

SECTION

EVIDENCE

4

Community Confidence in and Support for the Elected Representatives

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4.1 Community Confidence In The Council

4.1.1 Measuring Community Confidence

4.1.1.1 The Terms of Reference of the Public Inquiry state, in part:

“The Inquiry will have particular regard to:

2. whether the elected representatives command the community’s confidence and support as to their capability, and whether the elected representatives have been and will continue to be in a position, to direct and control the affairs of Council in accordance with the Local Government Act 1993, so that Council may fulfil the charter, provisions and intent of the Local Government Act 1993 and otherwise fulfil its statutory functions.”

4.1.1.2 Determining whether or not the elected members command the confidence and support of the community is not an easy task.

Confidence and support cannot be measured in discrete terms. There is no interval scale by which confidence and support can be measured. Many of the things that people experience can be measured on interval scales. Temperature, for example, can be measured in degrees centigrade to any desired number of decimal places, depending only on the precision of the thermometer. Confidence in a Council cannot be measured in such a way.

Confidence and support can only be attempted to be measured in terms of an ordinal scale. People within the community might rank their confidence and support according to a scale that ran from total confidence and support for the Council through to no confidence or support. The reality is that very few people would opt for the extremes: total confidence and support, or none at all. The vast majority of people would have a position somewhere along the spectrum of possibilities between the extremes.

Ordinal scales inevitably change according to peoples’ reaction to events. The very fact of a Public Inquiry into the Council will probably have changed peoples’ position along the confidence-support spectrum: some people, for example, might have heard more information about the Council than before and adjusted their position accordingly. Opinion polls regularly reduce ordinal scales to yes/no questions: do you support X? This is why opinion scales are so often wrong (quite outside of issues of sampling and statistical significance).

It is important to understand that conclusions that have to be made in this Inquiry, about whether the elected representatives command the community's confidence and support as to their capability, cannot be based on numerical data. Simply, there is none. The approach is, therefore, more qualitative, based on the evaluation of the evidence at hand. That evidence primarily comes from the material provided in the Submissions and the oral evidence from the Public Hearings, supplemented by other evidence provided by bodies such as the Council and the Department of Local Government.

4.1.1.3 Four of the "Majority" Councillors claim that there is very strong support for the elected members and the Council. These Councillors might be considered as providing information that suggest that the community might express strong, or even near total, support for the Council (the upper end of the ordinal scale). Their arguments are based on their own interactions with the community, and on the success of community events.

Councillor Stephens (Submission 290) makes this case expansively.

Submission 290

COMMUNITY CONFIDENCE IN COUNCIL

Not meaning to blow my own trumpet, but I wish to state for the record that I am currently Treasurer and Volunteer Fire Fighter at the Cottage Point Brigade, and Chairman of the Warringah Pittwater Rural Fire Service; President and Life Member of the Bridge to Bush Life Education Centre; an active and life member of the Belrose Davidson Apex Club; the Apex Representative and Co-chairman of the Australia Committee; previously Pioneer Volunteer and second in charge of the Homebush Aquatic centre for the Sydney Olympics. I received a commendation from the NSW Police Service for my services in the French's Forrest Police Community Customer Safety Council – and am currently the chairman of the Safety Committee and the Road Safety Committee.

This list I believe demonstrates that I am indeed highly in touch with my community as I think is very clearly demonstrated by the sheer volume and personal involvement in the community. I think I can say with some authority that we most definitely do have the confidence of the Warringah Community from the feedback I receive every day from the people I am involved with all over the shire.

There can be no doubting that each of the Councillors has extensive connections with the community. It appears from the evidence of the Submissions and the Hearings that the "Majority" Councillors are strongly associated with formal organisations (sporting clubs and sports associations, schools, Apex, fire fighting brigades and so forth). It might be assumed that the organisational support for the Councillors is related to the support that the Councillors, in turn, provides for the organisations. It is also quite possible that members of these groups, when having contact with Councillors, would also discuss broader community issues.

The claims by the Councillors that they find from their feedback and community contacts that people definitely have confidence in the Council must be accepted and taken into account.

- 4.1.1.4 The second argument promoted by the “Majority” Councillors concerns the success of a number of community events at Warringah. Councillor Stephens (Submission 290) details that argument well.

Submission 290

I run three of the local markets, and four of the local festivals, where in excess of 250,000 public attend annually; I am the coordinator of the Euro Fest at French’s Forest, comprising 25 community groups, and has 20,000 public attending; the Newport market Day (just outside the shire boundary) has 20,000 public attending; the Narrabeen Summerfest which has won the community event of the year twice, has in excess of 30,000 public attendees and the involvement of 25-30 community groups; the Festa Sul Mare at Dee Why Beach – attendance 20,000 and the involvement of 20 or so community groups. I am on The Australia day Committee which has an overall attendance of in excess of 25,000 people, and the involvement of 60-70 community groups; appointed Justice of the Peace in 1984; not to mention all of the committees associated with my council duties.

Councillor Julie Sutton followed a similar theme in her initial appearance at the Public Hearings March 20 2003.

Public Hearings Transcript – March 20 2003

MS. SUTTON

But once again, Mr Commissioner, there are 135,000 people out there and that is one of them and of the 16 - 67 people out of 135,000 say that they are worried. To me that is a very, very tiny statistic and I wish to say that the awful history of the Council I take great offence at the person who wrote that, I don't who wrote it. This Council has a wonderful history, a wonderful present and a very good future. At the moment, sir, we are in Seniors Week, unfortunately I shall have to miss many functions.

I was going to miss two, because we were meeting next Wednesday, but then we were told we didn't have to meet next Wednesday, so I put them back on schedule and now I will have to ring up and say they are back on schedule because of something. But we have a wonderful Seniors Week, we have already had had two stunning events, we have them one after the other. We have community functions that are second to none. Ask the 35,000 people who came to the Australia Day functions or the 6000 who came to Symphony on the Sand last year or the thousands of people who will be coming on Saturday night to the Oceania Multicultural Harmony Day function.

We have thousands of people out there who think it is a very good Council. We have some encouraged by people I would call zealots and malcontents, mostly people who fail to get elected at the last election who feel that they have to say nasty things about the Council. And people love saying nasty things about politicians. I mean I can say some very entertaining things here at the moment about some politicians because I know I can't get - for defamation I probably won't do it, but the comments that I have made about some of our Federal politicians would make these pale into significance and what I'm saying is that

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There is clear proof that community events in Warringah are popular and attract large crowds. It is difficult, however, to extrapolate the number of people attending a public function into a broad expression of confidence in the elected representatives. It is perfectly possible for a person to be greatly dissatisfied about many aspects of the policy and management frameworks provided by the Councillors, and still enjoy an Australia Day function, or the Symphony on the Sand.

The evidence also suggests that large community events such as these have been running in Warringah over a number of years, and have attracted strong attendances over those years. The fact that these events might still be attracting crowds during the term of the current Council cannot be measured as a particular sign of the public's support (or lack of support) for the elected representatives. The events are something that people enjoy, and would continue to enjoy, regardless of their views of the elected representatives.

Warringah Council is clearly very good at organising a number of community events, and that is to their credit. That fact cannot be interpreted as having much bearing on the assessment of whether the elected representatives command the community's confidence and support as to their capability.

As noted earlier the primary source for assessing the confidence and support for the elected representatives has to be the Submissions and oral evidence of the Public Hearings. The summary of the split between those who generally had a favourable view of the Council, and those who did not (Section 3), showed that under one fifth of those who submitted evidence to the Inquiry expressed sentiments that might be interpreted as support for the Council. Associations and institutions, the reference groups for the "Majority" Councillors claims of close ties, sent a significant proportion of these. As discussed in Section 3, it is difficult to accept that all the members of an association or a club have a favourable view of the Council because some people within the club or association have claimed that they speak on the membership's behalf.

A contrary use of the same argument is put forward by the Mayor. The Mayor has argued that the number of people criticising the Council is "*a tiny, tiny statistic*" and their views should not be taken into account. Her reference is to the population of Warringah, which she puts at 135,000 (according the ABS residential population figures, April 2003, the population is actually 137,003). The effective number of Submissions was around 400; that is including original Submissions, Submissions in reply and additional material provided. These are dismissed as not representing the views of the Warringah population. As observed in Section 3, over 400 Submissions is a very large number for an Inquiry of this type. It can be accepted as a representation of the thinking of those most concerned about the Council.

4.1.1.5

At the other extreme of the hypothetical ordinal scale concerned with the confidence and support of the elected members by the community are those who have no confidence in them. In contrast to the supportive groups, who appear to come predominantly from associations, clubs, and institutions, those most lacking in support and confidence come from the general public. There are a large number of Submissions that state unequivocally that they do not have confidence

in the Council. Individual residents write them all, and there is no hint that they have collaborated in any way. They are clearly not part of any “conspiracy” against the elected representatives.

The general theme is summed up in Submission 200.

Submission 200

This article in the Manly Daily advises the terms of reference of the inquiry as, efficiency, effectiveness, conduct and community confidence.

I would specifically refer to the Block of Five

Those satisfied with and have confidence in Council

- developers, surf club member or any sporting body would probably be well pleased

Those unsatisfied with and have no confidence in Council

- normal residents whose needs and requests appear to be of no importance to Council especially if those needs and requests conflict with those of the above..

The depth of feeling expressed is often stark.

Submission 253

I will encapsulate what I find appalling in the administration of Warringah by its incumbent council.

Please help us,

The Submissions in the group that express their lack of confidence in the elected representatives repeat the same messages.

Submission 249

I do not feel Warringah Councillors are competent to effectively govern Warringah Shire and certainly do not have the community's confidence and support.

Submission 256

I have no confidence in the councillors at Warringah. They seem to have no interest in the people and ignore what we want them to do.

Some of the old ones have years of practice in ignoring us, it should stop. Can you stop them standing for election again? They are ruining our area.

Submission 284

I write as a rate payer and long term resident of Warringah. I have absolutely no confidence in the present Council.

Submission 319

I do not wish to give evidence at the enquiry, but I do wish to state my lack of confidence in the governance of Warringah Council.

Submission 334

One of your terms of reference relates to whether Warringah Council's elected representatives command the community's confidence. In my case, as a resident of 50 years, I must report that they do not.

Submission 234

I have absolutely no confidence in those members of Warringah Council who hold pecuniary interests within the property development area, such as estate agents and property developers...

...I therefore have no confidence in Warringah Council as a whole as they have the ruling vote.

Submission 218

Owing to the fact that we have had such disappointing results from the majority Councillors in Warringah I request that you dismiss the majority Councillors.
 It is the general consensus that this majority five has not worked in the interests of the residents and rate payers of this Shire.
 I thank you in anticipation of your consideration to this request.

Submission 175

As a resident of Warringah Shire I very much regret to write that owing to the extremely bad performance of the majority council in Warringah I have lost my confidence in this performance.
 I ask, Sir, that you consider both mine & other residents concerns & dismiss this majority council & install a caretaker council to carry out the duties pertaining to councillors.
 I thank you in anticipation.

Submission 194

We are writing to voice our deep concerns about the operation of Warringah Council. We have lived in the Warringah Shire for 18 years and have witnessed the growing disregard Council has for community concerns to the point where council attitude could only be described as arrogantly dismissive and a flagrant violation of its duty to the constituents.

Submission 197

My wife and I and all of our friends and family that live in Warringah and Pittwater, believe that the Warringah Council does not operate effectively, nor does it have the confidence of the community.

Submission 214

I have been a resident for Warringah for many years and at this time find that my confidence in the Council and the sitting Councillors is at its lowest ebb.

The reasons for the lack of confidence and support for the elected representatives are outlined in most of the Submissions that provide the extracts above. The same themes run through a large number of other Submissions. The main three reasons cited for the lack of support and confidence are:

- the conduct of the elected representatives in general;
- the conduct of the elected representatives in relation to development issues;
- the conduct of the elected representatives in relation to the protection of the environment and the quality of life in Warringah.

The following extracts provide a flavour of these three reasons.

Submission 199

The inquiry over which you preside is the culmination of years of bickering, disruptive meetings, overdevelopment, public dissent and a continuing litany of well publicised problems involving elected members of the Warringah Shire Council.

Submission 274

I WORK in a local Retail business and I AM FOREVER HEARING ABOUT the FRUSTRATIONS of RESIDENTS, in RELATION to Warringah Council. Many feel that the Council has become CORRUPTED by pure greed AND EGO, WHILST ON A DAILY BASIS WE SEE BEAUTIFUL HISTORIC HOMES SMASHED BY THE BULLDOZERS OF DEVELOPMENT HUNGRY COMPANIES.

Submission 285

I have been keenly following the antics of the council for many years, and am extremely glad to see justice finally taking hold. The majority bloc councillors clearly demonstrate total contempt for the community at large, and are distanced from the day to day workings and problems of the citizens they are supposed to represent. The overall quality of life in Warringah has slowly been degrading, to the point where stress levels are commonly overtaking the pleasurable aspects of life. I believe the single main cause of this is over crowding and over development. The direct effects of this are traffic congestion, pollution, frustrated idleness due to lack of open spaces for recreational activities, all of which lead to a more stressful life.

Submission 365 illustrates the sense of frustration and anger from those with a total conviction that the elected representatives lack the confidence and support of the community as to their capability. Submission 096 attempted to sum up the feelings in one sentence.

Submission 365

Please, please, free us from the blundering antics and incompetence of our local Council buffoons and dismiss them.

It is a widely-accepted opinion that they are self-seeking, incompetent oafs.

Their personality in-fighting and non-serious behaviour enjoys absolutely no confidence from us Council ratepayers - and does no actual good nor service at all for this community.

Submission 096

WARRINGAH COUNCIL IS A JOKE !

4.1.1.6 The reality is that the bulk of the people in Warringah would sit somewhere on the spectrum between total confidence in the elected representatives and total lack of confidence in them. There is no simple way of understanding just how people are spread along that continuum.

The best clues are provided by the issues that people have raised in the Public Hearings and in the written Submissions. As remarked, more than four out of five people complained about the Council and its elected representatives. The large volume of complaints received by the Minister for Local Government and the Department of Local Government sparked the decision by the Minister to hold a Public Inquiry. In Section 4.2 the significance of the complaints made then, and the significance of the complaints made to the Inquiry, are considered in the context of whether or not the elected representatives have the support and confidence of the community.

4.2 The Relevance Of The Complaints

4.2.1 The Scale of the Complaints

4.2.1.1 Over the life of the current Council, to the beginning of the Public Inquiry, the Department of Local Government had received 664 complaints about Warringah Council. In the past two years Warringah Council topped the number of complaints to the Department. In the past year it generated 17% of all the complaints forwarded to the Department by the 172 Councils in NSW. Warringah has also generated the second highest level of complaints to the NSW Ombudsman. There have also been 69 references to the Independent Commission Against Corruption dealing with Warringah Council.

The issue of the complaints is also visited in Section 5. The emphasis in this part is on the relevance of the large number of complaints to assessing the level of confidence that the community has in the Council. The emphasis in Section 5 is on the Councils' management of the complaints it receives.

4.2.1.2 Such a portfolio of complaints suggests a strong level of discontent amongst the citizens of Warringah. Since the complaint levels have been consistently high over the entire life of this Council it might be assumed that many citizens were losing faith in their Council, i.e. a lack of confidence in its governance.

The "Majority" Councillors in the course of the Public Hearings disparaged such a conclusion. They argued that the number of complaints was inflated. They said that the complaints did not reflect the true feelings of the community. The sending of complaints was part of a plot by those intent on having the Council dismissed. The substance of the complaints was trivial.

Councillor Julie Sutton put forward these views in her appearance at the Hearings on March 20 2003.

Public Hearings Transcript – March 20 2003

THE COMMISSIONER: . . . I would like to go back to something we were talking about yesterday and that is complaints to Council and complaints to other bodies in relation to activities or decisions or other things related to the Council.

