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Official Committee Hansard

SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES
COMMITTEE

Reference: Regional Partnerships Program

THURSDAY, 24 FEBRUARY 2005

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SENATE
FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE

Thursday, 24 February 2005

Members: Senator Forshaw (*Chair*), Senator Watson (*Deputy Chair*), Senators George Campbell, Heffernan, Moore and Ridgeway

Substitute members: Senator Barnett for Senator Watson, Senator Carr for Senator George Campbell, Senator Johnston for Senator Heffernan, Senator Murray for Senator Ridgeway and Senator O'Brien for Senator Moore

Participating members: Senators Abetz, Brandis, Boswell, Brown, Chapman, Colbeck, Conroy, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fifield, Harradine, Knowles, Ludwig, Lundy, Sandy Macdonald, Mackay, Mason, McGauran, McLucas, Payne, Robert Ray, Sherry, Stephens, Tchen, Tierney and Webber

Senators in attendance: Senators Barnett, Carr, Forshaw, Johnston, O'Brien and Stephens

Terms of reference for the inquiry:

To inquire into and report on:

- (1) The administration of the Regional Partnerships program and the Sustainable Regions program, with particular reference to the process by which projects are proposed, considered and approved for funding, including:
 - (a) decisions to fund or not to fund particular projects;
 - (b) the recommendations of area consultative committees;
 - (c) the recommendations of departmental officers and recommendations from any other sources including from other agencies or other levels of government;
 - (d) the nature and extent of the respective roles of the administering department, minister and parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff in the process of selection of successful applications;
 - (e) the criteria used to take the decision to fund projects;
 - (f) the transparency and accountability of the process and outcomes;
 - (g) the mechanism for authorising the funding of projects;
 - (h) the constitutionality, legality and propriety of any practices whereby any members of either House of Parliament are excluded from committees, boards or other bodies involved in the consideration of proposed projects, or coerced or threatened in an effort to prevent them from freely communicating with their constituents; and
 - (i) whether the operation of the program is consistent with the Auditor-General's 'Better Practice Guide for the Administration of Grants', and is subject to sufficient independent audit.
- (2) With respect to the future administration of similar programs, any safeguards or guidelines which might be put in place to ensure proper accountability for the expenditure of public money, particularly the appropriate arrangements for independent audit of the funding of projects.
- (3) Any related matters.

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Committee met at 10.01 a.m.

CHAIR—I declare open this public hearing of the Senate Finance and Public Administration References Committee. Today's hearing is part of our inquiry into the administration of the Regional Partnerships program and the Sustainable Regions program. We have previously held three public hearings in Canberra and published a number of submissions received by the committee. They are available on the committee's web site. Today we will be taking evidence from the Wyong Shire Council, the Central Coast Area Consultative Committee, the Central Coast Community Environment Network and the Department of Transport and Regional Services.

I advise all witnesses that evidence given to the committee is protected by parliamentary privilege. This means that witnesses are given broad protection from action arising from what they say. The Senate has the power to protect them from any action which may disadvantage them on account of evidence given before the committee. I remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. We prefer to conduct our hearings in public; however, if at any stage a witness wishes to discuss their evidence with the committee in private, they should make that request and we will consider it at that time.

The committee decided at an earlier hearing that evidence given by all witnesses to this inquiry should be given either under oath or by affirmation. However, I make the point that, whether or not evidence is given under oath or by affirmation, the situation is still the same—any false or misleading evidence may constitute a contempt of the Senate.

[10.03 a.m.]

CATHERS, Mr David Graeme, Director, Engineering Services, Wyong Shire Council

GRAHAM, Councillor Robert Leslie, Deputy Mayor, Wyong Shire Council

PAVIER, Mayor Brenton, Mayor, Wyong Shire Council

YATES, Mr Kerry, General Manager, Wyong Shire Council

CHAIR—Welcome. I appreciate your attendance here today. On a couple of administrative matters: prior to today's hearing we received a substantial series of documents from the Central Coast Area Consultative Committee. Senator Johnston has moved that those documents be formally received and published. There being no objection, it is so ordered. We have also been provided with a document from the council headed *Snapshot of the Tuggerah Lakes estuary management study: draft*. Will you be presenting that as part of your evidence this morning?

Mayor Pavier—That is a reference document that was provided more for the committee's information. It was adopted by council last night to go out on exhibition.

CHAIR—We will accept that as it is already a public document. We will accept that as part of your overall submission. I ask that people turn off their mobile phones or put them on mute or silent, if they have not already done that. I should also mention that we acknowledge the traditional owners of the land upon which we are meeting today. We do not normally do this at the start of committee inquiries. Before we go to questions, I invite you to make a brief opening statement and then we will get underway with questions. Who would like to lead off?

Mr Yates—Thank you, Chair. We do not intend to make any extensive opening statement at this point.

CHAIR—Does that apply to everyone?

Mayor Pavier—I can only add that whatever we provide you with will be honestly provided—hand on heart sort of material.

CHAIR—Okay. I might start off with a comment before we go to questions. I want to make it very clear that the role of the Senate Finance and Public Administration Committee is to oversight, amongst a whole lot of other activities, the expenditure of government public money. This inquiry has been set up to look at the administration of the Regional Partnerships and Sustainable Regions programs that involve substantial amounts of public money. We are looking into the administration of that program. I think that should be pointed out because we certainly take our responsibilities seriously. We do not regard them as a waste of time, despite what other people may have said in the media.

Senator O'BRIEN—I am not certain what everyone's role has been in this process. Perhaps each witness could describe in a sentence or two what their role has been in the Tumbi Creek process, if I can put it that way.

Mr Yates—I might lead off. I am the General Manager of Wyong Shire Council and as such control all the staff of the council, including technical staff. Mr Cathers is one of my directors. We report to the elected council and all reports to the council go through my hand.

Mr Cathers—I am the director of engineering. In terms of the project, this whole area has fallen within my responsibility. I am responsible for all the technical attributes of the project.

Mayor Pavier—I am the Mayor of Wyong Shire Council. My role in this has been to properly represent a portion of the community that have some very strong views on Tumbi Creek.

Councillor Graham—My role in this goes right back, I suppose, to when I was a state member of parliament for this area and I took a great interest in the Tuggerah Lakes system. I was lucky enough to get \$13 million at the time from the state government for the Tuggerah Lakes. One of the important things about Tuggerah Lakes and Tumbi Creek is that Tuggerah Lakes covers 80 square kilometres. Our catchment area is 670 square kilometres. I tell you this because I know some of you folk are from interstate and probably have never heard of the wonderful Wyong Shire and Tuggerah Lakes. The Tuggerah Lakes have 105 kilometres of coastline. If all the people who live in Wyong Shire stood around the lake foreshores, they would be almost a metre apart from each other. That is how big our lakes are. They are enormous. One of the problems we have as a council is getting our message through to Canberra and Macquarie Street that 150,000 people live in Wyong Shire but we are spread out. We have a whole lot of little villages surrounding Tuggerah Lakes.

The issue of Tumbi Creek was something that was near and dear to me. When I came onto council I wanted to get something done about the opening of Tumbi Creek. Tumbi Creek, as you would know from your visit there today, is a little out of the way area and the tourists do not know about it. As I have said recently, I think everyone in Australia knows about it now. It was something that only our local folk knew about. They used to like to put their boats—their tinnies—in there and go out and do a bit of fishing and come back. Since it has been sealed up they have had to go and fight with the tourists at places like Picnic Point, just down here.

So they were urging me to do something about opening it. It has been opened a number of times during the last 20 or 30 years. So I set about trying to do something about that. I think, off the top of my head, that in the year 2002 Wilson Tuckey came to visit us here in Wyong Shire and he told us that he was going to be looking at putting money directly from the federal government to local government. It was at that time that I thought, 'Well, here's a go.' I went and visited our local federal member, Mr Ticehurst, and asked if we could do something about Tumbi Creek. That is how it all started and it has blossomed on from there.

Senator O'BRIEN—So your role is on the council? You are a councillor?

Councillor Graham—That is right; I am deputy mayor.

Senator O'BRIEN—Your role in relation to the project has been in respect of council's contemplation of its role in the project?

Councillor Graham—Exactly.

CHAIR—Did you say \$13 million or \$30 million?

Councillor Graham—It was \$13 million back in 1988.

CHAIR—That was from the New South Wales government?

Councillor Graham—That was from the New South Wales state government.

CHAIR—What was the specific purpose for the funding?

Councillor Graham—It was for the lakes' restoration. In hindsight I think that more could have been spent in the catchment area at the time. We did I had a heck of a lot of work on restoration here at Terilbah Island. Just north of that, two more islands have been created where we dredged between Terilbah Island and the mainland. We did work on the fishing platform at North Entrance. All along Long Jetty and around Berkeley Vale was dredged and restored. We did a fair bit of work on that. The problem was—and I fought with the public works department over it—that they would not go into Tumbi Creek, even at that stage, and dredge there. They said that their brief was to go into the lake and that is where they stayed.

Senator O'BRIEN—This issue has been raised in the federal parliament and the local member, Mr Ticehurst, said that the Tumbi Creek issue was responsible for an increased vote for the Liberal Party in the last Wyong Shire Council election. Mayor Pavier, apparently you said the same thing in the media. Can you explain how Mr Ticehurst and you formed that opinion?

Mayor Pavier—There was very strong public resistance to the council's wish to disperse sediment across the lake bed. Gauging by a number of public meetings, there was certainly a public sentiment that the dispersal of the sediment across the lake bed was not in keeping with what the community wanted.

Senator O'BRIEN—Did you have any role in Mr Ticehurst's campaign?

Mayor Pavier—No; only, obviously, in a supporting role and by manning a booth. I was not on his campaign committee.

Senator O'BRIEN—Councillor Graham, can you outline the role and membership of the Tuggerah Lakes Estuary and Coastal Management Committee, please?

Councillor Graham—Yes, I would love to. I am chairman of that committee. You have been given a copy of that, and I believe we have a few more copies. I hope that senators will take copies with them to look at. I am very passionate about this. It all stems back to the time when we had the \$13 million. In hindsight, it would have been great if we had started in our catchment. I mentioned to you before that we have 670 square kilometres of catchment in the area. We have been working on producing this draft for a couple of years. The real one is quite

thick, so today we have presented to you a precis of it. It is on exhibition after last night's council meeting. Now we are putting together the estuary management plan, which we hope will be ready in the middle of the year. When our friends at Lake Macquarie put out a plan, it cost quite a lot of money. Just as a guesstimate, we will probably need between \$50 million and \$100 million.

Senator O'BRIEN—Who is on the committee? What is the committee's relationship with council?

Councillor Graham—There is me, three other councillors, and members from the National Parks and Wildlife Service, DIPNR, Fisheries, waterways, and community members—quite a variety.

Senator O'BRIEN—Was it drawn together by the council or was it formed outside the council?

Mr Yates—I could clarify that. It is a formal committee of council and, as such, it reports to council.

Senator O'BRIEN—That is the sort of information I was trying to collect. As I said, this matter has been mentioned in the parliament, as you are well aware. Earlier, there was debate about an email tabled in the federal parliament in connection with the debate over the Tumby Creek matter. Councillor Graham, you sent an email to Mr Yates on 17 November and it began: 'Councillor Hallett is obviously playing politics with this one.' Am I correct in understanding that you were referring to Graeme Hallett, special adviser to the Minister for Local Government, Territories and Roads?

Councillor Graham—Yes, that is right.

Senator O'BRIEN—He is not a member of council, is he?

Councillor Graham—No.

Senator O'BRIEN—Why did you refer to him as 'Councillor Hallett'?

Councillor Graham—At the time I probably thought that he was taking a councillor role in it. It was just a tongue-in-cheek thing, I suppose, that I said in the email at the time.

Senator O'BRIEN—It is not terminology used around the council to describe Mr Hallett?

Councillor Graham—No, just mine at that time.

Senator O'BRIEN—No-one else uses that term?

Councillor Graham—I do not know.

Mayor Pavier—Could I add that, even last night, Councillor Graham referred to Kerry Yates, the acting general manager, as 'Councillor Yates'.

Councillor Graham—That was a slip of the tongue.

Mayor Pavier—I think it is something just particular to Councillor Graham.

Senator O'BRIEN—A 'slip of the email' as well. Can you tell the committee the date on which council officers were asked to develop the options papers about Tumbi Creek, considered by council on 9 June last year?

Mr Cathers—Maybe I could address that. On 10 March the council considered a recision motion not to proceed with placing dredge spoil across the bed of Tuggerah Lakes. That particular meeting on 10 March 2004 called for a report on other possible options and costs.

Senator O'BRIEN—Mr Cathers, can you explain what the report means when it says that the options are 'based on preliminary data and would require further investigation'?

Mr Cathers—Yes. The report that was subsequently presented to the council on 9 June outlined 10 options. There were basically two sets of five options. One set of options considered the old dredging alignment, which I showed the senators this morning, and the other five options considered the new alignment. The reason why I included the comments that were based on preliminary information was that it was developed to, I guess, a concept level. We had some preliminary survey levels taken and the information was not good enough at that point in time to include in contractual documents.

Senator O'BRIEN—I think you advised council officers on that date that further investigation of the site, examining the possible spoil removal, temporary storage areas and disposal methods, full environmental assessment and referral to the various approving authorities, was needed prior to gaining consent from a variety of authorities to proceed. Were officers able to include the original, less expensive dredging proposal as one of the options presented in this preliminary paper?

Mr Cathers—Not in that paper; it was not examining the original proposal. The council resolution called for a report on possible options other than the one which placed dredged spoil across the lake bed, because the council had already considered that matter.

Senator O'BRIEN—So your brief was to avoid that option?

Mr Cathers—That is correct.

Senator O'BRIEN—Why did the engineering department rank the option selected by council as the third of the 10 options presented?

Mr Cathers—It was ranked on a basis of ecological impacts, social impacts et cetera. That ranking, by the way, was within the 10 options. It was an internal ranking; it was not ranked back against the original proposal. It was the basis of an assessment that we had undertaken.

Senator O'BRIEN—The ranking was within the 10 options. Is that what you are saying?

Mr Cathers—That is correct.

Senator O'BRIEN—And it was the third ranked option.

Mr Cathers—It was No. 3.

Senator O'BRIEN—There is a ranking score and it scored a three, not one or two.

Mr Cathers—That is correct.

Senator O'BRIEN—Did officers provide council with material other than the options paper to assist its deliberations?

Mr Cathers—Not at the time, because the report was comprehensive in itself.

Senator O'BRIEN—When you say it was comprehensive, it was a preliminary assessment.

Mr Cathers—Yes, it was a preliminary assessment. In order to draw some conclusions as to what was the favoured option, I felt it was sufficient to draw that conclusion.

Senator O'BRIEN—Was there any comment at the council meeting that it was a preliminary assessment only?

Mr Cathers—I cannot recall if there was any comment at the meeting.

Senator O'BRIEN—As I understand it, only three paragraphs in the report were dedicated to that option.

Mr Cathers—The report was examining all options. In examining all options, it came to a conclusion on that particular one. For instance, the issue about the most favoured option, No. 1, was option 1(a). The issue about that was because it was on the old alignment. My recommendation to the council was that the proposal be placed on the new alignment.

Senator O'BRIEN—Why did three rank below one?

Mr Cathers—Because there were various costing issues. The cost to do it on the old alignment was cheaper compared to the new alignment—it was obviously more expensive—but as an overall project it was felt that there would be benefits in terms of its longevity.

Senator O'BRIEN—Presumably those assessments took into account issues such as the environmental impact of the type of process involved?

Mr Cathers—Yes.

Senator O'BRIEN—So there are a variety of approvals which are required for the option that was selected, including the ability to dump the spoil on the foreshore on the salt marsh, which requires state government approval.

Mr Cathers—Yes, that is correct. That is part of our licence arrangements that we are currently going through with the state government. We have not yet got a licence for the proposal.

Senator O'BRIEN—And no such licence issue arose for the original option that you were not allowed to consider? You already had approval for the dredging and dumping of the spoil on the bottom of the lake?

Mr Cathers—We had been issued with a licence for the very first proposal and, in fact, we still have that licence.

Senator O'BRIEN—Do you envisage any difficulties or significant issues in the proposal to dump the spoil on the salt marsh and in getting environmental approval for?

Mr Cathers—The review of environmental factors that we have done as part of our licence submission deals with that, and it identifies where the material would be placed to minimise any impact.

Senator O'BRIEN—There will be some impact then?

Mr Cathers—There will be some impact.

Senator O'BRIEN—So it is an unknown as to whether that will gain approval through the state process?

Mr Cathers—I cannot answer for the state.

Senator O'BRIEN—The council does not know that it will gain such approval?

Mr Cathers—No, we do not know.

Senator O'BRIEN—You certainly did not know at that time.

Mr Cathers—No.

Senator O'BRIEN—What weight did councillors give to the report in the context that it was a preliminary report? Was there any discussion about the fact that it was a preliminary report? That would imply that further work needed to be done.

Mayor Pavier—I would have to look at the report. There has been so much toing-and-froing in the last couple of years that the amount of reports that we have received on this particular section of our lake is daunting. I am not familiar with that particular report at this point in time.

Senator O'BRIEN—It was the report on which the council apparently based its decision to apply for funding. As that initiated a request at that time to the Commonwealth for \$680,000 plus GST and, subsequently, apparently another \$680,000 plus GST, I presume that it was the key report in this process. Is that a fair understanding?

Mayor Pavier—I think the council gave the staff a certain direction and they were coming back with it, following the resolution of council. Again, I would have to look at the report to give you an honest answer on that. As I said, there have been so many reports as a result of the toing-and-froing on this particular issue.

Mr Yates—It is not unusual for us to put a report up to council based on only preliminary information. It is certainly not unusual for us to be making grant applications based on preliminary information without detailed design, because it is pointless spending a lot of money on doing detailed design when a grant might not be obtained or council might or might not decide to go ahead. It would not be feasible for us in this case, for instance, to do detailed design and documentation on 10 different options for council to decide on which one they wanted to investigate further. So could I suggest to you that, at least for our council, it is not unusual to have a preliminary report on which council then decides to proceed.

Senator O'BRIEN—I will put it in context. On that same day the *Daily Telegraph* Central Coast Extra reported:

Federal member for Dobell, Ken Ticehurst, yesterday committed the money to pay for 15,000 cubic metres of spoil to be dredged and dumped at Buttonderry Tip near Wyee under the Regional Partnerships program. Wyong Shire Council will meet tonight to decide how best to deal with the Tumby Creek problem and whether or not to apply for the funding.

Was that an impelling factor in the consideration of preliminary document in the process of applying for the grant? I am inviting an answer. Mr Mayor, you are welcome to answer if you have the answer.

Mayor Pavier—I do not think anything that Ken Ticehurst or the candidate were saying in the media was impacting upon certainly my decision. Councillor Graham, do you want to add a comment to that?

Councillor Graham—No.

Senator O'BRIEN—Did Mr Ticehurst, Mr Hallett or Mr Lloyd attend the meeting on 9 June?

Mayor Pavier—From memory, Mr Ticehurst has attended council on a number of different occasions, specifically on this topic, yes. I cannot recall whether it was on that particular night.

Senator O'BRIEN—So you are saying that Mr Ticehurst's announcement on 8 June had no effect on the council's deliberations?

Mayor Pavier—I do not pay particular attention to press releases—in particular, those about what was going on that time. I was certainly purely focused on trying to do my job.

Senator O'BRIEN—Seriously? The councillors went to that meeting not knowing that the local member was promising you hundreds of thousands of dollars?

Senator BARNETT—Mr Chairman, a point of order.

Senator O'BRIEN—What is the point of order? You'll think of one now, will you?

Senator BARNETT—The point of order is based on fact. Senator O'Brien is making a statement that the member announced the funding verbally. The media release of Mr Ticehurst made it quite clear that he would be seeking the funding. It is different to announcing the funding. I want to make that clear rather than misrepresenting the position—

CHAIR—There is no point of order. You know that is a debatable point: you know it; I know it.

Senator BARNETT—It is not a debating point.

CHAIR—Do not argue with the chair. It is a debating point: it is not a relevant point of order. I will allow the question. You will have your opportunity shortly—as you know, you constantly preface your questions with comments.

Senator O'BRIEN—I am simply asking: Mr Mayor, are you seriously saying that Wyong Shire Council had no regard for the fact that published in the *Daily Telegraph's Central Coast Extra* was a report that the local member committed to pay for a 15,000 cubic metre dredging operation and for the spill to be dumped at Buttonderry tip near Wyee?

Mayor Pavier—I am not speaking on behalf of council with regard to that. I am speaking on a personal opinion, which is what I thought you were asking me for. With regard to the whole of council, I think we were acutely aware of the amounts of money that were being put around in the media and certainly what we were seeking. But the amount of press releases that were toing-and-froing on Tumby Creek was enormous at the time—it was certainly a hot issue.

Senator O'BRIEN—Sure. I did not mention a press release; I talked about what was in the paper. That was the nature of my question. What about you, Councillor Graham?

Councillor Graham—It had absolutely no effect on me; I can promise you.

Senator O'BRIEN—You were committed to the project anyway?

Councillor Graham—Of course.

Senator O'BRIEN—Before you had seen the officer's proposal?

Councillor Graham—As I said in my first remarks, I have been committed to this from day one. I still am and will remain so. As far as an article in the newspaper is concerned, it had no effect on the way I voted in or the way I supported it—absolutely none at all. I am sure that it did not have a great effect on any of the other councillors either.

Senator O'BRIEN—Who actually uses Tumby Creek to access Tuggerah Lake?

Councillor Graham—Nobody at the moment.

Senator O'BRIEN—We saw someone today, so that is not true.

Councillor Graham—Nobody at the moment. But if it were to be opened up, the three main things—

Senator O'BRIEN—Councillor, we went out through the mouth this morning and a fisherman came in through the mouth this morning, so is not right to say 'Nobody at the moment,' is it?

Councillor Graham—I was not there to see who was coming in. I know that fishermen are getting in and out, but it is not really completely navigable because it is not completely dredged enough for the boats to go in and out. But the three main reasons that I was pushing for Tumbi Creek—

Senator O'BRIEN—The question was who uses it. I was asking if you know who uses it at the moment. You do not think anyone does?

Councillor Graham—Robert Ray is a fisherman from Tumbi Creek road. You might be able to have a chat with Rob.

Senator O'BRIEN—I saw him this morning. He came in the mouth of Tumbi Creek in his boat.

Councillor Graham—I know; I have been out on his boat with him out through it, with David Gardiner from NBN.

Senator BARNETT—He is actually here with us today.

Councillor Graham—Yes, I know; I hope so.

Senator O'BRIEN—The decision to open up the mouth was based on usage, wasn't it?

Councillor Graham—I do not think that it was based on usage. Do you mean usage by humans or by fish? One of the problems with it being blocked up is that the fish cannot get upstream to breed. Another, very important, thing is that there are about 16 or 20 homes that could be flooded if there were a big downpour of rain up there and it were not able to be opened. I have asked on several occasions in council whether if that did flood we would have a duty of care to open it up without getting all the permissions to alleviate the flooding.

Mayor Pavier—Certainly in my mind, if you want my tuppence worth, is that the flood situation for those 16 or 18 homes is paramount and recreational boaters would probably carry less weight. People swimming, quality of water—those are lesser weight factors. But certainly in my mind the flooding issue is paramount.

CHAIR—Are the homes you mention the ones that we could see this morning when we did our inspection of the mouth of the creek?

Mr Cathers—When we went out onto the lake and we were looking back to within the throat of Tumbi Creek there were homes or properties on the right- and left-hand sides of Tumbi Creek.

CHAIR—Yes; we saw those. When were they built?

Mr Cathers—There is a range of ages. The ones that are predominantly impacted are fairly old.

Senator O'BRIEN—So what flood risk assessment has the council done on Tumbi Creek?

Mr Cathers—We have done a fairly extensive hydraulic analysis that considered a range of events up to, and including the one-in-100-year event.

Senator O'BRIEN—Is the committee able to be supplied with that documentation quantifying the flood risk?

Mr Cathers—Yes; I am happy to provide that.

