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24/08/2016

SCANIA
pp 00080-00131

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE REGINALD BLANCH AM QC

PUBLIC HEARING

OPERATION SCANIA

Reference: Operation E15/0978

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 24 AUGUST, 2016

AT 10.05AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court.

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: Commissioner, I should just indicate, for the purpose of the record, that we've just had a short adjournment because the recording equipment wasn't working. The first item is a housekeeping item. It's in relation to authorisation for Mr Matthews. And I understand that Mr Dunne, D-u-n-n-e, has an application to make.

10 MR DUNNE: Commissioner, I seek authorisation to represent Mr Matthews before this inquiry.

ASSISTANT COMMISSIONER: I grant authorisation, Mr Dunne. Thank you.

MR DUNNE: Thank you, Commissioner.

MR MACK: Commissioner, I call Ms Tracy Chalk.

20 ASSISTANT COMMISSIONER: Will you take an oath or an affirmation?

MS CHALK: Oath.

<TRACY CHALK, sworn

[10.06am]

30 ASSISTANT COMMISSIONER: Ms Chalk, it's possible that during the course of the questions and answers that you might say something, it's unlikely in your case, but that you might say something that will give rise to some criminal or civil liability. I can make an order to protect you against that. Would you like me to make the order?

THE WITNESS: Yes, please.

40 ASSISTANT COMMISSIONER: Thank you. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT
ALL ANSWERS GIVEN BY THIS WITNESS AND ALL
DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS**

DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.

ASSISTANT COMMISSIONER: Yes, Mr Mack.

10

MR MACK: Ms Chalk, you're manager of waste and community protection at the Penrith City Council, is that correct?---Yes.

And you've held that position since 2010?---Yes.

And you're also the chairperson of the Western Sydney RID Squad, is that correct?---I am no longer the chair of the squad, but I was.

20 And when did you start as chairperson?---I started in '13/'14 and I, sorry, and I stepped down in February this year.

And you've signed a statement for the purposes of this inquiry dated 5 May, 2016?---Yes, I have.

And have you read that statement recently?---I have.

30 Okay. I want to explore with you a few areas, and some areas that may not be in your statement, but also to clarify a few things that are in your statement. In terms of things that are not in your statement, I want to ask you a few questions about the history of the Western Sydney RID Squad going back to its very creation. Do you know why the Western Sydney RID Squad was originally created?---Yes. Councils had a very large problem with orphan waste and illegal dumping, and their regular ranger services did not have the capacity to follow or track waste across different LGAs. And it was particularly appropriate for Western Sydney because of the size and the development that was being carried out there.

40 And when you say illegal dumping, do you draw a distinction between illegal dumping and illegal landfill?---When the squad was first initiated, there wasn't particularly that distinction, though the issue of illegal landfill wasn't its major concern at that time.

Okay. And when you say that time, can you give a rough time period of the time you're talking about when - - -?---The squad was initiated, or the concept of the squad was initiated around 1997 and came into fruition in 1999. It commenced under a section 355 agreement with the Local Government Act, initiated through the Western Sydney Waste Board.

Illegal landfill wasn't part of the agenda or the scope at the time. It was predominantly illegal dumping and orphan waste.

Okay.---Sorry, I think I might have not answered your question.

No, that's – I was asking for a time frame from when your understanding about the creation of the Western Sydney RID Squad commenced.--- Yes.

10 And I think your answer was around 1999.---It was launched by the Minister in 1999.

But you weren't, you weren't working for Penrith City Council at that stage were you?---No.

No. And so your understanding of these matters has been gleaned from where?---I was part of the group that initiated the first RID Squad. I worked for the Western Sydney Waste Board.

20 Back in what year?---In 1997.

I understand. And who – and I understand that Penrith City Council is currently the host council of the Western Sydney RID Squad?---Yes.

Who was the host council back at formation, can you recall?---I'm reasonably confident it was Blacktown.

Okay.---Blacktown Council certainly handled the human resources advice and recruiting.

30 Okay. And you mentioned before orphan waste, what do you mean by orphan waste?---Orphan waste is waste that is dumped or appears and upon inspection and investigation no trace of ownership for that waste can be found and so council has an obligation to clear and clean that waste away and dispose of it but there's no way of claiming any sort of compensation for the removal or, or disposal of that waste.

Okay.---And orphan waste was usually say larger than a trailer load. It was quite a large, a reasonably large amount.

40 Okay. And can orphan waste – is orphan waste dumped or is it part of landfill in your understanding?---No, no, orphan waste – well, my understanding always orphan waste was dumped.

Okay. And what in your understanding went into landfill?---My experience at that time what went to landfill was garbage, either household garbage or construction demolition waste to inert landfills, non-putrescible landfills.

Okay. And I'll come back later to your understanding of what landfill and dumping is currently and more, more of a contemporary understanding but I just want to understand in relation to domestic waste as opposed to construction and demolition waste, did councils before RIDS were formed have funding in relation to construction and demolition waste?---Not that I'm aware of, no.

But did they have funding in relation to domestic waste?---Yes.

- 10 And was one of the reasons why the Western Sydney RID Squad was set up was because there was a lack of funding from the local government funding sources in relation to constructing and demolition waste?---It certainly was a contributing factor, yes.

- Without – I want you to answer this question in two separate time frames. Back around 1999 when the RID Squad was being set up was there council funding for disposing of orphan waste?---You could seek compensation from the EPA. It was quite an elaborate process and it wasn't always approved. One of the other impediments to it was that you had to – if
20 council didn't have the budget to dispose of that waste then you had to wait till the application was approved and the money provided before you could remove the waste. Most councils therefore would remove the waste and I'm going from memory but my memory was that orphan waste was capped around \$25,000 so if you were a relatively large Western Sydney council it didn't take long to reach the cap when clearing orphan waste so you might make the first couple of applications but then you would exceed the cap so you no longer had a way of seeking funding.

- 30 And what's the process now in terms of budget allocation for non-domestic waste within the Penrith City Council?---We budget as a council, under our amenity and our public domain amenity, for the removal of orphan waste. But we now rely on RID and regulatory service to investigate the waste, and that process usually results in a clean-up notice being served and/or a notice issued or orders being served or a clean-up administration notice, which also allows for monies to come back.

So there's funding from Penrith City Council through the RID for the investigation and enforcement, is that correct?---Yes.

- 40 Yes. And then there's another layer of funding in relation to the clean-up of dumped waste?---Yes.

Okay. Were you in the inquiry on Monday when Mr McElwain was giving evidence?---Yes, I was.

Do you recall him giving evidence in relation to an Environmental Trust?
---Yes.

Are you familiar with the Environmental Trust?---Yes, I am.

Do you know if Penrith City Council makes applications for funds underneath the Environmental Trust?---Yes, we do.

And do you follow up on those applications?---Yes.

And - - -?---We have – do you mean additional to the RID Squad trust funding?

10

Yes.---Yes, we do.

So, in terms of costs involved in cleaning up orphan waste, how much of that cost would be borne by Penrith City Council and how much would be recuperated out of the Environmental Trust?---I'm not aware, sorry. We have projects under the Environmental Trust. I'm not aware of what the Environmental Trust funds would have been for orphan waste.

20

Okay. I understand.---I'm referring to a different – we have other projects under the Environmental Trust.

So Penrith City Council doesn't recoup money from the Environmental Trust for orphan waste, is that correct to your knowledge?---I don't but there may well be some through the public domain. But to my knowledge I can't answer that question.

30

Okay. I now want to focus on the Western Sydney RID Squad as it currently stands or as it stood whilst you were chairperson. And before I go there, do you have a role within Penrith City Council in relation to the RID Squad which is separate from being a chairperson?---Prior to being the chairperson, I was the committee member to the RID Squad. In my previous role, the RID Squad coordinator answered to my position.

So you were a committee member in the same sense that somebody from a different council would also be a committee member of the management committee, is that correct?---Yes.

40

And because you were from the host council, did you have extra roles in relation to the RID Squad that other members did not have?---Yes. The reason I hesitate is that not as a committee member.

Okay. All right.---But as - - -

That's what I'm trying to tease out.---As something else.

And that something else was - - -?---There would be some administration roles that would be required to support the squad. So, there would be things like making sure the budget was prepared for the coordinator and the chair

to present in the role as committee – and just overseeing the general, the requirements of the host council. So to make sure that, say, OH&S officers were aware of what the squad – I suppose I was the funnel point for the other administration roles within council that were responsible as the host council.

Okay. So you effectively had three roles at various points in time in relation to the Western Sydney RID Squad, the first of those was an administrative role - - -?---Ah hmm.

10

- - - because that administered policies as Penrith City Council was host council for the Western - - -?---Yes, for the - - -

That was one?---For the members as employees so whatever our employee obligations were, yes.

And the second role was as chairperson of the Western Sydney RID Squad?---Yes, for the two year period that I was the chair, yes.

20

And then the third role was also as a committee member of the Western Sydney RID Squad?---Yes.

Okay. In your role, and I'll – if there's a better name for it let me know, but in your role as the administrator for the host council - - -?---Yes.

Is that an accurate description or is there a description that better fits?---No, but could I perhaps say that I didn't define myself as the administrator.

30

Okay.---I saw that I played a role in the administration of the - - -

Okay.--- - - - as the host council.

Okay. I'll call it an administrative role for the - - -.---Yeah.

- - - for the host council. So in your role – in your administrative role for the host council was it your responsibility to prepare an agenda for a committee meeting?---No, I saw that the responsibility of the chair and the co-ordinator.

40

Okay. And in relation to an the minutes for the meeting?---No, the minutes were prepared by the admin officer and the co-ordinator.

Okay. And when you say admin officer?---Sorry, the, the RID administration officer who reported to the co-ordinator.

Okay. So the RID administration officer is somebody - - -?---Is a, is a council employee.

Employed by Penrith City Council?---Well, employed by Penrith City Council as the RID, yes, as part of the RID Squad.

But reporting up to the project co-ordinator?---Yes.

Okay. Which is different from the administrative role that you took as part of the host council?---Yes.

10 Yes. Okay. So in your role as chairperson for two years, it was your responsibility to prepare an agenda for committee meetings. Is that correct?---I would certainly review the agenda but it would be prepared by the co-ordinator and the admin officer and then circulated to the members to ask if there was anything that they would like included and then the agenda was released after I'd seen it.

And would you circulate the agenda?---No, the admin officer did that.

Admin officer would and cc you in. Is that correct?---Yes.

20 Yes. Okay. And in relation to the minutes, did you have any role in relation to the minutes of the meeting?---As chairperson?

As chairperson.---Yes, just to say that they were ready and could be released ready for the next meeting. So they were prepared, viewed and released for the meeting.

30 And when you say released, would you release them back to the co-ordinator who would then circulate them to committee members or would you circulate them?---No, no, they went back to the admin officer.

Okay. In your administrative role for the hose council were you in charge of preparing an operations budget?---The operations budget was prepared by council as part of their administrative role. It was prepared by a financial officer who had responsibility for the RID budget.