It has been mentioned several times in these hearings that Warringah has the reputation of being the most complained about Council in letters to the Department of Local Government. Mr Blackadder made some points about that yesterday and we may come back to those. Mr Blackadder also mentioned that Warringah is the second most cited Council in letters about Councils to the Ombudsman. In the past 4 years there have been 69 references to ICAC about Warringah Council. That suggests to me that the community is expressing itself in some way, would you agree?

MS SUTTON: No, certainly not, Commissioner. I'm terribly sorry to say you're quite wrong there. A group of people in the community, a very small group, have said that they are determined to bring our Council down and the 69 complaints that have gone to ICAC, would you like me to tell you how many have been acted upon, because as far as I know - - -

THE COMMISSIONER: No, we will come that.

MS SUTTON: - - - I think, none. Some of them are quite entertaining, some of the ones I have heard about, of course, we don't always hear about the ones in ICAC but there certainly haven't been 69 councillors or staff or anything like that summoned into ICAC, because it has just been a non-goer. Mr Blackadder already explained to you that of the 300 complaints only 11 failed to get put in the bin and we used to have what - they haven't done it for a while now, but the - one of the leaders of the gallery who was most hostile to the Council, a failed candidate who got just over 1000 votes in the election, although he claims to be the community leader, used to hand out sheets and they'd have, you know, Mr Harry Woods, Minister for Local Government and the address.

And then he'd say: here they are, here are the sheets, just fill them in and sign them. I mean, he used to hand them out in front of us in the

MS SUTTON:

gallery. So I mean it wouldn't be hard to get up 300 and as I - as we have both said we get a little bit cross about that figure all the time because 11 apparently were the only ones that failed to miss the dust bin, or the recycling bin. So, you know, we don't take too much store by that. They were - it was an orchestrated campaign to get rid of the Council, clearly announced to us in public during Council meetings and it would be a very tragic event, Mr Commissioner, if those zealots ended up being successful

THE COMMISSIONER: Let me just make comment and then pursue that a little bit. The figure that Mr Blackadder put forward yesterday for the last year's records of complaints was 195, not 300. So you are doing yourself an injustice there, it is 195. That represented 17 per cent of the 1140 complaints that were made by Councils across the whole State, 172 Councils. That does seem a lot, 17 per cent. Now, the second point you made was that only 11 of those were pursued. We talked yesterday about the autonomy of the Council. The 1993 Local Government Act quite explicitly sets out to preserve the autonomy of the Council, you remember that?

MS SUTTON: Yes.

THE COMMISSIONER: The Department of Local Government is concerned with issues beyond that. Now, what we found yesterday was that over the past 4 years, you haven't really had a complaint management system working within the Council. Is it not likely that people, not being able to get any kind of satisfaction, that seemed to be what I was hearing yesterday by addressing the Council about their concerns, instead addressed other bodies, the Department of Local Government or the Ombudsman or ICAC or whatever.

Now, the fact is, if we take the Department of Local Government where you said only 11 out of 195 were really considered, the fact is that the Department of Local Government, as I understand it in their investigative roles, only look at items that somehow go beyond the normal role of Council in sorting out complaints. That figure does not necessarily signify those complaints were genuine or not. Some of them undoubtedly were trivial. Some of them might have been concocted.

By the reduction of 195 to 11 does not really signify the Department has decided that [number] is all that really counted. We get back to the problem that seems to me, important. Since the Council has not had an effective complaints management program that [there] is inevitably [a] high figure, 195, the highest in the state, [plus] a very large figure over the past 4 years, about 664. [The lack of a complaints policy] is reflected in those complaints.

Councillor Julie Sutton made great play of the fact that in the past year the Department of Local Government had received 195 complaints, but only 11 were investigated.

There is nothing in the reduction of 195 registered complaints down to 11 investigations that suggests the vast majority of complaints was trivial. The 1993 Local Government Act sought to boost the autonomy of Councils. With that autonomy, Councils are expected to handle complaints that specifically relate to their own structures and operations. There are only a very few issues that transcend the jurisdiction of an individual Council and rightfully need to be investigated by the Department. The fact that a large number of complaints were not investigated by the Department really indicates that they dealt with matters that the Council itself should investigate and deal with.

Warringah Council's workforce is around ten times larger than that of the Department of Local Government. It would be physically impossible for the Department to investigate every complaint sent to it by the 172 Councils in NSW. They therefore restrict their investigations to matters that lie beyond a Council's own capacity to investigate effectively.

Department's Annual Report 2001

Council complaints

During 2001–02 we have continued our efforts to ensure that complaints are dealt with in a satisfactory manner at the local level, consistent with the principles of local autonomy and accountability which underpin the *Local Government Act 1993*.

In recent years we have been helping councils develop and take greater responsibility for dealing with complaints at the local level. We have also continued to encourage complainants, wherever appropriate, to raise their concerns directly with their local council. This remains a challenge, as there has been a significant increase in the number of matters raised with the Department during the 2001–02 year, and a number of complaints made to the Department have followed a complainant taking the matter to the council in the first instance and not being satisfied with the council's response.

It is the Department's experience that frequently complaints arise because of a misunderstanding or the failure of a council to satisfactorily explain its actions or decisions or through a complainant's mistaken expectations or lack of knowledge as to the council's role and responsibilities. A well functioning complaints system that clearly sets out such matters has the ability to deal more effectively with matters raised with the council, particularly if the council has a complaints handling policy which informs its community as to what and how matters will be dealt with.

We generally only investigate complaints or allegations that are of a significant nature or indicate serious malfunctions or mismanagement.

4.2.1.3

The theme of the large number of complaints received by bodies outside of Warringah Council, but dealing with issues related to the Council, was taken up with Mr. Blackadder, the General Manager (Public Hearings March 19 2003). Mr. Blackadder argued that it was up to the Department to assist the Council to understand the nature of the complaints, whilst preserving the privacy of those who made the complaints. He acknowledged that the sending of so many complaints to outside bodies might indicate that the senders doubted the capacity of the Council to deal with them.

Public Hearings Transcript – March 19 2003

THE COMMISSIONER: . . . Now, having got that background, I would just like to take up a few of the things that did come through in the submissions. One of those is concerned with the nature of complaints and how they are dealt with at large and particularly within the Council, you would recognise that some of the submissions were suggesting that their complaints are not being properly addressed by the Council, would you agree with that?

MR BLACKADDER: Yes.

THE COMMISSIONER: . . . There is also a suggestion in some of the submissions that a number of complaints also went to the Department of Local Government and the Minister and I think in some submissions, there is questions about why only a small number of those were ultimately investigated. What I'm trying to get round to is the Act, the Local Government Act gives Council a great deal of autonomy, in fact it is built around trying to preserve a lot of autonomous features within Councils.

Would you say that the primary responsibility for dealing with complaints for the public lies with the Council because of that autonomous role?

MR BLACKADDER: Most definitely, Commissioner, and I also acknowledge that the role of the general manager and particularly acknowledged by the Office of the Ombudsman, where the Ombudsman if it receives a complaint refers that person to the general manager in the first instance. I'm unaware as to whether the Department of Local Government has that practice and I should acknowledge, Commissioner, that with the number of complaints published in the Department's annual report we have sought information from the Department to more clearly specify the nature of those complaints.

We sought from Mr Mitchell through the investigation process a greater clarification, but unfortunately that was not provided to our satisfaction and so we have written to the Department on 13 January 2003 seeking a very comprehensive reply. Whilst I acknowledge that the Department's guarantee of service on its website specifies that it would reply to correspondence within 4 weeks, or a lot longer, or a little longer if it involves research, the guarantee of service also mentions that the complainant or the person seeking information would be kept informed. I must say that unfortunately I haven't had any reply to that letter.

Public Hearings Transcript – March 19 2003 (cont.)

THE COMMISSIONER: Yes, thank you. Let me make a couple of passing points. This inquiry is determined, as I said this morning, by a certain set of terms of reference. It is a public inquiry and therefore the evidence that comes before us has to be public. The complaints that might go to the Department of Local Government or to the Minister's office for that matter, I suppose, have some guarantee of confidentiality. That means, that in this inquiry we are not really dealing with those complaints because they are confidential, because I haven't read them, because they are not in the public domain.

What we are dealing with is the evidence that is given by people, either in written terms or in oral terms to the inquiry. So the issues about the complains to the Department tend to fall outside our considerations because they simply are confidential and we cannot use them to assist us with our inquiries here. You made the point that bodies such as the Ombudsman and ICAC and perhaps even the Department of Local Government, you are investigating some aspects of that, but they have a different role to the Council itself in dealing with complaints. You made that point. In your submission on page 31 you said that:

The number and nature of complaints about Warringah Council is of great concern to me.

Were you referring to those made to the Department, or to the Minister or to the Council, or all of those things?

MR BLACKADDER: No, Commissioner, only to the ones made to the Department, but I suppose I should extend that to also include the ones that are published on the Ombudsman's Annual Report and in the last reporting year Warringah was the second most complained about Council after Gosford. So when I express a concern in my submission that the number of complaints is a concern, it is a very personal concern to me. I regard highly the image of Local Government. I also regard highly the image of the Council itself, regard highly the image of the councillors and I regard highly the image of my staff. So when there is a complaint my natural inclination is to try and fix it.

But what's of great concern to me is that whilst I am receiving personally a number of complaints or requests for action that I've taken up personally, the Council is not receiving the complaints directly. It seems to me that a large number of the complaints are being directed to the Minister or to the Department without the opportunity for the general manager to address the issue. Now, I say that generally and I also must emphasise that I respect entirely the prerogative of a resident or a person effected to make a complaint to the Minister or to the

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: . . .

Department.

But in my view it should be a last resort. It should be because the Council has failed in its duty to provide either information or service or to satisfy an issue. It is of great concern to me that it appears that we are not doing that. It is a great concern to me that there is a public perception that the Council is failing in its corporate Governance. [sic] Now, my role as general manager is to try and fix that. So what I've commenced as from the publishing of the Mitchell report is an analysis, an attempt to try and find out the truth behind this so called reputation that the Council has earned as the most complained about Council in New South Wales.

I want to find out the truth. I want to find out whether those complaints to the Department and in the last published financial year there are 188 and if I can just acknowledge, Commissioner, that the Department in its annual report acknowledged that it declined 167 of those complaints after preliminary assessments and I would imagine that preliminary assessment would be, presumably, an examination of the issue and deciding whether they were largely trivial or not worthy of further examination. I assume the complainant would be advised accordingly.

There were 17 that were declined after inquiry to the Council. There were 11, only 11 of the 188, that proceeded to fall into investigation by the Department. Now, my record disclosed only six letters from the Department regarding those issues. I also acknowledge at this stage that our records may be incomplete. I might not have researched fully those but they disclose only six letters from the Department and that is essentially why I have sought more detailed and fulsome information from the Department about the nature of those complaints.

Commissioner, I respect entirely that they are confidential. I'm not asking for full details but I'm asking what they can be - what I'm asking for is help from the Department. What I want is a partnership arrangement with the Department but at this stage I'm here to received your advice. So I look forward to getting some.

THE COMMISSIONER: Let me just explore a few of those things that you said. The first one, you said that in the last year it was the second most complained about Council.

MR BLACKADDER: In the Ombudsman report.

THE COMMISSIONER: In the Ombudsman report, sorry, yes. In the Local Government comparative information it is most complained about?

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: Yes, I think for the last 2 years, if I'm not mistaken.

THE COMMISSIONER: Over the past [3^{1/2} years] the life of this Council, how has it ranked?

MR BLACKADDER: I can't answer [for] the first year. My only knowledge is the last 2 years.

THE COMMISSIONER: The figures I've seen suggest 664 complaints over that period. Would you agree that is a large number?

MR BLACKADDER: Yes, indeed.

THE COMMISSIONER: Let me explore this just a little bit further. If there is a problem, as you seem to suggest at the departmental end of how they actually take in and handle these complaints, wouldn't every Council in the State have exactly the same problem?

MR BLACKADDER: Yes, but I would think, Commissioner, that if the Department regards it so seriously, it would provide the Council with help. It would allow us to have sensed the nature of those complaints, the issues. I would think that as part of the Department's role in assisting Councils and not being the policeman in assisting Councils to improve their performance, I mean, it would be disappointing to me if the Department didn't jump in their car and come out and sit with the general manager and try and work out a way in which these issues could be addressed. Now, that has not happened.

THE COMMISSIONER: With the terms of reference of this inquiry, it is not really about whether the Department takes certain actions or does not take certain actions in relation to complaints received, so I don't want to pursue that any further. What I would raise though is the point I made earlier that the ultimate responsibility perhaps for dealing with complaints is with the Council. You would agree with that?

MR BLACKADDER: Yes, most definitely.

THE COMMISSIONER: It is important that that remains so because of the safeguarding the autonomy of the Council.

MR BLACKADDER: Commissioner, it is important that the community understand that. It is important that the community should feel and should trust the process that they can come to the Council and

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MR BLACKADDER: . . .

obtain a fair and reasonable answer or result. That is one of my concerns, that the community feels that it is not getting that. Now, in my role as general manager what I've tried to do in the period of time that I have been with Warringah is to agree to see any person that wants to see me.

Now, some people have considered that inappropriate but what I've tried to do is to get a sense of understanding of what the issues are. There are a number of persons in the community who might be regarded as regular complainants. Now, I've not turned any of those persons away. I've been able to try and assist and resolve issues as best as I can. So my attitude is one of trying to help but it is also to try and understand why the Council is not being trusted with the ability to try and resolve complaints. I'm trying to fathom why people would go directly to the Minister, go directly to the Director General. Why does it not trust the Council or why doesn't it allow the Council the opportunity to try and address that issue.

THE COMMISSIONER: Well, you seem to be wandering back into an area that I suggested lies somewhat outside the terms of reference here but let me make one suggestion. If a number of those complaints are really matters that the Department has no jurisdiction over and no power to do anything about, perhaps the small number that are inquired into may be a reflection of just that fact. Now, whether or not there should be a further nexus between the Department's investigatory group and each Council I guess is a matter of resources and a whole range of other things. But as I say, that lies outside the terms of reference that we are looking at here.

MR BLACKADDER: Commissioner, I'm not sure whether I'm understanding what you are saying because Mr Mitchell when he came before you this morning, you asked him what really is the trigger for a section 430 investigation and he indicated that the public [had not] supported the Council. I think he did mention public complaints so I think that falls very squarely within the terms of this inquiry.

THE COMMISSIONER: We also discussed this morning that a section 430 investigation and a section 740 public inquiry are two different things.

MR BLACKADDER: Yes, I accept that. . . .

The thrust of Mr. Blackadder's argument is that the solution to understanding the community problems behind the large number of complaints to the Department of Local Government lies in being informed by the Department about the nature of the complaints, and forming a partnership with the Council. The fact that the General Manager suggests this as a solution indicates the distance of the Council from the community it serves.

- 4.2.1.4 The General Manager in his Submission (No. 288) to the Inquiry appeared to suggest that the number of complaints sent to other bodies could be dismissed because a large number of them were trivial. This point was pursued at his March 19 2003 appearance at the Public Hearings.

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THE COMMISSIONER: I would just like to pass on to another point that you made in your submission. Again on page 31 you state - talking about the number of complaints and the fact that you were unhappy about it, you say:

At the same time it has to be said that many complaints are trivial.

Do you recall that statement?

MR BLACKADDER: Yes, I do.

THE COMMISSIONER: In the light of what we have just been taking about, how can you reliably make such a statement?