Senator O'BRIEN—Has consideration been given to the frequency of the need for dredging at Tumbi Creek? Obviously it has been dredged a number of times—we heard this morning—going back to 1980-something. You can remind me.

Mr Cathers—In 1974, 1986 and 1995 were the previous occurrences when it has been dredged.

Senator O'BRIEN—So under the proposed project, and subject to approval under the Regional Partnerships program, when would it need to be dredged again?

Mr Cathers—I would anticipate somewhere between seven and 10 years.

Senator O'BRIEN—What of the issue—which was raised with me this morning at the creek by a local resident—about the need for a focus upon the upstream remediation works rather than the dredging need? What consideration has the council given to the need for upstream remediation to reduce the silt entry into the creek?

Mr Cathers—Some of the other reports the council has considered over the whole of the period that Tumbi Creek has been under examination have identified some of the options that are available upstream. The council has already expended some hundreds of thousands of dollars in doing works in that area. There is a program of works that the council has identified to be undertaken. Indeed, that was part of the presentation that I presented to the council on 24 November last year.

Senator O'BRIEN—And there is no priority need for funding for that work rather than the dredging work when you presented that report in November?

Mr Cathers—There is a need for funding for that work.

Senator O'BRIEN—But it wasn't seen as a priority as against dredging?

Mr Cathers—The problem we have got there requires a fix now, whereas the work we would be doing upstream would be providing a solution to a longer term problem. So it is a question of

which do you deal with first. We would be seeking funding for the works upstream, in addition to the council expending its own money.

Senator JOHNSTON—Mayor Pavier and Mr Yates, thank you very much for the time that council officers took to take us down through the throat of that creek this morning in your punt. It was very pleasant. I was most amazed to see the extensive fish life and wild life at the mouth of Tumbi Creek. So thank you very much to council for that. We do appreciate it. I know I certainly did. Mr Cathers, thank you also for taking us out today. I note flood risk. I mentioned to you while we were out there the difference between non-feasance and misfeasance. It strikes me that council has tried to do a lot of flood mitigation of its own upstream. Is that correct? Drainage channels and those sorts of things?

Mr Cathers—Yes.

Senator JOHNSTON—Does council have any advice on the liability it faces with respect to the ongoing management of the mouth of Tumbi Creek and the flood risk?

Mr Cathers—We do not have any specific advice.

Senator JOHNSTON—But you have 16 houses that are potentially threatened in a one-in-100-year event?

Mr Cathers—16 properties.

Senator CARR—Houses?

Mr Cathers—Some of them are houses.

Senator CARR—How many are houses?

Mr Yates—I would make the comment that I do not believe that we have any definitive legal advice with respect to Tumbi Creek. We certainly have had experience over the years with numerous claims and circumstances where we have had to be very careful about our liability. I recall that I have mentioned to council on more than one occasion that one of the issues with Tumbi Creek is the fact that there is a flood risk there that council is aware of and council has the responsibility of removing that material. While I am certainly not a lawyer and I cannot provide any definitive advice, it seems to me that if council completely ignores that fact and leaves it alone then it would not put council in a good position.

Senator JOHNSTON—And obviously council would want to look after the best interests of its ratepayers in that area.

Mr Yates—Indeed.

Mr Cathers—Going back to the previous question—

Senator JOHNSTON—About the 16 properties.

Mr Cathers—There are five houses that would be impacted, in terms of their floor levels, in what we call ‘habitable’ areas. There are then a further three that are impacted in non-habitable areas, such as laundries, garages and those sorts of areas. The other ones are the properties themselves.

Senator JOHNSTON—The land would become—

Mr Cathers—Yes.

Senator BARNETT—Of the 16 properties, how many have houses on them?

Mr Cathers—All of them, from memory.

Senator JOHNSTON—We talked about water quality this morning. Is this area a nursery for fish life in the lake? What do we understand about the contribution this area makes to the lake’s fish life?

Mr Cathers—It has been identified in the REF—the review of environmental factors—for this project that it is important that we both improve and maintain water quality. That will deal with a number of ecological issues. We have had specialist ecological advice that it is important that we try to deal with the exchange of water—that is, allow the creek to flow.

Senator JOHNSTON—I note that there was a fisherman there this morning, when we visited the site. I am not familiar with New South Wales fishing regulations. Do you need a licence to fish in the lake?

Councillor Graham—Yes.

Senator JOHNSTON—How many licences are there? How big is the industry in Tuggerah Lake with respect to commercial fishing? Can you give me some assistance on that?

Mr Yates—I believe commercial fishing has declined over the years. I believe—I stand to be corrected—there are less than 30 commercial licences in the lake these days.

Senator JOHNSTON—What sort of fish are caught in the lake, by the way?

Mayor Pavier—It depends on how good a fisherman you are.

Senator JOHNSTON—I note that council has put up two signs at the boat ramp advising people wanting to take their boats out through the mouth of the creek that the waters are not navigable. How long have those signs been up?

Mr Cathers—In excess of two years. In fact, that is a requirement because of the boat ramp there. We did not want people to launch their boats and then have a problem.

Senator JOHNSTON—Did council install the boat ramp wayback when?

Mr Cathers—Yes, it was a council-installed boat ramp.

Senator JOHNSTON—So, for two years, council has had signs saying, ‘Please do not use this boat ramp and do not seek to go out of the mouth because it is not navigable.’ Was that done on legal advice or was it just an advisory precaution taken by council?

Mr Yates—I do not believe it was based on particular legal advice in regard to that matter. However, we have another matter which is going to the High Court this year regarding an incident out on the coastline that revolved around signage, or lack of signage. As a result of legal advice in respect of that matter, we have put up signs there. This matter has been going on for several years, so we are a little sensitive to signage, shall we say.

Senator JOHNSTON—In terms of lake management, does the Wyong Shire Council control all the boundaries surrounding Tuggerah Lakes?

Mr Yates—There is an area that is absolute water frontage—

Senator JOHNSTON—So the titles run right down to the water?

Mr Yates—Yes, but the majority would be crown land which is under council’s care, control and management.

Senator JOHNSTON—How does council rate dredging this particular area in terms of the management of the lake? Is it a high priority?

Mayor Pavier—At this point in time, council spends approximately \$3 million of the ratepayers’ funds just on management issues of Tuggerah Lakes. As a council, we unanimously resolved to expend—hopefully in partnerships with the state and federal governments; that was our wish—another \$680,000 just purely on this particular topic. To answer your question, Senator, I would say that it rates very highly.

Senator JOHNSTON—If this project goes ahead, firstly, do we have any local dredging contractors or do we have to go outside the region? Is the money staying here in the shire?

Mr Cathers—There is a dredging contractor in the Lake Macquarie area who could have the capability of dealing with this. However, it would be a public tender and the council would award the tender based on the best value for money.

Senator JOHNSTON—What are you going to do with the waste you recover from the floor or the mouth of the creek? Someone suggested to me this morning that you are going to wash it and sell it.

Mr Cathers—At this stage, we are going to be taking it to Buttonderry tip for disposal. The issues associated with its reuse are such—

Senator JOHNSTON—The pyrite content makes it highly unusable, I would have thought—when it starts to oxidise.

Mr Cathers—Yes. That gives rise to an acid sulfate soil issue, and unless that is dealt with it can become quite burdensome. So, yes, our proposal is not to reuse it, as such; it is basically a waste product.

Senator JOHNSTON—Have DOTARS said that the money will not flow until all the environmental approvals with respect to the handling of that sedimentary soil have been passed by your state department?

Mr Cathers—That is correct.

CHAIR—I think you said that you spend \$3 million annually on lake management issues—

Mayor Pavier—Yes.

CHAIR—plus whatever other funding you can access. What is the total budget of the council?

Mayor Pavier—It is about \$200 million.

Mr Yates—Our current budget is \$210 million. That includes water and sewerage functions, which are a significant amount.

Senator BARNETT—Just to correct the record and clarify things in terms of Ken Ticehurst MP, federal member for Dobell: I have a copy of his media release here dated 8 June in which he says that he is ‘seeking’ \$680,000 for the Tumbi Creek dredging project. Prior to the elections in October, an announcement was made by the Labor candidate, David Mehan—I have his brochure here—that Labor would fund the dredging of Tumbi creek. The brochure is headed ‘Labor to fund the dredging of Tumbi Creek’ and states:

... Labor will fund the dredging of Tumbi Creek with a commitment of \$1.3 million to continue the project.

In the brochure, David Mehan states:

“The health of the local environment is critically important. People want to know that they can enjoy the area but they also need to be reassured that the danger of flooding to homes at the mouth of the creek will be reduced.”

I think that announcement is consistent with the thrust of what the member for Dobell, Mr Ticehurst, said, and in the announcement made by the Prime Minister. So, in a way, you had support from both sides for this particular project prior to the election. Is that correct?

Mayor Pavier—Yes, it was my understanding that after the election whoever was elected—whether the government was re-elected or the Labor Party was in power—would, hopefully, provide us with some federal government funding towards this project.

Senator BARNETT—Congratulations to the Wyong council for being in that position, and I congratulate the local community. I want to ask about the community support for—

CHAIR—I thought you were going to congratulate the candidate too.

Senator BARNETT—The whole community, it seems, should be congratulated for their interest and support. But I want to clarify from the mayor and others around the table whether there is community support for this project. I was down there this morning and met quite a few of the locals—and thanks again for your hospitality and the tour of the creek; it was very informative. They seemed to be very strongly in favour of the project and to ensure that the silt is disposed of on land rather than in the lake. What is the level of support not only in and around the area of the community but generally in the Wyong municipality?

Mayor Pavier—It is extremely high. At the council elections it was certainly the major thrust of my campaign. I have always had a very firm commitment to a particular style of what I would like to see done, and I think I was taking the views of the community into the election. When you look at the results of the council election, Labor in B ward here, which is where Tumbi Creek is, lost one seat, and it was picked up by a Greens candidate with a campaign called ‘Save Tuggerah Lakes’—on a single issue, if you like. So I think the major focus of the community is certainly on Tumbi Creek and Tuggerah Lakes.

Senator BARNETT—So there is strong support in the community for the maintenance of and looking after the Tuggerah Lakes generally but also for this particular project. Can you comment on that?

Mayor Pavier—Yes, I think there is a heightened awareness of the decline in the quality of our lakes—and that has certainly been seen in a number of documents and books I have seen, even just scanning through some—judging by some of the old fishing stories that you get. But with regard to Tumbi Creek, there were a number of public meetings that I attended—

Senator BARNETT—Over the last few years? Over what period of time?

Mayor Pavier—I have attended a couple and I think Councillor Graham has attended a couple. I think he had some press releases on some—

Councillor Graham—I am sorry; I do not have them with me—the photos et cetera. What the mayor says is 100 per cent right. Back in 1988 when the state seat of The Entrance was laid down, I ran for election and never thought I would ever win the election, but I got a 10 per cent swing to me because I ran on the Tuggerah Lakes issue. When I was doorknocking in Wyoming, which is in the Gosford City Council area, people were saying, ‘I’m voting for you because you’re going to do something about Tuggerah Lakes; we go up there fishing.’ Every candidate, whether they be local, state or federal, realised what happened with me in 1988 so everyone runs on Tuggerah Lakes—they are all going to save Tuggerah Lakes. The other thing, as the mayor mentioned, is that Wyong Shire Council spent \$3 million on the upkeep and maintenance of the lakes over a 12-month period, but the state government put in very little and, thus far, over the years the federal government has not contributed anything, so we are very keen to embrace the federal government in the trip with us to make sure that Tuggerah Lakes remain the jewel in the crown of New South Wales.

Senator BARNETT—When we were having our informative tour this morning of Tumbi Creek, I was advised by some of the locals that they had actually signed petitions and letters of support and they had been to public meetings. So in terms of the priority of Tumbi Creek—and I

think you answered a question earlier, Mr Mayor—I just want to clarify whether this is a priority project for your council.

Mayor Pavier—Yes. If you gauge the commitment by the expenditure of funds, certainly of the \$300 million—sorry, the \$3 million—that we expend—

Senator BARNETT—You would like to have \$300 million, wouldn't you?

Mayor Pavier—I would love to have \$300 million.

CHAIR—We are waiting for a press release from Senator Barnett.

Mayor Pavier—The \$680,000 is coming out of general revenue—the general manager will correct me if I am wrong—so it is certainly a high priority as far as this council is concerned.

Senator BARNETT—Now I want to lead to what has been raised in the public arena—in fact, in the federal parliament. Senator O'Brien raised it earlier. The Leader of the Opposition, Kim Beazley, has claimed that this whole project we are talking about, this inquiry today, is actually a 'conspiracy to defraud the Commonwealth', and I would like to get your response as to whether or not you think that is correct.

Mayor Pavier—We certainly have not had any money to defraud the federal government of, and my understanding was that it was tied to a program—as I understand all grants, whether state or federal, always are. If you do a certain amount of work, you get a certain amount of dollars. It was certainly my understanding that any money we were to receive was outlined in some sort of commercial contractual arrangement between staff of both governments.

Senator BARNETT—So you are not involved in any conspiracy?

Mayor Pavier—I have not been involved in any conspiracy, but if I am acting on behalf of the community and they call that a conspiracy then, yes, I am.

Senator BARNETT—I am glad that we have clarified that, up front, from the council, because that is what has been alleged by the Labor Party. They have also alleged that the funding is actually no longer required, because the water from the rain that came down after the election took out some of the silt. I want to come to this point about the engineer's report and exactly what amount of silt did flow through and was removed as a result of the flood. What do you say, just straight up, to this view that the flooding has removed the silt and there is now no longer any need for this project to go ahead?

Mayor Pavier—Before Bob Graham answers I would certainly like to chime in that 1,000 cubic metres out of 30,000 cubic metres is a very small amount.

Senator BARNETT—Just for the public record, the 30,000 cubic metres is the project—

Mayor Pavier—No, that is the amount of sediment that exists at the delta of Tumby Creek. It is 2,400 tipper truckloads. One thousand cubic metres was what the engineering report had put forward and it was insignificant as far as the resolution of council—we stuck to our guns.

Senator BARNETT—If I can just clarify, in the parliament there is this perception that has been created by the other side of politics that this flood has removed the silt and there is actually no need for the project to proceed, but you are saying to me that there are 30,000 cubic metres there and the rain and the flood has removed 1,000 cubic metres?

Mayor Pavier—According to the staff report that we received as council, yes, it was 1,000 cubic metres. The total dredging program was only—

Senator BARNETT—When did you get that report?

CHAIR—Would you just let Mayor Pavier answer. I think he is about to actually qualify the figure of 30,000 in terms of, as I understand it, the size of the project.

Senator BARNETT—We will wait for that.

Mayor Pavier—The dredging program we had always sought funding on was based upon 15,000 cubic metres or 1,200 tipper truckloads. The revenue budget of council is always limited—we are the poor cousin of both our state and federal colleagues and obviously do not have a big bickie tin, as you guys do—and so the \$680,000 was probably the uppermost amount I thought I could go to my fellow councillors and seek some funding arrangements on. But that was always predicated on 15,000 cubic metres of the 30,000 cubic metres of sediment that exist at the delta of Tumby Creek.

Senator BARNETT—When did that report go to council?

Mr Cathers—In terms of the impact of the flooding, it was on 24 November.

Senator BARNETT—Have we got a copy of that report?

Mr Cathers—It was basically a PowerPoint presentation that I gave. There is a transcript of my presentation and—

Senator BARNETT—In due course, is there a chance of providing the committee with the relevant papers to support what you are saying? Can those be provided to the committee?

Mayor Pavier—Yes.

CHAIR—I think on the visit this morning, Mr Cathers, you had photographs and things, which were, I think, copies of a PowerPoint presentation. I think you were going to present those to us?

Mr Cathers—I was going to make those available.

CHAIR—So that is the same material you are talking about?

Mr Cathers—Yes.

CHAIR—If you could do that, it would be appreciated. Thank you.

Senator BARNETT—Did Councillor Graham want to respond?

Councillor Graham—Yes, thank you. All this about the 1,000 cubic metres came about when the rains of October flushed some of the sediment out. I do not live far from Tumbi Creek and I walk down past there every day with my wife. So I knew that there was an amount taken out and I knew my fisher friend was getting his boat in and out—he was doing it with a bit of difficulty but he was getting it in and out.

I am not an engineer. I did not know how much spoil had been washed out, so the question I was asking in council was, ‘How much has been taken out? A certain amount of money has been promised. Do we need all that money now and, if there is any left over—any residue—can we use it up the creek?’ Because, if you have a look up the creek today, you will see that there are many trees starting to fall over and to collapse, so it will not be long before they are in the creek and we will have to drag them out. I asked whether there was going to be any residue from the money from the federal government and, if so, whether there was any chance that we could use some of that upstream to back up the river banks to stop the silt coming down. That all came about. We got the answer back that there was only 1,000 cubic metres, so it is probably pretty much irrelevant. But that is how—

CHAIR—So in relation to the reports that were published in the papers—and I think you were quoted in the media, at least in one article I saw—it was actually you who raised the issue or the potential that some of the silt had been cleared away because of the rain.

Councillor Graham—That is right. It has.

CHAIR—But you were not in a conspiracy with the Labor Party, were you?

Councillor Graham—None at all.

CHAIR—So if it was raised in the parliament based upon what you had been saying and been quoted in the media, then—

Councillor Graham—Yes.

CHAIR—I just thought I would get that on the record, Senator Barnett.

Senator BARNETT—Thank you, Senator Forshaw. I notice you are happy to butt in with your questions but not allow my.

CHAIR—Knowing you would just carry on.

Senator BARNETT—I am happy to proceed. Sorry, Councillor.

Councillor Graham—If you had come prior to the October rains last year you could almost have walked across the mouth of the creek. I am sure we can show you photos of exactly what I

mean. When it was washed out I did not know how much, and I just wanted to seek the advice of our engineer.

Senator BARNETT—Sure, and that is a fair question, but that was clarified swiftly by the mayor and the engineering report? How quickly was that?

Councillor Graham—I do not know, but our engineer works pretty damn fast.

Senator BARNETT—Can I just clarify that about the rain and the flood and the engineering report: what sort of timing?

Mr Cathers—Within days of that event actually occurring in October we commenced the survey work. I had that report available for the council on 24 November.

Senator BARNETT—So by 24 November everything was clarified, the facts were on the table, there was no more misrepresentation to be promulgated: it was quite clear that 15,000 was to be removed and only 1,000 had disappeared as a result of the flood. Can we move on to the benefits of not leaving the silt in the lake but, rather, having it disposed of on land. That is your position, isn't it?

Mayor Pavier—Certainly it is my position and one that I have represented the community on. I have taken that it is akin to infilling our lagoon—it is not a lake, it is a lagoon. Every known, man-made endeavour or effort, sedimentary controls, urban stormwater treatment, stream-bank erosion—these are the sort of devices that we produce as mankind to stop sediment getting into our lagoon. It just seems unbelievable to me to throw your hands in the air and say that just because it has arrived at the delta we should just walk away from it. That is my view and, in representing the community, I believe it is their view on a large basis.

Senator BARNETT—That was a unanimous decision of the council to remove it to on land?

Mayor Pavier—Correct. It has been before council, this particular issue, on a number of occasions to repeat and stand by the program of removing 15,000 cubic metres or 1,200 tipper-truck loads of sediment off site.

Senator BARNETT—All right. Now I want to clarify a position of some in the community, particularly perhaps in federal parliament. Senator O'Brien said earlier, 'The reason to dredge is based on usage, isn't it?' meaning the recreational usage, the boats going up and down the creek. Can we clarify the main reason you wanted to dredge Tumbi Creek—the proposal—and the mouth of Tumbi Creek. I was advised this morning by Mr Cathers that there are environmental reasons, there is the flood risk mitigation, recreational reasons is obviously one, and sociological reasons and other reasons. Can you clarify for the record the reason for your project?

Mayor Pavier—There is a number of different reasons, in lesser weight, if you like. First of all, the flooding mitigation program is probably paramount in my mind. Then there is recreational usage, and water quality usage. We consistently have had reports before council, and I think Councillor Graham has raised this and that is how it came to be affectionately called 'Bob's bog hole', because of the faecal—

Councillor Graham—Coliform.

Mayor Pavier—There you go. I am sorry, Senator, I just have not got my head around some of those—

Senator BARNETT—That is fine.

Mayor Pavier—And, to a lesser degree, fishing and those sorts of things. Certainly there would be a makeweight list of things that we could assign, but flood is probably the most paramount one.

Senator BARNETT—You have dredged it three times before—in 1974, 1986 and 1995—and here we are again, 10 years later, and there is an understanding that perhaps in another 10 years it may be required again.

Mayor Pavier—In 1995, 5,000 cubic metres was removed and pumped onto Adelaide Oval. But that was prior to the new catchcry ‘potential acid sulphate soil’. That is probably where most of the costs in dealing—

Mr Cathers—Mr Mayor, just for clarification: it was 4,000 cubic metres.

Mayor Pavier—Thank you for that. A number of cubic metres was removed in 1995. Since then we have sought to dredge it again. Councillor Graham put up a notice of motion and we sought approvals from the state government. There was a delay of some seven or eight months in getting a culmination of approvals from the state government. We then found that there was a lot more sediment there and the numbers grew. Further surveys were undertaken—and here we are today.

Senator BARNETT—The state government originally had an interest in assisting the council, but they subsequently withdrew their funding support. Can you tell us about that and why that occurred?

Councillor Graham—The general manager may be able to help me here. The local state member sent us correspondence, which we brought to council last night, indicating that they are still wanting to do a fifty-fifty deal with us on—

Senator BARNETT—I am coming to that, but I am talking about this proposal. I understand that they initially had an interest in being part of this proposal.

Councillor Graham—They were invited by the federal member for a one-third share. He said that he would put up a third if the council put up a third and the state government put up a third. That was refused by the state government. The federal member then went out to seek—

Senator BARNETT—Do you know why they refused it?

Councillor Graham—The general manager may be able to help me there. I do not know what the correspondence was.

Mr Yates—Based on the correspondence, I believe that the state government prefer the original option and are prepared to fund that.

Senator BARNETT—The original one being to leave the silt in the lake?

Mr Yates—Yes. As recently as this month or last month, we received a letter from Grant McBride, the member for The Entrance, confirming that that money was still available for the original scheme—not for the scheme that is now favoured.

Senator BARNETT—And, notwithstanding that, you have advised the state government that, in your view, the silt should be removed to an on-land disposal area?

Mayor Pavier—That is the unanimous view of this council. I raised in the chamber a number of problems that I believed were in the process—nearly to the point of how the engineering process would be taken care of in dispersing the sediment of 100 millimetres over the lake bed. I suppose I questioned the engineering capability of anybody to distribute sediment of four inches or 100 millimetres over such a vast area. I think it was about four or five football fields end to end. I questioned it continuously, and there was talk about siltation curtains and all that. I predominantly questioned about north to north-easterly winds blowing and tidal arrangements. In meeting with a number of local residents, I was shown photographs dating back to when a lot of the sediment washed back on to the foreshore and there was a build-up. They are experiencing a lot of ponging—sorry, stink—and they are very vocal in that particular area.

Getting back to your original question on the REF, the review of the environmental factors, I think it is predicated that, in another seven to eight years, about 10,000 cubic metres or thereabouts—I would have to qualify that number for you, but it is certainly in the REF—would again be evident in that particular spot.

Senator BARNETT—Is the REF a document that could be made available to the committee?

Mr Cathers—Yes, we can make that available. That is part of our licence submission to the state.

Senator BARNETT—That would be good. Are the council and the community aware that the state government have a legal responsibility for the lake—that they essentially own it?

Mayor Pavier—I think there is a bit of misunderstanding in the community generally across a number of different attitudes. One is roads. There seems to be a mishmash about whose responsibility it is. With respect to the lake, I do not think it is generally well known. In fact, last night at council during the exhibition of the draft estuary management study, I wanted to have it in the preface that the lakes are owned by the state government but that, in partnership, we manage them. Sometimes we as the council and councillors cop the angst about why things are not being done in the jewel in our crown here in Wyong shire.

Councillor Graham—I do not have to tell you folk that we talk about three tiers of government in Australia but we have really got two tiers, state and federal. If we are really honest about it, local government is only an arm of the state government.

