sorry, Ms Ward. If you have a point of order, could you not talk over the member? Could you take a point of order? It is best started by "Point of order:", and then I will hear a point of order. But just simply talking over the member is very bad for Hansard and Hansard are not able to record it. So if you wish to make a point of order, start with, "Point of order:".

**The Hon. NATALIE WARD:** Thank you for the patronising instruction.

**The CHAIR:** It is not patronising. It is for the benefit of Hansard.

**The Hon. NATALIE WARD:** Mr Chair, I have a point of order. I have a point of order. You talk over me all the time.

**The CHAIR:** It is for the benefit of Hansard.

**The Hon. NATALIE WARD:** You tell everybody else not to talk over you. You do exactly the same.

**The CHAIR:** It is for the benefit of Hansard.

**The Hon. NATALIE WARD:** We can waste time doing this or you can ask a question which is fair.

**The Hon. COURTNEY HOUSSOS:** Well, everybody is eating up my time.

**The CHAIR:** We will extend the time.

**The Hon. NATALIE WARD:** Direct the question fairly.

**The Hon. COURTNEY HOUSSOS:** Come on!

**The CHAIR:** If there are continued unmeritorious interjections, we will extend the time, if necessary, for this witness so the Opposition is not prejudiced.

**The Hon. NATALIE WARD:** It is only unmeritorious when it is not yours.

**The CHAIR:** Ms Houssos?

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, I put this to you: How could an assessment be undertaken when you are instructing the Office of Local Government not to contact the council about the projects until the media release is issued.

**Ms CLARKE:** That is a question for the Office of Local Government.

**The Hon. COURTNEY HOUSSOS:** No. My question is to you because you told them, "Do not contact the council." Your evidence is that an assessment was being undertaken by the Office of Local Government. How could you expect them to undertake that assessment if they could not contact them until the project was announced?

**Ms CLARKE:** The Office of Local Government, if they required to contact the council, they had the opportunity to tell me so—that they needed to do that.

**The Hon. COURTNEY HOUSSOS:** Did they ever contact you to say that?

**Ms CLARKE:** I cannot remember.

**The Hon. COURTNEY HOUSSOS:** Well, I can tell you there is nothing in the documents to say that. So they never came back to you with feedback. They never came back and said an application had been refused. They never came back and said, "We need more time for this assessment", and you never queried that there was not an assessment being undertaken.

**The Hon. NATALIE WARD:** Point of order: The witness has answered this question repeatedly that that was not within her purview. It is in her written opening statement. She said it repeatedly.

**The CHAIR:** Well, I think your better point of order may be that there were multiple propositions in that and it might be best to break it down.



CORRECTED

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**The Hon. NATALIE WARD:** Well, there is that, too.

**The CHAIR:** We might break it down.

**The Hon. COURTNEY HOUSSOS:** Okay. Did you genuinely think that an assessment was being undertaken when you never received any emails back saying there was more information required; there was a problem with this application; we needed more time?

**Ms CLARKE:** I never expected an email from myself sent to the Office of Local Government as approval for a fund. I expected that the necessary administration and assessment happened from the Office of Local Government and—

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, did you keep a spreadsheet keeping a tally of how much funding had been expended?

**Ms CLARKE:** No.

**The Hon. COURTNEY HOUSSOS:** So you were relying solely on the Office of Local Government to tell you how much money was left?

**Ms CLARKE:** I relied on my emails that I had sent to Mr Hurst.

**The Hon. COURTNEY HOUSSOS:** So you kept a tally.

**Ms CLARKE:** Only through my emails which I have sent.

**The Hon. COURTNEY HOUSSOS:** But you kept an understanding of how much money was left in the fund.

**Ms CLARKE:** I would not call it a tally.

**The Hon. COURTNEY HOUSSOS:** What would you call it?

**Ms CLARKE:** I would rely on my emails that I sent to the Office of Local Government in order of being aware of what projects I had sent forward to them for consideration.

**The Hon. COURTNEY HOUSSOS:** Okay. But you had to have an understanding of how much money was left to be allocated in the fund.

**Ms CLARKE:** I do not remember ever doing that.

**The Hon. COURTNEY HOUSSOS:** So how did you know that you had not spent too much of the fund?

**Ms CLARKE:** I do not remember.

**The Hon. COURTNEY HOUSSOS:** I have one final question before a hand to my colleague. Did anyone assist you with the preparation of your opening statement today?

**Ms CLARKE:** Ah, no. My opening statement I drafted. I had sought legal advice and I also shared it with some friends and I shared it with Mr Khan to look over.

**The CHAIR:** Mr Khan told us that. He volunteered that information yesterday.

**The Hon. TREVOR KHAN:** Yes.

**The CHAIR:** That is my memory of it.

**The Hon. TREVOR KHAN:** I did not want there to be any—

**The CHAIR:** No. I recall you telling us that.

**The Hon. COURTNEY HOUSSOS:** That is right. I do remember that.

**The CHAIR:** I recall you telling us that.

**The Hon. TREVOR KHAN:** Yes.

**The Hon. JOHN GRAHAM:** I just want to turn to the paperwork—or the lack of paperwork—that was travelling around the Deputy Premier's office. I think we agree there were no departmental briefs from the Office of Local Government or DPC. In the Premier's office they were these working advice notes but I just want to be clear: At no point in front of the Deputy Premier were there any recommendations or reasons put in front of the Deputy Premier about these projects.

## CORRECTED

**Ms CLARKE:** No.

**The Hon. JOHN GRAHAM:** There was no paperwork that spelled out alternative policy options or the policy background.

**Ms CLARKE:** No.

**The Hon. JOHN GRAHAM:** That did not occur, as you have clearly said. There is just simply no paperwork, no working advice notes in the way that there was in the Premier's office.

**Ms CLARKE:** No.

**The Hon. JOHN GRAHAM:** And, in good news, you could not have shredded any documents because there simply was no paperwork—

**Ms CLARKE:** That is correct.

**The Hon. JOHN GRAHAM:** —in the Deputy Premier's office. Can you recall another program you saw in your time in the Deputy Premier's office where \$61.3 million was approved and there was never a ministerial signature of any kind?

**Ms CLARKE:** As I have said, it was not my understanding that he was the approver of the fund.

**The Hon. JOHN GRAHAM:** I understand that but did you ever see another fund where \$61.3 million went out the door to the public and now Minister signed a brief?

**The Hon. NATALIE WARD:** It was a Cabinet decision.

**Ms CLARKE:** Not a fund that was administered by the Deputy Premier's departments.

**The Hon. JOHN GRAHAM:** Yes. Thank you. We have talked about your understanding. I just want to ask you this, thinking about the agency's understanding. The Office of Local Government is sitting there. They are good public servants trying to do their job. What do you think they thought was meant when they received an email from your office, from the Deputy Premier's office or indeed from the Premier's office, saying, "These projects are approved."?

**The Hon. NATALIE WARD:** No. I object to that question. This witness cannot give evidence about what is in the mind of another person on receipt of her email. She can talk about what is within her purview and what she intended by her email. She cannot give evidence, and it is not fair to ask to, about what somebody else thought.

**The CHAIR:** I accept the point of order.

**The Hon. JOHN GRAHAM:** I am happy to rephrase.

**The Hon. TREVOR KHAN:** Yes, good.

**The CHAIR:** If the question is, "What was she intending to convey when she said 'approved'—

**The Hon. JOHN GRAHAM:** Well, let me ask it this way—and feel free to object—what meaning—

**The Hon. TREVOR KHAN:** No, no. Very discreet in our objections.

**The Hon. NATALIE WARD:** I prefer not to.

**The Hon. JOHN GRAHAM:** What meaning was conveyed to the agency when they received these emails saying, "This has been approved?"

**Ms CLARKE:** Sorry, I do not quite understand your question.

**The Hon. JOHN GRAHAM:** How do you think that was taken at the other end?

**The Hon. NATALIE WARD:** No, again, she cannot and you know she cannot.

**The Hon. JOHN GRAHAM:** I am happy to move.

**The CHAIR:** If the question is: How did you expect them to respond when they have been repeatedly told that the Deputy Premier had approved the projects?

**The Hon. NATALIE WARD:** No, I renew the objection.

**The Hon. JOHN GRAHAM:** I am happy to withdraw the question.

**The Hon. NATALIE WARD:** She can speak to what she knows—nothing more.

## CORRECTED

**The Hon. JOHN GRAHAM:** Let me put it to you this way: If an agency was told that the Deputy Premier has approved this action and they did not do it, there would be consequences, would there be not? If another area of government is told that the Deputy Premier has approved this and they do not do it, there will be consequences.

**Ms CLARKE:** I did not understand him to be the approver of the fund, so I did not expect any consequences should they not proceed with the emails that are provided.

**The Hon. JOHN GRAHAM:** But do you accept that the agency might have, if they were told—

**Ms CLARKE:** I cannot—

**The Hon. JOHN GRAHAM:** Yes, understood. I turn to the guidelines for this fund. I assume, given that you are dealing with the fund, you had seen the guidelines.

**Ms CLARKE:** I do not recall, actually.

**The Hon. JOHN GRAHAM:** Let me quote to you the key part of the guidelines about who is allocating the funding. It simply says:

Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

It is incredibly broad—

**Ms CLARKE:** Sorry, where are you reading that from?

**The Hon. JOHN GRAHAM:** These are the Stronger Communities Fund guidelines—tied grant round. They were approved by the Deputy Premier.

**The Hon. TREVOR KHAN:** No, they were approved by Cabinet.

**The Hon. JOHN GRAHAM:** No, I am looking at the guidelines and they have under the headline "Approval", "Minister for Local Government, Deputy Premier, Premier".

**The Hon. TREVOR KHAN:** Yes, sorry, you are right—three.

**The Hon. JOHN GRAHAM:** They simply say this:

Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

It does not say "the Office of Local Government"; it says "the New South Wales Government". How did you not understand that the Deputy Premier was approving this, given that this clearly identifies it is the New South Wales Government's call?

**Ms CLARKE:** I do not recall seeing the guidelines and I believe I was on leave when the guidelines were signed by the Deputy Premier.

**The Hon. JOHN GRAHAM:** We might give you this piece of paper, then. You may be happy with that answer because I wanted to ask you about those guidelines being approved. They were approved by the Minister for Local Government on 27 June 2018. They were approved by the Premier on 25 June 2018. They were approved by the Deputy Premier—I think you can see—on the second page. There is simply no date, though. Again, that is very unusual. When did the Deputy Premier approve these guidelines?

**Ms CLARKE:** You would have to refer that question to the office of the Deputy Premier to see whether they have that on record. I believe I was on leave when the guidelines were being signed.

**The Hon. JOHN GRAHAM:** Okay, I accept that if you were on leave at the time you may not be able to answer that. Can you answer this? The Deputy Premier has got one job to sign and date these briefs. Did you ever see other briefs where the Deputy Premier is signing but not dating?

**Ms CLARKE:** I have seen many briefs in my time in the office. I do not recall.

**The Hon. JOHN GRAHAM:** You do not recall another brief not being dated or you have no recollection of—is it common practice that there is just no date?

**Ms CLARKE:** You normally sign and date a brief.

**The Hon. JOHN GRAHAM:** I mean, you have got one job as a Minister to sign and date—

**The Hon. TREVOR KHAN:** Point of order—

**The Hon. NATALIE WARD:** This is not in her purview.

## CORRECTED

**The CHAIR:** One of your jobs as a Minister.

**The Hon. NATALIE WARD:** It is not within her purview; she is not the Minister.

**The Hon. JOHN GRAHAM:** It would be traditionally regarded as an important job of a Minister to sign and date a brief. Is this common practice that the Deputy Premier is not dating—

**Ms CLARKE:** You would be better to ask the Deputy Premier that question.

**The Hon. JOHN GRAHAM:** I am asking you if it is common practice because you saw a lot of briefs that the Deputy Premier signed. In my experience, this is incredibly unusual; in your experience, is this commonplace in the Deputy Premier's office?

**Ms CLARKE:** In a brief that usually says sign and date, that is what you are expected to do.

**The Hon. JOHN GRAHAM:** Do you accept in front of you that that did not occur on this occasion?

**Ms CLARKE:** Yes, that is what I can see.

**The Hon. JOHN GRAHAM:** Are you aware of any conflict-of-interest declarations in relation to this fund, the tied grants fund, and the \$61.3 million of public funds that were allocated to regional councils?

**Ms CLARKE:** I am not aware of any.

**The Hon. JOHN GRAHAM:** So there is just no conflict-of-interests declarations that you are aware of.

**The Hon. NATALIE WARD:** No, she cannot answer that.

**The CHAIR:** "That you are aware of."

**The Hon. JOHN GRAHAM:** "That you are aware of."

**The Hon. TREVOR KHAN:** Yes, "That you are aware of".

**Ms CLARKE:** Again, I did not see the Deputy Premier as being the administrator of this fund. If there was, that would be the role of the Office of Local Government.

**The Hon. COURTNEY HOUSSOS:** Ms Clarke, you were just saying you were on leave for a period. When were you on leave?

**Ms CLARKE:** I will have to take that on notice.

**The Hon. COURTNEY HOUSSOS:** Sure. I wanted to ask you about the process for other grants programs, which I know my colleague the Hon. John Graham had started asking you some questions around. What is the normal process in your office if the Deputy Premier is to approve a fund that he is administering?

**Ms CLARKE:** I would expect a brief with department recommendations to come through the normal channels to be signed by the Deputy Premier. I will say that you can also expect Cabinet to make decisions around approving funds.

**The Hon. COURTNEY HOUSSOS:** So when neither of these processes happened for the Stronger Communities Fund, did you ever raise a concern about that?

**The Hon. NATALIE WARD:** No, there was a Cabinet decision. So when you say "neither", I think you should be clear.

**The Hon. COURTNEY HOUSSOS:** For the guidelines, not for specific projects that he was approving.

**Ms CLARKE:** That is why I understood him not to be the approver of this fund.

**The CHAIR:** You said that the Deputy Premier signed the guidelines when you were on leave. Is that your evidence?

**Ms CLARKE:** That is what I understood, yes.

**The CHAIR:** How did you understand that?

**Ms CLARKE:** I became aware when talking to the Deputy Premier's office last week.

**The CHAIR:** Who in the Deputy Premier's office told you that?

**Ms CLARKE:** It was Susanna Montrone, who has been assisting me.

## CORRECTED

**The CHAIR:** I think you said earlier that you were not sure when you took leave, but was it in the middle of the year or towards the end of the year in 2018?

**Ms CLARKE:** I would have to take that on notice. My understanding of that came through an email that was captured in the Standing Order 52 that said that I would be on leave when the guidelines were to come through to the Deputy Premier's office.

**The CHAIR:** If you could assist by providing that document that you rely upon or indicating what that document is on notice, that would be of assistance.

**Ms CLARKE:** Okay.

**The CHAIR:** Funding for Snowy Valleys Council, though, or SVC—the Deputy Premier had a role in allocating funding to Snowy Valleys Council. Is that right?

**Ms CLARKE:** That is correct.

**The CHAIR:** It was not the Premier's job in that regard to identify projects; it was the Deputy Premier's job. Is that right?

**Ms CLARKE:** The Deputy Premier looked at regional councils.

**The CHAIR:** Do you recall having a discussion with the Premier's office about any funding for Snowy Valleys Council?

**Ms CLARKE:** I do not recall talking to them at all.

**The CHAIR:** Do you recall having a discussion with the candidate for Wagga Wagga about funding for Snowy Valleys Council in the by-election?