MR BLACKADDER: Commissioner, in the draft final report by Mr Mitchell, and in my response to that or it might have been the Council's response to that draft final report, it referred to, in item 313, councillor misbehaviour and failure of duty, the Council response indicated:

It has been established in the response to item 3.7 above that whilst Council meetings can be the scene of vigorous debate the

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: . . .

alleged misbehaviour by councillors in Council meetings is not supported by the facts. The draft final report acknowledges in paragraph on page 23, that the alleged misbehaviour is trivial. and certainly less serious than maladministration and corruption.

Commissioner, I understand that many of the complaints generated to the Department related to the decision-making process of Council at council meetings. Mr Mitchell was acknowledging that many of the complaints were trivial.

THE COMMISSIONER: So it is Mr Mitchell who is saying they are trivial and not you?

MR BLACKADDER: Well, I am just trying to report what I understood the Department was saying.

THE COMMISSIONER: Okay. As I said, the Mitchell report is another matter.

MR BLACKADDER: Yes, indeed.

THE COMMISSIONER: I will just go on from there. You further observed, after saying that many complaints were trivial:

I say this with great respect to those who see the issue as highly relevant and important.

If the people who made the complaint thought they were highly relevant and important, and I am not restricting this to complaints about behaviour of councillors at meetings it could be a whole range of things - what I get concerned about when I read that, in trying to piece together what the various pieces are, that on the one hand there are people in the public domain who have issues, which you say are highly relevant and important to them but somehow, when they get to Council, there is a decision that they are not highly relevant and important. Can you explain that divide for me?

MR BLACKADDER: I am not sure whether the Council is saying that they are irrelevant or unimportant.

THE COMMISSIONER: You said they are trivial but with respect to those who see the issues as highly - - -

MR BLACKADDER: Commissioner, on page 31, yes, you are right, I did say "at the same time it has to be said that many complaints are

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: . . .

trivial" and I gave you my understanding of how I formed that opinion that it was acknowledged by Mr Mitchell in his draft report. So I drew from that that of the many complaints that the Department was concerned with and lead to the section 430 inquiry - the investigation and has largely resulted in this inquiry through the Minister taking a separate decision. What I guess I am saying is that it has to be recognised that the Council feels that the complaints are important if it can be demonstrated that they are important complaints.

Mr. Blackadder's reply is not wholly convincing. There is a suspicion that he believes that the complaints, which he has not seen, are trivial. This theme has run through the comments of most of the "Majority" Councillors as well. In their view the complaints have either been concocted as part of a plot, or they were trivial. Mr. Blackadder in Submission 288 seemed to be supporting the latter view. It is not clear from his reply to the questions whether or not he really believed them to be trivial. The notion of what is trivial to a General Manager (or a Councillor), and what is trivial to a member of the community might be very different. Again, there are indications of some dissociation between what might trouble a member of the community, and what the Council might rate as important.

In some of the other Councils that have recorded high levels of complaints the Department of Local Government has evidence that the number is inflated by a simple serial complainant. There is no evidence of a simple serial complainant at Warringah.

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Many of the concerns you have raised would appear to fall within those Terms of Reference. However, you should note that the conduct of members of the community, even if acting as supporters of or advisers to elected Councillors, is both outside those Terms of Reference and beyond the scope of the jurisdiction and powers of the Minister and the Director General under the Act.

4.2.1.5

There is clear evidence that the General Manager has been uncertain about the nature of complaints about the Council. He is keen to discover what they are. It seems strange that in a Council with a record of strained relationships between parts of the community and both the elected representatives and the corporate body, that those at the centre of the governance system were ignorant of what was really troubling the community. This led to a line of questioning about the systems in place for the recording and managing of complaints from the community.

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THE COMMISSIONER: I wrote to you on February 4 of this year requesting certain information. I think there were nine different pieces of information that I requested from the Council and they were all delivered. Item 8 of those 9, I will just read it out here, asked for any policy adopted by the Council for dealing with complaints made by members of the public, and if that policy varied over the period from 20 September 1999 to 15 January 2003. I requested a copy of each version adopted during that period. In response, the public officer replied:

The Council does not currently have a formally adopted complaints management policy.

Is this true?

MR BLACKADDER: That is correct.

THE COMMISSIONER: Let me go further. In that same letter, item 9 requested statistical details showing or tending to show the number of, nature of, and manner of resolution of complaints received by the Council in the period from 20 September 1999 to 15 January 2003. In response Mr Simons stated that the Council did not have a system in place for the above period that would allow for extractions of the statistics sought. To do so, Mr Symons observed, would be an extremely long and involved physical search of past records.

Am I to conclude from this that the Council has not had a system with an accessible process for recording complaints or recording how they were dealt with?

MR BLACKADDER: Commissioner, we must ask whether you received a further letter on this issue.

THE COMMISSIONER: Not to my knowledge. From whom?

MR BLACKADDER: From Mr Symons. We may table that if you haven't received that but the letter yesterday went on to further describe our system of handling requests for service, and I should acknowledge at the outset that in the Ombudsman's Complaints Management Manual, it tries to differentiate between a request for service and a complaint. We have a computerised system by the name of Inform which registers and provides a facility for acting upon requests for service. Now, some of those requests for service may be complaints, but the system does not allow for those to be recorded and registered as such.

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: . . .

Commissioner, the Council has agreed in the last year's budget for the provision of, I think it is in the order of about \$800,000 to install a new system by the name of Dataworks, and that is to be launched in May. That system allows the Council to electronically capture any request for service or complaint. It allows that to be monitored. It allows that to be automatically actioned. It allows that request or complaint to be elevated to another officer or a senior officer if it is not dealt with within a certain period, a guarantee of service, and it will provide the very details that I think you are referring to.

I must acknowledge that our system does not do that at the present time and largely, that is the reason why we are unable to provide direct answers to your questions.

THE COMMISSIONER: Is it not plausible to assume, having heard what you have just said, that there has not been a system in place through the life of this Council - that people who have complained might not know where their complaint has gone? Not known the result of what they were after? This is quite apart from what is a complaint and what is not. I know that is an issue but do you think the community at large might be unclear about how you deal with complaints and what success they might have when they make complaints to the Council?

MR BLACKADDER: I think they would be unclear, and I think they would be perhaps mistrustful of the Council's system if they didn't get an adequate response. What I've tried to do, obviously, is if there is a complaint and the records staff are alerted to the fact that I have personally required any particular complaint, particularly involving a staff member, to be referred directly to me, and we have some protocols to deal with that. As to a complaint that might be regarded as a failure to undertake a service or a facility, then that is handled through the Inform system. So I'm sorry, just to summarise, yes, I think members of the community may be misunderstanding of the Council if we weren't able to provide an adequate response.

THE COMMISSIONER: Do you think that might explain the very large number of complaints that go to other sources?

MR BLACKADDER: It could in part but not the large number, no.

THE COMMISSIONER: Why?

MR BLACKADDER: Well, I am suspicious about that myself and, I guess, my answer to you, Commissioner, is I'm uncertain. I have a belief but I can't verify that, and that is why I've tried to - going back to . . .

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: . . .

the Department again - tried to seek more information.

THE COMMISSIONER: - - -

So just to summarise where we've got to, there are a large number of complaints about the Council in the public domain, whether it be - - -

MR BLACKADDER: No, I don't think they are in the public domain.

THE COMMISSIONER: I don't mean the actual complaints are. The number of complaints is recognised in the public domain - - -

MR BLACKADDER: Yes.

THE COMMISSIONER: - - - either through the Department of Local Government or the Ombudsman. The Council itself has no system or has had no system in place for the past 4 years to deal with complaints. You said yourself that worries you, that you may well understand why people might be diffident in approaching the Council because they might not know quite how it all works or to whom the complaint goes or whether they will get a response. That is the sort of thing we have been talking about.

MR BLACKADDER: Commissioner, can I just correct one of your statements that we have no system. We do have a system, Inform, but I . . .

THE COMMISSIONER: . . . You had a draft system that was prepared in 1998. Is that right, for managing complaints?

MR BLACKADDER: A draft policy?

THE COMMISSIONER: Yes.

MR BLACKADDER: I can't verify that now, I'm sorry. I think that is so but it was never actually formalised, as I understand it.

THE COMMISSIONER: Okay, given all that, is it unreasonable to assume that people who are worried about various issues in Warringah might, because they have difficulty in getting their voices heard, because they have difficulty in finding who to complain to when things are, in their view, not right. I'm not saying the complaints are right, but in their view. Is it unreasonable to assume then that maybe they start to lose some confidence in the way that Council is operating?

MR BLACKADDER: Yes, you can assume that.

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER:...

Now, I have been trying to encourage persons to submit their complaints to me. What is of concern to me is that they are going to the Department instead. I acknowledge, Commissioner, that we do not have an effective complaints management system, and that is a fact, I acknowledge that, but I think we would be regarded far less if we weren't doing something about it and you may be also aware that I have approached the Office of the Ombudsman that has the complaints management handbook that is published for Local Government and I have sought from the Deputy Ombudsman's help and that help has now been provided.

The Deputy Ombudsman has agreed to undertake an audit of our systems, that - that is underway. We are providing a very comprehensive range of information to the Ombudsman to assist in - in their audit. So my - my personal intent is to do something about it. I acknowledge that we haven't had a system in - in the past. I also acknowledge that people who make complaints to the Minister or the Department probably feel very genuine about them and - and I want to do something about it. But I also acknowledge that, I understand that many are trivial.

THE COMMISSIONER: You also say on page 31, you comment on the ability of the complainant to seek higher review through the Department, Local Government, or the Ombudsman or ICAC. In terms of complaints that come to the Council would you agree that none of those bodies that I just mentioned are, in fact, review bodies?

MR BLACKADDER: Well, it all depends upon your definition of review. The role of the Ombudsman is to review the conduct of public authorities and to determine whether there is any wrong conduct on the part of those bodies. The Department, I think in my submission I also acknowledged has a policing role, what I call a policing role and that certainly would come into my definition of reviewing the conduct of a public authority or a Council.

THE COMMISSIONER: You would agree though that given the

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MR BLACKADDER: . . .

autonomy of the Council, as defined in the Act, and we talked about that, that the first focus ought to be on establishing a complaints handling system that works within the Council rather than any necessity in the most part for review bodies?

MR BLACKADDER: Most definitely.

THE COMMISSIONER: You agree with that. Some other Councils have developed complaint handling mechanisms of various sorts, Sutherland and Wollongong are two that come to mind. Are you working along those lines or your strategy is different?

MR BLACKADDER: Commissioner, as acknowledged in my submission, that is the - the end result of what I would expect from the - the audit by the - the Ombudsman. What I hope to institute is a best practice complaints management system.

THE COMMISSIONER: Okay. What would be very helpful, if you would do it to help us, would be a short written submission, further submission to us outlining your interim measures to handle this problem of complaints. Would that be possible?

MR BLACKADDER: We - we would be very happy to do so.

MR BROAD: . . . You understand that the example that the Commissioner gave you and referred to Sutherland and Wollongong Councils relates to their adoption of an internal Ombudsman. Do you understand that that may be a way in which Council may internally provide a review mechanism for complaints within Council?

MR BLACKADDER: Mr Broad, I didn't understand that at all from the Commissioner because he didn't indicate in any way, but if that is the case then I'm very familiar with the internal Ombudsman process adopted by Sutherland. In fact, I've had some detailed discussions with the General Manager, John Rayner, about that system. I am known - I know personally the internal Ombudsman, Kath - her second name escapes me, Kath - she's doing a terrific job.

MR BROAD: And does that system commend itself to you?

MR BLACKADDER: Very much so and I have - - -

Public Hearings Transcript – March 19 2003 (cont.)

MR BROAD: Is - - -

MR BLACKADDER: Sorry, Mr Broad, I have sought information from Sutherland, we've - we've got the full details of how the system works. We've had a copy of their review and we are considering that, yes.

MR BROAD: And that is something that you have disseminated amongst the councillors as a possible way that complaints may be handled in the future?

MR BLACKADDER: No, no, but this is our internal review at the present time. This is what I commenced after the - Mr Mitchell's report sought that information. Sought the support of the Ombudsman. I will be gathering all of that information together and coming up with a proposal that I will then institute.

MR BROAD: Now, Council did develop a policy to deal with complaints. Have you reviewed that policy as part of your process?

MR BLACKADDER: That's part - I have not personally reviewed that policy yet. That is part of the review that's being undertaken by the Ombudsman, the auditor.

MR BROAD: Yes. Given that the Council has been the recipient - I'm sorry, the Department of Local Government and the Ombudsman have been the recipient of a large number of complaints over at least 2 years, has - have you considered whether, as an interim measure, that that policy or a policy devolved from it could be adopted as an interim measure pending the adoption of more formal processes?

MR BLACKADDER: No, I, as I mentioned earlier, no, I haven't considered it. I haven't - I referred that as apart of the audit by the Ombudsman.

MR BROAD: Do you think that suggestion bears consideration?

MR BLACKADDER: An interim, an interim implementation of that policy, I'm happy to consider that, but I regarded it that it would be far better to have it considered when the Ombudsman does the audit.

MR BROAD: See, what you have said earlier, is that there is this data works programs which is set to commence in May. Now, would I be wrong if I concluded that that was really a document tracking system. It is not a complaints handling system, is it?

Public Hearings Transcript – March 19 2003 (cont.)

MR BLACKADDER: No, it's - you are right, it is a document management system, but it also has the ability to record, monitor and track and follow up and request for service, whether it's by way of telephone, written correspondence and the like.

MR BROAD: At the end of the day would it be beneficial for tracing of complaints and getting it, as it were, off the corporate desk, and also being very useful as a tool from which real information can be gathered as to the nature, the number, the type, etcetera, of complaints. Would you agree with that?

MR BLACKADDER: Well, my expectation would be all of that and it would provide us a very effective complaints handling and a monitoring tracking system.

MR BROAD: It would certainly give you a very clear understanding of what complaints you had, it would give you the ability to extrapolate tremendous data?

MR BLACKADDER: Yes.

MR BROAD: The question I have, that system alone does not appear to be a system that enables you to deal with the issues of complaints?

MR BLACKADDER: Well, no, I disagree. It provides for that complaint or request for service or any action required of the Council to be recorded, firstly.

MR BROAD: It is a recording program?

MR BLACKADDER: It then allows an assessment of that complaint. It allows that complaint, or request for service, or issue to be referred to a particular officer. It requires - it will then require that officer to action that request within a stated period of time. It will incorporate a standard and in current terminology it will provide a guarantee of service. It will then allow that standard to be followed so that if a person requests actions or seeks information or seeks recourse to something that has not been done, then it will be done within a certain period of time. If that is not done, it then gets elevated to a review person, a manager. That means that that request, that complaint, that service issue is not lost. It will then be actioned and provides a guaranteed response to that concern.

THE COMMISSIONER: Does it provide any policies by which the person who actually deals with the complaint, handles the complaint? In

Public Hearings Transcript – March 19 2003 (cont.)

THE COMMISSIONER: . . .

other words, does it give that person any guidance whatsoever in the manner that he should deal with particular aspects of that complaint?

MR BLACKADDER: Well, as I said before, the standards, the guarantee of service would have to be spelt out beforehand and that would encapsulate the policies at that time.

The evidence presented by Mr. Blackadder shows that during its entire term, this Council has had no complaints policy, and no system that could distinguish between inquiries and complaints. In a most turbulent period of community-Council relationships there has been no way for people to know how to bring their grievances to the Council and have any understanding of how they might be handled, or any expectation of receiving a fair and just appraisal of their problems.

A section of the community has been disassociated from the Council, and has not been presented with a way of seeking recourse. This situation has meant that some members of the community have felt that they have lost their voice in the community, and this is a fundamental reason for them to have lost confidence in the Council.

Mr. Blackadder is serious in his attempts to install a complaints system that will work. But the damage has already been done. No matter how good the new system might be, when it is instituted, the past and present inability of people to take their complaints to the Council and be satisfied with the fairness and transparency of the handling system, has already sapped their confidence in the Council as a whole.