Senator BARNETT—Mr McBride made a statement in the public arena in a media release of 7 February this year where he said that the state proposal was still on the table. You have just mentioned he has tabled some letter to the council where he says that the state government is happy to pay on a fifty-fifty basis, which is based on the original proposal, I understand. Can we have a copy of that letter or can you table that?

Mr Yates—That is in the public realm. We have reported to council last night.

Senator BARNETT—That would be helpful. Is there any other correspondence from the state member, Mr McBride, on this issue that has come to council?

Mayor Pavier—I think there would have been some—

Councillor Graham—Not in recent times.

Mayor Pavier—Not recently, but I think there would be some correspondence history there. If the Senate is of a mind to have that sort of material we can make it available.

Senator BARNETT—That would be appreciated.

CHAIR—We would be happy to have it, but I think you should confirm that it is able to be made available.

Mr Yates—We will certainly do that.

CHAIR—We can obtain that but if it is a letter from the state government to the council I think you should check with the state government as to whether or not they are happy for it to be available. I cannot think of any reason why not but, given that it is communication between the government and the council—

Mayor Pavier—I do not think the state has got anything to hide here.

CHAIR—No, but you cannot make a decision for them.

Mr Yates—We will check that. However, most of that correspondence would probably be in the public realm, I suspect.

CHAIR—If it is in the public realm there is no drama.

Senator BARNETT—Where I am coming from is that we have got an inquiry here which obviously Labor is following through on. We are here as government senators, but if it is an inquiry into Tumby Creek let us get to the facts. We would like a copy of information that has come through from the state Labor government and from your state Labor member to the council in regard to Tumby Creek, any related information.

CHAIR—Senator Barnett, for the record, nobody is suggesting and I am not suggesting that that sort of information should be hidden from this committee. But, as you know, there are protocols to be followed by councils in respect of handing over correspondence they may have

had with state government agencies. It is a matter of courtesy for them to check that they can make it available.

Senator O'BRIEN—Mr Chairman, I think that would be more helpful to this committee than the Department of Transport and Regional Services, who have declined to provide information to this committee.

Senator BARNETT—Seeing Senator O'Brien has raised it, we are aware that this is a politically motivated inquiry by the Labor Party—

CHAIR—We are running out of time.

Senator BARNETT—And some of us would prefer the funds to be spent on Tumbi Creek and its rehabilitation rather than this inquiry. I will finish with one question with regard to the email that has gone into the public arena which was used by the Labor Party in the parliament. In terms of the leak, Councillor Graham, did you leak that email?

Councillor Graham—No.

Senator BARNETT—Do you know who did?

Councillor Graham—No, I don't.

Senator BARNETT—Does anybody at the table know who did?

Mr Yates—No.

Mayor Pavier—No.

Mr Cathers—No.

CHAIR—I will go to Senator Carr next. I just want to clarify one thing. You said that Mr McBride has advised you that this proposal from the state government is still on the table. In terms of the issue of putting the silt back onshore or putting it into the lake, which I understand you are saying is the state government's preferred option, which state department are you dealing with? Is it the Department of Infrastructure, Planning and Natural Resources? Is it Environment?

Mr Cathers—There were a number of departments but the licence was issued by the Department of Lands at the state level.

CHAIR—So it is their preferred option, is it?

Mr Cathers—In this particular instance, in the first instance the council was the applicant to the state and the state has agreed to fund that particular proposition. We had to satisfy to Lands all their criteria.

CHAIR—Sorry to labour the point, but you might want to take this on notice and check it out. Councillor Pavier, you said that you had concerns and difficulties appreciating the proposal about spreading the silt around the lake. What I am trying to ascertain is if that proposal has come from a state government department. Presumably, without going into the merits of it, they would have developed that proposal based upon advice and expertise from within their department. I am trying to understand which department has come up with that proposition.

Mr Cathers—It did not come from the state. It was a proposal that we were putting forward originally as a solution to the problem.

CHAIR—Okay. So it was a council proposal. Thank you.

Senator CARR—Mr Yates, you are the executive officer for the council?

Mr Yates—Yes. General Manager is the term that we use.

Senator CARR—General Manager—I am sorry. We have different terms in different parts of the country. I have before me here an email from the chief executive officer of the area consultative council and it was written the day after your final submission was presented. That was on 10 June 2004. It is a letter to the chairman of the ACC and it says: ‘Here is the application from Wyong council. I said to you earlier it is probably the worst application I have ever seen.’ I then have a look at the correspondence from the area consultative council dated 6 August 2004. It says: ‘This project was rated by our committee at its highest as low priority. In addition, there is a project in the neighbouring electorate in Kincumber Creek that has been attempting to gain funding for four years and the dredging of that creek involves the saving of 120 jobs and is of equal, if not greater, public use and environmental outcomes.’ I am just wondering, given this was the assessment of the ACC—it was the worst application they have seen—whether you can explain to us why it was that you were so desperate to proceed with this project.

Mr Yates—It was a decision of the council to proceed with the application. We were merely making the application and trying to justify it in terms of the DOTARS criteria.

Senator CARR—So as far as you are concerned, as manager, it is a council decision.

Mr Yates—Yes, it was clearly a decision of the council to pursue this option.

Senator CARR—I ask the mayor: if it is the case that this is the worst application the ACC has received, how is it that this should get priority over the dredging of a neighbouring kink in Kincumber Creek which would involve saving 120 jobs or the lifelong learning centre proposal? How does this get priority over those?

Mayor Pavier—I cannot answer that question with regard to what other people’s views are. In terms of my own locality, Tumby Creek is very important. Kincumber is in the locality of Gosford council, and I am certainly not aware of any of those sorts of issues. But I am also saddened—the fact that it was recognised as the worst possible application. That does sadden me.

Senator CARR—But isn't that the point? It may well be, as people have put to us, that this is a very important project for the 16 properties on the creek and the eight houses that may be subject to flooding in a 100-year event. It is obviously very important to them but, given the amount of money involved, isn't there a question of priority for the lake management? Isn't that an issue that ought to be considered in the granting of moneys of this dimension?

Mayor Pavier—I can only reaffirm the council's commitment here. We are spending \$3 million annually on the lakes and we have resolved as a council, unanimously, to expend \$680,000 of our own general revenue fund towards this and we rate it highly. I am on record now saying that it is a high priority.

Senator CARR—Councillor Graham, you are the proponent of this project to basically save 'Bob's bog'—is that it? How far away from the creek do you live?

Councillor Graham—About 500 metres.

Senator CARR—Would you have a pecuniary interest in the dredging of this creek?

Councillor Graham—I do not think so. I will tell you how the name 'Bob's boghole' came about—that is my colleague's. Around the corner from where you would have been this morning there is an area where the young people swim. My son is 29 now. When he was a young fellow he and others used to sneak down there on their bikes. They had ropes and they used to dive in and the kids called it the boghole. During the debate in council one time I mention the fact that the kids called it the boghole, so my old mate here, every time he gets the opportunity, calls it Bob's boghole.

CHAIR—'Old mate' is sarcasm too.

Councillor Graham—Yes, that is right.

Senator CARR—He has been very helpful for the inquiry today. But, Councillor Graham, you have obviously declared that pecuniary interest problem in the proceedings—

Councillor Graham—I have not got a pecuniary interest in it. I am not a fisherman and I do not use it for any purpose, so I do not have a pecuniary interest in it.

Senator CARR—You have a property 500 metres from the site of the expenditure of this—

Councillor Graham—It is not on the creek itself.

Senator CARR—I see. So you do not consider that you have a personal direct financial interest in the value of your property?

Councillor Graham—None at all.

Senator BARNETT—Are you one of the 16 properties?

Councillor Graham—No, I am not. I am 500 metres—

Senator JOHNSTON—Half a kilometre.

Councillor Graham—That is right.

Senator CARR—In terms of the application the council submitted for funding for the regional partnership, in what form was the first application that obviously the New South Wales government signed up to? In what form was the first application for the dredging submitted?

Mr Cathers—Are you talking about the very first project?

Senator CARR—Yes.

Mr Cathers—It was in the form of a project proposal that outlined what we intended to do, and that was submitted to the state.

Senator CARR—Yes. And what form was the second application—that is the one that was submitted on 9 June—submitted in?

Mr Cathers—Just by way of clarification: I guess our second application is our first application for Regional Partnerships.

Senator O'BRIEN—So there is no second application?

Mr Cathers—I am just trying to clarify from the senator's point of view. The very first application that we made for a licence was the proposal to spread the material out over the lake. That is the first one. The second one, if you like, was the first application to the Regional Partnerships, which only considered off-site disposal options.

Senator CARR—What funding was sought?

Mr Cathers—It was \$680,000 plus GST, a third of the project.

Senator CARR—Are we able to have a copy of that? Do we have a copy of that submission?

CHAIR—Yes. It is in your file, Senator.

Senator CARR—Were there any discussions with the Central Coast Area Consultative Committee before the submission of that subsequent application?

Mr Cathers—I believe not.

Senator CARR—Was there any discussion with Ms Bronwyn Rumbell, who I understand is employed by the council but is on the area consultative committee?

Mr Yates—She is council's representative on the committee.

Senator CARR—Was there any discussion about her role with regard to this particular application?

Mr Cathers—I understand not.

Senator CARR—Was there any discussion about a possible conflict of interest with regard to this application?

Mr Yates—I am not aware of any within council. I do not know about within the consultative committee.

Senator CARR—At what point did Mr Hallett from Mr Lloyd's office become involved with the development of the application?

Mr Cathers—I do not have a record of the specific time that he first contacted me, but there were a number of phone calls that he made to me about the proposals. I think he also discussed a couple of aspects of the proposal with my staff, but I do not have records of the dates.

Senator CARR—Presumably he would have contacted your staff after 9 June; was it? Or before?

Mr Cathers—I am unable to answer that. I just do not have the specific times.

Senator CARR—Mr Chairman, I am wondering whether we can ask the officers from the council if they are prepared to take that on notice—the dates and the nature of the contact with Mr Hallett. Was the application that was presented—the one that has been tabled here through the ACC—the original application? Were there any amendments to it after 9 June?

Mr Cathers—The first application to Regional Partnerships was sent from us on 10 June and then there was a second application to Regional Partnerships which was sent on 25 June.

Senator CARR—I see. So there were two applications. We were trying to clarify that before.

Mr Cathers—That is what I was attempting to clarify. It was to Regional Partnerships.

Senator CARR—Yes. Obviously I was confused about that. What is the nature of the difference between the application submitted on 10 June and the one on the 25th? We have the first one. Can we have the second one?

Mr Cathers—Yes, we will get you copies of the second one. To all intents and purposes they are the same application for the same amount of money.

Senator CARR—So why was it necessary to put a second one in if they are the same application?

Mr Cathers—Because the first one was for \$680,000 plus GST. The whole issue about seeking further funding arose. Part of the resolution of the council back on 9 June was that I was

to seek or staff were to seek funding from the federal government and the state government for these options, so we were pursuing all options.

Senator CARR—What is the total value of the second application?

Mr Cathers—It is \$680,000 plus GST.

Senator CARR—So that has remained the same.

Mr Cathers—Yes.

Senator CARR—Has the proposal changed?

Mr Cathers—No.

Senator CARR—I cannot understand why you have to put two applications in if they have not changed in any material sense.

Senator O'BRIEN—Did you put the word 'another' in front of the \$680,000 in the second application?

Mr Cathers—In the second one we were asked to provide a covering letter to identify that the two applications constituted one project. We were seeking funding for the whole amount—that is, the two times \$680,000.

Senator CARR—So now it is clear to me: you have doubled the application. That is the material difference. You have actually doubled the amount of money you were asking—

Mr Cathers—That is correct.

Senator CARR—Now that is clear.

Mayor Pavier—If it assists, it was always my intention to have this as a three-speared government approach—local, state and federal contributing equally in equal shares. It became obvious—please do not ask me at what time—that the state was having a great deal of resistance in contributing its third, so at that time I think we then realised as a council and resolved that way to seek further funding.

Senator CARR—So did you have any discussion with Mr Hallett about seeking the additional \$680,000?

Mayor Pavier—Did I? Yes.

Senator CARR—You did?

Mayor Pavier—Yes.

Senator CARR—And what was the nature of that discussion?

Mayor Pavier—It was to properly reflect, which was probably well known in the community, that the state government was not going to come to the party on its particular one-third and that we would try and seek an additional third.

Senator CARR—And what did Mr Hallett tell you?

Mayor Pavier—I think he said that he would go off to his various colleagues or take those representations back to whomever.

Senator CARR—So was it your initiative to seek the additional money?

Mayor Pavier—It was council's.

Senator CARR—It was not Mr Hallett's suggestion?

Senator O'BRIEN—Councillor Hallett.

Senator CARR—Councillor Hallett; I am sorry.

Mayor Pavier—I do not refer to him as Councillor Hallett.

Senator CARR—I am getting confused about a lot of things here. It would seem that if you doubled the application, the councillors met amongst themselves and said, 'Look, we'd better get in for another cut of the action.' Is that what happened?

Mayor Pavier—It is not as simple as that; it was a full council resolution. If you say 'for getting into it', a full council resolution.

CHAIR—You say that the state government would not pick up their share. You have used a number of different ways to describe the state government's position. Were you actually applying to the state government under some particular program that they run or was it just seeking funding from the state government as a general grant or what?

Mr Cathers—It was a dredging program that DIPNR administer.

Senator CARR—Can we get a breakdown of the costings that led you to make that bid? How do you reach the figure of the better part of \$1.3 million?

Mr Cathers—It was based on the original options analysis, which said that for option 1, which was the one that the council resolved to pursue, it was \$2 million in terms of estimated costs. I refer to what the mayor has just said in terms of a third, a third, a third, and that is how the \$680,000 was derived.

Senator CARR—What I am interested to know is: did you pick a figure out of the air or did you have a detailed breakdown of project costs? For instance, what is the landfill cost? What are the road construction cost and the maintenance cost? What are the other—

Mr Cathers—We have those costs.

Senator CARR—Can you give us those, please.

Mr Cathers—Yes, I can table that.

Senator CARR—Thank you. I take it there has been no further adjustment to the submission since 25 June last year?

Mr Cathers—Not to the submission. However, in terms of the way the Regional Partnerships program works, it is subject to our contractual conditions with the state as regards the licence and our contractual conditions with contractors.

Senator CARR—Is there a landfill fee involved with that costing?

Mr Cathers—Not from the state. It receives an exemption under the EPA—

Senator CARR—So that is not part of your costings?

Mr Cathers—Handling at the landfill is.

Senator O'BRIEN—You are charging money for the council handling the landfill from the project?

Mr Cathers—When you say that we are charging money, there is a cost in dealing with the material at the landfill, and that is included in the cost of the project.

Senator CARR—There are no fees involved, so what is the other cost you speak of? Is it taking it off the trucks?

Mr Cathers—No. There is what is called a state EPA levy, and we have an exemption from that—

Senator CARR—Yes, we have seen that.

Mr Cathers—because it is dredged material. What I am talking about is the cost of dealing with the material—spreading it, covering it and so on—at the landfill, and that is part of the project cost.

CHAIR—That is a council cost.

Mr Cathers—That is a council cost.

CHAIR—So it is factored in.

Mr Cathers—That is correct.

Senator CARR—In terms of the access issue—because that was the original driver, as I think you mentioned to me this morning—was there any consideration given to an alternative boat ramp site?

Mr Cathers—In the very first report that I did on Tumbi Creek, back in January 2001, there was some analysis of an alternative boat ramp facility at another site.

Senator CARR—What was the cost of that?

Mr Cathers—I cannot recall the specific cost of that alternative, but it was suggested that a better boat ramp facility could be an alternative rather than trying to deal with the current boat ramp at Tumbi Creek, because there are all sorts of limitations on parking and so on.

Senator CARR—You should be able to take a bit of a punt, though—roughly how much would that alternative ramp have cost? Was it \$100,000?

Mr Cathers—No, it would have been in the order of half a million.

Senator CARR—That would have met the access issue. The other issue of course was the 100-year flooding, and it would not have dealt with that. You say that, even if you do dredge the creek, it will still have to be done again in seven years time.

Mr Cathers—That is my estimate—seven to 10 years time.

Senator O'BRIEN—So there is a document in the application which sets out the precise costing of the project? We can rely on what the application has to be a precise costing of the project?

Mr Cathers—Yes. Behind that there are working sheets that we can make available.

Senator O'BRIEN—Thank you—if you could do that, I would appreciate it.

Senator BARNETT—On that point, Mr Cathers, does that include the time and effort that you are putting in at the moment? Does it include all that extra work?

Mr Cathers—It attempts to do that, yes.

Senator BARNETT—Is it conservative?

Mr Cathers—It certainly does not include my time.

Senator O'BRIEN—Councillor Graham, on what date did you lodge your notice of motion, ahead of the council meeting on 24 November 2004, proposing the redirection of the Regional Partnerships funding?

Councillor Graham—The date of lodgment would have been a couple of weeks before that.

Mayor Pavier—Just to assist, there is a time frame that we have, as you would appreciate as senators, to get things on the business paper. It is normally a couple of weeks prior to the actual date that we consider the item.

Mr Yates—To outline it briefly, our business paper is published one week before the council meeting and notices of motion have to be in my hands about 10 days before the meeting. Council meetings are held on Wednesday, and notices of motion have to be in my hands by close of business on the Friday week before that, so about 10 days beforehand. It may have been lodged some time before that.

Senator O'BRIEN—So it would have been some time in the middle of November—14th, 15th or earlier?

Mr Yates—Yes.

Senator O'BRIEN—When is that information made available to the public?

Mr Yates—All going well the business paper is published on the Wednesday night or Wednesday afternoon and distributed to the councillors. It is distributed to the public via hard copy and web site on the Thursday, which would be the Thursday before the council meeting on the following Wednesday. So for the 24th it would have been available to the public on the 18th but distributed to the councillors on the 17th.

Senator O'BRIEN—I see Mr Hallett's email is dated the 17th, so the information was not available to the public when Mr Hallett became aware of it. Did any of the councillors or officers present today bring the notice of motion to the attention of Mr Ticehurst, Mr Lloyd or his staffer Mr Hallett?

Councillor Graham—I didn't.

Mayor Pavier—I didn't.

Mr Cathers—No.

Senator O'BRIEN—So how would he have known about this item of business, which was not yet a publicly known item of business? Did you give any public indication you were proposing to put the notice of motion on the notice paper?

Councillor Graham—No. I would not have passed it on to Mr Hallett, so he did not get it through me.

CHAIR—What form did you present the notice of motion in? Do you email it in or was it hard copy delivered to council?

Councillor Graham—No, because the notice of motion has to be signed. I would have signed it and taken it over to the council.

Senator O'BRIEN—So we do not know how Mr Hallett came to know of it before it was public?

Councillor Graham—I would not have a clue.

Mr Yates—I think you just said Mr Hallett's email was dated the 17th.

Senator O'BRIEN—Yes.

Mr Yates—On the 17th the business paper would have been distributed in hard copy to the councillors and in email copy as well. So some time on the 17th; I could not say at what time.

Senator O'BRIEN—Some time during the day on the 17th.

Councillor Graham—Usually in the afternoon some time.

Senator O'BRIEN—His email was sent at 8.50 am so it is before the councillors had their notices, apparently.

Mr Yates—In usual form—I cannot say on the 17th.

Senator O'BRIEN—It would not have gone out before 9 am, would it?

Mr Yates—No, it would be extremely unlikely for us to get the business paper out before lunchtime.

Senator O'BRIEN—So, Councillor Graham, you did not give Mr Hallett any indication that you had a notice of motion. Who did you talk to about it, apart from officers?

Councillor Graham—I would have spoken probably to a couple of my council colleagues. I know that—

Senator O'BRIEN—Who are they?

Councillor Graham—I know that I spoke about my motion to Brenton, the mayor, because he was supporting me and we were working through it together. If you have a look on the 24th when the motion went up, I moved the motion and Brenton seconded it.

Senator O'BRIEN—I am trying to understand how a person who is on the staff of the federal minister comes to know of your notice of motion when councillors other than the ones you have

spoken to do not even know about it. Does that mean it came out of the council offices, Mr Yates?

Mr Yates—I have no knowledge of that. It certainly did not come from me.

Senator O'BRIEN—Is there a secure process?

Mr Yates—The business paper is handled by a number of staff, and I would at this stage vouch for that security. They usually handle the business paper. They understand that it is not distributed to anybody else.

Senator O'BRIEN—So you can assure us that it would not have come out of council's office.

Mr Yates—As much as I can. I, obviously, cannot give you an absolute guarantee on it.

Senator O'BRIEN—Mr Mayor, when Mr Hallett told you in an email on 22 November that any changes meant less federal money so the Wyong shire officials should keep their counsel about the state of the creek mouth, what did you understand that to mean?

Mayor Pavier—I think that follows on with regard to some advice by DOTARS as well. I think that it is part and parcel of the email, and my understanding of that was that there is a due process that needs to be undertaken and you need to follow that process. Akin to drawing this conclusion, we have a development application process, and if there are negotiations between staff and an applicant for a development application that keeps changing, we would have a section 96, which deals with modifications. If you keep changing an initial application, staff would consider it to be a fresh application. Certainly in my mind, it was 'stick to your guns' and I was certainly of that view as well.

Senator O'BRIEN—Stick to your guns?

Mayor Pavier—Those are my words, yes.

Senator O'BRIEN—'Keep your counsel' means 'stick to your guns'?

Mayor Pavier—You can read it whichever way you like but 'stick to your guns' were certainly my words. I was always very parochial and very passionate about dredging the system. In fact, I have put two recision motions before the council to stop their initial direction.

Senator O'BRIEN—Did I understand you to say that you seconded Councillor Graham's notice of motion about considering other options?

Mayor Pavier—That is correct and it is on the public record.

Senator O'BRIEN—Councillor, you said that you thought Mr Hallett was playing politics on the matter. What did you mean?

Councillor Graham—His boss, Mr Lloyd, is on the public record as saying that he has counselled him on what he has done. I have been in politics for a little while too, and so have

you folk, and I would have handled it a lot differently if I were him. As I said to you earlier, my idea was that I was asking the question: ‘Are there any savings and, if so, can we do something up the creek?’ I think if he had been wise, he would have let that go through and then said, ‘I will try. I will ask the minister and see what we can do.’ Then he could have come back to us and said, ‘I am sorry but the money is only allocated for that specific project. I tried for you. But maybe next year there may be some other things coming up from the federal government that you can apply for in order to do something up the creek then.’ That is the way I would have handled it. I hope that answers your question.

Senator O’Brien—We will see. When was the council informed that its second application was successful? You know which second application I mean now, don’t you? We do not want to be confused.

Mr Cathers—Yes. We received a letter from Minister De-Anne Kelly on 26 August advising that the second grant application was approved.

Senator O’Brien—Can we have a copy of that letter.

Mr Cathers—Yes.

Senator O’Brien—The original proposal that was considered in 2001-02 and up until the middle of 2004 to distribute the dredging spoil on the bottom of the lake was consistent with the way dredging has been conducted in the past?

Mr Cathers—No, that particular disposal method certainly is unusual for this area. We have not disposed of material in that way before.

Senator O’Brien—Is that where the spoil normally ends up when it comes out of the mouths of the creeks?

Mr Cathers—If there were to be no dredging and under natural processes, yes.

Senator O’Brien—So that is the natural process. Do I understand correctly that some of the objection to spoil ending up in the lake is to do with the building program around the area we are in now, where there has been a history of some of the earthworks here leading to a significant amount of spoil ending up in the lake? I understand that the ginger group here—Watch, I think it is called—has been mainly concerned with extra spoil going in the lake because of development in this area. Is that right?

Mr Cathers—I do not think it is just that group. There is general community concern and, indeed, council concern about material going into the lake.

Senator O’Brien—But representatives of that group have addressed the council?

Mayor Pavier—Yes.

Mr Cathers—On a number of occasions, yes.

Senator O'BRIEN—Their activities are based in this area and have been substantially to do with the issue of spoil going into the lake as a result of development in this area?