And that person was within Penrith City Council?---Yes.

40 And did you report to that person?---No. That person prepares the budget as part of council's or sub-council's overall budget then takes it to the co-ordinator and then once they've agreed how that, how that budget is going to be drafted then it's brought to – the co-ordinator would bring it to me for comment and then it would go back to the committee meeting.

Okay. So it originates – and so that's the operation, that's the operations budget. Do you know what I mean when I refer to the contributions budget?---Yes.

And can you tell the Commission - - -?---The same - - -

- - - what the contributions budget is as distinct from the operations budget?--The contributions budget is the budget that I suppose is the income for the Squad so each member council pays an annual fee which is 50 per cent of the overall – which is determined the year before and 50 per cent of the overall running costs of the Squad and then the EPA pays the remaining 50 per cent.

10 Okay. And who would prepare the contributions budget?---The financial officer. Same as the operations budget.

Okay. And whilst you were in the administrative role for the host council, who was that individual?---The financial officer is a lady called Dana Daghero.

Okay.---Who answers to Andrew Moore, the financial officer.

20 And you also, do you answer to Andrew Moore?---In my financial sense, yes.

Okay. All right. And so we've covered the operations budget and the contributions budget. There's also an operations program. Are you familiar with an operations program?---Yes.

And who is responsible for drafting the operations program?---The coordinator would draft the program.

30 And what would the program entail?---The program is probably not, as a lot of people would normally see the program as, a strategic document. It tended to be more of a consultative process with each member council, and perhaps a calendar that he would speak to at each meeting and then flag what operations were to be carried out between the meetings, over the next two to three months. Then those operations would take place and they would be advised to the members and then debriefed and reported back on.

40 So was the operations program approved by the management committee?---Each operation, well, the operations program was a collection of initiatives that the committee members would request, and the operations that then played out may involve all or none – none, all or some of the members. They may not always be totally inclusive.

Okay. Because some – sorry, when you say operations, do you mean operations in an investigative sense? There might be an operation titled Alpha or Bravo or Charlie, and that would be the operations program and then the investigative activities would fall underneath the title of that operation?---That's right.

Okay. And so at any one time there would be a number of operations that the coordinator would take to the committee? Is that correct?---There probably wasn't. I don't recall any more than two at any one time that he would bring to the committee, because the – just because of the cooperation that was required for the people to go to each one. But, yes, there was a number of operations each time that were reported on.

Okay. But you didn't have any role in drafting the operations program, is that correct?---No. It was a truly operational program.

10

Okay. And nobody else within Penrith City Council had a role in drafting the operations program, is that correct?---No, not to my knowledge, no.

All right.---Yeah, sorry, except for the coordinator, who is an employee of Penrith Council.

I understand.---Yeah, sorry.

20 Who was an employee. But under the umbrella of the Western Sydney RID Squad?---Yes.

So the contributions budget and the operations budget would come from within somebody at Penrith City Council in draft form?---Yes.

And go to the coordinator, is that correct?---Yes.

And then the coordinator would bring the draft contributions budget and the draft operations budget to a committee meeting, is that correct?---Yes.

30 And then the committee meeting would approve or not approve the operations budget and the contributions budget?---Yes. It was always hopeful that the member who attended could endorse it at the meeting. But on some occasions the officer may not feel comfortable and wish to take it back and just seek, I suppose, further endorsement that it was okay.

And that's going back to their own - - -?---Their member council.

40 Their member council. And you've told the Commission how the funding of the management committee and the RID Squad works, that being an equal contribution by each member and then matched by what's now known as the EPA. In relation to investigators within the RID Squad, how were they allocated responsibility for a particular area?---The coordinator would oversee the allocations. My understanding is that the members requirements or needs were discussed, and also the experience or, what is it, the experience of the officer both in the role and whether they were new to the squad or known to the member. And also as to what project they may be carrying out, what operation might be being conducted, and as to what

needs for if there was any joint operation within the councils. So the officer was determined by the coordinator in conjunction with the member.

And when you say officer, do you mean investigator or what I've been referring to as an investigator?---Sorry, yes, the investigation officer.

10 And when you say officer, do you mean they're also called enforcement officers? Is that where you get that officer terminology from? Or you just refer to them as officers synonymously with investigator?---Yes, I refer to them synonymously with investigator.

And in relation to Penrith City Council, was it your role, as a member of the committee, to report to the management committee the needs of Penrith City Council in relation to waste needs, for example?---I probably would – well, not probably, I did report, yes, the progress of what we had determined our program to be. Penrith's needs were predominantly in the rural area and I reported as to my satisfaction level with the performance of the officer in identifying illegal dumping in the rural areas.

20 Okay. And how would you express those needs? Would you express them in a management committee meeting?---Yes, either in the management committee meeting or I could approach the coordinator directly.

30 Okay. And if you went to a committee meeting and had this discussion about the dumping needs of Penrith City Council, would the coordinator then determine, through a discussion with you and other committee members, what investigator or what officer was going to be assigned to Penrith City Council?---I wouldn't say immediately. We would raise our issues if we chose and then the coordinator could offer a solution. And, yes, that may mean that some members were changed from different areas with a different skill set.

Okay. And whilst you were the committee member for Penrith, who was the officer or the investigator for Penrith?---Stephen Gillis.

40 And would he report to you?---On occasion he did but that wasn't his direct line of report. The RID Squad officer was meant to, or in Penrith's case he was known to our regulatory team, so our rangers. If he identified anything of concern other than the usual illegal dumping or investigations, then he would come and let me know directly. He'd also let the coordinator know. But he'd also call in to let our regulatory enforcement team know, because the idea was that the officer, when in the member's area, is meant to be considered truly as their officer. So Stephen was always aware that he was to inform councils' regulatory team of any action that he was taking.

And you mentioned rangers in that discussion. What was the difference in the roles and responsibilities of Penrith City Council rangers and I think you said Mr Stephen Gillis's role as an investigator and officer? Where was the

dividing line between those two roles?---When they worked on an initiative together, there was no dividing role and that was deliberate. But rangers in Penrith Council look after illegal dumping in urban areas and - - -

Rangers within Penrith City Council look after urban areas. Is that - - -?

---Yes, that's right.

Okay. Yes.---And RID officer looks after rural areas.

- 10 Okay. And is – did you hear evidence yesterday from Mr Reece in relation to a distinction between public land and private land?---Yes, I did.

Is there a similar distinction in Penrith City Council in the terms of assignment of responsibility between public and private land?---Yes. Also the compliance officers would be involved. For instance, if the RID officer, if the RID officer was to report suspicion over dumping on private land then he would come in and let the compliance team know because then there was a process for checking development consent.

- 20 And so when you say compliance team, do you mean a team separate again from the rangers?---Yes, I do.

Okay. So there's effectively three streams if I can put it that way, you've got a RID officer has been assigned the Penrith City Council area, you've got compliance officers who enforce their jurisdiction under the Local Government Act or the - - -?---Development – EP&A Act.

- 30 EPAA Act and then you've got the rangers who have powers underneath the Local Government Act. Is that -?---Yes. So in Penrith we have the RID officer, we have regulatory services in our uniformed rangers who have powers under the Local Government Act, the EP&A Act and the POEO Act and we have our development compliance officers who have the same powers but are professional officers that work through the development control process.

Okay. And would the officer or the investigator who was assigned through the RID Squad to Penrith City Council, would they exercise authority under the Local Government Act as well?---Yes.

- 40 And where did that delegation come from do you know?---It comes from the General Manager by his delegation to the RID Squad.

Okay. So the delegation to the RID Squad includes not only delegations under the POEO Act but under the Local Government Act. Is that correct? ---I'm unsure I have to say. Well, that's probably not right. I'm not unsure, I would need to recheck where – in regard – there are a number of delegations that go to all of those teams and I would probably rather check where the actual sources are before I answer.

Okay. All right. And you would need to check in relation to the EPA Act as well. Is that correct?---Yes.

Okay. Is it – what I’m trying to explore, to your understanding could a RID officer – does a RID officer have the same powers to your understanding as a ranger?---Yes.

10 But they were - - -?---Well, actually they have, they have greater powers than a ranger as they can move outside of their own local government area.

I understand that. But they wear a different uniform to the ranger?---Yes, they do.

20 Okay. But there was no formal line of command or reporting from a RID investigator to yourself in your role as the member – in your role in Penrith City Council - - -?---Yes, the RID officer for – sorry. The RID officer for each – well, I’ll speak for Penrith. Yes, the RID officer was required to draw any concerns to my attention.

And when you say required, where did that requirement come from, what was the source of that requirement?---When the RID – when Stephen had – when I had commenced there I outlined to Stephen what I, I expected of the role of the RID officer and that was it. I, I expected him to work with the regulatory services team and the regulatory services co-ordinator and therefore report to me as the manager.

As the manager of - - -?---Of the Waste and Community Protection.

30 Okay. So it was an oral understanding, is that correct or - - -?---Yes.

Okay. And if you can’t speak for other councils, that’s fine. But do you know if there was a similar understanding between RID investigators and other councils in relation to reporting activities?---I can’t speak for all other councils but I can speak for some and I know that to be correct. When the squad was initiated, that was the intention, that while ever that officer was in that council area they were considered no different to any other investigative officer and they were to report to the appropriate manager and even be directed by that manager as to what their tasks were.

40 Okay. But they also had to report to the RID Squad coordinator, is that correct?---Yes. And the coordinator should have been liaising, or was liaising, with those members. I suppose I’m sounding a little vague because sometimes the member and the reporting officer was not the same officer. Not in Penrith but in other councils.

But in Penrith those two positions aligned?---In Penrith, they - - -

The reporting officer and - - -?---In Penrith it was the same officer.

Okay. So is it possible, conceivably, that you would hear of the activity of Stephen Gillis, both from him directly and then coming back through the coordinator to you directly?---Yes. At coordinators' meetings I could hear of the activity of Stephen Gillis from both my regulatory services coordinator, Noel Fuller, and my RID Squad coordinator, Barry Ryan.

10 But would it also – so it would come through Barry Ryan? You said coordinators' meetings?---Yes.

Are they different from RID Squad management committee meetings?---Yes.

And how often would a coordinators' meeting occur?---Approximately quarterly.

20 And would they be between all member councils?---No. That was – as manager, I held coordinators' meetings. In my previous role I had four coordinators and so I would hold a coordinators meeting. Of those four coordinators, two were officers to which – well, actually, that's incorrect. Three were officers to whom the RID Squad officer may be involved. One was the compliance coordinator, one was the regulatory services coordinator and one was the RID Squad coordinator.

Okay. So would any other member councils besides Penrith have coordinator meetings with Mr Ryan?---I'm not aware of that.

30 Are you familiar with the strategic alliance agreement? I can show it to you.---I was going to say.

But just generally are you - - -?---Not without it. I am - - -

Are you familiar - - -?---I am generally aware of it, yes.

Is it your understanding that there's a document that defines the role of the host council and the role of a coordinator?---Ah hmm.

