

INQUIRY UNDER SECTION 438U OF THE LOCAL GOVERNMENT ACT

CENTRAL COAST CITY COUNCIL

Public Hearing

Conducted via Microsoft Teams

On Tuesday, 28 September 2021 at 9.00am  
(Day 2)

Before Ms Roslyn McCulloch, Commissioner

1 THE COMMISSIONER: Good morning, we will commence the  
2 public hearings of the Central Coast inquiry again this  
3 morning. I just wanted to make a few remarks before we do  
4 start. Thank you very much to Mr Kielly who has been  
5 working overnight to ensure that the live stream can  
6 proceed this morning. I believe it is now operating. We  
7 have tested this morning.

8  
9 The cure to the problem wasn't as simple as some  
10 people might like to think. It took multiple software  
11 layers in order to get through the firewalls and the  
12 security systems of DPIE, but that has been done so the  
13 public can view the proceedings this morning.

14  
15 If for any reason the broadcast is interrupted, please  
16 let us know via the inquiry email address. Please do not  
17 email the Office of Local Government or the minister, and  
18 any emails should be done in a respectful manner, I ask.

19  
20 The video of yesterday's proceedings will be available  
21 on the inquiry website for 24 hours. There is no copying  
22 or reproduction of that video permitted, as is there no  
23 copying or reproduction of the live stream permitted.

24  
25 I will just explain that there are lawyers present for  
26 certain parties in the proceedings. That is due to, one,  
27 permission being granted for certain parties to be legally  
28 represented. You will note from my opening remarks the  
29 reasons for that. Also I have received some advanced  
30 notice of possible applications to cross-examine witnesses  
31 and some lawyers are present for that purpose.

32  
33 There are also a number of other supporting technical  
34 staff whose initials will appear on the Teams page. They  
35 are assisting with transcript, administration and the live  
36 stream, and also the inquiry's officer assisting, Katrina  
37 Annis-Brown, is also present.

38  
39 Could I have a reminder to everybody to turn their  
40 cameras off and microphones on mute at all times until they  
41 are asked to speak or appear. Thank you.

42  
43 Now, we'll get started for this morning. Thank you  
44 very much for the early start so that we could complete  
45 Ms Smith's evidence. Could I ask for Mr Smith and her  
46 legal representative to come on screen and camera, please.

1 <JANE SMITH, on former affirmation: [9.01am]

2  
3 THE COMMISSIONER: Mr Williams, I think yesterday  
4 afternoon you were going to update me on a document that  
5 I'd referred to in Ms Smith's submission?

6  
7 MR WILLIAMS: Yes, I'll turn over to Ms Smith in relation  
8 to that.

9  
10 THE COMMISSIONER: Thank you, Mr Williams.

11  
12 THE WITNESS: Yes, Commissioner, I think you referred  
13 to - I had listed three council meetings where there had  
14 been reports on the amalgamation and you queried 23 March  
15 2020. When I went back and had a look, what occurred at  
16 that time is there was a scheduled ordinary meeting of  
17 council for 23 March.

18  
19 What happened is COVID hit and I think that was the  
20 week that we may have been placed under stay at home orders  
21 except for work or essential purposes. So that meeting was  
22 cancelled, but council held an extraordinary meeting  
23 instead that only dealt with urgent matters, so that report  
24 was then not discussed until 27 July.

25  
26 THE COMMISSIONER: I see.

27  
28 THE WITNESS: From what I can tell, it was the same report  
29 with some fairly minor changes. So although the report  
30 appeared on 23 March, that meeting didn't proceed.

31  
32 THE COMMISSIONER: Yes, thank you very much. That  
33 explains it.

34  
35 Could I just go back to one thing we were talking  
36 about yesterday, which is the IPART decision which was made  
37 shortly before the operational plan and budget in 2019.  
38 You said yesterday, I think, that no adjustment was made to  
39 the budget as a result of that.

40  
41 THE WITNESS: Could I actually correct or expand on that,  
42 if I may, Commissioner? What I said was that there was an  
43 increase in the deficit as a result and that my  
44 recollection is that there were other changes made to the  
45 budget. Overnight I had a look through my records and  
46 there is a presentation from 3 June 2019 that was provided  
47 to councillors from staff. That was a specific

1 presentation about the impact of the final IPART  
2 determination. I would be happy to provide that to the  
3 inquiry, if you don't have it already. So that outlined  
4 the impact of the IPART decision.