Mr Yates—I think they were formed predominantly as a reaction to high rise in the area, as a result of a new zoning scheme that we put in five years or so ago. I think they broadened out their focus to also include environmental concerns. Certainly, sedimentation in the shire has been a major issue, particularly for the greenfield subdivision releases, more so than for areas like this that are fairly well developed.

Mayor Pavier—The watch committee did run a public meeting on this. I think they were the people that promoted it.

Senator O'BRIEN—In terms of that second approval, you had received written notification about it. Did any officer or councillor receive other less formal notification that the application had been successful?

Mr Cathers—I am not aware of that.

Mr Yates—I am not aware of any.

Senator O'BRIEN—Mayor, were you or any other councillor made aware of any earlier decision to approve or a proposed decision to approve?

Mayor Pavier—No.

Senator O'BRIEN—In terms of the consideration of the contract negotiations with the department, I take it they are still ongoing—no contract has been signed?

Mr Cathers—That is correct; it is still ongoing and it is subject to the state approving the project.

Senator O'BRIEN—Can you explain where you go from here. You need to conclude the negotiations with the department?

Mr Cathers—We need to get state approval.

Senator O'BRIEN—That is the first step, is it?

Mr Cathers—Yes.

Senator O'BRIEN—Without that, the project is at an end?

Mr Cathers—That is correct, because that is a condition of the Regional Partnerships program.

Senator O'BRIEN—In that event, what does the council do?

Mayor Pavier—Sit on their hands, very frustrated, Senator.

Senator O'BRIEN—So you do not go back to the other option that you already have approval for?

Mayor Pavier—We already have an option before us. We deferred that at the last council meeting, pending the inquiry. All I can add is that council has considered this matter three times, and three times unanimously considered it to go offsite.

Senator O'BRIEN—The question I am asking is: in the event that for environmental reasons—and I do not know the answer to this question—you were not able to get environmental approval for this project, for whatever reason, whether it be a seahorse issue or a salt marsh issue or the like, are you telling the committee that the council retains as an option the original proposal which already has approval and for which the state government has approved funding?

Mayor Pavier—I think once we were armed with that sort of information, we would then take that back to the full council for them to deliberate on. It is a bit of a hypothetical, with all due respect, Senator.

Senator O'BRIEN—I concede that it is hypothetical in the sense that you do not know whether you will get approval or not, but I wanted to understand, given that you have approval for a project and you do not get any money until you get the approval for this new project, what the status of the original project was.

Mayor Pavier—The original proposal was unacceptable to the community. Those representations were taken into the chamber and unanimously we disagreed with the state government's proposal. That has been deliberated on on a number of occasions.

Senator O'BRIEN—But you retain the other as an option?

Mayor Pavier—That is something for the council to consider at some future date. I am not ruling out any option, but I cannot predicate it, obviously, by giving further information.

Senator O'BRIEN—I appreciate that the council needs to make a decision about what it is going to do.

Mayor Pavier—My personal view is that putting spoil across Tuggerah Lake is unacceptable.

Senator O'BRIEN—Yet that is where spoil normally ends up by nature?

Mayor Pavier—By nature, yes, but not by the amount and the volume that is given to us in terms of population growth. It is the development that gives us that.

CHAIR—As a technical point, without going into a long description, why is that the case? Why is it unacceptable?

Member of the audience interjecting—

CHAIR—Order! Excuse me. The witnesses are here to give evidence. I ask the public to be quiet, please.

Mayor Pavier—Garnishing some of the views of the community is that it is akin to having a pool. If you consider the lagoon as your pool, if you get sediment or rocks or leaves or something like that, the first thing you need to do is clean it up.

CHAIR—So it is what is in the silt that is the problem. If this were sand or something like that, it would be a different situation.

Mayor Pavier—I think that is a possible view. Certainly, the document that we have given you on the estuary management study says that sediment can contain pollutants. That is in that document we have tabled.

CHAIR—The reason I ask—and this is by way of background—is that I lived in the Sutherland Shire. If you know the shire, you would know the problems of sand building up in Port Hacking and other areas. This is a huge issue down there. They are always looking at the options that are available. One of the ones they often use is to relocate the sand to another part of the ocean or another part of the waterway. That was the purpose of the question.

Mayor Pavier—We dredge sand at the mouth of the lake. In partnership with the state government we have a dredging program and we move the sand back onto the North Entrance beach to protect a number of homes.

CHAIR—You have explained why. Thank you.

Senator STEPHENS—Gentlemen, thank you for your attendance this morning and also for the tour. You understand of course that this is an inquiry into the whole Regional Partnerships program. It is not an inquiry into Tumby Creek. I would like to take us back to some of the answers that you provided to Senator Carr about the application for funding under the Regional Partnerships program. I understand, Mr Yates and Mr Cathers, that the original application, which we have a copy of here, was prepared for the Regional Partnerships program by Mr Long.

Mr Cathers—That is correct.

Senator STEPHENS—I understand from the questions that Senator Carr asked this morning that you were unsure whether that was done in consultation with the area consultative committee. Is that right?

Mr Cathers—Sorry, I thought I had answered that question differently, to the effect of saying that I understood that my staff had not been in consultation with the area consultative committee.

Senator STEPHENS—The application went directly to Mr Burdekin of the Department of Transport and Regional Services.

Mr Cathers—Yes.

Senator STEPHENS—The guidelines for the project say that it should be done in consultation with the ACC, who can provide you with advice on obtaining and providing evidence et cetera, assisting with identifying other project partners and ensuring that your application form is completed in sufficient detail. The council also has some other projects, I understand, for which you have sought funding through the Regional Partnerships program. For those other projects, was assistance or advice sought from the area consultative committee prior to the applications being submitted?

Mr Cathers—On the other projects, yes.

Senator STEPHENS—So why was there no discussion with the area consultative committee on this particular project, given the problems that they found with the application once it was submitted?

Mr Cathers—First of all, I was not aware of and have not seen any correspondence from the area consultative committee about the nature of the application. We were advised to send the application directly to DOTARS, and indeed the guidelines provide for that.

Senator STEPHENS—Who advised you to send it directly to DOTARS?

Mr Cathers—Graeme Hallett.

Senator STEPHENS—From the minister's office.

Mr Cathers—Yes.

Senator CARR—So he was involved in the preparation of your submission.

Mr Cathers—No, not in the preparation of the submission. In terms of where it was to go, he gave us that advice.

CHAIR—Has anyone on the council read the guidelines?

Mr Cathers—Yes.

CHAIR—They are pretty clear. Why were they not followed?

Mr Cathers—We were advised to send it to DOTARS.

CHAIR—By a staffer of the minister.

Senator STEPHENS—So the first application was sent on 10 June, I understand, from the correspondence we have.

Mr Cathers—That is correct.

Senator STEPHENS—The second application was sent on 25 June.

Mr Cathers—That is correct.

Senator STEPHENS—Although you have indicated that you were not aware of the ACC's concerns about the project—some internal correspondence has been provided to the committee about their concerns about the project—can you tell me if there was any discussion between the area consultative committee executive officer or the chair and the council prior to you submitting the second application on 25 June?

Mr Cathers—No, there was not.

Senator STEPHENS—Was there any discussion between the area consultative committee or the department and the council between the second application being received and the date on which you were notified that it had been approved, on 26 August?

Mr Cathers—I am unable to say whether there was any discussion between the ACC and DOTARS.

Senator STEPHENS—No, I said between the council and—

Mr Cathers—Certainly we were not involved.

Senator STEPHENS—The council was not advised that the area consultative committee recommended seeking further clarification on some of the issues in your application?

Mr Cathers—No, we are not aware of that.

Senator BARNETT—Mayor, would you be surprised that this morning I have been handed a number of letters which make it clear that the people down at Tumbi Creek are very against leaving the silt in the lake, consistent with your unanimous view of the council—three times I think? They have given me a number of letters, including one from—

CHAIR—Order, Senator Barnett. You may have copies of letters that have been given to you—

Senator BARNETT—I am happy to table them.

CHAIR—The procedure is that you should table those letters. We have not seen them. As you know, they now go on the public record.

Senator BARNETT—They are all public letters to the editor. They advised me that they gave them to every senator this morning.

CHAIR—I do not have any.

Senator BARNETT—That is fine. I am happy to table them. They are consistent with the council's view that they support the silt being removed and not left in the lake. Obviously some in the public arena, based on earlier comments, are of a similar view. Is that a view commonly and strongly held now in your council municipality?

Mayor Pavier—For my tuppence worth, I think a journalist of a leading newspaper group door-knocked the people in the Peninsular Road and I think they were unanimous in that view. That was her gauging, and it was certainly in an article that appeared in the paper. I have certainly sent out a letter to all those residents apologising for the delays and seeking their support in that. From what appeared in the newspaper, they were certainly unanimous that they would put up with the difficulties of the trucks rolling in and out, moving the sediment. They certainly wanted to get on with the job of the spoil being taken off site.

Senator BARNETT—Thank you.

Councillor Graham—What the mayor says is exactly right. The ideal thing is to take it away. If we spread it on the lake, which is the cheaper version, we would probably have to come back in a much shorter time to dredge it again, because the north-easterly winds will bring it back in again.

Senator BARNETT—In the public arena in some of the newspaper articles I think Mr Cathers has been reported as saying that 93 per cent of the silt still remains. Is that correct? Can I just clarify that? You talked about 1,000 cubic metres of silt being removed from the flood and you wanted to get rid of 15,000 cubic metres. Is that 93 per cent based on any particular figure, Mr Cathers?

Mr Cathers—I am not aware of where that figure came from. Certainly by far the majority of the amount to be removed is still there. In fact the material that has moved has really only been displaced.

Senator BARNETT—I have a Central Coast *Daily Telegraph* 23 February 2005 article which says that the report by Mr Cathers states that ‘more than 93 per cent of the silt material remains in the creek, despite heavy rains clearing some of the blockage last October’. Does that sound about right? Do you think it is about 90 per cent?

Mr Cathers—By calculation, one over 15 is about seven per cent. So, by deduction, yes it is 93 per cent.

Senator BARNETT—Yes, so that is probably where they got the figure from. Let us say that circumstances change and that there is another big flood, if the cost of the project goes down, or even up, would the cost to the Australian government and to the council change, and would it change proportionately to the one-third to two-thirds ratio?

Mayor Pavier—It was always my desire that the funding arrangements would be equally split across the three spheres of government. When that did not occur, the federal government picked up the two-thirds component. My understanding, and it would always be my desire, is that if the costs were to blow out we would certainly want to go back before the federal government to keep that one-third to two-third ratio in place. Our revenue base probably does not allow us to continue exponentially with some blow-out figures. I am sure inflation and those sorts of things are factored in but, by the time we get state government approval for this process, I just cannot predicate the costs.

Senator BARNETT—Again in the *Daily Telegraph* of 23 February 2005 there is a heading entitled ‘Tumbi Creek, just a waste of time’. In that article you took a swipe at this inquiry which, as I said earlier, is fully understandable from my perspective. But you also said that ‘the fiasco tomorrow is a waste of time because nobody has anything to hide’. Do you still hold that view?

Mayor Pavier—I apologise sincerely to the Senate. A ‘waste of time’ was probably a flippant comment. But in terms of the relevancy to Tumbi Creek I think I made the point recently that the holistic view of the Tuggerah Lakes is that there is 6,240 tipper-truck loads of that sediment around our various tributaries, and we do need a dredging program because that needs to be removed. The community certainly is expressing that, and it certainly has been expressed at the ballot box.

Senator BARNETT—Thank you.

Senator STEPHENS—I would like to go back to the original application and then the second application. The indication in the application before me is that funds were sought from the New South Wales government, and you have indicated today that that was from a state dredging program.

Mr Cathers—Yes.

Senator STEPHENS—Did the application for funding under that program marry up with the \$680,000 under this program’s application, in that there was an application for \$680,000 from the state government?

Mr Cathers—The application for the state takes a very different form from that one there.

Senator STEPHENS—Yes, of course.

Mr Cathers—Basically it was in letter form that asked whether the state would contribute to the program on the basis of the one-third to one-third to one-third ratio.

Senator STEPHENS—Without identifying the Regional Partnerships program as the federal one-third?

Mr Cathers—I cannot recall.

Senator STEPHENS—I understand that you are going to provide a copy of that letter; was that clear?

Mr Cathers—Yes.

CHAIR—You have said that the creek will need to be dredged again in six or seven years or more.

Senator BARNETT—Seven to 10 years, Chair, was the correct wording.

CHAIR—Excuse me—I said ‘six, seven or more’. To what extent do you think it will need to be dredged again? What are the projections for the amount of silt that might need to be removed? Or are there no projections along those lines? Are we talking about a similarly sized project or a bigger project?

Mr Cathers—I have to say that it is extremely difficult to try to estimate how much material will actually come down over a long period of time, primarily due to the fact that it is highly dependent on the climatic conditions.

CHAIR—I appreciate that, but six, to seven to 10 years is not a long time.

Mr Cathers—No, but it is based on our previous history. That is why I imagine that we might get a bit more out of this in the time frame, because it is a larger channel. So basically it will last longer; it will take slightly longer to refill. Yes, we envisage that this will be a maintenance dredging requirement.

CHAIR—Thank you.

Proceedings suspended from 12.05 p.m. to 12.15 p.m.

HALE, Mr Peter John, Chairman, Central Coast Area Consultative Committee

CHAIR—Welcome. This hearing is being held into the administration of the Regional Partnerships program and the Sustainable Regions program. The committee is operating under the rules of parliamentary privilege, which provide that you are protected against any adverse action being taken against you as a result of any evidence you give this morning. Equally, of course, there is an obligation on all witnesses to give truthful evidence to the committee. The committee prefers hearings to be held in public, but if at any time you wish to give evidence to the committee in camera please make that request and it will be considered. Thank you for providing to the committee the material that has been formally accepted and is now a public document. Do you wish to make any opening remarks?

Mr Hale—I do not have any opening remarks.

CHAIR—We will go to questions and start this time with the government. Senator Barnett?

Senator BARNETT—Thank you for being here this morning, Mr Hale. Just to clarify a few things about your ACC, can you tell us the name of your ACC and the area of responsibility that you have.

Mr Hale—It is the Central Coast Area Consultative Committee. We cover from roughly the Hawkesbury River through to Catherine Hill Bay. That covers the area of both Wyong and Gosford shire and city councils.

Senator BARNETT—So just the two councils?

Mr Hale—That is correct.

Senator BARNETT—And do you have much contact with the councils from time to time in your role?

Mr Hale—Yes, we do.

Senator BARNETT—How often would you meet as an area consultative committee?

Mr Hale—We meet every two months.

Senator BARNETT—Who is on your committee?

Mr Hale—I have to remember everyone's name now—I am on a few committees.

Senator BARNETT—They are mostly volunteers, aren't they?

Mr Hale—They are all volunteers, but there is a representative of both Gosford and Wyong shire councils on that committee.

Senator BARNETT—Are they councillors?

Mr Hale—No, they are just council staff—normally the economic officer from the council.

Senator BARNETT—In terms of Wyong, which person is that?

Mr Hale—Bronwyn Rumbel, I think it is.

Senator BARNETT—Could you perhaps table for our committee the names of your council members?

Mr Hale—I can get that, yes. I do not have that with me.

Senator BARNETT—How many are there?

Mr Hale—I think there are 10.

Senator BARNETT—So you meet every two months—six times a year?

Mr Hale—That is right.

Senator BARNETT—And what do you do when you have those meetings? What is the main purpose of your meetings and how long are the meetings?

Mr Hale—They can be as short as five minutes. We normally have a tabled executive officer's report in which he brings us up to date with projects that are under consideration. We will normally talk about strategic issues or projects that we feel are important to the district or the region. We also talk about things that we can facilitate more by getting councils together or other organisations within the regions together to do joint programs.

Senator BARNETT—What is the name of your executive officer?

Mr Hale—It was John Mundy. He has left us, as of two weeks ago, and we have a new executive officer called David Bacon.

Senator BARNETT—What contact have you had with the Wyong council with regard to the Tumby Creek project?

Mr Hale—I do not think I have had any myself.

Senator BARNETT—No, but what about your ACC?

Mr Hale—That I am not sure of. I think there were conversations between my executive officer and the council, but that was only on one or two occasions. There was not much contact.

Senator BARNETT—Have you provided feedback to the department on the project?

Mr Hale—Yes.

Senator BARNETT—When did you do that?

Mr Hale—When we receive an application, what we normally do—unless there is a meeting particularly called at the time—is circulate the application to each of the people on the board. We get their feedback and then assemble a central application or prioritise that application. Normally that is then sent to the department. We will contact the department. The contact is mainly through the executive officer, but on occasion I do contact the department.

Senator BARNETT—I understand that you prioritised this Tumbi Creek project not very highly.

Mr Hale—That is correct.

Senator BARNETT—Are you aware that the Wyong council has given evidence today, and at other times, that this is a very high-priority project for the council?

Mr Hale—Yes.

Senator BARNETT—With regard to the contractual arrangements that are entered into, are you involved in those negotiations or is that done directly between the department and the Wyong council?

Mr Hale—Quite often we are advising the applicant, so normally we are involved in the preparation. Then, particularly with smaller organisations, we tend to help them through that process with the department. Normally we sign some of the contracts so we are there at the end. Sometimes we also suggest conditions if they are projects which we feel may have difficulties.

Senator BARNETT—Have you had any involvement to date in this particular contract for the Tumbi Creek project?

Mr Hale—My recollection is that I did send an email—I am not sure if that to attach to the contract or to the application—to the department suggesting some terms. I think that has been provided to the committee but I am not sure whether it was for the contract or the application.

Senator BARNETT—Are the contracts that are entered into reasonably comprehensive in their terms and conditions? For example, we heard this morning that before the funding flows, state government approval and environmental approval must be required, and there must be agreements with certain contractors and perhaps subcontractors. Is that your understanding?

Mr Hale—A lot of those things are actually in the guidelines. Normally most of those sorts of things have to be in place before the submission goes in, although after complaints from area consultative committees the government does now take applications where a DA has not been approved sometimes because of the cost of obtaining those DAs. If there are no funds available then organisations are wasting their money putting them in, so we have been able to get exemptions in a number of cases. I do not know about this one.

Senator BARNETT—In the normal course of events, the terms and conditions applying to these regional partnerships arrangements are reasonably comprehensive and rigorous?

Mr Hale—They are very comprehensive.

Senator BARNETT—Do you think they protect the Australian taxpayer adequately?

Mr Hale—In all the arrangements that I have seen the answer is yes, because normally the level of detail you have to provide to the department and the level of auditing that is required is very high, considering that some of the projects are quite small.

Senator BARNETT—We heard again this morning, as I said, that they require state government approval, they require approval and arrangements in place with contractors and subcontractors and a range of other terms and conditions.

Mr Hale—If it is that size project, yes.

Senator BARNETT—And that sounds normal and in the normal rigorous manner that they approach these matters?

Mr Hale—Yes.

Senator BARNETT—Are you aware that there have been three independent, objective reports by KPMG of the Regional Partnerships procedures since it started on 1 July, 18 months ago, and of the findings of those reports?

Mr Hale—I have not seen the findings of those reports but I have been interviewed on occasion by auditors for the government into the processes that we or other people carry out.

Senator BARNETT—When you have been checked, reviewed and audited, as it were, how have the findings been in your instance as an ACC?

Mr Hale—On occasion we have been told to tighten up sometimes in relation to governance issues but more in the sign-off of committee reports and to ensure particularly when addressing of conflicts of interest and things like that that those things are recorded. So it has been more about what is minuted et cetera and what submissions are put in.

Senator BARNETT—Does it surprise you that in all those three independent, objective reports done to date by KPMG there have been no findings of impropriety anywhere in Australia?

Mr Hale—From my background I am surprised, but, considering the complexity, it is fairly stringent.

Senator BARNETT—It is fairly stringent.

Mr Hale—From the time you get an application going through the process—if it is in the process—it is quite strict and the officers of the department, to their credit, are normally very effective in managing the process. I know from our point of view they are very effective.

Senator BARNETT—Those reports that have been done, in terms of the audit and the evaluation reports, have made recommendations to improve in certain areas. The advice that we have back from the department is they have taken up every one of those recommendations to help improve the process and to make sure it is rigorous, they are protecting the public interest, they are protecting the taxpayer in every instance and there have been no findings of impropriety. Do you have any response to that?

Mr Hale—I think that would be true. I think, in addition, the department certainly gets a barrage from a lot of the chairpeople. We have a conference once a year and the chairpeople, most of whom are normally business people within the region, are quite vocal in their comments about how things are handled. The department has always been very willing to change processes to ensure that everyone gets a fair go.

Senator BARNETT—Going back to this issue of priorities, because I think you indicated that this project was perhaps a lower priority than some other projects that you had in mind in your area, can you understand that it is a top priority for the Wyong Shire Council? Can you understand their perspective?

Mr Hale—Unfortunately, no.

Senator BARNETT—Why not?

Mr Hale—I think it was mentioned that there are five tributaries into the lake and a lot more drainage that runs into it. To me, Tuggerah Lake has a very serious problem. From Wyong council's point of view, I would agree that the lake itself has a very serious problem, but it is a lot greater than \$1.6 million worth. To me, it is a low priority because I do not see the effect of what the \$1.6 million will do.

Senator BARNETT—Can you understand the view of the council and the members—perhaps some here and certainly some in the community—that they would prefer the silt to be removed from the lake and put onto a land disposal area?

Mr Hale—I totally understand that, yes.

Senator BARNETT—Do you support it?

Mr Hale—If that choice is between putting it into the lake and putting it onto the land, the answer is the land, yes.

Senator BARNETT—In one of your emails you made reference to a priority project further down in the Gosford municipality—I think Senator Carr referred to that earlier.

Mr Hale—Kincumber Creek?

Senator BARNETT—Yes. You can understand that the Wyong council's focus in its area is obviously not on projects in Gosford.

Mr Hale—Sure.

Senator BARNETT—Are you also aware that, in terms of the success rates for applications for Regional Partnerships, both from Labor and coalition electorates, they are exactly the same around Australia?

Mr Hale—I would not have a clue.

Senator BARNETT—That is what the department has advised us. I thought you might be aware of that fact. I have no more questions.

Senator O'BRIEN—Mr Hale, we have received from the ACC a copy of its file on this matter. In the first paragraph of your email dated Friday, 6 August—the email that has your name as the signatory, although it is on someone else's account—you state:

I understand that Minister Kelly is to announce that the Government will fund the restoration of the Tumby creek for an amount of 1.2-1.6 million.

When did you come to that understanding?

Mr Hale—I received a phone call from the executive officer and he told me that he had been to a meeting that day somewhere.

Senator O'BRIEN—Further, you said:

I feel obliged to lodge my serious concern as to the value of this project and possible political fallout both standing alone and in relation to other needed projects on the central coast.

Is this the only occasion on which you felt the obligation to lodge such a concern?

Mr Hale—Yes.

Senator O'BRIEN—How many projects had the ACC handled while you were involved?

Mr Hale—I have been chairman for five or six years, and we have probably handled hundreds.

Senator O'BRIEN—Of all those projects, this is the only one where the circumstances motivated this reaction?

Mr Hale—Yes.

Senator O'BRIEN—You said:

The project was rated by our committee at its highest as ‘low priority’.

Did that mean that you grudgingly decided to give it some approval?

Mr Hale—Yes.

Senator O’Brien—Can you expand on that for the committee?

Mr Hale—Simply put, there had been so much publicity about it and it was obviously so important, particularly to the people in that area, that it deserved to get some rating to say that people wanted to do it. From the political perspective of council and government, it was an important project and that was fine, but it was very low priority.

Senator O’Brien—So it was a response to political pressure, if I can put it that way, rather than to the circumstances of the project?

Mr Hale—No. There has been no political pressure.

Senator O’Brien—I was using the term ‘political pressure’ to describe the pressure that was applied by the community.

Mr Hale—From a community perspective the answer is yes.

Senator Barnett—When you say ‘the community pressure’, do you mean community support for the project?

Mr Hale—Yes.

Senator O’Brien—You refer to the ACC’s environmental representative: presumably the environmental issues are taken into account in some way by the ACC in assessing projects?