**Ms CLARKE:** No, I could not tell you who the candidate of Wagga Wagga is or was.

**The CHAIR:** Well, she did not win, so you may not be alone in that.

**The Hon. TREVOR KHAN:** I once ran and lost and everyone forgot me immediately as well.

**The CHAIR:** Who are you?

**The Hon. MATTHEW MASON-COX:** I remembered.

**The Hon. JOHN GRAHAM:** That is not good.

**The Hon. NATALIE WARD:** Have you still got the corflute?

**The Hon. TREVOR KHAN:** No, I burnt them.

**The Hon. NATALIE WARD:** Good for garage sales.

**The CHAIR:** We will come back to that.

**The Hon. TREVOR KHAN:** Sorry.

**The CHAIR:** In terms of allocating funding for Snowy Valleys Council, the initial allocation at least—we may disagree about whether or not it is approval—all came through the Deputy Premier's office. Is that correct?

**Ms CLARKE:** The list of projects came through the Deputy Premier's office.

**The CHAIR:** Do you know how it was that the Premier announced the funding of \$255,000 worth of Stronger Communities Fund projects for Snowy Valleys Council in the middle of the Wagga Wagga by-election?

**Ms CLARKE:** I am not aware. You would have to ask the Premier.

**The CHAIR:** I might just show you this. In fact, I will make it quicker. I will give you two documents. Before I take you to those documents, could I ask you to go to page 11 of that bundle of documents that I put in front of you earlier? This is a spreadsheet that was provided by Snowy Valleys Council and, again, picked up in the order made under Standing Order 52. Page 11 is part of that spreadsheet.

**Ms CLARKE:** Yes.

**The CHAIR:** If you look at the box right in the middle, it has got, "Funding Announced by Premier for ADELONG 17 August 2018". Do you see that?

**Ms CLARKE:** Yes.

## CORRECTED

**The CHAIR:** Then there is a list of projects all for Adelong, which together total \$255,000. Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** I think I gave you two documents. One was *Going for Tourism Gold in Historic Adelong*. Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** It says:

Premier Gladys Berejiklian today announced \$255,000 in funding to deliver a range of much-needed tourism projects in the historic former gold mining town of Adelong.

Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** Then you will see there is a series of projects there, but take it that they are the same as the \$255,000 in the table, Ms Clarke. You agree that a public announcement and a media release like that could only happen once the projects had been approved for funding, correct? You could not do it unless they had been approved.

**Ms CLARKE:** Yes. That is how I understand.

**The CHAIR:** Could I then take you to the next document, which is the Stronger Communities Fund funding agreement? Do you see that?

**Ms CLARKE:** Yes.

**The CHAIR:** This is the final paperwork that the council signed off on. There is one for each council, or sometimes more. Can I ask you to turn to page 11 of the document there? There is numbering in the bottom right-hand corner. It is page 11.

**Ms CLARKE:** Yes.

**The CHAIR:** Do you agree that there is a table there which is the \$255,000 worth of projects that is consistent with the table that I took you to in that bundle of documents?

**Ms CLARKE:** It is very faint.

**The CHAIR:** I assure you they are the same, Ms Clarke.

**Ms CLARKE:** Yes, it appears so.

**The CHAIR:** So going back to the funding agreement, could I ask you to have a look at—this time on page 10.

**Ms CLARKE:** Sorry, there are a lot of bundles. Is that the funding agreement on page 10?

**The CHAIR:** You were on page 11 before, so page 10.

**Ms CLARKE:** Yes.

**The CHAIR:** Do you see that it is signed by the Office of Local Government on 5 February 2019?

**Ms CLARKE:** Yes.

**The CHAIR:** If you go to the next page—page 12—do you see that it is signed by the council on 25 January 2019?

**Ms CLARKE:** Yes.

**The CHAIR:** Can you explain how it is that the funding agreement—that you say is the approval process—was not executed until more than four months after the Premier announced it in a media release?

**Ms CLARKE:** I am not an expert in terms of how funding agreements are signed. That question would better be directed to the Office of Local Government.

**The CHAIR:** Is the funding agreement that I just showed you the kind of approval process that you were talking about in terms your understanding of Mr Hurst?

**Ms CLARKE:** I am not an expert in terms of funding agreements.

## CORRECTED

**The CHAIR:** You see, Ms Clarke, having taken you to these documents, do you now agree that it was politicians—in this case the Premier, in other cases the Deputy Premier—who were approving these funds and they are just being then documented by the Office of Local Government afterwards? That is the process, is it not, Ms Clarke?

**Ms CLARKE:** I refer to my opening statement. That was the process as I understood it.

**The CHAIR:** Ms Clarke, the Premier has described this as a pork-barrel scheme. Do you agree that it is a pork-barrel scheme?

**Ms CLARKE:** That is a question for the Premier. I cannot respond for her.

**The CHAIR:** You were there sending the emails saying that these had all been approved by the Deputy Premier. You were there sending the emails. Did you realise that you were in the middle of a big pork-barrel scheme at the time, Ms Clarke?

**The Hon. NATALIE WARD:** No, do not even go there. Do not even try. That is outrageous. You are just trying to get your grab for TV.

**The CHAIR:** No, I am putting the question to Ms Clarke. What is the objection? Give me the objection.

**The Hon. TREVOR KHAN:** I will give you the objection. It is just an unreasonable question to be putting to this witness. She is entitled to come here and give evidence as to what she did and how she did it. You are now putting an issue of opinion to her, which is quite unreasonable. Look, I have got to say that this will be a problem that will come down on Labor's head when eventually they are in government and the people are called before and we are putting questions like that before junior members of ministerial staff. It is unwise in the extreme to sit there quietly.

**The CHAIR:** The prospect of future accountability about when or if Labor gets in to government—

**The Hon. TREVOR KHAN:** It is not a question of accountability; it is reasonableness.

**The CHAIR:** —is not a point of order. But I will try and break it down again for comity.

**The Hon. TREVOR KHAN:** Good idea. Life is one big circle.

**The CHAIR:** It is full of surprises. Ms Clarke, the only MPs you interacted with were Government MPs in the course of this. That is true, is it not?

**Ms CLARKE:** That is correct.

**The CHAIR:** Was it explained to you why you should not be contacting any non-Government MPs?

**Ms CLARKE:** No, not to my recollection.

**The CHAIR:** Were you told at some point that there was \$61 million worth of public money to be allocated by the Deputy Premier?

**Ms CLARKE:** I do not remember specifically, but it is very possible that a sum was provided for regional councils. It may have even been through a Cabinet decision. I cannot remember.

**The CHAIR:** But you knew there was a chunk of public money in the order of \$60 million available for distribution amongst regional councils for this project.

**Ms CLARKE:** That is correct.

**The CHAIR:** Can you explain how it is that no non-Government member got the opportunity to apply for that public funding?

**Ms CLARKE:** No. That is a question for the Office of Local Government or the Minister for Local Government.

**The CHAIR:** Can you explain how the Deputy Premier's office failed to communicate with any non-Government member about the opportunity to take part in the \$60 million?

**Ms CLARKE:** No, but I did encourage local MPs that I spoke with to discuss these projects with their local council.

**The CHAIR:** The only MPs you spoke with in your role were National Party MPs. Is that right?

**Ms CLARKE:** No, that is not correct.

## CORRECTED

**The CHAIR:** Liberal Party MPs?

**Ms CLARKE:** That is correct.

**The CHAIR:** Was there anybody who was not a National or Liberal Party MP?

**Ms CLARKE:** I do not recall speaking with any non-Government MPs.

**The CHAIR:** Ms Clarke, you know for a fact that you only spoke with Government MPs, don't you?

**Ms CLARKE:** Yes, that is as I remember it.

**The CHAIR:** Do you accept that, if you are only talking with Government MPs about allocating \$60 million worth of public funds, that that is a highly politicised use of public funds?

**Ms CLARKE:** Again, the projects that I provided to the Office of Local Government—I do not know whether there were additional projects that were put up to be considered.

**The CHAIR:** Do you agree or disagree that the process that you were involved in was a highly politicised allocation of public money?

**Ms CLARKE:** I would not agree with the way that you have put it.

**The CHAIR:** Tell me how I am wrong, Ms Clarke.

**Ms CLARKE:** I would explain it as projects that were wanted by local councils that were merged that were put through their local MP and passed on to me to pass on to the Office of Local Government.

**The CHAIR:** Ms Clarke, I will not take you to them again, but I have taken you to email after email after email where you are saying to the Office of Local Government that the Deputy Premier has approved these projects. I am going to give you the opportunity again to consider whether or not those emails reflected the truth. Had the Deputy Premier approved the projects? Did they reflect the truth?

**Ms CLARKE:** I stand by my opening statement, Mr Shoebridge.

**The CHAIR:** Again, the most that you will get in each of those emails about any particular project is a one-line description and a funding amount: sometimes tens of thousands, sometimes hundreds of thousands and sometimes millions of dollars. Do you accept that that is the only detail?

**Ms CLARKE:** I cannot recall. I cannot remember the emails that I have sent through and whether there was any other documentation attached to them.

**The CHAIR:** Did you send documentation detailing the projects in addition to what has been produced?

**Ms CLARKE:** I cannot remember. I can only go off the emails that had been forwarded on to the Office of Local Government.

**The CHAIR:** You never sent through any detailed assessment of the projects, did you? You know that for a fact, sitting there.

**Ms CLARKE:** Not detailed assessments, because it was not the role of the Deputy Premier's office to assess those projects.

**The CHAIR:** How on earth could the Office of Local Government have assessed the projects if all that they had from you is a one-line description and a funding amount? How on earth were you expecting the Office of Local Government to assess the projects?

**Ms CLARKE:** That is a matter for them to explain.

**The CHAIR:** Is it not a more accurate summary of what happened that these projects were identified by Coalition MPs, approved by the Deputy Premier and then rubberstamped by the Office of Local Government? That is what actually happened, is it not?

**Ms CLARKE:** That is not how I understood it.

**The CHAIR:** It is what happened, is it not?

**The Hon. NATALIE WARD:** She has answered the question and it is not within her purview. I take a point of order in relation to the second asking of the same question when she has answered it and it is not within her purview.

**The CHAIR:** The witness has not answered it. That is what happened, Ms Clarke, is it not?



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CORRECTED

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**Ms CLARKE:** I have answered the question, Mr Shoebridge. That is not how I understood the process.

**The Hon. NATALIE WARD:** Thank you for your assistance today, Ms Clarke. I want to ask about the word "approved". We have spent quite a lot of time on the word "approved". Do you understand that there is more than one meaning of the word "approved"?

**Ms CLARKE:** From my recollection I used a number of words in conveying the Deputy Premier's support to the Office of Local Government. I believe that I also used the word "agreed" and the word "feedback" when providing those emails. It was not my intention that that word would actually be the approval process. I expected that to be conducted by the Office of Local Government.

**The Hon. NATALIE WARD:** In fact, you might have specifically said "approval process" if that is what you meant. "Approved" can mean different things, can it not? Do you agree with that?

**Ms CLARKE:** Yes, I do.

**The Hon. NATALIE WARD:** It can mean agreed, accepted, commended, had a favourable opinion of, praised, sanctioned, confirmed or ratified. It can mean a number of things, can it not?

**Ms CLARKE:** Yes.

**The Hon. NATALIE WARD:** Thank you.

**The CHAIR:** Ms Clarke, thank you for your assistance. I think you took a number of questions on notice. The Committee has previously resolved that you should have those answers by 25 January. The secretariat will assist you with identifying the specific questions.

**(The witness withdrew.)**

**(Luncheon adjournment)**

## CORRECTED

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**KEVIN WILDE**, Former Chief of Staff, Office of the Former Minister for Local Government, affirmed and examined

**The CHAIR:** Welcome back to the hearing of the inquiry into the efficacy and integrity of New South Wales Government grant funding. Do you want to make a brief opening statement?

**Mr WILDE:** No, I do not.

**The CHAIR:** Then we will commence with questioning from the Opposition.

**The Hon. JOHN GRAHAM:** Thank you for appearing, Mr Wilde. We have talked about the Stronger Communities Fund tied grants round. Those funds were originally appropriated from the Treasury to your Minister, the Minister for Local Government. Your Minister allocated a couple of the early grants and then effectively no more grants after that. The program seems to have been taken over by the Premier's office and the Deputy Premier's office. Just tell us in your own words how that happened.

**Mr WILDE:** I cannot shed any light on how that happened. I was just the chief of staff. The Cabinet at the time made the decision to provide monies in this regard and then the administration of the fund was through the Office of Local Government.

**The Hon. JOHN GRAHAM:** Those funds were appropriated to your Minister, though. Your Minister ceased to approve any grants after the first two.

**The Hon. TREVOR KHAN:** Point of order: The member is putting a proposition, rightly or wrongly, but he should be asking questions.

**The CHAIR:** I think you need to wait until the end.

**The Hon. TREVOR KHAN:** I know what he is doing.

**The CHAIR:** I will hold onto that objection until I hear the end of the question.

**The Hon. JOHN GRAHAM:** I will repeat the question. Those funds were legally appropriated to your Minister. Your Minister then ceased to provide approvals after those first two grants. Can you give us any background to what changed in the administration of this fund?

**Mr WILDE:** No.

**The Hon. JOHN GRAHAM:** One view that has been put to the Committee is that it might have been your idea that the fund was structured in this way. I will give you the opportunity to respond to that.

**Mr WILDE:** No. It was not my idea in any way, shape or form and putting a proposition like that without saying who said it is not particularly nice of you to do.

**The Hon. JOHN GRAHAM:** Whose idea was it to restructure?

**Mr WILDE:** I do not know whose idea it was to structure the fund in this regard.

**The Hon. JOHN GRAHAM:** You were the chief of staff to the Minister for Local Government. The money was appropriated to your Minister legally and you cannot tell us what the arrangements were and who was responsible for the change.

**Mr WILDE:** It is quite clear that three Ministers—the Premier, the Deputy Premier and the then Minister for Local Government—determined without assistance from me that the fund would have the kind of broad remit that it did as a result of the council merger process.

**The Hon. JOHN GRAHAM:** Whose idea was it to change the guidelines?

**Mr WILDE:** It was not my idea and I cannot shed any light on whose idea it was.

**The Hon. JOHN GRAHAM:** You were the chief of staff to the Minister at the time. It seems quite incredible that you cannot tell us at all. Did anyone speak to you from the Premier's office about changing the guidelines?

**Mr WILDE:** I met regularly with the Premier's office on a range of matters but I have no recollection of any specific proposal coming to be in this regard, raised in any meeting by a specific person.

**The Hon. JOHN GRAHAM:** Right, so you just cannot recall at all whose idea it was to change the guidelines.

## CORRECTED

**Mr WILDE:** I know it was not me.

**The Hon. JOHN GRAHAM:** You can at least recall that. On the face of it, it looks like your Minister has been sidelined. Can you explain why that happened?

**The Hon. TREVOR KHAN:** Point of order: The member is entitled to ask questions, but this editorial comment that he continues to make is not only unhelpful but inappropriate.

**The Hon. JOHN GRAHAM:** I will withdraw that question. I will put the question in this way: Minister Upton was famous for not approving things, is that why your Minister was sidelined?