40 And I'll show it to you in a second but is it your understanding, or do you know when that document was last executed by all member councils?---I can't think of the year. I know 2009 is the penultimate document.

Okay.---There is one following that. But the year escapes me at the moment.

Okay. Was it recently? In the last two? Since you've been chairperson, for example?---Yes. I think it's 2014. I'm not sure of the year. I do apologise.

But it's your understanding that every member council has signed a strategic alliance agreement after 2009?---There was a strategic alliance agreement review that I do recall well enough when Parramatta joined, and then an addendum again when Blacktown Council joined.

Okay.---To that same agreement.

10 And is it your understanding that the EPA has signed an agreement within the last three years with the member councils?---Yes. The EPA, well, I'm aware they signed the EPA Trust funding agreement.

Yes.---I know that - - -

Are you aware they signed a strategic alliance agreement?---I would only be assuming.

20 Okay. Can the witness be shown the 2009 Strategic Alliance Agreement in volume 2. So this is volume 2, page 1. This is the 2009, it's called a Co-Operation Agreement Unincorporated Strategic Alliance. Have you seen this document before?---I have.

And are you familiar with its contents?---Reasonably.

Reasonably. Okay. I want to draw to your attention a few terms that are defined in this document. At page 5 of the agreement there's reference to, the first, very first definition there is actual fine revenue.---Ah hmm.

30 And that's defined as the amount of fine revenue received by the councils in respect of a year. And then over the page at page 6 fine revenue is defined which to my understanding is a little more encompassing than actual fine revenue, actual fine revenue being fine revenue that's actually - - -.---Been paid.

40 - - - been paid. There's reference - I'm just trying to find it for you. In relation to fine revenue, and I'll turn up the reference in a second, but in relation to fine revenue being paid back to member councils, are you familiar with that understanding that member councils - that any fine revenue from the operations of the RID Squad would be returned to the strategic alliance - without me taking you to the term, are you familiar with that dynamic?---Yes.

You are?---(No Audible Reply)

And did that happen routinely?---The, the committee discussed on occasion, actually right from the inception of the squad that the idea was that all fines issues would go to the RID Squad budget as a part of their reserve and be administered and determined by the committee as a whole and the - anything determined for further legal action or prosecution was the

responsibility of the sole council. So that was why there was a distinction between fine and other, other costs.

Okay. So were – sorry, I might put the question a different way. Was the fine revenue returned back to member councils?---No.

No. Do you know why?---No, because each year when the budget was presented the member councils voted to maintain the reserve as, as is knowing that that's where it came from. There was a return of fees when
10 Bankstown Council withdrew from the Squad.

That's fees - - -?---Yeah, sorry.

- - - in contrast to fines?---Well, fine income. Their share of fine income was also provided but the members were always satisfied that the fine income was a pool or a reserve within the budget that they knew if they withdrew or the Squad no longer – ceased to operate that they would be entitled to but they didn't actually take it – each year take it back as such.

20 And where does the fine revenue go to your knowledge?---It's within the budget of the RID Squad so it comes in as an income.

So it doesn't go to consolidated revenue of the New South Wales Government for example?---No.

It gets paid directly to a council?---It gets paid to – under a RID Squad account to Penrith City Council who includes it in the RID Squad budget.

Okay. You mentioned before Blacktown City Council withdrawing. When
30 did that occur?---I'm afraid I don't, I don't know the date. I wasn't a member of the committee at that time even though I was at the – a member at the – or involved in the commencement of the Squad I've only been a committee member since 2010.

Okay. So your evidence is that they - - -?---And they were, they were not a member – they were a member when the Squad was first launched but they were not a member when I returned to the Squad in 2010.

40 And they haven't been since?---Yes, they are a member now.

And when did they become a member?---I think that would be '14-'15.

Okay. And your evidence is that they're currently a member?---Yes.

I just wanted to explore with you now your relationship with the coordinator of the Western Sydney RID Squad and your relationship in your capacity as Penrith City Council administrative role for the RID Squad. Do you understand what I mean?---Yes, I do.

In that role, administrative role, Penrith City Council, you have worked with a Mr Barry Ryan, is that correct?---I have.

And also Mr Izzard?---Yes.

And also Mr Reece?---Yes.

10 And it's fair to say that for a large majority of the time you've worked with Mr Ryan?---Yes, that's right.

And you worked with Mr Ryan up until he left in 2015, is that correct?
---Yes, that's right.

And then you worked with Mr Izzard until his employment was terminated in 2016, is that correct?---That's correct.

And then Mr Reece most recently?---Yes.

20 How often would you meet with Mr Ryan?---Quarterly through his coordinator meetings. Informally when he came to deliver timesheets, which was every fortnight, but that didn't mean that we met every fortnight. But we met reasonably regularly. Or when he chose to discuss something in particular.

And just to refresh my memory, you said those coordinator meetings were approximately quarterly?---Yes.

30 And - - -?---Oh, sorry, and at RID meetings, which were about every two months.

Okay. So over the course of the year, is it fair to say that six committee – sorry, I'll start that again. Over the course of a year there'd be approximately six RID Squad management committee meetings? One every two months?---Yes, between four to six, yes.

Between four to six. And then the coordinator meetings, there'd be between three and four?---Yes.

40 Okay. So between seven and ten times a year?---Formally, yes.

Yes. And in relation to the coordinator meetings, that would be a meeting between yourself and the coordinator. Would anybody else be present at those meetings?---Apart from the other coordinators. Sorry.

Yes. Well, who - - -?---Who attended the coordinators' meetings?

Yes.---The four coordinators and my admin officer.

Sorry, those four coordinators, one of those is Mr Ryan from the RID Squad and the other three are coordinators from within the Penrith City Council?
---That's right.

Okay. Was there any formal requirement to have that meeting with Mr Ryan?---As a one-on-one?

10 No, was there any formal requirement for you to have a coordinators' meeting with Mr Ryan just generally? Sorry. You were required to meet with four coordinators, is that correct?---Well, I'm not required to but it's a practice that I take up. And I met with Barry through that process but also informally on numerous occasions.

Okay. And what was your line of communication to Barry like?---It was either, yeah, by email or face-to-face.

20 Face-to-face. And before you had a coordinators' meeting, would you have an agenda for that meeting?---For the coordinators' meeting, yes.

And there would be minutes for those meetings?---Yes.

And would you discuss things at the coordinators' meeting with Mr Ryan in relation to just the Penrith Local Council area?---The Penrith Local Council area or if an operation had occurred in which the Penrith Local Council area was involved or our member had been involved.

30 But you wouldn't discuss at those coordinators meeting, for example, the activities of an investigator, a RID squad investigator in Fairfield?---No.

No. Okay. All right. And so it's fair to say that that global reporting of the Western Sydney RID squad happened through the RID squad management committee meetings. Is that correct?---Yes, that's correct.

And in preparation for those management committee meetings, as you said before Mr Ryan would prepare an agenda in consultation with the administrative officer and also the minutes of the meeting?---Yes.

40 And were those, were the agendas detailed?---No, I don't, I don't think you'd call them detailed. They were quite standard and the item, with some consistent items and some, some varied items.

And what I'm going to hand to you is a copy of a set of minutes, actually I'll do that in one second. In relation to the minutes, were the minutes detailed after the meeting in relation to when Mr Ryan was coordinator?
---Sorry, were they detailed?

Yes?---In what was recorded?

Yes?---Not necessarily. I wouldn't say they went to a lot of detail. It depend – no, no they weren't, they weren't, I wouldn't consider them detailed minutes, no.

Okay. Were they, was the same amount of detail in the minutes when Mr Izzard took over as coordinator?---I only recall one meeting where Mr Izzard was the coordinator and I, I'm fairly sure the minutes were reasonably consistent with previous meetings.

10

And your access to Mr Izzard in contract to your access to Mr Ryan would you describe that as consistent?---Yes. It was relatively short term so, so yes.

And was there any change after Mr Izzard left and Mr Reece came in?

---When Mr Reece came in we were predominantly looking at and reviewing all our practices in line of, of this event and preparing – well reviewing the squad and its operations. Reviewing our record keeping and preparing recommendations that we though would help refine and improve the integrity of the squad. So yes, I had quite a bit of dealing with Mr Reece in that regard because we saw it as quite an intensive operation to have to undertake.

20

Okay. I'll hand you a document now and this is three page document I think titled, Amended Minutes of Management Committee Meeting No. 3 of 2015. And it says at the top there that you were present at this meeting that was held on 18 February, 2016. Can you see that?---That's correct, yes.

30

And are these minutes fairly typical of the minutes that were prepared for the management committee (not transcribable) management committee?--- Yes, they are.

And when I say consistent, consistent across Mr Izzard's tenure as coordinator and also Mr Ryan's tenure as coordinator?---Yes.

All right. I tender that document, Commissioner. And I can make copies available to - - -

40

ASSISTANT COMMISSIONER: Yes, Exhibit 2.

#EXHIBIT S2 – WSRID SQUAD AMENDED MINUTES OF MANAGEMENT COMMITTEE MEETING NO. 3 OF 2015

MR MACK: And Commissioner, I can indicate that that will be made available on the restricted website subject to anybody wishing to make any remarks about it.

ASSISTANT COMMISSIONER: Thank you.

MR MACK: And I just wanted to explore with you one other area of reporting. Are you aware if the RID squad produced an annual report?
---Yes.

And did you have input into that annual report?---I saw it before it was released, yes.

10

Okay. But do you know how that report was compiled generally?---Yes, I'm aware of how it was put together.

And can you just describe that process for the - - -?---There was a series of co-ordinators' reports throughout the year that were tabled at each committee meeting and then the report would be a compilation of, of those operations that had been conducted through the year plus an annual budget and a compilation of all the fines and prosecutions and any legal action that had been referred and a general appraisal of activities.

20

And would there be much comment on the annual report at a committee meeting?---No, not particularly. There was a lot – committee meetings tended to – the co-ordinator would or members would speak to the documents and the annual report was seen very much as a way of demonstrating and promoting what the squad had been doing within each area. It was seen as a document that was predominantly given to member councils and that therefore photographs were prioritised rather than a lot of written word.

30 Okay. I'm going - - -?---That's why the before and after photos are provided.

I'm going to show you one of those reports now. What's being handed to you is a 73 page document, the first page is a contents page and you will see in the footer there that it's the Western Sydney Regional Illegal Dumping Squad 2014-2015 Annual Report. Have you seen this document before?---I have.

40 And to your knowledge that was presented at a committee meeting at some stage?---Yes.

And can you recall discussion on this document?---Not in any great detail except that members were generally happy to have statistics and photographs to return to their member council.

Okay. All right. I tender that document as well, Commissioner, and that will be made available online.

ASSISTANT COMMISSIONER: Number 3.

#EXHIBIT S3 – WSRID SQUAD 2014-2015 ANNUAL REPORT

10 MR MACK: I now want to take you to another document which unfortunately I only have one copy of but I can get further copies. This is a one page document titled RID Squad Operations 2013.---I am aware of that document.