Mr Hale—Yes.

Senator O’Brien—And that is a consistent approach from the ACC?

Mr Hale—Yes.

Senator O’Brien—But in this case the environmental representative did not believe the project was full of environmental merit, if I can put it that way?

Mr Hale—Yes. That would be my summing up of his opinion.

Senator O’Brien—You say, ‘This allocation will cause serious concern in our committee as to the validity of the partnership program and could very well lead to a whiteboard type scandal.’ Can you elaborate on those comments for us. You obviously felt very strongly at the time.

Mr Hale—I think those words refer to a minister of a similar name, Kelly, but the issue was that we have had great difficulty in having projects funded and the system is always so stringent that on this occasion the \$680,000 was hard enough to credit, but when it was going to be announced that it was \$1.2 million it was disappointing to a committee that saw a lot of other things that could be funded that would benefit the whole of the community.

Senator O'BRIEN—So, in the view of the ACC, there were many projects ahead of this project deserving of funding before it received any funds?

Mr Hale—If we thought we could get \$1.5 million for a project, we would be running around doing a lot more, yes.

Senator O'BRIEN—Was there any other project that came through your ACC in receipt of more than one million dollars of funding?

Mr Hale—No.

Senator O'BRIEN—What was the highest amount below that amount?

Mr Hale—It was before I was actually chair but I was part of administering one of the contracts, which was for an incubator. That was before the Regional Partnerships program. I think it was for about \$970,000, but it was not under Regional Partnerships.

Senator O'BRIEN—That was a business incubator program?

Mr Hale—Yes.

Senator O'BRIEN—Can you tell me about the involvement of the council's representative on the ACC, Ms Bronwyn Rumbell. Was she there effectively representing the council?

Mr Hale—Yes.

Senator O'BRIEN—At any stage in relation to consideration of this project did Ms Rumbell indicate that she was considering the issue of whether there was a conflict of interest in her being involved?

Mr Hale—No.

Senator CARR—I have your agenda in front of me here, and every session you have a declaration of interests session. Was that declaration ever made?

Mr Hale—Tumbi Creek was never discussed at a formal meeting. Had it been, I would probably have asked her to declare a conflict in that case.

Senator O'BRIEN—Okay. But Ms Rumbell was involved in the consideration of the project?

Mr Hale—She did send an opinion in, yes.

Senator O'BRIEN—Mr Mundy, who is the executive officer, describes the application itself as, 'probably the worst application I have seen.' Do you concur with that view?

Mr Hale—I would not describe it as the worst, no.

Senator O'BRIEN—It was not very good—there are some that are worse?

Mr Hale—Yes, but only from small, voluntary community groups.

Senator CARR—This is a local government authority.

Mr Hale—Yes.

Senator CARR—Given that it is a local government authority and it is looking for \$1.3 million, how would you rate the application? In terms of it being that sort of organisation with that sort of professional expertise, would you regard it as the worst you have seen—within the terms of its having been put together by a professional body?

Mr Hale—Yes. But it was for \$680,000. We never saw the application for \$1.3 million.

Senator CARR—So you still have not seen it?

Mr Hale—No.

Senator O'BRIEN—How long were you given to consider the application for \$680,000?

Mr Hale—I think when I read through the file we were asked to give our responses within seven days or something like that.

Senator O'BRIEN—Was there any communication with the CCACC at all about the second application? Did you hear about it after it had gone in?

Mr Hale—We had no communication whatsoever about it.

Senator O'BRIEN—So the first communication was the information you got just before you sent that email that the second grant had been approved.

Mr Hale—Yes. That is right.

Senator O'BRIEN—So, not only did you not know the application had been made and had gone in but you were never contacted in any way about it and you heard second-, third- or fourth-hand about it.

Mr Hale—That is correct.

Senator O'BRIEN—How are these applications normally managed within the CCACC? Which staff deal with proposals? How does the CCACC determine its recommendation on each proposal?

Mr Hale—Normally John Mundy, the executive officer, or John Preslan will take the project on as their own personal thing, so they will contact the applicant. Sometimes we get the application through DOTARS, as in this case, or sometimes a person is referred direct to us, which is more the case. They will do an initial assessment. If it does not comply, or if they do not believe it has a hope, they will normally tell the applicant. They will normally assist the applicant to tidy it up if they believe that it is a worthwhile community or economic case. It is not normal that we have got a meeting close at hand; it is normally just circulated to each of the people on the committee and they will prioritise it. If anyone on the committee wants to meet about it or wants further information, we will either call a meeting or the information will be provided to them. The executive officer assembles that information. He will normally contact me and give me a copy of those comments. I will normally assess those and decide whether to submit it or decide that it is an issue that we need to meet about.

Senator O'BRIEN—I wanted to touch upon another matter. What advice has your ACC received from the Department of Transport and Regional Services about this committee's inquiry?

Mr Hale—We received a circular I think 10 days ago. I am not sure what it was about, but it was telling us the rights of the committee to get information, and then it gave us a whole list of things that we could be doing wrong if we did it.

Senator O'BRIEN—If you did not or you did?

Mr Hale—If we did it—if we gave information. There are privacy acts and all sorts of things.

Senator O'BRIEN—So you took that advice to be cautioning you against assisting the committee.

Mr Hale—I did not take it as cautioning against assisting the committee, but I was not happy about it. I contacted the department about it because I felt that it was like leaving you up the stream—forgive the pun—without a paddle.

Senator O'BRIEN—The creek, yes.

Senator CARR—Bob's bog.

Mr Hale—It really left you standing there saying: 'Do I? Don't I?' I thought legal advice was what should have been offered.

CHAIR—Did you, prior to receipt of the letter, seek any contact with the department to get any advice? The CCACC was written to by this committee requesting the provision of that information.

Mr Hale—That advice had gone out, I think, before we had it. The temporary executive officer, John Preslan, had contacted me and told me that we were getting a request and this was a standard answer that people were giving, which was to contact the department.

CHAIR—In your particular role at the ACC and with your experience, I take it you did not feel any difficulty with understanding the request from this committee, what that meant and what was involved. It was not something that was completely foreign to you.

Mr Hale—No.

Senator O'BRIEN—What advice, if any, did your ACC receive from the department specifically in relation to today's hearing?

Mr Hale—None.

Senator O'BRIEN—If I can just go back to the Kincumber Creek project, which you say would have saved 100 local jobs, did the ACC have any role in the consideration of a proposal for a grant for that project?

Mr Hale—It was being handled by a state and regional development committee and Gosford City Council. We had tried to become involved to get them to put a submission in relation to not so much the dredging but the preventing of the siltation of the creek. For some reason it just never came to fruition and they never sent us a submission.

Senator O'BRIEN—In terms of the up-creek remediation works, was any discussion held by Wyong council with the ACC about projects that might apply to upstream work rather than to the dredging of the mouth of Tumby Creek?

Mr Hale—Not with Wyong council.

Senator O'BRIEN—There was no approach or consideration of that at all?

Mr Hale—No.

Senator CARR—I will go briefly to the Brisbania after school care project, which was another project that you were managing.

Mr Hale—Yes.

Senator CARR—I draw the committee's attention to the material you have provided to us, and I thank you for that. It is helpful in our inquiries to have this sort of information. Can you confirm that, in an email to officers of the department on 10 August last year, your executive officer, Mr Mundy, wrote:

Understand John Abels from Jim Lloyd's office took the very incomplete application to Canberra complete with my comments to the proponent and by-passed the system. ... again.

Mr Hale—I do not recall it, no.

Senator CARR—I will ask the secretary to give you a copy of it. It is page 49 of the committee's documentation. Mr Hale, have you had a chance to read it?

Mr Hale—Yes.

Senator CARR—In the first paragraph of the email dated 10 August, 8.27 a.m., he is talking about: 'John Abels from Jim Lloyd's office took the very incomplete application to Canberra' and so on. What do you think he meant by that?

Mr Hale—They would have just taken it down to get things in progress. I know that, quite often, if it is a project that needs doing they will forward the submission and tidy it up at a later time.

Senator CARR—Who will tidy it up?

Mr Hale—Either the executive officer or the applicant.

Senator CARR—We have a situation here where an employee of a minister's office took it down to Canberra and 'bypassed the system again'. It is nothing to do with your executive officer, is it?

Mr Hale—I am not quite sure what you mean.

Senator CARR—My point is that he is bypassing the system that you have commented upon as being valuable in terms of assisting probity and other arrangements and taking 'a very incomplete application' directly to Canberra. In the second email, the officer from DOTARS says:

Yes Lloyd's office faxed the scrappy application to Mrs Kelly's office and it found its way back to us last week.

How adequate do you think that process is?

Mr Hale—I do not know about the probity of that process, but the fact of life is—and this is what Alex Petrovsky is saying—that it still has to go back through the process. That is where the probity is working—be it that someone takes it past the probity, it comes back—

Senator CARR—Despite the ministerial officers and despite the intervention of the minister's office—

Mr Hale—I do not know that he was the minister then.

Senator CARR—So it is just the local member's office. What was Mr Lloyd at the time?

Mr Hale—I am not sure. I am not sure what date Mr Lloyd was appointed.

Senator CARR—You see, on 10 August there is a clear indication that there has been a political intervention to bypass the system. There is a reference to ‘again’. How often has it occurred in your experience that Mr Lloyd has bypassed the system?

Mr Hale—I do not know that Mr Lloyd has ever bypassed the system, to my knowledge. The only two times that I have been witness to this would be knowing about this one—which I did not know about—and Tumbi Creek, where it went direct.

Senator CARR—So that is twice.

Mr Hale—The first one was nothing to do with Mr Lloyd.

Senator CARR—I want to ask you about the Brisbania after-school project. What has happened to that?

Mr Hale—I think that was approved. I am pretty sure that was approved.

Senator CARR—How much was that granted?

Mr Hale—I cannot recall. I was going to say I thought it was something like \$30,000 cash.

Senator CARR—How much was it?

Mr Hale—I cannot recall; I am sorry.

Senator CARR—Do you want to take that on notice? We might have that information somewhere. When you received the note from Mr Mundy about the Tumbi Creek application, which he said was the worst he had ever seen, what did you do?

Mr Hale—Nothing. I just told him to circulate it.

Senator CARR—So that was circulated to other committee members?

Mr Hale—Yes.

Senator CARR—Did you not raise the matter with Mrs Kelly?

Mr Hale—No.

Senator CARR—I have a letter here from Gary Dolman, dated 8 September. It says:

I have raised your concerns in relation to the above project with Mrs Kelly, the Parliamentary Secretary to the Deputy Prime Minister ... I can confirm that the funding for this project will not impact on any notional allocation to the Central Coast Area Consultative Committee ...

When you raised the matter with the departmental assistant secretary, was it only the issue of the allocation that was raised?

Mr Hale—It was after we had been informed that there was going to be an allocation of between \$1.3 million and \$1.6 million when I sent the letter through the Newcastle office questioning the allegations. That was what that reply was in line with.

Senator CARR—It also goes on to say:

I am aware that the 'Life Long Learning Centre' project—

and it gives a reference number—

mentioned in your e-mail is currently being assessed by our Newcastle Regional Office.

So there clearly were other matters canvassed as well. What has happened to the lifelong learning centre project?

Mr Hale—It has not been approved, to my knowledge.

Senator CARR—Did you regard that as a priority?

Mr Hale—Yes.

Senator CARR—Was it of higher priority than the creek?

Mr Hale—Yes.

Senator CARR—Why hasn't it been approved?

Mr Hale—I do not know.

Senator CARR—I want to ask you about the Kincumber Creek dredging project, which the assistant secretary said provides 'good outcomes for your regional community'.

Mr Hale—It has not been submitted. That company has announced that it is closing and moving to Brisbane.

Senator CARR—It also says here:

I hope that we can maintain a productive level of communication between the CCACC—

I presume that is you—

and this department.

Is that a reflection that there might have been some strain in the relationship at this time?

Mr Hale—I think my letter certainly denotes some strain, but prior to that we had had a good relationship.

Senator CARR—Is it your view that the reference you made here about the whiteboard type scandal has subsequently been proven to be correct?

Mr Hale—That is what we are here for, yes.

Senator CARR—Has the department responded to you adequately in terms of your concerns about those other projects that have not been funded?

Mr Hale—No.

Senator CARR—With regard to the 120-job project at Kincumber Creek, you say no application has been submitted by the Gosford council. You would expect them to put it in?

Mr Hale—It was being handled by the Regional Development Corporation, as it was then, and by Gosford City Council. I am not sure of the reasons why it was not continued.

Senator CARR—So it was prepared.

Mr Hale—It has never been prepared, no.

Senator CARR—It is a puzzle, isn't it, that a project which starts as a group of people wanting to get their tinnies out of a creek gets \$1.3 million, but a project that involves saving the jobs of 120 people does not get off the ground?

Mr Hale—But it was never submitted to the federal government or to the area consultative committee. We were trying to get them to come up with a submission, but they never did.

CHAIR—Who was that?

Mr Hale—State and regional development and Gosford City Council.

CHAIR—What about the owner of the company?

Mr Hale—He was working through those two organisations. They had carriage of it, so it was left in their hands. The council itself and the department of state and regional development had been spending some considerable sums on getting consultants' reports around that time.

CHAIR—So they were spending a fair amount of time and money putting a detailed application together.

Mr Hale—I do not know whether they ever even prepared an application but they were doing studies.

CHAIR—If they were doing the studies it sounds like events may have overtaken them.

Mr Hale—Yes.

CHAIR—So they were not able to short-circuit the process, by the sound of it, or they didn't.

Mr Hale—I do not know.

Senator CARR—With regard to the Tumbi Creek project, you say that it will 'cause serious concerns in our committee as to the validity of the partnership program'.

Mr Hale—Yes.

Senator CARR—Has that happened?

Mr Hale—We have moved on. You have to get about your job.

Senator CARR—You do not think that the Tumbi Creek affair has undermined the program?

Mr Hale—I think it has definitely damaged it. It is quite apparent from the reports in the newspapers.

Senator CARR—I go back to the original statement you made in that email of the sixth. You say:

I understand the minister is to announce that the government will fund the restoration of Tumbi Creek.

That was before the announcement, wasn't it?

Mr Hale—I am not sure; I think it was, yes.

Senator CARR—So how did you know that the government was going to announce it?

Mr Hale—I think I said before that my executive officer was at a function or a meeting and he was told by someone. He rang me.

Senator CARR—Right—I heard you say that. I am just wondering who told your executive officer that the government was going to fund the project.

Mr Hale—I do not know, but by the time I mentioned it somewhere else it was very common knowledge. I assumed it may have even been in the paper by that stage.

Senator CARR—Thank you very much for your assistance. It takes some courage to say the things you have said in these documents. I understand that your organisation may well have faced considerable hostility for making these remarks. I think it has to be acknowledged that it does take guts.

CHAIR—The Kincumber project, for which there was no application lodged, is in the seat of Robertson, isn't it?

Mr Hale—That is correct.

CHAIR—Do you know whether Mr Lloyd was involved in trying to get that project moving?

Mr Hale—Yes, he was very supportive. As a matter of fact, he had arranged for a number of government ministers to visit that site. So he was very supportive of that project. But, again, we were between the devil and the deep blue sea—we really could not get anything in some substantive form.

CHAIR—He didn't make any announcements at all to say that the funding would be there before the application was lodged, or anything like that?

Mr Hale—No.

Senator JOHNSTON—So it is not even a competing project, is it, the Kincumber Creek, because it never came within your jurisdictional grasp?

Mr Hale—That is correct.

Senator JOHNSTON—Notwithstanding the good efforts of Mr Lloyd and all the other proponents down at Gosford, there is nothing you can do about that, is there? If they do not put an application in, they never get into the starting barrier.

Mr Hale—Can't buy a ticket, can't win the lottery.

Senator JOHNSTON—Exactly.

CHAIR—That is not necessarily the case—you can be told you have won the lottery before you have actually bought a ticket.

Senator CARR—That is right—sometimes you get an announcement before the grant application has hit the deck.

Senator JOHNSTON—We do not have any experience of that, I hasten to add.

CHAIR—Read your files.

Senator JOHNSTON—I have not heard you draw our attention to it.

CHAIR—You will tomorrow.

Senator JOHNSTON—Mr Hale, you voluntarily put the time in as the Chairman of the Central Coast Area Consultative Committee—is that correct?

Mr Hale—Yes.

Senator JOHNSTON—What do you do when you are not doing consultative committee work?

Mr Hale—I run the Ettalong Beach War Memorial Club.

Senator JOHNSTON—I am from Western Australia, so tell me what that is.

Mr Hale—You will never know where Ettalong is. It is a club of about 18,000 members. We have just completed a \$90 million development project—a hotel which will be run and operated by Outrigger hotels. I am also a councillor on the Gosford City Council.

Senator JOHNSTON—So you are from Gosford.

Mr Hale—Yes.

Senator JOHNSTON—I take it the business that you work in is located in Gosford.

Mr Hale—Yes.

Senator JOHNSTON—Forgive me, I have not been to Gosford so I do not know much about it. I note that you have another nine consultative committee members.

Mr Hale—Yes.

Senator JOHNSTON—I have gleaned that there is a Ms Perich, a Mr McKnight, a Ms Rumbel, a Mr Lusted, a Mr Taylor, a Ms Duff a Ms Herbert and a Mr Asquith. Is that right?

Mr Hale—Not Ms Herbert—she is actually my PA.

Senator JOHNSTON—She is your secretary. I thought that might be the case. They all come from the bailiwick, if you like, or the jurisdiction of Gosford and Wyong.

Mr Hale—Yes.

Senator JOHNSTON—So everybody has an interest to that extent in wanting to see this region developed properly.

Mr Hale—Yes.

Senator JOHNSTON—Do you find that is a conflict of interest?

Mr Hale—I often say that if you took conflict of interest to its end you would never vote on anything.

Senator JOHNSTON—Precisely.

Mr Hale—So it is very difficult, particularly with my positions. In almost everything I deal with I have some contact with somewhere else.

Senator JOHNSTON—I take it all these people—and your experience in this is probably the best evidence we can get—are putting in time for no cost, no charge, no fee.

Mr Hale—That is correct.

Senator JOHNSTON—They meet once every two months.

Mr Hale—Yes.

Senator JOHNSTON—How long do these meetings last?

Mr Hale—As I said, sometimes they are short—five minutes—but sometimes they can go for two hours if we are talking about the strategic things that we need to do.

Senator JOHNSTON—They are reviewing quite sizeable allocations of Commonwealth funding money and partnership money in the nature of council contributions, private contributions or state government contributions.

Mr Hale—Yes.

Senator JOHNSTON—I take it you would tell me that these people are all very earnest, fair and reasonable in their deliberations.

Mr Hale—Yes.

Senator JOHNSTON—I would have thought so too. What does Mr Asquith do?

Mr Hale—He is retired now but he is the Chairman of the Central Coast Community Environment Network. I think he is also on the Northern Rivers Catchment Management Authority.

Senator JOHNSTON—Is he in Wyong or Gosford?

Mr Hale—That is a good question. I am not sure where John lives. He operates out of the Ourimbah campus of the university.

CHAIR—He is appearing as a witness this afternoon.

Senator JOHNSTON—Where does Mr Taylor live?

Mr Hale—He lives in Gosford.

Senator JOHNSTON—In your email you say that it ‘could very well lead to a “whiteboard type” scandal’. Firstly, what do you understand to have been the whiteboard type scandal?

Mr Hale—The newspaper reports in an election with the then Minister Kelly, I think, were that they put up areas on whiteboards.

Senator JOHNSTON—In the Keating government.

Mr Hale—Yes.

Senator JOHNSTON—Have you any evidence that anything to do with this Tumbi Creek project—bearing in mind the money has not even been allocated yet because there are a whole lot of conditions attached to it—was done on that basis?

Mr Hale—No.

Senator JOHNSTON—Isn't it true that that is just a throwaway line to alert your members to make sure the i's are dotted and the t's are crossed?

Mr Hale—That is exactly right.

Senator JOHNSTON—Let us come back to Kincumber for a moment. The state government in New South Wales actually has a dredging funding base, hasn't it? You can apply to dredge the various channels and mouths of the various waterways the length and breadth of New South Wales.

Mr Hale—Yes. They have a contribution plan.

Senator JOHNSTON—Are you aware whether Kincumber has lodged an application for them to do the work?

Mr Hale—No, the owner has done the dredging himself.

Senator JOHNSTON—Right. So he just got on with the job.

Mr Hale—Yes.

Senator JOHNSTON—You say 'the owner'. He actually owned the waterway, did he?

Mr Hale—No. There is a boat-building facility on that creek—or was.

Senator CARR—What has happened to it?

Mr Hale—It has closed.

Senator JOHNSTON—It was a commercial decision. He has gone to Brisbane.

Mr Hale—That is right.

Senator JOHNSTON—There is not much you can do about that, is there?

Mr Hale—No.

Senator JOHNSTON—It was put to you that you were likely to receive or have received hostility. Can you tell me: have you received any hostility?

Mr Hale—No.

Senator JOHNSTON—So the Commonwealth government and the local members have not given you any hostility?

Mr Hale—No.

Senator JOHNSTON—What about the other area consultative committee members? Have they given you any hostility?

Mr Hale—No.

Senator JOHNSTON—What about the state government? Have they given you hostility?

Mr Hale—Not about this.

Senator JOHNSTON—Has anybody given you hostility?

Mr Hale—I think we get hostility all our lives.

Senator JOHNSTON—But has anybody in the department, anybody who exercises any control over your consultative committee and the funding allocations to your region, treated you adversely as a result of anything you have said in the media, in these emails or to the committee?

Mr Hale—No. I have just been reappointed.

Senator JOHNSTON—Exactly. So there is no hostility out there for you. You have come here in a full, open and frank way and everyone accepts what you have said on face value.

Mr Hale—Correct.

Senator STEPHENS—Thank you, again, for appearing before the committee and providing the information that you have. You are aware, of course, that this is an inquiry into the Regional Partnerships program and its administration. I want to ask you one question in relation to the Tumbi Creek project. In terms of your ACC's strategic regional plan, was the Tumbi Creek proposal consistent with the area consultative group committee's strategic plan, which is one of the first requirements of the approval?

Mr Hale—No.

Senator STEPHENS—In your strategic plan, was there any mention of Tumbi Creek?

Mr Hale—No.

Senator STEPHENS—The other issue that I wanted to speak to you briefly about is the issue Senator Johnston raised with you: the overall responsibilities of the chairs in the area consultative committees. I wanted to ask about the level to which the area consultative committees are supported by the department. I understand that there are regular meetings of the chairs and project officers. Has that occurred recently?

Mr Hale—Yes. There are normally about two a year where we get together with both the executive officers and the chairs. There was one recently—last week—which I could not attend but the deputy chair went. There is a meeting next month in Canberra of the chairs and there are now state meetings of the chairs, which we sometimes find a bit more relevant than the Australian meetings.

Senator STEPHENS—Is that a new initiative?

Mr Hale—The first one was held last week, which was for the New South Wales chairs.

Senator STEPHENS—Do those meetings have a formal agenda?

Mr Hale—Yes, they do. Normally the minister always attends, which has been exceptionally helpful. That has continued in all the years that I have been chair. Quite often there are two or three ministers there. You get direct access, which is very helpful.

Senator STEPHENS—Were the SONA guidelines raised at the meeting of the chairs and executive officers?

Mr Hale—What are the SONA guidelines?

Senator STEPHENS—The SONA guidelines are guidelines that the department uses to approve projects that are considered to be of national significance or of other significance. In the course of our investigation in this inquiry we discovered that there have been several projects that have been approved under what are called SONA guidelines. You have not been briefed?

Mr Hale—I have never heard that term.

Senator CARR—It means you can override the guidelines if you need to.

Senator STEPHENS—So the chairs have not actually been advised of how those guidelines and the process operate?

Mr Hale—I do not know. They may have sent something out and I have either missed it or not read it.

Senator O'BRIEN—Could you check whether you have actually received this? I think the department like to describe them as the SONA procedures.

Senator STEPHENS—I have one other point to make to Mr Hale, and that is that the Brisbania before and after school and vacation care project is actually for \$132,474.