Mr. Blackadder's new system is not yet in place. It will have to be tested to see how well it works. The one weakness in the new system that appeared as a result of the questioning is the apparent lack of a clear process of how complaints will be handled after they are registered, and the decision-making processes related to how the complaint is resolved.

4.2.1.6

Some Councillors reported that they did not believe that a complaints-handling system or a complaints policy was needed because they handled the complaints themselves. These Councillors exhibit a confusion of understanding where their key policy-making roles end, and where their responsibilities lie in solving problems of Council's operations that emerge in complaints that are addressed to them.

There are other difficulties with the notion that the Councillors can manage a fail-safe method of handling complaints.

The most obvious problem is that the Councillors themselves might be a major target of the complaints. As well, the division of powers, between the elected representatives and the staff, makes it difficult for Councillors to respond to complaints about members of staff.

Recourse to Councillors by the public to deal with complaints may not necessarily advance their cause because the Councillors do not have any greater access to information than the public through Section 12 of the Act.

Simply put, it is not the job of the Councillors to be the core of the Council's complaints system.

Public Hearings Transcript – March 20 2003

THE COMMISSIONER:

... Just a last point about that, in your role as Mayor do you monitor complaints at?

MS SUTTON: Yes. I mean, I don't have a computer data base where I monitor how many complaints have been made about this and how many about that and Mr Blackadder explained yesterday, we have got that in train and I take that on board. I think that is a good suggestion that we should do that and in fact we are trying to do it at the moment. People come to me. I have an open door. I go to Council every single day. ...

Anyone who complains, in my opinion, gets a fair hearing even if I think the person is being quite nasty to a neighbour or quite unreasonable and, of course, they often are, neighbourhood disputes are everywhere. They get a full hearing and a long hearing and you know, at least half an hour or maybe an hour and that is why we all work such long hours and I think that applies to every single councillor Warringah and it does not apply to every single councillor in all areas, I can tell you that.

4.2.1.7 Councillor Julie Sutton disagreed with the suggestion that complaints to the Council were not dealt with (Public Hearings March 20 2003). She averred:

Public Hearings Transcript – March 20 2003

MS SUTTON: ... Our complaints are answered. Our complaints are answered, there's no question about that. ...

Her continued references to the complaints made to the Department of Local Government (and her complaint that the Department failed to tell her what needed fixing) suggested that she was confusing the complaints made to the Department with the ones made to the Council. The questions put to her dealt with the latter. She did agree, however, that the Council needed a policy to handle complaints. She clearly struggled to differentiate between the instalment of a tracking system and the adoption of a policy that actually deals with the complaints.

Public Hearings Transcript – March 20 2003

MR BROAD: . . . Councillor Sutton, yesterday the General Manager was asked a number of questions in respect of the ability or the manner in which Council dealt with complaints. Now, you have indicated that you have an open door and I assume that the other councillors, Councillor Jones who I recognise here of course, Councillor Smith, would also have a similar approach in respect of complaints.

MS SUTTON: I did say that.

MR BROAD: Yes, I accept that. Yesterday we heard from Mr Blackadder that Council does not have a policy for dealing with complaints. We did, however, hear - and I separate the two - that Council was in the throes of adopting a record tracking system for dealing with complaints. Now, in respect of a policy for managing complaints, that is responding to complaints rather than tracking them and ensuring that a letter in response had been sent, is it a concern to you that Council does not have in place a policy at this stage?

MS SUTTON: Yes, I think of all the things that have been said and all the many unfair criticisms that have been made. I think that's a pretty good point and it's a pity that really I feel very sad that the Department of Local Government didn't ring us up as they used to in days of yore, I may say, and say, "What about this, this needs fixing up, what about doing this" and we - it is a concern and we're working on it this minute. We worked on some of it last night and this morning. I think that's something we need. We need a policy and God willing we will have that in place very soon and it will be implemented. I'm not saying the complaints will be handled any better but they will be handled in a more comprehensive way and a way that's easier to track and to analyse and I think that's a very good suggestion and I take it on board.

MR BROAD: Can I stop you there?

MS SUTTON: Yes.

MR BROAD: I'm trying to differentiate between tracking complaints which have been made. I'm trying to emphasise the adoption of a policy which deals with the complaints, that answers the complaints. Do you understand the difference?

Public Hearings Transcript – March 20 2003 (cont.)

MS SUTTON: Absolutely. Our complaints are answered. Our complaints are answered, there's no question about that. Even if I receive a most, you know, quite a rude, silly letter, I answer that in a nice way because it's a complaint, it's something the person is worried about. All complaints are answered but what I think we need is a policy, as you say - - -

MR BROAD: Can I stop you short?

MS SUTTON: Yes, a policy, and we haven't got that exactly.

MR BROAD: Can I stop you short? I'm not talking about the manner in which you personally or in which other Councillors respond to complaints, I'm talking about the Council as a corporate body, that is the General Manager and the staff acting under the General Manager, deal with complaints.

MS SUTTON: I think we need a policy put together and I - thank you for that suggestion and we'll take it on board. It's a good idea.

MR BROAD: Yes, and it is a concern to you that - - -

MS SUTTON: Yes.

MR BROAD: - - - it has not been adopted to date.

MS SUTTON: I hadn't - I mean, it just hadn't occurred to me but I think it's a good idea.

4.2.1.8 Councillor Jones presented another perspective on complaints (Public Hearings, March 27 2003). He contradicted the Mayor's assertion that all the Councillors get a large number of complaints, and spend hours dealing with them. Councillor Jones said that he gets few complaints and deals with them quickly. He said that complaints are few and far between, something that surprised him.

He made comment on Councillor Smith's statement that he received a large number of complaints. Since the "Majority" Councillors "control" the Council, mused Councillor Jones, why would they go to Councillors (ie. "Minority" Councillors) who couldn't get anything done.

By making this observation, Councillor Jones reinforces the point made above: that the volume of complaints going to the Department of Local Government, and other organisations, are generated because many people do not believe that the Council can satisfactorily respond to their complaints.

Councillor Jones expressed another view. The complaints must be trivial, he argued, because the Director General of the Department of Local Government had never rung him to discuss the many complaints the Department receives.

He also argues that the number of complaints is part of a conspiracy. He quoted figures that show that, relative to other Councils, Warringah did not have a large number of complaints before the new Council was elected in 1999. "Any reasonable thinking person", he suggested, could see that the great increase in the number of complaints since 1999 must be part of a campaign to bring the Council into disrepute.

Equally, however, "any reasonable thinking person" might see the sudden rise in complaints over the life of the current Council as indicating that the community has a huge level of discontent with the Council. The community had nowhere else to turn since the Council had no effective complaints system, and so they sent their complaints to outside bodies such as the Department of Local Government.

Councillor Jones did not seem to be convinced that a complaints register at Warringah Council was all that important, but he did not have any objection to one being created. Beyond the conspiracy theory of complaints, to which he is clearly wedded, Councillor Jones did not give much weight to the number of complaints about the Council and Councillors. He did not feel that there was much that needed doing about it.

Public Hearings Transcript – March 27 2003

THE COMMISSIONER: . . . We have heard from other councillors that they are regularly approach [sic] by their constituents raising complaints about a variety of matters and those councillors have told me that they devote a lot of their energies . . .
. . . responding to these complaints. Do you likewise, receive a lot of complaints and do you likewise, devote a lot of your energies to dealing with them?

MR JONES: I don't get a great number of complaints. People ask questions and seek clarification and more often than not, through my experience, I am able to answer the question there and then. There are other items of a technical nature that I would go and seek assistance from the appropriate officers.

But the complaints are very few and far between and that surprises me. I mean, this is not being cynical, but I heard Councillor Smith in here on . . .

Public Hearings Transcript – March 27 2003 (cont.)

MR JONES: . . .

Friday talking about all these people that come to him with complaints. Now, he said he is in the minority and nothing happens as the majority do all this, that and the other.

If you took that in the simplistic way in which it was spoken, why would you go to someone that is not going to achieve anything if you did have a problem. Why wouldn't you raise the issue if there is a perception that there is five down there controlling the Council. Why wouldn't you go to one of the five to try and seek resolution to it? I don't get a great number of complaints.

The complaints that do come, I follow through. I have heard you speak to other people about what sort of business the Council has got as far as reporting complaints and so forth. I have a system, because I write them down and I tick them off if they have been resolved. If not, I'm like a terrier dog and I keep going until I get the answer.

It might seem very simple. I explained to your assistant, I don't have a computer. I'm computer illiterate, so I do everything longhand, on a piece of paper, and I've given myself - I could show you things that I needed to do for today's hearing. I write myself a want list, or things to do list.

THE COMMISSIONER: . . . I will return, perhaps briefly, to a matter that has come up a number of times during the hearings, and that is the number of complaints, not to the Council, but to the Department of Local Government and to other bodies such as the Ombudsman. Have you got any comments on that?

MR JONES: A number of complaints, and thank you for going to that question, because we have heard - you have heard that the Council records its meetings. We have heard a member of the public, openly soliciting people to write to the Department and complain about the Council because a decision didn't go the way they want it.

Now, it could have been something as simple as someone wanting to put a pergola on the rear of their home and the people next door, for whatever reason, they just might not like them, so they are going to object irrespective or whatever. And the people perhaps are a little bit vulnerable, because their neighbours had a win and they haven't.

So we have got these people who are prying on them when they have obviously not had the success they had hoped for and they are being encouraged to write to the Department. Let me say this, that I know Garry Payne. I know him personally, and I've never had any trouble on the occasions to ring through and say, "This is Darren Jones, I would like to speak to Mr Payne." and he takes my phone calls.

Public Hearings Transcript – March 27 2003 (cont.)

MR JONES: . . .

Never once has Garry - or Mr Payne, rung me with all these huge amount of letters that went in. There were 117 the first announcement and then I think there is a bit of conjecture, but up to about 300 cumulative on that 117 - that would be just under 200 or something the second.

Never once - if there was a festering problem, first of all there would have been I think, a responsible act on behalf of the Department, to pick up the telephone and say: Darren you have got problems down there, we are getting umpteen calls about x, y and z. I think you should start to address it. I didn't get one letter or one phone call from the Department.

Now, you could be cynical enough to think that the Minister - the former Minister for Local Government - and I can say this, he is the worst Minister for Local Government we have had in the whole time I've been in Local Government - has used those statistics so that he could get a headline. He couldn't get a headline for doing anything constructive so he has used that as a headline to condemn this Council.

Now, again, I would like to table - just give me leave for one second, to inform the Commission of the amount of complaints that have gone in about Warringah Council over the period of time, and that - I will table that. Let me just say this, that '95-96, we didn't rate a mention. '96-97, Byron Bay was the most and we didn't appear in the top 20 Councils, so we weren't - there were a number of Councils - we didn't fall into that category.

'97-98, an the increase of complaints were going up but not as far as Warringah was concerned. We didn't rate in that number at all. In 1998 1999 there was a small decrease in the number of complaints generally to the Department. Bega Valley Council, they had 108 complaints - they were the most complained about Council and Warringah was the 13th most complained about Council, and it was the subject of 23 complaints.

Now, I would suggest to you, Professor, that what we see here, these figures would indicate to me and any reasonable thinking person, that we can see the start of the campaign to try and bring the Council into disrepute; to try and create a political platform for someone to be elected to the Council. Now, a person that stood for the Council that was unsuccessful has been a person touting for objections to be written in to the Department of Local Government.

I don't believe that is even cynical. I believe that it is part of a well orchestrated campaign to have that person elected. The easiest thing in the world is to knock someone. Opposition in Government thrive on that sort of sort of business, but to get them to come up with anything constructive and indeed, even with the 117 complaints and then the whatever the other number is to come up with - 300-odd that I think was being spoken about - . . .

Public Hearings Transcript – March 27 2003 (cont.)

MR BROAD: . . . So what you are wanting to be assured of is that the submissions and their weight, be considered - - -

MR JONES: Well, I don't think there should be any weight at all given to any unsubstantial accusation or piece of urban myth, to be very honest with you. I mean, I could turn around here and just flap my gums and make all sorts of statements that don't even deserve air time, but that is not going to be achieving - I've come here to talk to you gentlemen about fact, not fiction. All I've heard pretty well so far, is a whole heap of fiction.

THE COMMISSIONER: I was talking about complaints. The one other thing I wanted to bring up in relation to that was the issue that came up last week about the Council not having a formal complaints policy. Would you like to comment on that?

MR JONES: Can I make a suggestion to you, sir, that you don't adopt what the Department of Local Government has as a complaint register, because it is absolutely useless. Now, I have written to the then Minister for Local Government on two separate occasions on my denial of natural justice, and I table a copy of the first letter to you, that obviously I either used words that were too hard for him to understand or it was put in the too hard basket. I didn't even as much get a response back to say that even my letter - - -

THE COMMISSIONER: That wasn't the point of my question. The point of the question was - - -

MR JONES: That is the second letter in fact.

THE COMMISSIONER: Thank you. The point of the question was, the Council itself, not the Department of Local Government, did not, from 1998 on, have a formal complaints policy. I guess the context of that is that one could assume perhaps, that the larger number of complaints that went to other bodies might be a product of that, that people felt that it was difficult to make complaints to the Council; that they didn't know how they were dealt with and so on. Would you comment on that?

MR JONES: Yes, thank you. I understand exactly what you are saying. However, my experience tells me this, that people will complain periodically as to something that the Council is doing or not doing. If they complain to the General Manager or to one of the Directors, and they don't get a response, I think most people would, having been frustrated at that level, would then go to one of their councillors.

Now, again, all I can say is what I do. I have a running list, check list, of

Public Hearings Transcript – March 27 2003 (cont.)

MR JONES: . . .

all - whether they are complaints or queries, and I cross them off and every so often I re-do the list when it is full of cross offs. Now, that might seem a very archaic method. It is a method I feel comfortable doing because that is about my limit. But the point that you made, you know, I don't have any problem if they have a complaints register of some sort.

You know, we look to some guidance as to what might be the most appropriate format for that. But again, it is only as good as the person that is entering the data, I suppose, and you know. Any rate, I don't have any problem with that. . . .

4.2.1.9

Councillor Caputo (Public Hearings March 24 2003) strongly supports the conspiracy theory as an explanation of why there have been so many complaints about the Council made to outside bodies. He, like Councillor Jones, pointed to the fact that past Councils did not have such a volume of complaints. He stressed that this very fact must support the conspiracy idea. Councillor Caputo does not seem to have entertained the alternative: that the volume of complaints rose appreciably with the 1999-2003 council because more people in the community found dissatisfaction with the Council.

Councillor Caputo produces proof that people volunteered to help other people write to the Department of Local Government. Others in their Submissions have suggested this, and it would seem certainly to have happened. But, people must first have had a grievance with the Council to either accept, or seek, assistance with writing such a letter. It would not make any sense for a person to go to that trouble unless they were anxious to get their voice heard, and were also convinced that (for whatever reason) they could not find any solace by complaining to the Council itself.

Moreover, the conspiracy argument can hardly explain the 664 letters that the Department of Local Government received from September 1999 to January 2003. If, as is suggested, the conspirators consisted of just a few people they, and their friends, must have been very tired of letter writing by January 2003.

Councillor Caputo suggested that the normal route for complaints is for a person to contact the Mayor or a Councillor. They would then attend to the problem. Councillor Caputo reports that he and other Councillors do this frequently. He considers that a complaints system is not necessary, but *"it was not a bad idea"*.

Councillor Caputo would not accept that the very large number of Submissions received by the Inquiry, complaining about the Council, were really individual efforts. He argues this despite the fact that there was no obvious pattern of collusion in the majority of them. Councillor Caputo believes implicitly in the conspiracy theory.