**The Hon. NATALIE WARD:** Now, boys, how is that any different? How is that relevant to the terms?

**The Hon. JOHN GRAHAM:** It is not a point of order. Mr Wilde?

**Mr WILDE:** I disagree with your assertion, and ultimately Cabinet made a decision in regard to those funds, and then there was a mechanism by which those funds were distributed. The Office of Local Government administered those funds.

**The Hon. JOHN GRAHAM:** These funds were appropriated to your Minister, though, and then not spent by your Minister. Is that—

**The Hon. TREVOR KHAN:** I will take a point of order: He is again putting an assertion and then tacks a question on the end, and it is unclear, when the witness then answers, as to whether he is agreeing with the assertion that leads into the question, and that is inappropriate.

**The CHAIR:** The member is entitled to put a factual basis to then ask a question on that factual basis. It is well within order to ask in the manner in which the member is doing it. If the witness wants to dispute the factual basis, the witness is entitled to do that, but the member is perfectly entitled to put what the member believes to be the facts to the witness and then ask a proposition in relation to it. So I do not uphold that point of order.

**The Hon. NATALIE WARD:** Chair, point of order: Can I put it this way—if we continue in this fashion, we will be required to continue to take points of order. It might be appropriate to put a factual statement and ask for the witness to agree or disagree, and then put a further question.

**The CHAIR:** As I said, the member is entitled to put factual propositions and then ask questions about it.

**The Hon. NATALIE WARD:** And not to tack a question on.

**The Hon. JOHN GRAHAM:** No-one has disputed, up until 60 seconds ago, that this money was appropriated from the Treasury to your Minister.

**The Hon. TREVOR KHAN:** No, that is absolutely right.

**The Hon. JOHN GRAHAM:** Was that correct? Do you disagree with that?

**Mr WILDE:** No, no—that was correct.

**The Hon. JOHN GRAHAM:** No, okay. Given the grants were then not approved by your Minister, bar the first two, is that legal—the fact that these grants were then approved by someone else?

**Mr WILDE:** Proper authority rested with the Office of Local Government in regard to the remitting of the funds.

**The Hon. JOHN GRAHAM:** Did you ever see advice about the legality of those arrangements?

**Mr WILDE:** I do not have legal advice on that. Are you disputing those?

**The Hon. JOHN GRAHAM:** I think you have answered my question. Did you brief the Premier at any point on this scheme?

**Mr WILDE:** I would have been in meetings with the Premier on a range of issues. I do not recall a specific meeting where this came up. In the end, Cabinet decided the funds would be used in this way and then the Office of Local—

**The Hon. JOHN GRAHAM:** I am not asking you about the prior approvals.

**The Hon. NATALIE WARD:** Let him finish. You have asked the question, let him finish.

**Mr WILDE:** I am saying that this is a matter for Cabinet. I am not a decision-maker, I am a mere adviser.

## CORRECTED

**The Hon. JOHN GRAHAM:** I am not suggesting that. I am asking: Did you brief the Premier? I think you are saying you would have been at a range of meetings but you do not recall.

**Mr WILDE:** I do not recall briefing the Premier.

**The Hon. JOHN GRAHAM:** On this grant fund?

**Mr WILDE:** On this grant fund.

**The Hon. JOHN GRAHAM:** Do you recall—you obviously would have briefed the Premier's office on this grant fund.

**Mr WILDE:** I would have had discussions. I do not have diary notes from that time that indicate specific dates, but I spoke to the Premier's office daily on a range of matters.

**The Hon. JOHN GRAHAM:** Who would you have briefed in the Premier's office on this fund, by the way?

**Mr WILDE:** I would have had meetings with a range of people. But, as I said, I cannot specifically refer to an event where a discussion went into detail on this.

**The Hon. COURTNEY HOUSSOS:** So who was your primary contact in the office on this fund? Did you have a go-to person that you would talk to about this fund?

**The Hon. NATALIE WARD:** Sorry, in which office?

**The Hon. COURTNEY HOUSSOS:** The Premier's office.

**The Hon. NATALIE WARD:** You said "in the office".

**The Hon. COURTNEY HOUSSOS:** Yes, we were just talking about the Premier's office.

**The Hon. NATALIE WARD:** Alright.

**Mr WILDE:** I had no primary contact in the Premier's office. It would depend on the particular matter at the time.

**The Hon. COURTNEY HOUSSOS:** For the Stronger Communities Fund?

**Mr WILDE:** And in regard to the Stronger Communities Fund, indeed.

**The Hon. COURTNEY HOUSSOS:** When did you find out about the changed guidelines? Did you find out about them before they went to Cabinet or after they went to Cabinet?

**Mr WILDE:** I would have been made aware of what was being taken to Cabinet, but it was not—ultimately, it is then a decision of Cabinet to decide to do one thing or another. There are a range of options on a range of different things. So I was aware that this was a possibility, but they are the decision-makers.

**The Hon. COURTNEY HOUSSOS:** And were you part of the drafting of the new guidelines?

**Mr WILDE:** No.

**The Hon. COURTNEY HOUSSOS:** We received testimony that the Office of Local Government actually drafted these guidelines, so you are saying that the Office of Local Government—that reports directly to your Minister—was drafting guidelines but not providing them to your Minister, is that correct?

**Mr WILDE:** No, I am saying that I did not take an interest or had an oversight role in regard to this fund. The Office of Local Government administered the fund. The guidelines were broad. That is how they were drafted—for community benefit for those councils that had been impacted by the merger process. But the decision was made by the elected government, through Cabinet initially, and then administered through the Office of Local Government.

**The Hon. COURTNEY HOUSSOS:** But in usual practices—a decision taken by government, administered by a department that reports to your Minister—you would be more involved in the process, would you accept that?

**Mr WILDE:** Not necessarily, it depends on the programs and workload at the time—priorities—depending on a whole range of factors, how aware of all of the details of every single government program that was under the remit of the then Minister.

**The Hon. COURTNEY HOUSSOS:** Mr Wilde, did you have any role in determining which of the grants would be signed off the Premier and which of the grants would be signed off by the Deputy Premier?

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CORRECTED

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**Mr WILDE:** No.

**The Hon. COURTNEY HOUSSOS:** What was the role of your office and yourself once the new guidelines came into place?

**The Hon. TREVOR KHAN:** Nothing.

**Mr WILDE:** Nothing.

**The Hon. COURTNEY HOUSSOS:** Totally cut out.

**The Hon. TREVOR KHAN:** That was not a surprising answer.

**The Hon. COURTNEY HOUSSOS:** Mr Wilde, I wanted to ask you specifically about Canterbury-Bankstown council, which you may be aware is the largest council after the mergers.

**Mr WILDE:** Yes.

**The Hon. COURTNEY HOUSSOS:** They wrote to your Minister specifically requesting additional funding right at the time that this new fund was being considered and had been adopted by the Cabinet. Why did your Minister write back to them and say there was no additional funds available?

**Mr WILDE:** You would have to ask her.

**The Hon. COURTNEY HOUSSOS:** Well, I am asking you, as the chief of staff at the time: Why would she write back and not tell them about a fund which—

**Mr WILDE:** I am not the Minister. I cannot make up what her thinking was at that time to a specific letter.

**The Hon. COURTNEY HOUSSOS:** Did you see the letter when it came in?

**Mr WILDE:** I did, yes.

**The Hon. COURTNEY HOUSSOS:** Did you see the response as it was drafted?

**Mr WILDE:** I did, but ultimately the signature and the final version was a matter for the Minister.

**The Hon. COURTNEY HOUSSOS:** Were you aware of the additional funding of the Stronger Communities Fund at the time?

**Mr WILDE:** What Canterbury-Bankstown was after was further support in addition to the support they had already received as a merged council. They were not eligible under the new guidelines because the new guidelines were written and then administered how they were.

**The Hon. COURTNEY HOUSSOS:** Well, according to the working advice note that was deleted—and now has been recreated and provided to the upper House—we are told that the funding was to be spent on:

Open spaces projects for metro local councils who engaged constructively in the merger process.

That is—and we received clarification this morning—councils that did not challenge it in the courts.

**The Hon. TREVOR KHAN:** That is not—

**The CHAIR:** That is fair. That is a very fair summary.

**The Hon. COURTNEY HOUSSOS:** That is exactly what Mr Crocker said this morning. Mr Wilde, how then does Canterbury-Bankstown council not fulfil those requirements?

**Mr WILDE:** I did not make the decision, so I cannot speculate on a letter seeking funding. And the letter was not stipulating what it would necessarily be used for. But ultimately, from my point of view, there is an elected government, it is elected to make decisions, there is a bureaucracy to help that occur. The Office of Local Government remitted as per the guidelines. Some councils received money, others did not. That was not my decision.

**The Hon. COURTNEY HOUSSOS:** Mr Wilde, we received remarkable testimony from two very large councils who appeared before this inquiry, saying that the first they heard about \$252 million of public funds that they should have been eligible for was on a news story years later, despite the fact that they had written to your Minister. You are telling this inquiry that you saw both the letter as it came in and the letter as it was drafted going out, and you do not think it was appropriate that they should have been told about that fund?

**The Hon. NATALIE WARD:** They had already received funds.

## CORRECTED

**Mr WILDE:** I believe they wrote on a particular issue. The change guidelines meant that they were not considered as part of the eligibility that was seen, it would appear, via the Office of Local Government. Once again, my role is as an adviser. I did not suggest councils should receive money or not receive money. I was not involved in that process so that can be answered by other people.

**The Hon. COURTNEY HOUSSOS:** Your role was to assist the Minister in responding to a council that wrote to you saying, "We have engaged in the process. In fact we are so efficient at spending our money, but we have got these huge gaps in our local infrastructure that we want to spend money on." You have got \$252 million sitting there to spend and you do not think it is appropriate to tell the largest merged council about this? That is evasive in the least, and it is lying at worst.

**The Hon. NATALIE WARD:** You need to withdraw that.

**The Hon. TREVOR KHAN:** That is quite inappropriate. You are entitled to ask questions but you are not entitled to accuse the witness.

**The CHAIR:** I do not think you are quite there to put that proposition to the witness.

**The Hon. NATALIE WARD:** He was not, and the characterisation was not.

**The Hon. TREVOR KHAN:** "That is evasive in the least"—that is inappropriate.

**The CHAIR:** I do not think it is fair to put it to the witness on the material to date that we have had from the witness. I would ask you to recast it.

**The Hon. COURTNEY HOUSSOS:** Why was the council, the largest merged council, not told that there was \$252 million in funding available but only for councils in Liberal Party seats?

**The Hon. NATALIE WARD:** It was not his job.

**Mr WILDE:** I can only reconfirm this very simple fact. I was an adviser. I was not a decision-maker. I was not an administrator of the fund. It was not my role to do what you are asking.

**The Hon. COURTNEY HOUSSOS:** As an adviser you could amend the correspondence—

**The CHAIR:** Ms Houssos, your time is up. Mr Wilde, thank you for coming today. You said on more than one occasion that the job of the Office of Local Government was to remit the funding as per the guidelines and their role was the remitting of funds. Is that your understanding of what the job of the Office of Local Government was?

**Mr WILDE:** They administered the funds.

**The CHAIR:** Do you stand by your earlier evidence that their role was a remittance role? Their job was to ensure that the funding was provided and that was the role of the Office of Local Government.

**Mr WILDE:** Their role was to have the funds go to the council—the various councils. That was their role.

**The CHAIR:** Yes, so once the councils and the projects had been identified that was then communicated to the Office of Local Government and it was the job of the Office of Local Government to ensure that the money went into the council accounts. That is what happened, is that right?

**Mr WILDE:** Correct.

**The CHAIR:** And so, when this tied grants round was first established, the office whose job it was to identify the projects was originally your Minister's office, the Minister for Local Government. Is that correct?

**Mr WILDE:** Correct.

**The CHAIR:** And indeed, you went through that process at least to some extent in your office in relation to a number of councils. Do you remember that?

**Mr WILDE:** Yes, that is correct.

**The CHAIR:** Do you want to tell me what your recollection is of that?

**Mr WILDE:** The original round funds were distributed in a different format. As you are aware the Government's original plans for council mergers was not proceeded with so there were less mergers and consequently there was a decision by Cabinet to redistribute funds. So the guidelines for the fund were redone and funds were allocated.

## CORRECTED

**The CHAIR:** Is it your memory that that was around September 2017 when the tied grant round was first established? About September 2017?

**Mr WILDE:** I would have to check my notes. I cannot say absolutely.

**The CHAIR:** I will show you a document which we got from the Office of Local Government so you can see where I am getting this from.

**Mr WILDE:** Sure.

**The CHAIR:** This is a table produced by the Office of Local Government in relation to each of the funding agreements for each of the councils that totals \$255,000. At the bottom of that first page, do you see Dubbo Regional?

**Mr WILDE:** I do.

**The CHAIR:** Date of funding agreement 30 November 2017; date of guidelines 8 September 2017. Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** Now you have had the chance of looking at that, does that seem about right?

**Mr WILDE:** It does.

**The CHAIR:** In relation to Dubbo Regional Council, you were the chief of staff at the time?

**Mr WILDE:** Correct.

**The CHAIR:** Can you remember how it was that Dubbo Regional Council was identified for funding?

**Mr WILDE:** Dubbo is the capital of western New South Wales—

**The CHAIR:** I know that.

**Mr WILDE:** —and a lot of communities outlying Dubbo rely on it. It was a council which expanded towards Wellington as well and a range of useful projects were suggested for that council, for that community.

**The CHAIR:** Can we try and unpack some of that passive voice? You say "were suggested". They were suggested by whom?

**Mr WILDE:** They were not suggested by me. A range of options were provided within Government and then a decision was made.

**The CHAIR:** What do you mean "a range of options were provided within Government"? What does that mean?

**Mr WILDE:** Governments have choices how they fund, where to fund, what amount and when.

**The CHAIR:** Sorry, Mr Wilde, I am not asking about a philosophical discussion here. I am asking very practically about Dubbo Regional Council. So when you say "a range of options were provided", I am asking about Dubbo Regional Council not philosophically.

**Mr WILDE:** I have no records that can enlighten you on the list of projects, who were they initiated by and what they were for.

**The CHAIR:** Well, if you follow through on that table, you will see that the third last column says "Projects identified for NSW Government by". You will see there "Local Government Minister". You were the chief of staff at the time. Your boss has identified \$27.7 million of funding to just one council. You must have some recollection of it?

**Mr WILDE:** The Office of Local Government would have provided a list of potential areas, I would imagine, of funding in the council area and—

**The CHAIR:** Just to be clear, Mr Wilde, I am asking for your recollection, not your speculation—

**The Hon. TREVOR KHAN:** Jeez, that is a change from what you have been doing all day.

**Mr WILDE:** That is my recollection.

**The CHAIR:** —that the Office of Local Government provided a list to your Minister.

## CORRECTED

**Mr WILDE:** My recollection is that the Office of Local Government would have compiled a list of relevant funds or have assessed a list of relevant projects that could be funded.

**The CHAIR:** So you recall the Office of Local Government providing a list and an assessment of a series of projects? You recall that. Is that your evidence?

**Mr WILDE:** No, I recall that that number could only have been achieved if there was a list of projects and those projects would have then been checked with the local council. If they came into the office, normal practice would be for the Office of Local Government to check it or double-check it, depending on if they were the initiators. I do not know who initiated it.