Senator BARNETT—I turn to page 29 of the document that you have submitted to the committee, the CCACC project synopsis and comments sheet with the project title ‘Tumbi Creek dredging’. Are you familiar with that document?

Mr Hale—Yes.

Senator BARNETT—Three-quarters of the way down there is a question. This was completed by your ACC?

Mr Hale—Yes.

Senator BARNETT—The question reads:

Is the project proposal consistent with the CCACC Strategic Regional Plan?

The answer circled is ‘Yes’. Does that ring a bell to you?

Mr Hale—It could, yes.

Senator BARNETT—It says underneath, ‘If Yes, please provide details.’ It says there:

This project will reduce flooding of residence, assist industry, flow of water to lake. However the dredging material must be carted to a land fill base.

Senator STEPHENS—Senator Barnett is actually reading from Mr Lusted’s assessment, not the area consultative committee’s assessment.

Mr Hale—I see. I thought you were saying it was from me, but if it is from Mr Lusted that would be what he has put in.

Senator BARNETT—The page before it is dated 18 June 2004 and says John Lusted, consultant. But then the document looks like it is from the ACC.

Mr Hale—What would happen is that they would circulate the form to all the committee people. They would fill it out and it would come back and be assembled into the one application.

Senator BARNETT—So this is just a view of John Lusted?

Mr Hale—That is correct.

Senator BARNETT—At the bottom it says:

Does the ACC consider that the proposal is consistent with programme criteria in demonstrating delivery against the following criteria—

and the ratings are that three is strong, two is moderate and one is weak. He has said it is a three in answer to the question ‘How does it deliver?’

Mr Hale—That is his opinion.

CHAIR—For your enlightenment, SONA stands for Strategic Opportunities Notional Allocation. We know what it stands for, although we are not quite sure what it means. It is another acronym. As there are no other questions, thank you for your appearance today.

Proceedings suspended from 1.07 p.m. to 2.07 p.m.

ASQUITH, Mr John Richard, Chairman, Central Coast Community Environment Network

CHAIR—Welcome. I am not sure if you were present this morning when I advised other witnesses of some of the formalities of the committee, but there are a couple of things I have to state. We prefer that evidence is taken in public but, if at any stage you wish to have evidence taken in camera, you can make a request and we will consider it at the time. The evidence you give is covered by parliamentary privilege, which means that if any action were to be taken against you of an injurious nature or if you were subsequently adversely affected, that would be a breach of the parliamentary rules. Concurrent with that is the obligation on all witnesses to give truthful evidence to the committee. Any false or misleading evidence may constitute a contempt of the Senate. We are requiring witnesses to this inquiry to give their evidence under oath or affirmation. I invite you to make a brief opening comment and we will then proceed to questions from members of the committee.

Mr Asquith—The first thing I should mention is a bit of a correction. I am also on the area consultative committee. I was invited to put in an application to join that committee some years ago by Jim Lloyd. I am there to represent environmental interests.

CHAIR—But you are not giving evidence today on behalf of the ACC?

Mr Asquith—No. I just wanted to make that clear. The thing in regard to Tumby Creek that I think is worth me talking about is that in terms of the community issues that are involved with it the need to dredge the creek has often been portrayed as an environmental issue, but from our point of view—and we have done a fair bit of research on this—the dredging is essentially for human purposes: boat access, water quality for swimming, or potential nuisance flooding of some surrounding houses.

But the issue for us has always been the dumping of the dredged spoil in the lake. It is highly debated amongst scientists—certainly both sides of the camp have spoken to us. They are well-qualified people—some say it will have no significant impact and others say it will have a significant impact. At the end of the day, we were opposed to the dumping in the lake because we saw that that was sending out a very bad message from government in terms of the water bodies in the area. We are trying to see the environment improved, and we could not see why a government, to save costs, should be dumping a whole lot of spoil into the lake when any private or individual person would probably be heavily fined for that. That is basically the position we came to.

CHAIR—I have a couple of questions. What would you say the level of usage of the creek is, particularly when it is dredged?

Mr Asquith—It is not particularly high. I have canoed along the creek a few times to have a look at it, and there have been some improvement works done to stabilise part of the banks. But there is not a lot of water usage, you might say—recreational craft or swimming. The more common activities are probably people looking at the creek from their houses or from parks, bike riding through there and feeding the ducks—which, in itself, creates a lot of the water quality

problems that occurred in the creek just there. It is not a high usage area of Tuggerah Lakes from what I have seen.

CHAIR—What are those uses? You have said canoeing, and we have seen a small fishing boat go up and down it, but what is the range of activities?

Mr Asquith—Obviously there is a bit of boating in there by people who come in from the lake. People just launch a canoe or something from the shore and there is about a kilometre stretch of water there that you can paddle up and down in. I have certainly never observed a large number of boats going through that channel. There are houses—it is only a relatively short distance of the creek. Parts of the foreshore are bushland or inaccessible—they are behind industrial or commercial places. So there is not a whole lot of access to it.

CHAIR—Swimming?

Mr Asquith—People tell me they have swum in it in previous years. But the water quality is diminished, so it is well outside the ANZECC guidelines for recreational waters. The thing that concerned us was that the dredging was put up as a solution to some of the water quality problem in there in terms of swimming—for ear infections and those sorts of things that kids might get out of it. The information that we received when we checked it out was that while the dredging might dilute that pollution a bit it will not solve it, because at the end of the day you have got a longish narrow water body and you are going to open up this channel a bit but it has got very little flow through it. Part of the flow is carrying in pollutants from service stations and car washes and as well there are ducks there that are all doing their droppings in the creek. They are all significant things which degrade water quality.

CHAIR—In your view is there a more permanent or longer-term solution to remedy this problem, rather than the dredging proposal?

Mr Asquith—The dredging is only dealing with the symptom, and it is pretty clear that probably within ten years, given the rate of the frequency of dredging operations that have had to happen there, it would have to be done again. In that sort of sense it is quite a lot of money to spend for a relatively short-term benefit. When we first got involved in it we set up a small group in the area—a catchment care group of volunteers and neighbours there. They started going up the catchment and exploring and asking: what are the problems, why is our creek dirty? That was the thing we tried to convince them of—that you need to look at your catchment as being where the problems are coming from.

Those people were doing water quality testing under the Waterwatch program. They were going up all the reaches of the catchment. They found old garbage dumps; they found where stuff was running in off roads. They found building sites that did not have their sediment fences up, so that in heavy rain there was stuff washing down. They identified quite a lot of issues within the catchment and then approached the council, primarily, because they mostly fall into council's area to do something about that. For example, when they found building sites with sediment fences that were down, and stuff was coming down into the creek, they would follow up with the building section and try to get that stopped. The group, from my recollection, went for about three years and progressively faded out due to their frustration at not being able to get listened to on those issues.

CHAIR—Listened to by whom—council?

Mr Asquith—Yes.

Senator JOHNSTON—Mr Asquith, you talk about the research that your group has carried out. Could you tell us a bit about that research, the nature of it and who did it?

Mr Asquith—The only qualification I would put on it is that the academics and consultants that we have spoken to, who are well qualified on the estuary, are reluctant to have their names publicised because if they make a statement they want to make it themselves, not have us make it for them. If you need names, I can probably write a few of them down and give them to you rather than state who they are.

Senator JOHNSTON—So the advice you have had is informal advice?

Mr Asquith—Yes, we have not had any written advice on it.

Senator JOHNSTON—And you have not purchased any advice?

Mr Asquith—No.

Senator JOHNSTON—So it is almost on the verge of being anecdotal?

Mr Asquith—Except they are well-qualified people.

Senator JOHNSTON—Have they actually visited the creek?

Mr Asquith—Yes.

Senator JOHNSTON—Are they from the local area?

Mr Asquith—They are people who are well experienced in the Tuggerah Lakes estuary system.

Senator JOHNSTON—What sort of qualifications do they hold?

Mr Asquith—At least three of them have PhD qualifications, with specialisation in estuary systems.

Senator JOHNSTON—So three doctors of estuarine waters?

Mr Asquith—Yes.

Senator JOHNSTON—And they live in this area?

Mr Asquith—Two of them live in this area and one is located in Sydney.

Senator JOHNSTON—When you say you have had research carried out—

Mr Asquith—Sorry, I did not think I said that. I said we had accessed research. We have not had research carried out. We invited them to comment and provide us with advice.

Senator JOHNSTON—Do you think that Tumby Creek is able to be understood simply by anecdotally noting what usually happens in estuaries or do you think detailed tests and evaluation of the creek need to be carried out in order to make definitive statements about what is required to remediate it?

Mr Asquith—Clearly, the latter, but with the qualification that definitive statements would themselves be expert estimates.

Senator JOHNSTON—Do we have any expert estimates?

Mr Asquith—Quite a lot of studies have been done on this proposal.

Senator JOHNSTON—Are these published documents?

Mr Asquith—They are documents, as I understand it, that the council has, primarily, or state agencies.

Senator JOHNSTON—Which prompts me to say: if the council has the information, are you suggesting that council has not been referring to its own information?

Mr Asquith—It depends what the question is that you are asking. If you are asking about the dumping of the dredged spoil in the lake, which I think is what you are asking me about—

Senator JOHNSTON—No, I am asking generally about the assessment of water quality, what is required to remediate it, what the long-term likelihood of success of dredging would be, the impact on the creek, the source of the sediment—all of that sort of stuff. Council seems to have a fairly clear view that dredging and the removal of the spoil, in line with what you say, is the appropriate way to go.

Mr Asquith—It depends on the reason. From what council have told me, the removal of the spoil will not bring the water quality up to the recreational water guidelines, the ANZECC guidelines. So it will improve water quality, there is no doubt about that, because there will be some dilution, but they have never claimed, in my discussions with them, that it will get it up to recreational standards.

Senator JOHNSTON—Is anything ever going to get it up to recreational standards?

Mr Asquith—I do not know.

Senator JOHNSTON—I have had a look at the lake and I have been out on it. It is a little bit stagnant. It is obviously affected by wind. It is nothing like the waters here, which are subject to the salt of the ocean, the movement and filtration of sand and what have you. I would have thought that when they talk about water quality they are talking about stabilising it so that it is not

totally stagnant and full of pollutants from the surrounding houses, getting a bit of flow through, enabling fish and wildlife to properly access through the water and mitigating the flood problem.

Mr Asquith—There are a couple of issues there. Firstly, the mouth of the channel here is completely different from Tumbi Creek or anywhere else around the lake. There are many creeks around the lakes that are not dissimilar to Tumbi; it is just that they are not fully or partially closed off. In terms of the impact on wildlife, fish and what have you, from my understanding of it and the explanations that I have had given to me, the closure of these types of channels and their reopening in storm conditions is a natural cycle. With regard to whether that is good or bad for wildlife, it will just swing the balance one way. One lot will gain like it is and another lot will gain when it is opened up. So that is just an ecological process.

It is my understanding that 14 houses are affected by the flooding. The flooding of those houses is nuisance flooding in that it goes into their yards, not the habitable parts of the properties. To my way of thinking—and council has looked at this, I guess—there would be better long-term solutions to the problem than trying to dig the channel out every so often, because inevitably it is going to block up again. Again I am relying on advice for this, but there are two factors to the problem. Firstly, there is the generation of weed in the lake due to the increased population around the lake—more nutrients, more weeds. This area gets a lot of north-easterly winds, which push the weed down into that corner of the lake. Secondly, the flow down the creek is quite low except in storm events, so between the low flows, stuff coming down and a bit of sediment coming the other way, a plug forms in the mouth of the creek. Digging it out does nothing about the weed problem in the lake. That is still there. That is just getting worse all the time as development occurs more around the lake. So, inevitably, whatever is done there is not going to be permanent. It is a fix for a given period of time. There is debate, no doubt, over how long that is for.

Senator JOHNSTON—Have you made a detailed submission to council on your views?

Mr Asquith—I made a presentation to council in late 2003. One of the difficulties we have had is accessing the information on this. There has been a reluctance to, let us say, share the technical stuff and to get it out, so we have had to use the available information—what is in business papers and things that are relatively easily obtained.

Senator JOHNSTON—So you made a detailed submission to council. Was it just you on your own or did you have the benefit of the PhDs to help you?

Mr Asquith—I spoke to them beforehand. They came down there and actually took a sample of the plug to have a look at the constituency of it. What it came down to essentially was that the reasons for clearing the plug out were essentially the flooding, water quality—but it would not improve enough—and lastly boat access. But in terms of the environmental impacts, that is a debate either way.

Senator JOHNSTON—You have proposed to just leave it to nature and repurchase those 16 or 14 homes. Do I read your email of 21 June in response to the first application right? You suggest the repurchase of those homes and the return of it to bushland. I take it vacant Crown land is what you mean by that. What did you have in mind? I am interested in your costing of

that because I think that would cost a lot more than the \$2 million, if we say it is \$2 million. I am not sure that it is; it is less than that.

Mr Asquith—That was not what was in my mind at the time. There were two ideas, and we were not in a position to fully evaluate them, but one of the suggestions which would be significantly cheaper was to purchase a couple of houses and to build a floodway through there—in other words, lower the land so it just becomes parkland and plant native species there. Maybe you lower the land by a foot or something so, when you do get into that flood situation, there is a relief point for the flood. In that way you manage the level of flood that affects the remaining houses. Again, that is only dealing with a symptom down at the end of the creek, but it is—

Senator JOHNSTON—Council does not have a power to compulsorily acquire, does it?

Mr Asquith—I do not know, in terms of flooding.

Senator JOHNSTON—It is a state government power.

Mr Asquith—I do not know.

Senator JOHNSTON—So there is a jurisdictional difficulty in that.

Mr Asquith—There is some land there where such a thing might be possible.

Senator JOHNSTON—Thank you.

Senator O'BRIEN—Mr Asquith, how long have you been on the ACC board?

Mr Asquith—I think since about the year 2000, maybe 2001—somewhere around then.

Senator O'BRIEN—You said you were appointed to it by Mr Lloyd?

Mr Asquith—I was talking to him about issues on the coast—employment and environment tensions, you might say. I believed at that time that the ACCs were focused on job creation and I said that we would like to see more encouragement for businesses that have less impact on the environment. He invited me to apply and then it was subject to a process in the department and through ministers and so on.

Senator O'BRIEN—How long have you been the chair of the Central Coast Community Environment Network?

Mr Asquith—Since 1999.

Senator O'BRIEN—Could you describe the nature of that organisation?

Mr Asquith—We are a not-for-profit, non-government network that works across the Gosford, Wyong and Lake Macquarie region. We work on on-ground works, advocacy and

education programs. We do a range of projects, so we obtain grants, contracts, donations et cetera. The organisation's mission is sustainability and so it takes in the economic and social side as well, and we spend an amount of our time on that, but we are primarily dealing in the economic side. We have an office at the Ourimbah campus. We have an old classroom there that we renovated. Our budget last year was just a little bit under half a million dollars and, through that, we employ staff and volunteers and so on.

Senator O'BRIEN—It is quite a large voluntary organisation, by the sound of it.

Mr Asquith—Yes. We started in 1997 and we have worked hard and been very successful in what we do.

Senator O'BRIEN—The ACC has provided this committee with material that discloses your unfavourable treatment of the Tumbi Creek dredging proposal. I think I understand, but can you just elaborate on why you did not just fail to support the application but described it as a great waste of public money?

Mr Asquith—I was not expecting it to be public, was I!

Senator O'BRIEN—I understand that at that stage it was within the ACC but, given the notoriety of this project and your comments, you must have expected me to ask that question.

Mr Asquith—A lawyer friend once said to me that you should regard every email as a letter to an unknown judge. Those are not bad words of advice, but pretty daunting. I guess one of a number of things struck me about the proposal. When I spoke at council, which was in November 2003, the dollars we were talking about were around the couple of hundred thousand mark. As I recall, the figure was about \$300,000. Some time between then and June, when that email was written, I started to hear figures of several million dollars and I was staggered. My background is that I am a professional engineer by training. I have a master of arts degree in management and I am a fellow of the Institution of Engineers. But I am not a civil engineer, so this is just on the periphery of the sort of engineering I am trained in.

Looking at that cost increase, it staggered me, so again using the networks I talked to the people who are doing the catchment management for Lake Macquarie and said, 'Look, what are you guys paying for dredging? How come we are talking about \$2 million for what I would regard as a pretty small job?' I can actually table it; it is only a brief note. The catchment coordinator eventually sent me through a research paper which explains some of the ecology of the area, but he quoted a figure of \$12 a tonne to me. Multiply \$12 by 15,000 and you are talking \$180,000, so there is a big gap between that and \$2 million. My own experience in engineering over the years is that whenever I see budget estimates I always have a fairly jaundiced eye in looking at them to see just what they are made up of. When you get down to dredging, there is an approval process, there is digging the stuff out, there is transporting it off site to a dump and then there is neutralising it at the dump and selling it off or whatever you do with it. There are only about four steps in that.

On the approval side, that \$300,000 has been spent, so that is not included in any of this. He is quoting a figure there of \$12 a tonne. Whether that is the digging out and carting it away I do not know, but from my own experience in materials handling when I was involved in the sort of

thing I would not think you would be paying more than about \$5 a tonne to truck this stuff about 20 kilometres up the road. Again, multiply \$5 by 15,000 and you are up to \$75,000, so it adds up to about \$250,000. Then you have got the neutralising of it. It is basically spread out in an area with bunds and neutralised with some lime and what have you. When the EPA says it is okay then you are able to do other things with it.

I just could not get a feel for where the \$2 million came from out of that. In a little bit of research that I did do, as time went by some of this came out. A figure that was put in front of me was that it was going to cost \$300,000 for the waste disposal levy, and there was a lot of media run on that at the time. Again when I talked to the people up at Lake Macquarie they said, 'No, no, it's exempt. Check the regulations.' I said, 'You're kidding, there is \$300,000.' So I went and did a web search and it is in the Protection of the Environment Operations Act, a New South Wales regulation. That specifically exempts dredge spoil from the waste levy.

Senator CARR—The council has conceded that today.

Mr Asquith—Yes. They did not for long time, I can tell you.

Senator O'BRIEN—They were telling you that that was in the costing?

Mr Asquith—Oh yes. I wrote to DOTARS and I wrote a letter to the editor of the local newspaper because I think the mayor of the time was actually quoting that and saying that the state government is ripping us off.

Senator CARR—Can we get that tabled, Mr Chair?

Mr Asquith—I am happy to table that.

CHAIR—I should indicate that the first document you provided we are getting copied and for the purposes of the record we will accept those tabled documents as part of your submission. Thank you.

Mr Asquith—From the position of the environment network, if there is \$2 million going to be spent on the lake—and we would be delighted to have \$2 million spent on improving various things around the lake—we would like to see it spent on the priorities, and they have been identified to a large extent. To me, the priorities are those things where you get the best value for the dollars you have got, where you get the best water quality and the best improvements.

Senator O'BRIEN—Does that mean dealing with issues upstream rather than at the mouth?

Mr Asquith—Primarily dealing with issues upstream but also a lot of foreshore issues. On the western side of the lake there are a number of groups working there where there are a lot of stormwater outlets, a lot of erosion of the lake foreshore and so on. They could use \$2 million for a better long-term effect.

Senator O'BRIEN—My final question is to ask you about how you were reported on this. You were reported on the AAP wire on 11 February in this passage. I will read it and ask you whether it accurately reflects what you think you said. It says:

But John Asquith, of the Central Coast Community Environmental Network, said there's no pressing environmental reason for dredging the creek.

Then it goes on to quote you and says:

'Not a lot of people swim in that creek, I can tell you,' Mr Asquith said.

'They are purely human purposes, there is no natural environmental need to do anything to the creek because what is happening with the creek is essentially a natural process.'

The sediment build-up was a cyclical process, made worse by human activity, he said.

'If the creek had to be dredged, there was no problem with a cheaper alternative which involved spreading the spoil on the lake floor, rather than paying to cart it away, he said.

'From an ecological point of view they're saying there's no significant impact by putting the stuff directly into the lake,' he said.

While some scientists did not want silt to remain in the area, it was part of the ecological process, Mr Asquith said.

'Streams like Tumby Creek, part of their natural system is they sediment up and they capture all that material as a way of preventing it going into the larger water body,' he said.

'The material they are going to dredge is actually a natural mechanism that helps keep the Tuggerah Lakes clean by filtering out stuff through a sand bar essentially on the edge of the lake.'

Mr Asquith—Yes, everything of that I agree with, with the exception of the words 'no problems'. I tried to explain to the reporter—and she may have quoted me accurately or I might not have explained it very well—essentially what I have said here. That was that there were two points of view backed up with an amount of scientific evidence in terms of the dumping in the lake. We came to the position that we opposed the dumping in the lake because of the bad example it set for the handling of the Tuggerah Lakes. I tried to explain that. That is a fairly short article and I think it just got abbreviated down.

Senator O'BRIEN—I guess you would appreciate the problems we have sometimes. In terms of that comment, can I just clarify: what you appear to be saying to me is that the problem with dumping in the lake is not environmental; it is precedent setting.

Mr Asquith—Several scientists I have spoken to tell me that it is a very bad thing, that it will activate the acid sulphate soils that are within the spoil and that it will affect communities within the lake. They argue that it will release heavy metals and other compounds that may be trapped in the mud at the moment into the lake. There are scientists who will say that and there are others who will say, 'Look, spreading it out is no significant risk, because it is 0.001 per cent of the lake. It is so dilute and so small it will have no impact.' We do not have the ability to determine which of those two is right and which is wrong, so we looked at it and tried to bring in the social and economic issues and, I guess, our own ethic, and our feeling was that, at the end of the day, regardless of what the scientists said, we would oppose it going into the lake because it is a precedent and it is a bad example for government to set to the community.

Senator BARNETT—Mr Asquith, how often does your environmental network meet?

Mr Asquith—Monthly.

Senator BARNETT—And that is a voluntary group?

Mr Asquith—It is a voluntary group. We have 300 members and, of those, 80 are groups. Through those groups and their members, there is access to about 5,000 people and volunteers on the Central Coast.

Senator BARNETT—And what is your mission or purpose?

Mr Asquith—Ecological sustainability—ESD—and opposing threats to it. So it is a fairly simple mission—just a big job.

Senator BARNETT—Do you have an executive officer?

Mr Asquith—Yes, we do. I am the chairman. We have a part-time employed executive officer. We are under the Associations Incorporation Act. Office bearers like me are not allowed to be employed.

Senator BARNETT—Do you have an official policy position on Tumby Creek as an environmental network or an associated incorporation?

Mr Asquith—Other than our discussions at meetings, no. We have written letters to the paper following representations being made to us.

Senator BARNETT—What did the letters to the paper say?

Mr Asquith—The letters opposed the dumping in the lake, and we certainly lobbied local politicians and the council on that.

Senator BARNETT—Just to clarify: your network would hold the position very firmly that you oppose the dumping of the silt in the lake?

Mr Asquith—Yes, I believe so—the vast majority. At the end of the day, we rely on votes.

Senator BARNETT—Did anything else come out of those discussions?

Mr Asquith—The dredging itself. The dredging really comes down to a range of socioeconomic issues. Flooding is the most compelling one, and that is the one that we felt needed to be addressed in some way. That was why we decided that, while dredging was not going to do anything to improve the environment and was going to have some negative effects, there were valid reasons to do the dredging. Whether they were strong reasons or the top priorities, I do not think that—

Senator BARNETT—So your environment network group discussed it amongst themselves and basically said that dredging would improve environmental outcomes—water quality and so forth. Did you have a firm position on it?

Mr Asquith—No. We have never said that dredging would improve anything environmentally. It might improve water quality, because of dilution, but there is an old saying that dilution is no solution to pollution.

Senator BARNETT—Water is an environmental issue, but anyway—

Mr Asquith—Dredging just means that the water quality in the creek improves but that some of that pollution is out in the lake. So you still have the same amount of pollution.

Senator BARNETT—So your environment network group has written to the paper stating that you oppose silt being dumped in the lake?

Mr Asquith—Yes.

Senator BARNETT—Can you provide us with a copy of those letters?

Mr Asquith—Sure—they go back a few years.

