

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.

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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.

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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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