**The CHAIR:** There have been a series of calls for papers to the Office of Local Government to require them to produce any such assessment, any such analysis of the projects, amongst other things, approved for Dubbo Regional Council. Apart from, I think, one or two emails which identify a list of projects—I will show you the only document produced. It has got unconventional stapling in the top right-hand corner—and ignore the first attachment 3. Just in the bottom right-hand corner, page 1—do you see that, Mr Wilde?

**Mr WILDE:** On page 3?

**The CHAIR:** On the bottom right-hand corner you will find page 1.

**Mr WILDE:** Yes, I do.

**The CHAIR:** Then you will see the "funding agreement". You will see it nine rows down. You will see it is signed by Mr Hurst on 30 November 2017 as a deed.

**Mr WILDE:** Yes.

**The CHAIR:** Then you will see attachment 1, and there is the list of projects that total \$27.7 million. Do you see that?

**Mr WILDE:** Yes, I do.

**The CHAIR:** Then you will find the next page signed by the council.

**Mr WILDE:** Yes.

**The CHAIR:** Then you will find the tied grants guidelines and the acquittal certificate. Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** There was never an assessment of these projects done by the Office of Local Government according to the material produced by the Office of Local Government. How do you explain that?

**The Hon. NATALIE WARD:** Point of order: That is not a question that he can answer. That should be put to the Office of Local Government. Secondly, you are calling for an opinion.

**The CHAIR:** I am going to press the question, because the evidence of this witness was that he understood that such a process would occur.

**Mr WILDE:** What I am seeing right here, Mr Shoebridge, is what I thought would have been the case. That is, a list was provided, the local council was contacted, the decision was made. What process the Office of Local Government went through I simply cannot answer.

**The CHAIR:** I take you back to the other document. These projects were not identified by the Office of Local Government; these projects were identified by your Minister. Some \$27 million worth of projects were identified by your Minister. You were the chief of staff at the time. How did that happen?

**The Hon. NATALIE WARD:** Point of order: Again, Chair, you are asking questions about policy and the Minister's decisions. This witness is here to talk about his role in the office and process. I am just not sure he can answer it. I do not think it is a fair question, to back-door a Minister through his staff—

**The CHAIR:** I simply do not accept that that is even close to a valid point of order.

**The Hon. NATALIE WARD:** Tribes of as yet undiscovered Peruvian Indians knew that you would not.

**The CHAIR:** It is not even close to a valid point of order, so I do not uphold it. Mr Wilde, you were the chief of staff at the time these projects were identified by your boss, your Minister. How did that happen? How were they identified by your Minister?



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**Mr WILDE:** I cannot shed any light on why the Minister came up with that particular list or total of grants, because I certainly did not have a suggestion or a briefing note or anything saying, "Minister, I think that this is something that you should do". Ministers have the power to authorise sums of money. That question is best directed to the former Minister.

**The CHAIR:** But as the chief of staff, before your Minister makes a decision to allocate \$27 million of public money the chief of staff would inevitably have a role in reviewing any recommendations or reviewing any decisions.

**Mr WILDE:** No, not necessarily.

**The CHAIR:** What were you doing, Mr Wilde, if not doing that? What were you doing?

**Mr WILDE:** I was very busy, but it is not my role to tell the Minister what to approve and what not to approve. That is offensive to Ministers of any political persuasion. Chiefs of staff, advisers, junior advisers and senior advisers are there to help the Minister. They do not dictate terms. That certainly was not my experience.

**The CHAIR:** We know the Office of Local Government did not pull the list together. You now say you had no role in pulling the list together. You now say, as chief of staff, you cannot shed any light about how the list was pulled together. Is that really the evidence, that it just appeared from the Minister, just appeared out of the Minister's mind one day?

**Mr WILDE:** I cannot say why the Minister approved that and can only return to a very simple point: That is something only she can answer.

**The CHAIR:** I will show you another document, Mr Wilde. Do you want a copy, Mr Khan?

**The Hon. TREVOR KHAN:** No, I am fine. I like surprises—and at my age anything will do.

**The CHAIR:** This is another document that follows the same basic pattern.

**The Hon. NATALIE WARD:** I would like to see the document.

**The CHAIR:** It starts on page 1 and we take it through. You will see on page 9 that it is executed by Mr Hurst on 30 November 2017. Do you see that?

**Mr WILDE:** I do, yes.

**The CHAIR:** On page 10 there is a list of a dozen projects totalling \$21.1 million for Northern Beaches Council. Do you see that?

**Mr WILDE:** Yes, I do.

**The CHAIR:** You will see on page 12 there is evidence that it has been executed by the council. Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** Again, I will take you to page 5 of that other document, the table—which is actually the third page that has been produced. You see that it reads "page 5" in the bottom right-hand corner.

**Mr WILDE:** Yes.

**The CHAIR:** The top line reads, "Northern Beaches". If you run through that you will see that the funding agreement is, as I have just taken you to, \$21.1 million; expenditure was authorised by the Minister of Local Government; and projects were identified for New South Wales by the Minister for Local Government. Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** The Minister could not authorise the expenditure of \$21 million without paperwork, could she?

**Mr WILDE:** I cannot speak for what the Office of Local Government signed off on in regard to the funds.

**The CHAIR:** But Mr Wilde, you are misreading this document. This document from the Office of Local Government states that expenditure was authorised by your Minister. The Minister could not have authorised \$21.1 million of public money without any document in front of her, could she?

**Mr WILDE:** Once again, that is a question for the former Minister, not for me.

## CORRECTED

**The CHAIR:** No document has been produced showing any signature or any approval from the Minister for Local Government. Is it your understanding that is because there never was such a document?

**Mr WILDE:** The Office of Local Government can answer for itself on how it has remitted funds and what paperwork it required.

**The CHAIR:** But Mr Wilde, do you not understand what I am putting to you from this document from the Office of Local Government? This states that the expenditure was authorised by the Minister for Local Government—by your boss—when you were the chief of staff. She approved \$21.1 million to this council without any paperwork. Do you have any explanation for how that happened?

**Mr WILDE:** The former Minister can speak for herself on this. I cannot shed any further light on it.

**The CHAIR:** You are not aware of a single document that went in front of her for this? You were the chief of staff; you are not aware of a single document?

**Mr WILDE:** I was not in the Minister's office every moment of every day on every decision she made.

**The CHAIR:** Are you suggesting a \$21 million funding decision would have just snuck around the corner while you were out on a lunch break?

**Mr WILDE:** No. I did not have too many lunch breaks, Mr Shoebridge. But in the end, I am just a mere staffer. I have no authority.

**The Hon. JOHN GRAHAM:** I just want to return to that question. The Office of Local Government has accounted for its paperwork. It has provided it to the Parliament. There is no paperwork that has been returned here as your Minister approved this. Did you see, at any point, any paperwork approving these grants as your Minister approved them?

**Mr WILDE:** I do not recall a specific brief in regard to this, but we are also talking 2½ years ago. I do not tend to dwell on work that long ago.

**The Hon. JOHN GRAHAM:** We know the paperwork approving these grants has been shredded in the Premier's office, and there is no paperwork in the Deputy Premier's office. You are telling us that in the Minister for Local Government's office, again, there is simply no paperwork, is your recollection?

**Mr WILDE:** I have no further information to shed light on that issue.

**The Hon. JOHN GRAHAM:** I turn back to that letter to City of Canterbury-Bankstown council, just to go to some of the details of that. Canterbury council sent in a letter on 8 June 2018 asking for more funds. Later that month on 27 June the guidelines were signed off by your Minister, amongst others—the Premier and the Deputy Premier—and then metro council funding, \$141.8 million, was allocated. Then, on 31 July—so a month later—this letter went back. You say you have seen the incoming letter and you saw the outgoing letter. That letter that went back out said this: "Additional implementation or transition funding has not been provided to any metropolitan council." How is that true, given that \$141.8 million had just been allocated?

**Mr WILDE:** I did not write the letter.

**The Hon. JOHN GRAHAM:** But you said you saw the letter. Did you send this letter through to your Minister?

**Mr WILDE:** I was not the local government adviser in her office but even so we can play a semantics game about the guidelines and how they were used in terms of funding other councils, but some councils were funded; others were not. That decision was made by politicians, not by staffers.

**The CHAIR:** Indeed it was.

**The Hon. JOHN GRAHAM:** But when you saw this letter coming back out from this council saying, "Look, we would love some money", you know that \$141 million has been allocated to councils and you see this letter that says, additional implementation or transition funding is not being provided. It says, no, there is no money. "Additional implementation or transition funding is not being provided to any metropolitan council." Did that ring alarm bells?

**Mr WILDE:** I do not accept the proposition. The fact is that Canterbury-Bankstown was seeking funds. The Government decided not to provide extra funds to that council. Funds were provided through a different mechanism to other councils.

**The Hon. JOHN GRAHAM:** Well, Mr Wilde, that is just wrong. I will read you the guidelines. The guidelines state:

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The tied grant round of 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.

You would agree, on the basis of that, Canterbury was eligible; they just did not get any funding.

**Mr WILDE:** No, I do not. It does not matter whether or not you believe that is the case. The decision-makers made a decision to fund certain councils and the mechanism was through the Office of Local Government.

**The Hon. JOHN GRAHAM:** Yes, but I am asking why were they told there is no funding.

**The Hon. TREVOR KHAN:** No, no. Let him finish. I will take a point of order.

**The CHAIR:** No. I think if you had not finished, Mr Wilde—

**Mr WILDE:** I had not finished. I did not draft that letter. I did not sign that letter. I have not seen that letter in two and a half years and you are quoting it to me without the benefit of being able to see it within context and to consider it. In the end, a decision was made by the elected Minister and then through her agency to deliver funding to other places. I cannot see how I should be held accountable for decisions of elected officials and then senior bureaucrats when I made no decision.

**The Hon. COURTNEY HOUSSOS:** So on what basis do you think the Canterbury-Bankstown council was not eligible for the funding?

**Mr WILDE:** It is not up to me. I did not make the decision.

**The Hon. COURTNEY HOUSSOS:** You said earlier in your testimony that they were not eligible for funding.

**Mr WILDE:** I am saying that the guidelines provided for some councils to be provided. They were wide in how they were written. Whether or not this particular council was rejected or not considered, that is the decision for others to make.

**The Hon. COURTNEY HOUSSOS:** Well, Mr Wilde, that was not what you just told the Committee earlier. You said the reason why they got a letter saying that they did not get any funding was because they were not eligible. So on what bases are you making that assertion, given what my colleague has just read to you from the guidelines?

**Mr WILDE:** I did not make the decision. I am not going to theorise about why a Minister decided to fund one council over another.

**The Hon. JOHN GRAHAM:** I think that is fair about but do you accept, now that you have heard the guidelines or had your memory refreshed on the guidelines, that Canterbury would have been eligible, was eligible, but just did not get funding?

**Mr WILDE:** I do not know—

**The Hon. JOHN GRAHAM:** Okay.

**Mr WILDE:** —because I am reading this for the first time in a couple of years now. Give me a moment to read it.

**The CHAIR:** You take the time you need, Mr Wilde.

**Mr WILDE:** To me, the key section is, "Additional implementation transition funding has not been provided to any metropolitan council." The funding that was made available to other councils was through another format.

**The Hon. JOHN GRAHAM:** Yes. You do not think that the Canterbury council might have benefited from the knowledge that money was flowing out the door in the month beforehand—hundreds of millions of dollars?

**Mr WILDE:** That was a decision for others to take, not for me.

**The Hon. JOHN GRAHAM:** Indeed.

**Mr WILDE:** I did not work and do not work for the Canterbury-Bankstown council.

**The Hon. JOHN GRAHAM:** One of the reasons they did not know is that the guidelines were secret. Basically, you found out about the guidelines if you got the forms. That is the only way that the guidelines were distributed. They were not on the web and they were not public. The working advice notes that that were shredded

## CORRECTED

and deleted in the Premier's office, that the Premier signed off on, said this: "Once you have signed"—that is, once the Premier signed—"the DP and Min. Upton will sign the brief. Once finalised"—this is about the guidelines—"they will be published on OLG's website." That never happened. Can you give us any background as to why these guidelines were kept secret?

**Mr WILDE:** That is a matter for the Office of Local Government. I did not ask them to do that.

**The Hon. JOHN GRAHAM:** Were you aware at any point that the guidelines had not been published or were being kept secret?

**Mr WILDE:** No.

**The Hon. JOHN GRAHAM:** And you did not think it was relevant information when you reviewed the letter to go back to the Canterbury council that this set funding was available and these guidelines were in place; that it might be worth mentioned in that letter?

**Mr WILDE:** Governments decide to announce things at different times and through different mechanisms. That is how I would characterise it.

**The Hon. COURTNEY HOUSSOS:** But, Mr Wilde, the decision not to put them on the website actually contradicts the DPC guidelines around grants programs. They are supposed to be accessible by the public and accessible by anyone who is eligible to apply for them.

**The Hon. TREVOR KHAN:** Is that a question or an assertion?

**The Hon. COURTNEY HOUSSOS:** Well, I am quoting the guidelines. Are you aware of these guidelines?

**The Hon. TREVOR KHAN:** You can ask questions. You cannot make assertions.

**The CHAIR:** That is a question.

**Mr WILDE:** I am aware of the guidelines. I also am not the Office of Local Government so that is a question for the Office of Local Government about what they do with their website.

**The Hon. COURTNEY HOUSSOS:** Did you ever instruct the Office of Local Government to put them on the website?

**Mr WILDE:** I did not have a discussion with them about yes or no—no discussion on the particular issue, one way or another.

**The Hon. JOHN GRAHAM:** I might just show you this document. This is just the signing of the guidelines by your Minister. It is on the second page. From the emails and the working advice notes from the Premier we know that hundreds of millions of dollars were approved all projects in metro areas on 25 June 2018. That money was approved. Those grants were approved by the Premier. One of the concerns that ICAC has put in its submission is grants being approved before the guidelines are approved. So those grants were approved on 25 June 2018. When did your Minister sign off the guidelines on that briefing?

**Mr WILDE:** I have no reason to believe that the date is incorrect that she signed that.

**The Hon. JOHN GRAHAM:** What is the date?

**Mr WILDE:** I think her signature is the twenty-seventh.

**The Hon. JOHN GRAHAM:** Twenty-seventh of?

**Mr WILDE:** I think you have the document.

**The Hon. JOHN GRAHAM:** Twenty-seventh of June 2018.

**Mr WILDE:** Yes, it is dated, yes.

**The Hon. JOHN GRAHAM:** Yes. So you accept that your Minister is signing off those guidelines days after the date I have put to you and the documents show that the Premier has approved those grants.

**Mr WILDE:** I have no reason to believe that that date is incorrect. I have no knowledge other than the signature is there and the date is there.

**The Hon. JOHN GRAHAM:** And you agree it is two days later than the date I am putting to you that the grants were signed off.

**Mr WILDE:** That appears to be the case, yes.

## CORRECTED

**The Hon. JOHN GRAHAM:** Thank you. Did you ever brief the Deputy Premier on the tied grants round of funding?

**Mr WILDE:** No, but it is clear that three Ministers at the time—the Premier, the Deputy Premier, and the Minister for Local Government—were involved in the preparation of the guidelines and that obviously went to Cabinet and also to the Expenditure Review Committee. I would imagine—and you have already heard from a former staff member for the Deputy Premier about their processes—I will not speculate.