Public Hearings Transcript – March 24 2003

THE COMMISSIONER: . . . You are aware, and we have talked about it on previous days, there has been a high level of complaints about the Council. We have talked about the complaints to the Department of Local Government. We have talked about references to ICAC, complaints to the Ombudsman etcetera. We also talked about whether or not there was a complaints management policy within the Council and the General Manager last week said no, there hasn't been one in place formally but one is being developed in association with the Deputy Ombudsman and a recording system is also being put in place.

I guess there are two questions I would like you to comment on in relation to that. Whatever the circumstances of the way in which the Department of Local Government, for example, deals with complaints? The fact is that Warringah has a very large proportion of those in the State. I think it is in the last year, about 17 per cent of all complaints made to the Department of Local Government. So I wonder why the relative figure is so high and then second, why the Council itself, internally had not registered or thought that complaints ought to have a strong system for dealing with them? So there are two separate questions there.

MR CAPUTO: Okay. As I said before, Commissioner, there has been a number of - or a small number of supporters of some of these councillors that have orchestrated a campaign from within the Gallery and outside the Gallery, to have the Council sacked. My daughter . . .

Public Hearings Transcript – March 24 2003 (cont.)

MR CAPUTO: . . .

actually was in the Council one night, she came down, she said: I was going by, dad - with her husband - and she came down and she had a look at the proceedings, and she observed certain people going around with forms asking people - volunteering their services that they would help write submissions to the Local Government Department to complain about the Council, and those sort of things had been happening - there has been orchestrated campaign to get rid of the Council and the number of complaints - I believe during the investigation I think we were told there was 117 complaints and 105 of them were dismissed.

I believe, Mr Commissioner, there has been an orchestrated campaign since the last election, because this minority didn't have a majority to get rid of the Council, and there has been all sorts of things that I'm sure you will - it will be brought up by other people, but as I said there has been newspapers comments and letters to the paper - to the Editor - there has been all sorts of propaganda to discredit some councillors. There has been letters in the papers about myself, they always thought agents should be on Council.

Now, that didn't happen in the previous 12 years. Nothing like that. I mean, we got on really well with the other councillors, we had Labor, Liberals, we all stood as independents but we had Labor councillors and there were members of the Liberal Party, which were councillors as independents and we all got on really well. This has only happened in the last 4 years and the reason was that they didn't have a majority and they wanted to discredit the Council, so the Council would be sacked. They would then have another election at some stage and get a majority and, I believe, that is what has been happening.

Well, I think that in the last 2 or 3 months the Council is getting a lot better. I mean, generally, the councillors get on well. The problem is not within the councillors, I think it is outside the Council. I mean, I get on pretty well with all - I mean, I talk to all of them and we sort of discuss things and applications, I haven't got a problem, but I think it would be a shame to see this Council dismissed - and I know that you have got to consider all the submissions - but I think you should take note of the orchestrated campaign that has been going on for some time from certain people to get this Council dismissed.

The other matter that you were saying about this Complaints Department within Council, I understand what you are saying. With the complaints, normally, if anyone has got a complaint they normally write to the Mayor, ring their councillors and we sort out most of the complaints straight away. I mean, that is why I believe there has not been a complaint department.

Public Hearings Transcript – March 24 2003 (cont.)

MR CAPUTO: . . .

I mean, I don't think it was necessary but, you know, maybe it is not a bad idea to have one, but if anyone has got a complaint - I've had people complain to me about certain things and they say: look, John, this is happening, can you help me? And I've done that. Other councillors have done the same thing. The Mayor is there and most of the Mayors have been there full-time and they have an "open door" policy. They let people go and have their say and there has never been any problems.

In the last 12 years there has not been any problems, it has only been the last 3 years, that is with this orchestrated campaign that has been happening and I don't believe that it has been a problem, but it is not a bad idea to have a Complaints Department where people can air their problems. Or, the general manager, if they have got a complaint they normally go to me or the general manager, or their councillors and it has always been - in my - I believe that it has always been satisfactory to most residents, but of course if you have got a resident that has had an application and he has had it refused and, you know, I have seen the submissions that some of them go back 10, 12 years and 4 years and 5 years, you are going to get those gripes, of course you are going to get 300 submissions, you are going to have more, you know, with 135,000 residents, I'm surprised you didn't get more.

THE COMMISSIONER: We were talking about the relative number, not the absolute. Just in passing, just to make a comment on something you said, I have heard it expressed a few times and, that is, that the Department of Local Government received 195 complaints in the last year and only 11 were investigated. That seems to me to be a bit of a misconception. The complaints that go to the Department of Local Government, as I understand it, are considered in terms of a Council's autonomy.

If a large number of those complaints seem to be complaints that should be handled and managed by the Council itself, then, the Department of Local Government, simply does not take them on board, and that relates to the second part of my question. It would appear that there could be weaknesses in Warringah's ability to take some of those things on board. I guess, the other thing to bear in mind about the Department of Local Government and its capacity to investigate complaints, is that it is a relatively small Department, in fact, the number of people working in Warringah Council is probably eight or nine times larger than the Department of Local Government itself, so there is a practical reason why only a small number might be followed.

I would like to go back to your principal point and, that is, that the large

Public Hearings Transcript – March 24 2003 (cont.)

number of complaints that appear in tables of complaints has been largely orchestrated. In reading the submissions, which in many cases might be seen as public complaints about one issue or another, it struck me that there didn't seem to be much evidence of it being orchestrated. It seemed to me that many of the submissions were very different to other submissions. They may be dealing with a similar topic, but it seemed to me they didn't show evidence of form letters, or whatever. Did you think that when you read them?

MR CAPUTO: Well, I had a really good think about it and I read quite a bit last night and this morning early. What I think, Mr Commissioner, you know, if you write letters to the Manly Daily, you know, you come to the Council and you know carry on like some of these people carry on and, you know - you know, the mud sticks so, of course, you are going to get residents that say: well, you know, they don't get on, get them sacked, or whatever, you know.

I have seen some of the submissions and, you know, residents have been there for 55 years and 60 years and whatever and say that, you know, the Council should be sacked, but you don't know what the circumstances are. They might know someone from the John Fisher Park - you know, John Fisher Park, and they could be their grandmother or something, I don't really know, but it is pretty obvious that there is a concentrated campaign from the John Fisher Park, from the Ardell site, from some of the residents that want the councillors sacked, from some of the people in the gallery that want the councillors sacked.

I mean, you know, if you look at 135,000 residents in Warringah and you look at the small number that - of submissions that you have got, I don't believe there is any justification. I really can't see anything from what was in those complaints that justifies the Council to be sacked. I think it is a good Council overall. We don't get on as well as we could - of course you can get on a lot better and I think if everybody makes an effort it could be done, I mean, I'm happy to talk to everybody and you know - and I do, I discuss things and I think there could be a concentrated effort to get along better and try and resolve some of the issues that we have had before, but I think - I believe it is a concentrated campaign.

I can see your point that there are letters there from individual people that have been around, but I believe that - of course through the Manly Daily, through people speaking to them about some Council issues and residents, especially objectors, with some of what has been going on in Warringah, if you have an application and you have got 10 or 15 residents that are against it, of course, those residents are going to be

Public Hearings Transcript – March 24 2003 (cont.)

MR CAPUTO: . . .

unhappy, if they don't get the result they are going to get and they are going to write and then they are going to say: yes, look, I don't want this Council because they approved this application and I might lose some of my view, that is my opinion.

4.2.1 The Community Surveys

4.2.2.1 Warringah Council conducts bi-annual customer satisfaction surveys. The most recent was published in November 2002.

Customer surveys should identify whether or not the community has confidence in, and supports, the Council.

The overall satisfaction level reported in the 2002 survey was 60%. Councillor Julie Sutton in her Submission (No. 289) argued strongly that this demonstrates considerable satisfaction with the job that the Council has been doing. This theme was pursued with the Mayor when she appeared at the Public Hearings on March 2003.

The authors of the 2002 customer satisfaction survey report, however, do not support the Mayor's argument. Their point was put to the Mayor at the Public Hearings on March 20 2003. The authors of the report stated that if the community were truly satisfied, the residents should have recorded a satisfaction level of around 80%. There were only 21.7% of residents who recorded this level of satisfaction. If the researchers were correct, that would make 78.3% of residents less than truly satisfied. Such a proportion corresponds with the proportion of Submissions to the Inquiry critical of the Council.

Why the proportion should be around 80% (as the researchers argue) is because what they are trying to measure, ie. satisfaction, can only be done by using ordinal scales. The approach they used in the survey was to ask the respondents to pick their level of satisfaction, with the range of services that the Council provided, on a ten-point scale. The extremes of the ten-point scale represented total satisfaction at one end, and total lack of satisfaction at the other.

This is a very crude statistical approach because there is a natural tendency for people to pick the mid-point of the scale, or somewhere near it. A large number of people when asked about their satisfaction with Service X might never have really thought about how satisfied they were with Service X. Almost certainly they would never have thought about Service X along a scale from 1 to 10. There might be a few services where individual respondents have strong opinions about the quality of delivery, but many others that they had just not thought about whether they were satisfied or not. Since satisfaction cannot be precisely measured like the temperature, when confronted with a series of decisions on allotting a figure between one and ten to record their satisfaction, many people record a value around the mid-point of the scale. It is only with the services that they feel strongly about, will they record much higher or much lower values. The authors refer to the experience of many scalar-based surveys shows that when people are truly satisfied with a service, they will give it a quite high rating.

Asking people to rank their satisfaction levels with Council services is quite difficult. Many people are asked to consider services of which that they have little, or even no, personal experience¹. The survey asked the respondents to make the scalar choices for a very large number of services. Statistically, the larger the number of items ranked by ordinal scales the more often people will opt for a measure somewhere near the mid-point. When the results of the many services are then summed to give an overall result, there will be a high probability of a score of between 50 to 60. As the authors of the report pointed out, this does not signify that the community is truly satisfied with the Council.

The authors made a comparison of the Warringah Council outcome (60% overall satisfaction) with other groups that have been surveyed similarly. State Agencies, for example, and private sector groups are examples. The authors suggested that for the other groups, a combined score of 80 or above was common when the residents were truly satisfied with an organisation.

¹For example asking an 80 year-old lady who doesn't swim to rank her level of satisfaction with the Council's rock pools, or asking a 45 year old bachelor to rank his levels of satisfaction with child-minding facilities.

Public Hearings Transcript – March 20 2003

THE COMMISSIONER: . . . I would like to move onto another topic which is related to what we have just been talking about. But thank you for that information about the way in which complaints are dealt with by the councillors. I'm referring here to your written submission and you state that the most recent community survey which was published, I think, November of 2002, it is fairly recent, expressed a 60 per cent satisfaction rate. You argue in your submission that that is remarkably good, do you not?

MS SUTTON: Yes. Do you want me to comment?

THE COMMISSIONER: No. I just - - -

MS SUTTON: Yes, I do.

THE COMMISSIONER: What I would like to do is just read some commentary in that report in which you are quoting. It says, no let me just make one point before I read this commentary. That approval rating of 60 per cent is derived from a number of questions addressed to a sample of the community where over a range of topics they have to provide on the scale of 1 to 10 their feelings about the satisfaction with service delivery and so forth. That is how it was basically done. I will just read what the writers of that report said:

Previous research indicates that truly satisfied residents will give a score of 8 or more out of 10.

This is in those scales.

By this definition 21.7 per cent of residents in Warringah are truly satisfied with the service received from Warringah Council.

Public Hearings Transcript – March 20 2003 (cont.)

THE COMMISSIONER: . . .

Have you got any comments on that? They are the authors of the report - - -

MS SUTTON: Yes, I mean of course I read that and that's true but I still think 60 per cent overall is very good. It's just impossible, I would say, in any Local Government area or any Government area that you would get an 80 per cent rating. I think the norm is between 50 - the average for Councils in New South Wales I think is between 55 and 65 or something like that. Well, I won't ask you questions, but I would find it very difficult to go to a resident and say: do you think everything is perfect with your Council? Now, of course they are going to say: no, the street should be swept every week, and so on, and: the garbage man makes a noise and I went to get a book at the library that wasn't quite right.

For example, with our libraries I believe we should have got 100 per cent. Our libraries are sensational, they're brilliant. Our beaches are brilliant, they win prizes for the best beaches. We win so many environmental prizes. I think we are the most awarded Council in New South Wales. I think that is a correct fact. I could be taken to task on that but we win them for waste management, we win them for environmental projects, we win them for the cleanliness of our beaches, we win them for so many wonderful things. But there will always be people who will complain.

THE COMMISSIONER: No, let me - we are getting a little off the point I was trying to raise.

MS SUTTON: All right. Well - - -

THE COMMISSIONER: I'm fully appreciative of the many things that Warringah have done very well. They are listed quite fully in Mr Blackadder's submission and that is very germane to what we are talking about. I guess I'm just trying to focus on this 60 per cent satisfaction issue. What I believe the authors of this report are saying, that asking people to rank satisfaction on a scale from 1 to 10 is a very crude way of trying to measure that but there is a natural tendency - because people don't generally walk around rating things on a scale from 1 to 10 and there is a kind of natural inclination, particularly about issues that they haven't thought too much about - I'm not talking about Warringah, I'm talking about the way that these statistics are collected - that there is a natural tendency for people to go towards the middle of the scale. So a lot of people would tick a 5 or a 6 and that is what I think the authors were referring to. They further went on to say:

Public Hearings Transcript – March 20 2003 (cont.)

THE COMMISSIONER: . . .

Generally State Government Departments when people are given such surveys score 70 to 80 per cent satisfaction and public utilities and private sector organisations score over 90 per cent.

So I was just commenting on the figure you quoted in your submission to say that the authors themselves suggest that possibly the real genuine satisfaction level is somewhat less than that, perhaps only 21, 22 per cent.

4.2.2.2

The results of the Community Survey indicated one highly significant outcome, relevant to the Public Inquiry. The authors compared their 2002 results with the survey conducted in 1999. They considered areas of high community concern, but lower perceived performance, between the two years. From this comparison they made a principal recommendation: **that Council address public perceptions of the Council's credibility, and ability to make fair, consistent decisions, particularly in relation to development.**

Council's credibility and its ability to make fair, consistent decisions lie at the heart of good governance. By the test of the bi-annual Satisfaction Survey, commissioned by the Council, it has failed in this vital area. Its ability to make fair, consistent decisions had slipped so much between 1999 and 2002, in the eyes of the residents, that the report made improving Council's performance in these areas a principal recommendation.

When questioned about this at the Public Hearings on March 2003, the Mayor accepted the point and said that they had tried to address it.

Public Hearings Transcript – March 20 2003

MS SUTTON: Yes and we've tried to address those. We've spent lots of time talking about that. We do hope to make fair and credible decisions but I can take to task some of the other things in the report. . .

The Mayor's answer is surprising, and instructive. She appears to accept that they (the elected representatives) have not been making fair and credible decisions. Considering that they (the elected representatives) have talked a lot about it, as she states, implies general agreement amongst them that they have not been making fair and credible decisions. She utters a vague hope that in the future they will make fair and credible decisions, and mid-sentence launches off into an attack on other parts of the report.

This is an extraordinary, and revealing, admission. The Mayor herself has admitted that the elected representatives have failed in the vital core of their governance responsibilities: making fair and credible decisions. This has been made a principal recommendation flowing out of the Council's Satisfaction Survey because it is an area of high community concern, and the community has perceived that the Council's performance in this area had deteriorated since 1999.

There is only one conclusion that can be drawn. The elected representatives cannot command the community's confidence and support as to their capability, since they admit to making decisions that are not fair, or credible.

Public Hearings Transcript – March 20 2003

THE COMMISSIONER: . . . In the same report the following principal recommendation was made:

That Council address public perceptions of the Council's credibility and ability to make fair, consistent decisions particularly in relation to development. These are areas of high community concern and lower perceived performance than in 1999.