And you'll recall before me asking you questions about the operations program. Is that part of the operations program that document?---Yes.

20 Is that the operations program for 2013?---As I alluded before, the, the program, yes, it was – tended to be a calendar that outlined operations that were proposed in response to member councils' requests and then that program was I suppose rolled out and reported on every two months at the meeting as part of the co-ordinator's program.

But that's the agenda for, for example, 2013. Is that correct?---Yes.

Okay. And that was tendered at a meeting, at a committee, at a management committee meeting?---I wouldn't say it was formally tabled. Barry would bring this to the meeting and then speak formally to it.

All right. But there was certainly no underlying documents in relation to the operations program?---No.

30 So to the best of your knowledge, there's no other document that records the operations program?---There are operational instructions, operational programs by name and debriefs for each operation but there is no sort of weighty strategic operations program, no.

Okay. Perhaps if that document could be shown to the Commissioner and I'll tender that document as well.

ASSISTANT COMMISSIONER: Thank you. That can be Exhibit 4.

40

#EXHIBIT S4 – RID SQUAD OPERATIONS 2013

MR MACK: And in that last answer you said there was no weighty strategic document. There's a document that I'll show you now. It's a 7-page document titled RID Squad and RID Program Annual Strategic Plan 2015. And again I only have one copy of this document but I can make others available.---I know that document.

And you say you know this document. How do you know this document?
---This document was presented to the committee meeting, I'm sorry, the date fails me, but at a recent committee meeting.

And do you know who authored it?---I understood that Barry Ryan compiled it but I seem to recall that Barry might have left and Craig tabled it. But I have to say I'm a bit vague as to who tabled it at the meeting.

10 And at the top you'll see it's called a Strategic Plan 2015/2016.---Yes.

Is there an equivalent document for any of the other years that you were involved in the RID Squad management committee?---Not that I know of. This document is linked to the funding agreement from the Environmental Trust.

Okay. I understand. And that funding agreement was a new agreement that came into operation within the last two years? Is that - - -?---Yes. The funding agreement required this template to form part of the milestones for funding.
20

All right. Well, I tender that document as well, Commissioner.

MR MACK: And you recall yesterday, Ms Chalk, that I was asking questions - - -

ASSISTANT COMMISSIONER: Exhibit 5.

30 **#EXHIBIT S5 – RID SQUAD AND RID PROGRAM ANNUAL STRATEGIC PLAN 2015/16**

MR MACK: You will recall yesterday that I was asking both Mr Reece and Mr McElwain questions in relation to asbestos and asbestos identification. What were the Penrith City Council's procedures in relation to orphan waste that contained asbestos?---Officers were to contact RID Squad officers, who would then go to the site and they were not to handle it but they were to at least provide advice and contact both the depot manager and the contractor,
40 if they believed it to be asbestos, for removal. There's a flow chart that's – oh, actually, you have one.

If I hand you a flow chart. It's a one-page flow chart.---There is a policy that supports that flow chart. It's just that the flow chart is easier to distribute.

And who was the author of that flow chart?---Mr Estreich, Adrian Estreich.

And is he an employee of Penrith City Council?---He is. He's a senior environmental health officer.

Okay. And that document would be provided to rangers within the regulatory team at Penrith City Council, is that correct?---Yes. However, the asbestos policy has been under review for, well, the last two years. The procedure has been out there but it's continually being refined. I think this is the most refined recent copy. But the RID Squad was certainly aware, through Barry's consultation with Adrian, that they were the officer at call to go to an asbestos dump or to go to a dump if it was suspected of containing asbestos.

Is that only in relation to Penrith City Council?---Yes.

So other member councils might have their own flowchart and their own policy for example?---Yes.

All right. I tender that document, Commissioner.

20 ASSISTANT COMMISSIONER: That will be Exhibit 6.

#EXHIBIT S6 – NOTIFICATION OF ASBESTOS ON PUBLIC LAND FLOWCHART

MR MACK: Just pardon me, Commissioner while I take instructions. And are you aware – sorry Commissioner, was that - - -

30 ASSISTANT COMMISSIONER: 6.

MR MACK: E6. Are you aware of RID officers or investigators being trained in asbestos identification and handling?---Yes.

And are you aware if Mr Izzard has been provided asbestos training?---Yes.

I'll show you a document that comes up on, I'll ask that the document be brought up on the screen. Unfortunately I don't have a hard copy of this, but you'll see it on the screen, it's a Statement of Attendance and it's to certify that Craig Izzard has been assessed and is competent for bonded asbestos removal. He was trained on 23 March, 2011. Have you seen that document before?---I've not – well yes, I have seen this document before and the qualified officers carry a card in their wallet that confirms this document.

Okay. And when did – how did you come in possession of this document? ---Our WH&S and Training Officer keeps a record of these documents.

Okay. All right. I tender that document as well, Commissioner.

ASSISTANT COMMISSIONER: Exhibit 7.

**#EXHIBIT S7 – STATEMENT OF ATTENDANCE FOR CRAIG
IZZARD IN BONDED ASBESTOS REMOVAL 032688B**

10 MR MACK: Ms Chalk, you mentioned in your statement a RMS drive system?---Yes.

And the RMS in that system stands for the Roads and Maritime Service?
---Yes.

And you mention in your statement that the RMS do an audit of Rid squad investigators so that they can have access to the RMS drive system. Is that correct?---They audit the system to which officers log into, yes, that's, that's right.

20

Okay. All right. Well I might just have to unpack that a little. What is the RMS drives system?---It's the system that officers may log into to retrieve information on registration and vehicles identification.

Okay. And to your understanding do all RID investigators have access to that system?---All RID and council rangers have access to that system.

30

And the audit you speak of is not an audit of the users of that system but a more back end audit by RMS in relation to that system. Is that right?---I don't wish to confuse you, but we are audited by the RMS for that system which is in turn I suppose an audit of the officers using the system and the way in which they use the system. And then in turn there is a nominated administrator auditor nominated in the drives contract, who is our Senior Regulatory Officer and also our RID squad coordinator.

40

And what do those auditors check for?---The use of the computer, the use of correct passwords, the time spent looking at a registration, for a registration. Whether officers are phishing, so to speak, for additional information other than just identification and the time taken that it takes them to use the system.

Okay. I think I only have a couple of questions remaining. The first is in relation to your statement at paragraph 49. And if Ms Chalk could please be shown volume 15, page 291. It says that you know Mr Izzard through his employment as an investigator with the Western Sydney RID squad since he commenced approximately three years ago. Now if the statement was sworn in 2016, is it your evidence that Mr Izzard has only been employed with the RID squad since 2013?---No, that is in fact incorrect and I have

known him longer, sorry. I, at the time, yeah, so Mr Izzard has been a member of the squad since 2010.

Okay. And hence I would have known him from that date.

10 Okay. And the arrangements that Penrith City Council has in place in relation to how they interact with the RID investigator, do you know if they're replicated across other member councils?---No. Each member council I suppose organises how that officer interacts with their particular structure. The co-ordinator and the committee have always encouraged the officer to attend and participate in the offices of the council but I can't speak for the other members. I can speak for one or two of whom I know well but I can't speak for the entire membership group.

But certainly Penrith City Council for example wouldn't feel any ownership or take any responsibility for an investigator assigned to for example Fairfield City Council?---No.

20 All right. They're all the questions I have for this witness, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Is there any cross-examination, Mr Patterson?

MR PATTERSON: Commissioner, I wonder would this be a convenient time for the morning adjournment. There are just a few matters about which I need to obtain instructions from Mr Izzard.

30 ASSISTANT COMMISSIONER: Okay. Well, we could take the morning tea adjournment I suppose.

MR MACK: I just want to ensure there's no other – anyone else wants to ask questions that we could perhaps have.

ASSISTANT COMMISSIONER: Would you – that's the other option of course if there are any other – are there any other questions?

MR FRASER: There are from me. Fraser for Penrith City Council.

40 ASSISTANT COMMISSIONER: Yes, Mr Fraser. Do you have a number of questions or - - -

MR FRASER: I could deal with – probably before half past 11.00 I could deal with them I suspect.

ASSISTANT COMMISSIONER: Okay. Well, we'll deal with it that way, Mr Patterson, and - - -

MR PATTERSON: Thank you, Commissioner. I'm obliged.

MR FRASER: I'm going to show you this document first, Ms Chalk. Do you recognise that document?---I do.

Is that your current position description that's applicable to the position you hold with Penrith City Council?---No, it's not my current position.

10 Oh, is there one that's more recent than this?---No. Since this document council has restructured slightly and I am now the waste manager and there has been an additional manager employed by council who is responsible for the other regulatory functions.

When did that change occur?---1 July.

2016?---Sorry, yes.

So this one which is dated 1 July, 2013 is the one relevant to the period the inquiry is directly concerned about?---Yes.

20 And on that, on that document at the bottom there's a department structure by way of a flow diagram. The four boxes at the bottom, are they the co-ordinators which you indicated to Counsel Assisting were the co-ordinators who reported to you approximately quarterly?---They're the -- yes, they're the co-ordinators that I referred to in the co-ordinators meetings.

So even though, in the third box, the supervisor environmental compliance and auditing isn't described as a coordinator, whereas the others are. Nonetheless, that's to whom you're referring as well?---Yes, it is.

30 I tender that document. There's some copies available here I can distribute round.

MR MACK: Commissioner, my only objection to that being tendered is that there are some standard directions for these inquiries, and paragraph 22 of that standard direction says that a copy of any document proposed to be put to a witness must be provided to Counsel Assisting as soon as possible after a decision has been made to use that document. I haven't had a chance to review it. Perhaps if it's marked for identification and then we can tender it after.

40 ASSISTANT COMMISSIONER: Yes, well, MFI1 and we'll deal with later.

**#MFI 1 - - POSITION DESCRIPTION FOR WASTE AND
COMMUNITY PROTECTION MANAGER DATED 1 JULY 2013**

MR MACK: And if there's any other documents that representatives wish to put to a witness, I'd like to see them.

MR FRASER: I apologise to my friend. I must say I obviously wasn't conscious of that in my mind. I should have been and I apologise to the Commission for that omission as well. Could the witness be shown Exhibit 5, please? That's a document which I understand you described as a budget document?---It's required to meet the – it's a requirement of the Environmental Trust funding agreement.

10

So that document was brought into existence for the purpose of funding rather than for purposes of management generally?---This document is structured this way, I believe, to correspond with RIDonline. But I would have to defer to the EPA for confirmation of that.

Can I ask you to attend to my question, though?---Sorry.

20

The fundamental purpose of that document was for the purpose of funding rather than for management of the RID Squad?---No, I would weight it evenly. I believe it was for both funding and for planning purposes.

30

Okay. Thank you. And might the witness now be shown Exhibit 6? You can return Exhibit 5. What I can't see immediately on that flow chart, that I only saw for the first time this morning as well, but for a matter investigated by the RID Squad at second level, the RID Squad then to attend site and determine appropriate action.---Oh, sorry. I was going to say this is a policy document for – or a flow chart which supports the policy document for Penrith Council and it is when employees identify asbestos on public land. It may not necessarily be the process for investigating the dumping of asbestos.