**The Hon. JOHN GRAHAM:** I think you started your answer, but I do not want to misquote you, by saying, no, you did not, and then you made some other observations. Is that correct? I asked you, "Did you brief the Deputy Premier?" Did you answer "No" and then provide context?

**Mr WILDE:** I do not recall briefing them.

**The Hon. JOHN GRAHAM:** Who is your contact in the Premier's office? Who was the main person you dealt with for this fund? I would expect that is something that you might recall.

**Mr WILDE:** The fund in terms of the Premier's contact was Sarah Lau.

**The Hon. JOHN GRAHAM:** Give that answer again, please.

**Mr WILDE:** Sarah Lau.

**The Hon. JOHN GRAHAM:** Was your main contact in the Premier's office?

**Mr WILDE:** Yes.

**The Hon. JOHN GRAHAM:** On this fund. Who else did you brief in the Premier's office on this fund?

**Mr WILDE:** No—

**The Hon. TREVOR KHAN:** No. Point of order—

**The CHAIR:** The question is: Did you brief anybody else?

**The Hon. TREVOR KHAN:** Point of order—

**Mr WILDE:** I am not saying that I briefed Sarah Lau.

**The Hon. TREVOR KHAN:** Yes, that is the—

**The Hon. JOHN GRAHAM:** Yes, that is fair.

**Mr WILDE:** I did not—

**The Hon. JOHN GRAHAM:** Who were the other Premier's office staff with whom you were in contact with for this fund?

**Mr WILDE:** I would have spoken to a range of staff but Sarah Lau was the main contact, and it is clear from the emails that she was then in direct contact with Tim Hurst. I was not an active participant in that process.

**The Hon. JOHN GRAHAM:** I have never seen a fund like this where hundreds of millions of dollars are effectively approved without paperwork or where paperwork is destroyed. Have you seen anything like this in your time in government?

**Mr WILDE:** I cannot think of another example of a fund in my time in government that operated in this manner, but at the same time, the Office of Local Government were the agency that had to make sure the paperwork was up to scratch and fulfilling all of the guidelines.

**The Hon. JOHN GRAHAM:** I want to take you back to 27 June 2018. The scheme changed dramatically; your Minister's role was dramatically changed. Can you not give us any clues as to whose idea that was at the time?

**Mr WILDE:** As I said, it was clear that the Government, so Cabinet, decided that the merger process was not going to proceed with the original plan. The Government then modified its plan.

**The Hon. JOHN GRAHAM:** How did you find out? Your Minister is responsible for hundreds of millions of dollars; then she is not.

**The Hon. TREVOR KHAN:** Point of order: You are entitled to ask the question. You have asked the question. He should be entitled to answer it.

**The Hon. JOHN GRAHAM:** How did you find out?

## CORRECTED

**Mr WILDE:** Of the change in the Government's policy in regard to local government?

**The Hon. JOHN GRAHAM:** Or that your Minister was no longer approving these grants. You cannot recall whose idea it was, but how did you find out? Do you recall anything about that?

**Mr WILDE:** It would have been clear after the decision was made by Cabinet about the new arrangements.

**The Hon. JOHN GRAHAM:** This was not a Cabinet decision, it was a decision of the three Ministers changing the guidelines.

**Mr WILDE:** And—

**The Hon. JOHN GRAHAM:** How did that—

**The Hon. TREVOR KHAN:** No, he is giving an answer.

**The Hon. JOHN GRAHAM:** How did that happen?

**Mr WILDE:** In terms of the chain of command—if we can use that analogy—there is the Premier, the Deputy Premier and then the Minister for Local Government. The decision was made by the leadership of going in this direction and therefore that is the direction.

**The Hon. JOHN GRAHAM:** That is the new chain of command, but the old chain of command when Treasury handed the money over—and this is quite important—is your Minister is in charge and the Premier and the Deputy Premier should not be fiddling around with the funds. How did that change? Was it the Premier's office who drove that and told you?

**Mr WILDE:** I do not recall someone saying this is going to be the case, but it certainly was not a suggestion from the Office of Local Government or from the ministerial office—of the change in arrangements. The Government made the decision and clearly the Premier and the Deputy Premier took an active interest in this and a decision was made and—

**The Hon. JOHN GRAHAM:** That is quite important, that it was not your—

**The Hon. TREVOR KHAN:** Let him finish answering.

**The Hon. JOHN GRAHAM:** I was trying to agree with Mr Wilde.

**The Hon. TREVOR KHAN:** I know what you were trying to do.

**The CHAIR:** Save your agreement for the end, John.

**The Hon. TREVOR KHAN:** I know what you were trying to do.

**The CHAIR:** Mr Wilde, had you finished?

**The Hon. JOHN GRAHAM:** Are you going to finish your answer?

**Mr WILDE:** I am fine, thank you.

**The Hon. JOHN GRAHAM:** I will return to that question on how that was communicated to you. It is a dramatic change in the funding—

**Mr WILDE:** I do not recall.

**The CHAIR:** Mr Wilde, it is your evidence to Mr Graham that the decision to change the way in which the funding was allocated did not come from the Office of Local Government. That was your earlier evidence to Mr Graham.

**Mr WILDE:** Correct.

**The CHAIR:** Is that still your position?

**Mr WILDE:** Yes.

**The CHAIR:** Do you know where it came from?

**Mr WILDE:** I do not know whether it was someone in the Premier's office or the Deputy Premier's office or the Premier or the Deputy Premier, but it was quite clear that the Government's leadership wanted a change in direction—a change in direction in regard to the policy—and then that had consequences for the fund and therefore there was a change in the arrangements. But—

## CORRECTED

**The CHAIR:** I will show you a document which might assist. This is a briefing from the Office of Local Government; it is called "Briefing to Minister". Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** If I could just take you to the bottom of the second page, you will see that it is actually going to three Ministers. One is the Minister for Local Government—your Minister.

**Mr WILDE:** Correct.

**The CHAIR:** The other the Premier and the Deputy Premier. Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** This is a briefing from the Office of Local Government that, in fact, shows the proposal to change the guidelines, to open them up and to expand the basis upon which \$140.8 million can be allocated. This is, in fact, the very document that you said the Office of Local Government did not create.

**Mr WILDE:** I said I was unaware of any document. I did not say they did not create it.

**The CHAIR:** I thought you said that the Office of Local Government did not propose it. I thought that was your evidence earlier, Mr Wilde. In fact, I have taken note of it twice now.

**Mr WILDE:** Irrespective of the note in terms of seeking a decision—I have no reason to dispute this, but—yes.

**The CHAIR:** Do you want to revisit your evidence that you gave earlier where you said that the proposal did not come from the Office of Local Government now that you have seen this document? Do you accept that that is plainly wrong?

**Mr WILDE:** I have no reason to believe that this is not correct, and my memory was faulty.

**The CHAIR:** Again, as chief of staff, a briefing about a \$140 million fund which requires your Minister's approval would have definitely come through your hands, would it not have? As chief of staff, you would not have allowed an issue this large to be put in front of the Minister without coming through your hands.

**Mr WILDE:** I was aware of the program, but I certainly was not precious about who went in to see the Minister with briefs to explain it—whether it was a policy director of the local government advisor or the environment advisor—if it was in that regard.

**The CHAIR:** Do you recall at all the circumstances in which the proposal to open up this \$140 million of public funding came to the Minister's office?

**Mr WILDE:** What do you mean by came to the Minister's office?

**The CHAIR:** Do you recall any circumstances at all surrounding this document? Anything at all.

**Mr WILDE:** As I have said previously, when the Government decided not to proceed with the first version of the council merger plan, there was moneys that had not been spent and the decision was made by Cabinet to use those funds within the local government sector for projects including parks and other things.

**The CHAIR:** Alright. Do you see the context on page 2?

**Mr WILDE:** I do.

**The CHAIR:** Mr Graham was asking you about the change in the decision being from your Minister allocating this pool of \$140 million to your Minister, the Premier and the Deputy Premier allocating \$140 million. That is the context there, isn't it? That is the change that they are referring to there.

**Mr WILDE:** I have already indicated that. Yes.

**The CHAIR:** Do you know why it was that such a large pool of money was taken out the hands solely of your Minister and given to the two most senior Ministers in the Government?

**Mr WILDE:** I cannot shed any light other than the fact that the Premier and the Deputy Premier are the two most senior members of the Government and they wanted to be involved, but I cannot speak for them.

**The CHAIR:** Do you know why your own Minister's council did not get any money?

**Mr WILDE:** I do not.

**The CHAIR:** They were the subject of a merger proposal.

## CORRECTED

**Mr WILDE:** They received money in terms of covering legal fees.

**The CHAIR:** Yes, but nothing under this tied grant round. Why did your Minister's own council not get any funds?

**Mr WILDE:** I cannot speak for the Minister and why that is the case, but it would also—if we were to reverse the situation and her local council received funds, there would be some who would say that that would be a conflict of interest. I cannot see any problem with the fact that that particular council was not involved. But that was a decision for the Minister. That was not—

**The CHAIR:** Can I show you another document which may shed some light on this? This is one of the shredded and deleted documents that has been recovered from the Premier's office. Do you see the first dot point there on page 1?

**Mr WILDE:** I do.

**The CHAIR:** It says:

There is \$25.34m in funding to spend on open spaces projects for metro local councils who engaged constructively in the merger process.

Do you see that?

**Mr WILDE:** I do.

**The CHAIR:** Is that why your own Minister's council did not get—

**Mr WILDE:** I cannot possibly comment.

**The CHAIR:** Let me finish. Is that why your own Minister's council did not even get a bowl at the soup pot? Because they had not engaged constructively in the merger process? Was this about punishing councils that resisted forced amalgamation process?

**Mr WILDE:** I did not make the decision. I can shed no light on that.

**The CHAIR:** Was there any discussion about punishing local councils—

**Mr WILDE:** No.

**The CHAIR:** —that resisted?

**Mr WILDE:** I had no discussions on that issue.

**The CHAIR:** Well, can you see, given what is in that briefing document from the Premier, how those councils might well, looking at these documents, think that there is a policy to punish them?

**Mr WILDE:** I cannot. It would be useless for me to try and speculate about what councils thought at the time about something that I did not decide on or suggest. People interpret government decisions in any number of ways.

**The CHAIR:** Indeed, they do. I took you earlier to the \$27.7 million that went to Dubbo Regional Council. Do you recall that?

**Mr WILDE:** I do.

**The CHAIR:** Do you recall that I put to you the proposition that your Minister identified the projects? Do you recall me putting that proposition to you?

**Mr WILDE:** I do.

**The CHAIR:** And do you recall that you said that all of that expenditure would have been authorised by the Office of Local Government? Do you recall those answers?

**Mr WILDE:** I think I meant to say that the Office of Local Government would have seen the list of projects and also would have been in contact with the local council to make sure that, whatever the projects were, they were relevant for that community.

**The CHAIR:** Mr Wilde, I will take you back to the table. I think I have shown it to you earlier. Have you got that in front of you?

**Mr WILDE:** Yes.



## CORRECTED

**The CHAIR:** Again, it is provided by the Office of Local Government. I ask you to go the bottom of page 1. You recall I took you to that line for Dubbo Regional Council.

**Mr WILDE:** Yes.

**The CHAIR:** You will see about halfway across it has got a column for who the expenditure was authorised by. Do you see that?

**Mr WILDE:** Yes, I do. I see that it was the then Minister for Local Government.

**The CHAIR:** Now, you said you could not recall any paperwork at all for the \$21.1 million authorised by your Minister for the Northern Beaches Council. Do you recall seeing any paperwork at all that your Minister signed off to authorise \$27.7 million for Dubbo Regional Council?

**Mr WILDE:** I have no recollection.

**The CHAIR:** Is this again just another \$27.7 million that is approved on the voices? No documents—just \$27.7 million of public money out the door with no paperwork.

**Mr WILDE:** They were real projects for a real community that needed them and they were delivered.

**The CHAIR:** How did you even know they were real projects apart from a line in a funding agreement? How did you know?

**Mr WILDE:** Are you disputing that that money was not spent appropriately by Dubbo Regional Council?

**The CHAIR:** I am asking how you knew or how your Minister knew that these individual projects should be funded.

**The Hon. TREVOR KHAN:** Point of order: This is the absurdity sometimes of calling ministerial advisers. You are again asking this witness to go into the mind of his Minister and say what his Minister did or did not think. That is beyond the remit of any witness.

**The CHAIR:** I will take you to the document itself—the funding agreement document. There are two of them.

**Mr WILDE:** There are two of them. I have them.

**The CHAIR:** One has attachment 3 on the front of it.

**Mr WILDE:** Yes.

**The CHAIR:** That is the one—page 10 of that. Do you see that list?

**Mr WILDE:** I do.

**The CHAIR:** How on earth could any public official be satisfied that \$10 million should be provided to the "Dubbo Traffic management plan key infrastructure - Fitzroy street lights" with just one line of documentation?

**The Hon. NATALIE WARD:** Point of order: You cannot speak on behalf of any public official.

**The CHAIR:** Can you shed any light upon how it was that your Minister identified that project and approved the spending of \$10 million on that one Fitzroy Street lights for Dubbo apart from that line?

**The Hon. NATALIE WARD:** Point of order: He cannot speak to his Minister's thinking.

**The CHAIR:** I am not asking him to speak to the Minister's thinking.

**The Hon. NATALIE WARD:** That is how you phrased it.

**The CHAIR:** Can you identify any documents, material or evidence apart from this list that was relied upon by the Minister in approving \$10 million of funding?

**Mr WILDE:** No, I cannot. But I think that, if we all went to Dubbo today, we would see the improvements at Fitzroy Street.

**The CHAIR:** What about the \$7.1 million that is provided with just one line for the Victoria Park redevelopment? What was that going towards?

## CORRECTED

**Mr WILDE:** I was not the decision-maker. As you know, these materials were provided to me just then. But I think we could easily find out what the council has done with the redevelopment of that park and, if you have concerns about the spending by council, you need to raise it with other people.

**The CHAIR:** Mr Wilde, I want to be very clear what my concerns are. They are about your Minister, when you were chief of staff, approving \$27.7 million of public funding with simply a list of one line descriptions. That is my concern.

**The Hon. TREVOR KHAN:** Point of order: Everyone is bound by the same conditions here. That is, this witness is here to answer questions, not be berated and not be the subject of speeches, whether it is by the Chair or anyone else.

**The CHAIR:** Mr Wilde, can you recall other instances or any instances you are aware of where \$10 million of public funding was approved through the Minister's office with just one line of description apart from this?

**Mr WILDE:** No, I do not.

**The CHAIR:** Can you recall an instance where there was \$27 million or more of public funding approved with just a dozen lines like this?

**Mr WILDE:** I have no other examples. But I will also point to the fact that the council received the monies. The work has been done. The community has benefited. If there are concerns about how council has spent the money, that is for someone else. This was for community benefit. They were delivered.

**The CHAIR:** I just want to be clear: The concern is not how councillors spend the money. The concern is how the \$27 million was provided with no paperwork, Mr Wilde, and you cannot shed light on that. Is that your understanding?

**Mr WILDE:** I cannot.

**The CHAIR:** You were asked some questions by the Opposition about the request for funding that Canterbury-Bankstown council sent on 8 June 2018. Do you remember those questions?

**Mr WILDE:** I do.

**The CHAIR:** As at 8 June 2018, the funding agreement was as originally approved in 2017. Do you agree that it was not changed until the end of June 2018?