Senator BARNETT—If possible, that would be great. Can you recall any other letters to the editor on behalf of your group regarding Tumby Creek?

Mr Asquith—Not particularly. The real issue was the dumping in the lake, as far as I can remember.

Senator BARNETT—That is excellent, thank you. How is your group funded?

Mr Asquith—We apply for and get grants—NHT grants, the state environmental trust grants and those sorts of things. We get contracts—some large, some small. Some of the grants these days have been converted into contracts because government wants to see outcomes.

Senator BARNETT—Today, are you representing the Central Coast Community Environment Network?

Mr Asquith—Yes.

Senator BARNETT—You are not here as an individual today?

Mr Asquith—I am not here as an individual today, and I am not here for the area consultative committee.

Senator BARNETT—I want to go to this November 2003 presentation to council. I think you said you talked about the fact that you opposed the silt being dumped in the lake. Were there other points that you made to the council? Can you tell us about that?

Mr Asquith—What we mostly put to them were alternative means of disposal. At that stage, it was very much going to go into the lake—that was the way the whole thing was going. Council had said to us, ‘If we are forced to do this some other way, forget it, we are not going to do anything and that will be bad for the people who live there.’

Senator BARNETT—So that was the main issue of your presentation, that you opposed the silt going into the lake?

Mr Asquith—Yes, and to try to argue for alternatives. As I recall, that was when we really crystallised our thinking about why the dredging was happening. Up until that stage arguments were being put that the dredging was to improve the environment, so it took us an amount of work to get an understanding of the situation.

Senator BARNETT—Do you have a copy of your presentation to the council?

Mr Asquith—Yes, that is certainly available. It is just a PowerPoint presentation.

Senator BARNETT—Do you have any other comments?

Mr Asquith—No. Diane has just reminded me that I asked council to consider pumping the stuff out—feeding it down a manhole and using the sewerage system to carry it away in a diluted form. They said they could not introduce salt water into the system to do that.

Senator BARNETT—So you do not have any problems with the reference on, I think, the AAP that Senator O’Brien read to you earlier? Could you put on the record quite clearly that your group opposes the silt going into the lake?

Mr Asquith—Yes.

Senator BARNETT—Is that unequivocal?

Mr Asquith—Yes.

Senator BARNETT—Have you presented to the council at any other time, other than in November 2003?

Mr Asquith—Not on this issue.

Senator BARNETT—On Tumbi Creek?

Mr Asquith—Not on Tumbi Creek. I have spoken to them on occasions, probably prior to that time in 2003.

Senator BARNETT—Is it your view that the council’s proposal would improve the water quality? Would it have any other positive impact?

Mr Asquith—Do you mean in terms of trucking it—taking away the disposal and the swirl issues?

Senator BARNETT—Yes, and the drinking. I am talking about the proposal.

Mr Asquith—The flooding, the boats and the water quality for swimming are the three elements that we came up with. I guess we were encouraging them to look at the catchment more—what money they have in catchments.

Senator BARNETT—I just want to take you to the view that you had about the flooding mitigation. Earlier today, I think the council said that 16 properties were impacted. I think you have said 14. Is it your view that two of those properties should be purchased and the land somehow taken away?

Mr Asquith—It is a common thing. I have seen it done in other civil construction jobs that I have been involved in. The banks are lowered over an area in order that there is a relief point for floodwaters. I do not know whether you would have to purchase two houses, one, none or more. I have not sat down and asked for some advice.

Senator BARNETT—But you have taken professional advice and this is based on the advice that you have.

Mr Asquith—I have not taken professional advice on how one might design one in that situation.

Senator BARNETT—Today we are looking at the Tumbi Creek proposal and I am just trying to gather what your recommendation is in dealing with the problem at Tumbi Creek. You talked earlier about the two properties and possibly buying them.

Mr Asquith—That was purely a top-of-the-head estimate of how big one might make a floodway. You would want a sufficient size because you are lowering the land by only a certain amount. To have X amount of volume of water going through you have to make it fairly wide. In terms of that, we are advocating a sustainable solution. The dredging will only have to be redone—

Senator BARNETT—In 10 years.

Mr Asquith—It is probably not sustainable in either economic or environmental terms to keep doing that. There are many other similarly blocked waterways around the Tuggerah Lakes—Wyang River, Chittaway Bay, Wallara Creek and so on.

Senator BARNETT—In short, perhaps you would be happy to do nothing?

Mr Asquith—If the flooding is more than a nuisance level issue then you need to do something. If it is really going to affect people's homes, safety and all that then it is clear that there is an overriding social impetus behind it. If it is being done purely for water quality for swimming—that is, for recreational purposes—or boats zipping in and out then it only comes down to recreational use versus environmental impact, and I do not see a strong case for that.

Senator BARNETT—Have you put your views to the council or to any of the members of the council?

Mr Asquith—We have had many discussions on it. I would have to say the relationship between me and many of the councillors is very strained these days. You might have noticed an article quoting one of the councillors in, I think, yesterday's *Telegraph*, where he says he wants an investigation of who leaked the email to the opposition leader over all this. That same councillor has made many attacks on me and our organisation, making threats, essentially, about us using freedom of information legislation to access information—where are we getting our money, what are we using it for. At the end of the day, as I see it, it is a legislated right that we as individuals or groups have. But what it led to was the tabling of all the FOI requests that we had put in, many of them with my name against them, and I felt that that was an attempt to intimidate us into not making those FOI requests. I am quite concerned by that sort of thing. When you put in FOI requests you are doing it to access information that is not covered by privacy laws. In our case we are doing it so we have more accurate arguments.

Senator BARNETT—The council mentioned to us this morning that they have considered this issue, the Tumby Creek dredging, on many occasions and they have specifically supported it unanimously on three separate occasions. I do not know whether they were all in public meetings or what have you, but you are obviously entitled to put your view before those meetings. They have made their decisions based on the professional advice that they have received—the engineering reports, environmental reports and so forth.

Mr Asquith—The presentation I made to the council in 2003 in part did not agree with the way they wanted to go, because I think all councillors bar two originally voted to dump it in the lake. So there were only two councillors that held out, and the wheel turned around the other way. At the time I made that presentation, what I found was that if your view did not align with the view of the councillors then you had essentially painted a target on yourself and they just kicked you until they felt like stopping. I did not have an automatic right of reply; that was at the mayor's discretion.

Senator BARNETT—Fair enough. I am sure they would say that you could put your view in the ballot box at the next council election.

Mr Asquith—And put your ideas in!

Senator BARNETT—Yes. Have you expressed your view in terms of the silt—that it should be removed from the lake—to the state government?

Mr Asquith—Yes, I have.

Senator BARNETT—What was the response?

Mr Asquith—It was explained to me that they wanted to do it here as a trial for other areas along the coast.

Senator BARNETT—So they considered it a trial, did they?

Mr Asquith—That is what they told me, and I think that is in the paperwork that goes with a lot of this stuff. When I talked to one of the approval agencies they showed me something that said similar things.

Senator BARNETT—Do you think they were treating the Tuggerah Lakes example, with Tumby Creek, as a bit of an experiment?

Mr Asquith—I do not think there is any doubt that was the way that that was looked at.

Senator BARNETT—Do you have a letter from them or did you just talk to them about it? Do you have anything in writing that you could table?

Mr Asquith—In that case, it was a discussion I had, but that is said in the papers seeking approval to do the dumping in the lake. That is made quite clear in those papers.

Senator BARNETT—How long ago was that—can you remember roughly?

Mr Asquith—It was in late 2003 that I addressed council, so it would have been in about the spring of 2003.

Senator BARNETT—So a bit before November 2003?

Mr Asquith—Yes.

Senator BARNETT—All right. You think that would be in the paperwork the state government has?

Mr Asquith—That would certainly be in the paperwork that either the council or the approving department would have.

Senator BARNETT—We asked for a copy of that this morning, so hopefully that will come through. With regard to the cost, you are obviously an experienced engineer and you have contacts up on the Macquarie lakes—you are a mechanical engineer, are you?

Mr Asquith—No, I am an electrical engineer by training. I worked in the power and water industries for about 30 years, so I tended to do a bit of everything.

Senator BARNETT—And you checked out some of these quotes up at Lake Macquarie?

Mr Asquith—Only to the extent that I have put before you.

Senator BARNETT—They were verbal discussions?

Mr Asquith—I talked to them and I said, ‘Look, could you give me something to give us a ballpark figure?’ Because when I asked them, ‘What are you paying for dredging?’ they said ‘\$20,000 or \$30,000 a year’.

Senator BARNETT—Are you familiar with the condition that, under these Regional Partnerships arrangements, the council needs to go through due process and obtain the most effective and value for money arrangement possible—that is, a tender process or a tender type process?

Mr Asquith—Yes, of course.

Senator BARNETT—Are you also aware that under the arrangements, which are rigorous, if the total cost goes down, the proportion of funding received from the government—it is a third from the council and two-thirds from the Australian government—would go down?

Mr Asquith—Yes. There are different ways that different grants operate. I was not aware of that for these, but the great difficulty I had with what I saw of these quotes was that I never saw a detailed budget. As an engineer, people would have to demonstrate to me a fairly detailed budget for that sort of expenditure.

Senator BARNETT—The council advised that they would give that to us, and that is on the way, apparently. That will be on the public record, so you are welcome to have a look.

Senator STEPHENS—Mr Asquith, you understand, of course, that this is an inquiry into the Regional Partnerships program and its administration. If I could, I would like to take you back to your participation on the area consultative committee. You said that you were invited to join the area consultative committee?

Mr Asquith—Yes; the process was as I have said. I was explaining to Jim Lloyd what I believed about jobs growth in the area, and that it would be better directed not at greenfield sites being cleared for real estate but at other things. He suggested I apply to join the committee. You apply and it goes through a process.

Senator STEPHENS—Was that in 2000?

Mr Asquith—Yes, I think so.

Senator STEPHENS—Since that time, how many new members to the area consultative committee have been appointed?

Mr Asquith—There would not be a lot. The councils are there, people come and go. There are businesspeople, chambers of commerce type people, who change from time to time—

Senator STEPHENS—So they are representing an organisation and their representation changes—is that what you are saying?

Mr Asquith—They seem to, yes.

Senator STEPHENS—Are you seen to be there representing the environmental movement?

Mr Asquith—Yes.

Senator STEPHENS—How many executive officers have there been in the time you have been on the area consultative committee?

Mr Asquith—We have had two executive officers. I cannot remember the name of the first fellow; he retired. Then John Mundy came in, and he subsequently left around Christmas time.

Senator STEPHENS—How long was Mr Mundy there?

Mr Asquith—I was on the interview committee for him, which would have been around 2001-02.

Senator STEPHENS—Has the area consultative committee met since the inquiry was announced?

Mr Asquith—No, we have not met since some time last year.

Senator STEPHENS—Some time last year?

Mr Asquith—We have not met this year that I can recall.

Senator STEPHENS—Is there a meeting scheduled?

Mr Asquith—There is a meeting scheduled for mid-March, I think.

Senator STEPHENS—As a member of the area consultative committee, do you have an opportunity to participate in the national get-togethers that happen? Is there a capacity for members of the area consultative committees, other than the chairs or executive officers, to participate in a bigger forum?

Mr Asquith—No.

Senator STEPHENS—Have you ever met with other area consultative committee members?

Mr Asquith—I have, but through another organisation. Because of my interest in sustainability I got another organisation to sponsor my attendance at a regional sustainability conference that is run about every two years. A lot of local government and ACC people go to it.

Senator STEPHENS—You might be able to answer this question: has your area consultative committee ever participated in the regional coordination management group of the New South Wales government?

Mr Asquith—Not as an ACC, as far as I know. There are two groups. There is the management one, which is made up of senior public servants at a state level. The premiers organise that. There is also the Central Coast Advisory Group. That was set up under Minister Della Bosca as Minister for the Central Coast. That met about twice a year to canvass issues.

Senator JOHNSTON—Do you have any evidence or reason which would cause you to doubt the integrity of the council's tender process?

Mr Asquith—No.

Senator JOHNSTON—Thank you for that answer. Do you have any reason or evidence to doubt the integrity of the process by which you became a member of the area consultative committee?

Mr Asquith—No. It was an invitation—

Senator JOHNSTON—It was a straightforward process: you applied and got appointed.

Mr Asquith—Yes, that is right.

Senator JOHNSTON—There was no, 'You scratch my back'; no 'You're a good bloke. I'll get you on. You're a political mate of Jim Lloyd' or anything like that?

Mr Asquith—No. It was purely—

Senator JOHNSTON—It was straight up?

Mr Asquith—I saw it as coming out of that discussion.

Senator JOHNSTON—Good. Thank you.

CHAIR—I thought you might have had some information about other suggestions, Senator Johnston. Thank you, Mr Asquith, for your appearance today and for your evidence. You have taken a couple of things on notice, which can be provided to the secretariat.

[3.04 p.m.]

DOLMAN, Dr Gary Stuart, Assistant Secretary, Regional Communities Branch, Department of Transport and Regional Services

CHAIR—I welcome back Dr Gary Dolman from the Department of Transport and Regional Services. You have already appeared, Dr Dolman, and have previously been sworn in, so you are still under your previous oath. Do you want to go straight to questions or did you have some opening comments?

Dr Dolman—I am happy to go straight to questions.

Senator O'BRIEN—My understanding was that there would be regional officers here today to assist you. Is that right?

Dr Dolman—That is correct.

Senator O'BRIEN—So they are from the regional office based on the Central Coast?

Dr Dolman—I have one officer from the Newcastle regional office with me and another person to assist me from Canberra.

Senator O'BRIEN—Who is here from the Newcastle office?

Dr Dolman—The officer is Bruce Burdekin.

Senator O'BRIEN—What has Mr Burdekin's role in this project been?

Dr Dolman—He was involved in the assessment of the Tumby Creek project.

Senator O'BRIEN—So Mr Burdekin can answer questions that we have.

Dr Dolman—Under the arrangements that the department has, I would prefer you to direct questions to me and I will consult with Mr Burdekin if necessary. I think am quite able to answer questions on this issue.

Senator O'BRIEN—I think it would be preferable if he were sworn at the table. If he has information for the committee—

Senator BARNETT—Mr Chairman, I have a point of order.

Senator O'BRIEN—You consistently raise spurious points of order.

CHAIR—What is your point of order, Senator Barnett?

Senator BARNETT—That it is a matter for the department, not for the committee.

Senator O'BRIEN—Chair, on the point of order: it is incredible that this committee has been set up under the authority of the Senate—not a particular party or individual—but, according to Senator Barnett, how the committee conducts this inquiry is a matter for the department.

Senator JOHNSTON—That is not true.

Senator O'BRIEN—That is exactly what is being said. There is a potential witness here, a Commonwealth public servant, who had some involvement with the handling of the matter. I am suggesting that it would assist the committee to have that person appear before it and be sworn in so that, if there is material that can be given, it can be given direct rather than through the filter of Dr Dolman.

Senator JOHNSTON—Chair, on the point of order: the department comes along and elects to give evidence through its most senior officer. If the committee seeks another officer, it should write to the minister and get permission for that officer to attend or go back to the Senate and get a summons issued for that person. It is their choice and it is their prerogative to put the senior officer before the committee.

CHAIR—I will rule on the point of order. Firstly, there is no point of order with respect to Senator O'Brien's question. Senator Johnston, I think you have indicated why the remarks of Senator O'Brien are in order. That is, it is ultimately the authority of the Senate as to who it requires to appear before its committees as witnesses. As you also know, the committee and the Senate have powers to require such witnesses to appear. What we normally do, and what we have done in this case, is first of all write and request witnesses to appear. I do not have the precise letter in front of me, but my clear recollection is that we wrote to the minister, with a copy to the department, requesting the appearance today of officers of the department, particularly from the regional office because we were holding this inquiry today in The Entrance and the evidence and issues to be dealt with relate to this project. That is why we requested relevant officers of the regional office to be in attendance. That is the clear position. Dr Dolman, what are you saying to this committee? Are you saying that you are not prepared to allow Mr Burdekin to come to the table and be sworn in and give evidence?

Dr Dolman—As you say, the committee wrote to the department requesting that the department be represented at these hearings. I am the SES officer who is responsible for the regional office network, including the Newcastle regional office. We do not have an SES officer in the regional offices. I understand Ms Riggs has replied to you identifying me as the officer who will represent the department.

CHAIR—Yes, Ms Riggs has replied to us. Let me put this on the record. As chair, I wrote on 15 February to Minister Anderson, the Deputy Prime Minister. In the second paragraph of that letter, I said:

The committee requests that relevant officers from the Department of Transport and Regional Services appear at the hearings—

that is, appear at the hearings; not necessarily be in attendance at the hearings—

including relevant officers from the DOTARS regional network. In particular, the committee will be examining evidence relating to Tumby Creek and—

tomorrow—

the Beaudesert rail project and request that officers from the local DOTARS office with detailed knowledge of these projects be in attendance.

The letter I received back from Ms Riggs says:

I refer to your request of 15 February to the Deputy Prime Minister that officers of the Department of Transport and Regional Services appear at forthcoming hearings of the Finance and Public Administration References Committee.

I wish to advise that Dr Gary Dolman will be attending the hearing in Wyong on Thursday 24 February and both Dr Dolman and I will be attending the hearing in Brisbane on Friday 25 February 2005.

Regarding your specific interest in the Beaudesert rail project—

the subject of tomorrow's hearing in Brisbane—

I should advise you that the assessment of that project was undertaken by staff in Canberra, not our Brisbane Regional Office.

Please rest assured that my Department will do its best to meet the committee's needs.

Yours sincerely

Leslie M Riggs.

Dr Dolman, there is no reference in Ms Riggs's response to this committee to our request for officers from the regional offices to be in attendance, other than to tell us that at tomorrow's hearing, by implication, it would not be useful to have officers from the regional office present because it had been handled through Canberra. I frankly regard it as an insult to this committee that there was no response to our request for the relevant regional officers to be in attendance and appear at today's hearing. I now ask you again: are you prepared to allow Mr Burdekin to come to the table and give evidence?

Senator JOHNSTON—With respect, if I can intervene before he answers the question: the answer you have been given as to who the witnesses would be from the department is clearly enunciated by the secretary of the department. Upon receiving that letter you had the opportunity to take the matter further with the committee, and you have not done so. Therefore, there is no requirement for this person to appear.

CHAIR—There is no point of order, if you were taking a point of order. We have not got time to debate this here. We received this letter very late yesterday afternoon, and the first opportunity some of us had to see it was today. I am saying that there was no response at all from the department about whether the officers would be in attendance. We now know that there is an

officer in attendance here today, but it appears that the department will not allow that person to come to the table and appear as a witness.

Senator JOHNSTON—And they do not have to.

CHAIR—I am not going to debate it. Dr Dolman, will you allow Mr Burdekin to come to the table and give evidence?

Dr Dolman—I think I have fairly clear instructions from the deputy secretary of the department that I will be appearing as the senior officer in charge of the regional office. Only part of the assessment of this project was done in the regional office. Why don't you ask the questions, and see if I can answer them?

CHAIR—We have not got time to take this matter further today. I intend to raise these matters on another occasion, in addition to some other matters regarding the conduct of the department relating to the request by this committee for evidence and information to be provided and for witnesses to appear.

Senator O'BRIEN—I imagine I could have asked these questions in Canberra in the circumstances and not kept everyone waiting here on the basis of trying to match the needs of local employees of the department. Did the Wyong Shire Council engage in any discussion with the department's regional office ahead of lodging its first Regional Partnerships application to fund the dredging of Tumbi Creek?

Dr Dolman—I understand that there was some discussion—

Senator O'BRIEN—When was that?

Dr Dolman—Sorry, I will correct that: my understanding was that there was not any discussion.

Senator CARR—Wouldn't it be easier to have the officer come to the table to avoid this situation?

CHAIR—I think the point has been made—

Senator BARNETT—Mr Chairman—

CHAIR—Senator Barnett, I have dealt with this issue.

Senator O'BRIEN—Yes, I have heard from Senator Johnston that the government is playing hardball on this, so I understand. So there was no discussion between Wyong Shire Council and the regional office. Was there any discussion between Wyong Shire Council and the national office?

Dr Dolman—Not that I am aware of.

Senator O'BRIEN—So it is 'no' and 'no'. I am interested in the details of the first grant application. What date was it received by the department, in what form and at what office?

Dr Dolman—The application was received on 10 June 2004. It was received as a fax and my understanding is that it was received in the national office. Sorry, it was faxed to the regional office.

CHAIR—That is based upon advice you have just been given by Mr Burdekin, is it?

Dr Dolman—Yes, that is correct.

Senator O'BRIEN—After receipt, who enters details into the TRAX system?

Dr Dolman—It has varied with time. We did have a small team of people within the national office—and I think at this time it was in operation—that entered the details of applications into the TRAX system.

Senator O'BRIEN—Has that changed subsequently?

Dr Dolman—This was at a time when we were receiving a large number of applications. There are fewer applications now and people are becoming more familiar with the TRAX system, so we are getting more online applications. I think that ACCs are becoming more familiar with the TRAX system and often also help applicants to enter their applications directly into TRAX. So it is still in operation, but there are fewer applications that are being entered by the department into TRAX.

Senator O'BRIEN—Is it true that the proponent sought \$680,000?

Dr Dolman—Yes, that is correct.

Senator O'BRIEN—And added to that subsequently was GST?

Dr Dolman—That is correct.

Senator O'BRIEN—Did they vary their application or was that a decision that the department took to unilaterally vary it?

Dr Dolman—No, I understand they were seeking \$680,000. I do not think they varied their application; maybe it was just clarified. But the GST status was clarified.

Senator CARR—Who clarified the amount of the GST?

Dr Dolman—I am not sure; I would have to take that on notice.

Senator O'BRIEN—Was there any partnership funding proposed in the application initially?

Dr Dolman—Yes. The initial application included partnership from the council and also indicated that partnership funding was being sought from the state government. As was explained this morning, it was in equal thirds.

Senator O'BRIEN—Did the department forward that application to the ACC?

Dr Dolman—Yes, the department did forward the application to the ACC.

Senator O'BRIEN—So that would be the application we have in these documents today?

Dr Dolman—Yes—I presume so; I have not seen that document.

Senator O'BRIEN—Perhaps you could have a look and tell us. When did the department seek comments from the ACC?

Dr Dolman—On 11 June.

Senator O'BRIEN—When did the department receive those comments?

Dr Dolman—I understand they were entered into the TRAX system on 22 June.

Senator CARR—When were they received by the department?

Senator O'BRIEN—Does that mean they were received on the 22nd?

Dr Dolman—I understand in this case there was an error in entering them, which meant that there was a little bit of confusion. I understand that the comments were also emailed on 24 June.

Senator CARR—So they were entered before they were received. Is that what you are saying?

Dr Dolman—They were entered into the TRAX system. My understanding is that, as part of the entry process, they should have ticked a box but they did not tick the box. However, they then subsequently emailed the comments.

Senator O'BRIEN—They emailed them?

Dr Dolman—Yes.

Senator O'BRIEN—I think you said earlier the application was not amended in any way before funding was approved; is that right?

Dr Dolman—That is my understanding. It was the application that was received that was approved. There were some questions asked of the council and additional information provided, but essentially the application that was approved is that which was applied for.

Senator O'BRIEN—What sort of information did the department seek from the council?

Dr Dolman—We sought clarification of the budget and I understand we received additional details.

Senator O'BRIEN—Are we given to understand that the council was initially seeking \$320,000 for state government fees to dump the spoil? Was that in their claim?

Dr Dolman—My understanding is that issue was resolved prior to them submitting their application to us.

Senator CARR—Resubmitting?

Dr Dolman—No, it was prior to them developing their application and submitting it to us. I understand it was an issue prior to the date of the application.

Senator O'BRIEN—So it was an issue prior to the date of them submitting the application. I am trying to understand that in the context of your answer that they did not discuss the matter with you before they lodged it.

Dr Dolman—No. From discussions I have heard today, I understand that it was raised by other people. The council looked into the issue, found out that they were exempt from the state charges and it was resolved. When they submitted their application to us, they did not include those charges which they are exempt from.

Senator CARR—They submitted this on the 10th; is that right?