So the satisfaction survey that the Council itself had made were - the authors of that survey are saying as a principal recommendation Council address public perceptions of the Council's credibility and ability to make fair, consistent decisions. Given all the things that we've been talking about this morning, does that surprise you?

MS SUTTON: The comment?

THE COMMISSIONER: Well, it is a major recommendation made by the authors of the Community Satisfaction Survey.

MS SUTTON: Yes and we've tried to address those. We've spent lots of time talking about that. We do hope to make fair and credible decisions but I can take to task some of the other things in the report. I mean, I can't believe that, for example, in New South Wales there had been 80 or 90 per cent satisfaction rating with hospitals. It just defies belief.

THE COMMISSIONER: Didn't say that, as I read it.

MS SUTTON: No, but you said with Local Government - - -

THE COMMISSIONER: No, it said in general estate agencies tend to get up in the 70 to 80 per cent, that utilities and private sector groups tend to get up to about 90 per cent. I didn't say hospitals.

MS SUTTON: You said Government Departments, Mr Commissioner.

THE COMMISSIONER: That is okay. I said agencies. departments. same sort of thing.

MS SUTTON: Mr Carr can look forward to a good day on Saturday then.

Evidence from Community Surveys going back to 1995 shows that the concerns about the Council's credibility, and its decision-making processes, stretch back over many years. The evidence of the 2002 survey shows that the concerns have got worse since 1999.

The Mayor, in answer to a question about this, argued that the community's perceived deterioration in the Council's credibility and decision-making since 1999 comes from *"a huge increase in the litigious nature of the people, in people's stress, in people's desire to have everything absolutely perfect"*. She further complains that people's *"desire to complain about things has steadily increased"* and *"that is a thing that is happening all over Australia"*.

The problem with the Mayor's claim, that the complaints about Warringah Council parallel the rise in the level of complaints in the rest of Australia, is that the evidence doesn't support the contention. The complaints about Warringah Council since 1999 have gone up at a rate that exceeds all the other 171 Councils in NSW. In a climate of complaint, there is more to complain about in Warringah.

Public Hearings Transcript – March 20 2003

THE COMMISSIONER: Let me go on. I have looked at community surveys made in Warringah back to 1995. These were supplied to me by the Council. The figures suggest to me that that point, that recommendation made in the later [sic. last] survey, the November 2002 survey, appears in one guise or another in each of the customer satisfaction surveys back to 1995. That suggests to me that [although] you say you are addressing it - that it has been around for a long time. This is just taking [evidence] out of the customer satisfaction surveys of the Council, not other things. Would you make a comment on that?

MS SUTTON: Yes, I'd like to make a comment on that. Mr Commissioner, I have more experience in Local Government than anybody in this room except for one councillor and over the past 10 or so years I have noticed a huge increase in the litigious nature of people, in people's anxiety, in people's stress, in people's desire to have everything absolutely perfect. They are more - I think the whole world and not just Warringah Council residents are more stressed and more anxious than they have ever been for many, many years and I have noticed from my wealth of experience and my hands-on experience every single day and I don't know why I left out Christmas Day because I had three Council calls on Christmas Day, all of which I answered.

I have had hands-on experience every day pretty well for 23 years with a small break when the Council was out before and I can tell you, Mr Commissioner, that the level of anxiety and the litigious nature of people and the desire to complain about things has steadily increased and that, Mr Commissioner, is a thing that is happening all over Australia. It is not just happening in Warringah Shire. I can assure you that things have changed and people are more anxious and more stressed for whatever reason and I make that comment with great sincerity and from a wealth of experience which nobody else in this room except one person possesses.

4.3 Community Confidence and the Ability of the Elected Representatives to Direct and Control the Affairs of Council

4.3.1 Management of the Council

4.3.1.1 The Department of Local Government supplied the following information to Warringah Council on March 13 2003 regarding complaints made to it by the Warringah community.

The top 3 complaint categories are:

Conduct (including meetings, and staff issues)	75 complaints
Maladministration/Mismanagement	70 complaints
Pecuniary Interest	49 complaints

The figures show that the community was deeply concerned about the administration of the Council over the past year. Ironically, the Public Hearings revealed that one area where the administration appears to have broken down quite badly, is the management of complaints.

In a memo to the Public Officer on December 6 2002, the General Manager stated: *“It is our responsibility to ensure the complaints do not concern our administration and management and to this end I want to examine alternative complaints management practices, including an internal management”* (Volume 3, Appendix 3).

At the time of writing (May 2003) there is still no complaints tracking and management system in place.

One Submission (No. 367) reported that when the Council was contacted, in order to file a complaint about the noise level of a business, the staff member at Warringah Council said that there were 300 complaints ahead of that person’s complaint, and that she should not expect any response any time soon. Getting no satisfaction from Warringah Council, the complainant rang the EPA to be told that Warringah Council was the most complained about Council regarding noise. This adds one more dimension to the reputation of the *“most complained about Council in NSW”*.

Submission 367

Around April 24 I rang Warringah Council on behalf of a number of neighbours disturbed by excessive noise from a ventilation blower at Warringah Timbers on the Cromer Industrial area below Collaroy Plateau. At first, I was told there was no noise complaints officer as such, but after insisting I was eventually put through to a young woman in the environment division who handles noise concerns. She told me I could complain if I liked but there were '300 others ahead of you'. She said she had no idea when any complaint could be dealt with and said she was getting another helper the following week. I then rang the Environment Protection Authority who said they could do nothing as the timber yard is not under their legislation, and referred me back to the council. The EPA officer also remarked that Warringah was the most complained about council regarding noise, and I said I hoped the EPA had made a submission to that effect to the inquiry. The neighbours are now taking up a petition seeking council action against this daily noise, which we know to be excessive.

Since Warringah Council has been the most complained of Council in NSW for the past two years it is surprising that it took the new General Manager almost a year to consider the problem of complaints. It is equally surprising that more than six months after the General Manager announced that he was addressing the problem that a satisfactory system is not yet in place.

Public Hearings Transcript – April 10 2003

MR BLACKADDER: . . .

Whilst many of the complaints had been associated with Council meeting decisions, what was hard to refute was that many people were reporting to the Department, rather than trusting the Council to effectively address their issue in the first instance. I realised this problem had to be confronted. I sought information from the Department of Local Government in mid-January to assist in identifying the areas of concern. By letter dated 13 March 2003, the Department provided some of that information.

The top three complaint categories are, conduct, including meetings and staff issues, 75 complaints. Mal-administration, or mismanagement, 70 complaints. Pecuniary interest, 49 complaints. It is clear that issues other than councillor conduct is also a concern of complainants. I intend seeking a meeting with the Department to better understand the areas of concern, so we can review our systems and procedures.

The second issue I mention, Commissioner, personal investigations:

As part of my 2002 investigations into our complaints management system, I found that we have a reasonable recording system in the "In Form" computer system, that we have responsibility for complaints handling vested in service unit managers, but that we do not have a monitoring system in place to review complaint numbers, trends and resolution. I also found that the introduction of the new Dataworks document handling system in May 2003, will facilitate the adoption of new policies and procedures, however, after publication of the new Departmental complaints statistics, I decided action could not wait for the Dataworks introduction. A breakdown of the Department of Local Government complaints was needed. As indicated above, information was sought and obtained from the Department.

. . .

After evaluation of the information we need to determine the action we will take for the future. The Ombudsman has an excellent complaints handling guide and we should review our processes against the best practice principles in the guide. Further, we should examine the opportunities to build confidence in the community that a complaint to the Council will be seriously investigated as independently as possible and quick action taken. It could well be that we modify the role of the mediation coordinator to incorporate complaints management as well.

Public Hearings Transcript – April 10 2003 (cont.)

MR BLACKADDER: . . .

Information was then sought regarding the Sutherland experience with an internal Ombudsman. I had personal discussions with the General Manager of Sutherland, John Rayner, in December. Information from Sutherland was evaluated in February. See attached memo dated 9 February. Late in January I approached the Deputy Ombudsman, Chris Wheeler, to undertake an audit of the Warringah complaints management policies and procedures. I did so as I sought to introduce a best practice system. In view of the complaints against Warringah to that office, Mr Wheeler agreed to help. See the letter dated 3 February 2003. The audit will commence in April.

The current situation:

A complaints management policy has been drafted - see attachment 5 in the folder - and will be adopted after consultation with Mr Wheeler. Whilst a more effective policy will address such issues as defining a complaint, allocating responsibilities, setting standards and guarantees of service, monitoring complaints and taking corrective action, the challenge will be in implementing the new policy and procedures so that members of the public are aware of the new approach and take advantage of what is offered.

To that end, extensive publicity will be required. At the same time, unless complainants feel their issue will be comprehensively addressed, they will still take their concerns to other authorities. It is on that basis that I have taken a decision to introduce an internal Ombudsman as soon as one can be recruited. An existing staff position will be allocated, responsibilities for complaints administration. Summary. Commissioner, I expect you will make a finding that Warringah does not have a complete and best practice complaints management system.

I appreciate that finding will relate to the lead terms of reference as to the effectiveness and efficiency of our system of governance. However, I ask that you acknowledge the action taken since November 2002 and the current action to give effect to such a system. My concern is that the absence of such a system could be used by you to justify in some way the elected offices of Council being declared vacant. This would be wrong, as complaints management is my responsibility. The action I have taken includes, one, initiating a review of our complaints management system, December 2002. Seeking a complaints management audit through the New South Wales Ombudsman, January 2003.

In his final appearance at the Public Hearings on April 10 2003 the General Manager admitted that the problem could not wait for the Dataworks system to be installed¹. He admitted that the Council did not have a monitoring system in place to review complaint numbers, trends and resolution. A system and an Ombudsman are promised, but nothing has happened yet. As Submission 198 points out the Council staff appear not to know what is happening. Extensive publicity will be required, the General Manager has said. That publicity seems not to have reached the staff whose primary responsibility is to deal with the public (the Warringah Council Customer Service Hot line), let alone the public themselves.

Submission 198

I have experienced difficulty obtaining information about the new “complaints” process at Warringah Council. From statements made at the recent Enquiry by the General Manager, Stephen Blackadder, I understood that such a process had been initiated.

When I telephoned Council this week, my call was answered by a member of the *Warringah Council Customer Service Hot Line* staff. He did not know of such a service and proceeded to assist me by making enquiries from other staff. It appeared that no details of a “complaints” process were available.

This to me is an example of management initiating a service without putting in place a procedure to provide the appropriate staff with current information. If an enquiry from a member of the public to the *Warringah Council Customer Service Hot Line* cannot be answered how can the community accept that services which are specifically set up to deal with complaints and/or to offer some form of dispute resolution exist.

4.3.2 Community Consultation

4.3.2.1

The General Manager, in his final appearance at the Public Hearings on April 10 2003, lamented that despite an award-winning community consultation framework, 42 community consultative committees, reports, surveys, and messages in the press, they *“have not been sufficient to develop a reputation for openness and transparency”*.

¹The Council's favoured system for recording and tracking complaints.

Public Hearings Transcript – April 10 2003

MR BLACKADDER: . . .

Commissioner, can I now turn to the final interest group and that is our community. As mentioned by the Mayor the Council can make significant improvements to its communications with residents. Perception about councillor conduct, quality of decision-making, over development and effective involvement with advisory committees has to be addressed, based upon the evidence to this Commission. Our award winning community consultation framework, our 42 community consultative committees, our excellent website, our weekly coverage in the Manly Daily and our positive and supportive relationship with successive Manly Daily reporters and the Northern Beaches Weekender.

Our extensive consultation through the plan of management process. Our complete annual reporting. Our mediation program. Our public hearing process, our biannual community surveys and many other initiatives to support and facilitate public involvement have not been sufficient to develop a reputation for openness and transparency. There still appears to be a problem that needs to be fixed.

4.3.2.2 Section 7 of the Local Government Act 1993, states in part (C):

The purposes of this Act are:

to encourage and assist the effective participation of local communities in the affairs of local government.

The Council's Charter (Section 8) is, in part, to *"facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government."*

Warringah Council has failed to encourage and assist the effective participation of its local community. It has failed to co-ordinate the joint involvement of the Councillors, the public and the staff. It fails in fulfilling a major purpose of the 1993 Act, and it fails to fulfil an important aspect of its Charter.

4.3.2.2 Why has this happened?

Unlike the problem of complaints, the Council does have a Community Consultation Framework. In November 2001 the Council won a Commendation Award in the Organisational Practices category of the National Awards for Innovation in Local Government. The system is obviously of high quality, but it doesn't work. If it did, there would not be such a large number of complaints to the Department of Local Government about maladministration and mismanagement.

The system has two parts. The Community Consultation Matrix guides staff on when and how they should consult with the community for different situations. The Community Consultation Toolkit gives staff practical guidance in the 'how to' of community consultation (Volume 3, Appendix 2). Staff throughout the organisation has been trained in using the Matrix and the Toolbox.

There are a large number of Submissions from the community praising the staff. There are also a large number of Submissions critical of the staff's communication and consultation. A number of the complaints seem to have been generated when consultation and communication have broken down. Part of the explanation for such breakdowns comes out of the fact that four of the Councillors in the "Majority" group have both been on Council for a long time, and have served in the highest office of the Council. They are used to getting their own way, and staff know that. When members of the community raise issues that don't accord with the policies of those Councillors, staff are placed in a difficult position. There is no doubt that some members of the staff are intimidated by some of the Councillors (Section 8).

4.3.2.3

Warringah Council has an extraordinarily large number of Community Consultative Committees, 42 in all. Despite having so many committees, on a range of issues that have divided the community they do not seem to be effective. Such issues generally concern development and the environment.

Submission 288

ADVISORY AND COMMUNITY BASED COMMITTEES

The Council has a very extensive involvement of the community and external bodies, groups and authorities in its governance role as envisaged in Section 7(c) and dot point 8, Section 8(1) of the Local Government Act 1993 through the establishment of, or having delegates to, 42 Advisory and Community Committees.

Submission 288 (cont.)

Section 7(c) states:

“To encourage and assist the effective participation of local communities in the affairs of local government.”

Dot point 8 Section 8(1) states:-

“to facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of Local Government.”

These committees cover a broad spectrum of Council’s facilities and services. They provide an opportunity for members of the public and users/special interest groups to assist Council in managing the facilities or providing services that meet community needs and expectations.

As such they provide an excellent example of community input to Council’s decision making process and an opportunity for Council dissemination of information to interested community members.

Attachment 2 details the Charters of these committees, including status, date established, function, composition and quorum.

4.3.2.4

One of the problems that emerges with the Community Consultative Committees is the ultimate authority of the Mayor to decide who will sit on which committee. It is clear that at least some of these committees have been changed when opponents of certain Mayoral policies have surfaced within the committees. The Committees do not appear to represent the full breadth of opinions within the community. Rather they are seen by some to represent the opinions of those who support the Mayor. This has inevitably been a factor in the large volume of complaints made about the Council.

The General Manger in his Submission (No. 288) is fulsome in his praise of the Councillors. He states that each has fulfilled their Section 232 responsibilities.

Submission 288

COMMUNITY LEADERSHIP – the image of Warringah Council in the local and wider community is of great concern to me. I take great pride in my own work and I seek to make a valuable and worthwhile contribution to the local community, to the organisation and to local government generally.

I have a staff group that is second to none. I am extremely proud of the significant contribution they make to the community. A large majority are Warringah or Peninsula residents, and they live with the Council's image on a daily basis. They have strong ownership of many of the improvements made by Warringah Council, and from successive community satisfaction surveys the community is also appreciative and satisfied with what they do. We all can be proud of their leadership.