**Mr WILDE:** I agree with that.

**The CHAIR:** Can I again take you to the document that I was just taking you to, which is the funding agreement with Dubbo Regional Council.

**Mr WILDE:** Yes.

**The CHAIR:** On page 2 you will see the second point. Will you just read that out: the purpose of the funds?

**Mr WILDE:** I have not had to use my speaking voice in such a context before. Why is me reading it out relevant? We can all see it.

**The CHAIR:** I will read it out for you:

The purpose of the funds is to provide new councils with the funding to kick start the delivery of projects that improve community infrastructure and services and to cover the upfront costs of implementing the new council. The relevant Funding Period is set out in the Guidelines established for each fund.

Canterbury Bankstown council fits that description. Why were they not told?

**Mr WILDE:** That was not a decision that I took. I was not the Minister. I did not have a view on what projects should and should not be funded. You need to ask someone else that.

**The CHAIR:** Is it the case that if you were in the political know—if you were favoured by the Government—then you found out about this pool of money and if you did not then it was radio silence? That is the case, is it not? It was a politicised pork barrel.

**Mr WILDE:** No, that is an outrageous assertion.

**The CHAIR:** You say it is an outrageous assertion; it is the truth.

**The Hon. NATALIE WARD:** According to your conspiracy theory.

## CORRECTED

**The CHAIR:** Only those councils that were notified by Coalition MPs found out about this quarter-billion-dollar fund.

**Mr WILDE:** The communities benefited. Earlier today there was evidence about Mingara and the athletics track there. Kids all over the Central Coast and the Hunter use the athletics track at Mingara. You do not have to be in the electorate. Plenty of kids from Woy Woy or Umina or Gosford in the electorate of Gosford would go there for school carnivals, for inter-school carnivals or as part of the Central Coast Academy of Sport. You cannot link an electorate to a community benefit based on how they voted at one particular time. People do tend to move around.

**The Hon. TREVOR KHAN:** Point of order: The Chair's time has expired.

**The CHAIR:** You can visit a Coalition electorate and go for a run. That will give them comfort. They can visit a Coalition electorate.

**Mr WILDE:** That was not a Coalition electorate.

**The CHAIR:** I accept that I am now being out of order.

**The Hon. NATALIE WARD:** Once again Mr Shoebridge is taking my time.

**The CHAIR:** I call myself to order.

**The Hon. NATALIE WARD:** In the 12 seconds that he allows me, I have some questions. Mr Wilde, thank you for your assistance today. You have some children, do you not?

**Mr WILDE:** I do.

**The Hon. NATALIE WARD:** I have a couple of kids too. Occasionally one of them will come up to you and say that the other child did this. Generally as a parent you would say to the other kid, "What happened?" Is that right, in your experience?

**The CHAIR:** No, you would not. Do not do that; it will never end.

**Mr WILDE:** Yes.

**The Hon. NATALIE WARD:** We are seeing here that some members might like us to look at this one part of the tied grants program but not worry about the rest of the Stronger Communities Fund. Do you agree with that?

**Mr WILDE:** Yes.

**The Hon. NATALIE WARD:** Much has been made of the councils screaming blue murder that they missed out and it has all gone to Coalition seats. Is it correct that under the Stronger Communities Fund no non-Coalition seats received any money?

**Mr WILDE:** The original fund provided tens of millions of dollars right across the State to lots of electorates. As Mr Crocker said this morning, Canterbury Bankstown Council in particular received \$20 million as a result of the merger. The monies from the funds were used for things like building toilet blocks, improving the surface of football fields and adding girls' toilets and change facilities for the first time in some areas irrespective of where those electorates are. As a parent with kids who play sport, I actually travel to Labor and non-Labor electorates all the time. It does not bother me which one. As long as the facilities are there, it does not bother me if they are provided by the State Government or the local government. The facilities are there.

**The Hon. NATALIE WARD:** Let us talk about those electorates. For Canterbury Bankstown council—in the electorates of Bankstown, Canterbury, Lakemba, Strathfield and Summer Hill—there was a claim from the Labor mayor that our city was denied funds that had been set aside for councils to assist them with amalgamation and building infrastructure. That was a submission made to this inquiry but it is not true, is it? The New South Wales Government funding to Canterbury Bankstown Council between 2016 and 2019 was more than \$81 million.

**Mr WILDE:** In total, that is correct.

**The Hon. NATALIE WARD:** That was for programs like cycleways, pedestrian facilities, litter management and urban flooding. As you talked about, included in that the council received \$20 million from the implementation fund.

**The Hon. COURTNEY HOUSSOS:** It is still not the same amount as Hornsby.

## CORRECTED

**The CHAIR:** Point of order: Are you saying that the witness has a recollection of this \$80 million? Is that the proposition that you are putting to this witness or are you just putting a list to him?

**The Hon. NATALIE WARD:** I am putting a list to him and asking if he agrees. It is my turn to ask questions, Mr Shoebridge. It is not the Shoebridge show for the entire day, if I can finish my questions in the very limited time that I have.

**The CHAIR:** I want to be clear. You can have as much time as you like, Ms Ward. My point of order is that the witness can only give evidence about what he actually knows. If you are asking him whether he knows about this list of funding then he can give that evidence.

**The Hon. NATALIE WARD:** I will rephrase. You are taking up my time, Mr Shoebridge.

**The CHAIR:** You can have as much time as you like, Ms Ward.

**The Hon. TREVOR KHAN:** That is pot and kettle, is it not?

**The Hon. NATALIE WARD:** I will rephrase. Why don't we move on to another council that is screaming blue murder and talk about how they missed out: Inner West Council, with the electorates of Canterbury, Strathfield and Summer Hill. They all pose for photos on their Facebook pages. Their Labor mayor submitted to this inquiry that the Inner West Council is situated entirely within the boundaries of non-Coalition-held seats and so it comes as no surprise that the ratepayers living there received no funding whatsoever from this program. That is not correct. Would you agree that between 2016 and 2019, Inner West Council received a lot of money from the New South Wales Government? Would it surprise you to know that they received more than \$63 million from the New South Wales Government?

**Mr WILDE:** Yes, and both those figures—

**The CHAIR:** Point of order: It is not my job to defend the mayor of the Inner West Council—

**The Hon. NATALIE WARD:** Do not let the facts get in the way.

**The CHAIR:** —but the statement that you read onto the record was from this program. You have now put to the witness funding from totally different programs. You simply cannot do that. You can suggest that there was other money available but you cannot put that proposition to the witness.

**The Hon. NATALIE WARD:** Alright, I will rephrase. When one child comes to you and says, "He hit me," is it fair to only listen to that child or should you perhaps ask the other child what happened?

**Mr WILDE:** You talk to both.

**The Hon. NATALIE WARD:** Councils received money in the first round. Is that correct?

**Mr WILDE:** Yes.

**The Hon. NATALIE WARD:** A number of non-Coalition councils received moneys under the Stronger Communities Fund.

**Mr WILDE:** Correct.

**The Hon. NATALIE WARD:** They received substantial money: hundreds of millions of dollars. In fact, Inner West Council received hundreds of millions of dollars to improve infrastructure and services in the Inner West local government area. Is that correct?

**Mr WILDE:** Yes. I do not have a figure in mind. I certainly have no reason to doubt what you said about Canterbury Bankstown Council, but I did not know the number off the top of my head either.

**The Hon. NATALIE WARD:** Thank you. I could go through others but no doubt I will bore us all to tears.

**The CHAIR:** You can have as much time as you like, Ms Ward.

**The Hon. TREVOR KHAN:** No, I will take a point of order at that point.

**The Hon. NATALIE WARD:** The fact is that it is just not correct to say that those councils missed out and it was all Coalition. That is a nice conspiracy by my colleagues, is it not? Do not answer that.

**Mr WILDE:** No, it would be wrong for me to speculate on what other people think and I will not do that.

**The Hon. NATALIE WARD:** Thank you for your assistance and sorry to drag your kids into it.

CORRECTED

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**The CHAIR:** Thanks, Mr Wilde, for your assistance today. I do not think that you took any questions on notice, but if you did then the secretariat will be in contact with you and you have until 25 January to get those back.

**(The witness withdrew.)**

**(Short adjournment)**

CORRECTED

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**ANTHONY HARRIS**, Retired Public Officer, affirmed and examined

**The CHAIR:** Welcome back to the last session of the Public Accountability Committee's hearing into the integrity and efficiency of New South Wales Government grants funds. Did you want to take the opportunity of giving a brief opening statement?

**Mr HARRIS:** It will be very brief. I suppose I have been in the public service for over 50 years now—I am older than I look—and I do not think that I have seen a program as purely politically administered as this in my time, and I go back to before Ros Kelly and the whiteboard affair. This was a—I hesitate between using the words "brazen" or "audacious"—use of taxpayers' funds for admitted political purposes, which I have never seen before. So it is rather good that your Committee and its members are looking at this quite seriously. Thank you.

**The CHAIR:** The Committee's resolved that we will have one round of questioning, which will be the Opposition, the crossbench and then the Government—about 15 minutes for each element of that round. We will start with the Opposition. Mr Harris, did you have any other questions before we start?

**Mr HARRIS:** No, that is fine. Thank you.

**The Hon. JOHN GRAHAM:** I will make sure you have got this document, which we found quite useful in understanding what is going on. I do not know if you have had the opportunity to see that document before?

**Mr HARRIS:** Yes, I did see it recently, though I did not study it.

**The Hon. JOHN GRAHAM:** Exactly. It goes to the central problem we are having with this fund, which is that no-one will own up to having approved these grants.

**Mr HARRIS:** Yes.

**The Hon. JOHN GRAHAM:** No-one will step forward and say, "I am the one who actually selected the projects, picked how much money goes to each council."

**Mr HARRIS:** Yes.

**The Hon. JOHN GRAHAM:** This is the best explanation I have seen here of the various roles, and I particularly wanted to ask for your help describing the difference between the financial approval of the cheque that the Office of Local Government [OLG] is doing and the selection of the grants—who gets the money, which councils get how much. Those are two separate ideas—separate decisions—aren't they?

**Mr HARRIS:** Yes, thank you. Actually I have to give you two answers to that question. One will be a very narrow legal answer, and it will go back to the public finance Act for New South Wales 1983, and I am using the version that was alive on 17 August 2018. In that version they talk about three things. They talk about "committed" or "incurred" expenditure, and then they talk about, in section 13 of that Act, the payment of accounts. So, to me, the idea of "committed" and "incurred" are the same concepts—I cannot distinguish between them—and that is, in a narrow legal sense, when the State has entered into a legal commitment to pay monies, subject to certain matters being provided or resolved. So, when you enter into a contract, you commit the State to make payments if the contract is affected by the contractor. Where that is done, there will be a request or an invoice—and they use the word "account" here in the legislation—for payment, and then an authorised person will make that payment. So there has to be an authorised person to commit the money and an authorised person to make the payment, in that very narrow sense.

Most senior public servants do not enter into those kind of roles. For example, I was in charge at one stage of writing all the cheques for the Commonwealth, except for Defence—100 million cheques a year—and I never touched a cheque, and nor did I ever authorise a cheque, even though I was in charge of that process. So there is this concept of requesting and requiring and directing, and they are all very much the same in the public service. So a senior person will say to a subordinate, "We shall do this," and the subordinate does that. Now, the subordinate did not make the decision—the subordinate is doing what they are saying. Very much like the Brereton report recently about our SAS in Afghanistan, which reported that an officer ordered a soldier to shoot someone. And Brereton was very careful to say the shooter has one issue to address, the officer—or the commander—ordering it has the big burden to address, because that is the officer in charge.

**The Hon. JOHN GRAHAM:** And I think that really agrees with what is in this table in front of you, supplied by the Office of Local Government, that clearly identifies who the expenditure is authorised by for each of these 33 grants, and that is, by and large, the chief executive of the Office of Local Government. That is the financial authorisation that you have referred to—that is the doing—but it also separately identifies the projects

## CORRECTED

identified for the New South Wales Government by, and that is the approval process, which is clearly separate to sending out the cheque.

**Mr HARRIS:** Yes.

**The Hon. JOHN GRAHAM:** Do you agree with that?

**Mr HARRIS:** So, in reading your evidence collected so far, it is quite clear that the Office of Local Government did not wish to be seen as the entity selecting the grants. And, in some respects, of course, it could not select the grants because it did not have any information. It was not involved in identifying them, it did not know anything about them until they got a request that this council for this project be given this amount of money. That is the first time, in my memory of reading the evidence, they knew anything about any particular grant. And you also have evidence that, on one occasion, the grant had been identified to the Office of Local Government under the wrong guidelines, and they, being alert to that, sent the Hornsby grant back to the Premier's office, asking that it be selected properly in terms of time. And it used the term "allocation from the funds"—a grant be made to that. So, in the absence of that response from the Premier's office, I doubt that the Office of Local Government would have processed the earlier request, because they knew the earlier request was deficient.

**The Hon. JOHN GRAHAM:** And to raise one of my concerns: If the Government's case was right, if the Premier is right that she had nothing to do with this decision, and if, as she is arguing, the Office of Local Government made this decision, one of the things ICAC has said to this Committee in their submission is:

If the minister is not the appointed decision-maker, directing or urging a public servant to make a decision preferred by the minister.

Might be a breach of public trust and might be corrupt. That is the risk, isn't it, if the Government's case is right, that, in fact, the Premier had nothing to do with deciding these grants and it was all the Office of Local Government?

**Mr HARRIS:** Yes. All the parties in this have a problem. Ms Lau has inferred, if not said, that the Premier could not commit monies because the delegation did not belong to her. They put it the other way—they said the delegation belonged to the Office of Local Government. Having said that, the Premier was asked, on a document that I have only seen on television, that she approve—use the word "approve". And, of course, Ms Lau, in identifying the matter to the Office of Local Government, used the word "approve". I do not think either party can say that they did not mean "approved" when they use the word "approved" and certainly the Office of Local Government took the word "approved" to be what ordinary dictionary readers would understand of that word. Having said that, of course there is no relationship between the Premier and the Office of Local Government—strangely enough. The Premier should not have even been talking to the Office of Local Government and the Office of Local Government should not have been responding to the Premier. The Office of Local Government said, "Look, I have a Minister over here, Ms Upton. Ms Lau, if you want to talk to me, you talk to Ms Upton."

**The Hon. JOHN GRAHAM:** And on that point, because you have made it publicly, let me just ask you: These funds were appropriated out of Treasury for a particular purpose, to a particular Minister. They are then used for another purpose, directed by other Ministers. Is there a risk that these grants cease to be legal in the way that has occurred?

**The Hon. NATALIE WARD:** Point of order: Mr Harris, I do not know what capacity you are here in but it is not a legal capacity and it is not for you to make a determination about the legality or otherwise. There are other bodies to do that work so I object to the question on that basis.

**The CHAIR:** I think—

**The Hon. NATALIE WARD:** You can say in your opinion.

**The CHAIR:** I think in Mr Harris' capacity as the former State Auditor-General, he is able to express a view about whether certain funding arrangements are lawful or not but I will leave it to Mr Harris to qualify that position.

**The Hon. NATALIE WARD:** To the point of order: He should express that it is in that capacity as a former Auditor-General and not as a lawyer and not as an existing or current body that is making a finding on the evidence.