Because I was – you know, that might be the reason why what I suspect's absent, and that is when things go to the EPA because of the amount of asbestos and where things don't, where things stay with the RID Squad. It doesn't seem to be shown on there. And that's not the purpose of the document, you're telling me?---No, that's correct.

40

So that's why that - - -?---This is, yes, this is a supporting document to policy and practice for how Penrith City employees, when they come across or suspect asbestos in orphan waste or any dumping on public land.

All right. So it says nothing about the relationship and dichotomy or split between what EPA does and what RID Squad does, for example?---No.

Thank you. Now, Ms Chalk, did you first come to know about the problems at Liverpool Council, to which this inquiry is interested, only when the ICAC contacted you?---It was actually when my governance officer contacted me, yes.

And that was through information received by that officer from outside Penrith Council?---Well, it was advice from my governance officer who the ICAC investigators had contacted for access.

But the information about the problems with Liverpool didn't come up through the RID Squad, the RID Squad co-ordinator or any management committee meeting, et cetera, not internally in other words?---No.

10 All right. Did you ever have access to Liverpool Council's records in any way, it's computerised system?---No.

Before you were in your position that was a position held by Mr Ryan was it not?---Yes, that's correct.

And then Mr Ryan went to manage the RID Squad as co-ordinator. Is that right?---Yes, that's right.

20 And insofar as the operation of the RID Squad was concerned you left that entirely to Mr Ryan effectively other than the formal reporting procedures that the council has in place?---And in my role as committee in expressing what I would like the co-ordinator and the officer to do for Penrith Council.

And so effectively the only time you would do something active to manage would be if something came up at a committee meeting of the various councils and the EPA in managing the RID Squad. Is that - - -?---Actively managing RID within Penrith or overall?

30 Overall. In terms of the responsibilities that your position took in respect of the RID Squad, that is, the RID Squad co-ordinator reported to you in the flow diagram I took you to earlier.---Yes.

Generally matters which you – apart from checking reports and attending meetings if there was something active that needed to be done that would be done responding to matters raised in a management committee meeting rather than in any other way?---Yes.

40 All right. So in short, you left it to the co-ordinator to run the RID Squad and if something came up that was of importance it would be brought up to your attention either informally or formally through the management committee meetings?---Yes.

Just excuse me a moment please. Have you read any other witnesses' statements in preparation for attending today, in particular have you, have you read Mr Wayne Mitchell's statement?---No, I have not.

Do you agree with the proposition that there's been too much reliance of the co-ordinator of the Western Sydney Regional Illegal Dumping Squad to

effectively run and supervise personnel under his responsibility? The co-ordinator usually attends the committee meetings and provides a report of the performance of the Squad. In your observation - - -?---Sorry, can I just clarify that you're asking me if I agree with Mr Mitchell - - -

There's been too much - - - that there has been too much dependence on the co-ordinator?

10 Too much reliance is the word he uses but - - - Too much reliance on the co-ordinator.

To effectively run and supervise the personnel.---I have to say I haven't really given it due consideration.

Did Mr Ryan ever come to you and say there's too much responsibility placed upon me, I need help, or anything like that?---No, I don't believe he did.

20 Thank you, Commissioner.

ASSISTANT COMMISSIONER: Thank you. Yes.

MR RUSHTON: Commissioner, could I just ask one question?

ASSISTANT COMMISSIONER: Yes, Mr Rushton.

MR RUSHTON: You were shown Exhibit 3 which is the annual report of the RID Squad. Do you recall that?---Yes. I have it here.

30 Who prepared that document?---The co-ordinator.

So it was a document prepared within Penrith City Council?---It was prepared in the RID Squad offices.

Right.---Which are hosted by the Penrith City Council.

40 And who provided the information which is contained in it, for example, the figures, the financial figures that are on page 4?---They're the - that's the budget provided by the financial, the financial officer that I nominated that prepares the RID Squad budget.

Okay. Thank you.

ASSISTANT COMMISSIONER: Thank you. We'll take the morning tea adjournment now. Come back in 15 minutes.

SHORT ADJOURNMENT

[11.31am]

ASSISTANT COMMISSIONER: Yes, Mr Patterson.

MR PATTERSON: Thank you, Commissioner. Ms Chalk, my name is Patterson and I represent Mr Izzard. You have been shown Exhibit 3, which is the Western Sydney RID Squad 2014/2015 annual report. Am I to take it that the 2015/2016 annual report has not yet been prepared?---That's right.

10 In your position of the chair of the RID management committee, did you see operational orders and debrief documents prepared by Mr Izzard?---I would see operational orders and debrief documents at the committee meeting following the operation and I would be aware of an operation that was to be conducted in my LGA.

You would have seen such documents prepared by Mr Izzard?---Yes, sorry.

And are you aware that the debrief document in fact was an innovation introduced by Mr Izzard?---I wouldn't deny it but I wasn't aware that it was his innovation.

20 Specifically based upon his experience as a police investigator?---I am aware that the coordinator had stated to me that Mr Izzard brought some improvement and expertise to their reporting.

Thank you. Could the witness be shown Exhibit 7, the statement of attendance at bonded asbestos removal course. Ms Chalk, do you have any direct knowledge of the content of the course for which that is a statement of attendance?---No, I haven't attended the course.

30 So you're not able to say whether that course contained any material going to the identification of asbestos as opposed to its removal?---No, I cannot.

Thank you. Could the witness be given a copy of her statement, specifically paragraph 37 at page 288 of volume 15. Could you read that to yourself, please, Ms Chalk? Paragraph 37. Are you able to express an opinion as to whether there should be such a requirement for the host council area to report all illegal landfilling or dumping matters to Western Sydney RID? If you're not able to express an opinion - - .---No, I was going to say, my personal opinion is that, yes, I do believe that as the EPA is a 50 per cent stakeholder in the squad, that it would be a good idea.

40 Are you able to say why there is no such requirement?---No, I'm not.

I just want to ask you some questions about the introduction of RIDonline. Do you have direct knowledge of that?---No.

Would you have had access to the minutes of monthly meetings of the RID Squad?---No.

Are you aware that there were issues in relation to security of access to data
- - -?---Yes.

- - - when RIDonline was introduced?---Yes, I am.

10 If I was to suggest to you that RID officers were encouraged to limit the
information which they entered into the system because of those concerns,
would you agree or disagree?---I'm not aware that they would have been
instructed in that, no.

And so if there was an instruction to generally simply enter “refer to file
notes”, that’s not something of which you’d be aware?---I am aware that
there was concerns with the RIDonline when it first launched, because the
committee in fact made representations to the EPA along those lines. But I
can’t comment on your comment of “refer file notes”.

20 And if I was to suggest that such an instruction may have been minuted in
the meeting, in the monthly meetings of the RID Squad, that’s not
something of which you’d be aware?---That’s correct.

Thank you. And just finally, Mr Izzard reported directly to you during the
time that he was coordinator of the RID Squad?---That’s correct.

And were any concerns ever brought to you by anybody concerning his
investigatory methods?---No.

Or his record keeping?---No.

30 And certainly there were no allegations that he had been engaging in any
form of corrupt conduct?---No.

Thank you. No further questions, Commissioner.

ASSISTANT COMMISSIONER: Yes. Thank you. Yes.

MS JONES: Commissioner, Ms Jones (not transcribable) Ms Chalk.

40 ASSISTANT COMMISSIONER: We can’t hear you.

MS JONES: Sorry, I’m closer to the microphone now. Ms Chalk, you’ve
been asked some questions about coordinators meetings, those meetings
would you agree with the proposition that they were your method of
managing the four coordinators who then reported to you?---Yes.

You’ve been asked whether, Mr Mack earlier, whether there were any other
documents which recorded the operations programme and your answer
listed the operational orders and - - -

ASSISTANT COMMISSIONER: We're having difficulty in, in hearing you.

MS JONES: Sorry. I apologise, Commissioner. Your – I'll repeat the question. You were asked earlier by Mr Mack whether there were any other documents which recorded the operation programme and in your answer you mentioned the operation orders per operation and also the debriefs for each operation. Would you also include the coordinators report in that category of documents which record the operations programme?---Yes, the coordinators report and the annual report.

And can you describe the contents of the coordinators report?---Yes. It was a report on each operation, a debrief, a budget and list of, current list of fines and infringements issued, actions taken and often photographs of each member councils areas of before and after. And graphs indicating issue of fines and, and where in member councils and comparisons to previous year practice.

20 Thank you. I have a document that I'd like to hand to you which is an example, it's a RID squad coordinators report for the period November 2014 to January 2014. Mr Mack was provided with a copy this morning. I have copies for the rest of the room. Ms Chalk, is that document a fair example of the, of the type of report that was presented by the coordinator at the committee meetings?---Yes.
And that report was supplemented orally by the coordinator?---Yes. The coordinator would always speak to his report.

30 Thank you. Commissioner, I seek to tender that document.

MR MACK: No objection.

ASSISTANT COMMISSIONER: So that can be Exhibit 8.

**#EXHIBIT S8 – RID SQUAD COORDINATOR'S REPORT
NOVEMBER 2014 – JANUARY 2015**

40 MS JONES: Ms Chalk, you were asked some questions about the committee meeting minutes and you gave a view that, that you wouldn't consider them necessarily to be detailed minutes. Is there any operational reason why the minutes were somewhat circumspect?---Mostly because the members were quite conscious of some of the operations, if they were lone operations in their area they knew that the minutes were available to all other member councils. And they also knew that they were available to other staff and weren't sure of the distribution of the minutes. So they were

perhaps careful with how they wanted some of their council business recorded.

Ms Chalk, could I ask you be shown paragraph 63 of Mr Ryan's statement, which is at volume 15 at page 255? If you would just read that paragraph for a moment. Sorry, did I say 65? I meant 63, I beg your pardon. So in paragraph 63, Mr Ryan makes some comments about conformity with the State Records Act. Could you tell the Commissioner what's being done at the council towards compliance with the State Records Management Act?---

10 Yes. Recently council reviewed its entire record-keeping process and all its IT-related functions in relation to record-keeping and data management. And this was brought to my attention at a managers' meeting, and I was requested to comply with all the requests of the governance and probity section with the implementation of this review, and then the roll-out of the new program. I knew this would involve the RID Squad record-keeping processes and as such that meant that we would have to advise the committee that our records were being reviewed and that in fact we would be moving on to the ECM system for a common collection of record-keeping.

20

And that process, is it complete?---I'm not the one running the program. It's certainly complete as far as my use of the system, but it is not yet complete in the outer office such as St Marys, at the RID Squad. But that's only because the officers have yet to be trained in the system and then it will be introduced. But the IT infrastructure and software has certainly been prepared.

Thank you. RID Squad officers generally operated individually?---Yes.