I have an enormous regard, individually, for the Councillors of Warringah Council. They each fulfil their Section 232 responsibilities by representing the community and serving on the governing body with dedication and commitment. Collectively, they are divided, perhaps philosophically, and in some cases personally. However, this has not prevented the Councillors from undertaking their duties. A great majority of Council decisions are unanimous.

Successive Mayors have devoted a large part of their waking hours to Council business. They receive little financial recompense for their time and effort but I am sure they are amply rewarded by the opportunity to give community service. They should be respected, acknowledged and admired for the difficult job they do.

Whilst the colourful descriptions of council meetings in the Manly Daily might portray an image of poor leadership, we must all remember that government is often adversarial, with a government and an opposition putting forward different viewpoints and policies. The significant feature of Warringah Council is that it boldly displays its community leadership, confronting the hard issues of community planning, environmental protection and economic growth and prosperity. One only has to look around us to know Warringah residents live in a special place – made so through the stewardship and leadership of successive councils, councillors and staff working in close co-operation with its community.

I recognise that many will disagree with individual council decisions. However, we are indeed privileged to live in a democracy that values this right. We must respect the right of the leadership to make those decisions.

4.3.2.5 Section 232 (2) of the 1993 Local Government Act states:

“The role of a councillor is, as an elected person:

- *to represent the interests of the residents and ratepayers*
- *to provide leadership and guidance to the community*
- *to facilitate communication between the community and the council.”*

It is clear from both the written and oral Submissions that there are large sections of the community that feel they have been alienated from the elected representatives. The breadth and depth of this sentiment within the Submissions is so strong that it cannot be said that the elected representatives have facilitated communication between the community and the Council.

There is another factor that seriously inhibits communications between the elected representatives and the community. This is the propensity of certain Councillors to be abusive and dismissive of those who hold a different point of view to them. Terms such as “ferals”, “scumbags” and “ne’er-do-wells” have been freely applied by Councillors to members of the community.

At the Public Hearings there was a considerable contrast in the demeanour and behaviour of senior Councillors and those members of the public who criticised them. On several occasions Councillors had to be warned about their interjections and disruptive behaviour. Eventually, the process of asking questions of those who appeared at the Hearings had to be modified because of the belligerent approach of some Councillors (and one member of the public). In contrast the community members who spoke presented well-reasoned arguments supported by strong evidence. From their background it was clear that they were not a bunch of “ne’er-do-wells”. The presenters of oral testimony critical of the Council included lawyers, architects, scientists, teachers and university staff members, psychologists, engineers, artists, community workers and others with considerable qualifications and experience of life.

The Councillors who have attacked their critics within the community using ridicule and abuse as their weapons have certainly not fulfilled their obligations under Section 232 of the Local Government Act: to facilitate communication between the community and the Council.

4.4.1 Financial Management and Community Confidence

4.4.1 History of Financial Performance

4.4.1.1 Early in the life of the present Council the financial position deteriorated to the point that it was put on notice by the Department of Local Government. This problem was inherited from the previous Council. On June 30 1999 the Council reported a yearly surplus of \$2.564 million, but a working capital deficit of \$10.901 million¹. The situation got worse with the new Council elected in September 1999.

The fact that Warringah Council was in a poor financial situation was well publicised. It was probably a factor in the high turnover of Councillors at the September 1999 elections, when only four members of the previous Council were re-elected.

By June 2000 the situation had deteriorated markedly. The results for the first year of the new Council were something of a disaster. There was an overall deficit of \$4.203 million, and a working capital deficit of \$12.609 million. In the 2000 financial year operating expenses increased by \$16 million, and revenue had increased by only \$8 million. The situation was clearly unsustainable, and public confidence in the ability of the Council to manage its financial affairs fell accordingly.

4.4.1.2 The financial situation improved with the adoption of the “Road to Financial Recovery” plan, and the Council ended the year (June 30 2001) with a surplus of \$6.178 million, although its working capital deficit was still in the red (\$3.852 million deficit).

The “Road to Financial Recovery Plan” included reducing operating expenses (employee costs, materials and contracts, consultancies) and selling off some Council assets.

4.4.2 Council Finances Now and into the Future

4.4.2.1 The financial position of the Council has improved, but on June 30 2002 there was still a working capital deficit of \$0.856 million. The Department of Local Government, despite the surplus reaching \$16.955 million by June 30 2002 is still reviewing the Council’s finances.

¹The financial information recorded here is taken from the General Manager's Submission 288.

There were a number of references to poor financial management in some of the Submissions, indicating that the issue is still before the public eye. The critics of the Council's financial position claim that the recovery has been engineered through one-off sales of assets and by reduced levels of service. These critics suggest that asset sales do not provide a long-term solution.

4.4.2.2 Warringah Council is expecting a budget result of \$1.756 million for the year to June 30 2003. The projection also suggests an accumulated working capital surplus of \$899,679. If this takes place, it would be the first time in the life of the Council that a working capital surplus has been achieved. The projected surplus would result from increased revenue and the elimination of some expenditure.

The projections through the next decade indicate a progressive improvement of the Council's financial position.

The generally poor financial position of the Council since the 1999 election has done nothing to win the confidence of the community. The "Majority" Councillors, who have effectively ruled the Council since 1999, boast of their experience and business acumen. None of this was to the fore as they presided over the collapse of the Council's financial position.

In terms of the effect on the community's confidence in the Council, financial management now seems to have slid into being a second order concern, rather than a primary worry. The memory of the mismanagement that caused the financial mess lingers with the community. The Councillors who presided over the mess are still in office.

4.4.3 Awards and the Council

4.4.3.1 When confronted with the fact that the Council fell into such a dire financial position, the senior Councillors have pointed to the apparent turn-around in the Council's position, and take credit from that. They also focus on what they see as proof of good management, and that proof consists of a series of awards won by Warringah Council.

Warringah Council has obviously won no awards for financial management since 1999, but it has been successful in other areas. Such awards are clearly a source of great pride for senior Councillors, and the staff.

There is an underlying theme to the senior Councillor's (and the General Manager's) defence of the Council: if the Council has won so many awards, how can it be criticised in the way that it is?

In his first Submission to the Public Inquiry (Submission 288) the General Manager provides a list of the awards gained by the Council from 1999 to 2003.

Submission 288

RECOGNITION OF ACHIEVEMENT S - AWARDS RECEIVED BY WARRINGAH COUNCIL

Council has been acknowledged by Government and private bodies as a high achiever in the delivery of its products and services. This is objectively demonstrated by the number of awards it has received over the current Council term.

AWARDS WON BY WARRINGAH COUNCIL IN THE PERIOD 1999 / 2003

Awards Scheme	Area of Excellence
Keep Australia Beautiful Metro Pride Awards 2000	Second Place Overall
Keep Australia Beautiful Metro Pride Awards 2000	NPWS Urban Wildlife Habitat Restoration
Keep Australia Beautiful Metro Pride Awards 2000	Community Environmental Education
Keep Australia Beautiful Metro Pride Awards 2000	Waste Minimisation
NSW Waste Boards 2000	Excellence in Waste Avoidance
NSW Waste Boards 2000	Excellence in Recycled Organics
Streamwatch Awards 2000	Excellence in Local Support of Streamwatch Group
Energy Australia National Trust Heritage Awards 2000	Heritage
Keep Australia Beautiful Metro Pride Awards 2001	Second Place Overall
Keep Australia Beautiful Metro Pride Awards 2001	Environmental Community Initiatives
Keep Australia Beautiful Metro Pride Awards 2001	Waste Minimisation
Keep Australia Beautiful Metro Pride Awards 2001	Sustainable Communities
Local Government And Shires Association Excellence in the Environment Awards 2001	Waste Management
Local Government And Shires Association Excellence in the Environment Awards 2001	Stormwater Management
NSW Case Earth Awards 2001	Category 1 Winners
2002 National Steel Can Recycling Practise Award	2nd place nationally
LGOV NSW Local Government Excellence in the Environment Awards 2001/2002	Regional Winner Waste Management Award for 'Waste Education Trailer'
LGOV NSW Local Government Excellence in the Environment Awards 2001/2002	State Winner Waste Management Award for 'Waste Education Trailer'
LGOV NSW Local Government Excellence in the Environment Awards 2001/2002	Regional Highly Commended Waste Management Award for Council's Internal Waste System
Metro Pride Award	2nd place for 'Waste Education Trailer'
Keep Australia Beautiful NSW Metro Pride	Community Watch-dog Project - Highly Commended
Local Government & Shires Association - Excellence in the Environment - Community Watch-dog Project	Highly Commended
NSW Companion Animal Awards - Community Watch-dog Project	Best Innovation in Companion Animal Management (1st)
Keep Australia Beautiful 2002 - Country Energy Community Action Award 2002	Friends of the Bush Volunteer Program for Ongoing Regeneration of Dee Why and Curl Curl Headland
Keep Australia Beautiful 2002	Dee Why Beach Youth Week 2002 Vans Warped Tour - Young Legends Award
Keep Australia Beautiful 2002	Long Reef Aquatic Reserve Fishcare Volunteers - Keep Australia Beautiful Clean Beach Challenge 2002 Community Action Award
Keep Australia Beautiful 2002	Beach Litter Bin Program - KAAL Australia Litter Prevention

Submission 288 (cont)

Australian Sister Cities Association (Brewarrina)	2001 Best New Affiliation 2001 Best Youth Exchange Program 2002 National Award, Best Publicity by Print Media 2002 Highly Commended – Sports Project
Rock Pools of Warringah Conservation Management Plans	National Trust Heritage Awards - Built/Landscape Heritage, Corporate/Government. Commendation 2000
Youth Environment Forum, Warringah’s Environmental Strategy	Local Government and Shires Association, NSW. RH Dougherty Award for Excellence in Communication. Highly Commended 2001. Metro Pride Awards 2001 – Award for Environmental Initiative - 1st place.
“Aboriginal Cultural Walks and Talks”	National Trust Heritage Awards - Indigenous Cultural Heritage, Corporate/Government. Commendation. 2001.
Community Consultation Framework	National Office of Local Government, Australia. National Awards for Innovation in Local Government. Commendation Award in the Organisational Practices category 2001.

The awards that the Council has received have predominantly come in two categories: aspects of environmental management (15 awards), and aspects of waste management (11 awards). 13 of the 32 awards have been given by the one awards scheme: the Keep Australia Beautiful Metro Pride Award scheme.

4.4.3.3

Warringah Council has an outstanding record in environmental management schemes, and in waste management innovations. The evidence of the Inquiry shows that the staff has been responsible for putting in place much of what has been achieved. These programs were initiated by staff over several years, and cannot be seen as a particular achievement of the current elected body.

There is a puzzling aspect to the very strong record of achievement in environmental and waste management, and the number of complaints in the Submissions about the failure of the Council to pay proper regard to environmental issues.

The answer to the puzzle lies with the strong pro-development stance of the “Majority” Councillors. A significant proportion of the community has felt that too little weight is given to environmental issues when development applications are being determined. Issues such as drainage and the extent of development in slip areas are listed as particular problems. At another level, landscaping, land coverage and set-backs, and sunlight issues are raised. In terms of some large and notably contentious developments, the significant environmental factors, like the retention of native bushland or the pollution of waterways, have dominated the debates (see Section 6).

Warringah Council, therefore, presents something of a conundrum in its public image. Through the various awards that it has won, it has a very public image of an environmentally aware Council. On the evidence of the Submissions, the Council decision-makers appear to be either uninterested in environmental matters, or at best treat them as matters of minor importance.

4.4.3.4 The reason for the Council having such a mixed image is not hard to find. The staff have initiated some large scale environmental projects that are highly regarded by the community. At the same time, developments have been approved that cut across the “green” expectations of many people in the community, and these decisions are largely made by the elected representatives meeting in Council.

Even the most pro-development of the Councillors have praised the great physical features of the Warringah area, and the complex differentiation of its parts. The community treasures the natural environment, and there is a high expectation that the elected representatives will reflect community opinions. The Councillors who are in favour of development raise an interesting point: that the great growth pressures that have affected Warringah in recent years are a reflection of the drawing power of the area, and its great natural beauty. Growth, they argue, is inevitable, particularly when the State Government’s urban consolidation policies are in place. Since growth is inevitable, their thinking seems to go, there will be some negative environmental consequences, but they are considered minor in the big scheme of things. What this argument does not take into account is the cumulative effects on the environment of a very large number of development consents. Many in the community are acutely aware of these effects.

So, the area for which Warringah Council is most feted by award schemes (environmental management) is also the area of greatest conflict between community groups and the elected representatives. It is an area that has generated some of the most strident criticism of the elected representatives, and their capacity to govern effectively.

4.4.3.5 All of this has a connection to finance. Growth adds to the Council's revenue stream. Development provides Section 94 contributions that can be turned back into creating infrastructure and recreational facilities. The Council reaps better rate income from a more intensive form of urban development. With the very precarious financial position of the council in recent years, it could be argued that the pro-development stance has assisted the recovery of the Council's financial position. If some collateral damage is done to the environment in the process, the argument might run, Council's better financial base will compensate for it. A stronger financial base will allow the Council to support strong environmental programs where they are most needed.

The debate over the environment at Warringah Council is not quite as black and white as it may seem. It is a debate that stirs strong passions. If the natural environment is destroyed or impaired, it cannot be replaced. The various proponents at Warringah are fighting battles from quite different perspectives and with quite different time-frames in mind. It is difficult to see how the broad camps will ever find harmonious solutions to their conflicting views. Some people in the community are implacably opposed to the many of the elected representatives. Others appear to be simply confused by the turmoil that conflicting debate brings, but feel that the only way the conflicts can be resolved is to remove the protagonists from the Council.

4.5 Would Structural Change in the Council Restore the Community's Confidence?

4.5.1 Local Government and the Westminster System

4.5.1.1 In his first Submission to the Inquiry, Mr. Blackadder (No. 288), provided a useful definition of what governance means in the Local Government context.

Submission 288

MR BLACKADDER:

Governance, as the act of governing, relates to how an organisation arranges its systems, procedures, processes, policies and practices to deliver efficient and effective decisions, services and facilities, so they meet the organisation's objectives and intent. For Warringah, as a Local Government organisation, effective governance relies on compliance with the provisions of the Local Government Act, particularly those relating to charter, organisation structure, management planning and conduct.

4.5.1.2 It has been argued that the dissatisfaction of sections of the Warringah community with the Council and the elected representatives follows from their failure to understand how Local Government differs from other forms of government.

At the level of State or Federal Government, the distinction between the politicians, who are elected to represent an area, and the public servants, who manage the application of government policy, is fairly well understood. There is a clear distinction between the formulation of policy and its application. In Local Government the distinctions are blurred.

This is partly because prior to the 1993 Local Government Act the scope of Councillors both to make policy, and to act in various ways to apply that policy, was widely accepted as normal procedure. The distinction between the elected body and the body corporate was not clear-cut. The 1993 Act sought to separate out the policy and application functions more clearly. Many people in the community do not understand the distinction, and from the evidence of the Inquiry, some Councillors do not understand it well either. All of this has created a blurred understanding of who is responsible for what, and who is to blame when things go wrong.

It can be argued that in this regard Warringah Council is not very different from many other Councils in the State.

Mr. Blackadder argued in his final appearance at the Public Hearings on April 10 2003, that the Westminster system of government, that underlies the State and Federal Parliaments, does not work at Local Government level. He points to a confusion of roles for the elected representatives: policy setting, operating an executive arm, and acting as a judiciary.

Public Hearings Transcript – April 10 2003

MR BLACKADDER: Commissioner, can I indulge you for a moment also in highlighting what I see is a fundamental flaw in the Local Government Act:

Under section 232 of the Act, councillors either have a decision making role, or a representative role. A councillor is subject to many pressures from residents and their roles can be confused.