5  
6 What it also reminded me is that there was a draft  
7 decision in April and staff had made changes to the  
8 operational plan at that point based on the IPART's draft  
9 determination. The final determination made a further  
10 adjustment and that's what this presentation refers to that  
11 I will send to you.

12  
13 So that work that staff did on the draft determination  
14 did include some deferral of projects, and some other  
15 adjustments in terms of employees and the like.

16  
17 THE COMMISSIONER: Yes. I don't have that presentation  
18 document of 23 June, so that would be useful if you could  
19 provide that.

20  
21 THE WITNESS: Sorry, 3 June, Commissioner.

22  
23 THE COMMISSIONER: Sorry, 3 June. That would be useful.  
24 Do you know whether the draft determination was  
25 significantly different from the final determination?

26  
27 THE WITNESS: My recollection is that the draft  
28 determination I think was around about a 9 or 8.6 per cent  
29 impact and then the final - sorry, I might have that wrong,  
30 but the difference between 8.6 and 10 was the difference,  
31 yes.

32  
33 THE COMMISSIONER: So there was a greater impact and hence  
34 the further presentation to the councillors.

35  
36 THE WITNESS: Correct.

37  
38 THE COMMISSIONER: Thank you for clarifying that. I don't  
39 have any further questions about your submission. Thank  
40 you, it is very comprehensive. There may be some  
41 cross-examination of you concerning the recruitment of the  
42 general manager. That's not something that you addressed  
43 in your submission.

44  
45 Q. Can I ask you your recollection of the method or the  
46 process that you went through to appoint Mr Murphy as the  
47 general manager?

1 A. Yes.

2  
3 MS ANNIS-BROWN: I apologise, Commissioner and Ms Smith,  
4 I believe we may be experiencing difficulties with the  
5 stream once more. Perhaps we could just adjourn for five  
6 minutes while we continue to sort out what the issue is. I  
7 do apologise.

8  
9 THE COMMISSIONER: Thank you for letting us know,  
10 Ms Annis-Brown.

11  
12 I'm really sorry, Ms Smith, but we will have to  
13 interrupt it there. If you could just sit tight to see if  
14 the problem has an easy fix.

15  
16 THE WITNESS: Thank you, Commissioner.

17  
18 THE COMMISSIONER: It's very frustrating for everybody.  
19 Thank you.

20  
21 SHORT ADJOURNMENT

22  
23 THE COMMISSIONER: Hello again, everyone. I'm sorry, it  
24 is not good news. As we committed yesterday to suspending  
25 the proceedings in the event that we could not continue  
26 with the live stream, I'm terribly sorry, but we are going  
27 to have to adjourn the proceedings. I don't want to do  
28 what we did yesterday and just keep coming back every hour  
29 or so, because I don't expect that there's going to be a  
30 resolution in the short-term.

31  
32 Mr Williams, did you need to speak to me in any  
33 manner?

34  
35 MR WILLIAMS: The only difficulty that I could potentially  
36 foreshadow, Commissioner, is that I have another up  
37 avoidable court commitment at 11.30am tomorrow morning in a  
38 different jurisdiction. I'm content to appear for as long  
39 as I can beforehand, but I'm afraid I couldn't change that  
40 client or do anything to that client at this point in time.

41  
42 THE COMMISSIONER: I understand. We will invite those  
43 people who are legally represented for their legal  
44 representatives to liaise with Ms Annis-Brown as to their  
45 availability. We will have to rejig the whole schedule,  
46 unfortunately. We already had three other witnesses  
47 scheduled for today. We will be in contact with everybody

1 who was going to be giving evidence today and we'll have to  
2 compact the timetable a little bit more. We will take into  
3 account your availability, Mr Williams.

4  
5 MR WILLIAMS: Thank you, Commissioner.

6  
7 THE COMMISSIONER: Thank you. I'm sorry, but we will  
8 adjourn and we will put a notice on the website to inform  
9 the public of the reason for that adjournment and we will  
10 be in touch as soon as we have a solution to the issue.  
11 I apologise, Ms Smith, once again your evidence is  
12 interrupted.

13  
14 I will now conclude today's proceedings.

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16 AT 9.30AM THE HEARING WAS ADJOURNED ACCORDINGLY  
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