Dr Dolman—Yes.

Senator CARR—The council, of course, did not talk to the ACC until that time—that is, the 10th. You received it on what day?

Dr Dolman—The 10th.

Senator CARR—And somehow or other, this issue was resolved. Who resolved it?

Dr Dolman—I thought I heard from other witnesses that you have heard from today that this was an issue that was raised with the council prior to them having submitted their application.

Senator CARR—The question arose, but it was still publicly being debated after that date. I am coming to the point: how was it resolved? If you were not involved, who was involved?

Dr Dolman—All I know is that the application they put to us did not include landfill charges. They never sought those.

Senator CARR—Sorry, Dr Dolman, but I will press you on this. There is a critical issue here about how the application was put together. You are saying your department was not involved, the ACC says it is not involved. Who else was involved? Was another ministerial office or another member of parliament's office involved?

Dr Dolman—I am not aware of anyone other than the council being involved in preparing the application.

Senator CARR—It is a bit of a mystery to us in terms of the evidence before the committee.

Senator BARNETT—There is no mystery; it is as clear as a bell.

CHAIR—If you want to debate it, you can do that at a later time.

Senator O'BRIEN—Did the original application meet all the program guidelines?

Dr Dolman—Yes, they were assessed and it was found that they did meet all those guidelines.

Senator O'BRIEN—So it was value for money? Or don't you assess that?

Dr Dolman—As I said the other day in Canberra, the way that we assess that is to look at three specific things: outcomes for the community, partnerships and ongoing viability. It met all of those things and, yes, it was assessed as being value for money.

Senator O'BRIEN—Given that there are approvals which are required and have not yet been obtained, is any approval of the funding conditional after the event?

Dr Dolman—Yes, the grant was approved conditional on obtaining that necessary state government approval.

Senator CARR—I am wondering if you can help us with this, Dr Dolman. In the application we have before us, the project budget has landfill fees of \$250,000 in it. Is that right? Have I read that correctly?

Senator BARNETT—What page is that?

Senator CARR—It is on page 12. It is a handwritten number 12 on the bottom of the booklet.

Senator O'BRIEN—In the project budget, yes, the landfill fees are \$250,000.

Senator CARR—What does that refer to?

Dr Dolman—I can clarify that. My understanding is that figure is the cost that was being spoken about by the council this morning of dealing with the matter at the landfill.

Senator CARR—Are you sure? There are two prices there. There is another cost there as well.

Dr Dolman—I can follow that up for you.

Senator CARR—If you wouldn't mind. As I say, it seems to me that there is some mystery on this issue.

Dr Dolman—I am sorry, my understanding is that in any event this was not part of the funds that were requested from Regional Partnerships. This was part of the council's contribution.

Senator CARR—We have evidence here that the price of \$12 per cubic metre would be a reasonable fee. I am wondering in terms of your assessment of value for money whether or not the evidence we have received would support the claim that you have been making that there were checks on value for money.

Dr Dolman—That figure sounds very optimistic to me. That seemed to be a back of the envelope—

Senator CARR—What checks did you do—

CHAIR—Order! It is difficult for the Hansard reporters to try to get down precisely who is giving evidence if people keep talking over each other.

Senator CARR—I am sorry. What checks did you do on that matter of value for money?

Dr Dolman—We looked at the detail behind this one-page summary budget. We requested additional information from the council. We looked at the detail of that. As the council said, they were working figures. Before we contracted this, we requested more detailed costings from the council so that we could work out the precise cost, particularly given the flooding event that has occurred. We have sought information on the exact cost. As council said this morning, these were based on their rough estimates of the volume that needed to be moved.

Senator CARR—They are pretty rough. They have pulled them out of the air, haven't they?

Dr Dolman—No. My understanding, from the questions that you asked this morning, is that that was their normal practice. They did those assessments in the normal way. They would do more detailed assessments prior to seeking firm quotes from contractors.

Senator O'BRIEN—You have said that they have asked for \$680,000 plus GST. That was granted in full and that was for a third of the project.

Dr Dolman—That is right.

Senator O'BRIEN—Was there a subsequent application?

Dr Dolman—Yes, there was a second application.

Senator O'BRIEN—Which asked for \$680,000.

Dr Dolman—Yes, as explained this morning. That second application followed advice to the council that they would not be receiving the third contribution that they had requested from the state government.

Senator CARR—Is that plus GST as well?

Dr Dolman—My understanding is that is plus GST.

Senator O'BRIEN—We now have two-thirds of the \$2,040,000 which is set out on this item 11 project budget page of the application.

Dr Dolman—That is correct.

Senator O'BRIEN—And contained within that \$2,040,000 is an item against the line 'other costs' totalling \$570,000.

Dr Dolman—That is what the table shows here.

Senator O'BRIEN—And in that box where the words 'other costs' appear, we have got landfill fees of \$250,000. What did the department take that to mean?

Dr Dolman—I think I just said that I will take that on board and look at the detail of our assessment against that. My understanding is that those were not funds that were being sought from the department. That was part of the third that the council was looking at paying. But I will look at the detail of that and get back to you on notice.

Senator CARR—The council was charging itself.

Senator O'BRIEN—The total cost of the project is set out in the application. You are seeking to explain that away and say, 'That was the council's share, not ours.' Is that what you are saying?

Dr Dolman—I am saying that that was part of their contribution to the project, yes.

Senator O'BRIEN—So if they invent, in the application, a cost that does not exist, that is all right by the department and that will give you a value for money outcome?

Dr Dolman—I do not believe that is a cost that they have invented. I understand that is a real cost, but I have undertaken to follow that up further.

Senator O'BRIEN—The \$320,000 for roads—do you know what that is set out against?

Dr Dolman—I will have to take that on notice as well.

Senator O'BRIEN—So the officer from the regional office that assessed the application is here and you cannot answer that question.

Dr Dolman—That is my understanding, yes.

Senator O'BRIEN—You have overall responsibility for this matter and you are coming up here to answer questions about this particular project today.

Dr Dolman—Yes.

CHAIR—How will you find the answer out, Dr Dolman? If you are here, Mr Burdekin is here and there is no other regional officer who should be here and you do not have the information, how are you going to ascertain it? Who is going to explain it?

Dr Dolman—I may well have the detailed information here in my folder. I have got quite a large amount of detailed information. There is other detailed information on the file, which I probably do not have, which I will need to go back and look at.

CHAIR—It is a fairly significant proportion of the amount that the council was asking for.

Senator BARNETT—Mr Chair—

CHAIR—Excuse me, I am asking a question.

Dr Dolman—Sorry, what was the question?

CHAIR—It is a significant proportion of the amount that was being requested from the government. Can you explain to me why you do not know or why Mr Burdekin does not know?

Dr Dolman—Obviously, you are aware there are a large number of projects that are being assessed. I do not think everyone remembers every detail of every project.

Senator BARNETT—Can I just quickly make a point here—we asked the same question this morning of the council, and they advised that they would get back to us as soon as possible.

CHAIR—Senator Barnett, we are asking the department. This is a question to the department about their process of assessing the application.

Senator BARNETT—I am making the point—

CHAIR—You can make the point. It is a debating point.

Senator BARNETT—that the council offered to come back to us as soon as possible and they said they would, and we were happy with that.

CHAIR—Senator Barnett, stop wasting time. You asked questions probably seven or eight times and got the exact same response repeatedly from a previous witness. But let us keep going.

Senator BARNETT—Chair, that is what I wish.

CHAIR—You can ask once.

Senator O'BRIEN—Dr Dolman, what consultation was there with the New South Wales government about this proposed project and the government's support or otherwise for it?

Dr Dolman—I am not aware of there being a great deal of consultation. I can check to see whether there was any detailed consultation. You will be aware that this project follows on from quite lengthy discussions with the New South Wales government about earlier proposals.

Senator O'BRIEN—Was the assessment of the project undertaken at the regional office or at the national office?

Dr Dolman—The assessment was commenced at the regional office and then moved to the national office due to staffing issues.

Senator CARR—The minister's office.

Senator O'BRIEN—What does 'due to staffing issues' mean?

Dr Dolman—That means that during the time when this assessment was being undertaken there were a number of training initiatives that had the majority of Newcastle office staff at a training course in Canberra. For practical reasons, it made sense to send the information to the national office.

Senator O'BRIEN—Did Mr Lloyd or his office play any role in the consideration of the grant application?

Dr Dolman—None that I am aware of.

Senator O'BRIEN—Did any other minister or parliamentary secretary have a role?

Dr Dolman—Obviously, Mrs Kelly took the decision.

Senator O'BRIEN—So, apart from the decision-making process, there was no role?

Dr Dolman—No. I think there was a request through Mrs Kelly's office to look at whether this project could be given some priority.

Senator CARR—Who made that request?

Dr Dolman—It was passed through the DLO in the office.

Senator CARR—Which DLO was that?

Dr Dolman—The DLO in Mrs Kelly's office.

Senator CARR—You do not have a name?

Senator O'BRIEN—Mr Cerasani.

Dr Dolman—Yes.

Senator O'BRIEN—Did the department encourage Wyong Shire Council to lodge the second grant application?

Dr Dolman—No.

Senator O'BRIEN—When was the second grant application received by the department, in what form and where?

Dr Dolman—The second application was received by the department on 25 June 2004. There were some questions about that, and it was confirmed that they were actually seeking a second amount of \$680,000 on 1 July.

Senator O'BRIEN—Is that because it was identical to the first application?

Dr Dolman—It was very similar other than the amount being sought. My understanding is that this was an application that was faxed to the Newcastle office.

Senator O'BRIEN—When was it received?

Dr Dolman—It must have been faxed to the national office rather than the Newcastle office. It was received on 25 June 2004.

Senator O'BRIEN—Is there any reason why we cannot have a copy of that application in the circumstances?

Dr Dolman—I thought you had a copy.

Senator O'BRIEN—We did have a copy of one application.

Senator CARR—The first one was provided to us by the ACC.

Dr Dolman—I will take that on notice.

Senator O'BRIEN—When was it entered into the TRAX system?

Dr Dolman—I do not have that detail at the moment.

Senator O'BRIEN—Mr Hale emailed the department on 6 August last year expressing serious reservations about the combined Tumby Creek grant, and you replied on 8 September. When was Mr Hale's email brought to your attention?

Dr Dolman—I cannot recall the exact date, but I think it was a week or a week and half prior to my replying—something like that.

Senator O'BRIEN—Would you normally take that long to reply to an ACC chair who tells you he is concerned about an emerging scandal about one of your programs?

Dr Dolman—I do not believe that is what the letter said. It did raise concerns about it.

Senator O'BRIEN—He said that effectively it was going to give the project a reputation 'like a whiteboard scandal', if I recall the words. I can look them up. You do not receive those kinds of letters every day, do you?

Dr Dolman—No, I do not. As the chair of the ACC said, that email was not actually sent to me; it was sent to our regional office.

Senator O'BRIEN—And you got it about a week later?

Dr Dolman—It took some time to get to me and, as indicated in the reply that I wrote, I did take this issue up with Mrs Kelly. That also took some time.

Senator O'BRIEN—Were you responding in accordance with the instructions of Mrs Kelly or as an officer of the department alone—in what capacity?

Dr Dolman—I was replying with regard to the issues that were raised with a member of my staff, and that reply did take account of a discussion that I had with Mrs Kelly.

Senator O'BRIEN—What happened about the issues raised about Kincumber Creek and the need to save 120 jobs?

Dr Dolman—There is a fairly simple story there: we never received an application for that project.

Senator O'BRIEN—Did Mrs Kelly have a response about the 120 jobs affected by Kincumber Creek?

Dr Dolman—Yes, and that is reflected in the letter I wrote back. Mrs Kelly was keen that the ACC work to help the community. That was reflected in the note I sent back to the ACC asking them to bring forward that project.

Senator O'BRIEN—Apart from that note, to your knowledge, did the department or government take any other action in relation to the Kincumber Creek issue?

Dr Dolman—Not that I am aware of. We understood, at the time, that the ACC were working to develop an application, so we were a bit surprised that we did not receive an application.

Senator CARR—Why did you think it necessary to write on that letter, 'I hope that we can maintain a productive level of communication between the area consultative committee and this department'?

Dr Dolman—Simply because, as the ACC chair said this morning, he had raised a number of issues and we were concerned with keeping the working relationship on a good, balanced keel.

Senator CARR—Did your regional officers draw to your attention the views of the executive officer for the regional consultative council who said that this was probably the worst application they had ever seen?

Dr Dolman—No, I had not heard that until today.

Senator CARR—Are you surprised you had not heard that until today?

Dr Dolman—Yes, I am surprised. I do not know whether my staff were aware of that comment.

Senator O'BRIEN—Can you tell us when Mr Hallett, Mr Lloyd's adviser, first became involved in the departmental processes relating to the Tumbi Creek grant?

Dr Dolman—Other than the media reports and issues that have come out in this inquiry, I was only aware of one email that was sent through Mrs Kelly's office: the one that was seeking advice on the department's position subsequent to the rain event.

Senator O'BRIEN—His role was not connected with the role of the department other than that?

Dr Dolman—That is correct.

Senator O'BRIEN—In relation to the September/October rain event, which had an effect on the mouth of Tumbi Creek, what work did you or regional officers—for example Mr Petrovsky or Mr Burdekin—do on the implications of reduced project costs?

Dr Dolman—The first thing we did is that we replied to that email which was passed on to council to make it clear that the objectives, or the outcomes, of the project were what we were funding and that we would not consider funding outside the project which had been agreed without a new application. We also made it clear that our expectation was that advice on any reduction in costs would be provided by the council back to DOTARS. We also indicated in that email that, given that we were paying two-thirds of the project because the state government had not contributed, our expectation was that any reduction in costs would initially come from our component of the project until a fifty-fifty situation had been reached.

Senator O'BRIEN—When you wrote to Mr Cobb's DLO on 22 November outlining the department's consideration of Tumbi Creek matters, did you think you were providing advice to Mr Cobb or the minister?

Dr Dolman—This is the email relating to the issues that were raised by Mr Hallett?

Senator O'BRIEN—Yes.

Dr Dolman—My understanding was that I was replying to a request for information from Mr Hallett.

Senator O'BRIEN—For Mr Hallett and not for the minister?

Dr Dolman—That is correct.

Senator CARR—You don't regard that as advice to the minister then, do you?

Dr Dolman—Normally we provide advice to ministers more formally.

Senator CARR—So there is no reason why that is covered by the normal provisions in terms of not providing information to this committee.

Dr Dolman—You already have a copy of it.

Senator CARR—Is there any other correspondence along those lines that you want to provide us with?

Dr Dolman—I am not aware of any.

Senator O'BRIEN—Can you check and confirm that there is no other correspondence.

Dr Dolman—I do not know what I would be confirming—whether there is any correspondence I might have that might be of interest?

Senator O'BRIEN—Any that you consider was provided to a ministerial adviser and was not advice to the minister.

Senator CARR—On the Regional Partnerships program.

Dr Dolman—I do not believe I have any.

CHAIR—Take it on notice.

Senator BARNETT—Thank you for being here. Are you aware of any support that has been provided, in writing or otherwise, by the Labor candidate or the Labor Party any time last year for the Tumby Creek project?

Dr Dolman—I need to look at the document.

Senator BARNETT—While you are looking, I can draw your attention to a public document that is headed 'Labor to fund the dredging of Tumby Creek'. In this, David Mehan says that Labor will fund the dredging of Tumby Creek with a commitment of \$1.3 million to continue the project. There is a photo of him standing there with the former leader, Mr Latham. Are you aware of that? Have you seen that document or other documents like it?

Dr Dolman—I do not believe I have seen that document, but I have seen reports of that document and I was aware that there was bipartisan support prior to the election.

Senator BARNETT—Have you got any letter on file in support of the council's project from the Labor candidate or any other Labor members of parliament?

Dr Dolman—I do not have anything in the summary information I have here, but I could check that for you.

Senator BARNETT—Thank you. The current Labor leader has said publicly in the parliament that it is his view that this is part of a conspiracy to defraud the Commonwealth. How do you respond to that allegation?

Dr Dolman—I think the department has processes in place that make that claim fairly ridiculous. It is clear that no funding has flowed yet. We would only provide funding once a contract has been signed. We are aware of the rain event, and we have provided advice to show that if there were any reduction in the cost of the project we would expect that to flow back to the department.

Senator BARNETT—You have just answered my next question. I was going to ask, in terms of the contractual arrangements that the Commonwealth put in place with the Wyong council and other similar partners in a Regional Partnerships arrangement, the funding is conditional upon those terms and conditions being met, isn't it? This means that the money does not flow until certain preconditions are met. Is that correct? How does that procedure work?

Dr Dolman—That is exactly right. The funding will not flow until the conditions have been met. There are probably two ways we do this routinely. One is where there is a likelihood that the conditions will be met fairly quickly. In that case, we often wait until the conditions have been met before we write the contract. If there is likely to be a delay, we will write the contract and include the conditions prior to the first payment being made. So there is a detailed schedule in the contract.

Senator BARNETT—In this case there has been some rain in November. According to the council, this took out about 1,000 cubic metres of silt and that has lessened the amount in the Tumby Creek mouth. Based on that, if the cost of the project went down then what would happen?

Dr Dolman—The project cannot proceed at the moment until we get advice from the state government about whether or not they are going to provide those relevant approvals. We need to get the detailed costings from the council, which I understand is being held up because of the lack of the state approvals—they cannot do the detailed assessment until they have the approvals and then they know exactly what it is that they have to do.

Senator BARNETT—In terms of the costings, the council goes through a tender process to get the best value for money. Is that a normal procedure and how does that work?

Dr Dolman—Yes, that is a normal procedure. We expect some evidence of that prior to us paying the funds. It is the sort of thing that we often write into contracts.

Senator BARNETT—So you need to be confident on behalf of the taxpayer that you are getting value for money?

Dr Dolman—That is right.

Senator CARR—So if the council were charging itself fees, you would be confident; is that right?

Senator JOHNSTON—If they have got down one-third of their share as work in kind, how do you deal with that?

Dr Dolman—We look to assure ourselves that those in-kind contributions are real—that they are real costs to the council and that they are not part of their normal business.

Senator JOHNSTON—What is the actual mechanism by which you do that? How do you go about the task of identifying?

Dr Dolman—We look at the detail—and this is what was done, I am sure, in assessing the more detailed information that we sought from the council. We look at each of the line items that they are proposing to us and whether or not they are realistic estimates. As I said, this initial proposal is really based around estimates that are done on the best available information to the council at the moment. When we get the detailed estimates, we will look at whether or not there was a tender process gone through to select the contractors. We will look at whether or not there are charges that look dubious. We look at hourly charge rates and things like that. We look at the detail of what is being charged and whether or not it is reasonable.

Senator JOHNSTON—So it will be an auditable trail?

Dr Dolman—Yes, it will be.

Senator BARNETT—In this case has the due diligence been completed and adequately fulfilled from your perspective? Secondly, have the guidelines been met and the rigours of the Regional Partnerships program been fulfilled?

Dr Dolman—By due diligence, we normally mean whether or not the company or the proponent—in this case, the council—is likely to be facing financial difficulties. Where we are talking about councils, we usually assess those as low risk. So we look at their details maybe in a less rigorous way that we would if we were looking at a private enterprise that may be having some issues. We have concluded that and we do not think there are any issues around the viability of the council. We have also looked at the viability of the project and we believe that it is a perfectly viable project.

Senator BARNETT—Are you satisfied that the rigours of the Regional Partnerships requirements have been met in this instance?

Dr Dolman—Yes. This project was assessed in the normal way. It looked at each of the criteria and we satisfied ourselves that the project met each of the criteria in both cases.

Senator BARNETT—I have two final questions. Please could you take them on notice. I would like the department to provide the committee with a copy of the Regional Partnerships projects which the state governments have supported or been financially involved in.

Dr Dolman—So you would like a list of all projects where there has been a state contribution?

Senator BARNETT—Yes. Secondly, I would like a list of those where, even though they were not successful, the state government supported the Regional Partnerships program. In evidence to the committee Ms Riggs said the contribution from the state governments—I cannot remember the exact number—was about the same as that from the Australian government. I would like to clarify that and see whether that could be expanded upon. I would also like information about any letters of support from state governments for Regional Partnerships applications.

CHAIR—You are talking about all applications.

Senator BARNETT—All applications.

CHAIR—Fine. Take that on notice, but we are getting a bit off the specifics of today.

Senator BARNETT—I know this is not Tumbi Creek, but I did ask Dr Dolman to take it on notice.

CHAIR—You could put those requests in writing, as other senators have done. We just do not want to waste today's time.

Dr Dolman—I will take that on notice. I think we can produce some tabular information that shows the contributions of the states. I think it would be a lot of effort for us to identify the individual letters from the states.

Senator BARNETT—If you could just take it on notice, that would be good. The other request is for letters of support for Regional Partnerships applications from either Labor members of parliament or Labor candidates.

Dr Dolman—I will take that on notice.

Senator BARNETT—Thank you.

Senator STEPHENS—I have one question, Dr Dolman. The question which is in the Regional Partnerships synopsis and comments sheet that the members of the area consultative committee are asked to complete is: is this project proposal consistent with the area consultative committee's strategic regional plan? When we asked that question this morning, the chair of the ACC said no and that Tumbi Creek was not in the strategic plan. What weight do you give to the respective area consultative committees' regional plans and their priorities?

Dr Dolman—Essentially, that is a matter for the decision maker. We provide the decision maker with advice, including on their recommendation and any comments that they make. We also provide the department's assessment against the criteria. I do not know precisely how the decision maker, who is usually the parliamentary secretary, weighs up those two sets of advice. But they are both there and I think they are both considered valuable by the decision maker.

Senator STEPHENS—In the summary of this project that you supplied, you provided information that said that this is not consistent with the strategic regional plan.

Dr Dolman—There was an issue with this particular project, unfortunately, where the ACC advice was late in coming. So in this case the ACC recommendation was not provided.

Senator STEPHENS—Was it late for the first application or the second application?

Dr Dolman—It was late for the first application.

Senator CARR—Was it applied to the second application on the 25th?

Dr Dolman—I think we are getting into the area of advice to ministers.

Senator CARR—You have just indicated that there was an unfortunate situation where the recommendations of the ACCs were late. They clearly were opposed to the project. How often has that occurred?

Dr Dolman—I am only aware of this one circumstance.

Senator CARR—Can I ask you about the Brisbania after school care project and an email from Alex Petrovsky in your department that has been discussed today. He says that Mr Lloyd's office 'faxed the scrappy application direct to Mrs Kelly's office'. How often is it the case that applications, scrappy or otherwise, are sent directly to the minister's office?

Dr Dolman—It does happen. Obviously, proponents choose a whole range of different ways to send the application in. Our preferred method is that they work with the ACCs and develop the application and they submit it. I do not know exactly how many times it has happened that the application has been sent through the local MP—I think there have probably been cases of either coalition MPs or opposition MPs having written a letter of support covering the application. That does not mean that the normal process of assessment is not undertaken, and that is what happened in this case, I understand. Even though that application was provided to Mr Lloyd and then to Mrs Kelly, a more well-developed submission was later submitted, which was assessed in the normal way.

Senator CARR—Who prepared that more well-developed application?

Dr Dolman—I presume the applicant did, with some assistance from the ACC.

Senator CARR—And none from the department?

Dr Dolman—No, it is not normal practice for the department to assist.

Senator CARR—We are told that:

... John Ables from Jim Lloyd's office took the very incomplete application to Canberra complete with my comments to the proponent and by-passed the system ... again.

That was written by the executive officer, John Mundy. So how often has this occurred?

Dr Dolman—As I said, I do not think there are any cases where the system is bypassed. Sometimes people choose novel ways of sending an application to us. However, we still assess them in the same rigorous way.

Senator CARR—It says here in this email that it has happened more than once, presumably. Is your regional office able to advise you on that?

Dr Dolman—Our Newcastle regional office is not aware of any others.

CHAIR—Thank you very much, Dr Dolman. I am sure we will be seeing you again.

Dr Dolman—See you tomorrow.

CHAIR—I thank all witnesses and people who have attended today's hearing.

Committee adjourned at 4.02 p.m.