30 Were there any options for RID Squad officers to take someone else with them?---Yes, that was entirely their call through their coordinator. They could take an officer or a number of officers if the operation warranted. They could for safety reasons nominate to take additional officers or officer on a particular job or investigation. They may interact with other agencies such as the EPA. EPA officers sometimes joined them on investigations or they request the coordinator to attend with them.

And what about - - ?---Sorry, and I was going to say they could also be supported by their member council's regulatory staff or nominated officers.

40

Ms Chalk, you were asked a question by Mr Fraser about active management of the RID Squad. Would you describe any of your three roles, in so far as they touched upon the RID Squad, as an operational role? ---No. Only, no. Because we would provide the purpose of the operation, but I wouldn't see my role as conducting the operation.

So it was the coordinator's role to run and supervise the other members of the squad?---Yes.

Thank you. I have no further questions, Commissioner.

ASSISTANT COMMISSIONER: Yes, thank you. Anything arising Mr Mack?

MR MACK: Two questions and just to tender that document that came from Mr Fraser. It's an eight page position description. And there have been copies made available.

10

ASSISTANT COMMISSIONER: Thank you. Well that can be Exhibit 9.

**#EXHIBIT S9 – POSITION DESCRIPTION FOR WASTE AND
COMMUNITY PROTECTION MANAGER DATED 1 JULY 2013
(PREVIOUSLY MFI 1)**

MR MACK: Ms Chalk, I just want to ask you a question about the role of the senior investigator?---Yes.

20

Are you familiar with the role of a senior investigator within the Western Sydney RID squad?---Yes.

And what distinguished a senior investigator from a normal investigator?
---My understanding was he had additional duties such as rosters, relief on short term because of the shifts they worked. Responsibility for call out and I suppose general mentoring, supervision of more junior staff.

And you mentioned before about the coordinator on occasions travelling to local council areas to assist with investigations?---Yes. To either assist with investigations or to liaise with member, member, committee members or member councils in their own LGA.

30

And was it ever the practice of the RID squad that the coordinator would be assigned a local council area?---Yes. The RID squad at that time the coordinator was also assigned an area. Currently on our review of the RID squad the new structure is that, proposes that the coordinator is in fact a full time coordinator. That there is no senior investigator and that their, that all member councils have an investigation officer nominated to them.

40

And my final line of questioning relates to the role of what is now the EPA at management committee meetings. How would – would you describe their role at management meetings, the representative from the EPA as passive or if not passive how would you describe their level of engagement with materials and - -?---I'm happy to agree with passive as long as it doesn't have a negative connotation. They certainly responded to questions and reported on EPA promotional activities. We saw them as a conduit to

the regulatory branch, because unfortunately the regulatory branch did not attend at that time, however they do now.

Sorry, the regulatory of the - - -?---Of the EPA, yes. So that was sometimes a bit challenging to receiving information that was of the regulatory nature from the EPA, but in fact we were with more of the Waste promotion and marketing type role.

10 And when you say regulatory component would that encompass their compliance unit at the EPA and people under the control of Mr McElwain or are you referring to regulatory within EPA as something distinct from Mr McElwain's department or you don't know?---I'm, I'm not confident in responding because I know the EPA has just undergone restructure.

Okay?---But our previous experience and at the time that we seem to be focusing on the officers attending were predominantly from the local government or marketing branch. We had to I suppose use them as more of a conduit to seek clarification on regulation.

20 Thank you Ms Chalk. I have no further questions.

ASSISTANT COMMISSIONER: Is there any reason that Ms Chalk can't be excused?

MR MACK: No, Commissioner.

ASSISTANT COMMISSIONER: Ma'am, thank you for coming. You're excused?---Thank you.

30

THE WITNESS EXCUSED

[12.09pm]

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: The next witness I call is Mr Barry Ryan.

ASSISTANT COMMISSIONER: Will you take an oath or an affirmation, Mr Ryan?

40

MR RYAN: Affirmation, sir.

ASSISTANT COMMISSIONER: Thank you.

ASSISTANT COMMISSIONER: Mr Ryan , it's possible, unlikely in your case I would think, just take a seat, but you, you, there's always a possibility that you could leave yourself open to civil or criminal action arising out of any of evidence so I can protect you against that. Would you like me to make an order?

10 MR RYAN: Yes, thank you, Commissioner.

ASSISTANT COMMISSIONER: Then I will and pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by this witness and all documents and things produced by this witness during the course of the witness's evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

20

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THIS WITNESS DURING THE COURSE OF THE WITNESS'S EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR

30

THING PRODUCED

ASSISTANT COMMISSIONER: Yes, Mr Mack.

MR MACK: Mr Ryan, you've signed a 24 page statement for the purpose of this inquiry. Is that correct?---That's correct.

And you've had the opportunity to read that recently?---That's correct.

40 You were employed as the co-ordinator of the Western Sydney RID Squad up until November, 2015. Is that correct?---Yes.

How long did you hold that position for approximately?---Five years.

Five years. And where are you currently employed?---Excuse me.

That's all right.---Currently employed as the – by Canterbury Bankstown Council as the co-ordinator of the Sydney Regional Illegal Dumping Squad.

And when did that come into existence?---In November, 2015.

And were you involved with the decisions relating to it coming into existence?---Not the decisions, no.

And how many member councils are there at the Sydney RID Squad?
---Currently 11 and I just say that with a question because of amalgamations. It could be 10 or 11. It was 14.

10

And you've heard evidence this morning about the structure of the Western Sydney RID Squad in terms of having member councils who each contribute an equal amount of money and then the EPA contribute the same amount as all of the member councils combined. Is the same arrangement in place for the Sydney RID Squad?---Yes, with a very slight variation and I'd like to be open and hopefully not confusing because the Sydney RID Squad evolved from the Inner West RID Squad after one year. There was a co-operative agreement I understand with the Inner West RID Squad councils that identified an amount of money. When the other Sydney RID
20 Squads came on board that amount by the Sydney RID Squads is slightly higher.

And would you describe the role as co-ordinator for the Sydney RID Squad as being the same as the role as the co-ordinator for the Western Sydney RID Squad?---No.

All right. In the Sydney RID Squad is there one investigator per local council area?---No.

30 How many investigators are there?---We have 12. So 12 covering the now 11, or was 14, councils.

And how are they assigned responsibility and geographic locations within the Sydney RID Squad?---Sure. If I could just talk broadly about the 14 councils.

40 Yes.---And talk on that way. Some councils are very large, if I just take for example Sutherland. Other councils are smaller and we can have one officer if you like not so much covering but responsible for the primary contact of those councils. I would get the staff to support each so not only would they be the primary contact for a council area, some may be the primary contact for two council areas being 12 investigators in 14 areas prior to amalgamations.

And is the contact point at each one of those councils uniform across all of the -?---No. Contact point for the investigator?

Contact point at the local council, is that the same contact point across every other local council in terms of hierarchy within particular local councils?
---No, and, and often there is two contact points, being on a management committee level and an operational level. Operational level for the investigator and a management committee for myself or the manager of the Sydney RID Squad.

10 Okay. And what characteristics does the contact point at a typical local council have in terms of investigations?---Sure. Well, at the operational level?

At the operational level.---Sorry, and can you repeat that question with that in mind?

What are the typical characteristics of the contact point at an operational level at a local council, in terms of what they have oversight of and access to?---Yeah, typical characteristics, they would be a ranger or an enforcement officer or a team leader of that branch.

20 And they would be familiar, for instance, with issues relating to illegal dumping?---Yes. Perhaps not implicitly, because as you may or may not know, the Sydney RID Squad is quite young, and so the issues are evolving as we determine and we find them out ourselves.

Are the investigators in the Sydney RID Squad reportable to – do they report directly to you as coordinator of the Sydney RID Squad?---Yes.

30 And do they also report to local councils? Their contact point inside local councils?---Yeah, they report to them on a basis that the contact point would require, and that could be daily, weekly, depending on what reporting lines they have, they require.

And what are the reporting lines to you? What reporting line is there between an investigator and you as coordinator of the Sydney RID Squad?
---I would often have daily contact with the investigators, not face-to-face because given the Sydney region is so large, and I may be contacting on a daily basis, by phone or email, to all as required.

40 And do you have visibility on the cases they're managing?---I can view the cases, yes.

And is there a scheduled time for meetings with investigators?---Yes.

Do they occur monthly? Or how regularly? Or are they ad hoc? I'm just trying to get a - - -.---No, that's okay. They occur twice weekly, until recently, and we're just moving into a monthly cycle as the squad has developed.

And are you assigned an area or a contact person inside a local council's office?---No.

But were you assigned a local council area in your position as coordinator of the Western Sydney RID Squad?---Yes.

And what area was that?---Well, I could say it changed. Originally Fairfield area, then Holroyd area, and Parramatta area. They're LGAs, of course.

- 10 And can you describe for the Commission the reporting between investigators at the Western Sydney RID Squad and yourself as coordinator of the Western Sydney RID Squad?---I would have had more face-to-face contact with the officers, and they all worked out of one office. Having said that, I would also contact the officers on a daily basis, if required, by phone or email.

And was your office, as coordinator, in the same offices as all of the investigators for the Western Sydney?---For the Western Sydney, yes.

- 20 So you could walk into the office and chat to whoever might be there, if they weren't on patrol, about particular matters, is that correct?---Correct.

And who was in charge of assigning or allocating investigators to particular local council areas?---That would have been myself. I often did that and rotated staff in conjunction with the advice from the senior ranger.

And what governed - - -?---But I was responsible.

- 30 What governed that discretion? When you say advice from the senior investigator, what type of advice would - - -?---Sure. I would seek - as was, I don't know what word is, alluded to by Ms Chalk, the nature of the work in that area, the experience of the officer. I may have required certain experience officers for a certain area, and I sought his opinion on that before rotating staff.

Okay.---And also it was important to maintain good communications with the council officers. So you wanted to have an officer in there that was familiar with the type of illegal dumping that was in that area if possible.

- 40 Okay. And when you rotated or reallocated an investigator from one area to another area would you report that to the Western Sydney RID management committee?---I couldn't be sure. I believe that I would have through committee reports and I would have also reported that to the committee members individually when I'm rotating or ask the officers to do the same to make sure that communication was there.

And would you provide training to new investigators yourself?---Myself and other colleagues.

And other colleagues being other investigators?---Correct.

10 And what would you train investigators in?---I'd certainly make sure that they're aware of basic issues within the squad, for example, work health safety, our protocols, surveillance camera policies and the like. I would then ask other – and also office procedures I should say, RIDonline or prior to that the previous database. I would then try and pair the officer up with an officer that was more senior if you like so they could go in the field and start to get used to the operations and then also provide available external training.

You mention there training in relation to the computer systems you used and you mentioned two systems, a pervious EPA system and also RIDonline. Can you first of all describe what the previous EPA system was in broad terms?---An online database.

20 And it wasn't stored locally for instance, had to log on to a system - - -?
---Correct.

- - - outside of Penrith?---Log on password. As I understood it, it was managed by the New South Wales EPA.