In my view, Commissioner, the Westminster system just does not work for Local Government. Councils and councillors are often confused as to their roles and responsibilities. They are expected to do all. They are expected to be the Parliament and set rules and laws and codes and policies and plans of management. They are also expected to operate an executive arm through perhaps the office of Mayor, and they are also expected to serve as a judiciary, adjudicating on local approvals.

Mr. Blackadder may be right in asserting that Warringah Council suffers from something that might be endemic to Councils across the State: the confusion over the roles of Councillors. What distinguishes the Warringah situation (although it is not unique), is the strong advocacy of development by the “Majority” Councillors. The decision-making role of the Councillors frequently produces confrontations within the Council, when some Councillors have acted as advocates for a development. Much of the public concern about the elected representatives devolves from a long pattern of conflict to do their judicial role. This theme is explored more fully in Section 7.

4.5.1.3

Mr. Blackadder points out another area that produces a confusion of roles within councils, and a situation where Councillors' expertise and interests are not utilised as well as they might be. Mr. Blackadder suggests that a portfolio style of government would overcome the problems. In this, each Councillor would be allocated a portfolio related to the eight key activity areas that Warringah Council uses in its strategic planning. They would become portfolio "champions", working with a key staff support person, to bring forward to Council proposals and initiatives. In this scenario the portfolio holders would communicate with stakeholders, and advocate the interests of the community affected by that portfolio area. They would act more like the Ministers in the State or Federal Government.

The concept is attractive in the Warringah context, for it would focus the Councillors more on development of policy, and would steer them away from the narrow zones of conflict that surround a focus of development application issues.

Warringah Council General Manager's Briefing Paper Councillor Portfolios

To put the matter into context Warringah has adopted eight (8) key activity areas in its strategic planning:

- Natural Environment
- Community Enhancement
- Urban Development
- Infrastructure
- Health and Safety
- Economic Initiatives
- Executive Management
- Corporate Support

The activities of Warringah staff members, particularly managers, are closely aligned to these key outcome areas. On the other hand, individual Warringah Councillors have an input to strategy and operations through the four (4) committees - Services, Governance, Strategy and Local Approvals. They also have some involvement in special purpose working groups.

In my view individual Councillors can be more closely and fully involved in areas of their interest and expertise. They have a lot to contribute but personal and political divisions have kept them from realising their true potential. Perhaps if they are freed up to use their individual interest and expertise they might be distracted from the personality politics between them.

A way of channeling their energies into more productive areas is to change their role and to increase involvement in our 8 key activity areas. One way of taking advantage of Councillor interest and expertise is to allocate each a "portfolio". This is not a new idea - it is used to great effect in some local, interstate and overseas councils to allow each Councillor to experience greater ownership of issues and to make a more worthy contribution to civic life. It would also have some similarity to the role and function of State and Federal Ministerial Portfolios.

Essentially, a Councillor would work with staff (in a similar way to Committee Chairs) to oversee activities and ensure leadership is provided to deliver strategies and outcomes. The Councillor, along with a key staff support person, could be regarded as the portfolio "champions". With good faith, and clear terms of reference, each Councillor could be authorized to bring forward to the Council proposals and initiatives. Through the adopted Terms of Reference they would have a defined role, and be authorised to meet with stakeholder groups, make comment to the media, and generally advocate the interests of the community affected by that portfolio area. Accountability to the Mayor could be assigned for certain operational functions and activities, and ultimately to the Council for policy and strategy development.

4.5.1.4 Warringah Council, along with a number of other Councils in NSW, holds a new Mayoral election from amongst the Councillors each year. A Mayor may seek re-election and gain it as Councillor Moxham did in September 2000, after having been elected Mayor in September 1999. The office of Mayor carries more power and responsibility. The Mayor is rewarded by receiving higher remuneration for performing their duties. In Warringah, and in other Councils, a great deal of lobbying surrounds the Mayoral election. Mr. Blackadder suggested at the Public Hearings on April 10 2003 that in some Councils around six months of the year is consumed by the Councillors jockeying to get the position.

Public Hearings Transcript – April 10 2003

MR BLACKADDER: Well, Commissioner, my personal experience is not serving a popularly elected Mayor. I must say in my Local Government career I've always served the revolving door arrangement and some have been bad and some have been bad. What I have found in the past that in some Councils the councillors get totally involved for about 6 months of the year in jockeying for position, and I think that is entirely counter-productive.

I stress that I have not served with a popularly elected Mayor, but my observations seem to suggest that they are able to provide greater time and community leadership and they are able to get involved in far more strategic and community issues than perhaps a 1-year term Mayor.

The alternative is for the Mayor to be popularly elected at the time of the general election, and to serve out the term as Mayor. It appears to be a better system for a number of reasons. It eliminates the counter-productive activities that burn up Councillor's time and energy in trying to get elected at the yearly elections. It is also a better system, in that the community, and not the Councillors, decide who should lead them as Mayor for the four years. The yearly elections open up the prospect of Councillors involving themselves in deals and obligations to other Councillors, and create the possibility of distorting values and community interest in the process.

4.5.1.5 It is clear that both the Councillors and the community struggle to understand the primary responsibilities of Councillors where elections are divided into wards. In a number of the Submissions criticism of Councillors was made on the basis of their not representing the ward from which they were elected. Similarly, some Councillors have made observations that suggest they see their primary obligation is to service the needs of the residents of their ward.

The Local Government Act clearly states that the responsibility of an elected representative is to the community, not to sections of the community. The arguments for and against ward systems are complex. In the case of Warringah there appears to be a strong sense of territoriality amongst the community. This is an outcome of the size of the community, and the diversity of socio-economic and natural environment features across the Council area. There are probably advantages in a Council that has been politically divided in the way that Warringah has been, to abolish the ward system and attempt to build the Council around elected representation that stands for the interests of the whole community, rather than its parts.

There is a problem with doing this, however. Section 16 of the Local Government Act lays down that changes (such as the abolition of wards or changing the Mayoral election method) can only happen if approval is given at a constitutional referendum. Section 15 permits such a referendum to be put only if the Council agrees to put it. This is a major obstacle to any such change. Mr. Blackadder outlines the obstacles to such changes in his letter to the Inquiry of April 23 2003.

Submission 288

Dear Commissioner Daly

During my address to the Public Hearing on Thursday 10 April 2003 you asked that I provide written comments on the Ward system as opposed to an undivided area for the purposes of Council elections and representation.

Of greater importance is the extreme and absolute limitation imposed by the Local Government Act on the way in which structural change can be effected. Section 16 of the Act requires that a Council cannot change Wards, Mayoral Election method, number of Councillors, or election or voting methods unless approval has been given at a constitutional referendum. However, the Act only permits such a referendum to be put to the people if the Council agrees – Section 15! Experience shows that most Councils are ultra conservative and not inclined to put forward proposals for change.

Even if a Council resolves to put forward a referendum question there is a further limitation in that any such change is not effective until the next election four (4) years later! It is logical to put the question at the same time as the quadrennial election, primarily to save the cost of a separate referendum, but this means the change does not become effective for another 4 years!

The Act fundamentally inhibits change, and must be amended. Each local community must have the opportunity to at least consider change, and perhaps a solution is to amend the Act to require councils to submit certain referenda questions to electors at least once every 8 years. The referenda could be held mid term to ensure any change is effective the following election, no more than 2 years away. It could also be conducted by postal vote, with an electronic coded format to facilitate a quick result and avoid high labour costs associated with the clumsy and expensive logistics of polling booths.

Submission 288 (cont.)

One reform I put forward for consideration is to allow local communities the opportunity in each four (4) yearly election to vote on the Constitutional Referendum issues outlined in Section 16 of the Local Government Act – that is, dividing the council area into wards or abolishing wards; changing the basis on which the mayor attains office (by the people or by the councillors); increasing or decreasing the number of councillors; and changing the method of election or voting.

Under the present provisions of the Act a council decision is required to put forward a Constitutional Referendum question. Many councils are reluctant to seek such change, and the community is not given the opportunity to express its opinion on these major issues.

- 4.5.1.6 Portfolio government, popularly elected Mayors and the abolition of wards might be useful things for Warringah Council to consider. But if each of these were introduced, they would not repair the fundamental problems that have gnawed away the community's confidence in the capacity of the elected representatives to direct and control the affairs of the Council.

4.5.2 Respecting the Democratic Process

- 4.5.2.1 Mr. Blackadder, representing both the Councillors and the Corporate Body, in his written Submission (No. 288) to the Public Inquiry the General Manager pleaded for the Councillors to be allowed to present themselves for re-election at the next election. He argued that it should not be a decision made by a Minister or the Governor that removes an elected representative from office. The democratic process should prevail.

Submission 288

My submission is that the community should be given an opportunity in September 2003 to make a judgment as to whether the Councillors command their confidence and support. This is only a short seven (7) months away – or possibly four (4) months from when the Minister might make a decision on your recommendations. If we believe in the democratic process it should not be a decision of the Minister or the Governor to remove elected councillors from civic office - the democratic process should prevail and those who elected the councillors should pass judgement on their performance at the September ballot.

- 4.5.2.2 In his final address at the Public Hearings on April 10 2003, Mr. Blackadder concluded by arguing that the Councillors deserve to remain in office. He claims that they are in a position to direct and control the affairs of the Council, and they should be allowed to do so. They have learnt from the Section 430 Investigation, and from the Public Inquiry. They are willing to make changes.

Submission 288

The Terms of Reference also ask you to have particular regard to the conduct of elected representatives, whether individually or collectively. Some submissions have asserted that conduct has been less than acceptable, whilst others have found the councillors to be helpful and proactive, providing strong leadership.

From my perspective, the Councillors deserve to continue in office. They should be allowed to give effect to the commitments at the time of the Mitchell Report, and now the Public Inquiry, to institute meaningful changes to conduct at and outside of Council Meetings. The Mayor, Councillor Julie Sutton, in her closing address to the Public Hearing, emphasised the Councillors had learnt from the experience and are committed to working together. They should be provided the opportunity to demonstrate that commitment and to allow the electors of Warringah to judge their performance at the next election.

As to community confidence and support, only you can make that judgement based on the 350+ written submissions and individual evidence given at the Public Hearing. The strong submission I make Commissioner is that I believe the Councillors are in a position to continue to direct and control the affairs of the Council in accordance with the Local Government Act, and should be allowed to do so.

In conclusion, both the Section 430 Investigation and Section 740 Public Inquiry have been of significant benefit in identifying areas of improvement to the governance of the Council, and the conduct of elected representatives. It would be easy for you, as Commissioner, to make an adverse finding against the Council if it was clear that councillors and staff had not learnt from the experience. This is not the case. The Mayor and I have given you, and the Warringah Community, a clear commitment that we will lead the changes necessary to address all issues of concern raised during the Public Inquiry and to implement any recommendations contained in your report to the Minister.

- 4.5.2.3 A number of people who gave either written or oral evidence to the Inquiry have argued the same way. For example, Mr. Darby's second written Submission concluded with the same judgement.

Submission 111

In conclusion, the Council should be allowed to run its term until election time, when the voters will have the opportunity to pass judgement on each of the Councillors, as they did in 1999.

Many of the allegations against Council have been exposed as fraud or fiction, and moreover it is now understood that there is a single malign source for the majority of complaints.

- 4.5.2.4 Despite such testaments to the Councillors, the fact is that a majority of the Councillors have, at some stage, asked for the Council to be dismissed. Each of the Minority Councillors has done so, although as noted, Councillor Forrest has changed his opinion recently. Councillor Moxham, at the Public Hearings and in his Submission in reply dated April 24 2003, called for the elected representatives to be dismissed. If the Councillors were to stay in their positions until next March, it would be the worst possible outcome for the residents and ratepayers of Warringah, he argued.

Submission 337

I am writing to you following my oral submission to the recent public enquiry into Warringah Council. I wish to reiterate the thrust of my presentation to you during my attendance at the enquiry. Firstly, I am aware that you have received many submissions calling for the elected Council to run its course to the next local government election, due now in March 2004.

Mr Commissioner, I believe that for the residents and ratepayers of Warringah this would be the worst possible outcome. Many of the current Councillors would likely be re-elected and it is also likely that failed candidates from the 1999 election would be successful. This mix would lead to a continuation of the acrimonious situation that we currently experience and indeed have for some time.

Mr Commissioner, I honestly believe that two years under an administrator will allow the Council to consolidate and reinvigorate itself. This break would enable Council staff to refocus on their work without the morale sapping sensationalism witnessed on a day-to-day basis in our local newspaper. Two years will allow the heat to dissipate because the vitriolic and poisonous atmosphere that exists today will settle only with appropriate time out.

- 4.5.2.5 The evidence of the Inquiry certainly suggests that a strong majority of the residents of Warringah have lost confidence in the elected representatives' capability to direct and control the affairs of the Council. This is a persuasive reason for recommending that their positions be declared vacant. It might be argued that the elected representatives have failed to manage the affairs of Council efficiently and effectively, and so have lost the confidence and support of the community. By so doing, the elected representatives, in the eyes of many in the community, have forfeited their right to govern. By declaring their positions vacant, democracy would be upheld, rather than the reverse.
- 4.5.2.6 What must be weighed up is the possibility that the elected representatives might change their approach, in the way that both the Mayor and the General Manager have forecast that they will. If they were to do that, would it be enough to convince the community that they should remain in office?
- 4.5.2.7 Despite the optimism of the Mayor and the General Manager, the conclusions drawn from the evidence of the Inquiry points to a more pessimistic result. The enmity and antagonism displayed by a number of elected representatives at the Public Hearings only served to show that the divisions amongst the Councillors still run very deep. The divisions are both philosophical and personal. There has been so much damage done to the morale of some, and to the reputations of others, to believe that the past will not be repeated if the Inquiry closed and the threat of dismissal were removed. Fundamentally, the "Majority" Councillors do not appear to believe that change was really needed. They grudgingly might accept it, if that were to be the price of staying in office. They did not really believe the signs that showed that many in the community had lost faith in them. With such attitudes, it is difficult to comprehend actions being taken by the "Majority" Councillors that would win back the confidence of the community.

- 4.5.2.8 There have been a number of operational changes flagged, and a number of promises about the future behaviour of the Councillors have been made. Some of the operational changes have been put in place, and some are yet to be made. More changes will need to be contemplated, if the Council is to win back the confidence of the whole community. In respect of the operational changes that have been made, and those that might be made, it is apparent that they would be more effectively put in place if the elected representatives were removed from their positions. Despite the promises about improved behaviour, there are too many ingrained attitudes and ingrained practices to hope that Councillors would not interfere with the direction of reform. The community's awareness of these attitudes and practices, and the community's memory of the disruption and disdain of the past few years, are such that they would be sceptical of the ability of the current Councillors to put through a program of reform.
- 4.5.2.9 Two former Mayors (Mr. Moxham and Mr. Green) have argued that the problems of Warringah Council run so deep that more radical solutions should be considered. Both think that a merger of Warringah and Manly Councils should be considered. Mr. Barr, the State Member for Manly, argued that Ward B should be excised from Warringah and be made part of Manly Council. Mr. Humpherson, the State Member for Davidson, has made a public call (The Manly Daily, May 14, 2003) for Warringah, Manly and Pittwater to be merged into a Northern Beaches Council.
- 4.5.2.10 The question of merging Warringah with other Councils, wholly or in part, was not pursued at the Public Hearings. The issue was raised by Councillor Moxham on March 27 2003 and by Mr. Barr on April 4 2003. No other speakers at the Public Hearings raised it. It was contained in Councillor Moxham's Submission in reply, and it was also raised by Mr. Green (Submission 346). It was not raised in any other Submissions. The Inquiry, therefore, did not have sufficient evidence to make a judgement on the merits of the merger proposals. If the elected representatives' positions were to be declared vacant, they are matters that might be considered in the future when considering how to put in place an appropriate structure to provide optimum community leadership.