**The CHAIR:** I do not think it is Mr Harris' job to qualify. He has said in the capacity in which he is giving evidence today and we accept that his answers are given in that capacity unless he says otherwise. So I will allow the question and Mr Harris can answer as he sees fit.

**Mr HARRIS:** I must admit I was not able to trace the appropriation to my satisfaction. I saw that in the Appropriation Bill 2018 No. 35, which is for the fiscal year 2018-2019. There was an appropriation made to the

## CORRECTED

planning Minister. I expect and hope that the sub-appropriations were by delegation made to the Minister for Local Government but I cannot see those delegations; they are not a public document. Then I would hope and expect, as Mr Hurst has indicated, he had the delegation to expend the Stronger Communities Fund. But as I say, in that middle area before Mr Hurst uses his delegation, I am not sure of the line. It was very confusing.

Similarly, the Office of Local Government was asked to spend \$31 million more than Parliament had been advised was the amount for the Stronger Communities Programme and I am not sure how that authorisation worked. The financial statements of the Office of Local Government indicate that the \$31 million excess was funded by savings, including from the pensioner rebate scheme. But I do not know whether payments out of that pensioner rebate scheme were managed in order to provide the funds to the Stronger Communities Programme or just fortuitously there was an underspend that matched the overspend in Stronger Communities. I hope you are following me. It is arcane, to say the least.

**The Hon. COURTNEY HOUSSOS:** But very important, Mr Harris. We have got limited time so I want to ask you three quick questions before my time runs out. The Department of Premier and Cabinet has guidelines for grants—2010-16-guidelines for grants. Would it be your expectation in your experience that that should apply to a grants program that is being run by the Office of Local Government?

**Mr HARRIS:** Yes.

**The Hon. COURTNEY HOUSSOS:** When it sets out the principles of—

**Mr HARRIS:** Yes, because I believe the Office of Local Government is an agency of government, it is not a statutory authority and so it should be bound by the guidelines that are applied to all similar agencies.

**The Hon. COURTNEY HOUSSOS:** Thanks very much, Mr Harris. I want to come to an email that I am going to provide you with, which has been provided to the Parliament under provisions of call for papers. I asked the former deputy chief of staff to the Deputy Premier about this this morning. It is an email from a public servant, from Mr Hurst, who said about halfway down that page:

... can you please confirm for our audit records that the Deputy Premier has approved these project allocations to the Councils.

Then the Deputy Premier's office replies: "Yes, confirmed ... by the DP." We have confirmed this morning that means the Deputy Premier. Mr Harris, is there any other meaning of "approval" other than "you can authorise this spending", in your opinion?

**Mr HARRIS:** I do not know whether the Deputy Premier had the delegation to approve moneys belonging to the planning Minister. If the Deputy Premier did not have the delegation—and that seems to be the case for the Premier: She did not have the delegation—then I would say that the purported approval by the Deputy Premier was conveyed by those words. You then have to go into a different sphere of answering questions about authority and I cannot answer them. What would the court say about a person who does not have the authority to approve a grant, purporting to approve a grant, and the public servants, believing that the Deputy Premier had the authority, then fulfilled that request. It is a very complex issue. In New South Wales it is much more complex than the sports rorts.

**The CHAIR:** It is much bigger, too.

**The Hon. COURTNEY HOUSSOS:** Mr Harris, I have only got one minute left. I want to ask you one final question. You have called for the Premier to resign over the shredding of the documents. Have you changed your mind?

**Mr HARRIS:** I said that if the same standards that existed today were those that existed when Ross Kelly resigned because she provided no indication of how she made her decisions, then the Premier would resign. If the same standards existed today, the Premier would resign. As to the shredding of documents, I have always thought that when you shred a document with the Premier's writing on it, then you have broken the law in terms of the State Records Act, but again, we are waiting patiently for the Archives to make a decision on that matter.

**The CHAIR:** Mr Harris, thank you for your assistance today. I might start with that email that my colleague was just showing to you. Have you still got it in front of you?

**Mr HARRIS:** Yes, I do.

**The CHAIR:** It is an email sent on the 19 November 2018 from the head of the Office of Local Government, Mr Tim Hurst. The first sentence is about some revised agreements but then it says:

Also Laura can you please confirm for our audit records that the Deputy Premier has approved these project allocations to the Councils.

**Mr HARRIS:** Yes.



## CORRECTED

**The CHAIR:** How would any such response—and you will see there was a response given saying, "... yes confirmed all approved by the DP"—fit within an audit trail?

**Mr HARRIS:** The auditor now knows why the Office of Local Government entered agreements with those councils. It was not at the behest of the Office of Local Government but having said that, I have already said that it could not be at the behest of the Office of Local Government; It was at the behest of three Ministers, one of whom may have had the power—two of whom did not have the power, it seems. They did not have the power because they did not have the delegation. The auditor would then be left with this mess of trying to work out how to give responsibility for what actions.

**The CHAIR:** Of the three Ministers, who is the one you say had the delegation?

**Mr HARRIS:** If, as I hope had happened, that the planning Minister, to whom the appropriation was provided, passed on an amount with delegation to the Minister for Local Government, then the Minister for Local Government would have the power to make decisions about these grants.

**The CHAIR:** But for the purpose of the audit record that Mr Hurst was seeking, what this would have proven from an auditor's perspective is that the Deputy Premier at least purported to approve the projects.

**Mr HARRIS:** Yes, that is correct, and from Mr Hurst's view he would then believe he had the authority to enter into the agreements with the local governments nominated.

**The CHAIR:** Would it be expected that Mr Hurst would interrogate the Deputy Premier about whether or not they had the delegated authority? Would that be a reasonable expectation?

**Mr HARRIS:** As I tell people, in New South Wales a Minister can fire a senior executive services officer at any time for no reason. Thus, you are getting into the question of imposition. That is a matter that the Chief Commissioner of the ICAC spoke about when he gave evidence to this Committee, that a public servant who is imposed upon to do something that is not lawful has that as his defence. That imposition is a defence.

**The CHAIR:** I could point you to at least 10 separate occasions where Mr Hurst has been told just by the Deputy Premier's office that the Deputy Premier has approved an array of projects for funding. From an auditor's perspective, do you think that Mr Hurst should have gone back and interrogated the Deputy Premier about whether the delegation was there and the power was there?

**Mr HARRIS:** It would not have been—if Mr Hurst thought that his career or his position was in jeopardy then he has a reason for not going back and asking for evidence that the Deputy Premier and the Premier have sufficient legal authority to do what they purported to do.

**The CHAIR:** I will show you a bundle of these documents. In fact, I will get you three documents at once. One is a bunch of emails, one is a media release and one is a funding agreement. We will work our way through them, hopefully quite quickly.

**Mr HARRIS:** Yes.

**The CHAIR:** I take you to the bundle of emails, first of all. You will see in the top right-hand corner there is some very amateurish numbering done.

**Mr HARRIS:** Yes.

**The CHAIR:** I take responsibility for that. I ask you to go to page 11 of that. It is halfway through a table.

**Mr HARRIS:** I see. It starts there. It starts at the beginning, strangely enough.

**The CHAIR:** There is a table.

**Mr HARRIS:** Yes.

**The CHAIR:** This is a spreadsheet that was attached to a communication between the Office of Local Government and SVC, which is Snowy Valleys Council.

**Mr HARRIS:** Right.

**The CHAIR:** You will see in the middle there is a box that says "Funding announced by Premier for Adelong 17 August 2018". Do you see that?

**Mr HARRIS:** Yes.

**The CHAIR:** Then there is an array of projects that total \$255,000.

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CORRECTED

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**Mr HARRIS:** Yes.

**The CHAIR:** If you accept, for the moment, that 17 August is about a fortnight or so before the Wagga Wagga by-election and Adelong was in the electorate of Wagga Wagga, and that communication was sent to Mr Hurst, I then ask you to look at the next document, which is entitled "Going for tourism gold in historic Adelong". It is in the next bundle of documents, Mr Harris.

**Mr HARRIS:** Yes, I see that.

**The CHAIR:** This corroborates that spreadsheet, because it is a media release from the Liberal Party website.

**Mr HARRIS:** Yes.

**The CHAIR:** It reads that on 17 August 2018:

Premier Gladys Berejiklian today announced \$255,000 in funding to deliver a range of much-needed tourism projects in the historic former gold mining town of Adelong.

There is then a list of projects, and I ask you to accept that they match perfectly the list in that spreadsheet.

**Mr HARRIS:** Yes.

**The CHAIR:** I ask you to look at the third document, which is the Stronger Communities Fund funding agreement. Do you see those numbers in the bottom right-hand corner again?

**Mr HARRIS:** Yes.

**The CHAIR:** I ask you to go to page 10 of that. You will see it is a funding agreement executed by Mr Hurst, the head of the Office of Local Government.

**Mr HARRIS:** Yes.

**The CHAIR:** Then on the next page, page 11, you will see the schedule of projects that have been funded.

**Mr HARRIS:** Yes.

**The CHAIR:** I ask, again, that it is identical to the media release and the spreadsheet.

**Mr HARRIS:** Yes.

**The CHAIR:** You will see the date in the top left-hand corner of page 10 is 5 February 2019.

**Mr HARRIS:** Yes.

**The CHAIR:** That is some six to seven months after the announcement by the Premier.

**Mr HARRIS:** Yes.

**The CHAIR:** I ask you to go to the next page, page 12. That is executed by the council, it appears, on 25 January 2019.

**Mr HARRIS:** Yes.

**The CHAIR:** Again, some six to seven months after the announcement by the Premier. Mr Harris, do you have any observations about the funding agreement being executed by the Office of Local Government half a year after it has been announced in a by-election by the Premier?

**Mr HARRIS:** I suppose you could say that the announcement was made for one purpose, and the purpose was not the imminent signing of an agreement but a prospective signing of an agreement—and one knows why. One of the reasons that you are here as a Committee is you are trying to examine, I hope, how to improve the social contract between the Government and the electorate whereby the electorate gives the Government very significant powers indirectly on the basis that they believe that those powers will be used well. The kind of announcement that we see—indeed, the whole program, as the Premier indicated—has done nothing but detract from that social contract.

**The CHAIR:** Given the Premier had made a public announcement in August, Ms Clarke from the Deputy Premier's office accepted that the media release could have only been made if a decision had already been made to approve the funding. From an auditor's perspective, can you see how the Premier may be able to make a media release, a public statement about funding without ever having done the approval process?

## CORRECTED

**Mr HARRIS:** Ministers on this occasion, I think, have forgotten that they are subject to law, and they believe that by dint of their position they have the power to do things which, in my view, they do not have the power to do. It is becoming entirely common to see Ministers making statements which they have no authority to make. But I understand your point that the signing of an agreement several months later is, in one form, the commitment to incur expenditure. An announcement several months before is also a different kind of commitment to incur expenditure. Yes, I can see that the Premier must have approved the expenditure, in one sense of the word, before making that statement—and well before the agreement was executed.

**The CHAIR:** Indeed, if the case of the Premier and the Deputy Premier is truthful, which is that they were not making the approvals but it was Mr Hurst and the Office of Local Government that was making approvals, for Mr Hurst to have not approved something that was announced by the Premier in a media release—I would describe that as career-limiting. How would you describe it?

**Mr HARRIS:** I cannot actually understand the argument that says that these Ministers did not approve the projects. I do not understand the argument because there is no way—

**The CHAIR:** I am glad, because I thought I was losing touch with reality myself, Mr Harris.

**Mr HARRIS:** There is no way that Tim Hurst could have approved the projects until he was told that the projects had been approved. He did not know anything about the projects.

**The Hon. NATALIE WARD:** In your opinion.

**Mr HARRIS:** No, not in my opinion. We had evidence about how the projects were assembled and it had nothing to do with the Office of Local Government. We had evidence that the Office of Local Government was instructed by emails from the Premier's office to enter into these agreements. I have seen no evidence to indicate that Mr Hurst knew anything about them before he got those emails.

**The CHAIR:** Mr Harris, can I ask you to turn to page 13 of that funding agreement, which is attachment 2, which is the amended tied grant guidelines.

**Mr HARRIS:** Yes. Page 13?

**The CHAIR:** Page 13. It should be attachment 2.

**Mr HARRIS:** Yes.

**The CHAIR:** You will see it has got the "Purpose of a Stronger Communities Fund"; do you see that?

**Mr HARRIS:** Yes.

**The CHAIR:** In the third paragraph of point 1 says this:

The tied grant round of 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.

**Mr HARRIS:** Yes.

**The CHAIR:** We had evidence from Mr Hurst and from other Government witnesses to the effect that no council is entitled to be considered for funding until after the Government has identified a project for funding in that council.

**Mr HARRIS:** Yes. I have read that evidence.

**The CHAIR:** That is why no council was ever proactively notified about the guidelines.

**Mr HARRIS:** Yes.

**The CHAIR:** Do you have any observations about that line of so-called logic?

**Mr HARRIS:** I suppose that Tim Hurst is trying to make a silk purse out of the pig's ear. You cannot have a competitive process. You cannot even have a process that meets the legislated requirements for efficiency, economy and effectiveness by using such a limited scope of identifying projects. If Mr Hurst made these decisions, then he could be condemned for a whole host of breaches of, if not legislation, of guidelines and of requirements to act prudently and with economy. But, as I have said, I have never understood an argument where the Premier has used the word "approved", where the Premier's office has used the word "approved", and where they say, "We didn't approve."

**The Hon. NATALIE WARD:** Thank you, Mr Harris. I have limited time so I am going to ask you if you could keep the answers brief. They are generally yes or no. Thank you.

## CORRECTED

**The CHAIR:** Well, I am sorry, but the witness is allowed to answer as the witness sees fit.

**The Hon. NATALIE WARD:** No, no. I will not limit them if he wants to.

**The CHAIR:** You cannot direct the witness how to answer.

**The Hon. NATALIE WARD:** Sure. I ask that you be aware I have limited time.

**Mr HARRIS:** Yes.

**The Hon. NATALIE WARD:** Thank you. Are you aware that delegations—but before I go into that: You are not a lawyer, are you?

**Mr HARRIS:** No.

**The Hon. NATALIE WARD:** No. You are an auditor.

**Mr HARRIS:** I am lots of things.

**The Hon. NATALIE WARD:** Yes, among other things.

**Mr HARRIS:** I am mainly a public officer.

**The Hon. NATALIE WARD:** Yes. You have talked about legal findings, lawful findings, legal authority but you are not judge and jury in this matter, and I say that respectfully. I am not trying to have a go at you but you are here—well, what capacity are you here in?

**Mr HARRIS:** I suppose I am in the capacity of somebody with that 50 years of experience of seeing many of these things, including—

**The Hon. NATALIE WARD:** What does that mean?

**Mr HARRIS:** I have seen many of these stupid grants schemes.

**The Hon. NATALIE WARD:** Right.

**Mr HARRIS:** Administered abominably.

**The Hon. NATALIE WARD:** You have talked about delegations. Are you aware that the deputy secretary or chief executive of the Office of Local Government has provided evidence to this Committee of the details of the arrangements of his financial delegation that he holds the financial delegation by which he can make decisions?

**Mr HARRIS:** The deputy secretary of?

**The Hon. NATALIE WARD:** The Office of Local Government.

**Mr HARRIS:** He has said in evidence that he has delegations and I accepted that.

**The Hon. NATALIE WARD:** And he holds that under the Government Sector Finance Act.

**Mr HARRIS:** Which was irrelevant at the time. The Government Sector Finance Act delegations did not come into being until the very end of December 2018.