And what data would be entered into that system?---To be honest I'm a bit hazy on that even though it was only 12 months ago. There would be certainly case details of the property, the nature of the waste, type of waste, perhaps the amount of waste. We would have some commentary on the investigation itself.

30 And who would, who would generate that data?---The individual officer that was investigating the case.

And would it ever be the case that the EPA would enter in an entry and it would become assigned to you?---No. No.

And I understand that that system no longer exists. Is that correct?---That's correct. I was replaced in early 2015 by RIDonline.

40 And was the data that was on the previous system migrated across to the new system?---I don't believe all it was, all that it was. I don't think you can access some of the data.

And in - - -?---I've tried and I just can't.

And in what ways does the new RIDonline differ from the old EPA database?---The opportunity to locate the waste through mapping, so identify exactly. So we – I believe as the system evolves it will be able to

identify trends in illegal dumping through maps. The reporting is far less functional than the previous database.

So the mapping component exists - - -?---Yeah.

- - - in the new RIDonline and didn't exist on the old database?---Correct. I think the majority of it, whilst in a different format it's very similar.

10 Okay. So there's a layer of systems that across time has been controlled by the EPA. Is that a fair statement?---Yes.

And existing underneath that is what you refer to as an operation drive or a C drive within the offices of the Western Sydney RID. Is that correct? ---Correct. We call the - yeah, basically stored on a server and let's call that an operation drive. Not so much a C drive on the computer, it's more on a server that is dedicated that section to the RID Squad officers.

20 And the operations drive is completely separate and does not interact with the EPA systems. Is that correct?---Correct.

So the process before RIDonline was that an incident would be logged on the EPA database and then a separate file would be created on the operations drive in relation to an incident, is that correct?---That's correct.

All right. And did you have access to all of the files on the operations drive?---Yes.

30 And did you perform any reconciliation of the matters on the operation drive with the matters on the EPA systems?---You mean to ensure there is a case file in both, if you like?

Yes.---From time to time, yes, I did.

And how often would you do that?---Infrequently.

Okay.---And I did not keep records, definite records of that. So I couldn't say.

40 And you were in charge of, from time to time, anywhere between five and seven investigators, is that correct?---Correct.

Five to seven investigators would report to you. And would each investigator have their own parent folder within the operations drive? In a sense, would there be a folder that said "Steve Gillis" and then under that it would have Steve Gillis's matters that he's working on?---No.

No. So there would just be one global directory with matters on there?

---Yeah, well, what we would have would be, and it was fine-tuned over several years, and I think only around 2012/13 we fine-tuned that procedure to say in each given year there were, so for example, 2016 waste cases. And then we would refine that down to the local government area.

Right.---So the cases for Fairfield would be stored in the Fairfield folder under this year's waste cases. An officer may have their own folder at the same time to store information that they felt they required.

10 And would each officer or investigator have visibility or have access to another investigator or officer's files?---Yes.

And were there some investigators who had more detailed records in relation to their local council area and the matters they looked after compared to other investigators?---Yes. And that's often because of the nature of the waste in that area.

20 All right. Can you just explain that a little bit more?---Sorry. Some areas, particularly perhaps more - you're talking about how much data was in files?

Yes.---For example, the more urban areas, the nature of dumping is quite different to the rural areas. In the urban areas we may have fridges, waste in front of flats. Less of large scale illegal dumping. My expectations, if you've got larger scale illegal dumping that involved a longer investigation, and they do, or landfilling, there would be more information, I think. I can't remember what you said. Details, I think you said. In those folders, if you like.

30 So the smaller the incident, the less information in relation to it?---Correct.

Presumably the smaller the incident, the more incidents there are in relation to smaller incidents. Is that a fair statement?---That's probably fair.

And you made a distinction there between - - -?---Well, it depends on the local government area itself, and the amount of waste in that local government area and the incidents in that local government area, if you like. You could put it that way as well. Some areas are more prone to waste dumping than others.

40 And you made a distinction before between dumping and landfilling. Is it the case that dumping captures a situation where a truck or a vehicle goes out and drops rubbish on a property, whether it be public or private land, whereas landfilling is a more involved process that would involve a truck or a vehicle going out to a property and seeking to apply that load to the land? Do you understand the question?---I do understand the question. And I'd like to say I don't think there's any strict definition. It's probably more of an interpretation that you would take. And mine would be that if a single truck takes a load of waste and dumps it on either private or public land, I'd

call that an illegal dump. A deliberate act by persons to take large scale amount of waste, and particularly contaminated soil or soils that are not VENM, onto a property would be more landfilling.

And when you say VENM that's an acronym for?---Virgin Excavated Natural Material, which under their development and trial plans they may be able to import.

10 All right. So landfilling – I take it from your answer that landfilling has a sole component to it?---Normally in my, if you like, interpretation of it, it normally has a landfilling component to it. I have some cases where probably even more rural cases where owners of, of large rural tracks with gullies would fill that whole gully with building and demolition waste. Now I don't know if you call that landfilling or not. It's not what we would normally interpret in the Western Sydney's landfill.

20 Okay. And when you say a large scale of dump in relation to a gully would the RID, the Western Sydney RID maintain control of the investigation of that, of that incident that you just gave?---That would, that would depend on the council itself and whether they wanted us to continue with the operation or not. In most cases the council, council will (not transcribable) once we identify the large scale dumping we may take action on the illegal dump if I could say that we saw, because we often alluded to it by a single truck going on to the property. And then the council may manage the large scale landfill that's on that site.

30 Specifically in relation to the Liverpool City Council did you have a relationship with a contact point inside Liverpool City Council whilst you were coordinator of Western Sydney?---Several contact points, yes.

All right. And who were they?---Over time I think initially manager, Vesna Kerstev. She would have been replaced by Grahame Hope and then operational staff, if I could that with respect, the council rangers.

Okay. And is it Ms, Mr Kerstev?---Ah, Miss, Ms.

Ms Kerstev and Mr Hope or - - -?---Yes.

40 And what role do they have at Liverpool City Council?---I believe that Ms Kerstev, but she was the manager of the regulatory section. I'm not sure of Mr Hope's title, I think he is in the Waste Management particular cleansing section and control of waste removal and (not transcribable) waste removal.

And in relation to the issues of illegal dumping or illegal landfill within the Liverpool City Council, would you discuss matters with Ms Kerstev very often?---It's hard to recall because she left some years ago. I certainly did have several conversations with her about the, the nature of waste dumping

in Liverpool areas and, and perhaps talking about what we could do to support their operations.

And did you have similar discussions with Mr Hope when he took over?
---Yes.

10 And in broad terms what is the nature of illegal dumping matters in
Liverpool City Council?---A real mixture of waste. I should say from the
outset that we were required to operate in more the rural areas of Liverpool
Council Area than the western and I think south western areas. And
understand that was to support the council rangers while they looked after
other areas of the city. So I can't comment on those other areas of the city
and the nature of the waste there. It's my understand that the nature of the
waste in Liverpool is, given that there is a large amount of rural area and
quiet roads, very little surveillance on the roads. There is a reasonably high
amount of dumping of orphan waste being small to large loads of waste that
we can't track owners to. Ranging from as I said small loads, individual
items up to, you know, one to two tonnes of, of waste. Then, then the
higher scale you've got on rural properties more this illegal dumping of a
20 larger scale come landfilling.

All right. Explain that a bit further. You said you were required to operate.-
--Yes.

Who required you to operate in these areas - - -?---Well - - -

- - - that you - - -?---Sure. That would have been an instruction from the
two people that I mentioned, being Ms Kerstev and Mr Hope, in
consultation, as I understand it, with their staff, their rangers, to say, you
30 know, how did that agreement occur.

And they would, Ms Kerstev and Mr Hope, would then relay that
information to you and then you would then assign an investigator to the
Liverpool Council Area to investigate illegal dumping within the confines
of what was discussed and passed on to you by rangers and - - -?---That's
correct. And often in a consultative approach, when I met with the
managers, those people, often the rangers would be there. And often I
would take the investigator with me. So it wasn't so much a one-on-one
meeting. It was a collaborative approach to make sure that we could fulfil
40 our obligations. So the investigator generally knew what they were required
to do from the outset.

And in your evidence before, you gave a spectrum of illegal dumping,
starting from small scale and then escalating up to more larger landfill
matters. Is that correct? Is that a correct summary of your evidence?---Yes.

And at the lower spectrum were one to two metric tonne dumps?---The very
lowest spectrum would have been a single tyre.

A single tyre.---To a single fridge or a small amount of material. Then you come to one or two tonnes randomly dumped, and then you're escalating up from there.

So in relation to a tyre, was it your understanding that the Liverpool City Council wanted the Western RID Squad to investigate the dumping of illegal tyre?---No, not necessarily. I understood the question was around what was dumped in the area.

10

Yes.---And that's why I gave that answer.

Yes. But now I'm moving on from that and using the example of - - -
---Sorry.

20

- - - a tyre or a fridge.---They may at times call an investigator out to an investigation of a dump in a certain road, and we would go there and we may find a single fridge or a tyre. We perform that function. Obviously there's very little that you can do about that unless you've got witnesses. So they were the ones we would say, you were alluding to before, the nature of documentation. Those ones, refer back to the council for removal. It would be rare but it does happen.

30

Okay. And within Liverpool City Council, how many rangers, roughly, did they have that looked after illegal dumping and illegal landfill? How big was their team. How big was the team under Ms Kerstev or Mr Hope?---I don't know. I couldn't say. I met several rangers. I don't know if all were allocated to illegal dumping or they had the varying roles that councils do have, council rangers do have.

And can you recall many requests from Liverpool City Council in relation to, let's say, do you know what I mean by truck and dog?---Yes.

40

Truck and dog load. Can you recall Liverpool City Council ever saying to you that in the situation where there's a truck and dog load of illegal dumping that they want the Western RID Squad to investigate?---Well, they wouldn't have used those words, a truck and dog load of - they may have said we've got - we need you to investigate five of 10 tonnes of waste that's been dumped which could be alluded that it was a truck and dog.

Okay. If they said five of 10 is it possible that they would say greater amounts such as 15 or 20?---They may not specify the exact amount. They may just say we want you to investigate illegal dumping at this location. We believe this is the nature. Yeah, they may say the amount, they may not.

Okay. And you're familiar with the jurisdiction of the EPA in relation to a 200 metric tonne landfilling dump, are you - - -?---Of waste when they become the ARA.

Yes.---Yes.

So at what point between zero metric tonnes and 200 metric tonnes would the Liverpool City Council typically task you and your investigators in relation to the Liverpool City Council area, was it more towards - - -?
---Well - - -

10 - - - measurements under say 20 tonne?---Well, previously and very – in very if I like early in my time at Liverpool they would – they asked us to investigate illegal dumping and tonnages over that amount.

Over what amount?---Over the 200 tonne amount.

All right.---And that occurred and then the Liverpool Council I think probably around 2012/13 referred those matters to the EPA for investigation.