**The Hon. NATALIE WARD:** His delegation allows him to distribute funding to councils under his delegation without signing from the Minister. Is that not correct?

**Mr HARRIS:** If he has a delegation from the Minister up to an amount, then he can do that without reference to the Minister.

**The Hon. NATALIE WARD:** Yes, and a number of funds are administered and distributed that way, are they not?

**Mr HARRIS:** Most expenditure is done under delegation.

**The Hon. NATALIE WARD:** Given that the Office of Local Government distributed over a billion dollars in funding in their 2018-19 annual report, can you see the practicalities of a delegation being given to the deputy secretary to be able to administer funds such as this?

**Mr HARRIS:** You would expect the deputy secretary to have a delegation.

**The Hon. NATALIE WARD:** Thank you. Mr Harris, you are here voluntarily today, not by compulsion?

## CORRECTED

**Mr HARRIS:** Yes.

**The Hon. NATALIE WARD:** You gave some quotes to an article in *The Sydney Morning Herald* that was published on 27 October, did you not?

**Mr HARRIS:** I do not know the date but I, yes, I will believe that.

**The Hon. NATALIE WARD:** I can give you a copy, if you like. I think one of the other members referred to it earlier. It is calling for the Premier's resignation.

**Mr HARRIS:** I did not call for the Premier's resignation.

**The Hon. NATALIE WARD:** Okay. Do you resile from this article at all?

**Mr HARRIS:** Sorry?

**The Hon. NATALIE WARD:** Do you resile from this article at all in any sense?

**Mr HARRIS:** I do not think I—well, it depends on which article it was.

**The Hon. NATALIE WARD:** Were you misquoted in the article?

**The CHAIR:** I think you need to give Mr Harris time to read it.

**The Hon. NATALIE WARD:** Yes. While you are doing that, I will read the quote.

**Mr HARRIS:** Yes, I have it—"That the Premier's Office had, in the shredding of documents".

**The Hon. NATALIE WARD:** Yes:

I allege that the shredding those documents is unlawful—

**Mr HARRIS:** Yes, she should resign. Yes, I agree. Yes, I did.

**The Hon. NATALIE WARD:** If I can speak for Hansard:

I allege that the shredding those documents is unlawful, and so when you package everything up together, it's time for her to go.

You have read that.

**Mr HARRIS:** Yes.

**The Hon. NATALIE WARD:** And you agree that you do not resile from that.

**Mr HARRIS:** No.

**The Hon. NATALIE WARD:** And you were accurately quoted in that article?

**Mr HARRIS:** Yes, I believe that.

**The Hon. NATALIE WARD:** Okay. At the time you gave that quote, had you seen the documents that were referred to?

**Mr HARRIS:** I knew that the documents—no, because they had been shredded.

**The Hon. NATALIE WARD:** No. So you had not seen any documents at the time you gave that quote.

**Mr HARRIS:** You cannot see them.

**The CHAIR:** It cannot be your best point that he did not see them because they were shredded.

**The Hon. NATALIE WARD:** You had not. Can I ask my questions without your commentary?

**Mr HARRIS:** You cannot see destroyed documents.

**The Hon. NATALIE WARD:** But you gave a quote based on documents that you had not seen. Is that not right?

**Mr HARRIS:** No-one can see those documents.

**The Hon. NATALIE WARD:** No. That is right.

**Mr HARRIS:** And if you are suggesting that because the documents do not exist that no-one can say there was shredded—

**The Hon. NATALIE WARD:** No, I am not testing that, Mr Harris, with respect. I am just asking you to clarify your statement.

CORRECTED

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**The CHAIR:** Sorry, Ms Ward. You have to let Mr Harris answer. You are putting propositions to him. You are challenging him. You are perfectly entitled to do that but—

**The Hon. NATALIE WARD:** I know. I ask that he answer my questions and not what he would like to answer.

**The CHAIR:** —you have to let Mr Harris complete his answers.

**The Hon. NATALIE WARD:** Mr Harris, at the time of this quote—

**Mr HARRIS:** I have answered that question.

**The Hon. NATALIE WARD:** —you say you were correctly quoted.

**Mr HARRIS:** I have answered that question.

**The Hon. NATALIE WARD:** Had you seen the documents?

**Mr HARRIS:** I have answered that question. No.

**The Hon. NATALIE WARD:** Thank you.

**Mr HARRIS:** And I can tell you why.

**The Hon. NATALIE WARD:** You are aware, Mr Harris, that the State Records Act, the guidelines to the State Records Act and the general disposal authority from that State Records Authority provides that there are certain types of documents that can be destroyed in certain circumstances.

**Mr HARRIS:** Correct and I read the Act.

**The Hon. NATALIE WARD:** Thank you. You were aware of that. You were that at certain times that certain documents can be destroyed in the normal course.

**Mr HARRIS:** Of course, of course.

**The Hon. NATALIE WARD:** In the absence of seeing the relevant documents at the time that you sought to be quoted in this article, you did not have any means of knowing whether those relevant documents fell into that category or not.

**Mr HARRIS:** I knew that the documents were the documents provided to the Premier to get her approval for projects. They were the documents that were shredded.

**The Hon. NATALIE WARD:** But you had not seen the documents. How could you—

**Mr HARRIS:** Madam, you cannot see documents that are shredded.

**The Hon. NATALIE WARD:** May I finish my question, please? But you had not seen the documents to make the determination—

**Mr HARRIS:** Of course.

**The Hon. NATALIE WARD:** —about whether they might have fallen into the category of documents that could lawfully be shredded, had you?

**Mr HARRIS:** No document with the Premier's notations on them, if they are originals, can be shredded.

**The Hon. NATALIE WARD:** In your opinion.

**Mr HARRIS:** Correct.

**The Hon. NATALIE WARD:** We have an investigation into that matter at the moment but at the time you gave the quote—

**Mr HARRIS:** And the Archives Office has said—

**The Hon. NATALIE WARD:** At the time you gave the quote, you did not know.

**Mr HARRIS:** And the Archives Office has said that documents like this should be protected.

**The Hon. NATALIE WARD:** How did you know your statement to be accurate? It was not accurate at all, was it?

**Mr HARRIS:** Because when I was Auditor-General I think that Act was already in place and if it was not that Act, the provisions in that Act were already extant.

## CORRECTED

**The Hon. NATALIE WARD:** Yes. When you were Auditor-General—

**Mr HARRIS:** So I was aware of New South Wales—

**The CHAIR:** No. You have to let him finish.

**Mr HARRIS:** —legislation and I am aware that documents that are original documents with the Premier's notations on them are to be protected.

**The Hon. NATALIE WARD:** There are certain categories, though, that you have agreed can be lawfully destroyed.

**Mr HARRIS:** Yes. Copies can be shredded.

**The Hon. NATALIE WARD:** Yes. And so you did not know at the time that she had not seen them. Speaking of when you were Auditor-General, you were Auditor-General—

**The CHAIR:** Sorry. If you have made a proposition—

**The Hon. NATALIE WARD:** And you have agreed.

**The CHAIR:** —you cannot just go from that to another without allowing the witness to at least answer the proposition.

**The Hon. NATALIE WARD:** Oh, well, that is the pot calling the kettle black.

**The CHAIR:** You need to have a break and let the witness answer.

**The Hon. NATALIE WARD:** Thank you. My question is this, Mr Harris: You were Auditor-General. You finished in 1999. Correct?

**Mr HARRIS:** Correct.

**The Hon. NATALIE WARD:** Twenty-one years ago.

**Mr HARRIS:** Correct.

**The Hon. NATALIE WARD:** Thank you.

**Mr HARRIS:** And do you know when I was the Parliamentary Budget Officer?

**The Hon. NATALIE WARD:** You were also a former Labor staffer, were you not?

**Mr HARRIS:** For about five months.

**Mr HARRIS:** Did you mention that I was a Parliamentary Budget Officer for New South Wales?

**The Hon. NATALIE WARD:** If I can ask the questions. I have limited time, Mr Harris. I would appreciate it if I could ask the questions, please. Are you the type of person that jumps to conclusions before seeing all the evidence? Did you do that as Auditor-General?

**Mr HARRIS:** There has been no claim that I have ever done that.

**The Hon. NATALIE WARD:** I think you did that in this case, did you not?

**Mr HARRIS:** No.

**The Hon. NATALIE WARD:** You did not see the documents, you just jumped to a conclusion.

**Mr HARRIS:** You are trying very hard to make an impossible case.

**The Hon. NATALIE WARD:** In your opinion.

**Mr HARRIS:** A document went into the Premier's office and you have evidence that that document came out with notations on it and it was destroyed.

**The Hon. NATALIE WARD:** Mr Harris—

**The CHAIR:** No, let Mr Harris finish.

**The Hon. NATALIE WARD:** I thought he had. But you do not need the running commentary; I have got limited time. Mr Harris?

**The CHAIR:** You need to let Mr Harris finish.

**Mr HARRIS:** You have that evidence.

## CORRECTED

**The Hon. NATALIE WARD:** Thank you. Mr Harris—

**Mr HARRIS:** You do not need more evidence.

**The Hon. NATALIE WARD:** Thank you. Mr Harris, you are a third party non-lawyer who has not seen the documents, who made commentary in the public arena with no basis whatsoever. I would like to know what capacity you are in here today as a former Auditor-General 20-odd years ago and what your capacity is.

**Mr HARRIS:** And a parliamentary budget officer this century.

**The Hon. NATALIE WARD:** And it is for us to form a view on those documents and the proper inquiries, is it not?

**The CHAIR:** Point of order: You need to put a question.

**The Hon. NATALIE WARD:** I will withdraw the question; I will move on.

**The CHAIR:** It was not a question, it was a series of pejorative statements. You need to put questions to the witness.

**The Hon. NATALIE WARD:** Mr Harris, in light of your statement, do you believe that—

**Mr HARRIS:** Which statement?

**The Hon. NATALIE WARD:** I will rephrase. Mr Harris, as a former Auditor-General and budget officer and the other roles you have had, surely you believe in proper process to allow investigations to occur, do you not?

**Mr HARRIS:** Yes.

**The Hon. NATALIE WARD:** Do you think that those proper processes should be fully and thoroughly explored before conclusions are jumped to?

**Mr HARRIS:** If they are needed, yes.

**The Hon. NATALIE WARD:** Before third parties make comment?

**Mr HARRIS:** I do not know what that means.

**The Hon. NATALIE WARD:** Would it be appropriate for third parties to wait until the end of the investigation and the proper process?

**Mr HARRIS:** No.

**The Hon. NATALIE WARD:** So if you made an audit inquiry, it would be appropriate for third parties to comment on your audit inquiry.

**Mr HARRIS:** If you believed you had sufficient evidence on hand at the time, I think you can make a conclusion.

**The Hon. NATALIE WARD:** That would have been appropriate when you were Auditor at the time? That people could just comment willy-nilly halfway through investigations and that is appropriate.

**Mr HARRIS:** I do not think "willy-nilly" was in my sentence.

**The Hon. NATALIE WARD:** How can we believe what you are saying if at one time you do not believe in the proper process and you think that it is fine just to investigate?

**The CHAIR:** I am just not going to allow that to be said. It is not at all fair to this witness and you know it.

**The Hon. NATALIE WARD:** Mr Harris, these matters have been referred—I think you might be aware—to the NSW Government Chief Information and Digital Officer, to the State Archives and Records Authority, to the police, is it not appropriate that we allow them to do their job?

**The Hon. JOHN GRAHAM:** Also to the ICAC.

**The Hon. NATALIE WARD:** And the ICAC, thank you. They have been referred to everybody they can possibly be referred to.

**The Hon. JOHN GRAHAM:** That is not true.

**The Hon. NATALIE WARD:** Is it appropriate—



## CORRECTED

**Mr HARRIS:** So you are suggesting—

**The Hon. NATALIE WARD:** Can I finish my question, please?

**Mr HARRIS:** Yes. I thought you had, sorry.

**The Hon. NATALIE WARD:** Having been referred to all these bodies, is it not appropriate that this Parliament and you and others leave it to those bodies—properly empowered—to fully investigate those matters and come back to the public and the Parliament with their findings?

**The CHAIR:** Point of order: You cannot ask this witness—

**The Hon. NATALIE WARD:** You do not have to run interference, David.

**The CHAIR:** You cannot ask this witness to make conclusions about the appropriate conduct of the Parliament.

**The Hon. NATALIE WARD:** He has given his opinion.

**The CHAIR:** No. You can ask this witness about his statements, his views, his expertise, but you cannot ask him to pass judgement on the Parliament.

**The Hon. NATALIE WARD:** In your view, Mr Harris—in your opinion—you have given us lots of opinions today; you have given us lots of views based on your opinion and no other qualification. How can you sit before us today and say that it is appropriate to comment before these entities have been allowed to complete their proper investigations when they are the bodies empowered to do so?

**Mr HARRIS:** Strangely enough, I thought I had answered that question, ma'am, already by saying that if you believe you have sufficient evidence to come to a conclusion that is evidentially based and is accurate, you can come to that conclusion.

**The Hon. NATALIE WARD:** But that is the point, is it not? You had not seen any evidence. You had not seen anything.

**Mr HARRIS:** I have read a lot of evidence that you have collected in this Committee—unless you do not call that evidence.

**The Hon. NATALIE WARD:** But Mr Harris, you are not judge and jury in this, are you?

**Mr HARRIS:** I do not put myself up as judge and jury.

**The Hon. NATALIE WARD:** But you have. You have made findings today.

**Mr HARRIS:** If I were judge and jury, things would have happened. Obviously I am not a judge and jury.

**The Hon. NATALIE WARD:** Yes. Mr Harris, do you suffer from relevance deprivation syndrome?

**The CHAIR:** Point of order: You have—

**Mr HARRIS:** Oh dear.

**The Hon. NATALIE WARD:** I am finished. It is fine; I am finished.

**The CHAIR:** I am going to ask you, Ms Ward, to formerly withdraw that.

**The Hon. NATALIE WARD:** No. I am not going to because the witness will not explain what capacity he is in here today.

**The CHAIR:** I have given you the opportunity.

**The Hon. NATALIE WARD:** It is his opinion. He has flung out opinions without proper process and I think he is merely here to fling out an opinion before those bodies can undertake their proper processes and he should allow them to do so. He has not seen the documents; he does not have the evidence.

**The CHAIR:** It is unfortunate you have not taken the opportunity to withdraw that, so I apologise on behalf of the Committee, Mr Harris.

**Mr HARRIS:** You do not need to, Mr Chair. I understand where the member is coming from.

**The Hon. NATALIE WARD:** I believe in proper process—sue me.

CORRECTED

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**The Hon. MATTHEW MASON-COX:** Thank you, Mr Harris, for coming today. I appreciate you taking the effort and time.

**Mr HARRIS:** Thank you, sir. Thank you.

**The CHAIR:** On behalf of the Committee, I thank you for appearing voluntarily and for providing us with your assistance and your expertise. It is a difficult issue getting to the bottom of this but I think your evidence has been of significant assistance, so I appreciate it.

**Mr HARRIS:** Thank you. Thanks, Mr Chair.

**The CHAIR:** That concludes this afternoon's hearing.

**(The witness withdrew.)**

**The Committee adjourned at 15:45.**