20 All right. And matters that were – after that 2012/2013 time when it was the practice of Liverpool City Council to refer those directly to the EPA, what kind of matters would they refer to the Western Sydney RID Squad?
---Matters that I mentioned before from those small amounts of waste to the one to two tonnes of waste. I'm not 100 per cent sure and I don't have a good knowledge of larger amounts of landfill if you like in that period of time because there was several stages where Liverpool Council advised that they wanted us to look after landfilling, they didn't want us to look after landfilling, they did want us and then they didn't want us so it was, yeah.

30 Just to explore that with you a bit. I understand from your evidence that there was particular times when Liverpool City Council told investigators at the Western Sydney RID Squad perhaps through you that they don't want the RID investigators to investigate dumps. Is that correct?---Dumps of what?

Dumps of – well, you tell me. What did - - -?---They never said they don't want us to inspect dumps of waste.

40 Sorry. The dumps of – I'll break that down a bit. Before you said that Liverpool Council took back some of the matters that they previously referred to the Western Sydney RID Squad. Is that correct?---That's correct. Sorry, that's correct.

And that's happened on more than one occasion since 2012?---That's correct.

All right. What was the nature of the matters that they took back on the first occasion from Western Sydney RID Squad?---Yeah, they were larger scale let's call them landfills which might involve contaminated soil.

Predominantly matters that we had identified in a significant operation that we had with the EPA over I think in around 2012/2013. I remember the meeting where we were requested to attend.

10 And do you know why they wanted to regain control over those - - -?---I can say what the manager had told me at that stage was that the – they're getting inquiries from the council (not transcribable) and the public and they needed to maintain control over those so they could quickly and I do recall the response being they could provide a quick response back to the councillors on what was occurring on those sites.

And can you recall what sites they were, can you recall any of them?---Yes.

Can you give an example of one?---Yes, Greendale Road.

20 Yeah. Can you give an example of another one?---I think there was a job in Martins Road. No. I'm not great on the roads but I think it was Martins Road or Devonshire Road, I think it was, Devonshire Road. There would've been about, and I'm speculating here, more than five I'd like to say.

Okay. And common to let's say that group of matters was that they were large scale matters, is that correct?---Correct.

And over 50 metric tonnes for example?---Yes, I'd agree.

Over 150 metric tonnes?---In some cases would have been.

30 Over 200 metric tonnes?---Several cases would have been. And possibly very hard to estimate but on, on one case alone could've been more than five, six, 800 tonnes.

And do you know what case that is that might - - -?---That's Greendale Road.

Okay?---I know the property because I went there on several occasions myself and other staff had a lot of investigations there.

40 And your evidence is in relation to Greendale Road that that was within the sole domain of the Western Sydney RID Squad before they sought to regain control over it, is that - - -?---No, actually prior to that. I can't recall the date but I do recall observing a truck going onto the property in 2011/'12 probably on one of our operations. Followed on there it was contaminated fill. I'd made inquiries with Liverpool Council because I observed a vast amount of fill on the property and they had advised me that they had knowledge of that and they had taken action by a development control officer regarding the fill on the property.

And that's in relation to Greendale is it?---Correct.

So just breaking that down. You knew of a property at Greendale that was between – a site where between six and 800 metric tonne had been dumped or - - -?---Yes.

Right. And you rang - - -?---With the knowledge of the owner so not necessarily - - -

Oh, I understand?---Yeah. Yeah.

10

And what, what was the nature of that waste, was it construction and demolition waste?---A real mixture of some loads of soil that would've contained brick work, old pipes, other – and that was probably generally it. There was let's just say waste blended with soil and fill.

But definitely not pure VENM?---Not that I could identify. There may have been some loads but there was a considerable amount of waste on the property.

20

And using that example of Greendale did you issue a penalty notice or any form of disciplinary action?---Yes.

You did?---Yes. We did. We issued what's called Notice to Provide Information to the owner. Certainly issued penalty notices. I think in that case we probably also sought advice from Liverpool Council regarding the clean-up of the amount of waste, given the nature the closeness to the Nepean River. It was if you like I felt beyond our – the expertise as investigation officer so we sought to invest, yeah, information from Liverpool Council.

30

Okay. So were you happy then that if you didn't have the resources that Liverpool City Council was regaining control over some of your matters?--- I don't think happy is the word.

Were you relieved?---Not relieved. I thought that if they're going to control it with their development control officers it was in the right place given the nature of those type of issues. But also that the EPA were saying they were going to refer that to the EPA given that it was over 200 tonnes. Well that was the type of cases.

40

And you said before that there was a manager at Liverpool City Council that expressed to you some level of concern over perceived inaction on your behalf. When I say your behalf on behalf of the Western Sydney RID Squad in relation to these locations, is that - - -?---I don't believe I said that.

You don't (not transcribable). So why in your opinion did the Liverpool City Council seek to regain control over matters that you were investigating?---I think I've answered that before. And if I could recall that

they manager said that they wanted more of – be able to provide immediate response back to Councillor on the activities and what was occurring on those properties.

And why couldn't the Western Sydney RID squad provide that immediate feedback?---I don't know. I don't know why she made that decision. I wasn't provided any other information.

10 All right?---And I was, and the officer that was there at the time was expressed by that manager that there was no issues or no concerns about the officers of the Western RID squad.

Okay. And that was Ms Kerstev is that - - -?---That's correct. That's correct.

20 All right. And was it a global regaining of control from the Western Sydney RID squad by the Liverpool City Council or did the Liverpool City Council still refer some matters to the Western Sydney RID squad?---The latter that you said, yes.

What was the nature of the matters that were referred back?---Well they would have been of your minor scale illegal dumping of waste on perhaps private and or public lands, roadways and the like.

30 And then at some point in time the Liverpool City Council requested that the Western Sydney RID squad take back control of the matters that they had recently sought to take back from the Western Sydney RID squad. I know that's confusing but do you understand that - - - ?---I do and it did occur.

Okay. And how long after did, did that occur?---I'm not sure because I wasn't party to those immediate discussions that would have been held by the investigator that was primary contact for that area. But I understand it might have been in or around 2014 some time.

And when you say investigator, who was the investigator at the time?---It was Craig Izzard.

40 And in relation to the discussions that preceded that where Liverpool City Council sought to regain control over those areas including Greendale et cetera, were those discussions with yourself and Mr Izzard?---That's correct.

And at all times were they with the both of you? So was it - - -?---On that, on that, on that occasion?

Yes?---(not transcribable) but on the second time that the council said they wanted the RID squad to manage those Issandfills I can't recall being present, no.

So how did you come to the understanding that Liverpool City Council wanted the RID squad back in?---Whilst I can't recall the recall date or time, but that would have been relayed to me by Mr Izzard.

10 And I want to focus your attention now on the second time that Liverpool City Council sought to regain control of some matters from the Western Sydney RID squad. Do you accept that there was another attempt made by Liverpool City Council in relation to regaining control?---Yeah. Craig Izzard advised me that the council officers were again going to look after, if I can say that, I don't know what the words were, large scale landfilling.

And did you ask Mr Izzard why?---We probably had a discussion. I can't recall that at all, the details of that discussion.

20 And did it surprise you that you were involved in the discussion in relation to the first time that Liverpool City Council sought to do this and not the second time?---No, it didn't. They had a change of managers and I believe a change of structure as well.

And do you know what precipitated Liverpool City Council seeking to regain control on the second occasion?---No I don't.

And did you care to ask?---I certainly asked Craig about it.

30 And what did, what did Craig say?---I can't recall. I would have asked him, sorry, I asked Craig, I recall I was having discussions about the landfill going to Western Sydney RID, heading back, coming from, as I, as I recall also, I don't know if this was specific, but I do understand that Liverpool Council have or had two officers that were looking after landfilling as a more of a priority job. I can only assume that would be the reason why.

All right. You gave evidence before that the first time Liverpool City Council sought to regain control from the Western Sydney RID Squad you were involved in those discussions. That's correct?---Correct.

40 And what – and I think you said that was around 2012. Is that correct? ---12/13.

12/13.---Yeah.

And then the second time they sought to do it was around what time?---I think – well, it would have been two years ago or thereabouts so I'm looking at 2014.

And you didn't have any involvement in those discussions the second time?
---That's correct.

So between the first time when you were involved in the discussion around 2012/2013 - - -?---Yes.

- - - and the second time when Mr Izzard told you that they're trying to regain control again how much interaction did you have with Ms Kerstev or Mr Hope at Liverpool City Council?---In regard to that matter?

10

No, just generally.---Oh, well, Ms Kerstev had left.

Yes.---Mr Hope I would have contacted by phone and also seen him at committee meetings.

How often?---How often I couldn't tell you.

20 And were you surprised that he didn't pick up the phone for instance and say – and tell you why they're seeking to regain control the second time?---I do recall having some general discussions, and I can't recall the specifics of it, with Mr Hope about landfilling and of that nature. I do recall that he was saying that it's not in his area as in it's being managed in a different area so he, he didn't have any knowledge of the landfilling issues now.

So it was outside of his control?---Correct.

30 And did you have any other contact point in Liverpool City Council besides Mr Hope at that time?---I only spoke to, to the operational officers and that was infrequent. That was a Mark McPhillips and a Anna Kypriotis.

Okay. And did you speak to them much between the first time when Liverpool City Council sought to regain it the second time?---I spoke to them probably several times a year.

Yes.---Yes.

40 And were you surprised that neither of those officers told you or expressed to you reasons why the Liverpool City Council was seeking to regain control the second time?---No, that's really a matter for the council. We try and work with the council and what they need. I, I accepted that it was something that they needed and wanted.

All right. And there was nobody – you didn't ask Mr Hope for an explanation or to be put in touch with somebody who might be able to provide an explanation?---I say again that it was a need and I accepted that need by the council, that they had made that decision. I – it's not for me to question how a council, a council manager operates.

So since the second time when they sought to regain control have you learnt reasons why they – why Liverpool City Council wanted control over those matters instead of the Western Sydney RID Squad having control?---I haven't been told directly from Liverpool Council.

All right. So do you know that it was – has anybody said anything to you in relation to there being inaction by the Western Sydney RID Squad in relation to certain incidents and events within the Liverpool City Council area?---No, nobody said anything to me.

10

And - - -?---I've read briefs of evidence but nobody said anything or made mention to me.

All right. So you've read some of the material that's been - - -?---Some of the material, yeah.

And what do you understand from reading that material the reason why Liverpool City Council sought to regain control?---Well, I – it's their opinion I guess. It's not my opinion.

20

What's their opinion?---Well, from what I recall they were not satisfied with the service and that's the opinion they put in their, their statement, yes.

And you don't share that opinion that there was - - -?---No, no. On several occasions I spoke to Graham Hope about the level of service. He was satisfied. I spoke to Mark McPhillips who if you like I took as the senior person. He was more than satisfied with the level of service.

30

So it came as a surprise to you that other people within the Liverpool City Council were dissatisfied with the level of service?---Yes.

All right. Commissioner, note the time. That might be a convenient - - -

ASSISTANT COMMISSIONER: Yes. We'll adjourn and resume at 2.00.

LUNCHEON ADJOURNMENT

[1.00pm]